

HISTORICAL DIVISION[223]

[Prior to 5/31/89, see Historical Department[490]
created under the “umbrella” of the Department of Cultural Affairs[221] by Iowa Code section 303.1]

TITLE I GENERAL SOCIETY PROCEDURES

CHAPTER 1 DESCRIPTION OF ORGANIZATION

1.1(303)	Purpose
1.2(17A,303)	Definitions
1.3(303)	Mission statement
1.4(303)	Organization
1.5(303)	Facilities management
1.6(303)	Board of trustees
1.7(303)	Gifts, bequests, endowments
1.8(303)	Public and private grants and donations
1.9(303)	Sale of mementos

CHAPTER 2 Reserved

CHAPTER 3 PUBLIC RECORDS AND FAIR INFORMATION PRACTICES

3.1(17A,22)	Definitions
3.2(17A,22)	Statement of policy and scope
3.3(17A,22)	Request for access to records
3.4(17A,22)	Access to confidential records
3.5(17A,22)	Requests for treatment of a record as a confidential record and its withholding from examination
3.6(17A,22)	Procedure by which additions, dissents, or objections may be entered into certain records
3.7(17A,22)	Consent to disclosure by the subject of a confidential record
3.8(17A,22)	Notice to suppliers of information
3.9(17A,22)	Availability of records
3.10(17A,22)	Determination of rights of access to records

CHAPTER 4 AGENCY PROCEDURE FOR RULE MAKING (Uniform Rules)

4.4(17A)	Notice of proposed rule making
4.5(17A)	Public participation
4.6(17A)	Regulatory flexibility analysis
4.10(17A)	Exemptions from public rule-making procedures
4.11(17A)	Concise statement of reasons
4.13(17A)	Agency rule-making record

CHAPTER 5 PETITIONS FOR RULE MAKING (Uniform Rules)

5.1(17A)	Petition for rule making
5.3(17A)	Inquiries

CHAPTER 6
DECLARATORY RULINGS
(Uniform Rules)

- 6.1(17A) Petition for declaratory ruling
- 6.3(17A) Inquiries

CHAPTERS 7 to 9
Reserved

TITLE II
Reserved

CHAPTERS 10 to 12
Reserved

TITLE III
*HISTORICAL SOCIETY—
GENERAL POLICIES*

CHAPTER 13
COLLECTIONS POLICIES

- 13.1(303) Purpose
- 13.2(303) Definitions
- 13.3(303) Location
- 13.4(303) Management of collections
- 13.5(303) Acquisition
- 13.6(303) Deaccession
- 13.7(303) Documentation and care
- 13.8(303) Lending
- 13.9(303) Access and disclosure

CHAPTER 14
EXHIBITIONS POLICIES

- 14.1(303) Purpose
- 14.2(303) Location
- 14.3(303) Collections principles and practices
- 14.4(303) Conservation principles and practices
- 14.5(303) Education principles and practices
- 14.6(303) Professional museum principles and practices

CHAPTER 15
PUBLICATION POLICIES AND SERVICES

- 15.1(303) Purpose
- 15.2(303) Iowa Heritage Illustrated
- 15.3(303) Annals of Iowa
- 15.4(303) Goldfinch
- 15.5(303) Iowa Historian
- 15.6(303) Books and monographs
- 15.7(303) Back issues and reprints

CHAPTERS 16 to 20
Reserved

TITLE IV
PUBLIC ACCESS PROCEDURES

CHAPTER 21
MEMBERSHIP IN THE SOCIETY

- 21.1(303) Function
- 21.2(303) Fees
- 21.3(303) Awards

CHAPTER 22
HISTORICAL LIBRARY AND STATE ARCHIVES PUBLIC ACCESS POLICIES AND SERVICES

- 22.1(303) Purpose
- 22.2(303) Definitions
- 22.3(303) Location
- 22.4(303) Availability of materials
- 22.5(303) Reading room policies
- 22.6(603) Copy services

CHAPTER 23
HISTORICAL MARKERS PROGRAM

- 23.1(303) Purpose
- 23.2(303) Categories of historical markers
- 23.3(303) Selection of historical markers
- 23.4(303) Appeals

CHAPTERS 24 to 34
Reserved

TITLE V
HISTORIC PRESERVATION PROGRAMS

CHAPTER 35
ADMINISTRATION

- 35.1(303) Purpose
- 35.2(303) Definitions
- 35.3(303) Organization of programs
- 35.4(303) Eligibility
- 35.5(303) Contracts and grants
- 35.6(303) Advisory committees
- 35.7(303) Grants available
- 35.8(303) Reporting and audit requirements

CHAPTER 36
CERTIFIED LOCAL GOVERNMENT PROGRAM

- 36.1(303) Purpose
- 36.2(303) Regulations
- 36.3(303) Criteria for certification
- 36.4(303) Procedure for certification
- 36.5(303) Funding of certified local governments
- 36.6(303) Other program services

CHAPTER 37
INVESTMENT TAX CREDIT PROGRAM

- 37.1(303) Purpose
- 37.2(303) Regulations
- 37.3(303) Eligibility
- 37.4(303) Certification of historic structures
- 37.5(303) Review and evaluation
- 37.6(303) Certification of completion of work

CHAPTER 38
NATIONAL REGISTER OF HISTORIC PLACES

- 38.1(303) Purpose
- 38.2(303) Regulations
- 38.3(303) Nomination procedure
- 38.4(303) Review of nominations
- 38.5(303) Delisting of properties

CHAPTER 39
EDUCATION PROGRAM

- 39.1(303) Purpose
- 39.2(303) Regulations
- 39.3(303) Procedure

CHAPTER 40
PRESERVATION PARTNERSHIP PROGRAM

- 40.1(303) Purpose
- 40.2(303) Regulations
- 40.3(303) Application procedure and selection

CHAPTER 41
SURVEY AND REGISTRATION OF CULTURAL RESOURCES PROGRAM

- 41.1(303) Purpose
- 41.2(303) Regulations
- 41.3(303) Survey selection
- 41.4(303) Survey funding
- 41.5(303) Conduct of the surveys
- 41.6(303) Availability of survey information
- 41.7(303) Confidentiality of archaeological site information

CHAPTER 42
REVIEW AND COMPLIANCE PROGRAM

- 42.1(303) Purpose
- 42.2(303) Federal regulations and requirements
- 42.3(303) Professional qualifications
- 42.4(303) Definitions
- 42.5(303) Procedures
- 42.6(303) Level of effort required to identify historic properties
- 42.7(303) Review and appeal of the recommendations and decisions of the state historic preservation officer

CHAPTER 43
TECHNICAL ASSISTANCE PROGRAM

- 43.1(303) Purpose
- 43.2(303) Regulations
- 43.3(303) Services

CHAPTER 44
STATE REGISTER OF HISTORIC PLACES PROGRAM

- 44.1(303) Purpose
- 44.2(303) Regulations and procedures

CHAPTER 45
Reserved

CHAPTER 46
MAIN STREET LINKED INVESTMENTS LOAN PROGRAM

- 46.1(12) Program administered

CHAPTER 47
HISTORIC PROPERTY REHABILITATION TAX EXEMPTION

- 47.1(303) Purpose
- 47.2(303) Definitions
- 47.3(303) Program administration
- 47.4(303) Eligibility
- 47.5(303) Application for exemption procedure
- 47.6(303) Review and approval standards for applications for certification
- 47.7(303) Appeals

CHAPTER 48
HISTORIC PRESERVATION AND CULTURAL AND
ENTERTAINMENT DISTRICT TAX CREDITS

DIVISION I
PROJECTS FOR WHICH APPLICATIONS WERE APPROVED AND
TAX CREDITS WERE RESERVED PRIOR TO JULY 1, 2014

- 48.1(303,404A) Purpose
- 48.2(303,404A) Definitions
- 48.3(303,404A) Eligible property
- 48.4(303,404A) Qualified and nonqualified rehabilitation costs
- 48.5(303,404A) Rehabilitation cost limits and amount of credit
- 48.6(303,404A) Application and review process
- 48.7(303,404A) Tax credit funds
- 48.8(303,404A) Sequencing of applications for review
- 48.9(303,404A) Reserved tax credits
- 48.10(303,404A) Project commencement
- 48.11(303,404A) Project completion and eligible property placed in service
- 48.12(303,404A) Abandonment and recapture of tax credit reservation
- 48.13(303,404A) Transfer of tax credit certificate
- 48.14(303,404A) Redemption of tax credit certificate
- 48.15(303,404A) Tax credits in excess of tax liability
- 48.16(303,404A) Application processing fees
- 48.17(303,404A) Appeals
- 48.18 to 48.20 Reserved

DIVISION II
PROJECTS FOR WHICH PART 2 APPLICATIONS WERE APPROVED AND
AGREEMENTS WERE ENTERED INTO ON OR AFTER JULY 1, 2014

- 48.21(303,404A) Purpose
- 48.22(404A) Definitions
- 48.23(404A) Amount of the tax credit
- 48.24(404A) Management of annual aggregate tax credit award limit
- 48.25(404A) Application and agreement process, generally
- 48.26(404A) Small projects
- 48.27(404A) Who may apply for the tax credit
- 48.28(404A) Part 1 application—evaluation of significance
- 48.29(404A) Preapplication meeting
- 48.30(404A) Part 2 application—description of rehabilitation
- 48.31(404A) Registration application
- 48.32(404A) Agreement
- 48.33(404A) Part 3 application—request for certification of completed work and verification of qualified rehabilitation expenditures
- 48.34(404A) Fees
- 48.35(404A) Compliance
- 48.36(404A) Certificate issuance; claiming the tax credit
- 48.37(303,404A) Appeals

TITLE VI
GRANT PROGRAMS

CHAPTER 49
HISTORICAL RESOURCE DEVELOPMENT PROGRAM GRANTS

- 49.1(303) Purpose
- 49.2(303) Definitions
- 49.3(303) Funding policies
- 49.4(303) Record keeping and retention
- 49.5(303) Appeals

CHAPTER 50
HISTORIC SITE PRESERVATION GRANT PROGRAM

- 50.1(303) Purpose
- 50.2(303) Definitions
- 50.3(303) Application procedures
- 50.4(303) Project review and selection
- 50.5(303) Application rating system
- 50.6(303) Grant administration
- 50.7(303) Informal appeals
- 50.8(303) Emergency grants

TITLE I
GENERAL SOCIETY PROCEDURES

CHAPTER 1

DESCRIPTION OF ORGANIZATION

[Prior to 5/31/89, see Historical Department[490] Chs 1, 2, 5, 10 and Historical Division[223] Ch 13]

223—1.1(303) Purpose. This chapter describes the purposes of the society; the service locations; internal organization; and the board of trustees of the society.

223—1.2(17A,303) Definitions. The definitions listed in Iowa Code section 17A.2 shall apply for terms as they are used in 223—Chapters 1 to 50. In addition, the following definitions apply:

“*Administrator*” means the administrator of the historical division of the department of cultural affairs.

“*Board of trustees of the society*” or “*board*” means the 12-member advisory board of the historical division of the department of cultural affairs.

“*Bureau*” means a subdivision within the historical division of the department of cultural affairs.

“*Department*” means the department of cultural affairs.

“*Director*” means the director of the department of cultural affairs.

“*Historical division*” means the division of the department of cultural affairs, also termed the “society.”

“*Society*” means the state historical society of Iowa.

“*Trustees*” means the board of trustees of the society.

223—1.3(303) Mission statement. The state historical society of Iowa has a dual mission of preservation and education. As a trustee of Iowa’s historical legacy, the state historical society of Iowa identifies, records, collects, preserves, manages, and provides access to Iowa’s historical resources. As an advocate of understanding Iowa’s past, the state historical society of Iowa educates Iowans of all ages, conducts and stimulates research, disseminates information, and encourages and supports historical preservation and education efforts of others throughout the state.

The state historical society of Iowa is the state agency created and empowered by the general assembly as the official trustee of Iowa’s human heritage. The society has the responsibility and authority to:

- Identify, record, collect, preserve, and manage the manifestations of Iowa’s history;
- Interpret and disseminate Iowa history;
- Conduct, stimulate, produce, and share scholarly research on Iowa history;
- Promote and coordinate the teaching of Iowa history;
- Advocate the preservation and stewardship of Iowa’s historical resources; and
- Enter into agreements with nonprofit corporations to undertake activities of benefit to the society.

223—1.4(303) Organization.

1.4(1) Administrator. The administrator of the society is appointed by the director of the department of cultural affairs and serves at the director’s pleasure. In accordance with Iowa Code section 303.2(2c), the administrator serves as the state historic preservation officer. The administrator selects all society personnel and manages the operation of all society programs and facilities. The administrator operates from offices located at the State Historical Building, 600 East Locust Street, Des Moines, Iowa.

1.4(2) Bureaus. The society may organize its activities into any number of bureaus.

223—1.5(303) Facilities management.**1.5(1) Locations.**

a. The society operates two major facilities: The State Historical Building, 600 East Locust Street, Des Moines, Iowa 50319, and the Centennial Building, 402 Iowa Avenue, Iowa City, Iowa 52240.

b. The society also operates eight historic sites:

- (1) Abbie Gardner Sharp Cabin, Arnolds Park, Iowa 51331;
- (2) American Gothic House, Eldon, Iowa 52554;
- (3) Blood Run National Historic Landmark, Inwood, Iowa 51240;
- (4) Matthew Edel Blacksmith Shop, Haverhill, Iowa 50120;
- (5) Montauk, Union Sunday School, and Clermont Museum, Clermont, Iowa 52135;
- (6) Plum Grove, Iowa City, Iowa 52240;
- (7) Toolesboro Mounds National Historic Landmark, Wapello, Iowa 52653; and
- (8) Western Historic Trails Center, 3434 Richard Downing Avenue, Council Bluffs, Iowa 51501.

1.5(2) Internet Web site. The society's Internet home page is located at <http://www.iowahistory.org>.

1.5(3) Hours and days of operation. Public hours and days of operation shall be posted at each society facility and on the society's Internet Web site. The hours for all facilities shall be approved by the director, or designee, upon recommendation of the administrator. Changes in the hours for a facility shall be effective upon 30 days' notice as posted.

1.5(4) Fees. Fees may be charged and collected by the society and shall be administered according to Iowa Code section 303.9. Fees may be charged for, but are not limited to: facilities rental; group tours; educational programs; speaking engagements; photocopying and document reproduction; census searches; photographic searches and reproduction; electronic distribution of materials; rights to publish; conservation and consultation services; artifact and specimen identification and reference; vital records searches and verification; reference, consultation and technical services; research and application processing; admissions; memberships; and subscriptions.

1.5(5) Facilities use. Resource protection is the underlying principle guiding the use of society facilities. This subrule sets forth conditions of public use which apply to all society facilities. Additional restrictions or exceptions pertain to specific facilities as listed in subrule 1.5(6).

a. Individuals and groups. All facilities of the society are open to individuals in accordance with the posted schedule. Groups may arrange for educational programs and group tours by contacting the society.

b. Facility rentals. Certain facilities of the society are available for rental. An individual or group renting a society facility shall be liable for all damage to the facility. The renter shall be billed for the cost of repairs, extraordinary cleaning, and, if necessary, the collection of costs related to any damage caused during rental.

c. Pets. With the exception of those assisting the hearing or visually impaired, pets shall be prohibited in society buildings. All pets on the grounds of any society facility shall be on a leash and under the direct supervision of the owner. The owner assumes all liability for pets brought onto the grounds of a society facility.

d. Smoking. Smoking shall be prohibited in all society facilities.

e. Food and drink. Consumption of food and beverages shall be prohibited in all society facilities except in specific areas designated by the director, or designee, upon recommendation of the administrator.

f. Camping. Camping shall be prohibited at all society facilities, except for special events approved by the director, or designee, upon recommendation of the administrator.

1.5(6) Use of specific facilities.

a. State Historical Building.

(1) All operations are in accordance with 11—subrule 100.4(3), Iowa Administrative Code. The society may contract with a nonprofit corporation to operate a facility rental program. Details concerning the rental program may be obtained from the facilities rental coordinator, State Historical Society of Iowa, 600 East Locust Street, Des Moines, Iowa 50319, or at <http://www.iowahistory.org>.

(2) A contract for use of any part of the state historical building shall be executed prior to the event. This contract shall identify, at a minimum, the group using the facility, purpose of the use, person or group legally responsible, all fees to be assessed, and exact date and time of the event. A contract shall be initiated with the facilities rental coordinator and shall be approved by the director or designee.

(3) Alcoholic beverages may be served at functions in the state historical building if a fully approved alcoholic beverages application is executed prior to the event. This application shall attest

that all laws of the state of Iowa and the city of Des Moines pertaining to alcoholic beverages will be obeyed and that all liability rests with the group using the facility. All alcoholic beverage service shall be provided by the licensee designated by the department of cultural affairs.

(4) Programming. Group tours of the state historical building and educational programming are available. Prior scheduling may be required for tours and programming. An inquiry about arrangements of a museum tour may be directed to the State Historical Society of Iowa, 600 East Locust Street, Des Moines, Iowa 50319.

b. Centennial Building.

(1) The society provides program services of the library and publications bureau at this location. Meeting rooms and other facilities are available for use by groups.

(2) Group tours. Educational tours of the library are available only on a prearranged basis. An inquiry about arrangements for a tour may be directed to the Bureau Chief, Centennial Building, 402 Iowa Avenue, Iowa City, Iowa 52240.

c. Abbie Gardner Sharp Cabin. This site is protected under guidelines established in the Abbie Gardner Sharp Cabin management plan in accordance with the Secretary of the Interior's Standards for Historic Preservation. A request for research use of the site shall be directed to the society. A research request shall be reviewed by the historic sites coordinator and recommended for action to the administrator within 30 days.

d. American Gothic House. This site is protected by the society in accordance with the Secretary of the Interior's Standards for Historic Preservation. Copies of the guidelines and applications for use of the site shall be available from the society.

e. Blood Run National Historic Landmark.

(1) This site is managed by the Executive Director, Lyon County Conservation Board, RR 1, Box 44, Inwood, Iowa 51240, through a cooperative agreement with the society.

(2) This site is protected under guidelines established in a law enforcement agreement between the society and the Lyon County Conservation Board and in accordance with the Secretary of the Interior's Standards for Historic Preservation.

(3) A request for research use of the site shall be directed to the society. A research request shall be reviewed by the historic sites coordinator and recommended for action to the administrator within 30 days.

f. Matthew Edel Blacksmith Shop.

(1) Site protection. The site is protected under guidelines established in cooperative agreements between the society, the Historical Society of Marshall County and the city of Haverhill in accordance with the Secretary of the Interior's Standards for Historic Preservation. A request for research use of the site shall be directed to the society. A research request shall be reviewed by the historic sites coordinator and recommended for action to the administrator within 30 days.

(2) Private use by groups. Picnicking is permitted at this site. A shelter house is available. Arrangements for use of the shelter house may be made by contacting the City Council, Haverhill, Iowa 50120.

g. Montauk, Union Sunday School, Clermont Museum.

(1) Site protection. Montauk is a state preserve. Management complies with all provisions of Iowa Code chapter 465C, 575—Chapter 2, Iowa Administrative Code, and the articles of dedication for Montauk as a state preserve. A request for research use of the site shall be directed to the society. A research request shall be reviewed by the site manager and the historic sites coordinator and recommended for action to the administrator within 30 days.

(2) Hunting shall not be permitted on this site.

(3) Group tours. Tours of Montauk, Union Sunday School, and Clermont Museum shall be available on a prearranged basis. An inquiry about arrangements for a tour may be directed to the Site Manager, Montauk, Clermont, Iowa 52135.

(4) Private use by groups. The facilities may be available on a prearranged basis for use by historical and cultural interest groups. An inquiry may be directed to the Site Manager, Montauk, Clermont, Iowa 52135.

h. Plum Grove.

(1) Site protection. The site is protected under guidelines established in a cooperative agreement between the society and the Johnson County Historical Society and in accordance with the Secretary of the Interior's Standards for Historic Preservation. A request for research use of the site shall be directed to the society. A research request shall be reviewed by the historic sites coordinator and recommended for action to the administrator within 30 days.

(2) Picnicking is permitted at the site.

(3) Group tours. Tours shall be available only on a prearranged basis. An inquiry about arrangements for a tour shall be directed to the Site Manager, Johnson County Historical Society, 310 5th Street, Coralville, Iowa 52241.

(4) Private use by groups. The facilities may be available on a prearranged basis for use by historical and cultural interest groups. An inquiry may be directed to the Site Manager, Johnson County Historical Society, 310 5th Street, Coralville, Iowa 52241.

i. Toolesboro Mounds National Historic Landmark.

(1) Site protection. Toolesboro Mounds National Historic Landmark is a state preserve. Management complies with all provisions of Iowa Code chapter 465C, 575—Chapter 2, Iowa Administrative Code, and the articles of dedication for Toolesboro Mounds National Historic Landmark as a state preserve. A request for research use of the site shall be directed to the society. A research request shall be reviewed by the historic sites coordinator and recommended for action to the administrator within 30 days.

(2) Group tours. Tours are available on a prearranged basis. An inquiry may be directed to the Louisa County Conservation Board, Box 261, 601 Highway 61 North, Wapello, Iowa 52653.

j. Western Historic Trails Center.

(1) Parking. Parking is permitted in designated areas at the site. No overnight parking shall be permitted at the site without written approval by the site manager.

(2) Group tours. Tours by groups, during normal days and hours of operation, shall be available on a prearranged basis. An inquiry about arrangements for a tour shall be directed to the Site Manager, Western Historic Trails Center, 3434 Richard Downing Avenue, Council Bluffs, Iowa 51501.

(3) Private use by groups. The facilities may be available on a prearranged basis for use by historical and cultural interest groups. An inquiry may be directed to the Site Manager, Western Historic Trails Center, 3434 Richard Downing Avenue, Council Bluffs, Iowa 51501.

(4) Admission fee. No admission fee shall be charged at the site.

223—1.6(303) Board of trustees.

1.6(1) Function. The function of the society board of trustees is to advise the administrator of the society and to stimulate interest in the history of Iowa among the general public, as well as other functions that are not contrary to the Iowa Code.

1.6(2) Composition. Two categories of membership exist for the board of trustees:

a. Elected members. In compliance with Iowa Code subsection 303.4(1), three members of the board of trustees shall be elected annually. The board of trustees shall establish written procedures for the conduct of the election. A society member may nominate a candidate by contacting the administrator. Each member of the society shall be entitled to one vote regardless of membership category. Elected board members shall serve three-year, staggered terms of office. Terms of office shall begin on May 1 consistent with Iowa Code section 69.19.

b. Appointed members. In compliance with Iowa Code subsection 303.4(1), the governor shall appoint nine members to the board. Terms of office shall be in accordance with Iowa Code subsection 303.4(2) and consistent with Iowa Code section 69.19.

1.6(3) Officers. Pursuant to Iowa Code section 303.6, the board of trustees of the society shall annually elect a chairperson and a vice chairperson from its membership. The administrator of the society serves as secretary to the board of trustees. Election of officers shall be held annually at the first meeting of the board following the installation of new members. Election is by a two-thirds vote of all board members.

1.6(4) Meetings. The board of trustees shall meet at least four times per year in accordance with a schedule established by the board. A two-thirds majority of all members of the board shall constitute a quorum to conduct business. All meetings are open to the public under Iowa Code chapter 21. Public notice of all meetings shall be posted in accordance with Iowa Code chapter 21.

1.6(5) Committees—appointment. Committees of the board of trustees may be appointed on an ad hoc basis by the chairperson of the board. Nonboard members may be appointed to committees.

1.6(6) Conflict of interest.

a. Definitions. The following definitions apply in this subrule:

“*Affinity*” means the relationship of a spouse.

“*Consanguinity of the second degree*” means a blood relationship of the second degree such as a brother/sister, grandparent, grandchild.

“*Contract*” means any claim, account, job of work, grant application, provision of materials, or manuscript submitted for remuneration.

b. A board member who has an interest, either direct or indirect, within consanguinity of the second degree, in any contract in which the society is or might become a party shall disclose the interest to the board. The interest shall be noted in the minutes of a board meeting. When the contract requires board action, the affected member shall not participate in any discussion or action by the board with respect to the contract. The affected member shall be disqualified from voting on the contract issue by reason of the conflict. The quorum of the board shall not be changed as the result of a conflict of interest disqualification.

223—1.7(303) Gifts, bequests, endowments. The society may accept private gifts, bequests, and endowments with such gifts credited to the account of the society. Accepted gifts, bequests, and endowments shall be used in accordance with the desire of the donor as expressed at the time of the donation. Undesignated funds shall be credited to the society and used for projects and activities of the society as recommended by the administrator of the society. Gifts may be deposited directly into the account of the society, or, in accordance with Iowa Code section 353.7(4), the society may enter into an agreement with a nonprofit corporation to accept and manage gifts, bequests and endowments.

223—1.8(303) Public and private grants and donations. The department, acting on behalf of the society, may apply for and receive funds from public and private sources. Receipts from these grants shall be credited to the account of the society and used in accordance with the stipulation of the grants contract. In accordance with Iowa Code section 303.7(4), the society may enter into an agreement with a nonprofit corporation to accept public and private grants and donations.

223—1.9(303) Sale of mementos. The department, acting on behalf of the society, may sell mementos or other items relating to Iowa and its history and culture at the society’s facilities.

1.9(1) Operator of gift shops. The society may enter into an agreement with a nonprofit corporation for the operation of gift shops, including facilities, merchandise, and promotion. The society shall require an accounting of all receipts and expenditures of the gift shops.

1.9(2) Income. Net proceeds from rental, lease, sale, and fees shall be deposited into the account of the society.

These rules are intended to implement Iowa Code sections 303.1A, 303.2, and 303.4 to 303.18.

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CHAPTER 2
Reserved

CHAPTER 3
PUBLIC RECORDS AND FAIR INFORMATION PRACTICES

223—3.1(17A,22) 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 the law. Confidential records include records or information contained in records that the state archives 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 the law does not necessarily make that entire record a confidential record.

“*Custodian*” in these rules means the state archivist of Iowa.

“*Open record*” in these rules means a record other than a confidential record.

“*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 part of a “public record,” as defined in Iowa Code section 22.1, that is in the custody of the state archivist.

“*Record system*” in these rules means any group of records under the control of the state archives 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.

“*State archives*” in these rules means the state archives of Iowa, a unit within the society.

223—3.2(17A,22) Statement of policy and scope.

3.2(1) The purpose of this chapter is to facilitate broad public access to open records. It also seeks to facilitate sound determinations by the state archives with respect to the handling of confidential records and the implementation of the fair information practices Act. The state archives is committed to the policies set forth in Iowa Code chapter 22; state archives staff shall cooperate with members of the public in implementing the provisions of that chapter.

3.2(2) Scope of chapter. The provisions of this chapter apply to records which are in the custody of the state archivist in accordance with Iowa Code Supplement section 305.9(1). Administrative materials created and held by the state archives are subject to 221—Chapter 2. This chapter shall not be construed to:

- a. Require the state archives to index or retrieve records which contain information about an individual by that person’s name or other personally identifiable information;
- b. Apply to records which are developed by the state archives or any unit of the society unless those records are housed in the state archives as records having enduring value in accordance with Iowa Code Supplement section 305.9(1); or
- c. Govern the maintenance or disclosure of, notification of or access to records in the possession of the state archives that are governed by the regulations of another agency.

223—3.3(17A,22) Request for access to records.

3.3(1) *Location of record.* A request for access to a record from the state archives shall be directed to the State Archivist, Historical Division, Department of Cultural Affairs, 600 East Locust, Des Moines, Iowa 50319. If the location of the record is not known by the requester, the request shall be directed to the State Archivist, Historical Division, Department of Cultural Affairs, 600 East Locust, Des Moines, Iowa 50319. If a request for access to a record is misdirected, state archives personnel shall promptly forward the request to the appropriate person within the state archives.

3.3(2) *Office hours.* Open records from the state archives of Iowa shall be available for inspection during posted weekday hours of the society’s public reading room in Des Moines. Records may be available for inspection in the society’s public reading room in Des Moines during posted hours on a Saturday if a request is placed by 12 noon on the preceding Friday.

3.3(3) Request for access. Requests for access to open records from the state archives may be made in writing, in person, electronically, or by telephone. Requests shall identify the particular records sought by name or description in order to facilitate location of the record. Mail, E-mail or telephone requests shall include the name, address, and telephone number of the person requesting the information. A person shall not be required to give a reason for requesting an open record from the state archives.

3.3(4) Response to requests. Access to an open record from the state archives 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 from the state archives requires time for compliance, the custodian shall comply with the request as soon as feasible. Access to an open record from the state archives 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 223—3.4(17A,22) and other applicable provisions of the law.

3.3(5) Security of record. No person may, without permission from the custodian, search or remove any record from the state archives. Examination of agency records shall be supervised by the custodian or a designee of the custodian. The requester shall protect the records from damage and disorganization. Copying of agency records shall be performed by the custodian or a designee of the custodian.

3.3(6) Copying. A reasonable number of copies of an open record may be made by the state archives for the requester unless reproduction is inappropriate due to the physical condition of the record or other physical considerations. The custodian shall assess the physical condition of the record and any relevant legal considerations to determine whether or not it can be photocopied. If the physical condition of the record makes reproduction by photocopy inappropriate, alternative methods of reproduction shall be proposed. If photocopy equipment is not available in the state archives where an open record is kept, the custodian shall arrange to have copies promptly made elsewhere.

3.3(7) Fees.

a. When charged. The state archives may charge fees in connection with the examination or copying of records from the state archives only if the fees are authorized by law. To the extent permitted by applicable provisions of the 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 state archives shall be prominently posted in the society's public reading rooms. Copies of records may be made by the state archives for members of the public on society photocopy machines or from electronic storage systems at cost as determined and posted in the society's public reading rooms by the custodian. When the mailing of copies of records from the state archives is requested, the costs of such mailing may also be charged to the requester.

c. Supervisory fee. An hourly fee may be charged for state archives expenses in retrieving and preparing records for examination, supervising the examination, and preparing copies of requested records when the time required is in excess of one-half hour. The custodian shall prominently post in the society's public reading rooms the hourly fees to be charged for supervision of records during examination and for copying. The hourly fee for retrieval and preparation of records for examination shall not be in excess of the hourly wage of the employee who performs this function.

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 for that requester.

223—3.4(17A,22) 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 223—3.3(17A,22).

3.4(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.

3.4(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. A person requesting access to a confidential record may be required to sign a nondisclosure agreement to provide assurance that confidential information in a requested record will not be disclosed.

3.4(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.

3.4(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 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 denial to this requester.

3.4(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.

223—3.5(17A,22) Requests for treatment of a record as a confidential record and its withholding from examination. The custodian may treat a record in the state archives 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. A record that is confidential in the agency of origin retains its confidential status when transferred to the custody of the state archivist.

3.5(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.

3.5(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 such 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 from which those portions for which such confidential record treatment has been requested have been deleted. If the original record is being submitted to the state archives 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.

3.5(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 state archives 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.

3.5(4) *Timing of the 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.

3.5(5) *Request granted or deferred.* If a request for such confidential record treatment is granted, or if action on such a request is deferred, a copy of the record from which the matter in question has been deleted and a copy of the decision to grant the request or to defer action upon the request will be made available for public inspection in lieu of the original record. If the custodian subsequently receives a request for access to the original record, the custodian will make reasonable and timely efforts to notify any person who has filed a request for its treatment as a confidential record that is not available for public inspection of the pendency of that subsequent request.

3.5(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 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.

223—3.6(17A,22) 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 the subject of such a record to alter the original copy of that record or to expand the official record of any agency proceeding. The requester shall send the request to review such a record or the written statement of additions, dissents, or objections to the State Archivist, Historical Division, Department of Cultural Affairs, Des Moines, Iowa 50319. 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 the requester and shall include the current address and telephone number of the requester or the requester's representative.

223—3.7(17A,22) 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 counsel before the state archives on behalf of a person who is the subject of a confidential record is deemed to constitute consent for the state archives to disclose records about that person to the person's attorney.

223—3.8(17A,22) Notice to suppliers of information. When the state archives assumes custody of records from a state agency, the state archives assumes the state agency seeking to transfer custody of said records has provided appropriate notice to suppliers of information.

223—3.9(17A,22) Availability of records.

3.9(1) General records. Records in the state archives are open for public inspection unless otherwise provided by rule or law as designated by the transferring agency. Records in the state archives are open for copying unless, in the opinion of the custodian, reproduction by photocopying would adversely affect the physical condition of the records or there are legal considerations that prohibit copying.

3.9(2) Confidential records. The state archives has custody of records which other state agencies have created. An agency which creates records shall identify which records are confidential when transferring those records to the state archives. Unless otherwise required by law, any confidential record in an agency shall retain its confidential record status after its transfer to the state archives.

3.9(3) Ancient records. Notwithstanding any confidentiality designation by the transferring agency, once any record in the state archives is more than 100 years old, the record shall be available for public examination and copying unless:

- a. The record is ordered to be sealed and is not subject to inspection by any court; or
- b. Federal law, rule, or regulation prohibits disclosure of the record.

3.9(4) Vital statistics. Notwithstanding any confidentiality designation, the following vital statistics records in the state archive may be inspected and copied as of right:

- a. A record of birth that is at least 75 years old.
- b. A record of marriage that is at least 75 years old.
- c. A record of divorce, dissolution of marriage, or annulment of marriage that is at least 75 years old.
- d. A record of death or fetal death that is at least 50 years old.

[ARC 4827C, IAB 12/18/19, effective 1/22/20]

223—3.10(17A,22) Determination of rights of access to records.

3.10(1) Determination of rights of access to records which have exceeded their period of administrative value as determined by the state records commission and are in the custody of the state archivist shall be governed by this chapter. Determination of rights of access to records for which the period of administrative value has not been determined by the state records commission but which are 30 years of age or older and are in the custody of the state archivist shall be governed by this chapter.

3.10(2) Determination of rights of access to records which have not exceeded their period of administrative value as determined by the state records commission, but are in the possession of the state archivist, shall be governed by the regulations of the agency which developed the records. Determination of rights of access to records for which the period of administrative value has not been determined by the state records commission, but which do not exceed 30 years of age, shall be governed by the regulations of the agency which developed the records.

223—3.11(17A,22) Consensual disclosure of confidential records. Rescinded IAB 1/5/05, effective 2/9/05.

223—3.12(17A,22) Release to the subject. Rescinded IAB 1/5/05, effective 2/9/05.

223—3.13 Reserved.

223—3.14(17A,22) Personally identifiable information. Rescinded IAB 1/5/05, effective 2/9/05.

223—3.15(17A,22) Other records. Rescinded IAB 1/5/05, effective 2/9/05.

223—3.16(17A,22) Data processing systems. Rescinded IAB 1/5/05, effective 2/9/05.

These rules are intended to implement Iowa Code sections 22.11 and 303.12 to 303.15.

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CHAPTER 4
AGENCY PROCEDURE FOR RULE MAKING

The society adopts the agency procedure for rule making segments of the Uniform Administrative Rules which are printed in the first volume of the Iowa Administrative Code with the following amendments:

223—4.4(17A) Notice of proposed rule making.

4.4(3) Notices mailed. In lieu of the words “specify time period” insert “one year”.

223—4.5(17A) Public participation.

4.5(1) Written comments. In lieu of the words “identify office and address” insert “Administrator, State Historical Society of Iowa, Capitol Complex, Des Moines, Iowa 50319, (515)281-8837”.

4.5(4) Additional information. Add the following sentence at the end of the subrule: The society may send notices of proposed rule making and a request for comments to an agency, organization, association, or individual known to have a direct interest or expertise pertaining to the proposed rule.

223—4.6(17A) Regulatory flexibility analysis.

4.6(3) Mailing list. In lieu of the words “designate office” insert “Administrator, State Historical Society of Iowa, Capitol Complex, Des Moines, Iowa 50319, (515)281-8837”.

223—4.10(17A) Exemptions from public rule-making procedures.

4.10(2) Categories exempt. Insert the following sentence for the parenthetical sentences:

These rules shall be those that are mandated by federal law or regulations; where the department has no option but to adopt the rules as specified; where federal funding is contingent upon the adoption of the rules, and the rules are promulgated in accordance with the National Historic Preservation Act of 1966; Federal Regulations 36 CFR Part 61, April 13, 1984, and August 30, 1985; 36 CFR Part 63, September 21, 1977; 36 CFR Part 60, November 16, 1981, and October 2, 1983; 36 CFR Part 67, March 12, 1984; 36 CFR Part 800, September 21, 1986; 26 CFR Parts 1, 20, 25, and 602, October 11, 1988.

Notice and public participation would be unnecessary since the provisions of the law or regulation must be adopted in order to maintain federal funding and the department would have no option in the rule which was adopted.

223—4.11(17A) Concise statement of reasons.

4.11(1) General. In lieu of the words “specify the office and address” insert “Administrator, State Historical Society of Iowa, Capitol Complex, Des Moines, Iowa 50319, (515)281-8837”.

223—4.13(17A) Agency rule-making record.

4.13(2) Contents. In lieu of the words “agency head” insert “administrator”.

These rules are intended to implement Iowa Code section 17A.4(1) “b.”

[Filed 5/12/89, Notice 4/5/89—published 5/31/89, effective 7/5/89]

[Filed 1/27/94, Notice 12/22/93—published 2/16/94, effective 3/23/94]

CHAPTER 5
PETITIONS FOR RULE MAKING

The society adopts the petitions for rule making segments of the Uniform Administrative Rules which are printed in the first volume of the Iowa Administrative Code with the following amendments.

223—5.1(17A) Petition for rule making. In lieu of the words “designate office” insert “Administrator, State Historical Society of Iowa, Capitol Complex, Des Moines, Iowa 50319, (515)281-8837”.

In lieu of the words “AGENCY NAME”, the heading on the petition shall read:

BEFORE THE STATE HISTORICAL SOCIETY OF IOWA

223—5.3(17A) Inquiries. Inquiries concerning the status of a petition for rule making may be made to the Administrator, State Historical Society of Iowa, Capitol Complex, Des Moines, Iowa 50319, (515)281-8837.

These rules are intended to implement Iowa Code section 17A.7.

[Filed 6/22/77, Notice 5/18/77—published 7/13/77, effective 8/18/77]

[Filed 4/13/78, Notice 3/8/78—published 5/3/78, effective 6/12/78]

[Filed 5/12/89, Notice 4/5/89—published 5/31/89, effective 7/5/89]

CHAPTER 6
DECLARATORY RULINGS

The society adopts the declaratory rulings segments of the Uniform Administrative Rules which are printed in the first volume of the Iowa Administrative Code with the following amendments.

223—6.1(17A) Petition for declaratory ruling. In lieu of the words “designate office” insert “Administrator, State Historical Society of Iowa, Capitol Complex, Des Moines, Iowa 50319, (515)281-8837”.

In lieu of the words, “AGENCY NAME”, the heading on the petition shall read:
BEFORE THE STATE HISTORICAL SOCIETY OF IOWA

223—6.3(17A) Inquiries. Inquiries concerning the status of a petition for a declaratory ruling may be made to the Administrator, State Historical Society of Iowa, Capitol Complex, Des Moines, Iowa 50319, (515)281-8837.

These rules are intended to implement Iowa Code section 17A.9.

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CHAPTERS 7 to 12
Reserved

TITLE II
Reserved

TITLE III
HISTORICAL SOCIETY—
GENERAL POLICIES

CHAPTER 13
COLLECTIONS POLICIES

[Prior to 5/31/89, see [490] 1.8, Ch 5 and [223] 14.1]

223—13.1(303) Purpose. The society strives to acquire materials on, by, about, of, or representative of Iowa, Iowans, and activities of Iowans. This includes, but is not limited to printed materials, archives, manuscripts, photographs, machine readable data, artifacts, specimens, and works of art.

223—13.2(303) Definitions. The definitions listed in Iowa Code section 17A.2 and rules 223—1.2(303) and 22.2(303) shall apply for terms as they are used throughout this chapter. In addition, the following definitions apply:

“*Accession*” means the act of recording or processing an addition to the collections of the society.

“*Acquisition*” means the act of obtaining legal title to an object or document.

“*Artifact*” means a man-made object.

“*Collection*” means an orderly assemblage of man-made or natural objects.

“*Deaccession*” means the act of removing an object from the collections permanently.

“*Loan*” means the act of temporarily transferring custody of an object.

“*Specimen*” means a natural object.

223—13.3(303) Location. Collections of the society are maintained at all facilities operated by the society. Information concerning collections may be obtained by contacting the appropriate staff at the facilities noted in 223—subrule 1.5(1).

223—13.4(303) Management of collections.

13.4(1) Areas of responsibility. All bureaus may have responsibility for collections care and management and will cooperate with each other on behalf of the collections.

13.4(2) Collections committee.

a. Responsibilities. The collections committee shall act to:

(1) Develop and annually review a collecting plan, from staff recommendations, which shall identify primary areas for active solicitation of additional collections;

(2) Establish general parameters, from bureau recommendations, for collecting, within which materials may be collected without further referral to the collections committee;

(3) Review and act on requests from all bureaus concerning potential acquisitions which might involve materials whose care would involve more than one bureau;

(4) Review and act on requests from all bureaus concerning potential major acquisitions that might involve a significant investment of staff time, storage space, or financial resources;

(5) Review and act on requests for restrictions on donations;

(6) Review and act on questions concerning the collections referred to the committee by any member of the staff with the knowledge of the staff person’s supervisor;

(7) Approve loans requiring extraordinary indemnification;

(8) Approve extraordinary collection access requests;

(9) Approve methods for the disposition of materials anonymously left to the society; and

(10) Approve all loans from the collections to government offices except for routine record requests from state government agencies.

b. The actions of the committee shall become effective within ten working days after the minutes of the committee meeting are received by the administrator, unless an action of the committee is specifically reversed by the administrator in writing to the chair of the committee. The committee may request an earlier decision by the administrator if the nature of the recommended action requires it.

c. The committee shall recommend actions to the administrator of the society for approval and referral to the board of trustees of the society concerning materials to be deaccessioned from the collections.

d. Composition. The committee shall consist of seven members. The members shall include the following:

- (1) Archivist from the staff of the society, appointed by the division administrator;
- (2) Museum curator from the staff of the society, appointed by the division administrator;
- (3) Librarian from the staff of the society, appointed by the division administrator;
- (4) Community programs staff representative from the staff of the society, appointed by the division administrator;
- (5) Member of the board of trustees, appointed by the president of the board of trustees;
- (6) Member representing the public appointed by the president of the board of trustees; and
- (7) One member from the staff, appointed by the administrator of the society. The administrator of the society is an ex officio, nonvoting member of the committee.

e. Organization of the committee.

(1) Members of the committee shall be appointed for two-year staggered terms which coincide with the state fiscal year.

(2) The committee chair shall be appointed by the administrator of the society from among the committee members who are staff members of the society.

(3) The committee shall meet on a quarterly basis. The meetings shall be called by the chair. Additional meetings may be called by the petition of any three voting members of the committee.

223—13.5(303) Acquisition.

13.5(1) General policy. The following general policies apply to all areas of the collections. More specific policies for the state archives are noted in subrule 13.5(2).

a. The society may acquire materials by gift, bequest, transfer, or purchase.

b. The staff of the society shall evaluate potential acquisitions for their relevance to the collections, research, exhibit, educational, intrinsic, historical, or scientific importance, physical condition, relationship to the annual collecting priorities established by the collections committee, and impact upon the operations of the society.

c. Title to all donations shall be outright. Certain restrictions on access may be considered by the collections committee. The society shall make no commitments as to the exhibition, attribution, or use of the gift.

d. A deed of gift documenting the legal transfer of the gift to the society and the acceptance of that gift shall be signed by the legal owner or the owner's authorized agent and the appropriate authorized agent of the society.

e. Materials left anonymously in the custody of the society shall be evaluated for possible accession into the collections.

If the materials are to be accessioned into the collections, the materials shall be documented by the appropriate authorized agent of the society. The documentation shall describe the circumstances pertaining to the acquisition.

If the materials are not to be accessioned into the collections, disposition of the materials shall be determined by the collections committee upon the recommendation of the appropriate bureau.

f. Bequests of which the society has not been apprised shall be considered as unsolicited materials and evaluated in the same manner as any other unsolicited gift.

g. Title to undocumented collections in the possession of the society or unclaimed loans in the possession of the society shall be handled in accordance with Iowa Code chapter 305B.

h. The staff of the society shall not appraise collections for financial value. The society shall not pay for nor reimburse a donor for such appraisal costs.

13.5(2) State archives. Records of state agencies shall be transferred to the state archives of the society, in accordance with the rules and procedures established by the state records commission as stated in the Records Management Manual and in accordance with Iowa Code chapter 304.

223—13.6(303) Deaccession.

13.6(1) Purpose. Deaccession of materials shall be undertaken only as a means of strengthening and benefiting the collections of the society. Deaccession shall not be used to generate operating funds for the society.

13.6(2) Ethics.

a. Deaccession of materials shall be undertaken in an open, public manner conforming to all appropriate ethics statements of the appropriate professional organizations. The society and its employees shall conform to all appropriate professional ethics statements.

b. In no circumstance shall the ownership of deaccessioned materials be transferred to or benefit any trustee, employee, spouse or immediate family member of an employee of the society.

13.6(3) Criteria. Individual objects or documents or groups of objects or documents may be deaccessioned from the collections of the society if they:

a. Are no longer deemed relevant and appropriate for the collections; or

b. Have deteriorated beyond repair and usefulness; or

c. Pose danger to other parts of the collections.

13.6(4) Procedure.

a. The appropriate bureau chief shall recommend, with written justification, to the collections committee the materials to be deaccessioned. The collections committee shall evaluate the recommendation at its next meeting and, if the committee approves the recommendation, forward the recommendation with all appropriate documentation and comments to the administrator of the society.

b. The administrator of the society shall approve or disapprove all recommendations for deaccession of materials by the collections committee and shall forward all approved recommendations with comments to the board of trustees.

c. The board of trustees shall review all recommendations for deaccession at the next meeting. No materials shall be deaccessioned without the approval of the board of trustees.

d. The method for disposition of the deaccessioned materials shall be recommended by the bureau chief and approved by the collections committee, administrator of the society, and the board of trustees. The methods for disposition of the deaccessioned materials include, but are not limited to, the following methods:

(1) Exchange with other educational institutions to strengthen the collections of the society;

(2) Donation to another educational institution which may make the materials generally accessible to the public;

(3) Sale at public auction or other appropriate means; or

(4) Destruction.

e. A complete written record of deaccession recommendations, justifications, decisions, and methods used for removal of the materials shall be maintained as a permanent record of the society.

13.6(5) Limitations.

a. Revenue received from disposition of any collection shall be retained in a separate revenue account. This revenue shall be used solely to maintain, conserve, preserve, and strengthen the collections of the society.

b. Prior to consideration of the deaccession of undocumented materials or unclaimed loans, the title shall be cleared in accordance with Iowa Code chapter 305B.

c. Collections which are donated to and accessioned by the society shall not be deaccessioned for a period of two years after accessioning into the collections.

223—13.7(303) Documentation and care.**13.7(1) Records.**

a. Permanent collection records shall be maintained to document the acquisition, accession, deaccession, care, conservation, interpretation, location, and exhibition of all collections.

b. All collections documentation shall be maintained in accordance with Iowa Code chapter 305B.

c. Collections records shall be protected, insofar as possible, from destruction by creating duplicate files to be stored in an off-site location.

13.7(2) The society shall apply professionally accepted methods of storage, treatment, care, conservation, preservation, research, and exhibition. The society shall make every effort to ensure adequate preservation through obtaining of adequate preservation funds.

13.7(3) Inventories, catalogs, and other finding aids shall be made available to the public as staff availability and society funds are obtained.

223—13.8(303) Lending.

13.8(1) *General policy.* The following general policies apply to all areas of the collections.

a. The society encourages maximum public access to its collections by making loans which are consistent with the long-term conservation and preservation of the collections and with the needs of the society for exhibit and research purposes.

b. Loans from the collections shall be made for educational and scholarly purposes consistent with the mission of the society.

c. Collections shall not be loaned to individuals except for natural history specimens lacking provenance which may be loaned to individuals for educational purposes with the approval of the curator of natural history and the bureau chief of the museum. All applications for use of natural history specimens may be directed to the Curator of Natural History, State Historical Society of Iowa, Capitol Complex, Des Moines, Iowa 50319, (515)281-5627.

d. All loans shall be for a specified period of time and shall be documented and monitored by the appropriate staff person approving the loan.

13.8(2) *Specific policies.*

a. Interlibrary loans shall provide access to the collections through cooperating libraries.

b. Requests for interlibrary loan shall be submitted on the standard American Library Association Interlibrary Loan Form and in accordance with the American Library Association's Interlibrary Loan Code. The requests shall be honored unless the loan is inappropriate due to legal or curatorial considerations or the materials can be readily obtained elsewhere. Requests for interlibrary loan shall be directed to the Reference Librarian, State Historical Society of Iowa, Centennial Building, 402 Iowa Avenue, Iowa City, Iowa 52240, (319)335-3916 or Reference Librarian, Library and Archives, State Historical Society of Iowa, Capitol Complex, Des Moines, Iowa 50319, (515)281-6200.

c. Original manuscripts, maps, photographs, state archives records and rare books shall not be loaned for research purposes.

d. The society shall make every effort consistent with professional standards and ethics and within their financial resources to provide a microform or other copy of rare, unique, and heavily used library and archives materials for loan purposes.

e. The loan of artifacts from the museum collections shall be approved and managed by the museum. All applications shall be in writing and include a current facilities report from the borrowing institution. Applications for loan and questions may be directed to the Chief Curator, State Historical Society of Iowa, Capitol Complex, Des Moines, Iowa 50319, (515)281-5111.

f. Only those artifacts in stable, presentable condition shall be considered for loan unless conservation treatment for the object is a condition of the loan agreement.

g. All artifact loans shall be approved by the appropriate curator, chief curator, conservator, and the bureau chief.

h. The loan of artifacts to the society shall be accepted and managed by the museum. All questions related to loans may be directed to the Chief Curator, State Historical Society of Iowa, Capitol Complex, Des Moines, Iowa 50319, (515)281-5111.

i. Loans shall be accepted only to meet the society's objectives for exhibition or research. The society shall not provide free storage, conservation treatment, or validate private collections.

j. All loans to the society shall receive the highest standard of professional care.

k. Unclaimed loans left in the care of the society shall be handled in accordance with Iowa Code chapter 305B.

223—13.9(303) Access and disclosure. The collections of the society shall be available for public study in accordance with 223—22.2(303).

These rules are intended to implement Iowa Code sections 303.1A, 303.2 and 303.4 to 303.18.

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CHAPTER 14
EXHIBITIONS POLICIES

223—14.1(303) Purpose. Exhibitions are created by the museum for the purpose of promoting an understanding and appreciation of Iowa history through exhibition of the material manifestations of that history. In fulfilling this purpose the museum is cognizant of its equally significant role in the collection and preservation of the state's material culture.

223—14.2(303) Location. Several forms of exhibitions are created by the museum. These exhibitions are:

14.2(1) *Permanent.* These exhibitions are located at the Museum, State Historical Building, Capitol Complex, Des Moines, Iowa 50319, (515)281-5111 and at the historic sites operated by the society.

14.2(2) *Temporary.* These exhibitions are located at the Museum, State Historical Building, Capitol Complex, Des Moines, Iowa 50319, (515)281-5111 and at the historic sites operated by the society. Temporary exhibitions are displayed in the museum for a limited period of time.

14.2(3) *Traveling.* Reserved.

223—14.3(303) Collections principles and practices.

14.3(1) Original artifacts, specimens, documents, and images shall be the focus of and utilized in all exhibitions, unless they cannot be provided adequate preservation and protection while on exhibit.

14.3(2) Reproductions or models shall be used only as props or as required for the preservation of original materials. The incorporation of reproductions as the focus or subject of an exhibition shall be justified only by the lack of representative artifacts, extreme security or preservation requirements, or the overwhelming significance of the subject matter to Iowa history.

14.3(3) Reproductions and models shall be clearly identified as such, when necessary to distinguish them from historical collections. If reproductions are used as exhibit props or graphic tools and are not the focus of the exhibition, they need not be specifically identified as reproductions.

223—14.4(303) Conservation principles and practices.

14.4(1) All exhibitions shall be designed to meet the conservation needs of the artifacts, images, and documents that are used.

14.4(2) If an artifact, image, or document cannot be exhibited without threatening the preservation of the item, it shall not be exhibited, and a reproduction shall be used.

14.4(3) The exhibition environment shall be monitored on a regular basis to ensure maintenance of optimum environmental conditions for the items on exhibit.

223—14.5(303) Education principles and practices.

14.5(1) All exhibitions shall incorporate the highest standards of scholarship.

14.5(2) Exhibit design shall employ learning theory and shall be designed for the appropriate cognitive and age developmental levels of the audiences.

14.5(3) Exhibits shall minimize enclosed casework and barriers between visitors and the artifacts consistent with artifact security and preservation requirements.

14.5(4) Items shall be displayed within appropriate interpretative frameworks.

14.5(5) Written text shall support the exhibition of original artifacts, specimens, images, and documents, but shall not be the focus of the exhibit. If extensive labeling is required, presentation in a format other than a museum exhibition shall be used.

14.5(6) Exhibition design shall incorporate appropriate current design concepts, fabrication techniques, and technologies. Experimental design shall be used as appropriate.

14.5(7) Interactive components shall be incorporated in all exhibitions and shall not be confined to a single designated area. No interactive components shall violate the integrity, preservation, or security requirements of the artifacts.

14.5(8) Any individual or group from the general public, local groups organized for historical or cultural purpose, or the staff of the society may propose an exhibition. All proposals may be directed

to the Bureau Chief, Museum, State Historical Society of Iowa, Capitol Complex, Des Moines, Iowa 50319, (515)281-5111. Final selection of exhibition topics, artifacts, and form of presentation rests with the chief of the museum and the administrator of the society.

14.5(9) Exhibitions shall be developed by teams that include appropriate representatives of the museum, other bureaus of the society, the scholarly community, and the general public.

14.5(10) Whenever possible exhibitions shall be pretested with a representative sample of the intended audience. Exhibition design, fabrication, and installation shall be adjusted appropriately to reflect the results of the testing.

14.5(11) The museum shall maintain an ongoing evaluation program and incorporate the results in future exhibition design.

14.5(12) Exhibitions shall be designed so as to make guided tours unnecessary for understanding the exhibition.

14.5(13) Exhibitions shall create and maintain environments conducive to learning. This includes adequate lighting for comfort and safety; space for group tours and individuals simultaneously; seating and appropriate spaces to relieve visitor fatigue; and clear traffic flow patterns.

14.5(14) Exhibition techniques shall not intentionally misrepresent the facts or the authenticity of the collections.

14.5(15) The exhibitions shall accurately reflect the social and cultural diversity and heritage of the state.

14.5(16) Exhibitions shall consider visitor safety. Design and fabrication shall adhere to all safety and health codes. Potential use and misuse by the public shall be considered.

223—14.6(303) Professional museum principles and practices. The staff of the museum shall actively seek and freely share scholarly knowledge, technical expertise, and exhibition content with other museums.

These rules are intended to implement Iowa Code section 303.2 and Iowa Code chapter 303, subchapter II.

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CHAPTER 15
PUBLICATION POLICIES AND SERVICES

[Prior to 5/31/89, see [490] Ch 5]

223—15.1(303) Purpose. The society publishes periodicals and books to disseminate material of general interest and scholarly studies about Iowa history to the citizens of Iowa.

223—15.2(303) Iowa Heritage Illustrated.

15.2(1) Content. The Iowa Heritage Illustrated is a popular history magazine published quarterly to inform Iowans about the history of the state.

15.2(2) Submissions. Historical studies which may be of interest to a general audience may be submitted to the Editor, Iowa Heritage Illustrated, 402 Iowa Avenue, Iowa City, Iowa 52240, (319)335-3916. Questions concerning possible submissions and the technical requirements for submission may be directed to the same address.

15.2(3) Manuscript evaluation. Manuscripts are evaluated on the basis of originality and significance to Iowa history as well as the quality of the research and writing. Final responsibility for manuscript acceptance and modification shall rest with the editor. Questions concerning manuscript review may be directed to the Editor, Iowa Heritage Illustrated, 402 Iowa Avenue, Iowa City, Iowa, 52240, (319)335-3916.

15.2(4) Subscriptions. The Iowa Heritage Illustrated is available as a benefit of membership in the society. Subscription rates are established in accordance with subrule 1.5(3). Subscription inquiries may be directed to Publication Sales, 402 Iowa Avenue, Iowa City, Iowa 52240, (319)335-3916.

223—15.3(303) Annals of Iowa.

15.3(1) Content. The Annals of Iowa is a scholarly journal published quarterly to disseminate original research and scholarly analysis concerning Iowa history.

15.3(2) Submissions. Annotated articles incorporating the use of primary materials may be submitted to the Editor, Annals of Iowa, 402 Iowa Avenue, Iowa City, Iowa 52240, (319)335-3916. Questions concerning possible submissions and the technical requirements for submission may be directed to the same address.

15.3(3) Manuscript evaluation. Manuscripts are evaluated on the basis of contribution to knowledge, strength of the argument, and clarity of writing. Extramural readers may be used in the review process. Final responsibility for manuscript acceptance and modification shall rest with the editor. Questions concerning manuscript review may be directed to the Editor, Annals of Iowa, 402 Iowa Avenue, Iowa City, Iowa 52240, (319)335-3916.

15.3(4) Subscriptions. The Annals of Iowa is available by subscription. Subscription rates are established in accordance with subrule 1.5(3). Subscription inquiries may be directed to Publication Sales, 402 Iowa Avenue, Iowa City, Iowa 52240, (319)335-3916.

223—15.4(303) Goldfinch.

15.4(1) Content. The Goldfinch is a children's history magazine produced to inform children in the fourth through the seventh grades of their Iowa heritage. It is published four times each year between September and May.

15.4(2) Submissions. The Goldfinch is produced by the staff of the society. Submissions of poetry, stories, and artwork by students in grades four through seven are occasionally published. Submissions may be directed to the Editor, Goldfinch, 402 Iowa Avenue, Iowa City, Iowa 52240, (319)335-3916. Questions concerning submissions may be directed to the same address.

15.4(3) Material evaluation. Materials submitted are evaluated on the basis of the reproduction quality and space availability. Final responsibility for the acceptance and modification of materials shall rest with the editor. Questions concerning evaluation of materials may be directed to the Editor, Goldfinch, 402 Iowa Avenue, Iowa City, Iowa 52240, (319)335-3916.

15.4(4) Subscriptions. The Goldfinch is available by direct subscription. Subscription rates are established in accordance with subrule 1.5(3). Subscription inquiries may be directed to Publication Sales, 402 Iowa Avenue, Iowa City, Iowa 52240, (319)335-3916.

223—15.5(303) Iowa Historian.

15.5(1) Content. The Iowa Historian is the bimonthly newsletter of the society. In addition to informing members of activities of the society, the Iowa Historian prints informative articles concerning the preservation and dissemination of Iowa history.

15.5(2) Submissions. News items and suggestions for informative articles may be submitted to the Editor, Iowa Historian, 402 Iowa Avenue, Iowa City, Iowa 52240, (319)335-3916. Questions concerning possible submissions and the technical requirements for submission may be directed to the same address.

15.5(3) Materials evaluation. Materials submitted are evaluated on the basis of interest to the membership and space availability. Final responsibility for acceptance and modification shall rest with the editor. Questions concerning the acceptance of materials may be directed to Editor, Iowa Historian, 402 Iowa Avenue, Iowa City, Iowa 52240, (319)335-3916.

15.5(4) Subscriptions. The Iowa Historian is available as a benefit of membership in the society. Subscription rates are established in accordance with subrule 1.5(3). Subscription inquiries may be directed to Publication Sales, 402 Iowa Avenue, Iowa City, Iowa 52240, (319)335-3916.

223—15.6(303) Books and monographs. The society occasionally publishes books and monographs of outstanding merit. The acceptance of manuscripts for publication depends upon the availability of funding and the quality of the manuscript. Inquiries concerning the publication of a book or monograph may be directed to Book Editor, 402 Iowa Avenue, Iowa City, Iowa 52240, (319)335-3916.

223—15.7(303) Back issues and reprints.

15.7(1) Back issues. Copies of most issues of periodicals and many books previously published may be available. Inquiries may be directed to Publication Sales, 402 Iowa Avenue, Iowa City, Iowa 52240, (319)335-3916.

15.7(2) Reprints. All materials published by the society are copyrighted in the name of the society. Inquiries concerning reprint permission may be directed to Book Editor, 402 Iowa Avenue, Iowa City, Iowa 52240, (319)335-3916.

These rules are intended to implement Iowa Code section 303.2 and Iowa Code chapter 303, subchapter II.

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CHAPTERS 16 to 20
Reserved

TITLE IV
PUBLIC ACCESS PROCEDURES
CHAPTER 21
MEMBERSHIP IN THE SOCIETY
[Prior to 5/31/89, see [490] Ch 5 and [223] Ch 13]

223—21.1(303) Function. The society operates a membership organization for the purpose of encouraging the study of Iowa history. Membership is open to all individuals and groups according to the policies and fee schedule established by the society. Life memberships are not available. Existing life members shall be serviced as provided in the original membership agreement.

223—21.2(303) Fees. Fees are charged for benefits and services provided to members. The membership program is administered by the Historical Division of the Department of Cultural Affairs, 600 East Locust Street, Des Moines, Iowa 50319, telephone (515)281-5111.
[ARC 4427C, IAB 5/8/19, effective 6/12/19]

223—21.3(303) Awards.

21.3(1) Purpose. The society shall make annual awards to individuals, government entities, groups, or organizations for the purposes of encouraging and rewarding contributions to the fields of Iowa history, archaeology and historic preservation; establishing an image of tradition and continuity; creating greater public and academic visibility for the society; and promoting high-quality rehabilitation of historic buildings.

21.3(2) Award programs. Awards may be made in nine programs.

a. William J. Petersen/Edgar Harlan Award. This award recognizes an individual, government entity, group, or organization that has made significant long-term or continuing contributions to Iowa history. No more than one award may be made annually.

b. Loren Horton Community History Award. This award recognizes an individual, government entity, group, or organization that has made a significant contribution to local history through a local history project during the previous calendar year. No more than one award may be given annually. One certificate of recognition may be awarded in each of the following categories each year:

- (1) Program or event;
- (2) Volunteers;
- (3) Project in museum, library, archives, historic preservation, or education;
- (4) Research or publications;
- (5) Youth.

c. Mildred Throne/Charles Aldrich Award. This award recognizes the author of the most significant article on Iowa history in a professional history journal during the previous calendar year. The board may give one award annually. Up to two certificates of recognition may be also awarded.

d. George Mills/Louise Noun Award. This award recognizes the author of the most significant illustrated article on an Iowa history topic published in a popular history periodical during the previous calendar year. The board may give one award annually. Up to two certificates of recognition may also be awarded.

e. Benjamin F. Shambaugh Award. This award recognizes the author of the most significant book published on Iowa history during the previous calendar year. The board may give one award annually. Up to two certificates of recognition may also be awarded.

f. Research Matters Award. This award recognizes outstanding library, archives, historic site and museum service provided to National History Day student researchers in Iowa during the previous program year. The board may award up to two certificates of merit and one certificate of achievement annually.

g. Preservation Projects of Merit Award. This award recognizes historic preservation projects that exemplify the best of preservation practices, meet the U.S. Secretary of the Interior's Standards for Rehabilitation of Historic Buildings, and utilize the state historic preservation tax credit program. The board may give one award annually in each of the following four categories.

(1) Judith A. McClure Award. This award recognizes outstanding preservation of a residential property using state historic preservation tax credit program incentives. For purposes of this award, residential property shall be as defined in rule 223—48.2(303,404A).

(2) Adrian D. Anderson Award. This award recognizes outstanding preservation of a small historic preservation project using state historic preservation tax credit program incentives. For purposes of this award, small projects are defined as those projects having total qualified costs of \$750,000 or less.

(3) Margaret Keyes Award. This award recognizes outstanding preservation of a large historic preservation project using state historic preservation tax credit program incentives. For purposes of this award, large projects are defined as those projects having total qualified costs of more than \$750,000.

(4) William J. Wagner Award. This award recognizes the historic preservation project which best exemplified use of the U.S. Secretary of the Interior's Standards for Rehabilitation of Historic Buildings while using state historic preservation tax credit program incentives.

h. Excellence in Archaeology and Historic Preservation Award. This award recognizes the best archaeology or historic preservation project at the local or state level. The board may give one award and one certificate of merit annually.

i. Dorothy Schwieder Excellence in Research Award. This award recognizes on a biennial basis the most significant research and contribution to the body of knowledge in Iowa history and is the top research and writing award given by the board during the two-year period.

21.3(3) Selection.

a. *Committees.* The chairperson of the society board of trustees shall appoint awards committees at the first meeting of the board held in each fiscal year. The nonvoting staff member on each committee shall be appointed by the administrator of the society to coincide with the other committee appointments. The term of office shall be one year.

(1) William J. Petersen/Edgar Harlan and Loren Horton awards committees. Nominations for these categories shall be reviewed by an awards committee composed of, at a minimum, three voting members, including at least one member of the society board of trustees. The committee shall also include one staff member of the society serving in a nonvoting capacity.

(2) Mildred Throne/Charles Aldrich, George Mills/Louise Noun and Benjamin F. Shambaugh awards committees. Nominations for these categories shall be reviewed by awards committees composed of, at a minimum, three voting members, including at least one member of the society board of trustees. The committees shall also include one staff member of the society serving in a nonvoting capacity.

(3) Research Matters Award. Nominations for this category shall be reviewed by an awards committee composed of, at a minimum, three voting members including at least one member of the society board of trustees and one practicing National History Day teacher. The committee shall also include one staff member of the society serving in a nonvoting capacity.

(4) Preservation Projects of Merit Award. Nominations for this category shall be reviewed by an awards committee composed of, at a minimum, three voting members, including at least one member of the society board of trustees, one licensed architect who specializes in historic preservation, and one member of the state nominations review committee appointed in accordance with 223—subrule 35.6(6). The committee shall also include one staff member of the society serving in a nonvoting capacity.

(5) Excellence in Archaeology and Historic Preservation Award. Nominations for this category shall be reviewed by an awards committee composed of, at a minimum, three voting members including at least one member of the society board of trustees. The committee shall also include one staff member of the society serving in a nonvoting capacity.

(6) Dorothy Schwieder Excellence in Research Award. Nominations for this category shall be reviewed by an awards committee composed of, at a minimum, three voting members including at least one member of the society board of trustees. The committee shall also include one staff member of the society serving in a nonvoting capacity.

b. *Period of eligibility.* Awards in the Mildred Throne/Charles Aldrich, George Mills/Louise Noun, Benjamin F. Shambaugh, Loren Horton, and Excellence in Archaeology and Historic Preservation categories shall be made for activities and publications produced during the calendar year prior to the

nomination. Awards in the Research Matters category shall be made for activities during the most recently completed National History Day competition in Iowa. Awards in the Preservation Projects of Merit category shall be made for state historic preservation tax credit projects with a Part 3 approved in the previous fiscal year.

c. Call for nominations.

(1) William J. Petersen/Edgar Harlan Award, Loren Horton Award, Mildred Throne/Charles Aldrich Award, George Mills/Louise Noun Award, Benjamin F. Shambaugh Award, Excellence in Archaeology and Historic Preservation Award, and Dorothy Schwieder Excellence in Research Award. The public may nominate entries for the awards. Nominators shall complete and submit respective award paperwork for awards. Nomination forms are available by contacting the State Historical Society of Iowa or electronically on the State Historical Society of Iowa web page: www.iowahistory.org. Nominations for the Shambaugh Award must be postmarked by January 2. All other awards must be postmarked by February 1 and must be submitted to the Administrator, State Historical Society of Iowa, 600 East Locust Street, Des Moines, Iowa 50319-0290. Nominations may also be submitted electronically to the email address posted on the State Historical Society of Iowa web page: www.iowahistory.org.

(2) Research Matters Award. National History Day student researchers may nominate research libraries, archives, historic sites and museums on forms provided by the National History Day in Iowa program. Nominations shall include the name of the library, archive, historic site or museum nominated for the award and a description of the services provided by that library, archive, historic site or museum to National History Day student researchers in Iowa. Nominations must be received by the date of the annual state National History Day Contest. Nominations must be submitted to the Administrator, State Historical Society of Iowa, 600 East Locust Street, Des Moines, Iowa 50319-0290. Nominations may also be submitted electronically to the email address posted on the State Historical Society of Iowa web page: www.iowahistory.org.

(3) Preservation Projects of Merit Award. All historic rehabilitation projects with a Part 3 approved in the previous fiscal year, as determined by state historic preservation tax credit program staff, shall be considered for this award.

d. Number of nominations. The awards committees shall report no more than three nominations for each award program and category to the society board of trustees for final selection. The awards committees shall transmit nominations to the board prior to the regularly scheduled meeting which permits the board to act 30 days prior to an annual awards meeting.

e. Board ineligibility. No member of the board of trustees shall be eligible for nomination in any award category during the member's term as a trustee.

f. Voting. Selection in each category shall be by vote of the board of trustees in accordance with Iowa Code chapter 21 and Robert's Rules of Order, Revised Edition. Evaluation shall be based on the criteria stated in 21.3(4). The society board of trustees reserves the right to decline any or all nominations based upon the awards criteria.

21.3(4) Criteria.

a. William J. Petersen/Edgar Harlan Award. Nominees shall have contributed a body of work advancing the preservation and interpretation of Iowa history. Each body of work shall be evaluated for significance, professionalism, and influence on Iowans' perceptions of themselves. These criteria shall be weighted equally.

b. Loren Horton Award. Nominees shall have contributed a local history project that:

- (1) Increases awareness and appreciation for local or community history;
- (2) Encourages collaboration and support between individuals, groups, and the community;
- (3) Promotes future interest in the history of the community and continues to generate enthusiasm;
- (4) Shows a diverse base of support from the members of the community;
- (5) Provides long-term protection of community history, whether tangible or intangible; and
- (6) Demonstrates an effort to include all interested members of the community.

c. Mildred Throne/Charles Aldrich Award. Each nominated article shall be evaluated on its contribution to knowledge about Iowa history, scholarship, readability, and appropriateness for the intended audience. These criteria shall be weighted equally.

d. George Mills/Louise Noun Award. Each nominated article shall be evaluated on its contribution to knowledge about Iowa history, scholarship, readability, and appropriateness for the intended audience. These criteria shall be weighted equally.

e. Benjamin F. Shambaugh Award. Each nominated book shall be evaluated on its contribution to knowledge about Iowa history, scholarship, readability, and appropriateness for the intended audience. These criteria shall be weighted equally.

f. Research Matters Award. Each nominated institution shall be evaluated on its commitment to research support for young historical researchers as demonstrated by the institution's positive attitude toward young researchers, its level of research knowledge, and its assistance to individual researchers. These criteria shall be weighted equally.

g. Preservation Projects of Merit Award. Each preservation project shall demonstrate outstanding application of the U.S. Secretary of the Interior's Standards for Rehabilitation of Historic Buildings, the project's impact on the local historic preservation community, and the project's impact on economic development in the local community. These criteria shall be weighted equally.

h. Excellence in Archaeology and Historic Preservation Award. Projects shall be evaluated based on:

- (1) Level of effort needed to preserve the resource;
- (2) Historic significance of the resource;
- (3) Application of the Secretary of the Interior's Standards and Guidelines for Archaeology and Historic Preservation;
- (4) Local impact of the project and benefit to the community;
- (5) Potential to replicate the project in another community;
- (6) Additional steps taken to share this history with the public;
- (7) Application of state or federal preservation laws.

i. Dorothy Schwieder Excellence in Research Award. Each nomination shall be evaluated on its contribution to knowledge about Iowa history, scholarship, readability, and appropriateness for the intended audience. Eligible works include, but are not limited to, articles in popular periodicals or academic journals, books, dissertations, films, National Register of Historic Places nominations, or online projects. Winners of other State Historical Society of Iowa awards—the George Mills/Louise Noun Award, the Mildred Throne/Charles Aldrich Award, or the Benjamin F. Shambaugh Award—are also eligible for this prize. One award will be given biennially.

21.3(5) Notification. Award recipients shall be notified by mail at least 21 days prior to an annual awards meeting.

21.3(6) Presentation. The award shall be presented by a member of the board of trustees at an annual awards meeting.

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¹ Filed 229—Ch 13, IAB 3/9/88

CHAPTER 22
HISTORICAL LIBRARY AND STATE ARCHIVES PUBLIC ACCESS POLICIES AND
SERVICES

[Prior to 5/31/89, see [490] Chs 1, 5]

223—22.1(303) Purpose. Policies exist to provide the widest possible public access to historical library, special collections and state archives of Iowa materials within the constraints of preservation of the materials. The collection and conservation policies of the library and archives shall be in accordance with 223—Chapter 13.

223—22.2(303) Definitions. The definitions listed in Iowa Code section 17A.2 shall apply for terms as they are used throughout this chapter. In addition, the following definitions apply:

“*Archives*” means state agency records and other materials transferred to the custody of the state archives of Iowa in accordance with Iowa Code Supplement chapter 305.

“*Collections*” means printed material, photographs, archives, manuscripts and electronic records.

“*Electronic records*” means records in a form that requires a computer or other machine to process them. “Electronic records” includes word processing documents; electronic mail messages; documents transmitted via electronic data interchange; Internet and Intranet postings; numerical and textual spreadsheets and databases; electronic files; optical images; software; and information systems.

“*Library*” means a unit of the state historical society of Iowa that acquires, preserves and describes printed materials.

“*Manuscripts*” means handwritten or typed documents, including letterpress or carbon copies. A mechanically produced document in handwriting or typescript is also considered a manuscript. Manuscripts include bodies or groups of personal papers, business or organizational records that have organic unity; artificial collections of documents acquired from various sources according to a plan, but without regard to provenance; and individual documents acquired because of their special importance.

“*Materials*,” unless otherwise specified, means the collections of the historical library, the special collections unit of the historical library and the state archives of Iowa.

“*Patrons*” means any and all persons conducting research or otherwise reading, viewing or consulting the state historical society of Iowa collections. Patrons include both on-site and off-site persons.

“*Photographs*” means, in general, images mechanically recorded by a camera. This term includes negatives, prints, copy negatives, copy prints, digital photographic images, motion picture film, and videotape.

“*Printed materials*” means, in general, books, journals, serials, magazines, newspapers, and maps and atlases.

“*Reference*” means the basic function of providing information about library and state archives of Iowa materials and making the materials available for research.

“*Research*” means the studious inquiry into or examination of library and state archives materials aimed at the discovery and interpretation of facts.

“*Special collections materials*” means privately donated collections acquired by the library and publications bureau of the state historical society of Iowa.

“*Special collections unit*” means the unit of the state historical society of Iowa that acquires, preserves and describes special collections materials.

223—22.3(303) Location. The society operates two reading room facilities. These facilities are located in the Centennial Building, 402 Iowa Avenue, Iowa City, Iowa 52240, (319)335-3916, and in the State Historical Building, 600 East Locust, Des Moines, Iowa 50319, (515)281-6200.

223—22.4(303) Availability of materials.

22.4(1) Materials are available during regular reading room hours as posted in accordance with 223—subrule 1.5(2).

22.4(2) Materials are available to the public regardless of race, color, sex, religion, national origin, age, creed, or mental or physical disability.

22.4(3) The use of some materials may be restricted because of donor restrictions, state or federal statute, or the physical condition of the materials. Questions concerning restrictions of use may be referred to the reading room staff at the appropriate location.

223—22.5(303) Reading room policies. In order to ensure that the research resources remain available to all persons and future generations, the reading room policies shall be developed and posted in the reading room facilities of the state historical society of Iowa.

22.5(1) to 22.5(20) Rescinded IAB 1/5/05, effective 2/9/05.

223—22.6(603) Copy services.

22.6(1) A photocopy machine and a microfilm reader/printer are available for patrons to make copies of library materials.

22.6(2) Requests for copies of maps, manuscripts, photographs and state archives materials shall be directed to the library and archives staff. Photocopying shall be available unless reproduction of materials is inappropriate due to legal or curatorial considerations.

22.6(3) Copy service shall not be provided for materials which are not part of the society's collections.

22.6(4) Use of personal photocopy machines, scanners, and similar equipment to reproduce state archives materials or special collections materials shall not be permitted. Use of this type of equipment with library materials is subject to approval by an administrator or designee and shall not be permitted if the administrator or designee determines that such use may damage library materials.

These rules are intended to implement Iowa Code section 303.2 and Iowa Code chapter 303, subchapter II.

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[Filed 7/15/75]

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CHAPTER 23
HISTORICAL MARKERS PROGRAM

[Prior to 5/31/89, see [490] Ch 5]

223—23.1(303) Purpose. The society in cooperation with the Iowa department of transportation shall develop a historical markers program for the following purposes:

1. Identifying and locating, for the purpose of preservation of information or artifacts, those sites and topics deemed to be significant in Iowa history;
2. Educating the public about significant people, places, and things in Iowa history and thereby developing a public sense of the importance of Iowa history;
3. Encouraging the public to preserve the state's history and develop a sense of identity as Iowans;
4. Enhancing the tourism potential of Iowa by encouraging visitors to investigate the state's history; and
5. Uniting people from various regions of Iowa through improving information concerning other regions of the state.

223—23.2(303) Categories of historical markers. The society may erect markers to commemorate or memorialize Iowa history in any of three categories.

1. Persons or organizations from all walks of life whose contributions or notoriety in their communities, counties, or the state as a whole merit widespread recognition;
2. Sites such as historic buildings, avenues of transportation, or other places where important events have occurred; or
3. Events which have state or regional significance.

223—23.3(303) Selection of historical markers.

23.3(1) *Nomination of potential marker site.* Nominations of potential marker sites may be made by an individual or group external to the society or by the board or staff of the society.

23.3(2) *Nomination forms.* Nominations shall be made on the application form obtained from the society. All inquiries may be directed to the Historical Markers Program Coordinator, State Historical Society of Iowa, 402 Iowa Avenue, Iowa City, Iowa 52240, (319)335-3916. This form shall provide, as a minimum, the following information:

1. Name and location of the site;
2. Description and documentation of the historical significance of the site;
3. Suggested placement of the historical marker, including all appropriate clearance of the site by the landowner, unit of government, or the department of transportation;
4. Name, address, and telephone number of the person or group nominating the site;
5. Financial arrangement for construction and maintenance of the historical marker; and
6. Expected annual visitation to the site.

23.3(3) *Review procedure.*

a. The historical markers program coordinator shall review all nominations. This review may include verification of the historical accuracy, location, and historical significance of the proposed historical marker.

b. Eligible applications shall be forwarded by the historical markers program coordinator to the administrator of the society for approval. The administrator shall forward the applications to the review panel.

c. Review panel.

(1) **Composition.** The review panel shall consist of one member of the board of trustees appointed by the chairperson of the board, one member of the board of directors of the Iowa historical foundation appointed by the chairperson of the board, one staff representative of the Iowa department of transportation appointed by the director of the Iowa department of transportation, one staff representative of the Iowa department of economic development appointed by the director of the Iowa

department of economic development, and two history professionals appointed by the administrator of the society.

(2) Chair. The review panel shall be chaired by the appointed member from the board of trustees of the society.

(3) Duties. The review panel shall create a prioritized annual plan for historical markers. This plan shall be presented annually at the last meeting of the fiscal year to the board of trustees of the society for approval and for potential funding in the coming fiscal year.

(4) Prioritization of historical markers. The selection of historical markers shall be based upon two equally weighted criteria:

1. Degree of statewide significance of the topic; and
2. Level of interest of the topic to the general public.

(5) Guidelines for selection. The review panel shall operate with the following guidelines:

1. All historical time periods should be represented. Current history should be included, but living people will not generally be the subject of a historical marker.

2. The informational content of the marker must be historically accurate and verifiable.

3. Controversial topics should not be disqualified as historical marker topics.

4. The geographical distribution of historical markers throughout the state should be representative of the significant events of the state's history.

5. The markers may be placed on either public or private land if the appropriate approvals and maintenance agreements are available.

223—23.4(303) Appeals.

23.4(1) *Informal appeals.*

a. Decisions concerning nomination and approval of historical markers may be appealed on any of the following bases:

- (1) Action was outside the statutory authority;
- (2) Decision was influenced by a conflict of interest;
- (3) Action violated state law, administrative rules, or policy;
- (4) Insufficient public notice was given; and
- (5) Alterations in the review and selection process were detrimental to the nomination.

b. All appeals shall contain:

- (1) Facts of the case;
- (2) Argument in favor of the appeal; and
- (3) Remedy sought.

c. Appeals should be directed to the administrator within 30 days of final notification of nomination status. All appeals shall be directed to the Administrator, State Historical Society of Iowa, Capitol Complex, Des Moines, Iowa 50319, (515)281-8837.

d. The administrator shall consider and rule on the appeal after receiving all documentation from the appellant and shall notify the appellant in writing within 30 days.

23.4(2) *Contested case appeals.* All appeals shall be conducted according to 221—Chapter 3.

These rules are intended to implement Iowa Code sections 303.1A, 303.2, and 303.4 to 303.18.

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CHAPTERS 24 to 34
Reserved

TITLE V
HISTORIC PRESERVATION PROGRAMS
CHAPTER 35
ADMINISTRATION
[Prior to 5/31/89, see [490] Ch 10]

223—35.1(303) Purpose. The historic preservation program operates to survey, evaluate significance, nominate to the National Register of Historic Places, and protect the historic buildings, structures, historic sites, objects, districts and landscapes of Iowa. Through the historic preservation program the society creates, fosters, and plans for the preservation of Iowa’s historic resources.

223—35.2(303) Definitions. The definitions listed in Iowa Code section 17A.2 and rule 223—1.2(303), Iowa Administrative Code, shall apply for terms as they are used throughout Title V of these rules. In addition, the following definitions apply:

“*Act*” means the National Historic Preservation Act of 1966, Public Law 89-665, as amended through December 22, 2006 (16 U.S.C. §470 et seq.).

“*Advisory Council*” means the Advisory Council on Historic Preservation established under the Act.

“*Applicant*” means any individual or entity seeking funding, permitting, licensing or approval from a federal agency or funding or service for a historic preservation activity from the society.

“*Certified local government*” means a unit of local government which is certified by the National Park Service to carry out the purposes of the National Historic Preservation Act in accordance with Sections 101(c), 103(c) and 301 of the Act and 36 CFR Part 61.

“*Considered eligible*” means properties formally determined as eligible in accordance with regulations of the Secretary of the Interior and all other properties that meet the National Register criteria.

“*Deputy state historic preservation officer*” means the designee of the state historic preservation officer who is responsible for the daily administration of the historic preservation program in the state.

“*Determination of eligibility*” means the process described in 36 CFR § 800.4(c) for evaluating the historic significance of identified properties.

“*Historic context*” means a historical theme summary created for planning purposes that links historical information with related historic properties based on the minimal components of a shared theme, specific time period, and geographical area.

“*Historic preservation*” includes identification, evaluation, recordation, documentation, curation, acquisition, protection, management, rehabilitation, restoration, stabilization, maintenance, research, interpretation, conservation, and education and training regarding the foregoing activities, or any combination of the foregoing activities.

“*Historic Preservation Fund*” means the federal source from which moneys are appropriated to fund the program of matching grants-in-aid to the states and other authorized grant recipients for historic preservation programs, as authorized by Section 108 of the National Historic Preservation Act as amended through December 22, 2006.

“*Historic property*” means any prehistoric or historic district, site, building, structure, or object included in, or eligible for inclusion on, the National Register of Historic Places. “Historic property” includes artifacts, records, and material remains that are related to such properties or resources.

“*Investment tax credit*” means a federal income tax credit for the substantial rehabilitation of historic buildings for commercial, industrial, and rental residential and nonresidential purposes.

“*National Register of Historic Places*” means the national list of historic properties significant in American history, architecture, archaeology, engineering, or culture, maintained by the Secretary of the Interior.

“*National Trust for Historic Preservation*” means the private, nonprofit organization chartered by legislation approved by Congress on October 26, 1949, with the responsibility for encouraging public participation in the preservation of districts, structures, sites, buildings, and objects significant in American history and culture.

“*Review and compliance*” means the review of undertakings pursuant to Section 106 of the Act and its implementing regulations at 36 CFR Part 800.

“*Secretary’s Standards and Guidelines*” means the Secretary of the Interior’s Standards and Guidelines for Archaeology and Historic Preservation (36 CFR Part 61), which provide technical information about archaeological and historic preservation activities and methods. The subjects covered include preservation planning; identification, evaluation, registration, historic research and documentation; architectural and engineering documentation; archaeological investigation; historic preservation projects; and preservation terminology.

“*Section 106*” means the section of the Act that requires federal agencies to take into account the effects of the undertakings that the agencies carry out, fund, license, permit or approve on historic properties and afford the Advisory Council a reasonable opportunity to comment. The regulations of 36 CFR Part 800 define the process used by an agency to meet these responsibilities and the role of the state historic preservation officer in review and comment on these undertakings.

“*State historic preservation officer*” or “*SHPO*” means the governor’s appointee who is responsible for the management of the historic preservation program of the state and compliance of the state historic preservation program with federal statutes and regulations including those of the National Park Service.

“*State historic preservation review board*” means the Iowa state national register of historic places nominations review committee established as provided in Section 101(b)(1)(B) of the Act:

1. The members of which are appointed by the SHPO (unless otherwise provided for by state law);
2. A majority of the members of which are professionals qualified in the following and related disciplines: history, prehistoric and historic archaeology, architectural history, architecture, folklore, cultural anthropology, curation, conservation, and landscape architecture; and
3. Which has the authority to:
 - Review National Register nominations and appeals from nominations;
 - Review appropriate documentation submitted in conjunction with the Historic Preservation Fund;
 - Provide general advice and guidance to the state historic preservation officer; and
 - Perform such other duties as may be appropriate.

“*Technical assistance*” means services provided for the development of skills or the provision of knowledge relative to the background, significance, operation, or implications of some aspect of the historic preservation program.

[ARC 0267C, IAB 8/8/12, effective 9/12/12]

223—35.3(303) Organization of programs. The division operates the following preservation programs:

1. Certified Local Governments;
2. Investment Tax Credits;
3. National Register of Historic Places;
4. Education;
5. Preservation Partnership;
6. Survey and Inventory of Cultural Resources;
7. Review and Compliance;
8. Technical Assistance;
9. State Register of Historic Places; and
10. Comprehensive Preservation Planning.

223—35.4(303) Eligibility.

35.4(1) Participation in any historic preservation program is open to any individual, community, organization, or governmental unit which meets the requirements of the specific program as determined by the state historic preservation officer.

35.4(2) Recipients of Federal Historic Preservation Fund moneys shall agree when issuing statements, press releases, requests for proposals, bid solicitations, and other documents describing

projects or programs funded in whole or in part with federal money, to clearly state the percentage of the total cost of the program or project which will be financed with federal money, and the dollar amount of federal funds for the project or program as well as contributions by the society.

35.4(3) All programs supported by Federal Historic Preservation Fund moneys shall be open to the public.

223—35.5(303) Contracts and grants.

35.5(1) Funds from other federal programs, with the exception of specially identified programs, shall not be used to match Federal Historic Preservation Fund grants.

35.5(2) Applications shall be submitted on the appropriate forms and with the requested supporting materials to be considered for funding.

35.5(3) Unless otherwise specified in a prior written contract, all products, artifacts, patents, copyrights, or legal interests of relevance to projects funded by Federal Historic Preservation Fund moneys shall become the sole and exclusive property of the society.

35.5(4) All applications for grants or contracts may be submitted to the Certified Local Governments Coordinator, State Historical Society of Iowa, Capitol Complex, Des Moines, Iowa 50319, (515)281-8741.

35.5(5) All applications for funding shall be reviewed by a staff person. An advisory committee may be appointed to assist in the review process. All grant or contract awards shall receive the written approval of the state historic preservation officer.

35.5(6) Evaluation criteria. The following evaluation criteria shall be applied to all grant or contract applications:

- a. Compliance with state and federal standards and grant guidelines.
- b. Clearly stated or specific goals that can be realistically attained within the funding period and proposed budget.
- c. Measurable results or products (number, quality).
- d. Linkage with goals and objectives embodied in state or local preservation plans.
- e. Past grant/contract performance of applicant.

35.5(7) Appeals.

a. Eligible applicants, whose applications are not funded or otherwise serviced adequately, in the view of the applicant, shall have the right of appeal.

b. If state funds are involved in the grant or contract, the first appeal shall be directed to the deputy state historic preservation officer; the second appeal shall be directed to the state historic preservation officer; and the final appeal shall be directed to the director of the department of cultural affairs. All appeals shall be mailed to the appropriate official at the State Historical Society of Iowa or the Department of Cultural Affairs, Capitol Complex, Des Moines, Iowa 50319, (515)281-8741; (515)281-8837; (515)281-6258.

c. The initial appeal shall be received within 15 days of the notification of the selection.

d. The written appeal shall contain the following items:

- (1) Facts of the appeal;
- (2) Argument in favor of the appeal; and
- (3) Remedy sought.

e. Appeals shall be considered on the grounds that staff or review committee action was:

- (1) Outside the statutory authority;
- (2) Violated state or federal law;
- (3) Afforded inadequate public notice;
- (4) Procedure was altered to the detriment of the applicant without sufficient prior notice; or
- (5) A conflict of interest.

f. The deputy state historic preservation officer, state historic preservation officer, and director of the department of cultural affairs shall successively consider and rule on the appeal. Each officer shall notify the appellant of the decision within 30 days.

If the decision and remedy is believed insufficient by the appellant, the next step of the appeal process may be contacted. The decision of the director of the department of cultural affairs shall be final except as provided by Iowa Code sections 17A.19 and 17A.20.

If federal funds are involved, the first appeal shall be directed to the deputy state historic preservation officer; the second appeal shall be directed to the state historic preservation officer; and subsequent appeals to the National Park Service. Inquiries and appeals related to federal funds may be directed to the Rocky Mountain Regional Office, Division of Cultural Resources, National Park Service, 12795 West Alameda Parkway, P.O. Box 25287, Denver, CO 80225, (303)969-2875.

223—35.6(303) Advisory committees.

35.6(1) Advisory committees may be appointed by the state historic preservation officer for the purpose of conducting peer reviews of grant products, reviewing and rating grant applications for funding, nominating historic resources to the National Register of Historic Places, and providing other professional input.

35.6(2) Advisory committees may be permanent or temporary. The term of office on temporary advisory committees shall be determined by the state historic preservation officer.

35.6(3) Recommendations by all advisory committees shall be nonbinding on the state historic preservation officer.

35.6(4) Members of an advisory committee shall not submit an application for a grant or contract from the state historical society of Iowa. Action by an advisory committee member shall be in accordance with Iowa Code chapter 68B and 223—subrule 1.6(6), Iowa Administrative Code.

35.6(5) Members of advisory committees may be reimbursed for travel, lodging, and expenses at the discretion of the deputy state historic preservation officer.

35.6(6) Iowa state national register of historic places nominations review committee.

a. The committee shall be a permanent advisory committee within the historic preservation program.

b. Responsibilities. The committee shall have the following responsibilities as a minimum:

(1) Review of all nominations of Iowa properties to the National Register of Historic Places for the purpose of determining if the property meets the National Register criteria for significance, and recommending that the state historic preservation officer nominate or reject the proposed nomination;

(2) Review of appeals to National Register nomination and provide written opinions on the significance of the properties;

(3) Advise the deputy state historic preservation officer concerning Historic Preservation Fund grant applications, end-of-year reports, and the state comprehensive historic preservation plan;

(4) Provide general advice, guidance, and professional recommendations to the state historic preservation officer in carrying out the duties and responsibilities assigned by the federal program in Procedures for Approved State and Local Historic Preservation Programs 36 CFR 61, April 13, 1984, and August 30, 1984; and

(5) Approve operating bylaws consistent with federal regulations.

c. Membership.

(1) The committee shall be composed of no more than 12 voting members, all of whom are citizens of Iowa, and the majority of whom are professionals in historic preservation disciplines of American history, architectural history, architecture, prehistoric and historical archaeology, or related professional disciplines.

The committee may include citizen members, representatives of other preservation-related professions, and nonvoting members.

(2) The committee may include two nonvoting or ex officio members appointed by representatives of primary public preservation organizations.

d. Qualifications.

(1) The professional requirement for historians and architectural historians shall consist of a graduate degree, or a bachelor's degree with two years of relevant experience. The bachelor's degree shall include a concentration of study in American history or American architecture. Substantial

contributions to the discipline's field of scholarly knowledge through research and publication may be accepted in lieu of experience.

(2) The professional requirement for an archaeologist shall be a graduate degree in archaeology, one year of relevant experience with a minimum of four months' independent research as a principal investigator in North American archaeology, and demonstrated ability to complete research.

(3) The professional requirement for an architect shall be a bachelor's degree in architecture and two years' relevant experience or a state license.

e. Appointment. The state historic preservation officer shall appoint members to the committee. Approval of appointees by the Department of the Interior shall be obtained. The state historic preservation officer shall seek to appoint members consistent with affirmative action policy; reflective of the urban-rural, regional and minority representation concerns of Iowa; and representative of citizen expertise in the field of historic preservation.

f. Term of office.

(1) The term of office for committee members shall be three years. The terms shall be staggered to permit one-third of the appointments to be made each year.

(2) The term of appointment shall begin on January 1 and be effective through December 31 three years later.

g. Meeting procedures.

(1) Members shall be reimbursed for travel, lodging, and expenses incurred in the performance of committee service.

(2) Members shall adhere to the conflict of interest statements in accordance with federal regulations stated in the National Register Programs Manual, NPS-49, Chapter 3 and 223—1.6(6), Iowa Administrative Code.

(3) Committee members shall refrain from voting and commenting upon any nominated property for which the member serves as an officer, trustee, fiduciary employee, or for which the member has consulted either for remuneration or gratis in the preparation of the nomination, or for which the member has or expects to participate in the development or use of the property.

(4) The committee shall meet quarterly. The committee may schedule additional meetings as necessary to carry out its business.

(5) The state historic preservation officer or designee shall preside at all meetings of the committee.

(6) Members are permitted to miss no more than two regular meetings in a year and shall notify the deputy state historic preservation officer at their earliest opportunity of the need to miss a meeting. If a member misses more than two regular meetings in a year, the state historic preservation officer may replace the member.

(7) Meetings shall be open meetings conducted in accordance with Iowa Code chapter 21 and Robert's Rules of Order, Revised Edition.

(8) The quorum necessary to conduct committee business shall be a majority of full, active, voting members of the committee. Acceptance of nominations for recommendation to the National Register of Historic Places shall be a majority of full, active committee members present. No nomination shall be considered by the committee unless one committee member with professional expertise in the area of nomination is present.

(9) Citizens may appear before the committee to discuss a nomination. The length of presentations may be limited by the chair.

223—35.7(303) Grants available. The following categories of historic preservation grants may be funded:

35.7(1) Survey and planning subgrants.

a. Purpose. The program provides funds for planning and implementation of activities related to the survey, evaluation, nomination, and protection of Iowa's cultural resources.

b. Procedure.

(1) Individuals or other entities may submit survey or planning proposals to the deputy state historic preservation officer during the annual workplan development period between June 1 and August 31. If

the proposal is accepted, a competitive bidding process shall be held. The individual or entity suggesting the proposal may be an eligible bidder.

(2) Allowable activities shall include the survey of cultural resources, nomination and evaluation of cultural resources, research on historic contexts, and preservation planning.

(3) All applicants are encouraged to include community involvement and local volunteer participation.

(4) All grants under this program require match equal to or greater than 30 percent of state funding.

(5) All questions and applications may be directed to Deputy State Historic Preservation Officer, State Historical Society of Iowa, Capitol Complex, Des Moines, Iowa 50319, (515)281-8741.

35.7(2) *Preservation partnership subgrants.*

a. Purpose. This program provides preservation education and technical assistance for a one-year period to a competitively selected multicounty area which has not been the subject of a cultural resources survey and does not participate in the certified local government program.

b. Procedure.

(1) Individuals or other entities may submit competitive applications for the selection of their two-or three-county area to the deputy state historic preservation officer during the annual workplan development period between March 1 and April 15. Potential applicants shall be notified by a mailing to all county boards of supervisors and county and local historical organizations in counties with no county preservation commissions or existing cultural resource surveys 45 days prior to the application deadline. Award decisions shall be made by May 15 of each year.

(2) Applicants shall identify goals and objectives to be achieved during the project, interested individuals and organizations, sources of potential matching funds, known historical resources in the county, and a potential local project coordinator for each county.

(3) Survey and planning grants may be awarded in the same project area.

(4) All applicants are encouraged to include community involvement and local volunteer participation.

(5) All proposals shall be limited to activities to be completed within one year.

(6) All questions and applications may be directed to Deputy State Historic Preservation Officer, State Historical Society of Iowa, Capitol Complex, Des Moines, Iowa 50319, (515)281-8719.

35.7(3) *Certified local government subgrants.*

a. Purpose. This program seeks to enrich, develop, and help local historic preservation programs in cooperation with state and federal historic preservation programs.

b. General policy.

(1) Only certified local governments shall be eligible to apply for and receive a grant through this program.

(2) The state historic preservation officer shall not be required to award funds to all certified local governments.

(3) The program shall operate as a competitive grant program.

(4) Following the award of a grant a contractual agreement specifying the terms of the grant shall be executed between the society and the grant recipient.

c. Procedure.

(1) Application packets shall be sent to all eligible applicants at least 45 days prior to each application deadline.

(2) All applications shall be submitted on the forms provided by the state historical society of Iowa. All applications shall contain a description of the proposed project including a time schedule for implementation; the amount of grant funds requested; the amount, kind, and source of local match which is committed to the project; a budget for the project; written assurance that the applicant shall follow the Secretary of the Interior's Standards for Archaeology and Historic Preservation; and written assurance that the applicant shall select a principal investigator who meets the Secretary of the Interior's professional qualification standards.

(3) Survey projects shall have local match not less than 30 percent of the total project cost. All other types of projects shall have local match not less than 50 percent of total project cost.

(4) Staff shall be available for consultation with applicants regarding the development of project proposals.

(5) Staff shall review applications for completeness and eligibility upon receipt of the application. Incomplete or ineligible applications shall be returned to the applicant. The applicant may correct and return the application prior to the grant deadline.

(6) Program staff shall conduct a preliminary review of each application to determine eligibility, completeness, consistency with program purpose, and amount of local match. Applications which do not meet these criteria shall not be considered for funding. Results of the staff review shall be transmitted to the state National Register nominations review committee which will prepare recommendations for the board of trustees.

(7) Applications shall be reviewed by the state National Register nominations review committee at a regular meeting closely following the application deadline. The date of review shall be established by the administrator of the society. Recommendations from the committee shall be submitted to the board of trustees for formal approval. Final authority for funding shall rest with the state historic preservation officer.

(8) Applicants objecting to the decision of the state historic preservation officer may appeal to the National Park Service. Inquiries and appeals may be directed to the Rocky Mountain Regional Office, Division of Cultural Resources, National Park Service, 12795 West Alameda Parkway, P.O. Box 25287, Denver, CO 80225, (303)969-2875.

d. Grant awards.

(1) Upon the approval of a grant by the state historic preservation officer, a grant agreement shall be prepared that specifies the terms and conditions of the grant, including the grant amount, project description, matching requirements, and dates for the submission of specified products.

(2) The grant agreement shall be signed by the state historic preservation officer or designee and the chief elected local official of the certified local government or designee.

(3) If grant funds are awarded and later the certified local government determines that the project cannot be completed, the certified local government coordinator shall recommend to the state historic preservation officer alternatives for expenditure of the funds. The decision of the state historic preservation officer shall be final.

223—35.8(303) Reporting and audit requirements.

35.8(1) The state historical society of Iowa may require subgrantees to submit progress reports on the status of projects.

35.8(2) All subgrantees shall submit a financial compliance audit of their subgrant project expenditures.

35.8(3) All subgrantees shall submit documentation of expenses for all subgrant expenditures.

35.8(4) All inquiries and applications may be directed to the Certified Local Government Coordinator, State Historical Society of Iowa, Capitol Complex, Des Moines, Iowa 50319, (515)281-6826.

These rules are intended to implement Iowa Code section 303.2 and Iowa Code chapter 303, subchapter II.

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CHAPTER 36
CERTIFIED LOCAL GOVERNMENT PROGRAM

223—36.1(303) Purpose. The program seeks to enrich, develop, and help maintain local historic preservation programs in accordance with the state and federal preservation programs. The aim is to ensure the broadest possible participation of local governments in the program while maintaining standards consistent with the National Historic Preservation Act and the Secretary of the Interior's "Standards and Guidelines for Archaeology and Historic Preservation." Financial and technical assistance are provided to further this purpose.

223—36.2(303) Regulations. The Certified Local Government program shall operate in accordance with the National Historic Preservation Act of 1966; Federal Regulations 36 CFR 61, April 13, 1984, and August 30, 1985; National Register Program Guidelines-NPS 49, Chapter 9; Iowa Code sections 303.20 to 303.34; and the guidelines for the program issued by the state historical society of Iowa in "The Certified Local Government Historic Preservation Program in Iowa."

223—36.3(303) Criteria for certification. Any local government shall be certified to participate in the program if the state historic preservation officer and the National Park Service certify that the local government meets the following conditions:

1. Secures appropriate county and municipal ordinances or resolutions for the creation of a local historical commission and the conduct of its historic preservation responsibilities;
2. Establishes an adequate and qualified historic preservation review commission by state or local legislation;
3. Maintains a system for the survey and inventory of historic properties that furthers the purposes of historic preservation;
4. Provides for adequate public participation in the local historic preservation program, including the process of recommending properties for nomination to the National Register of Historic Places; and
5. Satisfactorily performs the responsibilities delegated to it under the Act.

223—36.4(303) Procedure for certification.

36.4(1) The applicant shall contact the certified local government coordinator for program guidelines and application procedures.

36.4(2) Review of the certification request for completeness and eligibility shall be conducted by the staff within 30 days. Applicants shall be advised of the results of the review. If the certification request is deemed unsatisfactory, the staff shall advise the applicant and specify the changes that are needed.

36.4(3) When a certification application is accepted, a certification agreement shall be sent to the local government for signature.

36.4(4) Rescinded IAB 12/6/95, effective 1/10/96.

223—36.5(303) Funding of certified local governments. See 223—35.7(303), Iowa Administrative Code.

223—36.6(303) Other program services. The state historical society of Iowa provides training for county and local preservation commissions through state and regional conferences, technical assistance, and review of the county or local commission's annual report.

These rules are intended to implement Iowa Code section 303.2 and Iowa Code chapter 303, subchapter II.

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CHAPTER 37
INVESTMENT TAX CREDIT PROGRAM

223—37.1(303) Purpose. Property owners desiring federal income tax benefits for rehabilitation of historic buildings may apply for certification to the Secretary of the Interior through the state historic preservation officer of the state in which the property is located.

Applications are reviewed and commented on by the state historic preservation officer, and recommendations are made to the Secretary of the Interior for final approval. Upon completion, the work is certified by the Secretary of the Interior for the taxpayer to receive benefits under rules established by the Department of the Treasury, and the Internal Revenue Service. Historical properties may also be qualified for federal income and estate tax deductions for charitable contributions of partial interests in real property.

223—37.2(303) Regulations. The Investment Tax Credit Program shall operate in accordance with the National Historic Preservation Act of 1966; Tax Reform Act of 1986, Public Law 99-514, Sections 48(g) and 170(h); 36 CFR Part 60, the National Register of Historic Places, November 16, 1981, and October 2, 1983; 36 CFR Part 67, Historic Preservation Certifications Pursuant to the Tax Reform Act of 1976 and the Economic Recovery Tax Act of 1981, March 12, 1984; and 26 CFR Parts 1 and 602, Investment Tax Credit for Qualified Rehabilitation Expenditures, October 11, 1988; and 26 CFR Parts 20 and 25, Charitable Contribution for Conservation purposes in accordance with the Tax Treatment Extension Act of 1980. Additional interpretive information may also be found in Historic Preservation Tax Incentives, Certification of Rehabilitation Workbook, Department of the Interior, National Park Service; National Register Programs Guidelines, NPS-49; Preservation Briefs Series; National Register Bulletins; and Secretary of the Interior's Standards and Guidelines for Archaeology and Historic Preservation, Notice published by the Department of the Interior, National Park Service, Federal Register, Vol. 48, No. 190, Thursday, September 29, 1983.

223—37.3(303) Eligibility. A taxpayer, who is a fee simple owner or with the written approval of the owner and who elects to rehabilitate a certified historic structure, may apply for tax benefits as a result of the certified historic rehabilitation.

223—37.4(303) Certification of historic structures.

37.4(1) Buildings listed individually on the National Register of Historic Places are by definition certified historic structures.

37.4(2) Applications for certification of a particular building located within a registered historic district shall request a certification of significance using Part 1 of the Historic Preservation Certification Application (NPS Form 10-168, Part 1).

37.4(3) Applications for properties which are not individually listed or are within potential historic districts, or outside the period or area of significance of registered historic districts may request preliminary determinations as certified historic structures when and if nominated and listed. These applications shall be made using Part 1 of the Historic Preservation Certification Applications (NPS Form No. 10-168, Part 1).

37.4(4) The taxpayer shall also complete a rehabilitation description (NPS Form 10-168A, Part 2). Part 2 shall include a written description of the proposed rehabilitation and photographic materials adequate to document conditions inside and outside the building and the site prior to the rehabilitation. Additional documentation, such as window condition surveys or cleaning specifications, may be required for some projects.

37.4(5) Certification forms shall be provided by the National Park Service or the state historical society of Iowa. Certification review is normally 30 days maximum at the state and 30 days maximum at the federal level. Inquiries may be directed to Consulting Architect, State Historical Society of Iowa, Capitol Complex, Des Moines, Iowa 50319, (515)281-8637.

223—37.5(303) Review and evaluation.

37.5(1) All elements of a rehabilitation project such as interior and exterior of the building(s) site and environment as determined by the Secretary of the Interior, and all phases of demolition, construction, and rehabilitation shall meet the Secretary of the Interior's Standards for Rehabilitation. Portions of the project not in conformance shall not be exempted.

37.5(2) The staff shall review the application and materials, request additional materials or clarification, if needed, and provide a recommendation to the state historic preservation officer within 30 days of receipt of all materials from the applicant. The state historic preservation officer shall submit the state's recommendation to the National Park Service in a timely fashion.

37.5(3) Review by the National Park Service requires an initial plan review fee. Reviews by the National Park Service are generally completed within 30 days. All approvals of applications and amendments are conveyed only in writing by the duly authorized officials of the National Park Service. Owners who undertake rehabilitation projects without prior approval from the Secretary of the Interior do so at their own risk.

37.5(4) Decisions with respect to certification shall be made on the basis of the application form. If a discrepancy exists between the application form and other submitted material, the application form shall take precedence.

223—37.6(303) Certification of completion of work.

37.6(1) Upon receipt of an application requesting certification of completed work, the staff shall review the application and accompanying photographic documentation for conformance with the Secretary of the Interior's Standards for Rehabilitation, Guidelines for Rehabilitation of Historic Buildings, 36 CFR Part 67, March 12, 1984. The state historic preservation officer shall provide recommendations to the National Park Service for their decision.

37.6(2) Applicants shall receive notification of project status from the National Park Service. If the National Park Service finds that a project does not meet the Standards, the Secretary notifies the owner in writing, and if possible, advises the owner of necessary revisions to meet the Standards.

In the case of a denial of significance of the proposed rehabilitation project or the completed work, the owner may appeal in writing to the Chief Appeals Officer, Cultural Resources, National Park Service, U.S. Department of the Interior, P.O. Box 37127, Washington, D.C. 20013-7127. Appeals shall be filed within 30 days of receipt of the decision which is subject to appeal.

37.6(3) Completed, approved projects shall be subject to recapture of tax credits during the following five-year period, due to sale (on a pro rata basis) or further unapproved alterations inconsistent with the Secretary of the Interior's Standards.

37.6(4) Any previous approval by federal, state or local agencies and organizations shall not ensure certification by the Secretary for tax purposes. Any certifications made by the Secretary of the Interior shall not be considered binding upon the Internal Revenue Service or the Secretary of the Treasury with respect to the tax consequences under the Internal Revenue Code. Nor does the certification of significance for tax benefits substitute for or bind the National Register of Historic Places nomination and listing process.

These rules are intended to implement Iowa Code section 303.2 and Iowa Code chapter 303, subchapter II.

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CHAPTER 38
NATIONAL REGISTER OF HISTORIC PLACES
[Prior to 5/31/89, see Historical Department [490] Ch 17]

223—38.1(303) Purpose. The National Register of Historic Places is a listing of the nation's cultural resources worthy of preservation. National Register listing serves as a basic standard for providing historic preservation program support.

223—38.2(303) Regulations. The National Register of Historic Places Program shall operate in accordance with National Register of Historic Places, 36 CFR 60, November 16, 1981, and October 2, 1983; Determination of Eligibility for Inclusion in the National Register of Historic Places, 36 CFR 63, September 21, 1977; and Historic Preservation Certification, 36 CFR Part 67, March 12, 1984.

223—38.3(303) Nomination procedure.

38.3(1) Individuals wishing to nominate a cultural resource to the National Register of Historic Places may contact the National Register Coordinator, State Historical Society of Iowa, Capitol Complex, Des Moines, Iowa 50319, (515)281-4137 to secure a preliminary nomination packet.

38.3(2) Preliminary nominations shall be returned to the national register coordinator for evaluation. Within 30 days the staff shall evaluate the preliminary nomination and advise the applicant of the need for additional information, that the cultural resource is not eligible, or that the application may proceed. If the cultural resource is believed to be eligible, a final nomination packet shall be forwarded to the applicant.

223—38.4(303) Review of nominations.

38.4(1) Completed final nominations shall be reviewed by the staff prior to submission to the Iowa state nominations review committee for approval.

38.4(2) Property owners shall be notified of pending review of a potential nomination by the Iowa state nominations review committee. Property owners objecting to consideration may notify the national register coordinator to terminate nomination. Inquiries and objections may be directed to the National Register Coordinator, State Historical Society of Iowa, Capitol Complex, Des Moines, Iowa 50319, (515)281-4137.

38.4(3) The Iowa state national register review committee shall review and recommend action to the state historic preservation officer or designee.

38.4(4) Nominations signed by the state historic preservation officer shall be forwarded to the National Park Service for consideration. The National Park Service has a 45-day response period, which includes a 15-day period for public comment. The National Park Service may take three actions—listing of the resource on the National Register of Historic Places; return of the nomination for further preparation; or rejection of nomination. Appeals of National Park Service decision may be directed to the National Park Service, Department of the Interior, National Register Office, Box 37127, Washington, D.C. 20013-7127.

38.4(5) Owners and all interested parties shall be notified by the state historic preservation officer of the formal listing. A commemorative certificate shall be forwarded to the property owner.

223—38.5(303) Delisting of properties. Alterations to a property may result in delisting of a property. Delisting of a property is automatic if the property is completely demolished. Initiative to delist is the responsibility of the national register coordinator. Inquiries may be directed to the National Register Coordinator, State Historical Society of Iowa, Capitol Complex, Des Moines, Iowa 50319, (515)281-4137.

These rules are intended to implement Iowa Code section 303.2 and Iowa Code chapter 303, subchapter II.

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CHAPTER 39
EDUCATION PROGRAM

223—39.1(303) Purpose. The Education Program provides educational services to the public concerning many topics. Printed materials, audiovisual materials, and staff presentations are available.

223—39.2(303) Regulations. The Education Program shall operate in accordance with the National Historic Preservation Act of 1966 and the Program Guidelines-NPS 49, Chapters 12 and 13.

223—39.3(303) Procedure. Services are provided to individuals or organizations on a first-come, first-served basis. Fees may be charged to cover expenses. Requests for services may be directed to the Iowa History Resource Center, State Historical Society of Iowa, Capitol Complex, Des Moines, Iowa 50319, (515)281-6860. Many materials may be obtained from the Iowa History Resource Center, State Historical Society of Iowa, Capitol Complex, Des Moines, Iowa 50319, (515)281-6860.

These rules are intended to implement Iowa Code section 303.2 and Iowa Code chapter 303, subchapter II.

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CHAPTER 40
PRESERVATION PARTNERSHIP PROGRAM

223—40.1(303) Purpose. The Preservation Partnership Program provides preservation education and technical assistance for a one-year period to a competitively selected multicounty area which has not been the subject of a cultural resources survey and does not participate in the Certified Local Government Program.

223—40.2(303) Regulations. The Preservation Partnership Program is designed to meet the priorities of the state historical society of Iowa annual workplan. The contracts shall be competitively bid.

223—40.3(303) Application procedure and selection.

40.3(1) Selection criteria. The criteria considered in the selection of a preservation partner are:

- a. The breadth of organizations represented in the application for the purpose of maximizing nontraditional audiences and economic development;
- b. Amount of match available;
- c. An identified cultural resource that merits preservation and which is central to the region;
- d. Identification of a range of potential projects; and
- e. Relationship to the planning priorities of the program.

40.3(2) Applications shall be filed prior to April 15.

40.3(3) Selection shall be made by the staff with final approval by the state historic preservation officer.

40.3(4) Inquiries concerning the program may be directed to the Deputy State Historic Preservation Officer, State Historical Society of Iowa, Capitol Complex, Des Moines, Iowa 50319, (515)281-8741.

These rules are intended to implement Iowa Code section 303.2 and Iowa Code chapter 303, subchapter II.

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CHAPTER 41
SURVEY AND REGISTRATION OF CULTURAL RESOURCES PROGRAM
[Prior to 5/31/89, see [490] Ch 18]

223—41.1(303) Purpose. The Iowa Cultural Resources Survey and Registration Program is responsible for identifying and evaluating prehistoric and historic sites, buildings, structures, objects, and districts of significance to Iowa, its communities and the nation as a whole.

223—41.2(303) Regulations. The Iowa Cultural Resources Survey and Registration Program shall operate in accordance with the National Historic Preservation Act of 1966, as amended in 1980, Section 101 and Section 106; Executive Order 11593; and 36 CFR Part 800, September 21, 1986.

223—41.3(303) Survey selection.

41.3(1) Surveys may be conducted by the society staff, subgrants to consultants, certified local governments, or interagency agreements with federal, state, and local governmental agencies.

41.3(2) Selection of survey areas or topics, and the inclusion of survey results in the survey files, shall be determined by the priorities of the Iowa historic preservation plan, requirements of the Secretary of the Interior and, as appropriate, by requirements of the state of Iowa.

41.3(3) The society shall make available to the public, on request, federal and state guidelines for planning and conducting surveys of historic properties, survey data collection forms and continuation sheets, photo field catalog sheets, photographic specifications, and guidelines for the reporting of results to the society. These specifications and guidelines shall be used in all historic property surveys conducted or funded either partially or totally by the society. Adoption of these specifications and guidelines is not binding on federal agencies, other Iowa state agencies, local governments, or individuals, but their adoption is strongly recommended to facilitate comprehensive preservation planning, Section 106 review, information sharing, consistency in survey standards, and listing of historic properties on the National Register of Historic Places.

41.3(4) Federal agencies, state and local government entities, public and private institutions, and private individuals may be requested to conduct surveys if they are utilizing federal funds or engaging in a federally licensed, guaranteed, or regulated activity in order to comply with Section 106 of the National Historic Preservation Act of 1966 and Executive Order 11593.

41.3(5) State historical society of Iowa staff may assist federal and state agencies, local governments, and individuals in survey planning, the preparation of requests for proposals, and proposal evaluation. Requests for assistance may be directed to Deputy State Historic Preservation Officer, State Historical Society, Capitol Complex, Des Moines, Iowa 50319, (515)281-8741.

223—41.4(303) Survey funding.

41.4(1) Surveys funded by the society shall be conducted by principal investigators who meet the minimum professional qualifications specified for the appropriate discipline by the National Park Service in 36 CFR, Part 61, April 13, 1984, and August 30, 1985. The same standards are recommended for investigators in projects not funded by the society.

a. The staff maintains a list of consultants meeting the requirements of 36 CFR, Part 61, April 13, 1984, and August 30, 1985, and expressing an interest in conducting survey activities. Persons or firms interested in being listed may apply by submitting a résumé and other materials describing their qualifications to the staff. The staff shall review the qualifications and inform the applicant of the outcome of the review within 30 working days of submittal of complete documentation. Printed lists of qualified consultants shall be issued annually on January 15.

b. Inclusion on the consultant list does not constitute endorsement of an individual or a firm. At public request the staff shall review credentials of consultants not on the list and under consideration for a specific project funded by the society.

41.4(2) All survey projects to be conducted by a consultant shall be awarded in a competitive bidding process. A request for proposal shall be prepared by the staff. The request for proposal shall describe the project, specifications for the final product, and evaluation factors for the awarding of the contract.

41.4(3) The request for proposal shall be sent by the staff to all individuals and firms on the appropriate consultant list. A minimum of 30 days shall be permitted for the submittal of bids. State historical society of Iowa staff and other qualified individuals shall review the proposals and inform the consultants of the status of their bid within 30 working days. The society may reject all proposals; request some bidders to submit best and final offers in 15 working days; or award the contract. Awards shall be made to the offeror whose proposal is deemed to be the most advantageous to the state of Iowa on the basis of price and other factors.

223—41.5(303) Conduct of the surveys.

41.5(1) All surveys are subject to all state and federal laws regarding trespass and egress and the protection of archaeological resources. Responsibility for compliance rests solely with the firm or individual conducting the survey.

41.5(2) Information collected from private and public repositories, individuals and groups, and within the public right-of-way including photography shall be subject to inclusion in the project file. All information collected from private and public repositories, individuals and groups, and within the public rights-of-way including photography shall be considered suitable for inclusion in project files and be made available to the public upon request.

223—41.6(303) Availability of survey information. The state historical society of Iowa is the repository for all architectural and historical survey data collected through projects funded by the state historical society and the review and compliance (Section 106) process. Other agencies and individuals are encouraged to deposit their survey materials or a copy of those materials with the state historical society of Iowa.

223—41.7(303) Confidentiality of archaeological site information.

41.7(1) In accordance with Iowa Code subsection 22.7(21) and 685—Chapter 14, Iowa Administrative Code, specific locational information on archaeological resources is confidential unless approved for disclosure. The state historic preservation officer, or designee, shall make archeological site records available to the following entities for inspection and copying:

1. Federal and state agencies, local governments, and applicants for federal assistance, permits, and licenses in compliance with Section 106;
2. Federal and state agencies, local governments, and other planning bodies for management and oversight of archaeological sites under their jurisdiction;
3. Members of the Association of Iowa Archaeologists;
4. Members of the Society of Professional Archaeologists;
5. Qualified archaeologists as defined in 685—14.2(305A), Iowa Administrative Code; and
6. Other persons deemed to present no unreasonable risk of damage or loss of the resource.

41.7(2) Notwithstanding any of the preceding subrule, the state historic preservation officer, or designee, shall retain the authority to deny access to the Iowa site records, site location maps, and all supporting documents if the release is believed to result in an unreasonable risk of damage or loss of the resource. An appeal committee consisting of three qualified archaeologists as defined in 685—14.2(305A), Iowa Administrative Code, shall review contested cases and make recommendations to the director of the department of cultural affairs for final decision.

41.7(3) The society may enter into agreements with the state archaeologist or other agencies to obtain or make available Iowa site records for planning purposes.

41.7(4) Unless subject to restriction, copies of survey material may be obtained from the state historical society of Iowa. Fees shall be posted in accordance with 223—subrule 1.5(3), Iowa Administrative Code. Requests may be directed to Consulting Archaeologist, State Historical Society of Iowa, Capitol Complex, Des Moines, Iowa 50319, (515)281-8744.

These rules are intended to implement Iowa Code section 303.2 and Iowa Code chapter 303, subchapter II.

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CHAPTER 42
REVIEW AND COMPLIANCE PROGRAM

223—42.1(303) Purpose. The review and compliance program implements state historic preservation program activities to advise and assist public (federal, state, and local government) agencies in carrying out their historic preservation responsibilities broadly described and established under the National Historic Preservation Act, particularly Sections 106 and 110, as well as other state and federal historic preservation laws and regulations.

[ARC 0268C, IAB 8/8/12, effective 9/12/12]

223—42.2(303) Federal regulations and requirements. The Iowa review and compliance program shall operate in accordance with the following requirements:

42.2(1) The National Historic Preservation Act (16 U.S.C. 470 et seq.).

42.2(2) Title 36 of the Code of Federal Regulations Part 60 (36 CFR 60).

42.2(3) Title 36 of the Code of Federal Regulations Part 61 (36 CFR 61).

42.2(4) Title 36 of the Code of Federal Regulations Part 63 (36 CFR 63).

42.2(5) Title 36 of the Code of Federal Regulations Part 800 (36 CFR 800).

42.2(6) Contract requirements outlined in the state of Iowa's Historic Preservation Fund grant agreement with the National Park Service, including requirements described in the Historic Preservation Fund Grants Manual, special conditions attached to the grant agreement, and any other National Park Service requirement considered a condition of receiving the annual federal grant.

42.2(7) Nationwide Programmatic Agreements and other federal program alternatives executed or issued by the Advisory Council on Historic Preservation under 36 CFR §800.14, as applicable.

42.2(8) State-level programmatic agreements and memoranda of agreements executed under 36 CFR §§800.6 and 800.14.

42.2(9) Easements and covenants granted pursuant to the implementation of state historic preservation program activities.

42.2(10) Iowa Code chapter 303.

[ARC 0268C, IAB 8/8/12, effective 9/12/12]

223—42.3(303) Professional qualifications. In keeping with federal Historic Preservation Fund grant requirements, the department shall employ a professionally qualified staff that meets the requirements set forth in 36 CFR §61.4(e).

[ARC 0268C, IAB 8/8/12, effective 9/12/12]

223—42.4(303) Definitions. Unless the context requires otherwise, the definitions provided in the National Historic Preservation Act and its implementing regulations at 36 CFR Part 60, 36 CFR Part 61, and 36 CFR Part 800 shall apply to terms as they are used through this chapter. In addition, the following definitions apply:

“Act” means the National Historic Preservation Act (16 U.S.C. §470 et seq.).

“Agency” means federal agency.

“Agreement” means any agreement executed in accordance with the regulations implementing Section 106 at 36 CFR Part 800 and any agreement authorized by Iowa Code section 28E.4.

“Area of potential effects” or *“APE”* means the geographic area or areas within which an undertaking may directly or indirectly cause alterations in the character or use of historic properties, if any such properties exist. The area of potential effects is influenced by the scale and nature of an undertaking and may be different for different kinds of effects caused by the undertaking (36 CFR §800.16(d)).

“Historic property” means “historic property” as defined in Section 301(5) of the National Historic Preservation Act as amended through December 22, 2006 (16 U.S.C. §470w(5)).

“Recommendations and decisions” means the actions taken by the SHPO to advise and assist federal agencies in carrying out their Section 106 responsibilities.

“*Undertaking*” means, as defined in Section 301 of the National Historic Preservation Act, a project, activity, or program funded in whole or in part under the direct or indirect jurisdiction of a federal agency, including (1) those carried out by or on behalf of the federal agency; (2) those carried out with federal financial assistance; (3) those requiring a federal permit, license or approval; and (4) those subject to state or local regulation administered pursuant to a delegation or approval by a federal agency.

[ARC 0268C, IAB 8/8/12, effective 9/12/12]

223—42.5(303) Procedures.

42.5(1) *Technical assistance.* The state historic preservation office (SHPO) shall advise and assist federal agencies in carrying out their responsibilities under the Act (and other federal historic preservation laws) and shall cooperate with federal agencies, state agencies, local governments, or their applicants; organizations; and individuals to ensure historic properties are taken into consideration at all levels of planning and development.

42.5(2) *SHPO review of federal undertakings.*

a. In accordance with applicable federal and state laws and regulations, agency officials and agency program applicants or recipients requesting the views of the SHPO on an undertaking shall submit documentation regarding the undertaking and potential effects to historic properties.

b. The SHPO shall make available forms intended to assist agency officials and agency program applicants and recipients in organizing information and to allow the review and compliance program staff and other consulting parties to render informed advice on an undertaking. Forms will be made available on the state historical society of Iowa Web site. Submittals shall be directed to Review and Compliance Coordinator, State Historical Society of Iowa, Des Moines, Iowa 50319.

c. The SHPO shall respond to initial determinations submitted by an applicant or groups of applicants authorized to initiate consultation by the agency pursuant to 36 CFR §800.2(c)(4) or to a final agency determination of eligibility.

d. The SHPO shall apply the National Register Criteria for Evaluation when opining on determinations of National Register eligibility.

e. With respect to the determination of whether a property is eligible for listing, in the event that the SHPO and the agency official do not agree as to the determination of eligibility, the SHPO shall include an explanation of its opinion which shall be based on the National Register criteria and relevant National Park Service guidelines for evaluation of historic properties.

f. The SHPO may respond to agency determinations and findings of effect.

g. A SHPO nonconcurrence with an agency finding of effect shall include an explanation based upon the Advisory Council’s criteria of adverse effect in accordance with 36 CFR §800.5(a).

h. If the SHPO elects to consult, the SHPO shall respond within 30 calendar days of receipt of an agency’s request for review of a finding or determination in accordance with 36 CFR §800.3(c)(4) and the National Park Service’s applicable requirements. The SHPO shall base any recommendations upon consideration of all of the factors enumerated in 36 CFR §800.4(b)(1).

i. The recommendations and decisions of the SHPO are subject to the review and approval of the director. This review may be initiated by the director for any reason or may be requested in the manner described in rule 223—42.7(303). To facilitate this opportunity for review, the SHPO will generally submit its recommendation to the director within 14 calendar days of receipt.

j. If the director is unable to make a determination regarding the request for review within the federally mandated 30-day consultation period, the director may, upon advising the applicant, request that the federal agency extend the consultation period for such time as the director requires to make such a determination.

42.5(3) *Resolution of adverse effects.* The SHPO shall participate in the consultation to develop and evaluate alternatives or modifications to undertakings that could avoid, minimize, or mitigate adverse effects on historic properties in accordance with the provisions of 36 CFR §800.6 or the terms of executed agreements, easements and covenants.

42.5(4) *Emergency procedures.* The SHPO shall abide by the procedures that govern an agency's historic preservation responsibilities during any disaster or emergency in lieu of 36 CFR §§800.3 through 800.6.

[ARC 0268C, IAB 8/8/12, effective 9/12/12]

223—42.6(303) Level of effort required to identify historic properties.

42.6(1) The level of effort required to meet the “reasonable and good faith” standard in Section 106 review is set forth in 36 CFR §800.4. The level of effort required shall be based on past planning, research and studies; the magnitude and nature of the undertaking and the degree of federal involvement; the nature and extent of potential effects on historic properties; and the likely nature and location of historic properties within the APE and may consist of any combination of background research, consultations, oral history interviews, sample field investigations and field surveys. In order to balance the mission and needs of a federal agency and its proposed project, the SHPO shall balance the level of effort and resources necessary to identify and preserve archaeological sites with the project benefits, costs, schedules and local issues that, in part, comprise the broader public interest.

42.6(2) In response to the agency's request for consultation, the SHPO shall base any recommendation for the identification of historic properties upon a review of the documentation provided by an agency pursuant to the reasonable and good-faith standard in conformance with the factors set forth in 36 CFR §800.4(b)(1).

42.6(3) It is the statutory obligation of the federal agency to fulfill the requirements of Section 106.

42.6(4) The level of effort required of rural electric cooperatives and municipal utilities shall be consistent with the requirements set forth in 2011 Iowa Code Supplement section 303.18.

[ARC 0268C, IAB 8/8/12, effective 9/12/12]

223—42.7(303) Review and appeal of the recommendations and decisions of the state historic preservation officer.

42.7(1) In addition to any other review or appeal process afforded under federal or state law and regulations, the recommendations and decisions of the state historic preservation officer are subject to the review and approval of the director. This review may be initiated by the director for any reason or may be requested in the manner described in this rule.

42.7(2) A person, as defined in Iowa Code section 4.1(20), requesting the review of a recommendation or decision of the state historic preservation officer directly affecting that person shall provide the director with the following information, orally or in writing:

- a. Name and address of the requester.
- b. A description of the action of the SHPO requested to be reviewed.
- c. A short and plain statement of the reasons the review is requested.

42.7(3) Within 15 days following receipt of a request for review, the director shall notify the requester of the disposition of the request or of the need for additional information. Within 30 days following the receipt of the requested additional information, the director will notify the requester in writing of the disposition of the request for review.

42.7(4) A decision of the director is final. Judicial review of the actions of the director may be sought in accordance with the terms of the Iowa administrative procedure Act, Iowa Code chapter 17A.

[ARC 0268C, IAB 8/8/12, effective 9/12/12]

These rules are intended to implement Iowa Code section 303.2 and Iowa Code chapter 303, subchapter II.

[Filed without Notice 5/12/89—published 5/31/89, effective 7/5/89]

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[Filed ARC 0268C (Notice ARC 0103C, IAB 4/18/12), IAB 8/8/12, effective 9/12/12]

CHAPTER 43
TECHNICAL ASSISTANCE PROGRAM

223—43.1(303) Purpose. The Technical Assistance Program provides professional consultation in the areas of planning, project monitoring, local ordinance review, local historic district organizations, and general preservation consulting.

223—43.2(303) Regulations. Technical assistance is provided as resources permit. First priority is given to projects relating to the National Register of Historic Places, the Certified Local Government program or a local preservation commission, and the preservation partnership program.

223—43.3(303) Services. The technical assistance program provides service in these four areas:

1. Planning assistance. This program provides on-site or other forms of consultation in the preparation and review of a community or county historic preservation plan.

2. Project monitoring. The staff provides on-site or other forms of project monitoring and facilitation.

3. Local ordinance review and local historic district organization. In accordance with Iowa Code subsection 303.34(4), the local commission shall submit the draft or final ordinance for review and approval by the staff. An existing commission shall similarly submit proposed local historic district designations for review and approval to the staff. Comments by the appropriate staff shall be supplied within 45 days from the receipt of complete documentation.

4. General technical assistance. Technical assistance in the physical preservation of properties is provided by staff. This service is provided on an individual request and time available basis. The services provided by the staff shall not substitute for private professional services.

All inquiries and requests may be directed to the Deputy State Historic Preservation Officer, State Historical Society of Iowa, Capitol Complex, Des Moines, Iowa 50319, (515)281-8741.

These rules are intended to implement Iowa Code section 303.2 and Iowa Code chapter 303, subchapter II, and subchapter III.

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CHAPTER 44
STATE REGISTER OF HISTORIC PLACES PROGRAM
[Prior to 5/31/89, see Historical Department[490] Ch 17]

223—44.1(303) Purpose. The State Register of Historic Places recognizes properties of historical significance to Iowa.

223—44.2(303) Regulations and procedures. All regulations and procedures of 223—Chapter 38, Iowa Administrative Code, pertaining to the National Register of Historic Places shall pertain to the state register of historic places.

These rules are intended to implement Iowa Code section 303.2 and Iowa Code chapter 303, subchapter II.

[Filed 4/13/78, Notice 3/8/78—published 5/3/78, effective 6/12/78]

[Filed without Notice 5/12/89—published 5/31/89, effective 7/5/89]

CHAPTER 45
COMPREHENSIVE PRESERVATION PLANNING PROGRAM
Reserved

CHAPTER 46
MAIN STREET LINKED INVESTMENTS LOAN PROGRAM

223—46.1(12) Program administered. The main street linked investments loan program is administered jointly by the treasurer of state, department of economic development, and the state historical society. The rules of the society for this program are identical to the rules of the department of economic development for this program and are adopted by reference. See 261 IAC 43. The rules of the treasurer of state concerning funding of the program appear as 781 IAC 4.

These rules are intended to implement Iowa Code sections 12.51 and 12.52.

[Filed 8/2/90, Notice 1/10/90—published 8/22/90, effective 9/26/90]

CHAPTER 47
HISTORIC PROPERTY REHABILITATION TAX EXEMPTION

223—47.1(303) Purpose. Property owners desiring property tax benefits for substantial rehabilitation of historic buildings may apply for certification of completed work to the consulting architect of the state historical society of Iowa. Applicants are encouraged to apply for preliminary review and approval prior to start of rehabilitation work to prevent delays in certification of completed work or denials caused by unacceptable rehabilitation work.

Approved certifications of completed work may then be filed by the property owner with the assessor of the jurisdiction who shall certify the eligibility of the property for exemption and forward the application to the board of supervisors.

223—47.2(303) Definitions. The definitions listed in Iowa Code section 17A.2 and rules 223—1.2(303) and 223—35.2(303) shall apply for terms as they are used throughout this chapter. In addition, the following definitions apply:

“Application for certification” means the application for approval of substantial rehabilitation work to a historic property filed with the state historical society of Iowa.

“Application for exemption” means the application for a property tax exemption filed with the assessor for the substantial rehabilitation work on a historic property certified as approved by the state historic preservation officer.

“Base year valuation” means the assessed valuation for the building on January 1 of the year in which the rehabilitation work was initiated.

“Exemption” means the temporary release from the increase in valuation due to certified substantial rehabilitation of a historic property and is dependent on maintaining the certification from the state historic preservation officer.

223—47.3(303) Program administration.

47.3(1) The staff of the society shall review and evaluate proposed and completed substantial rehabilitation applications. The state historic preservation officer shall provide applicants of approved projects with a certification of completed work.

47.3(2) Boards of supervisors shall establish their priorities for which an exemption may be granted. Examples of exemption priorities may be: a maximum annual dollar amount of exemptions allowed on a first-come basis; types of historic properties as defined in Iowa Code section 427.16; property types defined by use or location; exclusion of properties within a tax increment financing or special municipal improvement district; or other criteria specified by the board of supervisors. An annual priority list shall be established by boards of supervisors as required by Iowa Code section 427.16.

47.3(3) An annual report listing all historic properties in the county for which an exemption has been granted shall be prepared by the assessor on or before July 1, submitted to the respective county auditor and to the state historic preservation officer.

223—47.4(303) Eligibility.

47.4(1) All applications for exemption eligibility submitted to the assessor and board of supervisors shall have received a certification of completed work from the state historic preservation officer. The approved certification shall be attached to the exemption application.

47.4(2) Applications for eligibility shall be evaluated using the board of supervisors’ adopted priority list.

223—47.5(303) Application for exemption procedure.

47.5(1) All applications for exemption shall be submitted on the historic property rehabilitation tax exemption form prescribed by the department of revenue. All applications shall have attached an approved application for certification of completed work. Forms may be obtained from the Department of Revenue, Capitol Complex, Des Moines, Iowa 50319; Consulting Architect, State Historical Society

of Iowa, Capitol Complex, Des Moines, Iowa 50319, telephone (515)281-8719; or the office of the appropriate assessor or board of supervisors.

47.5(2) Applications for certification of completed work shall provide historical, architectural and financial information; and plans, photographs and maps as required on the application form.

a. Part 1 of the application form shall establish the significance of the property. As a minimum, current photographs of all exterior sides of the building, the streetscape and representative views of the interior shall be provided. Where property is within a National Register Historic District or area of historic significance as defined in Iowa Code section 303.20 or 303.34, a map locating the property within the boundaries of the area shall be provided.

b. Part 2 of the application form shall detail the existing conditions and the proposed rehabilitation workplan. Photographs shall show specific areas of work and both the interior and exterior conditions prior to the start of work.

c. Request for Certification of Completed Work (part 3) shall document the completed work. Photographs shall show specific areas where work has been completed and both the interior and exterior conditions after the completion of work.

d. Applicants are strongly encouraged to obtain approvals on parts 1 and 2 of the application prior to the start of work. Applicants shall file completed part 3 application forms with the state historical society of Iowa on or before December 31 for work completed that calendar year. Applicants whose work is approved shall file certifications of completed work as part of their application for exemption with their assessor on or before March 1 of the appropriate tax year.

47.5(3) Materials submitted to the society shall not be returned.

47.5(4) In some localities or with some funding sources, other preservation or design-related reviews may be required before any rehabilitation occurs. The process of application for certification of completed work as part of historic property rehabilitation tax exemption program does not substitute for any other reviews/applications which may be required of property owners.

47.5(5) Inquiries concerning information required, historic property eligibility, and review criteria should be addressed to the Deputy State Historic Preservation Officer, State Historical Society of Iowa, Capitol Complex, Des Moines, Iowa 50319, telephone (515)281-8719.

223—47.6(303) Review and approval standards for applications for certification.

47.6(1) Project certification shall be based on the Secretary of the Interior's Standards for Rehabilitation and Guidelines for Rehabilitating Historic Buildings, 36 CFR Part 67.7 (1990), National Park Service, Preservation Assistance Division, Washington, D.C. 20013-7127.

47.6(2) The standards apply equally to interior and exterior work. All reviews shall consider the entire rehabilitation project, including any new construction on site, rather than only a limited segment of the project; and the certification shall be based on conformity of the total project to the standards.

47.6(3) If required documentation is incomplete and the review and evaluation cannot be completed, the project shall be denied the requested certification. The applicant shall be notified by the society.

223—47.7(303) Appeals. Decisions made by the society or its designee adversely affecting applicants may be appealed pursuant to 221—Chapter 3.¹

¹ See Notice of Intended Action **ARC 1811A**, IAB 3/20/91.

These rules are intended to implement Iowa Code sections 303.2 and 427.16.

[Filed emergency 11/7/90—published 11/28/90, effective 11/7/90]

[Filed 2/22/91, Notice 11/28/90—published 3/20/91, effective 4/24/91]

[Filed emergency 12/2/93—published 12/22/93, effective 12/2/93]

[Filed 1/27/94, Notice 12/22/93—published 2/16/94, effective 3/23/94]

CHAPTER 48
HISTORIC PRESERVATION AND CULTURAL AND
ENTERTAINMENT DISTRICT TAX CREDITS

DIVISION I
PROJECTS FOR WHICH APPLICATIONS WERE APPROVED AND
TAX CREDITS WERE RESERVED PRIOR TO JULY 1, 2014

223—48.1(303,404A) Purpose. A historic preservation and cultural and entertainment district tax credit (hereafter referred to as historic tax credit) for the substantial rehabilitation of eligible commercial property, residential property and barns located in this state is granted to approved projects, subject to availability of the credit, to apply against the income tax imposed under Iowa Code chapter 422, division II, III, or V, or Iowa Code chapter 432. Historic tax credits are restricted to rehabilitation projects for eligible properties in Iowa. Rehabilitation projects for eligible properties must be conducted in accordance with the federal Standards for Rehabilitation (36 CFR Part 67.7) as described in the U.S. Secretary of the Interior's Standards for the Treatment of Historic Properties (hereafter referred to as Standards).

[ARC 9608B, IAB 7/13/11, effective 6/22/11]

223—48.2(303,404A) Definitions. The definitions listed in Iowa Code section 17A.2 and rules 223—1.2(17A,303), 223—1.6(303), 223—13.2(303), 223—22.2(303), and 223—35.2(303) shall apply to terms as they are used throughout this chapter. In addition, the following definitions apply:

“Applicant” means the person, partnership, corporation, qualifying nonprofit organization, or public agency applying for the tax credit. In most cases, this will be the entity holding a fee-simple interest in the property or any other person or entity recognized by the Internal Revenue Code for purposes of the applicable tax benefits. If an application is made by someone other than the fee-simple owner, the application must be accompanied by a written statement signed by the fee-simple owner indicating the fee-simple owner does not object to the applicant claiming the tax credit.

“Assessed value” means the amount of the most current property tax assessment.

“Barn” means an agricultural building or structure, in whatever shape or design, which was originally used for the storage of farm products or feed or for the housing of farm animals, poultry, or farm equipment.

“Commercial property” means a building used in a trade or business or held for the production of income.

“Disaster recovery project” means an eligible property located in an area declared a disaster area by the governor of Iowa or by the president of the United States. The property must have been physically impacted as a result of the disaster.

“Employment base” means the number of jobs that exist at an eligible property on the date part one of the application is approved.

“Historic tax credit(s)” means the historic preservation and cultural and entertainment district tax credit established in Iowa Code chapter 404A.

“Mixed-use property” means an eligible property that includes three or more residential units and may also contain a commercial property component in the same building.

“New permanent jobs” means the number of new jobs that exist at an eligible property within two years of the date on which the tax credit certificate is issued. New permanent jobs are calculated as those over and above the employment base.

“Noncommercial property” means a building not used for a commercial purpose as defined herein.

“Placed in service” means the same as used in Section 47 of the Internal Revenue Code.

“Qualifying nonprofit organization” means an organization, other than governmental bodies, described in Section 501 of the Internal Revenue Code unless the exemption is denied under Section 501, 502, 503 or 504 of the Internal Revenue Code.

“*Rehabilitation period*” means the period of time during which an eligible property is rehabilitated commencing from the date on which the first qualified rehabilitation cost is incurred and ending with the end of the taxable year in which the property is placed in service.

“*Reserved tax credit*” means the amount of tax credits set aside from the available tax credit fund for an approved project.

“*Residential property*” means a building with two or fewer residential units, with each unit providing complete, independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking, and sanitation.

“*Standards*” means the Standards for Rehabilitation as described in the U.S. Secretary of the Interior’s Standards for the Treatment of Historic Properties.

“*Substantial rehabilitation*” means qualified rehabilitation costs that meet or exceed the following: (1) in the case of commercial property, costs totaling at least 50 percent of the assessed value of the property, excluding the land, prior to the rehabilitation or at least \$50,000, whichever is less; or (2) in the case of noncommercial property, costs totaling at least \$25,000 or 25 percent of the assessed value, excluding the land, prior to rehabilitation, whichever is less.

“*Tax basis*” means the same as defined in department of revenue 701—subrule 42.15(3).

“*Tax credit year*” means the tax year in which a tax credit certificate holder is eligible to redeem a tax credit certificate based on the availability of tax credits for an eligible project.

[ARC 7943B, IAB 7/15/09, effective 6/16/09; ARC 9608B, IAB 7/13/11, effective 6/22/11; ARC 0896C, IAB 8/7/13, effective 7/9/13]

223—48.3(303,404A) Eligible property. “Eligible property” means property for which a taxpayer may receive the historic preservation and cultural and entertainment district tax credit computed under this chapter and includes all of the following:

1. Property listed on the National Register of Historic Places or eligible for such listing.
2. Property designated as of historic significance to a district listed in the National Register of Historic Places or eligible for such designation.
3. Property or district designated a local landmark by a city or county ordinance.
4. A barn constructed prior to 1937.

[ARC 9608B, IAB 7/13/11, effective 6/22/11]

223—48.4(303,404A) Qualified and nonqualified rehabilitation costs.

48.4(1) “Qualified rehabilitation costs” means expenditures made for the rehabilitation of eligible property and includes qualified rehabilitation expenditures as defined in Section 47 of the Internal Revenue Code.

a. Qualified rehabilitation costs include amounts if they are properly includable in computing the basis for tax purposes of the eligible property.

b. Amounts treated as an expense and deducted in the tax year in which they are paid or incurred and amounts that are otherwise not added to the basis for tax purposes of the eligible property are not qualified rehabilitation costs.

c. Amounts incurred for architectural and engineering fees, site survey fees, legal expenses, insurance premiums, development fees, and other construction-related costs are qualified rehabilitation costs to the extent they are added to the basis for tax purposes of the eligible property.

d. Costs of sidewalks, parking lots, and landscaping do not constitute qualified rehabilitation costs.

48.4(2) Any submission of part three of the application with qualified rehabilitation costs of more than \$750,000 shall include a certified statement by a certified public accountant verifying that the expenses statement includes only qualified rehabilitation costs incurred in the time period established in subrule 48.5(2).

[ARC 7943B, IAB 7/15/09, effective 6/16/09; ARC 9608B, IAB 7/13/11, effective 6/22/11; ARC 0896C, IAB 8/7/13, effective 7/9/13]

223—48.5(303,404A) Rehabilitation cost limits and amount of credit.

48.5(1) The amount of the tax credit equals 25 percent of the qualified rehabilitation costs incurred for the substantial rehabilitation of eligible property, subject to the provisions in subrule 48.6(8).

Rehabilitation projects that do not meet the definition of a substantial rehabilitation are not eligible to receive a historic tax credit.

48.5(2) Computing the tax credit. The state historic preservation office (hereinafter referred to as SHPO) shall compute the tax credit based on the final qualified rehabilitation costs documented on part three of the application and shall issue a tax credit certificate pursuant to subrule 48.6(8).

a. For projects for which part two of the application was approved and tax credits were reserved before July 1, 2009: The only costs which may be included on part three of the application are the qualified rehabilitation costs incurred between the period ending on the project completion date and beginning on the date two years prior to the project completion date, provided that any qualified rehabilitation costs incurred prior to the date on which part two of the application was approved must be qualified rehabilitation expenditures under the federal rehabilitation credit in Section 47 of the Internal Revenue Code.

b. For projects for which part two of the application was approved on or after July 1, 2009: The only costs which may be included on part three of the application are those qualified rehabilitation costs incurred for the rehabilitation of eligible property during the rehabilitation period, provided that any costs incurred prior to the date on which part two of the application was approved must be qualified rehabilitation expenditures as defined in Section 47(c)(2) of the Internal Revenue Code.

48.5(3) For residential or mixed-use property, the amount of rehabilitation costs shall not exceed \$100,000 per residential unit excluding any qualified rehabilitation costs for the public or commercial space and excluding any qualified rehabilitation costs for the weather surfaces of the building envelope including exterior windows and doors. This subrule does not apply to projects for which part two of the application was approved and tax credits were reserved on or after July 1, 2009.

48.5(4) Questions concerning specific tax consequences or interpretation of the state tax code must be addressed to the department of revenue.

48.5(5) Applicants may develop subsequent projects for qualified rehabilitation costs not previously included in a tax credit application for a building which had tax credits previously reserved or awarded. Each subsequent application shall meet eligibility requirements and shall be reviewed individually and independently.

48.5(6) For applicants receiving credits through the small projects fund, the cumulative total for multiple applications for a single building shall not exceed \$750,000 in qualified rehabilitation costs. The SHPO will not accept an application by the same owner for a building previously receiving credits through the small projects fund that causes the cumulative total to exceed \$750,000. The applicant may either:

a. Apply for the cumulative total of qualified rehabilitation costs under any other fund for which the project is eligible. If the applicant receives a tax credit reservation from another fund, the applicant shall abandon the entirety of the applicant's tax credit reservation in the small projects fund in accordance with rule 223—48.12(303,404A); or

b. Apply for only the qualified rehabilitation costs up to a cumulative total of \$750,000. If the applicant has already received and claimed a tax credit certificate on the applicant's annual tax return, the applicant shall select this option.

[ARC 7943B, IAB 7/15/09, effective 6/16/09; ARC 9608B, IAB 7/13/11, effective 6/22/11; ARC 0896C, IAB 8/7/13, effective 7/9/13; ARC 1970C, IAB 4/15/15, effective 5/20/15]

223—48.6(303,404A) Application and review process.

48.6(1) All applications for historic tax credits shall be on the current state fiscal year's forms and in accordance with the current state fiscal year's instructions provided by the SHPO. All applications must be complete and include all required supporting documentation before being considered for review and before beginning the review periods outlined in subrule 48.6(3). Application forms are available from the Tax Incentives Program Manager, State Historic Preservation Office, Department of Cultural Affairs, 600 E. Locust Street, Des Moines, Iowa 50319-0290. Applications may also be downloaded from the department of cultural affairs—state historical society of Iowa Web site.

a. Part one of the application identifies the eligibility of the property for the historic tax credit. Part one of the application is accepted year-round. Part one of the application must include all requested information. SHPO staff shall notify the applicant if part one of the application is incomplete. Incomplete applications will not be processed.

b. Part two of the application provides a detailed description of the rehabilitation project. Part two of the application is accepted when tax credits are available for the fund specified by the applicant pursuant to subrule 48.7(6) or, if no tax credits are available, in accordance with rule 223—48.8(303,404A). Part two of the application must include all requested information. SHPO staff shall notify the applicant if part two of the application is incomplete. Incomplete applications will not be processed.

c. Part three of the application provides the information and documentation required to request certification of project completion and includes an economic impact questionnaire. Part three of the application must include all requested information including certification in accordance with subrule 48.4(2). SHPO staff shall notify the applicant if part three of the application is incomplete. Incomplete applications will not be processed. Incomplete applications may be subject to abandonment as outlined in rule 223—48.12(303,404A).

(1) For projects for which part two of the application was approved and tax credits reserved before July 1, 2009, part three of the application shall be submitted within 6 months of the date on which the building is placed in service.

(2) For projects for which part two of the application was approved and tax credits reserved on or after July 1, 2009, and before July 1, 2014, part three of the application shall be submitted within 24 months of the date on which the rehabilitation period ends.

d. Amendments to applications. An applicant shall amend an approved part one of the application or an approved part two of the application if the property changes ownership or if the applicant's name or address changes. An applicant shall amend an approved part two of the application to notify SHPO of, and to request review of, modifications to the original description of the rehabilitation project. Amendments to part two of the application shall not include modification of the rehabilitation costs estimated in the originally approved part two of the application. Amendments to part two of the application shall not result in the reservation of additional tax credits for a project. Amendments to part two will not be accepted after SHPO has approved part three of the application pursuant to subrule 48.6(8). An applicant may amend an approved part three of the application. Any amendment to part three shall meet all requirements applicable to part three. The total application processing fee charged for part three under rule 223—48.16(303,404A) is based on the final qualified rehabilitation costs as reported on the part three amendment.

48.6(2) SHPO staff trained by the National Park Service for reviewing rehabilitation projects to ensure compliance with Standards will review part two and part three of each submitted application.

48.6(3) SHPO staff shall review and respond to each part of a completed or amended application within 90 days of receipt when submitted pursuant to subrule 48.6(1). If an applicant submits more than one part of the application simultaneously, SHPO staff shall review each part sequentially and the 90-day review period for part two or three of the application will begin upon approval of the previous part.

48.6(4) Applicants who undertake rehabilitation projects without prior approval from the SHPO do so at their own risk.

48.6(5) Response to application parts.

a. Review of part one of the application shall result in one of two responses:

- (1) The property is eligible for the historic tax credit; or
- (2) The property is not eligible for the historic tax credit.

b. Review of part two of the application shall result in one of three responses which may be provided to the department of revenue:

(1) The rehabilitation described in the application is consistent with the historic character of the property or the district in which it is located, and the project meets the Standards. The initial review of part two is a preliminary determination only. A formal certification of rehabilitation shall be issued only after rehabilitation work is completed;

(2) The rehabilitation or proposed rehabilitation described in part two of the application will meet the Standards if the stipulated conditions are met; or

(3) The rehabilitation described in part two of the application is not consistent with the historic character of the property or the district in which it is located, and the project does not meet the Standards. The application will not be approved and SHPO will not reserve tax credits for the project.

c. Review of part three of the application shall result in one of two responses which may be provided to the department of revenue:

(1) The completed rehabilitation meets the Standards and is consistent with the historic character of the property or the district in which it is located. Effective on the date of approval of part three of the application, the project shall be designated a “certified rehabilitation”; or

(2) The rehabilitation is not consistent with the historic character of the property or the district in which it is located, and the project does not meet the Standards. If the work cannot be corrected to meet the Standards, the SHPO shall recapture the tax credit reservation in accordance with the provisions of rule 223—48.12(303,404A).

48.6(6) Approval of part one of the application. Upon approval of part one of the application, an applicant may proceed to submission of part two of the application. If the applicant submitted part two of the application simultaneously, the SHPO shall complete review of part one of the application before reviewing part two of the application.

48.6(7) Approval of part two of the application.

a. Upon approval of part two of the application with no conditions, the SHPO shall reserve tax credits for the project in an amount equal to 25 percent of the estimated qualified rehabilitation costs for the earliest year in which tax credits are available in the appropriate fund, and the applicant may proceed to implement the project.

b. Upon approval of part two of the application with conditions, the SHPO shall reserve tax credits for the project in an amount equal to 25 percent of the estimated qualified rehabilitation costs for the earliest year in which tax credits are available in the appropriate fund. The applicant may proceed to implement the project, and the applicant shall document compliance with the conditions.

c. An authorized representative of the SHPO, with due notice to the applicant, may inspect projects to determine if the work meets the Standards.

48.6(8) Approval of part three of the application. Upon approval of part three of the application, the SHPO shall issue a tax credit certificate to the applicant in an amount equal to 25 percent of the qualified rehabilitation costs as estimated in part two of the application for the tax credit year originally reserved for the project upon approval of part two of the application, unless the qualified rehabilitation costs in part three of the application differ from the estimated qualified rehabilitation costs in part two of the application. Notwithstanding anything contained in this chapter to the contrary, the eligibility for the tax credit and the amount of the tax credit remain subject to audit by the department of revenue in accordance with Iowa Code chapters 421 and 422.

a. If the qualified rehabilitation costs documented in part three of the application are less than the qualified rehabilitation costs estimated in part two of the application, the SHPO shall issue a certificate in an amount equal to 25 percent of the final qualified rehabilitation costs and return any unused tax credits to the tax credit fund from which they were reserved. Notwithstanding the foregoing, tax credits that were reserved for a project but not used for that project may be used in accordance with Iowa Code chapter 404A as in effect beginning July 1, 2014, and Division II of this chapter.

b. For projects with tax credits reserved from the small projects fund and final qualified rehabilitation costs of \$750,000 or less: If the final qualified rehabilitation costs documented in part three of the application are greater than the qualified rehabilitation costs estimated in part two of the application, the SHPO shall issue tax credit certificates totaling 25 percent of the final qualified rehabilitation costs, with the initial tax credit certificate issued in the amount originally reserved for the project and the remainder for the earliest year in which tax credits are available in the small projects fund or, if no tax credits are available, in accordance with rule 223—48.8(303,404A).

c. For projects with tax credits reserved from the small projects fund and final qualified rehabilitation costs over \$750,000: The SHPO shall notify the applicant that the applicant may either:

(1) Apply for the cumulative total of qualified rehabilitation costs under any other fund for which the project is eligible. If the applicant receives a tax credit reservation from another fund, the applicant shall abandon the entirety of the applicant's tax credit reservation in the small projects fund in accordance with rule 223—48.12(303,404A); or

(2) Claim only the final qualified rehabilitation costs up to \$750,000. If the applicant chooses this option, the SHPO shall issue tax credit certificates totaling no more than \$187,500 for the project, with the initial tax credit certificate issued in the amount originally reserved for the project and the remainder for the earliest year in which tax credits are available in the small projects fund or, if no tax credits are available, in accordance with rule 223—48.8(303,404A).

d. For projects with tax credits reserved from any other fund: If the final qualified rehabilitation costs documented in part three of the application are greater than the qualified rehabilitation costs estimated in part two of the application, the SHPO shall issue tax credit certificates totaling 25 percent of the final qualified rehabilitation costs in the same fund from which tax credits were initially awarded, with the initial tax credit certificate issued for the amount originally reserved for the project and the remainder for the earliest year in which tax credits are available in the appropriate fund or, if no tax credits are available, in accordance with rule 223—48.8(303,404A).

e. Transition provisions. Notwithstanding anything to the contrary in paragraphs 48.6(8) “*b*,” “*c*” and “*d*” above, beginning on and after July 1, 2014, the taxpayer shall not be eligible for a reservation for any credits awarded in excess of the reservation amount, but shall be eligible to receive credits as they become available, in the small projects fund or otherwise, in accordance with the procedures developed from time to time by the SHPO. Such procedures shall give preference to taxpayers that had a reservation prior to July 1, 2014.

48.6(9) Disaster recovery projects. An applicant may apply for the disaster recovery fund as described in subrule 48.7(3) if the project meets the following requirements:

- a.* The initial submittal of part two of the application shall be made no later than the first filing window (see subrule 48.8(2)) that occurs after the five-year anniversary of the disaster declaration date.
- b.* Disasters declared before January 1, 2008, will not be considered.

48.6(10) Projects creating new permanent jobs. An applicant may apply for the new permanent jobs fund as described in subrule 48.7(4) if the applicant meets the following requirements:

- a.* The applicant shall document the employment base for an eligible property on the date part one of the application is approved;
- b.* The applicant must provide information to SHPO documenting the creation of at least 500 new permanent jobs within two years of the date on which the tax credit certificate is issued. This information shall be verified by the Iowa department of economic development using the process outlined in 261—Chapter 188, Iowa Administrative Code. If the Iowa department of economic development is unable to verify the number of new permanent jobs required, tax credits claimed by the applicant will be subject to repayment to the department of revenue and unclaimed credits shall be unavailable; and
- c.* The applicant (and any leaseholders or tenants, if applicable) must enter into a contract with the SHPO specifying the employment base, reporting mechanisms required to document 500 new permanent jobs, applicable dates for reporting, and the penalty incurred if reporting requirements are not met. If the contract is not executed before the building is placed in service, the SHPO shall recapture any tax credits reserved in accordance with rule 223—48.12(303,404A).

[ARC 7943B, IAB 7/15/09, effective 6/16/09; ARC 9608B, IAB 7/13/11, effective 6/22/11; ARC 0896C, IAB 8/7/13, effective 7/9/13; ARC 1970C, IAB 4/15/15, effective 5/20/15]

223—48.7(303,404A) Tax credit funds.

48.7(1) *The small projects fund.* The SHPO shall reserve 10 percent of the tax credit allocation for any tax credit year in a small projects fund for projects with final qualified rehabilitation costs totaling \$750,000 or less.

If the small projects fund is fully reserved, any applications for small projects received after full reservation of the small projects fund may be eligible for the statewide fund.

48.7(2) *The cultural and entertainment district and great places fund.* The SHPO shall reserve 30 percent of the tax credit allocation for any tax credit year in a cultural and entertainment district and great places project (CED-GP) fund for projects located in cultural and entertainment districts certified in accordance with Iowa Code section 303.3B or for projects identified in Iowa great places agreements developed in accordance with Iowa Code section 303.3C.

48.7(3) *The disaster recovery fund.* The SHPO shall reserve 20 percent of the tax credit allocation for any tax credit year in a disaster recovery fund for projects located in an area declared a disaster area by the governor of Iowa or by the president of the United States. The eligible property must have been physically impacted as a result of the natural disaster as documented in accordance with the current state fiscal year's forms and instructions. The initial application for the project must be submitted within the time frame provided by subrule 48.6(9).

48.7(4) *The new permanent jobs fund.* The SHPO shall reserve 20 percent of the tax credit allocation for any tax credit year in a new permanent jobs fund for projects that involve the creation of more than 500 new permanent jobs within two years of the date on which the tax credit certificate is issued.

48.7(5) *The statewide fund.* The SHPO shall reserve the remaining percentage of the tax credit allocation for any tax year in a statewide fund, which is to be used for eligible projects throughout the state of Iowa. If the statewide fund is fully reserved before the end of the state fiscal year, subsequent applications will be accepted utilizing the procedures in rule 223—48.8(303,404A).

48.7(6) *Fund selection.* Part two of the application shall clearly indicate the fund for which the applicant is applying. Only one fund may be selected. Any applications not indicating a specific fund shall be considered for the statewide fund. If an application is not eligible for the fund selected, it shall be considered for the statewide fund.

48.7(7) *Disposition of unreserved credits.* In reference to the new permanent jobs fund, CED-GP fund, and disaster recovery fund, at the end of the filing window in any fiscal year, any tax credits that have not been reserved will be reallocated in the same fiscal year as follows:

- a. Unreserved CED-GP fund and new permanent jobs fund credits will be reallocated to the disaster recovery fund.
- b. Unreserved disaster recovery fund credits will be reallocated to the statewide fund.
- c. For purposes of this subrule, the phrase “in any fiscal year” refers to each of the three fiscal years for which credits may be reserved pursuant to Iowa Code section 404A.4(5).

48.7(8) *Transition provisions.* Notwithstanding anything contained in this chapter to the contrary, no tax credits shall be reserved under these administrative rules after July 1, 2014. See Iowa Code chapter 404A in effect beginning July 1, 2014, and Division II of this chapter.

[ARC 7943B, IAB 7/15/09, effective 6/16/09; ARC 9608B, IAB 7/13/11, effective 6/22/11; ARC 0896C, IAB 8/7/13, effective 7/9/13; ARC 1970C, IAB 4/15/15, effective 5/20/15]

223—48.8(303,404A) Sequencing of applications for review.

48.8(1) *Order of review.* The SHPO anticipates the receipt of a large number of applications for historic tax credits for projects with qualified rehabilitation costs in excess of \$750,000 at the beginning of each state fiscal year. At the start of each state fiscal year, the SHPO will utilize a project review sequencing and prioritization system to establish the order in which applications will be reviewed.

a. Applications for projects with qualified rehabilitation costs of \$750,000 or less applying for credits from the small projects fund will be accepted and reviewed throughout the calendar year until all available credits from that fund are reserved. When all available credits are reserved from the small projects fund, subsequent applications will be accepted utilizing the procedures in subrules 48.8(2) to 48.8(7).

b. If all available credits are reserved before review of all projects submitted within the filing window specified in subrule 48.8(2), applications not reviewed will be returned to the applicant.

48.8(2) *Filing window.* Part two applications for state historic tax credits received during the first ten working days of the state fiscal year shall be included in a project review sequencing system to determine the order in which they will be reviewed. The filing window for applications submitted in July 2013 will be extended to July 31, 2013.

48.8(3) Initial sequencing process. An initial sorting process based on the status of the project application at the start of the state fiscal year will be used to associate applications with the appropriate initial sequencing category. Following initial sorting into a category and subcategory, each application within the assigned category and subcategory will be sequenced in accordance with subrule 48.8(4).

a. Category A projects do not need to be resubmitted during the filing window and are comprised of two subcategories in the following order:

(1) Projects reviewed in the previous year's sequencing and review process that did not receive a reservation for the full 25 percent of their qualified rehabilitation costs.

(2) Projects with final qualified rehabilitation costs documented in part three of the application in excess of the estimated rehabilitation costs in part two pursuant to paragraph 48.6(8) "d" and which could not be otherwise reserved from available credits in the appropriate fund.

b. Category B projects are comprised of projects for which part two of a state historic tax credit application was submitted during any previous year's filing window, as verified by records maintained at the SHPO, and was included in that year's sequencing system, and did not receive a tax credit reservation. Category B projects must be resubmitted during the current year's filing window and must specify a fund pursuant to subrule 48.7(6). Category B projects will be divided into subcategories arranged in the following order:

(1) Projects will be included in a subcategory for the state fiscal year of original submission provided the project was included in each successive state fiscal year's sequencing system and did not receive a tax credit reservation. These subcategories will be arranged chronologically beginning with the earliest state fiscal year.

(2) Any projects for which applications were not submitted in successive state fiscal years will be included in a subcategory after those defined in subparagraph 48.8(3) "b" (1).

c. Category C projects are comprised of an entirely new part two of a state historic tax credit application not meeting the requirements for any other category and having been received within the specified filing window. Category C projects must be submitted during the current year's filing window and must specify a fund pursuant to subrule 48.7(6).

48.8(4) Secondary sequencing process. Using a random number generator, SHPO staff will assign unique, random numbers to all applications that are eligible for inclusion in the review sequencing system within each category and subcategory of the initial sequencing system. Applications within each category and subcategory shall then be placed in numeric order from lowest to highest. SHPO staff shall then create a master sequence list, with category A applications, arranged by subcategory, sequenced first; category B applications, arranged by subcategory, sequenced next; and category C applications sequenced last.

48.8(5) Random number generator. SHPO staff shall use a random number generator utility found in Microsoft Excel 2003 or the current version of Microsoft Excel generally used by the department of cultural affairs.

48.8(6) Outside observer. The initial sequencing process, the secondary sequencing process, and the development of the master sequence list will be observed and certified by an official state witness.

48.8(7) Prioritization of review according to fund. Once the master sequence list is set, the projects will be reviewed by fund in the sequential order in which they fall on the list.

a. Category A projects will be reviewed and reserved first. SHPO shall reserve the remaining credits for the project from the same tax credit fund selected by the applicant pursuant to subrule 48.7(6) if a selection was made. Otherwise, SHPO shall reserve the remaining credits for the project from the same tax credit fund from which the original reservation came or from another fund for which the project is eligible.

b. Following review of category A projects, tax credit funds will be reviewed in the following order:

- (1) Small projects fund, CED-GP fund, and new permanent jobs fund.
- (2) Disaster recovery fund.
- (3) Statewide fund.

c. Any tax credits that have not been reserved in a particular fund will be transferred, if applicable, to the appropriate fund as outlined in rule 223—48.7(303,404A). If a fund is exhausted before the completion of reviews for that fund, all remaining projects in that fund shall be eligible for the statewide fund and will be considered in the order shown on the master sequence list.

d. Notwithstanding the foregoing, no projects will be sequenced pursuant to this subrule on or after July 1, 2014.

[ARC 7943B, IAB 7/15/09, effective 6/16/09; ARC 9608B, IAB 7/13/11, effective 6/22/11; ARC 0896C, IAB 8/7/13, effective 7/9/13; ARC 1970C, IAB 4/15/15, effective 5/20/15]

223—48.9(303,404A) Reserved tax credits.

48.9(1) Upon written approval of part two of the project application, the SHPO shall reserve an estimated tax credit under the name of the applicant(s) in an amount equal to 25 percent of the estimated qualified rehabilitation costs for the earliest year in which tax credits are available.

48.9(2) If the amount of estimated qualified rehabilitation costs changes during the course of project implementation, the applicant may include those costs in part three of the application.

48.9(3) The SHPO shall not reserve tax credits for more than two state fiscal years beyond the current state fiscal year.

48.9(4) Of the amount of tax credits that may be reserved in state fiscal years 2010, 2011, and 2012:

a. For state fiscal year 2010, SHPO will not reserve more than \$20 million worth of tax credits that can be claimed on a tax return for a taxable year beginning on or after January 1, 2009. SHPO will not reserve more than \$30 million worth of tax credits that can be claimed on a tax return for a taxable year beginning on or after January 1, 2010.

b. For state fiscal year 2011, SHPO will not reserve more than \$20 million worth of tax credits that can be claimed on a tax return for a taxable year beginning on or after January 1, 2010. SHPO will not reserve more than \$30 million worth of tax credits that can be claimed on a tax return for a taxable year beginning on or after January 1, 2011.

c. For state fiscal year 2012, SHPO will not reserve more than \$20 million worth of tax credits that can be claimed on a tax return for a taxable year beginning on or after January 1, 2011. SHPO will not reserve more than \$30 million worth of tax credits that can be claimed on a tax return for a taxable year beginning on or after January 1, 2012.

48.9(5) Notwithstanding the foregoing, no credits will be reserved under this rule on or after July 1, 2014.

[ARC 7943B, IAB 7/15/09, effective 6/16/09; ARC 1970C, IAB 4/15/15, effective 5/20/15]

223—48.10(303,404A) Project commencement.

48.10(1) Once a tax credit reservation is made for a project, rehabilitation must begin before the end of the state fiscal year in which the SHPO approved part two of the application. The applicant shall submit to the SHPO a project commencement report and cover letter certifying the commencement date of rehabilitation and outlining expenditure of qualified rehabilitation costs. This report and cover letter are due within the first ten working days of the next state fiscal year. Information about the project commencement report is available from the Tax Incentives Program Manager, State Historic Preservation Office, Department of Cultural Affairs, 600 E. Locust Street, Des Moines, Iowa 50319-0290. It may also be downloaded from the department of cultural affairs—state historical society of Iowa Web site.

48.10(2) In the event rehabilitation on a project does not begin before the end of the state fiscal year in which the SHPO approved part two of the application, the SHPO shall recapture the tax credit reservation in accordance with the provisions of rule 223—48.12(303,404A). Beginning on and after July 1, 2014, the recaptured reserved tax credit amount shall only be available for award to the extent provided by Iowa Code chapter 404A as in effect beginning July 1, 2014, and Division II of this chapter.

[ARC 7943B, IAB 7/15/09, effective 6/16/09; ARC 8873B, IAB 6/30/10, effective 6/10/10; ARC 1970C, IAB 4/15/15, effective 5/20/15]

223—48.11(303,404A) Project completion and eligible property placed in service.

48.11(1) Once a tax credit reservation is made for a project, construction must be completed and the eligible property must be placed in service as follows:

a. For projects for which part two of the application was approved and tax credits reserved before July 1, 2009: The project shall be completed and the building shall be placed in service on or before June 30, 2011.

b. For projects for which part two of the application was approved and tax credits were reserved on or after July 1, 2009, and before July 1, 2014: The project shall be completed and the eligible property shall be placed in service within 60 months of the date on which part two of the application was approved or 72 months of the date on which part two of the application was approved if more than 50 percent of the qualified rehabilitation costs are incurred within 60 months of the date on which part two of the application was approved and the applicant requests the 12-month extension in writing from the SHPO.

(1) If the applicant requests the 12-month extension from the SHPO to complete the project and place the building in service, the applicant must complete a qualified rehabilitation costs schedule and cover letter documenting the expenditure of more than 50 percent of the qualified rehabilitation costs estimated in part two of the application. This report and cover letter are due within 30 days of the end of the 60-month period. Information about the qualified rehabilitation costs schedule is available from the Tax Incentives Program Manager, State Historic Preservation Office, Department of Cultural Affairs, 600 E. Locust Street, Des Moines, Iowa 50319-0290. The qualified rehabilitation costs schedule may be downloaded from the department of cultural affairs—state historical society of Iowa Web site.

(2) If the applicant does not request the additional 12 months from the SHPO, the applicant will be held to the requirement that the building be placed in service within 60 months of the date on which part two of the application was approved.

48.11(2) In the event actual construction on a project is not completed and the eligible property is not placed in service within the time period allowed in accordance with subrule 48.11(1), the SHPO shall recapture the tax credit reservation in accordance with the provisions of rule 223—48.12(303,404A). Beginning on and after July 1, 2014, the recaptured reserved tax credit amount shall only be available for award to the extent provided by Iowa Code chapter 404A as in effect beginning July 1, 2014, and Division II of this chapter.

[ARC 7943B, IAB 7/15/09, effective 6/16/09; ARC 9608B, IAB 7/13/11, effective 6/22/11; ARC 0896C, IAB 8/7/13, effective 7/9/13; ARC 1970C, IAB 4/15/15, effective 5/20/15]

223—48.12(303,404A) Abandonment and recapture of tax credit reservation.

48.12(1) *Project abandonment due to inability to meet commencement deadline.* If the applicant has not provided the SHPO documentation of project commencement in accordance with rule 223—48.10(303,404A), the SHPO shall, by registered U.S. mail or courier sent to the last-known address of the applicant, request that the appropriate documentation be filed within 30 days of the date of the letter. If the SHPO has not received the documentation by the 30-day deadline, then the SHPO shall notify the applicant by registered U.S. mail or courier that the project has been abandoned and the tax credit reservation has been recaptured. If either letter is returned as undeliverable, the letter shall be filed and the tax credit reservation processed in accordance with subrule 48.12(5). Application processing fees for part two of the application as allowed by rule 223—48.16(303,404A) will not be returned.

48.12(2) *Project abandonment due to inability to meet project completion deadline.* If the applicant has not provided the SHPO documentation of project completion in accordance with rule 223—48.11(303,404A), the SHPO shall, by registered U.S. mail or courier sent to the last-known address of the applicant, request that part three of the application be filed within 30 days of the date of the letter. If the SHPO has not received part three of the application by the 30-day deadline, then the SHPO shall notify the applicant by registered U.S. mail or courier that the project has been abandoned and the tax credit reservation has been recaptured. If either letter is returned as undeliverable, the letter shall be filed and the tax credit reservation processed in accordance with subrule 48.12(5). Application processing fees for part two of the application as allowed by rule 223—48.16(303,404A) will not be returned.

48.12(3) *Project abandonment at the request of an applicant.* An applicant may choose to abandon tax credits reserved in accordance with subrule 48.6(7) at any time after the date on which the tax

credit was reserved. A tax credit reservation may be voluntarily abandoned for any reason, including abandonment of a reservation from the small projects fund for consideration in another fund in accordance with subrule 48.5(6) or paragraph 48.6(8)“c.” Submittal of a new application will require the submittal of a new processing fee. Processing fees for the original part two application(s) as allowed by rule 223—48.16(303,404A) will not be returned. To abandon a tax credit reservation, the applicant shall send a letter to the SHPO requesting that the tax credit project be abandoned. The SHPO shall notify the applicant by registered U.S. mail or courier that the project has been abandoned and the tax credit reservation has been recaptured. SHPO shall process the tax credit reservation in accordance with subrule 48.12(5).

48.12(4) Tax credit recapture if part three of the application is not approved. If as part of the SHPO review of part three of the application pursuant to subrule 48.6(5) rehabilitation work is found to be inconsistent with the historic character of the property or the district in which it is located and the applicant is unwilling or unable to correct the work accordingly, the SHPO shall notify the applicant by registered U.S. mail or courier that the tax credit reservation has been recaptured and shall process the tax credit reservation in accordance with subrule 48.12(5).

48.12(5) Tax credit return to appropriate fund. The SHPO shall return any recaptured tax credit reservations to the tax credit fund from which they were reserved. Beginning on and after July 1, 2014, the recaptured reserved tax credit amount shall only be available for award to the extent provided by Iowa Code chapter 404A as in effect beginning July 1, 2014, and Division II of this chapter.

[ARC 7943B, IAB 7/15/09, effective 6/16/09; ARC 9608B, IAB 7/13/11, effective 6/22/11; ARC 1970C, IAB 4/15/15, effective 5/20/15]

223—48.13(303,404A) Transfer of tax credit certificate. The applicant may transfer the tax credit certificate to one or more parties in accordance with department of revenue 701—subrule 42.15(6).

223—48.14(303,404A) Redemption of tax credit certificate. The tax credit holder shall attach the tax credit certificate and a copy of the signed part three of the application to the taxpayer’s state income tax return and submit these documents to the department of revenue in the tax year for which the tax credit certificate is valid or the tax year in which the rehabilitation project was completed, whichever is the later.

[ARC 0896C, IAB 8/7/13, effective 7/9/13]

223—48.15(303,404A) Tax credits in excess of tax liability.

48.15(1) An applicant whose tax credit exceeds the tax liability in the tax year for which the tax credit may be redeemed is entitled to a refund of the excess tax credit with interest under Iowa Code section 422.25. See also administrative rules of the department of revenue, particularly rules 701—42.19(404A,422) and 701—52.18(404A,422).

48.15(2) In lieu of a refund, the applicant may have the excess tax credit applied to the tax liability for the following year.

[ARC 1970C, IAB 4/15/15, effective 5/20/15]

223—48.16(303,404A) Application processing fees. A nonrefundable fee for application processing of parts two and three of an application will be charged for review of requests for certification of a rehabilitation project for historic tax credits. An initial review fee will be due with the filing of part two of an application. An additional fee for review of completed rehabilitation work will be due with the filing of part three of an application. Fees will be based on the amount of qualified rehabilitation costs. The fee schedule is as follows:

For projects with qualified rehabilitation costs of:	Part 2 Processing Fee	Part 3 Processing Fee
\$50,000 or less	No cost	No cost
\$50,001 to \$100,000	\$250	\$250
\$100,001 to \$500,000	\$500	\$500
\$500,001 to \$1,000,000	\$750	0.5 percent of qualified rehabilitation costs (i.e., 0.005 × costs)
\$1,000,001 to \$6,000,000	\$1,000	
Over \$6,000,000	\$1,500	\$30,000

[ARC 7943B, IAB 7/15/09, effective 6/16/09]

223—48.17(303,404A) Appeals.

48.17(1) Applicants may appeal a decision of the SHPO on any of the following bases:

- a. Action was outside statutory authority;
- b. Decision was influenced by a conflict of interest;
- c. Action violated state law or administrative rules;
- d. Insufficient public notice was given; or
- e. Alteration of the review and certification process was detrimental to the applicant.

48.17(2) Appeals in writing shall be delivered to the director of the department of cultural affairs within 30 days of the decision giving rise to the appeal. All appeals shall be directed to the Director, Department of Cultural Affairs, 600 E. Locust Street, Des Moines, Iowa 50319; telephone (515)281-7471.

48.17(3) All appeals shall contain:

- a. The facts of the case;
- b. Argument(s) in support of the appeal; and
- c. The remedy sought.

48.17(4) The director of the department of cultural affairs shall consider and rule on an appeal after receiving all documentation from the appellant and shall notify the appellant in writing of the decision within 30 days. The decision of the director of the department of cultural affairs shall be final except as provided in Iowa Code sections 17A.19 and 17A.20.

48.17(5) Applicants may appeal SHPO decisions provided under subrule 48.6(5) regarding eligibility of a property to be placed on the National Register as determined during part one of the application and review process or regarding whether a proposed scope of work meets the Standards as determined during part two of the application and review process. The SHPO shall provide procedural guidance to the applicant should the applicant choose to appeal to the National Park Service under this subrule.

[ARC 7943B, IAB 7/15/09, effective 6/16/09]

These rules are intended to implement Iowa Code chapters 303 and 404A.

223—48.18 to 48.20 Reserved.

DIVISION II
PROJECTS FOR WHICH PART 2 APPLICATIONS WERE APPROVED AND
AGREEMENTS WERE ENTERED INTO ON OR AFTER JULY 1, 2014

223—48.21(303,404A) Purpose. A historic preservation and cultural and entertainment district tax credit (hereinafter referred to as “historic tax credit”) may be applied against the income tax imposed under Iowa Code chapter 422, division II, III, or V, or Iowa Code chapter 432 for qualified rehabilitation projects that have entered into and complied with an agreement with the department of cultural affairs (hereinafter referred to as “the department”) and complied with all applicable terms, laws, and rules. The program is administered by the department with the assistance of the department of revenue. The general assembly has mandated that the department and the department of revenue adopt rules

to jointly administer Iowa Code chapter 404A. In general, the department evaluates whether projects comply with the prescribed standards for rehabilitation. The department shall make determinations on applications submitted to the program. The department may consult with the department of revenue on any matters related to Iowa Code chapter 404A, the administrative rules of the department, and any agreement entered into under Iowa Code chapter 404A, including but not limited to issues related to whether projects or claimed expenditures comply with the tax aspects of the program. After consulting with the department of revenue and verifying whether the requirements of the program and any agreement have been fulfilled, the department shall make the determination on an eligible taxpayer's tax credit claim. This chapter sets forth the administration of the program by the department. The administrative rules for the department of revenue's administration of the program can be found in rules 701—42.19(404A,422), 701—42.54(404A,422), 701—52.18(404A,422), and 701—58.10(404A,422). [ARC 1970C, IAB 4/15/15, effective 5/20/15]

223—48.22(404A) Definitions. The definitions listed in rules 223—1.2(17A,303) and 223—35.2(303) shall apply to terms as they are used throughout this chapter. In addition, for purposes of this chapter, unless the context otherwise requires:

"Agreement" means an agreement between an eligible taxpayer and the department concerning a qualified rehabilitation project as provided in Iowa Code section 404A.3(3) and rule 223—48.32(404A).

"Applicant" means an eligible taxpayer described in rule 223—48.27(404A).

"Assessed value" means the value of the eligible property on the most current property tax assessment at the time that the relevant application or agreement is submitted or the agreement is signed, as applicable.

"Barn" means an agricultural building or structure, in whatever shape or design, which was originally used for the storage of farm products or feed or for the housing of farm animals, poultry, or farm equipment.

"Certificate" means a historic preservation and cultural and entertainment district tax credit certificate issued pursuant to Iowa Code section 404A.3(5).

"Commencement date" means the date set forth in the agreement, which date shall not be later than the end of the fiscal year in which the agreement is entered into.

"Commercial property" means property classified as commercial, industrial, railroad, utility, or multiresidential for property tax purposes under rules 701—71.1(405,427A,428,441,499B), 701—76.1(434), and 701—77.1(428,433,437,438).

"Completion date" means the date on which property that is the subject of a qualified rehabilitation project is placed in service, as that term is used in Section 47 of the Internal Revenue Code.

"Department" means the department of cultural affairs.

"Director" means the director of the department of cultural affairs.

"Eligible taxpayer" means the fee simple owner of the property that is the subject of a qualified rehabilitation project, or another person who will qualify for the federal rehabilitation credit allowed under Section 47 of the Internal Revenue Code with respect to the property that is the subject of a qualified rehabilitation project.

"Federal rehabilitation credit" or *"federal credit"* means the tax credit allowed under Section 47 of the Internal Revenue Code.

"Federal standards" means the U.S. Secretary of the Interior's standards for rehabilitation set forth in 36 CFR Section 67.7.

"Government funding" or *"funding originating from a government"* includes but is not limited to:

1. Any funding the applicant received from a government; or
2. Funding from a third party or a series of third parties where those funds originally came from a government or were derived from a government payment, grant, loan, tax credit or rebate or other government incentive; or
3. Funding from a third party or a series of third parties where those funds are derived from, secured by, or otherwise received in anticipation of a government payment, grant, loan, tax credit or rebate or other government incentive.

“*Historically significant*” means a property that is at least one of the following:

1. Property listed on the National Register of Historic Places or eligible for such listing.
2. Property designated as contributing to a district listed in the National Register of Historic Places or eligible for such designation.
3. Property or district designated a local landmark by a city or county ordinance.
4. A barn constructed prior to 1937.

“*Large project*” means a qualified rehabilitation project with estimated final qualified rehabilitation expenditures of more than \$750,000.

“*Noncommercial property*” means property other than “commercial property” as defined in this rule. “Noncommercial property” includes barns constructed prior to 1937.

“*Nonprofit organization*” means an organization described in Section 501 of the Internal Revenue Code unless the exemption is denied under Section 501, 502, 503, or 504 of the Internal Revenue Code. “Nonprofit organization” does not include a governmental body, as that term is defined in Iowa Code section 362.2.

“*Placed in service*” means the same as used in Section 47 of the Internal Revenue Code.

“*Program*” means the historic preservation and cultural and entertainment district tax credit program set forth in this chapter.

“*Property*” means the real property that is the subject of a “qualified rehabilitation project” or that is the subject of an application to become a qualified rehabilitation project.

“*Qualified rehabilitation expenditures*” or “*QREs*” means the same as defined in Section 47 of the Internal Revenue Code. Notwithstanding the foregoing sentence, expenditures incurred by an eligible taxpayer that is a nonprofit organization shall be considered “qualified rehabilitation expenditures” if they are any of the following:

1. Expenditures made for structural components, as that term is defined in Treasury Regulation § 1.48-1(e)(2).
2. Expenditures made for architectural and engineering fees, site survey fees, legal expenses, insurance premiums, and development fees.

“Qualified rehabilitation expenditures” does not include those expenditures financed by federal, state, or local government grants or forgivable loans unless otherwise allowed under Section 47 of the Internal Revenue Code.

“Qualified rehabilitation expenditures” may include expenditures incurred prior to the date an agreement is entered into under Iowa Code section 404A.3(3).

For more information, consult department of revenue 701—subrule 42.54(2).

“*Qualified rehabilitation project*” or “*project*” means a project for the rehabilitation of property in this state that meets all of the following criteria:

1. The property is historically significant as defined in this rule.
2. The property meets the federal standards as defined in this rule.
3. The project is a substantial rehabilitation as defined in this rule.

“*Related entities*” means any entity owned or controlled in whole or in part by the applicant; any person or entity that owns or controls in whole or in part the applicant; or any entity owned or controlled in whole or in part by any current or prospective officer, principal, director, or owner of the applicant.

“*Related persons*” means any current or prospective officer, principal, director, member, shareholder, partner, or owner of the applicant.

“*Small project*” means a qualified rehabilitation project with estimated final qualified rehabilitation expenditures of \$750,000 or less.

“*Substantial rehabilitation*” means qualified rehabilitation costs that meet or exceed the following:

1. In the case of commercial property, costs totaling at least 50 percent of the assessed value of the property, excluding the land, prior to the rehabilitation or at least \$50,000, whichever is less; or
2. In the case of noncommercial property, costs totaling at least \$25,000 or 25 percent of the assessed value, excluding the land, prior to rehabilitation, whichever is less.

“*Tax credit*” or “*historic tax credit*” means the historic preservation and cultural and entertainment district tax credit established in Iowa Code chapter 404A.

This rule is intended to implement Iowa Code chapter 404A as amended by 2014 Iowa Acts, House File 2453.

[ARC 1970C, IAB 4/15/15, effective 5/20/15]

223—48.23(404A) Amount of the tax credit. An eligible taxpayer that has entered into and complied with an agreement under Iowa Code section 404A.3(3) and has complied with the program statute and rules is eligible to claim a historic preservation and cultural and entertainment district tax credit of 25 percent of the qualified rehabilitation expenditures of a qualified rehabilitation project that are specified in the agreement. Notwithstanding any other provision in Iowa Code chapter 404A, this chapter, or any provision in the agreement to the contrary, the amount of the tax credits shall not exceed 25 percent of the final qualified rehabilitation expenditures verified by the department pursuant to Iowa Code section 404A.3(5) “c.”

This rule is intended to implement Iowa Code section 404A.2 as amended by 2014 Iowa Acts, House File 2453.

[ARC 1970C, IAB 4/15/15, effective 5/20/15]

223—48.24(404A) Management of annual aggregate tax credit award limit. The department shall not register, as described in rule 223—48.31(404A), more projects in a given fiscal year for tentative awards than there are tax credits available for that fiscal year under Iowa Code section 404A.4. The department will determine the projects for which sufficient tax credits are available based on the estimated qualified rehabilitation expenditures identified in the registration application, plus allowable cost overruns as described in paragraph 48.32(1) “c.”

48.24(1) Registration scoring. If applicants’ total tax credit requests from a fiscal year allocation exceed the tax credit allocation for that fiscal year, the department will prioritize its determinations based on the applicants’ registration scores. If, after determining the projects for which sufficient tax credits are available, the department determines there are insufficient tax credits in the fiscal year allocation to fully award the next highest scoring project, then to maximize the use of the available tax credits, the department in its sole discretion may register the project with the next highest score whose tentative tax credit award amount, including allowable cost overruns as described in paragraph 48.32(1) “c,” would not cause the department to exceed the annual aggregate tax credit award limit, so long as the project meets the minimum score as described in rule 223—48.31(404A). If there are no more projects that meet the minimum score described in rule 223—48.31(404A) that can be fully funded, the department in its sole discretion may make the remaining tax credits available for small projects or allow the remaining tax credits for the fiscal year to carry forward to the succeeding fiscal year to the extent permitted by Iowa Code section 404A.4.

48.24(2) Registrations for future tax credit allocations. Registrations for future tax credit allocations require a new application. When registering projects for a particular fiscal year, the department shall not award, reserve, or register tax credits from future fiscal years’ tax credit allocations. An applicant whose project is not registered due to an insufficient score or noncompliance with the application or the program statute or rules may submit future applications for future fiscal year tax credit allocations.

48.24(3) Reallocation or rollover of available tax credit awards. Tax credits may be reallocated or rolled over into future fiscal years to the extent permitted by Iowa Code section 404A.4.

This rule is intended to implement Iowa Code section 404A.4 as amended by 2014 Iowa Acts, House File 2453.

[ARC 1970C, IAB 4/15/15, effective 5/20/15]

223—48.25(404A) Application and agreement process, generally.

48.25(1) All applications and other filings related to the program shall be on such forms and in accordance with such instructions as may be established by the department from time to time. The current forms and instructions will be posted to the department’s Web site.

48.25(2) An application shall not be considered submitted for review until the application is completed and all required supporting documentation and information are provided.

48.25(3) The application and agreement process consists of six steps:

a. The applicant submits a Part 1 application, which is used to evaluate the property's integrity and significance.

b. Unless the Part 1 application is denied, the applicant participates in a preapplication meeting with the department to discuss what to expect for the remainder of the application process.

c. If the Part 1 application is approved and the preapplication meeting is completed, the applicant submits a Part 2 application, which is used to evaluate the proposed rehabilitation work.

d. If the Part 2 application is approved, the applicant submits a registration application, which is used to score the applicant's rehabilitation plan and financial readiness. If the project is awarded a sufficient registration score, satisfies other requirements of the application and program, and sufficient tax credits are available, the department may register the project.

e. If the project is registered, the applicant may enter into an agreement with the department that establishes the maximum amount of the tax credit award and the terms and conditions that must be met to receive the tax credits. An applicant must enter into and comply with an agreement in order to participate in the program and claim any tax credits.

f. Once the project is completed and the property is placed in service, the applicant submits a Part 3 application, which is used to evaluate whether the completed work meets the federal standards and the other requirements of the agreement, laws, and regulations of the program.

A more detailed description of each step is provided in rules 223—48.28(404A) through 223—48.33(404A).

This rule is intended to implement Iowa Code chapter 404A as amended by 2014 Iowa Acts, House File 2453.

[ARC 1970C, IAB 4/15/15, effective 5/20/15]

223—48.26(404A) Small projects. Projects with anticipated final qualified rehabilitation expenditures of more than \$750,000 will be evaluated as large projects. Projects with \$750,000 or less in anticipated final rehabilitation expenditures will be evaluated as small projects. If an applicant anticipates that the final qualified rehabilitation expenditures will exceed \$750,000, the applicant may only submit its application as a large project. The department will not permit a small project applicant to submit additional or amended applications that would cause the final qualified expenditures to exceed \$750,000.

48.26(1) *Small project fund.* The department shall allocate at least 5 percent of its annual fiscal year tax credit award limit to small projects.

48.26(2) *Aggregate award limit.* For applicants that receive credits from the small project allocation, the cumulative total award for multiple applications for a single property shall not exceed \$750,000 in qualified rehabilitation expenditures plus any allowable cost overruns as described in paragraph 48.32(1) "c," regardless of the final qualified rehabilitation expenditures. The department will not accept an application by the same owner for a property for which credits were previously received through the small project fund if the application causes the cumulative total to exceed \$750,000, plus any allowable cost overruns as described in paragraph 48.32(1) "c."

48.26(3) *Application and agreement process.* The Part 1, Part 2, and Part 3 application process and the agreement requirements are the same for small projects as for large projects. The registration process for small projects differs from that for large projects. See subrule 48.31(9) for more information on the registration process for small projects.

This rule is intended to implement Iowa Code section 404A.4 as amended by 2014 Iowa Acts, House File 2453.

[ARC 1970C, IAB 4/15/15, effective 5/20/15]

223—48.27(404A) Who may apply for the tax credit. Only an eligible taxpayer may apply for the tax credit. To be an eligible taxpayer, the applicant must be either (1) the fee simple owner or (2) a person that will ultimately qualify for the federal rehabilitation credit with respect to the qualified rehabilitation

project. A nonprofit organization as described in rule 223—48.22(404A) may apply for the tax credit if the nonprofit organization is the fee simple owner of the property.

48.27(1) *Applicants that are fee simple owners.* If the applicant qualifies as an eligible taxpayer on the basis that the applicant is the fee simple owner of the property, the applicant will be expected to provide proof of title as described in subrule 48.28(2).

48.27(2) *Applicants that will qualify for the federal credit.* If the applicant qualifies as an eligible taxpayer on the basis that the applicant will qualify for the federal rehabilitation credit with regard to the property, the applicant will be asked to provide increasingly substantial evidence as described in rule 223—48.30(404A) that the applicant will qualify for the federal credit, culminating with proof of actual fee simple ownership or a long-term lease that meets the requirements of the federal rehabilitation credit before the agreement is entered into with the department. Applicants that are eligible to apply under this subrule must obtain from the fee simple owner of the property a written statement which indicates that the owner is aware of the application and has no objection and include the statement with the application.

48.27(3) *Who may not apply.* Government bodies as defined in Iowa Code section 362.2 may not apply. Additionally, an applicant may not initiate the application process to apply for tax credits by submitting a Part 1 application on a project if all of the work has been completed and the qualified rehabilitation project has already been placed in service.

This rule is intended to implement Iowa Code sections 404A.1 and 404A.3 as amended by 2014 Iowa Acts, House File 2453.

[ARC 1970C, IAB 4/15/15, effective 5/20/15]

223—48.28(404A) Part 1 application—evaluation of significance. The Part 1 application is used to determine whether the property is eligible to be a qualified rehabilitation project.

48.28(1) *Types of property that are eligible.* The property must meet the federal standards for historical significance.

48.28(2) *Proof of status as eligible taxpayer.* The Part 1 application may be submitted by an eligible taxpayer as described in rule 223—48.27(404A).

a. To prove the applicant is the fee simple owner, the applicant will be expected to provide title documentation. If the title is held in the name of an entity, the application must be accompanied by documentation which indicates that the signatory is the authorized representative of the entity.

b. If the applicant is not the fee simple owner but plans to apply for the federal rehabilitation credit, the applicant must provide a copy of the approved federal Part 1 application, unless the property is individually listed on the National Register of Historic Places. The applicant must also certify that the applicant plans to apply and expects to qualify for the federal credit, and the applicant must provide proof of permission from the fee simple owner as described in subrule 48.27(2).

48.28(3) *Submission period.* Part 1 applications may be submitted year-round.

48.28(4) *Required information.* Applicants must provide the department a site plan, photographs of the property, a copy of the county assessor's statement for the property, and such other information as the department may require.

48.28(5) *Review process.* The department will evaluate the appearance and condition of the building and verify the information provided by the applicant. The department will notify the applicant if the Part 1 application is incomplete. Generally, the department will review fully completed Part 1 applications within 90 calendar days of receipt. The 90-day review period will be adhered to as closely as possible; however, it is not mandatory. If the application is incomplete when submitted or if for any other reason the department must request additional information, the 90-day review period will restart when the requested information is received by the department. The application may be rejected if any requested information is not provided.

48.28(6) *Response from department.* Upon completion of the review, the department shall issue a determination regarding whether the property meets the requirements to be considered historically significant.

48.28(7) *Period of validity.* A determination that the property meets the requirements to be considered historically significant shall be valid for five years from the issuance of the determination

provided that the property is maintained in a manner consistent with the federal standards and that the fee simple owner of the property remains the same during such period. Changes to the property that are not approved by the department shall automatically invalidate the determination of historical significance, and reestablishment of the historical significance of the property as well as submittal of a new Part 1 application for a determination that the property is eligible shall be required.

48.28(8) Amendments. An applicant shall amend an approved Part 1 application if the property changes ownership or if the applicant's name or address changes prior to submission of a Part 2 application.

This rule is intended to implement Iowa Code section 404A.3 as amended by 2014 Iowa Acts, House File 2453.

[ARC 1970C, IAB 4/15/15, effective 5/20/15]

223—48.29(404A) Preapplication meeting. The purpose of the preapplication meeting is to provide feedback to the applicant and other interested parties that will enable the applicant to better plan and prepare for submission of the Part 2 and registration applications.

48.29(1) Meeting requests. Once the completed Part 1 application is submitted, the applicant may request a preapplication meeting by using the form available on the department's Web site.

48.29(2) Timing of the preapplication meeting. The meeting must take place no fewer than 30 days after the submission of the Part 1 application and prior to submission of the Part 2 application. Meetings may be held by teleconference at the department's discretion.

48.29(3) Required information. The applicant must bring at least the following items to the meeting: preliminary drawings, photographs of the exterior (all elevations) and interior, a preliminary list of character-defining features and treatments or a draft Part 2 application, and a list of questions for which specific guidance is needed. The department may request additional information. If the preapplication meeting will be held by telephone, the required documents must be submitted electronically at least one week prior to the meeting date.

This rule is intended to implement Iowa Code section 404A.3 as amended by 2014 Iowa Acts, House File 2453.

[ARC 1970C, IAB 4/15/15, effective 5/20/15]

223—48.30(404A) Part 2 application—description of rehabilitation. The purpose of the Part 2 application is to determine whether the proposed rehabilitation work meets the federal standards. The applicant must describe the rehabilitation work to be undertaken on the property. The review of the Part 2 application is a preliminary determination only and is not binding upon the department. A formal certification of rehabilitation shall be issued only after the rehabilitation work is completed.

48.30(1) Proof of status as eligible taxpayer. The Part 2 application must be submitted by an eligible taxpayer as described in rule 223—48.27(404A).

a. An applicant that is the fee simple owner does not need to provide any additional information regarding ownership unless there has been a change in ownership since the Part 1 application was approved.

b. If the applicant is not the fee simple owner but plans to apply for the federal rehabilitation credit, the applicant must provide a copy of the signature page of the approved federal Part 2 application signed by the National Park Service. The applicant must also certify that the applicant plans to apply and expects to qualify for the federal credit and must provide proof of permission from the fee simple owner as described in subrule 48.27(2).

48.30(2) Submission period. Part 2 applications may be submitted at any time after the project has received an approved Part 1 and the applicant has participated in the preapplication meeting.

48.30(3) Required information.

a. The applicant must provide any information requested by the department, including but not limited to:

(1) A detailed description of the rehabilitation;

(2) An estimate of the total costs related to the rehabilitation and other work to be completed on the property, regardless of whether the costs will ultimately be qualified rehabilitation costs;

- (3) An estimate of the qualified rehabilitation expenditures; and
- (4) Photographs.

b. The applicant must also identify whether the applicant plans to submit a registration application as a small project or a large project. For more information on the differences in the registration application process for large and small projects, see rule 223—48.26(404A).

48.30(4) *Review process.* The department will evaluate the proposed work to determine whether the proposed project, including any new construction, is consistent with the federal standards, the historic character of the property and, where applicable, the registered or potential district in which the property is located. The department will notify the applicant if the Part 2 application is incomplete. Generally, the department will review fully completed Part 2 applications within 90 calendar days of receipt. The 90-day review period will be adhered to as closely as possible; however, it is not mandatory. If the application is incomplete when submitted or if for any other reason the department must request additional information, the 90-day review period will restart when the requested information is received by the department. The application may be rejected if any requested information is not provided.

48.30(5) *Response from the department.* The review of the complete Part 2 application shall result in one of three responses:

a. The project is eligible to submit a registration application because the proposed rehabilitation described in the application is consistent with the historic character of the property or the district in which the property is located and the project, as proposed, appears to meet the federal standards;

b. The project is eligible to submit a registration application because the proposed rehabilitation described in the application will likely meet the federal standards if the stipulated conditions are met; or

c. The rehabilitation described in Part 2 of the application is not consistent with the historic character of the property or the district in which the property is located and the project does not meet the federal standards. The project is ineligible for registration. The project may amend its Part 2 application or submit a new Part 2 application for the property.

48.30(6) *Amendments.* Deviation from the original rehabilitation proposal could result in the denial of final project approval and revocation of the tax credit award. An applicant shall amend an approved Part 2 application to notify the department of, and to request review of, modifications to or deviations from the original rehabilitation proposal. Applicants that undertake any work not in the original approved Part 2 application without department approval do so at their own risk. Amendments to the Part 2 application shall not result in the awarding of additional tax credits for the project and may result in a reduction in the tax credit award specified in the agreement if the department determines that the work is not consistent with the federal standards or does not otherwise comply with the requirements of the agreement. Amendments to the Part 2 application will not be accepted after the department has approved the Part 3 application pursuant to rule 223—48.33(404A). Amendments must be submitted on forms approved by the department and available on the department's Web site.

This rule is intended to implement Iowa Code section 404A.3 as amended by 2014 Iowa Acts, House File 2453.

[ARC 1970C, IAB 4/15/15, effective 5/20/15]

223—48.31(404A) *Registration application.* If the department has approved Part 1 and Part 2 applications for a project, the applicant may submit a historic tax credit registration application during the applicable registration period. The registration application is used to determine whether the project is ready to proceed both financially and logistically. The registration application is also used to confirm whether the proposed work will meet the substantial rehabilitation test and whether the project is a small project or a large project. The registration application is also used to obtain background information, including information that may disqualify an applicant from participating in the program, as well as other information about the applicant, related persons, and related entities. Though the application process is largely the same for small projects as it is for large projects, there are some differences. For details on those differences, see rule 223—48.26(404A).

48.31(1) *Proof of status as eligible taxpayer.* An eligible taxpayer as defined in rule 223—48.22(404A) may submit a registration application.

a. An applicant that is the fee simple owner must notify the department of any changes in ownership status since the Part 2 application was filed.

b. If the applicant is not the fee simple owner but plans to apply for the federal rehabilitation credit, the applicant's application will be scored based on the steps taken toward ownership as described in subrule 48.31(6). The applicant must certify that the applicant understands that the applicant will not qualify for any state historic tax credit if the applicant is not the fee simple owner or not otherwise an eligible taxpayer. The applicant must also provide proof of permission from the fee simple owner as described in subrule 48.27(2).

48.31(2) *Submission period.* In general, applications for registration will only be accepted during the established application period, or periods, as identified by the department from time to time on its Web site. However, applications for small project registration will be accepted year-round.

48.31(3) *Required information.* The registration application must include the following information as well as any additional information the department or the department of revenue may request: total project cost, an estimated schedule of qualified rehabilitation expenditures and a schedule of all funding sources received or anticipated to be received that will be used to fund the project, including those funding sources used or that will be used to finance or reimburse both qualified rehabilitation expenditures and those expenditures not being claimed as qualified rehabilitation expenditures, along with supporting documentation. The schedule must identify all government funding as defined in rule 223—48.22(404A), including any funding that originated or will originate from any government, whether federal, state, or local.

48.31(4) *Certification and release of information.* The applicant must identify and list all related persons and related entities, as those terms are defined in rule 223—48.22(404A). The applicant must release information requested by the department regarding the applicant, related persons, and related entities. The applicant must also certify that all representations, warranties, documents, or statements made or furnished in connection with the registration application are true and accurate. The certification and release of information are intended to identify information that will disqualify an applicant from participating in the program or that may have an adverse impact on the project. The certification and release of information are also intended to provide the department with information regarding the economic, ownership, and management realities related to the project by providing information about the actual persons and businesses affiliated with the applicant, the actual persons and businesses that will derive financial benefits from the project, as well as other businesses affiliated with the individuals involved with the project.

a. The department shall reject an application for registration if any of the following occurs or exists:

(1) The applicant fails to answer the questions and provide all requested information and documents in a timely manner as required by the rules or the application or in a timely manner as otherwise requested by the department.

(2) The applicant provides false or inaccurate information or documents to the department.

(3) The applicant, a related person, or a related entity has not filed any local, state, or federal tax returns that are due. This provision shall not apply to an applicant, related person, or related entity that has timely filed an extension to file a local, state or federal tax return.

(4) The applicant, a related person, or a related entity has any overdue local, state, or federal tax liability, including any tax, interest, or penalty.

(5) The applicant, a related person, or a related entity is currently in default, has an uncured breach, or is otherwise not in compliance with any contract, grant award, or tax credit program with the state of Iowa, any agency of the state of Iowa, or any other entity or instrumentality of the state of Iowa.

(6) The applicant, a related person, or a related entity has any past-due amounts owed to the state of Iowa, any agency of the state of Iowa, any other entity or instrumentality of the state of Iowa, or any person or entity that is eligible to submit claims to the state offset system under Iowa Code section 8A.504.

(7) The department determines, in its sole discretion, that registering the project, entering into an agreement with the department, or permitting the applicant's tax credit claim would cause the applicant or

another person to default on, breach, or otherwise not comply with any contract, grant award, or tax credit program with the state of Iowa, any agency of the state of Iowa, or any other entity or instrumentality of the state of Iowa.

(8) The department determines, in its sole discretion, that the applicant will not be able to provide representations, warranties, conditions, or other terms of an agreement that would be acceptable to the department.

(9) Information is disclosed to the department that would cause the department, in its sole discretion, to decline to enter into an agreement with the applicant.

b. Scope of inquiry. The department may ask the applicant to disclose information and documents about other entities affiliated with the applicant, a related person, or a related entity if the department determines that the information regarding the applicant, related persons, and related entities does not adequately disclose to the department the economic, ownership, and management structure and realities related to a project.

48.31(5) Review period. In general, the department and the department of revenue will review fully completed registration applications within 30 calendar days of receipt. The 30-day review period will be adhered to as closely as possible; however, it is not mandatory. If any answers, responses, explanations, documents, or other information submitted in connection with the certification and release of information changes after the applicant has submitted this information to the department, the applicant must supplement its response to the certification and release of information in writing within 10 business days of the change. If the application is incomplete when submitted or if for any other reason the department or the department of revenue must request additional information, the 30-day review period will restart when the requested information is received by the department or the department of revenue, as the case may be. The department will reject an application if any requested information is not provided.

48.31(6) Scoring process. All completed applications will be reviewed and scored. In order for a project to be considered for registration, the application must meet a minimum score as established from time to time by the department and set forth in the current registration application. Scoring of the application will take into account readiness criteria, which may include the following:

a. Rehabilitation planning and project readiness. Projects will be scored based on whether the Part 2 application was approved with or without conditions.

b. Secured financing. Weighted preference will be given to projects that have financing or equity or both in place.

c. Steps taken towards ownership. Weighted preference will be given to the projects of applicants that are currently fee simple owners of the property.

d. Local government support. Weighted preference will be given to projects that have received support from their local jurisdiction.

e. Rehabilitation time line. Weighted preference will be given to projects that will be completed in the shortest amount of time.

f. Zoning and code review. Weighted preference will be given to the projects of applicants that can demonstrate a determination by the authority having jurisdiction that the project complies with the guidelines for construction permitting.

g. Such other information as the department may find relevant and request on the registration application.

48.31(7) Tiebreaker criteria. If the estimated maximum tax credit awards for all projects that scored above the minimum-score threshold based on the criteria in subrule 48.31(6) exceed the fiscal year tax credit allocation and there is a tie between two or more projects and the department does not have sufficient tax credits to allocate to the two or more projects that have the same score, the department will use the following criteria to evaluate those projects that are tied for the lowest score:

a. Statewide economic priorities. Weighted preference will be given to projects that address statewide economic priorities, including: permanent job creation; whether the project is in a federal or state disaster area; and whether the project is in a cultural and entertainment district or specifically mentioned in a great places contract.

b. Vacant property. The department will consider whether the properties are underutilized or not occupied and give preference to those projects on properties that are the most underutilized.

c. Preservation of rural resources. The department will evaluate projects based on the population size of the surrounding community with preference given to projects in communities with the lowest number of residents.

d. Previous application. The department will give weighted preference to projects for which the registration application had been successfully completed and which met the minimum score threshold during a previous application period but were not registered due to lack of available tax credits.

e. Other criteria. The department may give preference to projects based on such other criteria as the department may find relevant and request in the registration application.

48.31(8) Registration. Upon reviewing and scoring all applications that are part of the application period, the department may register the qualified rehabilitation projects to the extent sufficient tax credits are available based on the estimated qualified rehabilitation costs identified in the registration applications. Only projects that meet the minimum score established by the department may be registered. As described in rule 223—48.24(404A), in the case of insufficient funding, preference will be given to the projects with the highest registration score based on the criteria in subrules 48.31(6) and 48.31(7). At the time the project is registered, the department shall make a preliminary determination as to the amount of tax credits for which the project qualifies. The department shall make best efforts to notify the applicant within 45 calendar days after the close of the registration period as to whether the applicant's project has been registered. The registration notice shall include the amount of the applicant's tentative tax credit award, along with a notice that the amount is a preliminary, nonbinding determination only. The department will notify applicants whose projects were not registered and state whether the failure to register the project was due to the failure of the project to meet the minimum score, the lack of available tax credits, or another reason. A list of registered applicants will be posted on the department's Web site.

48.31(9) Small project registration application. The department may establish for small projects a registration application form and process that differ from the application form and process used for large projects. The forms will be available on the department's Web site. Small projects may submit registration applications year-round; however, the registration application must be submitted no later than 180 calendar days after receipt of approval of the Part 2 application from the department. Small project registration applications will be evaluated on a first-come, first-served basis, subject to the availability of tax credits.

This rule is intended to implement Iowa Code section 404A.3 as amended by 2014 Iowa Acts, House File 2453.

[ARC 1970C, IAB 4/15/15, effective 5/20/15]

223—48.32(404A) Agreement. Upon successful registration of the project as described in subrule 48.31(8), the eligible taxpayer shall have 120 calendar days or until the end of the fiscal year, whichever is less, to purchase or lease the property, if applicable, and enter into an agreement with the department. Nothing in these rules shall affect the department's ability to comply with the annual award limitations described in Iowa Code section 404A.4. A condition precedent to any agreement will be proof that the eligible taxpayer is the actual fee simple owner or has a binding qualified long-term lease that meets the requirements of the federal rehabilitation credit. An eligible taxpayer shall not be eligible for historic tax credits unless the eligible taxpayer enters into an agreement with the department concerning the qualifying rehabilitation project and satisfies the terms and conditions that must be met to receive the tax credit award.

48.32(1) Terms and conditions. The agreement shall contain mutually agreeable terms and conditions, which shall, at a minimum, provide for the following:

a. The maximum amount of the tax credit award. Notwithstanding anything in this chapter to the contrary, no tax credit certificate shall be issued until the department and the department of revenue verify the amount of final qualified rehabilitation expenditures and compliance with all other requirements of the agreement, Iowa Code chapter 404A, and the applicable rules.

b. The rehabilitation work to be performed.

c. The budget of the qualified rehabilitation project, including the projected qualified rehabilitation expenditures, and those expenditures not qualified, and allowable cost overruns. The amount of allowable cost overruns provided for in the agreement shall not exceed the following amounts:

(1) For a qualified rehabilitation project with estimated final qualified rehabilitation expenditures of not more than \$750,000, 15 percent of the projected qualified rehabilitation expenditures provided for in the agreement.

(2) For a qualified rehabilitation project with estimated final qualified rehabilitation expenditures of more than \$750,000 but not more than \$6 million, 10 percent of the projected qualified rehabilitation expenditures provided for in the agreement.

(3) For a qualified rehabilitation project with estimated final qualified rehabilitation expenditures of more than \$6 million, 5 percent of the projected qualified rehabilitation expenditures provided for in the agreement.

d. A schedule of all funding sources received or anticipated to be received that will be used to fund the project, including those funding sources used or that will be used to finance or reimburse both qualified rehabilitation expenditures and those expenditures not being claimed as qualified rehabilitation expenditures, along with supporting documentation. The schedule must identify all government funding as defined in rule 223—48.22(404A), including any funding that originated or will originate from any government, whether federal, state, or local.

e. The commencement date.

f. The completion date.

g. The agreement termination date, which shall not be earlier than five years from the date on which the tax credit certificate is issued.

h. Such other terms, conditions, representations, and warranties as the department may determine are necessary or desirable to protect the interests of the state.

48.32(2) Amendments. The department may for good cause amend an agreement. However, the department may not amend an agreement to allow cost overruns in excess of the amount described in paragraph 48.32(1)“c.” In addition, the commencement date, completion date, and agreement termination date may not be amended if such an amendment would violate the statutorily prescribed time limits as described in Iowa Code section 404A.3(3). Any amendment approved by the department shall be signed by both parties.

48.32(3) Authority. Only the director or deputy director may enter into agreements on behalf of the department. Any agreement entered into on behalf of the department by a person other than the director or deputy director shall be void.

This rule is intended to implement Iowa Code section 404A.3 as amended by 2014 Iowa Acts, House File 2453.

[ARC 1970C, IAB 4/15/15, effective 5/20/15]

223—48.33(404A) Part 3 application—request for certification of completed work and verification of qualified rehabilitation expenditures. Part 3 of the application is used to determine whether the project has complied with the terms of the agreement as well as with applicable laws, rules and regulations.

48.33(1) Submission period. The fully completed Part 3 application must be submitted no more than 180 calendar days after the project completion date as defined in the agreement.

48.33(2) Required information. The Part 3 application must include the following information:

a. Certification that the eligible taxpayer is the fee simple owner or is qualified for the federal rehabilitation credit and has a binding qualified long-term lease that meets the requirements of the federal rehabilitation credit.

b. Using the qualified rehabilitation expenditures schedule form provided on the department’s Web site, a schedule of total expenditures for the project, which shall identify in detail the final qualified rehabilitation expenditures and those expenditures that are not qualified.

c. A schedule of all funding sources used to finance the project, including those funding sources used to finance or reimburse both qualified rehabilitation expenditures and expenditures not being claimed as qualified rehabilitation expenditures, along with supporting documentation. The schedule must identify all government funding as defined in rule 223—48.22(404A), including any funding that originated from any government, whether federal, state, or local.

d. CPA examination. An eligible taxpayer shall engage a certified public accountant authorized to practice in this state to conduct an examination of the project in accordance with the American Institute of Certified Public Accountants' statements on standards for attestation engagements. Upon completion of the qualified rehabilitation project, the eligible taxpayer shall submit the examination to the department, along with a statement of the amount of final qualified rehabilitation expenditures and any other information deemed necessary by the department or the department of revenue in order to verify that all requirements of the agreement, Iowa Code chapter 404A, and all rules adopted pursuant to Iowa Code chapter 404A have been satisfied. The department may waive the examination requirement for projects if all of the following requirements are satisfied:

(1) The final qualified rehabilitation expenditures of the qualified rehabilitation project, as verified by the department, do not exceed \$100,000.

(2) The qualified rehabilitation project is funded exclusively by private funding sources.

e. Any information the department or the department of revenue may require for program evaluation.

48.33(3) Review period. The department and the department of revenue will make best efforts to review Part 3 applications within 90 calendar days after the application is filed. However, this time frame is not binding upon either the department or the department of revenue. The department and the department of revenue shall review the information submitted by the eligible taxpayer and determine whether a tax credit certificate may be issued. See rule 223—48.36(404A) for more information on certificate issuance.

[ARC 1970C, IAB 4/15/15, effective 5/20/15]

223—48.34(404A) Fees. Applicants must pay a nonrefundable fee for the processing of Parts 2 and 3 of an application. The review fee for Part 2 will be due with the filing of the Part 2 application and will be based on the estimated qualified rehabilitation costs. The fee for review of Part 3 will be due with the filing of the Part 3 application and will be based on the final qualified rehabilitation expenditures. The fee schedule is as follows:

For projects with qualified rehabilitation expenditures of:	Part 2 Processing Fee	Part 3 Processing Fee
\$50,000 or less	No cost	No cost
\$50,001 to \$100,000	\$250	\$250
\$100,001 to \$750,000	\$500	\$500
\$750,001 to \$6,000,000	\$1,000	0.5 percent of final qualified rehabilitation expenditures
Over \$6,000,000	\$1,500	\$30,000

This rule is intended to implement Iowa Code section 404A.3 as amended by 2014 Iowa Acts, House File 2453.

[ARC 1970C, IAB 4/15/15, effective 5/20/15]

223—48.35(404A) Compliance.

48.35(1) Annual reports. The eligible taxpayer shall, for the length of the agreement, annually certify to the department compliance with the requirements of the agreement. The certification shall be due each year on the anniversary of the date upon which the agreement was entered into. Instructions and forms shall be made available on the department's Web site.

48.35(2) *Burden of proof.* The eligible taxpayer shall have the burden of proof to demonstrate to the department that all requirements of the agreement, Iowa Code chapter 404A, and the applicable rules are satisfied. The taxpayer shall notify the department in a timely manner of any changes in the qualification of the rehabilitation project or in the eligibility of the taxpayer to claim the tax credit provided under this chapter, or of any other change that may have a negative impact on the eligible taxpayer's ability to successfully complete any requirement under the agreement.

48.35(3) *Events of default, revocation, recapture.* If, after entering into the agreement but before a tax credit certificate is issued, the eligible taxpayer or the qualified rehabilitation project no longer meets the requirements of the agreement, Iowa Code chapter 404A, and the applicable rules, the department may find the taxpayer in default and may revoke the tax credit award.

a. Voluntary abandonment. An applicant may choose to irrevocably decline the tax credit that is the subject of the agreement at any time after the agreement is entered into. To irrevocably decline the tax credit, the applicant shall send a letter to the department stating the applicant's decision to irrevocably decline the tax credit. The department shall notify the applicant by certified U.S. mail or courier that the tax credit has been irrevocably declined. The tax credit shall be reallocated to the extent permitted by Iowa Code section 404A.4. If the applicant wishes to apply for a tax credit on the same qualified rehabilitation project at a later date, the applicant must complete the application process as though the project is a new project.

b. Revocation and recapture for prohibited activity; liability of certain transferees. If an eligible taxpayer obtains a tax credit certificate from the department by way of a prohibited activity, the eligible taxpayer and any transferee shall be jointly and severally liable to the state for the amount of the tax credits so issued, interest and penalties allowed under Iowa Code chapter 422, and reasonable attorney fees and litigation costs, except that the liability of the transferee shall not exceed an amount equal to the amount of the tax credits acquired by the transferee. The department of revenue, upon notification or discovery that a tax credit certificate was issued to an eligible taxpayer by way of a prohibited activity, shall revoke any outstanding tax credit and seek repayment of the value of any tax credit already claimed, and the failure to make such a repayment may be treated by the department of revenue in the same manner as a failure to pay the tax shown due or required to be shown due with the filing of a return or deposit form. A qualifying transferee is not subject to the liability, revocation, and repayment imposed under this paragraph. For purposes of this paragraph:

(1) "Prohibited activity" means a breach or default under the agreement with the department, the violation of any warranty provided by the eligible taxpayer to the department or the department of revenue, the claiming of a tax credit issued under this chapter for expenditures that are not qualified rehabilitation expenditures, the violation of any requirements of Iowa Code chapter 404A or rules adopted pursuant to Iowa Code chapter 404A, misrepresentation, fraud, or any other unlawful act or omission.

(2) "Qualifying transferee" means a transferee who acquires a tax credit certificate issued under this chapter for value, in good faith, without actual or constructive notice of a prohibited activity of the eligible taxpayer who was originally issued the tax credit, and without actual or constructive notice of any other claim to or defense against the tax credit, and which transferee is not associated with the eligible taxpayer by being one or more of the following:

1. An owner, member, shareholder, or partner of the eligible taxpayer who directly or indirectly owns or controls, in whole or in part, the eligible taxpayer.
2. A director, officer, or employee of the eligible taxpayer.
3. A relative of the eligible taxpayer or a person listed in paragraph "1" or "2" of this subparagraph or, if the eligible taxpayer or an owner, member, shareholder, or partner of the eligible taxpayer is a legal entity, the natural persons who ultimately own such legal entity.
4. A person who is owned or controlled, in whole or in part, by a person listed in paragraph "1" or "2" of this subparagraph.

(3) “Relative” means an individual related by consanguinity within the second degree as determined by common law, a spouse, or an individual related to a spouse within the second degree as so determined, and includes an individual in an adoptive relationship within the second degree.

This rule is intended to implement Iowa Code section 404A.3 as amended by 2014 Iowa Acts, House File 2453.

[ARC 1970C, IAB 4/15/15, effective 5/20/15]

223—48.36(404A) Certificate issuance; claiming the tax credit. After consultation with the department of revenue to determine whether the terms of the agreement, Iowa Code chapter 404A, and the applicable rules have been met, the department shall issue a tax credit certificate to the eligible taxpayer stating the amount of tax credit under Iowa Code section 404A.2 the eligible taxpayer may claim, or the department shall issue a notice that the eligible taxpayer is not eligible to receive a tax credit certificate. The department shall issue the tax credit certificate or the notice not later than 60 days following the completion of the examination review, if applicable, and the verifications and consultation required under this rule. Notwithstanding the foregoing, the eligibility of the tax credit remains subject to audit by the department of revenue in accordance with Iowa Code chapters 421 and 422. For information on how to claim the tax credit, see department of revenue rules 701—42.54(404A,422), 701—52.47(404A,422), and 701—58.10(404A,422).

This rule is intended to implement Iowa Code section 404A.3 as amended by 2014 Iowa Acts, House File 2453.

[ARC 1970C, IAB 4/15/15, effective 5/20/15]

223—48.37(303,404A) Appeals. Any person wishing to contest an application denial, the amount of the tax credit award, award revocation, or any department action that entitles the person to a contested case proceeding shall file an appeal, in writing, within 30 days of the department action giving rise to the appeal. Any person who does not seek an appeal within 30 days of the department action that gives rise to a right to a contested case proceeding shall be precluded from challenging the department action. Appeals will be governed by the procedures set forth in this rule, together with the process set out in Iowa Code sections 17A.10 to 17A.19. Challenges to an action by the department of revenue related to tax credit transfers, claiming of tax credits, tax credit revocation, or repayment or recovery of tax credits must be brought pursuant to department of revenue 701—Chapter 7.

48.37(1) Contents. The appeal shall contain the following in separate numbered paragraphs:

- a. A statement of the department action giving rise to the appeal.
- b. The date of the department action giving rise to the appeal.
- c. Each error alleged to have been committed, listed as a separate paragraph. For each error listed, an explanation of the error and all relevant facts related to the error shall be provided.
- d. Reference to the particular statutes, rules, or agreement terms involved, if known.
- e. A statement setting forth the relief sought.
- f. The signature of the person or that person’s representative and the mailing addresses, telephone numbers, and e-mail addresses of the person and the person’s representative.

48.37(2) Contested case proceedings. The presiding officer in any contested case proceeding shall be an administrative law judge who specializes in tax matters.

[ARC 1970C, IAB 4/15/15, effective 5/20/15]

These rules are intended to implement Iowa Code chapter 404A as amended by 2014 Iowa Acts, House File 2453.

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[Filed Emergency ARC 0896C, IAB 8/7/13, effective 7/9/13]

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TITLE VI
GRANT PROGRAMS

CHAPTER 49

HISTORICAL RESOURCE DEVELOPMENT PROGRAM GRANTS

223—49.1(303) Purpose. The historical resource development program provides funds to preserve, conserve, interpret and enhance, and to educate the public about, the historical resources of the state. These rules define parameters for the administration of grants through the historical resource development program.

223—49.2(303) Definitions. The definitions listed in Iowa Code section 17A.2 and rules 223—1.2(17A,303), 223—1.6(303), 223—13.2(303), 223—22.2(303), and 223—35.2(303) shall apply to terms as they are used throughout this chapter. In addition, the following definitions apply:

“*Conservation*” means action to chemically stabilize or physically protect historical documents or artifacts to ensure their long-term survival.

“*Documentary collections*” means collections of current or historical materials that are or might become valuable in interpreting Iowa history, including but not limited to government records, newspapers, photographic images, electronic records, manuscripts, and printed materials.

“*Emergency*” means a threat to a historical resource that is not the result of delinquency by the current owner and that requires timely action to prevent immediate loss of the resource.

“*Grantee*” means any applicant that receives grant funds.

“*Historical resource*” means any site that is listed by the state historic preservation officer on the National Register of Historic Places or personal property that has inherent historical value due to its association with the history of Iowa or the heritage of Iowa’s people.

“*HRDP*” means the historical resource development program as established in Iowa Code section 303.16.

“*Interpretation*” means the presentation of Iowa history to the public through exhibitions, exhibition catalogs, education programs, historical markers, and other appropriate means.

“*Preservation*” means the stabilization and rehabilitation of a property eligible for or listed on the National Register of Historic Places, or the salvaging or reformatting of information contained in a historical document or artifact by the use of various surrogate media.

“*REAP*” means the resource enhancement and protection Act as established in Iowa Code section 455A.16.

“*REAP/HRDP steering committee*” means the historical division’s staff committee appointed by the director and consisting of the grants manager, a division leadership team member, and professional staff members from historic preservation, museum, and documentary collections interest areas.

[ARC 7583B, IAB 2/25/09, effective 4/1/09]

223—49.3(303) Funding policies. The grant programs shall be conducted according to published guidelines that outline funding priorities, review criteria, application forms, adjudication processes and grantee requirements. Programs include REAP/HRDP regular grants, REAP/HRDP emergency grants, and country school grants.

49.3(1) Grant programs shall require formal application and review prior to the awarding or denial of any funds. The application and awards process may vary in accordance with the nature and design of each grant program but shall follow published guidelines.

49.3(2) All funded projects shall comply with professional standards for historic preservation, museums, or documentary collections as follows:

a. Historic preservation projects shall adhere to the Secretary of the Interior’s Standards and Guidelines for Archeology and Historic Preservation and the Secretary of the Interior’s Standards for Rehabilitation and Guidelines for Rehabilitating Historic Buildings.

b. Museum projects shall adhere to applicable national standards or follow technical guidelines generally accepted by the museum profession. Applicants shall demonstrate a commitment to providing, and the ability to provide, care for their collections on a long-term basis.

c. Documentary collections projects shall adhere to national standards, where they apply, or otherwise follow technical guidelines generally accepted by the library, archives, and conservation communities. Applicants shall demonstrate a commitment to providing, and the ability to provide, care for their collections on a long-term basis.

49.3(3) Applications for grants shall be reviewed as follows:

a. Applications for REAP/HRDP emergency grants shall be evaluated by the REAP/HRDP steering committee. Awards shall be determined by majority vote of the steering committee.

b. Applications for REAP/HRDP regular grants and country school grants shall be evaluated by a review panel composed of a minimum of nine members, including at least six public members and three historical division staff members, as follows:

(1) Public members:

1. At least two Iowa museum professionals;

2. At least two members of the Iowa state national register of historic places nominations review committee;

3. At least two members of the Iowa historical records advisory board.

(2) Historical division staff members:

1. One professionally trained museum specialist;

2. One professionally trained historic preservation specialist;

3. One professionally trained archives specialist.

49.3(4) An applicant may not submit more than one application in any single category in any grant cycle.

49.3(5) Applicants funded in two consecutive fiscal years in the same grant category are not eligible to receive funding in the same grant category during the next fiscal year.

49.3(6) Review criteria scores shall be the official record of the proceedings of a review panel or steering committee meeting. Historical division staff shall, upon request, provide an applicant with a written record of these scores.

49.3(7) The review panel shall make grant award recommendations to the state historical society board of trustees. The state historical society board of trustees shall make grant award recommendations to the administrator of the historical division.

49.3(8) The historical division shall issue contracts for all funds awarded.

49.3(9) No state funds awarded under the historical resource development program shall be used by a grantee to meet the grantee's obligation to match other historical division or cultural affairs department grants or programs.

49.3(10) No appropriated state funds shall be used by a grantee to match the grantee's historical resource development program grant.

49.3(11) A grantee shall not utilize historical resource development program funds for any lobbying purpose.

49.3(12) An applicant shall not apply for or use any program funds for the purpose of regranting.

49.3(13) Grant funds shall not be awarded to a city or county government for a project in the historic preservation category unless the city or county government has been approved as a Certified Local Government (CLG) by the National Park Service and determined to be a CLG in good standing by the state historic preservation office (SHPO). CLG cities, counties, and land use districts must be current in their submission of Iowa CLG annual report forms to be considered in good standing.

49.3(14) All government, nonprofit corporation, or Indian tribe applicants shall demonstrate that the historical resource is accessible to the public no less than an average of 16 hours per week or shall provide a statement concerning actions to be taken in the forthcoming 36 months after the grant award to provide the above-specified accessibility of the funded project to the public, unless access is restricted by specific federal or state code. Archaeological sites that are part of funded projects are not required by this program to be accessible to the public.

49.3(15) All private corporations, businesses, and individual applicants shall demonstrate that the historical resources which benefit from being acquired, developed or preserved, or the portions of the historical resource so benefited, shall be accessible to the public no less than an average of 96 hours per

year or shall provide a statement concerning actions to be taken in the forthcoming 36 months after the grant award to provide the above-specified accessibility of the funded project to the public, unless access is restricted by specific federal or state code. Archaeological sites that are part of funded projects are not required by this program to be accessible to the public.

49.3(16) A grantee shall credit the historical resource development program in all promotions, publicity, advertising, and printed materials relating to the grant-supported project, with the following credit line or a reasonable facsimile: “This program is supported in part by the State Historical Society of Iowa, Historical Resource Development Program.” Noncompliance with this requirement shall jeopardize future funding of the grantee by the historical division.

49.3(17) The historical division may, for cause, find that a grantee is not in compliance with the requirements of this program or the terms of the contract. At the division’s discretion, remedies for noncompliance may include penalties or the repayment of program funds. Reasons for a finding of noncompliance include but are not limited to: the grantee’s use of program funds for activities not described in its application or not permitted under the program; the grantee’s failure to complete approved activities in a timely manner; the grantee’s failure to comply with any applicable professional standards, state rules, or federal regulations; the lack of a continuing capacity on the part of the grantee to carry out the approved program in a timely manner; or violation of the terms of the contract.

[ARC 7583B, IAB 2/25/09, effective 4/1/09; ARC 8487B, IAB 1/27/10, effective 3/3/10]

223—49.4(303) Record keeping and retention. Grantees shall keep adequate records relating to the administration of a project, and particularly relating to all expenses incurred. These records shall be available for audit by representatives of the department and the state auditor’s office. All records shall be retained in accordance with state laws.

223—49.5(303) Appeals.

49.5(1) Applicants or grantees may appeal a decision of the historical division on any of the following bases:

- a. The action was outside the statutory authority;
- b. The decision was influenced by a conflict of interest;
- c. The action violated state law, administrative rules, or policy;
- d. Insufficient public notice was given; or
- e. Alteration of the review and certification processes was detrimental to the applicant.

49.5(2) Written appeals shall be directed to the director of the department within 30 calendar days of notification of the decision. All appeals shall be mailed to the following address: Director, Department of Cultural Affairs, 600 East Locust Street, Des Moines, Iowa 50319-0290.

49.5(3) All appeals shall contain:

- a. The facts of the case;
- b. An argument in favor of the appeal; and
- c. The remedy sought.

49.5(4) The director of the department of cultural affairs shall consider and rule on the appeal after receiving all documentation from the appellant and shall notify the appellant in writing of the decision within 30 days of receipt of all documentation. The decision of the director of the department of cultural affairs shall be final except as provided in Iowa Code sections 17A.19 and 17A.20.

These rules are intended to implement Iowa Code chapter 303.

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CHAPTER 50
HISTORIC SITE PRESERVATION GRANT PROGRAM

223—50.1(303) Purpose. The purpose of the historic site preservation grant program is to provide matching grants to nonprofit organizations, governmental bodies, and Indian tribes for the restoration, preservation, and development of historical sites.

The state historical society of Iowa, the historical division of the Iowa department of cultural affairs, shall administer the historic site preservation grant program.

223—50.2(303) Definitions.

“Administrator” means the administrator of the state historical society of Iowa, the historical division of the department of cultural affairs.

“Director” means the director of the department of cultural affairs.

“Emergency” means a threat to a historical resource that is not the result of delinquency by the current owner and that requires timely action to prevent immediate loss of the resource.

“Facility” means a site, structure, building, or object such as a sculpture or monument.

“Historical site” means a property that is listed or declared eligible by the state historic preservation officer for listing on the National Register of Historic Places, or a facility in which Iowa’s history or the heritage of Iowa’s people is interpreted. Historical sites shall relate to the human occupation of Iowa, but may be of prehistoric or historic age.

“Indian tribe” means any tribe, band, nation, or other organized group or community of Indians that is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians.

“Infrastructure” is defined in Iowa Code section 8.57(5c) as “vertical infrastructure” and shall include only land acquisition for construction, major rehabilitation of buildings, all appurtenant structures, utilities, and site developments.

“Society” means the state historical society of Iowa, the historical division of the department of cultural affairs, established in Iowa Code section 303.1.

223—50.3(303) Application procedures.

50.3(1) Eligible applicants. Grants shall be awarded to any local political subdivisions of the state, state agency, Indian tribe, or nonprofit organization that is duly authorized and charged with responsibilities for construction, maintenance and operation of historical sites.

50.3(2) Eligible projects. Grants under this program shall be used for “vertical infrastructure” as defined in Iowa Code section 8.57(5c). Applicants shall submit only one grant application per funding cycle. Projects that received designated legislative earmarking of funds in the current fiscal year shall not be eligible for funding through this program. Projects that received funding from this program are ineligible to apply for three years from the date of grant award.

50.3(3) Project requirements. When applicable, all project work shall meet the Secretary of the Interior’s Standards and Guidelines for Archaeology and Historic Preservation. All applicants shall submit project information to the society’s community programs bureau for review as part of the application process. Successful applicants shall consult with the society’s historic preservation staff to ensure that the standards are met. Failure to meet the standards shall result in cancellation of the grant.

50.3(4) Form of application. Grant applications shall be on forms provided by the society and shall follow all prescribed guidelines. Completed applications shall provide sufficient detail to clearly describe the scope of the project.

50.3(5) Application timing. Grant applications (1 original and 11 copies) shall be received by 4:30 p.m. in the program coordinator’s office at the State Historical Society of Iowa, 600 East Locust, Des Moines, Iowa 50319-0290, on or before the deadline date, or shall have a United States Postal Service postmark, dated on or before the fourteenth day of September.

50.3(6) Assistance ceiling and cost share. Grants to any individual project shall not exceed \$100,000. Project sponsors shall provide cash match at the rate of one dollar for each state grant dollar.

An applicant shall certify that it has committed its share of project costs by the time final payment is made. State funds shall not be used as cash match for this program. Indirect costs and staff salaries shall not be used as match.

50.3(7) *Minimum grant amount.* No application requesting less than \$40,000 in grant funds shall be considered.

50.3(8) *Geographic distribution of funds.* No more than \$200,000 may be awarded in any grant cycle within a single county.

[ARC 8234B, IAB 10/21/09, effective 11/25/09]

223—50.4(303) Project review and selection.

50.4(1) *Staff review.* Applications shall be reviewed by society staff to ensure compliance with the program's administrative rules and guidelines. All applications meeting the requirements shall be forwarded to the review and selection panel. Ineligible applications shall not be considered.

50.4(2) *Review panel.* A review and selection panel, hereinafter referred to as the review panel, comprised of ten members appointed by the administrator, shall review and evaluate project applications and shall develop funding recommendations to be forwarded to the state historical society board of trustees for approval.

The review panel shall be comprised of the following members:

1. Panel chairperson, appointed by the administrator.
2. Five citizens, each with a background in archaeology, history, architectural history, architecture, museum studies, Iowa heritage, or a closely related field. Citizens serving on the committee shall be selected from a wide geographic area.
3. One member of the society's board of trustees.
4. One staff representative selected by the administrator of the Iowa division of tourism, Iowa department of economic development.
5. One staff representative selected by the administrator of the Iowa division of parks, recreation and preserves, Iowa department of natural resources.
6. One staff representative selected by the administrator of the division of project planning, Iowa department of transportation.

50.4(3) *Final review and selection of grants.* The society's board of trustees shall review the recommendations of the review panel and shall make recommendations to the administrator. The administrator shall make final funding decisions.

50.4(4) *Conflict of interest.* If a project is submitted by an eligible sponsor, one of whose members or employees is on the review panel, that panelist shall not participate in discussion and shall not vote on that particular project.

223—50.5(303) Application rating system. The review panel shall apply a numerical rating system to each grant application that is considered for funding assistance. The criteria, with a weight factor for each, shall include the following:

1. The historical or cultural significance of the project, and the degree to which the project is of regional, state, or national significance (30 percent);
2. The quality of the plans to interpret the historical resource (25 percent);
3. The extent to which the project will enhance educational opportunities for a broad and diverse audience (25 percent);
4. The degree to which the budget is reasonable and appropriate to the project (10 percent);
5. The degree to which the applicant demonstrates a commitment to the future viability of the resource by planning for the ongoing operation and maintenance of the project (10 percent).

Each criterion shall be given a score from 1 to 10, which is then multiplied by the weight factor.

223—50.6(303) Grant administration.

50.6(1) *Contract agreement.* Successful applicants shall enter into a contract agreement with the society.

50.6(2) *Timely commencement of projects.* Grant recipients are expected to carry out their projects in an expedient manner. Projects shall be under contract by February 1 in the year following their approval and shall be completed by the date specified in the contractual agreement. Failure to initiate projects in a timely manner may be cause for termination of the agreement and cancellation of the grant.

50.6(3) *Funding acknowledgement.* The grantee shall agree to include in all printed lists of contributors the following credit line: "State Historical Society of Iowa, Historic Site Preservation Grant Program."

50.6(4) *Disbursement of funds.* All project moneys, including grant funds and matching funds, shall be expended within the period established by legislation. Disbursement of grant funds shall be made on a schedule as determined in the contractual agreement.

50.6(5) *Record keeping and retention.* Grant recipients shall keep adequate records relating to the administration of a project, particularly relating to all incurred expenses. These records shall be available for audit by representatives of the society and the state auditor's office. All records shall be retained in accordance with state laws.

50.6(6) *Penalties.* During the contract period, whenever any property, real or personal, acquired or developed with grants under this program passes from the control of the grantee or is used for purposes other than the approved project purpose, it shall be considered an unlawful use of the funds.

50.6(7) *Remedy.* Funds used without authorization, for purposes other than the approved project purpose, or unlawfully, shall be returned to the society for deposit in the account supporting this program. In the case of diversion of personal property, the grantee shall remit to the department funds in the amount of the original purchase price of the property. The grantee shall have a period of two years after notification by the society in which to correct the unlawful use of funds. The remedies provided in this subrule are in addition to others provided by law.

50.6(8) *Ineligibility.* Whenever the administrator determines that a grantee is in violation of this rule, that grantee shall be ineligible to receive further grant funds until the matter has been resolved to the satisfaction of the state historical society board of trustees.

50.6(9) *Technical assistance.* The department may use up to 2 percent of the total appropriation for providing technical assistance to grant applicants and for administrative costs incurred in implementing the program.

223—50.7(303) Informal appeals. Eligible applicants or grantees may informally appeal a decision of the society not to grant historic site preservation grant funds on any of the following bases:

1. Action was outside statutory authority;
2. Decision was influenced by a conflict of interest;
3. Action violated state law, administrative rule, or written policy;
4. Insufficient public notice was given; and
5. Alteration of the review process was detrimental to the applicant.

Informal appeals in writing may be directed to the director within 15 days of the incident. All informal appeals shall be directed to the Director, Department of Cultural Affairs, Historical Building, 600 East Locust, Des Moines, Iowa 50319-0290. All informal appeals shall contain facts of the case, argument in favor of the appeal, and remedy sought.

The director shall consider and rule on the informal appeal after receiving all documentation from the appellant and shall notify the appellant in writing of the decision within 30 days. Decisions by the director may be appealed through the contested case process as set out in Iowa Code sections 17A.10 to 17A.19.

223—50.8(303) Emergency grants.

50.8(1) *Eligible applicants.*

a. Emergency grants may be awarded to any local political subdivision of the state, state agency, Indian tribe, individual or nonprofit organization that is duly authorized and charged with responsibilities for construction, maintenance and operation of historical sites, or to the owner of a historical site as defined in rule 50.2(303).

b. Emergency grants may be awarded for projects arising in counties for which a gubernatorial disaster emergency proclamation has been issued for natural disasters arising during the period of April 1, 2008, through June 30, 2008.

50.8(2) *Eligible projects.* Emergency grants may be awarded to projects for emergency stabilization of historical sites. All emergency grant projects shall meet the U.S. Secretary of the Interior's Standards and Guidelines for Archaeology and Historic Preservation.

50.8(3) *Grant amount.* Any application requesting less than \$1,000 in grant funds or more than \$50,000 in grant funds shall not be considered.

50.8(4) *Application deadline.* Applications (one original and four copies) will be received on a continuous basis and will be reviewed monthly.

50.8(5) *Review panel.* A review and selection panel, hereinafter referred to as the review panel, comprised of four members appointed by the administrator, shall review and evaluate emergency project applications and shall develop funding recommendations to be forwarded to the administrator of the historical division for approval.

50.8(6) *Application rating system.* The review panel shall apply a numerical rating system to each grant application that is considered for funding assistance. The criteria shall include all of the following:

a. The emergency status of the project as evaluated against the definition of emergency in rule 50.2(303) and eligibility criteria identified in subrule 50.8(1);

b. The historical or cultural significance of the project and the degree to which the project is of regional, state, or national significance;

c. The quality of the plans to stabilize the historical resource;

d. The degree to which the budget is reasonable and appropriate for the project; and

e. The degree to which the applicant demonstrates a commitment to the future viability of the resource by planning for the ongoing operation and maintenance of the project following stabilization.

These rules are intended to implement Iowa Code sections 303.1A and 303.2.

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CHAPTER 51
Reserved