

701—219.12(423) Tangible personal property that becomes structures. Items that are manufactured as tangible personal property can, by their nature, become structures. However, the determination is factual and must be made on an item-by-item basis.

219.12(1) *Criteria to determine if tangible personal property has become a structure.* The following are intended only to be a summation of factors that the department will consider in determining whether or not a project involves construction:

- a. The degree of architectural and engineering skills necessary to design and construct the structure.
- b. The overall scope of the business and the contractual obligations of the person designing and building the structure.
- c. The amount and variety of materials needed to complete the structure, including the identity of materials prior to assembly and the complexity of assembly.
- d. The size and weight of the structure.
- e. The permanency or degree of annexation of the structure to other real property, which would affect its mobility.
- f. The cost of building, moving or dismantling the structure.

219.12(2) *Example.* A farm silo, which is a prefabricated glass-lined structure, is intended to be permanently installed. The prefabricated glass-lined structure is 70 feet high and 20 feet around, weighs 30 tons, and is affixed to a concrete foundation weighing 60 tons, which is set in the ground specifically for the purpose of supporting the silo. The assembly kit includes 105 steel sheets and 7,000 bolts. The silo can be removed without material injury to the realty or to the unit itself at a cost of \$7,000. In view of its massive size, the firm and permanent manner in which it is erected on a most substantial foundation, its purpose and function, the expense and size of the task and the difficulty of removing it, the silo is considered a structure and not machinery or equipment.

This rule is intended to implement Iowa Code section 423.3(37).

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