

State of Iowa

**Iowa**  
**Administrative**  
**Code**  
**Supplement**

Biweekly

November 19, 1986



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PUBLISHED BY THE  
STATE OF IOWA  
UNDER AUTHORITY OF IOWA CODE SECTION 17A.6

Pursuant to section 17A.6 of the Iowa Code, the Iowa Administrative Code [IAC] Supplement is published biweekly and supersedes Part II of previous publications.

The Supplement contains replacement pages to be inserted in the loose-leaf IAC according to instructions in the respective Supplement. Replacement pages incorporate amendments to existing rules or entirely new rules or emergency or temporary rules which have been adopted by the agency and filed with administrative rules co-ordinator as provided in sections 7.17, 17A.4 to 17A.6. [It may be necessary to refer to the Iowa Administrative Bulletin\* to determine the specific change.] The Supplement may also contain new or replacement pages for "General Information," Tables of Rules Implementing Statutes, and Index.

When objections are filed to rules by the Administrative Rules Review Committee, Governor or the Attorney General, the context will be published with the rule to which the objection applies.

Any delay by the Administrative Rules Review Committee of the effective date of filed rules will also be published in the Supplement.

Each page in the Supplement contains a line at the top similar to the following:

IAC 9/24/86

Employment Services[341]

Ch 1, p.7

\*Section 17A.6 has mandated that the "Iowa Administrative Bulletin" be published in pamphlet form which will contain material formerly published in Part I of the IAC Supplement. The Bulletin will contain Notices of Intended Action, Filed Rules, effective date delays, Economic Impact Statements, and the context of objections to rules filed by the Committee, Governor, or the Attorney General.

In addition, the Bulletin shall contain all proclamations and executive orders of the Governor which are general and permanent in nature, as well as other materials which are deemed fitting and proper by the Committee.

# INSTRUCTIONS

FOR

Updating Iowa Administrative Code  
with Biweekly Supplement

NOTE: Please review the "Preface" for both the Iowa Administrative Code and Biweekly Supplement and follow carefully the updating instructions.

The boldface entries in the left-hand column of the updating instructions correspond to the tab sections in the IAC Binders.

Obsolete pages to IAC are listed in the column headed "Remove Old Pages." New and replacement pages in this Supplement are listed in the column headed "Insert New Pages." It is important to follow instructions in both columns.

## UPDATING INSTRUCTIONS November 19, 1986, Biweekly Supplement

### IOWA ADMINISTRATIVE CODE

	Remove Old Pages*	Insert New Pages
<b>AGRICULTURE DEPARTMENT[30]</b>	Analysis, p.1, 1a Ch 10, p.6—Ch 10, p.10 Ch 10, p.11—Ch 10, p.13	Analysis, p.1, 1a Ch 10, p.6—Ch 10, p.10 Ch 10, p.11—Ch 10, p.13
<b>HEALTH DEPARTMENT[470]</b>	Ch 143, p.2—Ch 143, p.4	Ch 143, p.2—Ch 143, p.4
<b>HIGHER EDUCATION LOAN AUTHORITY[480]</b>	Ch 1, p.1—Ch 2, p.2	Ch 1, p.1—Ch 2, p.2
<b>IOWA FAMILY FARM DEVELOPMENT AUTHORITY[523]</b>	Ch 5, p.1—Ch 6, p.1	Ch 5, p.1—Ch 6, p.1
<b>RACING COMMISSION, STATE[693]</b> <small>Renamed Racing and Gaming Division[195], see below</small>	Analysis, p.1—Ch 10, p.1	Page 1
<b>REVENUE AND FINANCE DEPARTMENT[730]</b>	Analysis, p.2a Analysis, p.6, 6a Analysis, p.10, 10a Analysis, p.13, 14 Ch 13, p.1—Ch 13, p.4 Ch 18, p.13, 14 Ch 18, p.30, 31	Analysis, p.2a Analysis, p.6, 6a Analysis, p.10, 10a Analysis, p.13, 14 Ch 13, p.1—Ch 13, p.4 Ch 18, p.13, 14 Ch 18, p.30, 31

\*It is recommended that "Old Pages" be retained indefinitely in a place of your choice. They may prove helpful in tracing the history of a rule.

	Remove Old Pages*	Insert New Pages
<b>REVENUE AND FINANCE DEPARTMENT[730] (continued)</b>	Ch 29, p.1—Ch 30, p.4 Ch 63, p.9—Ch 63, p.11 Ch 81, p.6—Ch 81, p.8 Ch 107, p.5—Ch 107, p.9	Ch 29, p.1—Ch 30, p.6 Ch 63, p.9—Ch 63, p.11 Ch 81, p.6—Ch 81, p.8 Ch 107, p.5—Ch 107, p.9
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<b>TREASURER OF STATE[830]</b>	Ch 3, p.2, 3	Ch 3, p.2, 3
<b>WATER, AIR AND WASTE MANAGEMENT[900]</b>	Analysis, p.5, 6 Guidelines, p.3 (located at the end of Ch 65)—Ch 70, p.1	Analysis, p.5, 6  Guidelines, p.3—Ch 70, p.1
<b>The following are some of the “umbrella” Departments, Commissions, and Divisions created by state government reorganization. Tabs will be provided in subsequent Supplements.</b>		
<b>Racing and Gaming Division[195]</b> Insert alphabetically and numerically under the “umbrella” of Commerce Department[181]		Analysis, p.1—Ch 10, p.1
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<b>Job Service, Division of[345]</b>	Ch 4, p.54, 55 Ch 4, p.60	Ch 4, p.54, 55 Ch 4, p.60
<b>Environmental Protection Commission[567]</b>		Analysis, p.1—Ch 69, p.17
<b>Index Volume</b>	“C” tab, p.31, 32 “G” tab, p.1—p.6 “I” tab, p.1—p.8 “W” tab, p.9—p.14	“C” tab, p. 31, 32 “G” tab, p.1—p.6a “I” tab, p.1—p.8 “W” tab, p.9—p.14

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\*\*Tab will be provided in a subsequent Supplement.

# AGRICULTURE DEPARTMENT[30]

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See also Department of Agriculture and Land Stewardship[21]

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warning statement which may be necessary and if complied with adequate for the protection of those who may handle or be exposed to the experimental products; (3) the name and address of the applicant; (4) the name or designation of the formulation; (5) if the pesticide is to be sold, the statement of the names and percentages of the principal active ingredients in the product.

**10.18(4)** A pesticide intended for experimental use shall not be offered for general sale by a retailer or others, or advertised for general sale.

**30—10.19(206) Enforcement.**

**10.19(1) *Collection of samples.*** Samples of pesticides and devices shall be collected by an official investigator or by any employee of the state who has been duly designated by the secretary, by entry into any place during reasonable business hours.

**10.19(2) *Notice of apparent violation.*** If from an examination or analysis a pesticide appears to be in noncompliance with the pesticide Act, a written stop sale, use or removal notice will be initiated by the secretary or the secretary's duly appointed authority. The notice shall state the manner in which the product fails to meet the requirements of the Act and the regulations and that the recipient shall be given an opportunity to offer such written explanation as the recipient may desire.

**10.19(3)** Any person may obtain an opportunity to present relevant arguments or comments by submitting a written request within twenty days from the date of mailing of the notice.

**10.19(4)** The secretary may suspend an applicator's license, permit or certification pending inquiry and, after opportunity for a hearing, may deny, suspend, revoke or modify any provision of any license, permit or certification issued under this Act, upon receipt of information from the environmental protection agency that the applicator has been convicted under the criminal provision of Section 14(b) of FIFRA or has been assessed a civil penalty under Section 14(a) of FIFRA.

**30—10.20(206) Hazardous rodenticides.** Before the rodenticides sodium fluoracetate (1080), thallium sulfate, and phosphorus pastes are to be used by any federal, state, county, municipal, or public officers, or their deputies, employees, or agents, in their official duties in pest control; or licensed pest control operators for use in their service work; the applicator shall notify the department of agriculture prior to use, of: (1) The location or site where the rodenticide is to be used; (2) Date the application is to be made; and (3) The amount of hazardous rodenticide to be used. At the time of notification the licensee must give assurance that the certified applicator understands the hazards of the product, the standard operating procedures as provided by the manufacturer, and, assure the department that the certified applicator will comply with all label precautions. Failure to comply with this rule may result in the suspension or revocation of the applicator's license.

**30—10.21(206) Highly toxic.** A pesticide which falls within any of the following categories when tested on laboratory animals (mice, rats and rabbits) is highly toxic to humans within the meaning of these principles:

**10.21(1) *Oral toxicity.*** Those which produce death within 14 days in half or more than half the animals of any species at a dosage of 50 milligrams at a single dose, or less, per kilogram of body weight when administered orally to ten or more such animals of each species.

**10.21(2) *Toxicity on inhalation.*** Those which produce death within 14 days in half or more than half of the animals of any species at a dosage of 200 parts or less by volume of the gas or vapor per million parts by volume of air when administered by continuous inhalation for one hour or less to ten or more animals of each species, provided such concentration is likely to be encountered by humans when the pesticide is used in any reasonably foreseeable manner.

**10.21(3) Toxicity by skin absorption.** Those which produce death within 14 days in half or more than half of the animals (rabbits only) tested at a dosage of 200 milligrams or less per kilogram of body weight when administered by continuous contact with the bare skin for 24 hours or less to ten or more animals.

**10.21(4) Designation as highly toxic.** Provided, however, that the secretary may exempt any pesticide which meets the above standard but which is not in fact highly toxic to humans, from these principles with respect to pesticides highly toxic to humans, and may after a hearing designate as highly toxic to humans any pesticide which experience has shown to be so in fact.

**10.21(5) Human data.** If the secretary finds, after opportunity for hearing that available data on human experience with any pesticide indicates a toxicity greater than that indicated from the above described tests on animals, the human data shall take precedence and if that protection of the public health so requires, the secretary shall declare such pesticide to be highly toxic to humans for the purposes of this Act and the regulations thereunder.

**30—10.22(206) License and certification standards for pesticide applicators.** No person shall engage in the business of applying pesticides to the land or property of another at any time without being licensed by the secretary. No person shall apply any restricted use pesticide without first complying with certification standards or unless the application is made under the direct supervision of a certified applicator.

**10.22(1) License for commercial applicators.** Before a license is issued, every commercial applicator shall demonstrate competence by qualifying for a commercial applicator's license by taking and passing an examination given by the secretary to demonstrate knowledge regarding recognition of common pests to be controlled, timing and methods of application, interpretation of label and labeling information, safety precautions and pre-harvest or reentry restrictions, specific procedures to be used in disposing of pesticides and containers, and related legal responsibility under the classifications for which the applicant is to be licensed.

**10.22(2) Certification of private applicators.** Every private applicator who will apply a restricted use pesticide must demonstrate fundamental knowledge of principles and practices of pest problems and pest control practices as specified in 40 C.F.R. 171.5, as revised as of July 1, 1986, by either of the following methods;

- a. Participating in at least one (1) training course approved by the department; or
- b. Passing a fundamental test administered by the secretary covering recognition of common pests to be controlled and damage caused by them; interpretation of label and labeling information; mixing and application of pesticides in accordance with label instructions, including proper concentration of pesticide to be used; local environmental situations that must be considered during application to avoid contamination; recognition of poisoning symptoms and procedures to follow in case of a pesticide accident; and related legal responsibility.

**10.22(3) Certification of commercial and public applicators.**

a. In order to be certified, a commercial or public applicator must demonstrate a fundamental knowledge of principles and practices of pest control and safe use of pesticides by passing a test equal to that required of commercial applicators in 40 C.F.R. 171.4, as revised as of July 1, 1986.

b. Separate examinations shall be taken and passed for each classification or category in which the commercial or public applicator intends to become certified, including the following: #1a - Agriculture Weed Control; #1b - Agriculture Insect Control; #1c - Agriculture Crop Disease Control; #1d - Fruit and Vegetable Pest Control; #1e - Animal Pest Control; #2 - Forest Pest Control; #3ot - Ornamental and Turf Pest Control; #4 - Seed Treatment; #5 - Aquatic Pest Control; #6 - Right-of-Way Pest Control; #7a - General and Household Pest Control; #7b - Structural Pest Control; #7c - Fumigation; #7d - Community Insect Pest Control; #7e - Wood Preservatives; #8 - Public Health Pest Control; #9 - Regulatory Pest Control; #10 - Demonstration and Research Pest Control.

**10.22(4) *Renewal of license and certification.***

a. Each commercial and public applicator's license shall expire annually on December 31. Each commercial, public and private applicator's certificate shall expire on December 31 of the third year following its issue. An expired license or certification shall be renewed upon payment of the required license fee and submission of evidence that the applicator has satisfied continuing education requirements.

Commercial applicators and public applicators who use or apply only general use pesticides and who have been licensed by the department may renew their license classification(s) without retaking a written examination if they submit proof that they have attended a departmental approved training session and shall be issued license classification(s) upon paying the required license fee.

b. Each commercial and public applicator's certification shall expire December 31, 1981, and shall be renewed by the secretary upon receipt of evidence that the applicator has done one of the following:

1. Attended at least one (1) training course approved by the department subsequent to the original date of license issue; or

2. Passed a written examination similar and equal to that required to obtain the initial license and has paid the required testing fee.

c. Each private applicator's certificate shall be renewed upon evidence that the applicator has attended at least one (1) training course conducted by the cooperative extension service of Iowa State University of Science and Technology subsequent to the original date of issue; or passed a written examination similar and equal to that required for the initial certification.

d. All applicators who become certified as applicators after December 31, 1979, shall have certification renewed three (3) years from the year of issue, and every three (3) years thereafter, in accordance with the provisions of paragraphs "b" and "c" above.

**10.22(5) *Continuing education requirements.*** Beginning January 1, 1987, to December 31, 1987, each person licensed as a commercial applicator in this state shall provide, during each calendar year, a minimum of six (6) hours of continuing education, approved by the secretary, for all personnel that apply pesticides. Compliance with this requirement is a prerequisite for their license and certification renewal.

**10.22(6) *Report of licensee.*** Each licensee shall file with the license renewal application a certificate of personnel attendance form furnished by the department, and validated by the educational institution or organization sponsoring the continuing education program.

**10.22(7) *Approval of sponsors, programs and activities.*** A continuing education activity shall be qualified for approval if the secretary determines that it constitutes an organized program of learning which contributes directly to the professional competency of the licensee.

Topics to be covered in approved training shall include, but are not limited to, pest recognition, biology and habits; alternative, nonchemical controls; pesticide formulation and application equipment and technique; environmental safety and protection; applicator safety and protection; customer safety; poisoning prevention, symptoms and first aid; and pesticide laws and regulations. Sources of training may include state and national trade associations, supplier or distributor seminars, pest control company formal training programs and pesticide applicator training meetings.

**10.22(8) *Standards for supervision of noncertified applicators by certified private and commercial applicators.*** Certified applicators whose activities indicate a supervisory role must demonstrate a practical knowledge of federal and state supervisory requirements, including labeling, regarding the application of restricted use pesticides by noncertified applicators.

The availability of the certified applicator must be directly related to the hazard of the situation. In many situations, where the certified applicator is not required to be physically present, "direct supervision" shall include verifiable instruction to the competent person, as follows: (1) Detailed guidance for applying the pesticide properly; and (2) provisions for contacting the certified applicator in the event the certified applicator is needed. In other situations, and as required by the label, the actual physical presence of a certified applicator may be required when application is made by a noncertified applicator.

New or part-time employees who are not certified in the appropriate categories must receive a minimum of six (6) hours of approved training annually, prior to the commencement of pesticide application in the absence of a certified supervisor.

This rule is intended to implement Iowa Code sections 206.4, 206.5, 206.6 and 206.7.

**30—10.23(206) Sale or possession of thallium.** No person shall sell or possess any thallium or thallium compound except federal, state, county, municipal officers or their deputies for use in their official duties in pest control; research or chemical laboratories in their respective fields; regularly licensed pest control operators for use in their own service work; properly registered ant, mole and rodent poisons containing thallium expressed as metallic not more than one percent; wholesalers or jobbers of pesticides for sale to the aforementioned persons; or for export.

**30—10.24(206) Warning, caution and antidote statements.** In order to promote uniformity between the requirements of the Iowa pesticide Act and requirements of the several states and the federal government, section 206.21 of the Iowa pesticide Act provides for the adoption of rules and regulations in conformity with those prescribed by the United States department of agriculture. Warning, caution and antidote statements required to appear on labels of pesticides under the pesticide Act shall conform to the warning, caution and antidote statements required under interpretation 18 and revisions thereof of the regulations for the enforcement of the federal insecticide, fungicide and rodenticide Act, which interpretation 18 and revisions thereof are hereby incorporated into this rule by this reference and made a part hereof.

**30—10.25(206) Declaration of pests.** The secretary declares the following to be pests:

1. Any insect, rodent, nematode, fungus, weed, or
2. Any form of plant and animal life, virus, or other microorganism, except viruses or other microorganisms on or in living man or other living animals, which exists under circumstances that make it unduly injurious to plants, man, domestic animals, other useful vertebrates, useful invertebrates, or other articles or substances.

**30—10.26(206) Recordkeeping requirements.** Commercial applicators and retail dealers shall maintain records with respect to application of pesticides for a period of three (3) years from the date of application of the pesticides to which the records refer; and shall furnish copies to the secretary upon request in writing.

**10.26(1) Retail dealers—sales to certified applicators.** Each restricted use pesticide retail dealer shall maintain at each individual dealership records of each transaction where a restricted use pesticide is made available for use by that dealership to a certified applicator. Record of each transaction shall include the following information:

- a. Name and address of the residence or principal place of business of each person to whom the pesticide was made available for use.
- b. The certification number on the document evidencing that person's certification, the state (or other governmental unit) that issued the document, the expiration date of the certification and the categories in which the applicator is certified, if appropriate.
- c. The product name, EPA registration number granted under section 24(c) of the FIFRA (if any) on the label of the pesticide.
- d. The quantity of the pesticide made available for use in the transaction.
- e. The date of the transaction.

**10.26(2) Sales to uncertified persons.** No dealership may make a restricted use pesticide available to an uncertified person unless the dealer or dealership can document that the restricted use pesticide will be used by a certified applicator and the dealer or dealership maintains the records required in this subrule. Each restricted use pesticide retail dealer shall maintain records at each individual dealership of each transaction where a restricted use pesticide was made available to an uncertified person for use by a certified applicator. Records of each transaction shall be maintained for a period of thirty-six (36) months after the date of the transaction and shall include the following information:

- a. The name and address of the residence or principal place of business of the uncertified person to whom the restricted use pesticide is made available for use by a certified applicator.
- b. The name and address of the residence or principal place of business of the certified applicator who will use the restricted use pesticide.
- c. The certified applicator's certification number, the state (or other governmental unit) that issued the certification document, the expiration date of the certification and the categories in which the applicator is certified, if appropriate.
- d. The product name, EPA registration number and the state special local need registration number granted under section 24(c) of the FIFRA (if any) on the label of the pesticide.
- e. The quantity of the pesticide made available for use in the transaction.
- f. The date of the transaction.

**10.26(3) Commercial applicators.** Every commercial applicator shall make, or cause to have made, office records of all application activities on each pesticide applied which shall include the following:

- a. The name and license number of the licensee.
- b. The name and address of the landowner or customer.
- c. Address of the place of application of restricted use pesticide.
- d. Date of pesticide application.
- e. Trade name of pesticide product used.
- f. The quantity of pesticide product used and the concentration or rate of application.
- g. If applicable, the temperature and the direction and estimated velocity of wind at time of application to any outdoor area.
- h. Use of "restricted use" pesticide.

This rule is intended to implement Iowa Code sections 206.11(3) and 206.15.

**30—10.27(206) Use of high volatile esters.** The use of high volatile esters formulations of 2,4-D and 2,4,5-T, the alcohol fraction of which contains five of fewer carbons, shall be prohibited in the counties of Harrison, Mills, Lee, Muscatine and that part of Pottawattamie county west of Range 41 West of the 5th P.M. to become effective upon filing.

**30—10.28(206) Emergency single purchase/single use of restricted pesticide.** The department shall issue a temporary certificate to private applicators for a single purchase/single use of restricted pesticides in situations declared to be an emergency by the department, upon receipt of the following completed and signed affidavit.

**30—10.28(206) EMERGENCY USE OF A RESTRICTED USE PESTICIDE BY A PRIVATE APPLICATOR**

**Emergency Single Purchase/Single Use of Restricted Pesticide—Affidavit.**

The Label which I have read, indicates:

Brand name of pesticide: \_\_\_\_\_

Federal Registration Number: \_\_\_\_\_

Name of Active Ingredient(s): \_\_\_\_\_

Percentage of Active Ingredient(s): \_\_\_\_\_

If the pesticide product is to be mixed with a carrier, show the amount of pesticide product per gallon of tank mix: \_\_\_\_\_

Application rate per acre: \_\_\_\_\_

Name pest to be controlled: \_\_\_\_\_

At what stage of development is the pest most easily controlled: \_\_\_\_\_

State degree of hazard (signal word): \_\_\_\_\_

Describe safety equipment required: \_\_\_\_\_

What is the recommended antidote for this product: \_\_\_\_\_

List environmental precaution shown on label: \_\_\_\_\_

Length of time until re-entry, if given: \_\_\_\_\_

Preharvest interval days required: \_\_\_\_\_

Describe method of container disposal: \_\_\_\_\_

I wish to make application of this pesticide on (date) \_\_\_\_\_

and I hereby swear under penalty of perjury that I understand the above label information and warnings.

\_\_\_\_\_  
(name of private applicator)

This rule is intended to implement Iowa Code section 206.4, 206.5.

**30—10.29(206) Application of general use pesticide by nonlicensed commercial applicator.** A person may apply a general use pesticide without satisfying the licensing requirements of Iowa Code chapter 206, upon presenting evidence to the secretary of applying the pesticide under the direct supervision of a licensed commercial applicator or a public applicator.

**30—10.30(206) Restricted use pesticides classified.** Pesticide products containing active ingredients classified as restricted use are limited to use by or under the direct supervision of a certified applicator. The pesticide use classification as promulgated by the United States Environmental Protection Agency in 40 C.F.R., Section 162.31, revised as of July 1, 1983, is hereby adopted in its entirety by this reference.

This rule is intended to implement Iowa Code section 206.20.

**30—10.31(206)\* Application of pesticides toxic to bees.** Owners of apiaries, in order to protect their hives from pesticide applications, shall register the telephone number where they can be reached and the locations of bee yards on forms, DOA #10, Apiary Registration Form provided by the department, with the state apiarist, before May 1 of each year. Within thirty days thereafter, the department shall provide each ASCS office with information of such locations indicating township, section and range of bee yards in that county, along with the telephone number of each registered owner.

Prior to application of any pesticide that indicates on its label that it is toxic to bees, the applicator shall determine if the field is within a two mile radius of any registered bee yard by contacting the county ASCS office or by calling 515/281-3561 during hours when the ASCS office is not open.

The applicator shall give notice to the owner, the owner's agent or a member of the owner's family at least twenty-four hours and no more than seventy-two hours prior to such application. Owners of apiaries, in order to protect their hives from such pesticide applications, shall attend the telephone designated on the Apiary Registration Form; or in the event that the owner, the owner's agent or a member of the owner's family will not be available at the designated telephone number, said owner shall call 515/281-5736, provide an alternative telephone number where they can be contacted, and be available at that number.

If an applicator, after diligently attempting to do so, is unable to reach the owner or other appropriate person at either telephone number, he/she shall call 515/281-3561. A representative of the department shall make one additional attempt to give proper notice by again calling both telephone numbers. If the applicator and the department are not successful in contacting and notifying the owner, the owner's agent or a member of the owner's family by calling both telephone numbers, the owner of the apiary shall be deemed to have been duly notified; and the applicator may apply the chemicals as requested.

Pesticides may be applied earlier than twenty-four hours and later than seventy-two hours after notification of bee owner, with consent of the bee owner.

This rule is intended to implement section 206.11(3)"b" and "c", The Code.

**30—10.32(206) Use of DDT and DDD.** Pesticides containing dichloro diphenyl trichloroethane (DDT) or dichloro diphenyl dichloroethane (DDD) shall not be distributed, sold or used except for control of pests of public health importance and pests subject to state or

\*Objection filed 9/12/79, see insert IAC 10/3/79

federal quarantines where applications of pesticides are made under the direct supervision of public health officials or state or federal quarantine officials.

**30—10.33(206) Use of inorganic arsenic.**

**10.33(1) Home use.** Formulations of inorganic arsenic containing more than one percent arsenic (expressed as elemental arsenic) shall not be distributed or sold for use as a pesticide in or around the home for the purpose of preventing, destroying or repelling any weed, rodent, insect or other pests.

**10.33(2) Other uses.** Formulations of inorganic arsenic shall not be distributed or sold for use as a pesticide for the purpose of preventing, destroying or repelling any weed, rodent, insect or other pests, unless there are no acceptable alternative methods of control available, as determined by the department. Where no acceptable alternative methods of control are available, and an inorganic arsenic formulation is approved for use by the department, such approval shall include specific conditions designed to protect the applicator, as well as the public health and welfare; and a permit must be secured by the user from the department prior to the application or use of the product.

**30—10.34(206) Use of heptachlor.** Pesticides containing heptachlor shall not be distributed, sold or used for the purposes of preventing, destroying or repelling mosquitoes or flies.

**30—10.35(206) Use of lindane.** Formulations of pesticides containing lindane or crystalline lindane shall not be distributed, sold or used when the lindane is prepared, identified, packaged or advertised to be vaporized through the use of thermal vaporizing devices.

**30—10.36(206) Reports of livestock poisoning.** Any person practicing veterinary medicine under the provisions of Iowa Code chapter 169 encountering a case of poisoning, or suspected poisoning, of domestic livestock through injury from contact with, exposure to, or ingestion of any biological or chemical agent or compound, shall immediately report by telephone or telegraph such poisoning to the head of the veterinary diagnostic laboratory of Iowa state university of science and technology who shall immediately notify the state veterinarian of any such reports. Reports made pursuant to this rule shall be confirmed in writing as provided in 10.36(2).

**10.36(1) Verbal report.** The verbal report of a case of such poisoning shall provide information on as many of the items listed in 10.36(2) as available data allows.

**10.36(2) Written report.** The written report of a case of such poisoning shall be submitted within forty-eight hours, with one copy to the department and one copy to the veterinary diagnostic laboratory, and shall contain the following information on forms provided by the veterinary diagnostic laboratory or the department:

- a. Location of incident.
- b. Time and date of incident.
- c. Number and type of livestock affected.
- d. Poison agent, known or suspected.
- e. Location of source of poisoning.
- f. Type and degree of poisoning.
- g. Name, mailing address and telephone number of livestock owner.
- h. Whether release of poisoning agent is continuing.
- i. Whether poisoning agent is on land or in water.
- j. Any other information that may assist in evaluation of the incident.
- k. Name and address of reporting veterinarian.

**10.36(3) Subsequent findings.** All subsequent findings and diagnostic results shall be submitted as soon as they become available.

**30—10.37(206) Approval of use of inorganic arsenic formulation.** There are two stages in obtaining approval for the use of an inorganic arsenic formulation pursuant to rule 10.33(206). First, the advisory committee must approve the use of the formulation in the state for a particular pest. Then, each individual desiring to use the approved formulation must secure a permit from the department. The required procedure is set out in this rule.

**10.37(1) Who may apply.** Any person may apply for approval for the use of an inorganic arsenic formulation to control a specific pest or pests pursuant to rule 10.33(206).

**10.37(2) Form of application.** All such applications shall be made in writing, signed by the applicant, and shall specify:

- a. Common name or scientific name of pest or pests to be controlled with the formulation,
- b. Crops which the pest or pests endanger,
- c. Chemical name of inorganic arsenic formulation for which approval is requested,
- d. Why there are no acceptable alternative methods of controlling the pests available,
- e. Rate of application needed for control,
- f. Number of applications needed annually for control,
- g. Name, address and telephone number of the applicant.

**10.37(3) Hearings, when held.**

a. Applications for approval shall be considered at public hearings by the advisory committee.

b. The committee shall grant, modify, or deny the request for approval within seventy-two hours of the conclusion of the hearing.

**10.37(4) Conditions of approval.** Approvals shall be valid until revoked by the department.

a. In its approval, the committee shall specify:

- (1) The inorganic arsenic formulation to be used.
- (2) The pests for which it may be used.
- (3) The crops on which it may be used.
- (4) The maximum number of applications to be made annually, and
- (5) Information to be submitted to the department following use of the formulation.

b. The committee shall also specify the conditions designed to protect the public health and welfare as conditions for the issuance of a permit by the department. Such conditions shall include, but not be limited to:

- (1) That the permit applicant has sustained or will likely sustain damage from the pest for which control is approved,
- (2) Topographical requirements to ensure minimal runoff into waters of the state,
- (3) Minimum separation distance of area to be treated from waters of the state,
- (4) Minimum distance of area to be treated from property not under control of applicant,
- (5) Grass or other plant cover to prevent erosion on slopes to which the formulation is applied.

**10.37(5) Permits.** After an application for approval is granted, any person may use the formulation approved, provided that a permit is obtained from the department. The department and the committee shall review at least annually its approvals of uses of inorganic arsenic formulations and shall revoke an approval whenever it finds an acceptable alternative method of control is available.

Rules 10.33 to 10.37 are intended to implement Iowa Code sections 206.19, 206.20 and 206.23.

**10.38 to 10.44** Reserved.

**30—10.45(206) Ethylene dibromide (EDB) residue levels in food.** The following is the maximum allowable residue levels of Ethylene dibromide (EDB) for each of the three primary tiers of grain products:

**10.45(1)** For raw grain, the level should not exceed 900 parts per billion.

**10.45(2)** Intermediate level products—flour, various mixes for preparing baked goods, soft cereals and other products that would normally require cooking or baking before eating—the level should not exceed 150 parts per billion.

**10.45(3)** For ready-to-eat products—cold cereals, snack foods, bread and all baked goods—the level should not exceed 30 parts per billion.

**10.45(4)** For baby food, zero (0) tolerance—no acceptable level of EDB is permissible.

**10.45(5)** For fruit, the level should not exceed 250 parts per billion tolerance for the total fruit and should not exceed 30 parts per billion in the edible portion of the fruit.

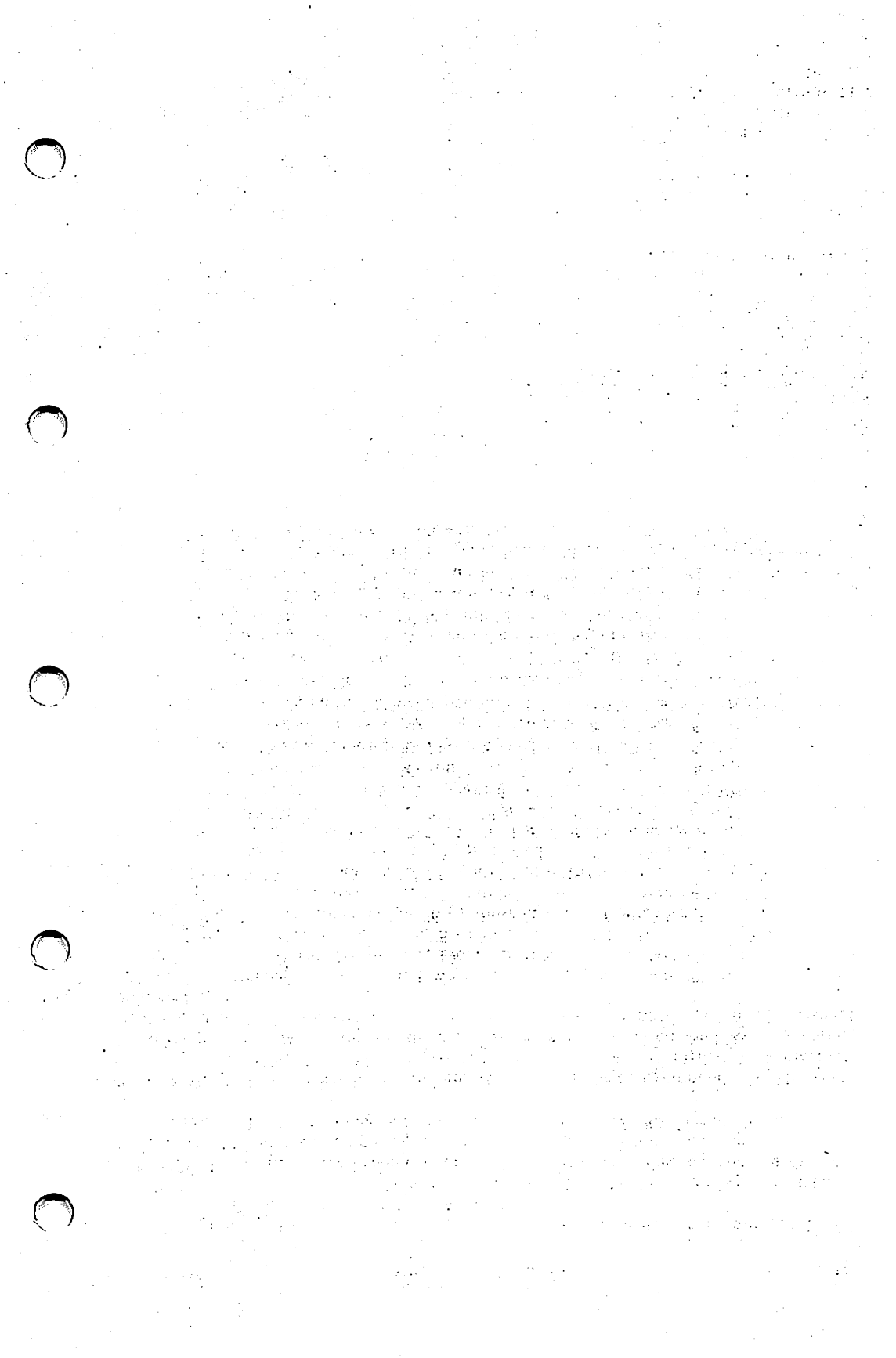
This rule is intended to implement Iowa Code sections 189.17, 206.21 and 190.2.

**30—10.46(206) Use of pesticide Command 6EC.** The pesticide Command 6EC Herbicide EPA Reg. No. 279-3054 (active ingredient: 2-(2-Chlorophenyl) methyl-4, 4-dimethyl-3-isoxazolidinone . . . 64.3%) or any identically formulated compound shall be soil incorporated immediately following application. The method of application shall be limited to ground equipment.

This rule is intended to implement Iowa Code sections 206.19 and 206.21.

[Filed December 2, 1963; amended May 15, 1964]

- [Filed 5/21/76, Notice 12/15/75—published 6/14/76, effective 7/20/76]
- [Filed without notice 12/21/76—published 1/12/77, effective 2/17/77]
- [Filed 2/17/77, Notice 1/12/77—published 3/9/77, effective 4/14/77]
- [Filed 5/25/77, Notice 2/23/77—published 6/15/77, effective 7/20/77]
- [Filed 6/10/77, Notice 4/20/77—published 6/29/77, effective 8/4/77]
- [Filed 6/26/78, Notice 5/17/78—published 7/26/78, effective 8/30/78]
- [Filed 7/23/79, Notice 5/2/79—published 8/8/79, effective 9/12/79]
- [Filed 12/7/79, Notice 9/5/79—published 12/26/79, effective 1/30/80]
- [Filed emergency 1/30/80—published 2/20/80, effective 1/30/80]
- [Filed 3/28/80, Notice 2/20/80—published 4/16/80, effective 5/26/80]
- [Filed 4/23/80, Notice 3/19/80—published 5/14/80, effective 6/18/80]
- [Filed 9/26/80, Notice 8/20/80—published 10/15/80, effective 11/19/80]
- [Filed 1/13/84, Notice 12/7/83—published 2/1/84, effective 3/7/84] ♦
- [Filed emergency 2/10/84—published 2/29/84, effective 2/10/84]
- [Filed emergency 3/9/84—published 3/28/84, effective 3/9/84]
- [Filed 4/6/84, Notice 2/29/84—published 4/25/84, effective 5/30/84]
- [Filed 5/4/84, Notice 3/28/84—published 5/23/84, effective 6/27/84]
- [Filed emergency 6/19/86—published 7/16/86, effective 6/19/86]
- [Filed 8/28/86, Notice 7/16/86—published 9/24/86, effective 10/29/86]
- [Filed 10/31/86, Notice 6/18/86—published 11/19/86, effective 12/24/86]



**143.4(4)** Upon receipt of the petition the board:

- a. Shall advise petitioner that he or she has thirty days in which to submit written views.
- b. May schedule oral presentation of petitioner's views.
- c. Shall, within sixty days after submission of the petition, either deny the petition or initiate rulemaking procedures.

**143.4(5)** In the case of a denial of a petition to promulgate, amend or repeal a rule, the board shall issue an order setting forth its reasons for such denial. The order shall be mailed to the petitioner.

**470—143.5(154) Rules for examinations.**

**143.5(1)** All applicants for examination shall apply to the State Department of Health, Lucas State Office Building, Des Moines, Iowa 50319 for application forms.

**143.5(2)** The forms properly completed shall be filed with the department, together with satisfactory evidence of compliance with Iowa Code section 154.3 (1) and (2) thirty days prior to the examination.

**143.5(3)** An applicant for admission to practice optometry in Iowa shall successfully pass the following:

- a. Parts one and two of the examination of the national board of examiners in optometry; and
- b. The written and practical clinical examinations of the Iowa state board of optometry examiners with a minimum average score of seventy-five percent and a minimum score on each part of seventy percent.

**143.5(4)** Rescinded, effective 3/25/83.

This rule is intended to implement Iowa Code section 147.36.

**470—143.6(154) Applicants licensed in another state.** Applicants who are or have been licensed in another state to practice optometry shall comply with the same provisions as those applicants who are not licensed in another state except that the applicants (1) shall also submit a statement as to all the places where they have practiced and the time of practice in each place and (2) shall have submitted by the optometry licensing board or licensing authority for optometrists of each state where they have practiced a statement of whether any license or certificate has been placed on probation, suspended or revoked and whether any disciplinary action is pending.

This rule is intended to implement Iowa Code section 147.53.

**470—143.7(154) Diagnostic pharmaceutical agents.**

**143.7(1)** Those persons licensed to practice optometry before January 2, 1980, who apply to be a certified licensed optometrist shall receive a grade of not less than seventy percent on the examination prescribed by the board of optometry examiners to pass the test.

**143.7(2)** The examination shall be in the subjects of physiology and pathology appropriate to the use of diagnostic pharmaceutical agents and diagnosis of conditions of the human eye, and pharmacology including systemic effects of ophthalmic diagnostic pharmaceutical agents and the possible adverse reactions thereto, authorized for use by optometrists by Iowa Code section 154.1.

This rule is intended to implement Iowa Code section 154.3(4).

**470—143.8(154) Notice of address.**

**143.8(1)** Before engaging in the practice of optometry, each optometrist shall notify the board in writing by United States mail of the address where he or she is to engage, or intends to engage, in the practice of optometry. If the optometrist intends to practice in more than one office, the notification shall include the address of each office.

**143.8(2)** Each optometrist shall as a part of his or her renewal application notify the board in writing of the address where he or she is engaged in the practice of optometry. In the event that the licensee is not engaged in the practice of optometry this shall be noted and the home address provided by the licensee. If the optometrist practices in more than one office, the notification shall include the address of each office.

**143.8(3)** Each optometrist shall notify the board in writing by United States mail of a change of address of his or her residence and where he or she is engaged in the practice of optometry within thirty days after the change of address.

This rule is intended to implement Iowa Code section 258A.3.

**470—143.9(154) Branch offices.**

**143.9(1)** Each optometrist practicing in a branch office shall display a certificate in each branch office in an area visible to the public attesting that the optometrist is currently licensed to practice optometry in the state of Iowa.

**143.9(2)** A branch office certificate shall be renewed at the same time as the license to practice optometry.

This rule is intended to implement Iowa Code section 147.7.

**470—143.10(147) Board of optometry examiners. All fees are nonrefundable.**

**143.10(1)** Application for license to practice optometry is two hundred fifty dollars (\$250).

**143.10(2)** Renewal of license to practice optometry for a biennial period is one hundred dollars (\$100).

**143.10(3)** Fee for a certified statement that a licensee is licensed in this state is ten dollars (\$10).

**143.10(4)** Fee for a duplicate license is ten dollars (\$10).

**143.10(5)** Fee for reinstatement of a license to practice optometry is one hundred dollars (\$100).

**143.10(6)** Fee for a certificate for a branch office is ten dollars (\$10). Biennial renewal fee for a branch office certificate is twenty dollars (\$20).

This rule is intended to implement Iowa Code section 147.80.

**470—143.11(17A) Declaratory rulings.**

**143.11(1)** Upon petition filed by any individual, partnership, corporation, association, government subdivision, private or public organization or state agency, the board may issue a declaratory ruling as to the applicability of statutes and rules, policy statements, decisions and orders under its jurisdiction.

**143.11(2)** A petition for a declaratory ruling shall be typewritten or printed and at the top of the first page shall appear in capitals the words: PETITION FOR DECLARATORY RULING BEFORE THE IOWA BOARD OF OPTOMETRY EXAMINERS.

**143.11(3)** The petition shall include the name and official title, if any, address and phone number of each petitioner. If the request is at the behest of any entity mentioned in subrule 143.11(1) it shall name the entity.

**143.11(4)** The body of the petition shall contain:

*a.* A detailed statement of facts upon which petitioner requests the board to issue its declaratory ruling.

*b.* The statute, rule, policy statement, decision or order for which a ruling is sought.

*c.* The exact words, passages, sentences or paragraphs which are the subject of inquiry.

*d.* The specific questions presented for declaratory ruling.

*e.* A consecutive numbering of each multiple issue presented for declaratory ruling.

*f.* A brief may be attached thereto.

**143.11(5)** The petition shall be filed either by serving it personally to the Director, Professional Licensure, or by mailing it to the Director, Professional Licensure, State Department of Public Health, Lucas State Office Building, Des Moines, Iowa 50319.

**143.11(6)** The director shall acknowledge receipt of petitions or return petitions not in substantial conformity with the above rules.

**143.11(7)** The board may decline to issue a declaratory ruling for the following reasons:

- a. Lack of jurisdiction.
- b. Lack of clarity of the issue and facts presented.
- c. The issue(s) presented is pending resolution by a court of Iowa or by the attorney general.
- d. The issue(s) presented has been resolved by a change in circumstances or by other means.
- e. The issue(s) is under investigation for purposes of formal adjudication.
- f. The petition does not comply with the requirements imposed by subrules 143.11(1) to 143.11(5).
- g. Where a ruling would necessarily determine the legal rights of other parties not represented in the proceeding.

**143.11(8)** In the event the board declines to make a ruling, the director shall notify the petitioners of this fact and the reasons for the refusal.

**143.11(9)** When the petition is in proper form and has not been declined, the board shall issue a ruling disposing of the petition within a reasonable time after its filing.

**143.11(10)** Rulings shall be mailed to petitioners and to other parties at the discretion of the director. Rulings shall be indexed and available for public inspection.

**143.11(11)** A declaratory ruling by the board shall have a binding effect upon subsequent board decisions and orders which pertain to the party requesting the ruling and in which the factual situation and applicable law are indistinguishable from that presented in the petition for declaratory rulings. To all other parties and in factual situations which are distinguishable from that presented in the petition, a declaratory ruling shall serve merely as precedent.

This rule is intended to implement Iowa Code section 17A.9.

[Filed 11/14/67]

[Filed 4/1/77, Notice 2/23/77—published 4/20/77, effective 5/25/77]

[Filed 11/29/79, Notice 9/5/79—published 12/26/79, effective 1/31/80]

[Filed 2/12/82, Notice 12/23/81—published 3/3/82, effective 4/8/82]

[Filed 1/21/83, Notice 11/10/82—published 2/16/83, effective 3/25/83]◇

[Filed 7/22/83, Notice 3/30/83—published 8/17/83, effective 10/1/83]

[Filed 10/21/83, Notice 8/17/83—published 11/9/83, effective 12/15/83]

[Filed emergency after Notice, 1/23/84, Notice 9/28/83—published 2/15/84, effective 1/23/84]

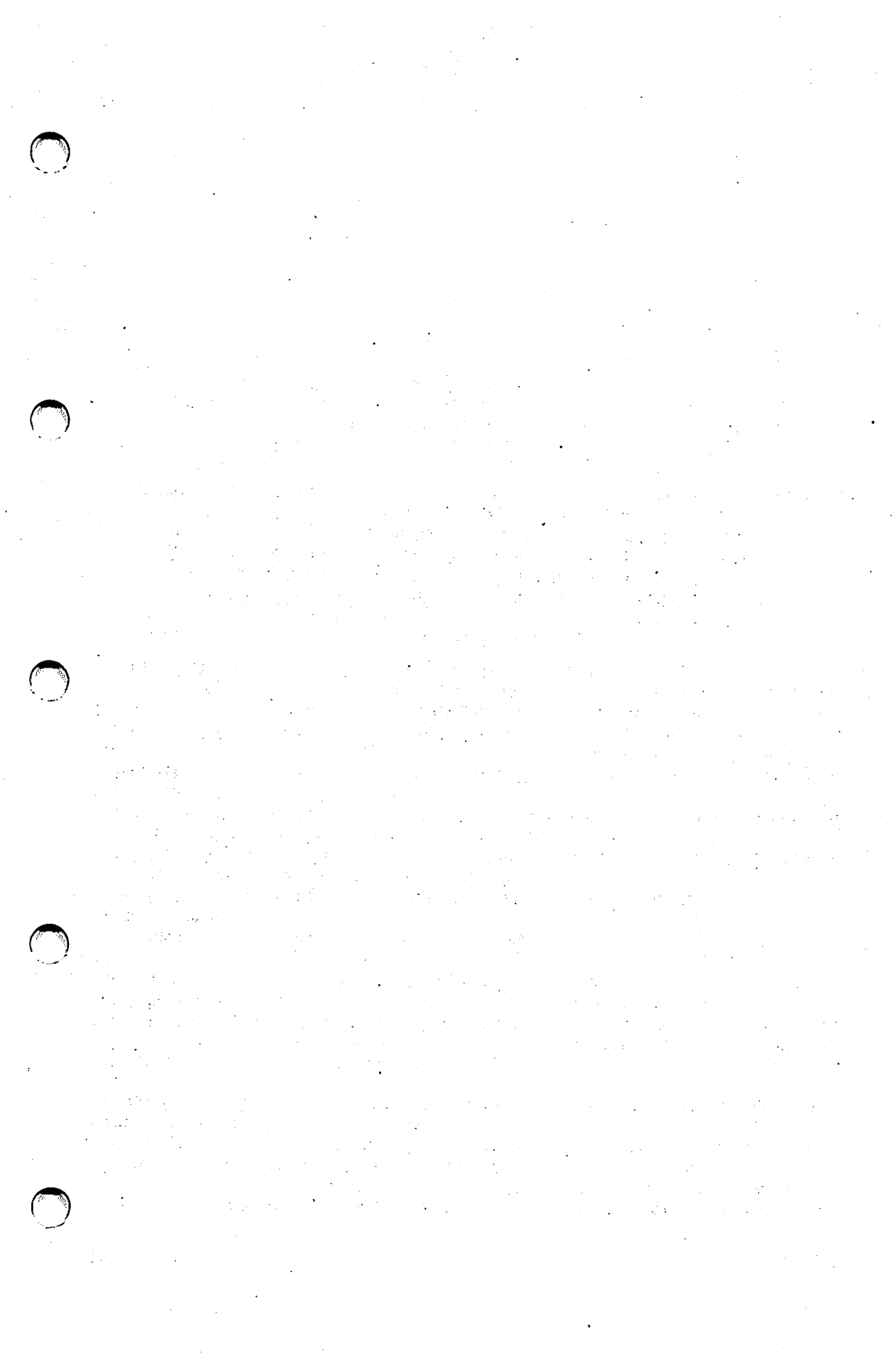
[Filed 2/10/86, Notice 8/14/85—published 2/26/86, effective 4/16/86]

[Filed 4/30/86, Notice 2/26/86—published 5/21/86, effective 6/25/86]

[Filed 7/25/86, Notice 5/21/86—published 8/13/86, effective 9/17/86]

[Filed 7/25/86, Notice 6/18/86—published 8/13/86, effective 9/17/86]

[Filed 10/31/86, Notice 8/13/86—published 11/19/86, effective 12/24/86]



# HIGHER EDUCATION LOAN AUTHORITY[480]

## CHAPTER 1

### ORGANIZATION AND OPERATION

1.1(261A) Purpose

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## CHAPTER 2

### RULEMAKING AND DECLARATORY RULES

2.1(261A) Initiation of rulemaking procedures

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## CHAPTER 1

### ORGANIZATION AND OPERATION

**480—1.1(261A) Purpose.** This chapter describes the organization and operation of the Iowa Higher Education Loan Authority (hereinafter referred to as the authority), including the offices where and the means by which any interested person may obtain information and make submittals or requests.

**480—1.2(261A) Organization and operations.**

**1.2(1) Location.** The office of the authority is located at 307 Equitable Building, 6th and Locust, Des Moines, Iowa 50309. Office hours are 8:30 a.m. to 4:30 p.m. Monday through Friday. Offices are closed on Saturdays, Sundays, and holidays as designated by the authority.

**1.2(2) The authority.** The authority consists of five members and functions under the leadership of a chairperson elected annually by the membership. Each member is appointed by the governor, subject to confirmation by the senate, to serve a term of six years. The powers of the authority are vested in and exercised by the members of the authority. Each member of the authority shall be a resident of the state and not more than three members shall be members of the same political party. The members of the authority may appoint an executive director, an assistant executive director, and other officers as the members of the authority determine. The officer shall not be members of the authority, shall serve at the pleasure of the authority, and shall receive compensation as fixed by the authority.

**1.2(3) Meetings.** The authority shall meet at the discretion of the chairperson or at the request of two members.

**a.** The chairperson of the authority presides at each meeting. Members of the public may be recognized at the discretion of the chairperson. All meetings are open to the public in accordance with the open meetings law, Iowa Code chapter 21.

**b.** Public notice. The authority shall give advance public notice of the specific date, time and place of each authority meeting.

**c.** Three members of the authority constitute a quorum. The affirmative vote of a majority of the members of the authority is necessary for any action taken by the authority. The majority shall not include a member who has a conflict of interest and a statement by a member of a conflict of interest is conclusive for this purpose. A vacancy in the membership of the authority does not impair the right of a quorum to exercise the rights and perform the duties of the authority.

**1.2(4) Minutes.** The minutes of all authority meetings are recorded by the secretary and kept in the authority's office.

1.2(5) *Records.* The records of all of the business transacted and other information with respect to the operation of the authority are public records and are on file in the authority's office. All records except statements specified as confidential under these rules are available for inspection and photocopying at reasonable cost during regular business hours.

1.2(6) *Submission and requests.* Inquiries, submissions, petitions, and other requests directed to the authority may be made by letter addressed to the authority's office at the address listed in subrule 1.2(1). Any person may petition for a written or oral hearing before the authority. All requests for a hearing must be in writing and must state the specific subject to be discussed and the reasons why a personal appearance is necessary if one is requested.

1.2(7) *Administration of programs.* The authority may adopt manuals, instructions or other statements as necessary to assist its employees in administering its programs and to permit individuals and organizations to participate in programs administered by the authority. Copies of all manuals, instructions and other statements shall be kept in the authority's office and shall be available for public inspection except for those portions which are excluded from the definition of "rule" by Iowa Code section 17A.2(7)"f," or which must be kept confidential under applicable statutes or these rules. Members of the public may inspect the materials adopted pursuant to this rule, subject to the exceptions set out above, during regular business hours and may obtain a reasonable number of copies of the materials upon payment of a fee not to exceed the cost of providing copies.

These rules are intended to implement Iowa Code section 17A.3(1) and chapter 261A.

[Filed 4/15/86, Notice 2/12/86—published 5/7/86, effective 6/11/86]

## CHAPTER 2 RULEMAKING AND DECLARATORY RULES

### 480—2.1(261A) Initiation of rulemaking procedures.

2.1(1) Any person may request the authority to adopt, amend, or rescind a rule by making the request in writing to the authority's office clearly stating the intent, purposes, and general language of the desired rules.

2.1(2) The authority shall act upon the request within sixty days after its submission in accordance with Iowa Code section 17A.7.

2.1(3) The authority may initiate rulemaking procedures upon its own motion in accordance with Iowa Code section 17A.4.

### 480—2.2(261A) Procedures for oral or written presentations.

2.2(1) Except where oral or written presentations are deemed unnecessary by the authority in accordance with Iowa Code section 17A.4(2), the authority shall allow for the submission of oral or written presentations, or both, prior to its adoption of any rules.

2.2(2) Interested persons shall have at least twenty days from the date of publication of notice in the Iowa Administrative Bulletin to submit written requests for oral presentations or to submit written presentations.

2.2(3) Notice of date, time and place of oral presentations by requesting parties will be published in the Iowa Administrative Bulletin at least twenty days in advance of the hearing.

2.2(4) Interested parties may be requested to supplement oral presentations with written presentations at the discretion of the authority.

### 480—2.3 Rescinded effective December 24, 1986.

**480—2.4(261A) Declaratory rulings.** The authority shall provide declaratory rulings as to applicability of any statutory provision, rule or other written statement of law or policy, decision or order when petitioned to do so by the public where, in the judgment of the authority, rulings are necessary or helpful to the authority in conducting its affairs in accordance with the law.

Requests for declaratory rulings shall be made to the authority's office in writing.

Within thirty days after submission of a request for declaratory ruling, the authority shall issue a ruling on the rule, statute or policy in question. The ruling shall be in writing.

The authority may decline to rule when in the judgment of the authority the ruling would be beyond the authority's realm of authority, when no clear answer is determinable, or when the issue presented is pending resolution by a court of Iowa or by the attorney general.

**480—2.5(261A) Procedure for informal settlements in contested cases.** Unless precluded by statute, informal settlement of disputes over rules of the authority that may otherwise result in contested case proceedings as prescribed in Iowa Code section 17A.12 shall be encouraged.

All informal settlements shall be made by the executive director subject to ratification by the authority and by the parties contesting the rule in question. The settlement shall be expressed in a written stipulation representing an informed mutual consent.

These rules are intended to implement Iowa Code sections 17A.4, 17A.9 and chapter 261A.

[Filed 4/15/86, Notice 2/12/86—published 5/7/86, effective 6/11/86]

[Filed 10/31/86, Notice 9/10/86—published 11/19/86, effective 12/24/86]



CHAPTER 5  
OPERATING LOAN GUARANTEE PROGRAM

**523—5.1(175) Operational definitions.**

*"Beginning farmer"* means an individual or partnership as defined by 1985 Iowa Code supplement chapter 175, that became engaged in farming on or after January 1, 1982.

*"Displaced farmer"* means a person who discontinued farming on or after January 1, 1982, due to foreclosure or voluntary liquidation for financial reasons, and who was actively engaged in farming for at least one year prior to discontinuing farming.

*"Net worth"* means total assets minus total liabilities as determined by the lender, in accordance with rules of the authority and accepted accounting procedures.

*"Total assets"* shall include, but not be limited to the following: Cash crops or feed on hand; livestock held for sale; breeding stock; marketable bonds and securities; securities (not readily marketable); accounts receivable; notes receivable; cash invested in growing crops; net cash value of life insurance; machinery and equipment, cars and trucks; farm and other real estate including life estates and personal residence; value of beneficial interest in a trust; government payments or grants; any other assets.

Total assets shall not include items used for personal, family or household purposes by the applicant, but in no event shall such property be excluded to the extent a deduction for depreciation is allowable for federal income tax purposes. All assets shall be valued at fair market value by the participating lender. Such value shall be what a willing buyer would pay a willing seller in the locality. A deduction of ten percent may be made from fair market value of farm and other real estate.

*"Total liabilities"* shall include, but not be limited to the following: Accounts payable; notes or other indebtedness owed to any source; taxes; rent; amount owed on real estate contract or real estate mortgages; judgments; accrued interest payable; and any other liabilities.

**523—5.2(175) General provisions.**

**5.2(1) Loan period.** The loan period shall not exceed one (1) year following the date the participating lender has advanced the first funds for the operating loan. The authority shall have the option to extend the loan guarantee for an additional year. The loan guarantee will automatically expire on the expiration date unless extended by the authority. The authority shall guarantee only one (1) operating loan for each beginning farmer or displaced farmer.

**5.2(2) Fees.** The authority may charge reasonable and necessary fees needed to defray the costs of the loan guarantee program.

**523—5.3(175) Loan eligibility.**

**5.3(1)** The loan guarantee fund shall not be used to guarantee a loan where the ratio of the beginning or displaced farmer's liabilities, excluding the amount of the loan, to net worth is greater than three to one.

**5.3(2)** The authority shall not issue a loan guarantee to be used to refinance existing loans held by any lender eligible to participate in the loan guarantee program.

**5.3(3)** Purposes for which guaranteed loan proceeds may be used include items needed for a successful farming operation. Such items shall include: Livestock feed, seed, fuel, fertilizer, lime, chemicals, building and machinery repair and maintenance, cash farm rent, breeding fees, veterinary fees, livestock medicine, storage and warehousing, interest, real estate taxes, insurance for crops and buildings, utility expenses for farm purposes, freight and trucking expense, machine hire, hired labor, repairs of livestock and poultry equipment. No operating loan guarantee funds shall be used for personal or living expenses or for capital goods.

**523—5.4(175) Application procedures.**

5.4(1) Application will be made on customary and appropriate forms approved by the authority. Each application will include, but not be limited to, the following: Names and addresses of beginning or displaced farmer and participating lender, amount of loan, statement of beginning or displaced farmer's net worth determined in accordance with the authority's rules, length of loan guarantee plus certain certifications of the beginning or displaced farmer and lender including the ratio of the beginning or displaced farmer's liabilities, excluding the amount of the loan, to net worth.

5.4(2) Applications for loan guarantees will be taken and processed by the authority on a first-come, first-served basis.

5.4(3) The authority shall, by a majority vote, approve each loan application before an operating loan guarantee will be issued.

**523—5.5(175) Total amount of loan guarantee.** The authority, under its operating loan guarantee program, will pay to a participating lender seventy-five percent of the actual amount of a loan deficiency, except that in no event will payment exceed \$18,750 on any single loan guarantee, provided that:

1. Guaranteed loan is in default;
2. Amount of loan deficiency has been documented to the satisfaction of the authority;
3. Participating lender has satisfied all of the requirements of the authority's operating loan guarantee and operating loan guarantee program;
4. All other sources of payment have been pursued and fully exhausted.

The amount of loan deficiency shall include principal, accrued interest and liquidation expenses which can be attributed to the guaranteed loan.

**523—5.6(175) Allocation of loan funds among lenders.**

5.6(1) No participating lender shall be eligible to obtain loan guarantees for more than an aggregate principal amount of \$100,000.

5.6(2) Reserved.

**523—5.7(175) Security for loans.** The lender shall take security, cosignatures, guarantees, sureties, etc., that the lender or authority deems necessary for any loan.

**523—5.8(175) Loan minimum.** There will be no minimum amount for a loan under this program.

**523—5.9(175) Administration of loans.** Lenders shall hold the loan instruments and shall receive all payments of principal and interest. The holder of the note (lender) shall not, without prior consent of the authority:

1. Make or consent to any substantial alterations in the terms of any loan instrument;
2. Make or consent to releases of security or collateral on the loan;
3. Accelerate the maturity of the note;
4. Sue upon any loan instrument;
5. Waive any claim against any borrower, cosigner, guarantor, obligor, or standby creditor arising out of any loan instruments.

All servicing actions shall be the responsibility of the lender who shall follow accepted standards of loan servicing employed by prudent lenders generally.

**523—5.10(175) Sharing of repayment proceeds and collateral.** Lenders shall not acquire any preferential security, surety, or insurance to protect the unguaranteed interest in a loan. All repayments, security, or guarantee of any nature, including without limitation, rights of setoff and counterclaim, which the lender or the authority jointly or severally may at any time recover from any source whatsoever or have the right to recover on any guaranteed loan, shall repay and secure the interest of the lender and the authority in the same proportion as such interest bears respectively to the unpaid balance of the loan.

Any loan or advance made by the lender to a borrower subsequent to a guaranteed loan, secured by security or collateral pledged for the guaranteed loan will be subordinate to the guaranteed loan.

**523—5.11(175) Events of loan default.**

**5.11(1)** After a loan is in default for a period of thirty days, the lender shall have ten days to file a report regarding the status of the loan to the authority on forms provided by the authority.

**5.11(2)** The authority may at its option, any time a guaranteed loan is in default, purchase from the lender the note, security agreements, additional guarantees, and other documents for an amount equal to the authority's guarantee. In the event the authority exercises this option, it will issue to the lender a participation certificate representing the lender's unguaranteed interest in the loan. The authority would become the servicer of the loan in such case.

**5.11(3)** All reasonable and necessary expenses incurred by the lender or the authority which are applicable in the liquidating of a guaranteed loan, which are not recoverable from the borrower, cosigners, guarantors, or any other sureties shall be shared ratably by the lender and the authority in accordance with their respective interests in any such loan. If expenses are incurred by the lender to collectively liquidate loans of the borrower, including both the guaranteed loan and another loan or loans not guaranteed by the authority, the authority will guarantee only a pro rata share of the necessary expenses associated solely with the liquidation of the guaranteed loan.

These rules are intended to implement 1985 Iowa Code supplement section 175.2 and Iowa Code section 175.30 as amended by 1986 Iowa Acts, Senate File 2212.

[Filed emergency 11/18/83—published 12/7/83, effective 12/1/83]

[Filed 2/24/84, Notice 12/7/83—published 3/14/84, effective 4/18/84]

[Filed 10/31/86, Notice 7/2/86—published 11/19/86, effective 12/24/86]\*

CHAPTER 6  
IOWA AGRICULTURAL LOAN ASSISTANCE PROGRAM

**523—6.1(175) Iowa Agricultural Loan Assistance Program description.** This program will operate at two levels. Each is intended to reduce the interest cost of operating loans to farmers for reasonable and necessary expenses of farming to be incurred during the 1986-87 production year. The authority will enter into interest buydown agreements with lending institutions and farmers under which the lending institution will agree to write down the farmer's interest rate on the operating loan for approximately one year and the authority will agree to give the lending institution an interest buydown grant in partial reimbursement of the written down interest rate on the operating loan. The program is intended to supplement the Guaranteed Operating Loan Program (specifically the Interest Rate Buydown Program) of the Farmers Home Administration authorized at 7 C.F.R. Part 1980, subpart B, as amended to March 2, 1979. Application for an FmHA guarantee on an operating loan is a prerequisite to receiving an interest rate buydown with respect to an operating loan pursuant to level one of this program. Denial of an FmHA guarantee or a determination by the executive director that assistance will not be available on a timely basis from FmHA is a prerequisite to receiving an interest rate buydown with respect to an operating loan pursuant to level two of this program.

**523—6.2(175) Joint operational definitions.**

*"Authority"* means the Iowa agricultural development authority, established pursuant to Iowa Code chapter 175, as amended by 1986 Iowa Acts, House File 2351.

*"Farm"* means a farming enterprise which is recognized in the community as a farm rather than a rural residence.

*"Farmer"* means an individual, partnership, or family farm corporation as defined in Iowa Code section 172C.1(8) that engages in farming.

*"Farming"* means the cultivation of land for the production of agricultural crops, the raising of poultry, the production of eggs, the production of milk, the production of fruit or other horticultural crops, grazing, the production of livestock, aquaculture, hydroponics, the production of forest products, or other activities designated by the authority by rules promulgated pursuant to Iowa Code chapter 17A.

*"Farm operating loan rate"* for purposes of level two means the most common per annum rate of interest charged by a lending institution on operating loans to its typical farmer customers. If a lending institution usually charges a variable rate of interest on farm operating loans, the farm operating loan rate shall not exceed the average variable interest rate charged on operating loans to its typical farmer customers over the ninety calendar days immediately prior to an application pursuant to level two.

*"Federal Operating Loan Program"* means the Guaranteed Operating Loan Program together with the Interest Rate Buydown Program administered by the FmHA as described in 7 C.F.R. Part 1980, subpart B. (section 1980.175 and Exhibit D)

*"FmHA"* means the Farmers Home Administration of the United States Department of Agriculture.

*"FmHA buydown agreement"* means Form FmHA 1980-58 (or a replacement thereof), an agreement between a lending institution, a farmer, and the FmHA under which the FmHA agrees to give the lending institution an interest buydown grant in partial reimbursement of a writedown by the lending institution of the interest rate on the farmer's operating loan pursuant to the federal operating loan program.

*"Iowa buydown agreement"* means an agreement between a lending institution, a farmer, and the authority under which the authority agrees to give the lending institution an interest buydown grant in partial reimbursement of a writedown by the lending institution of the interest rate on the farmer's operating loan pursuant to this program.

*"Lending institution"* means a bank, trust company, mortgage company, national banking association, savings and loan association, life insurance company, any state or federal governmental agency or instrumentality, including without limitation the federal land bank or any

**RACING COMMISSION, STATE[693]**

Renamed by 1986 Iowa Acts, Senate File 2175, Racing and Gaming  
Division[195] under the "umbrella" of Commerce, Department of [181]



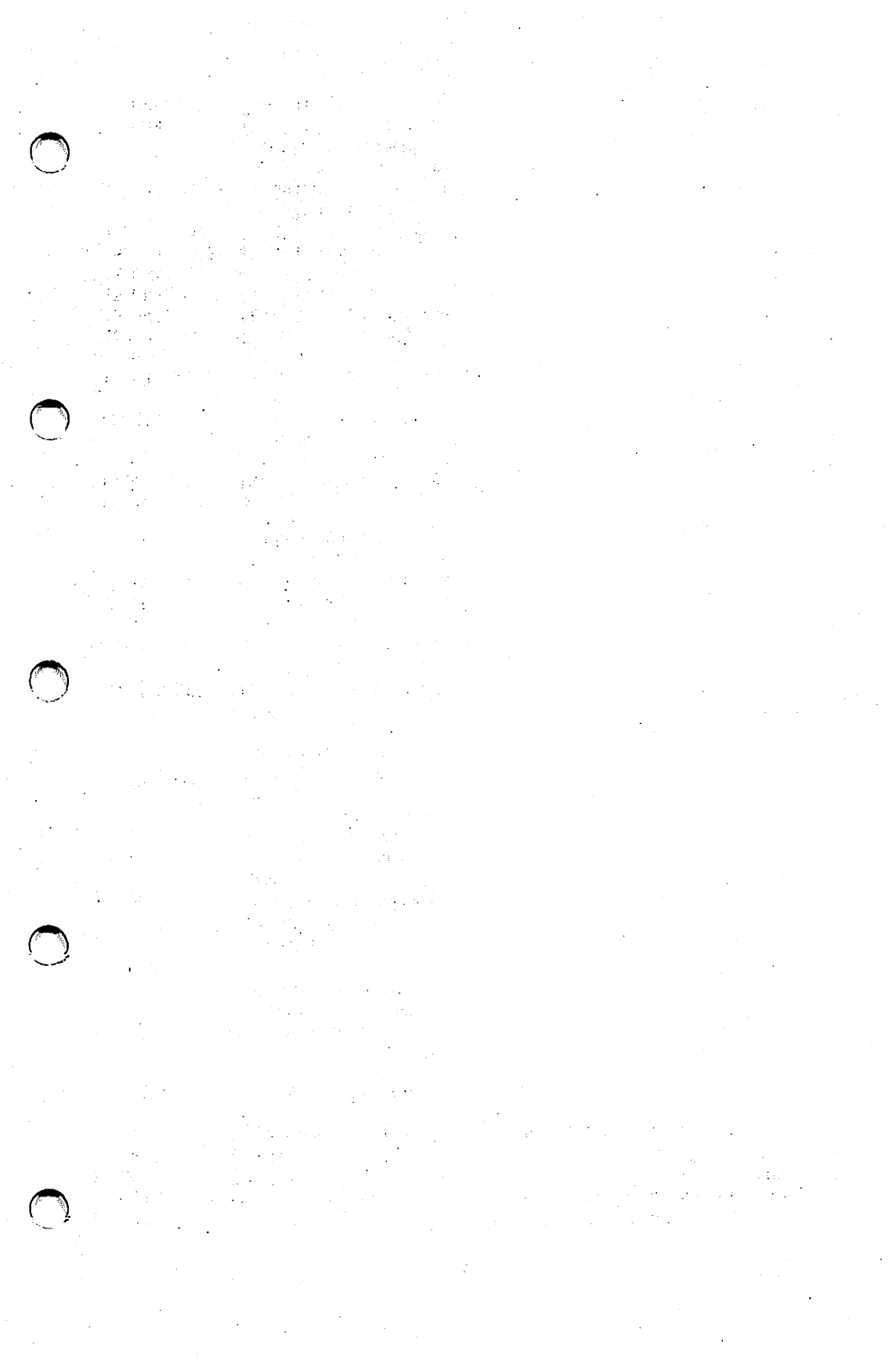
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A person shall not engage in any Iowa business subject to tax until the person has procured a permit except as provided in 13.5(422). There is no charge for a retail sales tax permit. If a person makes retail sales from more than one location, each location shall be required to hold a permit. Retail sales tax permits are issued to retailers for the purpose of making retail sales of tangible personal property or taxable services. Persons shall not make application for a permit for any other purpose.

This rule is intended to implement Iowa Code section 422.53.

**730—13.2(422) Application for permit.** An application for a permanent permit shall be made upon a form provided by the department, and the applicant shall furnish all information requested on such form.

An application for a permit for a business operating under a trade name shall state the trade name, as well as the individual owner's name, in the case of a sole ownership by an individual; or, the trade name and the name of all partners, in the case of a partnership.

The application shall be signed by the owner, in the case of an individual business; by a partner, in the case of a partnership, although all partners' names shall appear on the application; and by the president, vice president, treasurer or other principal officer of a corporation or association, unless written authorization is given by such officers for another person to sign the application.

The application shall state the date when the applicant will begin selling tangible personal property or taxable services at retail in Iowa from the location for which the application is made.

This rule is intended to implement Iowa Code section 422.53.

**730—13.3(422) Permit not transferable—sale of business.** Permits shall not be transferable. A permit holder selling his business shall cancel his permit, and the purchaser of the business shall apply for a new permit in his own name.

This rule is intended to implement Iowa Code section 422.53.

**730—13.4(422) Permit—consolidated return optional.** A permit holder procuring more than one permit may file a separate return for each permit; or, if arrangements have been made with the department, he may file one consolidated return reporting sales made at all locations for which he holds a permit.

When a taxpayer makes a consolidated return, forms furnished by the department shall be required to be filed.

All working papers used in the preparation of the information required must be available for examination by the department.

This rule is intended to implement Iowa Code sections 422.51 and 422.53.

**730—13.5(422) Retailers operating a temporary business.** A person not regularly engaged in selling at retail and not having a permanent place of business but is temporarily selling from trucks, portable roadside stands, concessionaires at state, county, district or local fairs, carnivals and the like shall not be required to hold a permit. These retailers shall request an identification card from the department. The card shall be in a form prescribed by the director and shall be completed and displayed by the retailer to show authorization to collect tax. The issuance of the card by the department shall be dependent upon the frequency of sales and other conditions as each individual case may warrant.

This rule is intended to implement Iowa Code section 422.53(6).

**730—13.6(422) Reinstatement of canceled permit.** A person who previously held and canceled a permit and wishes to re-engage in business in the same county shall apply to the department for reinstatement of the permit. Upon receipt of the proper clearance for previous tax returns, a new permit shall be issued.

This rule is intended to implement Iowa Code section 422.53.

**730—13.7(422) Reinstatement of revoked permit.** A revoked permit shall be reinstated only on such terms and conditions as the case may warrant. Terms and conditions do include payment of any tax liability which may be due the department.

Pursuant to the director's statutory authority in Iowa Code section 422.53(5) to restore licenses after a revocation, the director has determined that upon the revocation of a sales tax permit the initial time, the permit holder will be required to pay all delinquent sales tax liabilities, to file returns, and to post a bond and to refrain from taxable occurrences under section 422.43 as required by the director prior to the reinstatement or issuance of a new sales tax permit.

As set forth above, the director may impose a waiting period during which the permit holder must refrain from taxable occurrences pursuant to the penalties of Iowa Code section 422.58(2), not to exceed ninety days to restore a permit or issue a new permit after a revocation. The department may require a sworn affidavit, subject to the penalties of perjury, stating that the permit holder has fulfilled all requirements of said order of revocation, and stating the dates on which permit holder refrained from taxable occurrences.

Each of the following situations will be considered one offense, for the purpose of determining the waiting period to reinstate a revoked permit or issue a new permit after a revocation unless otherwise noted.

Failure to post a bond as required.

Failure to file a quarterly return or monthly deposit timely.

Failure to pay tax timely (including unhonored checks, failure to pay, and late payments).

Failure to file a quarterly return or a monthly deposit and pay tax shown on the return or deposit timely (counts as two offenses).

The hearing officer or director of revenue may order a waiting period after the revocation not to exceed:

Five days for one through five offenses.

Seven days for six through seven offenses.

Ten days for eight through nine offenses.

Thirty days for ten offenses or more.

The hearing officer or director of revenue may order a waiting period not to exceed:

Forty-five days if the second revocation occurs within twenty-four months of the first revocation.

Sixty days if the second revocation occurs within eighteen months of the first revocation.

Ninety days if the second revocation occurs within twelve months of the first revocation.

Ninety days if the third revocation occurs within thirty-six months of the second revocation.

This rule is intended to implement Iowa Code sections 422.53 and 422.58(2).

**730—13.8(422) Withdrawal of permit.** After investigation, the department will withdraw a permit under the following conditions:

**13.8(1)** Upon a determination that the permit holder cannot be located in the state of Iowa and upon failure to obtain service of an order to appear and show cause, after sending the notice by registered certified mail or an attempt to personally serve the notice of the order.

**13.8(2)** Upon a determination that the permit holder cannot be located in the state of Iowa and upon a determination by the department that a business has been terminated or abandoned by the permit holder, without a request for cancellation signed by the permit holder.

**13.8(3)** The permit holder has become incapacitated or unable to respond or is deceased and has no duly appointed trustee, guardian or individual holding a power of attorney, executor or administrator.

The withdrawal shall not constitute a revocation of said license, nor shall any penalties imposed for revocation be applicable. A permit so withdrawn shall be reissued in its prior status at such time as any affected permit holder so requests. The proceedings for withdrawal will be in conformity with Iowa Code section 17A.18.

This rule is intended to implement Iowa Code section 17A.18.

**730—13.9(422) Loss or destruction of permit.** When it becomes necessary to replace an active permit by reason of loss or destruction, the department will furnish a duplicate permit.

This rule is intended to implement Iowa Code section 422.53.

**730—13.10(422) Change of location.** When a retailer changes business location, the permit shall be canceled and an application shall be made for another permit at the new location.

This rule is intended to implement Iowa Code section 422.53.

**730—13.11(422) Change of ownership.** A retailer changing their business entity shall apply for a new permit under the name of the new entity. This is required but not limited to such entity changes as proprietorship to partnership, partnership to corporation or any combination thereof.

This rule is intended to implement Iowa Code section 422.53.

**730—13.12(422) Permit must be posted.** The permit shall be conspicuously posted at all times in the taxpayer's place of business in such manner and position that it may be readily seen and read by the public.

This rule is intended to implement Iowa Code section 422.53(3).

**730—13.13(422) Trustees, receivers, executors and administrators.** By virtue of their appointment, trustees, receivers, executors and administrators who continue to operate, manage or control a business involving the sale of tangible personal property or taxable services or engage in liquidating the assets of a business by means of sales made in the usual course of trade shall collect and remit tax on inventory and noninventory items. In Re Hubs Repair Shop, Inc. 28 B.R. 858 (Bkrcty 1983).

A permit of a ward, decedent, cestui que trust, bankrupt, assignor or debtor for whom a receiver has been appointed, which is valid at the time a fiduciary relation is created, shall continue to be a valid permit for the fiduciary to continue the business for a reasonable time or to close out the business for the purpose of settling an estate or terminating or liquidating a trust.

This rule is intended to implement Iowa Code sections 422.42(1) and 422.53.

**730—13.14(422) Vending machines and other coin-operated devices.** An operator who places machines on location shall hold one permit for their principal place of business, whether it is located in the state of Iowa or outside the state of Iowa.

This rule is intended to implement Iowa Code sections 422.43 and 422.53, as amended by 1986 Iowa Acts, House File 2471, and 1985 Iowa Code Supplement section 422.42, as amended by 1986 Iowa Acts, House File 2471.

**730—13.15(422) Other amusements.** Billiard and pool tables, shooting galleries and other similar undertakings operated in a regular place of business owned and managed by the operator shall not come within the provisions of the rule with respect to holding one permit for the entire state. The provision requiring a permit shall not include devices operated at

fairs, circuses and carnivals which are temporarily located within the state of Iowa.

This rule is intended to implement Iowa Code chapter 422.

**730—13.16(422) Substantially delinquent tax—denial of permit.** The department may deny a permit to any applicant who is, at the time of application, substantially delinquent in paying any tax due which is administered by the department or the interest or penalty on the tax. If the applicant is a partnership, a permit may be denied if a partner is substantially delinquent in paying any tax, penalty, or interest regardless of whether the tax is in any way a liability of or associated with the partnership. If an applicant for a permit is a corporation, the department may deny the applicant a permit if any officer, with a substantial legal or equitable interest in the ownership of the corporation, owes any delinquent tax, penalty, or interest of the applicant corporation. In this latter instance, the corporation must, initially, owe the delinquent tax, penalty, or interest, and the officer must be personally and secondarily liable for the tax. This is in contrast to the situation regarding a partnership.

The local option sales and service tax is a tax administered by the department. Local vehicle, property, whether imposed on centrally assessed property or not, beer and liquor, and insurance premium taxes are nonexclusive examples of taxes which are not administered by the department.

The amount of tax delinquent, the number of filing periods for which a tax remains due and unpaid, and the length of time a tax has been unpaid are the principal, but nonexclusive circumstances, which the department will use to determine whether an applicant is “substantially” or insubstantially delinquent in paying a tax. The department may deny a permit for substantial delinquency. Nonexclusive factors which the department will consider in determining whether substantial delinquency will or will not result in the denial of an application for a permit are the following: Whether the delinquency was inadvertent, negligent, or intentional; the amount of tax, interest, or penalty owed in relation to the applicant’s total financial resources; and, whether the applicant’s business is likely to survive over the long term if a license or permit is granted. This rule is applicable to tax, interest, and penalty due and payable on and after January 1, 1987.

This rule is intended to implement Iowa Code subsection 422.53(2) as amended by 1985 Iowa Acts, House File 764.

[Filed December 12, 1974]

[Filed 11/5/76, Notice 9/22/76—published 12/1/76, effective 1/5/77]

[Filed 1/18/80, Notice 12/12/79—published 2/6/80, effective 3/12/80]

[Filed emergency 7/17/80—published 8/6/80, effective 7/17/80]

[Filed 12/4/81, Notice 10/28/81—published 12/23/81, effective 1/27/82]

[Filed 5/7/82, Notice 3/31/82—published 5/26/82, effective 6/30/82]

[Filed 9/9/83, Notice 8/3/83—published 9/28/83, effective 11/2/83]

[Filed 9/5/86, Notice 7/30/86—published 9/24/86, effective 10/29/86]

[Filed 10/31/86, Notice 9/24/86—published 11/19/86, effective 12/24/86]

**730—18.33(422,423) Sales by trade shops to printers.**

**18.33(1)** As used in this rule, the following definitions apply:

*a. "Printer"* means a business engaged in printing that completes a finished product for sale at retail.

*b. "Trade shop"* means a business which is not normally engaged in the business of doing printing which sells supplies to printers including, but not limited to, those supplies enumerated in Iowa Code section 422.45(21).

**18.33(2)** The gross receipts from the sale of lithographic-offset plates, photo engraved plates, engravings, negatives, color separations, typesetting, the end products of image modulation, or any base material used as a carrier for light sensitive emulsions to be used by a printer to complete a finished product for sale at retail shall be exempt from tax when purchased from a trade shop.

For purposes of this subrule, the following nonexclusive list of items shall be considered exempt from tax: Color keys, film, halftones, linotype, magnesium and zinc etchings, masters, nonsensitized plates, positives, printing cylinders, stepped plates, tints, transparencies and veloxes. For purposes of this subrule, the following nonexclusive list of items shall not be considered exempt from tax: Electrotypes, mats, photos, proofs and stereotypes.

This subrule applies only to supplies purchased by printers from trade shops. For an explanation of other rules which may apply to printers see rule 16.51(422,423) (treatment of printing as the sale of tangible personal property), subrule 18.27(4) (preliminary art), rules 18.29(422,423) and 28.2(423) (processing), rule 18.31(422,423) (purchases of tangible personal property by persons engaged in the performance of a service) and rule 26.39(422) (treatment of printing as a service).

**18.33(3)** The exemption provisions of subrule 18.33(2) are retroactive to July 1, 1971. Sales or use tax paid on transactions occurring between July 1, 1971, and July 1, 1983, are subject to refund. Claims for refunds for transactions occurring between July 1, 1971, and July 1, 1983, must have been filed with the department by September 1, 1983. No claim for refund filed with the department after September 1, 1983, will be paid.

Notwithstanding the foregoing, the total amount of refunds to be paid shall not exceed \$50,000. If the total dollar amount of all allowable claims for refunds exceeds \$50,000, the \$50,000 will be prorated among the claimants. Each claimant will be refunded an amount equal to the percent that \$50,000 bears to the total amount of all allowable claims. Therefore, a refund paid pursuant to this subrule must be deemed final and nonadjustable.

**EXAMPLE.** The total amount of allowable claims filed by September 1, 1983, amounts to \$500,000. The total amount available for refund to all claimants is \$50,000. In this example each claimant will receive a refund of 10 percent of the amount of their allowable claim.

This rule is intended to implement Iowa Code section 422.45(21).

**730—18.34(422,423) Automatic data processing.**

**18.34(1)** *In general.* For the purposes of this rule, the tax on automatic data processing is applicable to the gross receipts of:

*a. Sales and rentals of data processing equipment (hardware).*

*b. Sales and rentals of tangible personal property produced by data processing equipment or consumed in data processing operations (software).*

*c. Certain enumerated services performed on or connected with data processing such as equipment rental, machine repair, printing, services of machine operators, office and business machine repair, photography, electrical installation, and any other taxable service enumerated in section 422.43 of the Iowa Code.*

**18.34(2)** *Taxable sales, rentals and services.*

*a. Sales of equipment.* Tax applies to sales of automatic data processing equipment and related equipment.

*b. Rental or leasing of equipment.* Where a lease includes a contract by which a lessee secures for a consideration the use of equipment which may or may not be used on his or her premises, the rental or lease payments are subject to tax. (See rule 26.18 on equipment rental).

*c. Prewritten (canned) programs.* These are programs prepared, held, or existing for

general or repeated use, including programs developed for in-house use and subsequently held or offered for sale. The programs may be transferred to the customer in the form of punched cards, data on magnetic tape, or by listing the program instructions on coding sheets. In some cases, they are useable as written; however, in most cases, it is necessary that the program be modified, adapted, and tested to meet the customer's particular needs. Tax applies to the sale of tangible personal property, including coding sheets, cards or magnetic tape, on which or into which such prewritten (canned) programs have been coded, punched or otherwise recorded. On or after July 1, 1984, tax applies to the rental of tangible personal property on which or into which such prewritten (canned) programs have been recorded.

*d. Training materials.* Persons who sell or lease data processing equipment may provide a number of training services with the sale or rental of their equipment. Training services, per se, are not subject to tax. Training materials, such as books, furnished to the trainees for a specific charge are taxable.

*e. Services a part of the sale or lease of equipment.* Where services, such as programming, training or maintenance services, are provided to those who purchase or lease automatic data processing and related equipment, on a mandatory basis as an inseparable part of the sale or taxable lease of the equipment, charges for the furnishing of the services are includable in the measure of tax from the sale or lease of the equipment whether or not the charges are separately stated. (Where the purchaser or lessee has the option to acquire the equipment either with the services or without the services, charges for the services may not be excluded from the measure of tax if they are taxable enumerated services.)

*f. Materials and supplies.* The transfer of title, for a consideration, of tangible personal property, including property on which or into which information has been recorded or incorporated is a sale subject to tax.

Generally service bureaus are consumers of all tangible personal property, including cards and forms, which they use in providing services unless a separate charge is made to customers for the materials, in which case, tax applies to the charge made for the materials.

*g. Additional copies.* When additional copies of records, reports, tabulation, etc., are sold, tax applies to the charges made for the additional copies. "Additional copies" are all copies in excess of those produced on multipart carbon paper simultaneously with the production of the original and on the same printer, whether the copies are prepared by rerunning the same program, by using multiple simultaneous printers, by looping a program such that the program is run continuously, by using different programs to produce the same output product, or by other means. Where additional copies are prepared, the tax will be measured by the charge made by the service bureau to the customer. If no separate charge is made for the additional copies, tax applies to that portion of the gross receipts which the cost of the additional computer time (if any) and the cost of materials and labor cost to produce the additional copies bear to the total job cost. Charges for copies produced by means of photocopying, multilithing, or by other means are subject to tax. Tax applies to a contract where data on magnetic tape are converted into combinations of alphanumeric printing, curve plotting and/or line drawings, and put on microfilm or photorecording paper.

*h. Mailing lists.* Addressing (including labels) for mailing. Where the service bureau addresses, through the use of its automatic data processing equipment or otherwise, material to be mailed, with names and addresses furnished by the customer or maintained by the service bureau for the customer, tax does not apply to the charge for addressing. Similarly, where the service bureau prepares, through the use of its automatic data processing equipment or otherwise, labels to be affixed to material to be mailed, with names and address furnished by the customer or maintained by the service bureau for the customer, tax does not apply to the charge for producing the labels, regardless of whether the service bureau itself affixes the labels to the material to be mailed. However, tax would be due on any tangible personal property, such as labels, consumed by the service bureau. (See "f" above. Mailing lists in the form of Cheshire tapes, gummed labels, and heat transfers which are attached to envelopes and placed in the mail by a service bureau constitute tangible personal property and are subject to tax.

and "industry" respectively. It is not necessary to utilize the specified property in connection with any 280B agreements to qualify its purchase or lease for exemption from tax. Exemption is allowed if prior to the sale or lease, the purchaser or lessor has entered into an agreement under chapter 280B.

**18.45(7) *Designing or installing new industrial machinery or equipment.*** On and after July 1, 1985, the gross receipts from the services of designing or installing new industrial machinery or equipment shall be exempt from tax. The enumerated services of electrical or electronic installation are included in this exemption. To qualify for the exemption, the sale or rental of the machinery or equipment must be subject to refund or exemption under this rule. In addition, the machinery or equipment must be "new." For purposes of this subrule, "new" means never having been used or consumed by anyone. The exemption is not applicable to reconstructed, rebuilt or repaired or previously owned machinery or equipment. The exemption is applicable to new machinery and equipment designed or installed for rental as well as for sale. The gross receipts from design or installation must be separately identified, charged separately, and reasonable in amount for the exemption to apply. A "computer" is not considered to be machinery or equipment, and its installation or design is not eligible for this exemption.

This rule is intended to implement 1985 Iowa Code Supplement sections 422.45(29), 422.47A and 422.45(27) as amended by 1986 Iowa Acts, House File 2471.

**730—18.46(422,423) *Automotive fluids.*** The gross receipts from the sales of certain automotive fluids are exempt from tax. To be considered exempt, the sale must possess the following characteristics: (1) The sale must be to a retailer who will install the automotive fluid in or apply the automotive fluid to a motor vehicle; and (2) the installation or application must be done while the retailer is providing a taxable enumerated service (e.g., automobile lubrication); or (3) the automotive fluid must be installed in or applied to a motor vehicle which the retailer intends to sell and the sale of which will be subject to Iowa use tax.

Specific but nonexclusive examples of "automotive fluids" are motor oil and other automobile lubricants, hydraulic, brake, and transmission fluids, sealants, undercoatings, antifreeze, and gasoline additives.

This rule is retroactive to January 1, 1979, for sales of automotive fluids occurring on and after that date. It is intended to implement Iowa Code section 422.45 as amended by 1986 Iowa Acts, Senate File 106.

[Filed 12/12/74]

[Filed 1/9/76, Notice 12/1/75—published 1/26/76, effective 3/1/76]

[Filed 11/5/76, Notice 9/22/76—published 12/1/76, effective 1/5/77]

[Filed 9/2/77, Notice 6/15/77—published 9/21/77, effective 10/26/77]

[Filed effective date change 10/20/77—published 11/2/77, effective 10/20/77]

[Filed 4/28/78, Notice 3/22/78—published 5/17/78, effective 7/1/78]

[Filed 1/5/79, Notice 11/29/78—published 1/24/79, effective 2/28/79]

[Filed 3/15/79, Notice 2/7/79—published 4/4/79, effective 5/9/79]

[Filed 3/20/79, Notice 1/10/79—published 4/4/79, effective 5/9/79]

[Filed 1/18/80, Notice 12/12/79—published 2/6/80, effective 3/12/80]

[Filed 3/28/80, Notice 2/20/80—published 4/16/80, effective 5/21/80]

[Filed 5/23/80, Notice 4/16/80—published 6/11/80, effective 7/16/80]

[Filed emergency 7/17/80—published 8/6/80, effective 7/17/80]

[Filed 8/1/80, Notice 6/25/80—published 8/20/80, effective 9/24/80]

[Filed 12/5/80, Notice 10/29/80—published 12/24/80, effective 1/28/81]

[Filed 3/13/81, Notice 2/4/81—published 4/1/81, effective 5/6/81]

[Filed 6/5/81, Notice 4/29/81—published 6/24/81, effective 7/29/81]

[Filed 9/11/81, Notice 8/5/81—published 9/30/81, effective 11/4/81]

[Filed 3/25/82, Notice 2/17/82—published 4/14/82, effective 5/19/82]

[Filed emergency 2/9/83—published 3/2/83, effective 3/1/83]

[Filed 4/22/83, Notices 3/2/83, 3/16/83—published 5/11/83, effective 6/15/83]

[Filed emergency 7/29/83—published 8/17/83, effective 7/29/83]

[Filed 9/9/83, Notice 8/3/83—published 9/28/83, effective 11/2/83]

[Filed 11/30/84, Notice 7/18/84—published 12/19/84, effective 1/23/85]

[Filed 12/14/84, Notice 9/26/84—published 1/2/85, effective 2/6/85]

[Filed 8/23/85, Notice 7/17/85—published 9/11/85, effective 10/16/85]

[Filed 10/4/85, Notice 8/28/85—published 10/23/85, effective 11/27/85]

[Filed 10/18/85, Notice 9/11/85—published 11/6/85, effective 12/11/85]

[Filed 12/13/85, Notice 11/6/85—published 1/1/86, effective 2/5/86]

[Filed 1/10/86, Notice 9/11/85—published 1/29/86, effective 3/5/86]

[Filed 3/21/86, Notice 2/12/86—published 4/9/86, effective 5/14/86]

[Filed 3/21/86, Notice 9/11/85—published 4/9/86, effective 5/14/86]

[Filed 8/22/86, Notice 7/16/86—published 9/10/86, effective 10/15/86]

[Filed 9/5/86, Notice 7/30/86—published 9/24/86, effective 10/29/86]

[Filed 10/31/86, Notice 9/24/86—published 11/19/86, effective 12/24/86]

**CHAPTER 29  
CERTIFICATES**

**730—29.1(423) Certificate of registration.** A retailer located outside the state who maintains a place of business in this state shall apply to the department for a certificate of registration to collect use tax. [See 30.1(423)]. Each certificate of registration issued shall be assigned an individual number which shall appear immediately above the registrant's name on the certificate. When invoicing the purchase for use in Iowa, the holder of the certificate shall bill the use tax due as a separate item on the billing or invoice and indicate his registration number.

**29.1(1)** An application for a certificate of registration for a retailer located outside the state shall show the following:

- a. Business identification name of the person to whom the certificate is to be issued.
- b. Address of the location from which the use tax returns are to be filed.
- c. Names and addresses of all officers, in the case of a corporation; the names of all partners, in the case of a partnership; the name of the owner, in the case of an individual ownership.
- d. Date when the applicant, as a retailer maintaining a place of business in this state, will begin or has begun selling tangible personal property or rendering, furnishing or performing of enumerated taxable services in Iowa or for use in Iowa subject to use tax law.
- e. Names and addresses of all offices, warehouses or other places of business in Iowa, either owned or controlled by the applicant or its subsidiary.
- f. Names and addresses of all agents of the applicant operating in the state either permanently or temporarily.
- g. Names and addresses of all out-of-state locations from which tangible personal property will be delivered in Iowa for use in Iowa and from which billing for the merchandise will be made.
- h. Any other information the department may require.

It shall not be necessary for more than one certificate to be held in order to collect and remit all use tax due, even though shipments and billings may be made from several out-of-state locations.

**29.1(2)** Reserved.

**730—29.2(423) Cancellation of certificate of registration.** When the holder of a certificate of registration ceases to sell tangible personal property for use in Iowa, he shall immediately notify the department and request cancellation of the certificate of registration.

**730—29.3(423) Certificates of resale or processing.** When tangible personal property or service is sold in interstate commerce for delivery in Iowa, it shall be presumed that such property or service is sold for use in Iowa. The registered seller is required to collect use tax from the purchaser. If the tangible personal property or service sold for delivery in Iowa is not sold for use in Iowa and is not subject to use tax, the seller shall be required to secure a properly written certificate from the purchaser showing the exempt use to be made of the property or service.

When the registered seller repeatedly sells the same type of property or service to the same Iowa customer for resale or processing, the seller may, at his risk, accept a blanket certificate covering more than one transaction.

Suggested forms of certificate may be obtained from the department upon request.

These rules are intended to implement chapter 423, The Code.

[Filed December 12, 1974]

[Filed 1/18/80, Notice 12/12/79—published 2/6/80, effective 3/12/80]

CHAPTER 30  
FILING RETURNS, PAYMENT OF TAX, PENALTY AND INTEREST

**730—30.1(423) Liability for use tax and denial of permit.**

**30.1(1)** Collection responsibility is placed upon all interstate sellers who sell tangible personal property or taxable services for use in Iowa, provided the seller maintains directly or by a subsidiary, an office, distribution house, sale house, warehouse or other place of business or any agent operating within the state either permanently or temporarily. The seller shall be required to apply for and hold a certificate of registration and file a retailer's use tax return. The registered seller shall bill his Iowa customer, show tax as a separate item on the invoice and indicate thereon the seller's registration number.

Generally the following nonexclusive factual situations would constitute sufficient nexus for the state of Iowa to require an out-of-state vendor to collect Iowa use tax:

a. Out-of-state retailer owns or maintains within Iowa, either directly or by subsidiary, an office, distribution house, warehouse or other place of business.

b. Out-of-state retailer has an agent located in Iowa permanently or temporarily.

1. Agent solicits sales in Iowa as an employee of the retailer.

2. Agent solicits sales in Iowa as an independent broker, or jobber who is under contract with the vendor.

3. Agent is an employee of the retailer who acts as a consultant and while not taking orders, provides regular and significant services to a customer or customers in Iowa.

c. Out-of-state retailer installs in Iowa property it sells.

d. Out-of-state retailer is a construction contractor performing a contract, in whole or in part, in Iowa.

e. Out-of-state retailer performs service work in Iowa.

f. Out-of-state retailer regularly engaged in delivery of its products by its own trucks in the state of Iowa.

*Nelson v. Sears, Roebuck & Company*, 312 U.S. 359 (1941); *General Trading Company v. State Tax Commission of the State of Iowa*, 322 U.S. 335 (1944); *Scripto v. Carson*, 362 U.S. 207 (1960); *National Geographic Society v. California Board of Equalization*, 430 U.S. 551 (1977); *In Re: Webber Furniture*, 290 N.W.2d 865 (S.D. 1980); *Standard Pressed Steel Company v. State of Washington Department of Revenue*, 419 U.S. 560 (1975).

**30.1(2)** The purchaser for use in this state shall pay tax to the seller, if the seller is registered with the department to collect use tax for the state. If the seller is not registered with the department to collect use tax for the state, the purchaser shall remit the tax directly to the department.

**30.1(3)** The department may deny a permit to collect use tax to any applicant who is, at the time of application, substantially delinquent in paying any tax due which is administered by the department or the interest or penalty on the tax. If the applicant is a partnership, the department may deny the applicant a permit if a partner is substantially delinquent in paying any tax, penalty, or interest regardless of whether the tax is in any way a liability of or associated with the partnership. If an applicant for a permit is a corporation, the department may deny the applicant a permit if any officer, with a substantial legal or equitable interest in the ownership of the corporation, owes any delinquent tax, penalty, or interest of the applicant corporation. In this latter instance, the corporation must, initially, owe the delinquent tax, penalty, or interest and the officer must be personally and secondarily liable for the tax. This is in contrast to the situation regarding a partnership. See rule 13.16(422) for characterizations of the terms "tax administered by the department" and "substantially delinquent" in paying a tax. This subrule is applicable to tax, interest, and penalty due and payable on and after January 1, 1987.

This rule is intended to implement Iowa Code sections 423.6; 423.9 as amended by 1986 Iowa Acts, House File 764; 423.10 and 423.14.

**730—30.2(423) Measure of use tax.** The current rate of tax shall be applied to the purchase price of:

**30.2(1)** Tangible personal property, less the amount of tangible personal property traded in on the purchase.

**30.2(2)** The use in Iowa of the product or result of enumerated services obtained outside this state or the use in Iowa of enumerated services rendered, furnished or performed in Iowa.

This rule is intended to implement Iowa Code sections 423.1(3) and 423.2.

**730—30.3(423) Consumer's use tax return.** A person purchasing tangible personal property or taxable service from an out-of-state source for use in Iowa subject to the use tax law shall be liable for the payment of use tax. Such person shall be required to file a consumer's use tax return with the department, reporting and remitting use tax on all property or taxable service purchased for use in Iowa during the quarterly period covered by the return, unless the seller from whom the purchase is made is registered with the department and has collected use tax on the purchase.

A person purchasing tangible personal property or a taxable service in only one quarter during the year may request, and the director may grant, permission to file and remit use tax for only that specific quarter.

If it is expected that the total annual tax liability of a consumer will not exceed one hundred twenty dollars for a calendar year, the consumer may request, and the director may grant, permission to file and remit use tax on a calendar year basis. The return and tax will be due and payable no later than January 31 following each calendar year.

This rule is intended to implement Iowa Code section 423.14.

**730—30.4(423) Retailer's use tax return.** Every retailer collecting or owing more than fifteen hundred dollars in tax in any one month shall make a monthly deposit with the department. The deposit is due by the twentieth of the month following the month in which the tax is collected and applies only to the first two months of the quarter. The monthly deposit requirement is effective April 1, 1982.

A seasonal business retailer with gross receipts in only one quarter during the year may request, and the director may grant, permission to file and remit use tax for only that specific quarter in which the retailer conducted business.

If it is expected that the total annual tax liability of a retailer will not exceed one hundred twenty dollars for a calendar year, the retailer may request, and the director may grant, permission to file and remit sales tax on a calendar year basis. The return and tax will be due and payable no later than January 31 following each calendar year in which the retailer carried on business.

A retailer's use tax return form shall be furnished by the department to each holder of a certificate of registration at the close of each quarterly period for use in reporting and remitting use tax due for the preceding quarterly period. The quarterly periods for the year end respectively on March 31, June 30, September 30 and December 31. One month shall be allowed immediately following the quarterly period in which to file returns and remit tax without becoming delinquent, unless the department shall otherwise provide.

On the quarterly return, every retailer shall report the gross sales for the entire quarter, listing allowable deductions and figuring tax for the entire quarter. Space is provided on the return for a deduction of tax deposited the first and second months of the quarter.

When the due date falls on Saturday, Sunday, or a legal holiday, the monthly deposit or return will be due the first business day following such Saturday, Sunday, or legal holiday. If a deposit or return is placed in the mails, properly addressed and postage paid, and postmarked on or before the due date for filing, no penalty will attach should the return not be received until after that date. Mailed returns should be addressed to the Excise Tax Division, Iowa Department of Revenue, Hoover State Office Building, Des Moines, Iowa 50319.

**30.4(1)** If the certificate holder uses or consumes tangible personal property in the state of Iowa subject to the use tax law, the cost of such purchases made during a given monthly or quarterly period shall also be included on the retailer's use tax return.

**30.4(2)** If the certificate holder delivers property or products that results from more than one out-of-state location for use in Iowa and from which separate billings are made, a supplement to the return shall also be filed showing the amount of taxable sales made for each respective location.

**30.4(3)** Determination of filing status. Iowa Code section 423.13, provides, based on the amount of tax collected, how often certificate holders file deposits or returns with the department.

The department will determine if the certificate holder's current filing status is correct by reviewing the most recent four quarters of the certificate holder's filing history.

The following criteria will be used by the department to determine if a change in filing status is warranted.

<u>Filing Status</u>	<u>Statutory Requirement</u>	<u>Test Criteria</u>
Monthly	\$1,500 in tax per month.	Tax in 3 of most recent 4 quarters exceeds \$4,500.
Seasonal		Retailer remits tax for only one quarter during the previous calendar year and requests filing for one quarter only.
Annual	\$120 or less in tax in prior year.	Retailer remits \$120 or less in tax, for last 4 quarters and requests annual filing.
Quarterly	All other filers.	

When it is determined that a certificate holder's filing status is to be changed, the certificate holder will be notified and will be given thirty days to provide the department with a written request to prevent the change.

Certificate holders may request that they be allowed to file less frequently than the filing status selected by the department but exceptions will only be granted in two instances:

1. Incorrect historical data is used in the conversion. A business may meet the criteria based on information available to the computer, but upon investigation, the filing history may prove that the business does not meet the dollar criteria because of adjustments, amended returns, or requests for refunds.

2. Data available may have been distorted by the fact that it reflected an unusual pattern in tax collection. The factors causing such a distortion must be documented and approved by the excise tax division.

Exceptions will not be granted in instances where the certificate holder's request is based on a decline in business activity, reduction in employees or other potentially temporary business action which will affect current and future reporting.

Certificate holders will be notified in writing of approval or denial to their request for reducing filing periods.

Certificate holders may request that they be allowed to file more frequently than the filing status selected by the department. Approval will be granted based upon justification contained in the certificate holder's request.

This rule is intended to implement Iowa Code sections 412.14, 423.13 and 423.14.

**730—30.5(423) Collection requirements of registered retailers.** A retailer registered with the department shall collect from his customers and remit to the department all use tax due on all tangible personal property or enumerated services rendered, furnished or performed in Iowa or the products or results of enumerated taxable services rendered, furnished, or

performed, sold for use in Iowa, unless expressly authorized by the department to do otherwise.

This rule is intended to implement Iowa Code sections 423.9 and 423.10.

**730—30.6(423) Bracket system to be used by registered vendors.** A registered vendor who has occasion to sell tangible personal property or enumerated services rendered, furnished or performed in Iowa or products or results of enumerated taxable services rendered, furnished or performed may use the bracket system specified in 14.2(422), which was adopted under the provisions of the Iowa retail sales tax law.

The registered seller shall be required to remit tax to the department at the current rate applied to the purchase price of all taxable property or enumerated services rendered, furnished or performed in Iowa or the products or results or all enumerated taxable services sold.

This rule is intended to implement Iowa Code sections 422.68(1), 423.2 and 423.23.

**730—30.7(423) Sales tax or use tax paid to another state.** When a person has already paid to any other state of the United States a state sales, use, or occupational tax on specifically identified tangible personal property or taxable services on its sale or use, prior to bringing the property into Iowa, and the tax is equal to or greater than the current rate of tax imposed by the Iowa use tax law, no additional use tax shall be due the state of Iowa by such person.

If the amount of tax already paid by such person to any other state of the United States on specifically identified tangible personal property or taxable services prior to bringing the property into Iowa is less than the current rate of tax imposed by Iowa law, use tax shall be due the state of Iowa on the difference in tax paid to the foreign state and the tax due under the Iowa law.

When a person claims exemption from payment of use tax on the grounds that he or she has already paid tax to any other state of the United States with respect to the sale or use of the property or service in question prior to bringing it into Iowa, the burden of proof shall be upon such person to show the department, county treasurer, or the motor vehicle division of the Iowa department of transportation, by document, that such tax has been paid.

Credits shall not be allowed for sales, use, or occupational tax already paid in any state of the United States against the Iowa use tax relating to the acquisition cost of property being brought into this state when such tax already paid was paid on the gross receipts of lease/rental payments of tangible personal property used in another state.

This rule is intended to implement Iowa Code section 423.25.

**730—30.8(423) Registered retailers selling tangible personal property on a conditional sale contract basis.** A retailer shall report and remit to the department the full amount of tax computed on the full sale price on the return for the quarterly period during which the sale was made.

This rule is intended to implement Iowa Code sections 423.1 and 423.2.

**730—30.9(423) Registered vendors repossessing goods sold on a conditional sale contract basis.** A registered retailer repossessing tangible personal property which has been sold on a conditional sale contract basis and remitting use tax to the department on the full purchase price may take a deduction on his retailer's use tax return for the quarterly period in which the goods were repossessed in an amount equal to the credit allowed to the purchaser for the goods returned, if the retailer has returned use tax to the purchase on the unpaid balance.

This rule is intended to implement Iowa Code sections 423.1 and 423.2.

**730—30.10(423) Penalties for late filing of a monthly tax deposit or use tax returns.** Use tax monthly deposits shall be filed on or before the twentieth of the month following the month in which the tax was collected. Use tax quarterly returns shall be required to be filed on or before the last day of the month following the close of each quarterly period.

**30.10(1)** For taxes initially due and payable prior to January 1, 1985, failure to file a monthly deposit or use tax return or a corrected return or to pay use tax due on or before the due date shall result in a delinquent deposit or return and be subject to penalty and interest. See subrules 12.10(1), 12.10(2) and 12.10(3) for computation of penalty.

**30.10(2)** For taxes initially due and payable on or after January 1, 1985, but before January 1, 1987, only willful failure to file a monthly deposit or use tax return or a corrected return will be subject to penalty. Persons who fail to timely pay use tax are subject to a penalty which cannot be waived by the director and may not be excused for reasonable cause. If the person who fails to timely pay use tax is a retailer maintaining a place of business in this state, the penalty for failure to pay will be ten percent (10%) of the tax required to be paid. Department rule 30.1(423) describes in detail the persons who are subject to this ten percent (10%) penalty. For any person who is not a retailer, the penalty for failure to timely pay use tax is five percent (5%) of the tax required to be paid.

See rule 12.10(422,423) for computation of penalty and interest.

**30.10(3)** For taxes initially due and payable on or after January 1, 1987, only willful failure to file a monthly deposit or use tax return or a corrected return will be subject to penalty. Persons who fail to timely pay use tax are subject to a penalty which cannot be waived by the director and may not be excused for reasonable cause. If the person who fails to timely pay use tax is a retailer maintaining a place of business in this state, the penalty for failure to pay is ten percent (10%) of the tax required to be paid. Department rule 30.1(423) described in detail the persons who are subject to this ten percent (10%) penalty. For any person who is not a retailer, the penalty for failure to timely pay use tax is seven and one-half percent of the tax required to be paid. See rule 730—10.5(421) for statutory exemptions to penalty for taxes due and payable on or after January 1, 1987. See rule 12.10(422,423) for computation of penalty and interest.

This rule is intended to implement Iowa Code sections 422.58 and 423.18 as amended by 1986 Iowa Acts, House File 764.

**730—30.11(423) Claim for refund of use tax.** A claim for refund of use tax shall be made upon forms provided by the department. Each claim shall be filed with the department, properly executed and clearly stating the facts and reasons upon which the claim is based.

Refunds of tax shall be made only to those who have actually paid the tax. A person or persons may designate the person who collects the tax as an agent for purposes of receiving a refund of tax. Use tax paid to the county treasurer or motor vehicle division, Iowa department of public safety, on motor vehicles shall be refunded directly to the person paying the tax upon presentation of a properly documented claim.

Claims for refund for use tax filed after January 1, 1983, where the tax was voluntarily paid, will not be allowed if the claim is based upon an alleged mistake of law regarding the validity or legality under the laws or Constitution of the United States or under the Constitution of the State of Iowa of the tax.

When a person is in a position where he or she feels the tax, penalty or interest paid or to be paid will be found not to be due at some later date, then to prevent the statute of limitations from running, a claim for refund should be filed with the department within the statutory period provided in section 422.73(1), The Code. The claim must be filed requesting that it be held in abeyance pending the outcome of any action which will have a direct effect on the tax involved and a possible refund. Nonexclusive examples of such action would be court decisions, departmental rulings, and commerce commission decisions. See rule 12.9(422) for specific examples.

This rule is intended to implement Iowa Code sections 422.73(1) and 423.23.

**730—30.12(423) Extension of time for filing.** Upon a proper showing of the necessity for extending the due date, the director is authorized to grant an extension of time in which to file a return. The extension shall not be granted for a period longer than thirty days. The request for the extension must be received on or before the original due date of the return, and it must be signed by the retailer or his duly authorized agent.

This rule is intended to implement Iowa Code section 423.13.

[Filed December 12, 1974]

[Filed 9/2/77, Notice 6/15/77—published 9/21/77, effective 10/26/77]

[Filed Emergency 4/28/78—published 5/17/78, effective 4/28/78]

[Filed Emergency 3/2/79—published 3/21/79, effective 3/2/79]

[Filed 1/18/80, Notice 12/12/79—published 2/6/80, effective 3/12/80]

[Filed emergency 7/17/80—published 8/6/80, effective 7/17/80]

[Filed 12/5/80, Notice 10/29/80—published 12/24/80, effective 1/28/81]

[Filed emergency 3/5/82—published 3/31/82, effective 4/1/82]

[Filed 7/16/82, Notice 6/9/82—published 8/4/82, effective 9/8/82]

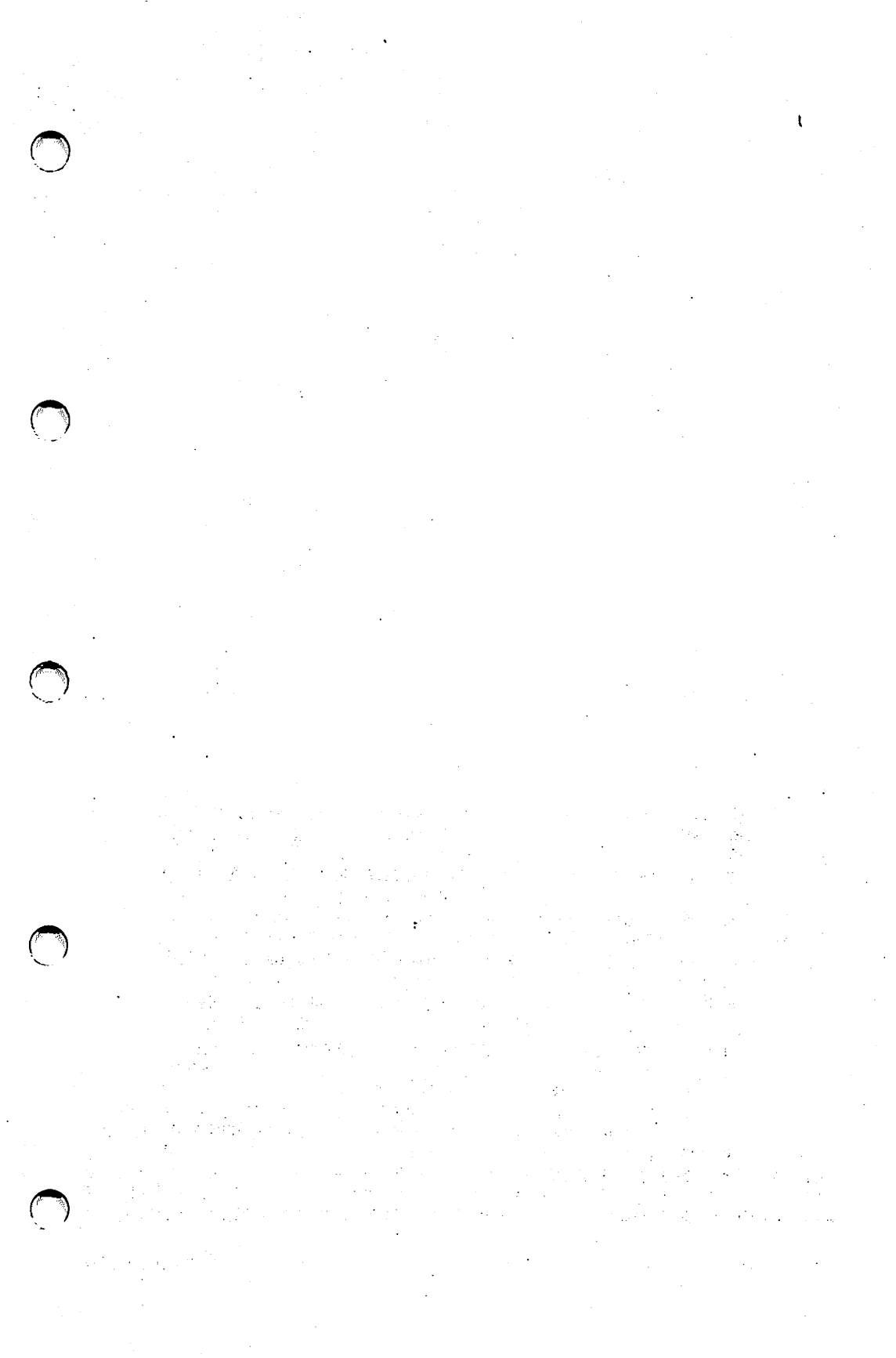
[Filed 9/9/83, Notice 8/3/83—published 9/28/83, effective 11/2/83]

[Filed 10/19/84, Notice 9/12/84—published 11/7/84, effective 12/12/84]

[Filed 1/10/86, Notice 12/4/85—published 1/29/86, effective 3/5/86]

[Filed 9/5/86, Notice 7/30/86—published 9/24/86, effective 10/29/86]

[Filed 10/31/86, Notice 9/24/86—published 11/19/86, effective 12/24/86]



licant for a fuel tax permit is required to post a bond or securities, the following guidelines will be used to determine the amount of the bond, unless the facts warrant a greater amount: If the license holder or applicant will be or is a monthly filer, a bond or securities in an amount sufficient to cover five months fuel tax liability will be required. If the applicant or license holder will be or is a quarterly filer, the bond or securities which will be required is an amount sufficient to cover nine months or three quarters of tax liability.

This rule is intended to implement Iowa Code sections 324.66 and 422.52(3).

**730—63.24(324) Crediting gas tax refunds.** The department may apply any fuel tax refund payable to a nonlicensee against any other tax liability outstanding on its books which the nonlicensee claimant has not paid.

This rule is intended to implement Iowa Code section 324.17.

**730—63.25(324) Time limitations on filing for credits or refunds.**

**63.25(1) Time limits for licensees.**

- a. Credits for nonhighway use or loss due to casualty or like cause: See subrule 64.7(5).
- b. Credit for illegal or erroneous collection: See rule 63.17(324).
- c. Credits or refund for gasohol blending error: See subrule 64.4(5).

**63.25(2) Time limits for nonlicensees.**

- a. Refund for nonhighway use: See rule 64.8(324).
- b. Income tax credit for nonhighway use: See rule 730—45.5(324) and subrule 52.4(3).
- c. Refund for casualty loss: See rule 64.12(324).

**63.25(3) Refund to the state and political subdivisions and contract carriers who contract with public schools to transport students.** See rules 64.15(324) and 64.22(324).

This rule is intended to implement Iowa Code section 324.59.

**730—63.26(324) Distributor licenses.** There shall be two (2) types of fuel distributor licenses which will be issued. The motor fuel distributors license will apply to motor fuel-gasoline and motor fuel-aviation. The special fuel distributors license will apply to special fuel-diesel, and special fuel-LPG. Each license issued will be separate and distinct and must be applied for and issued separately.

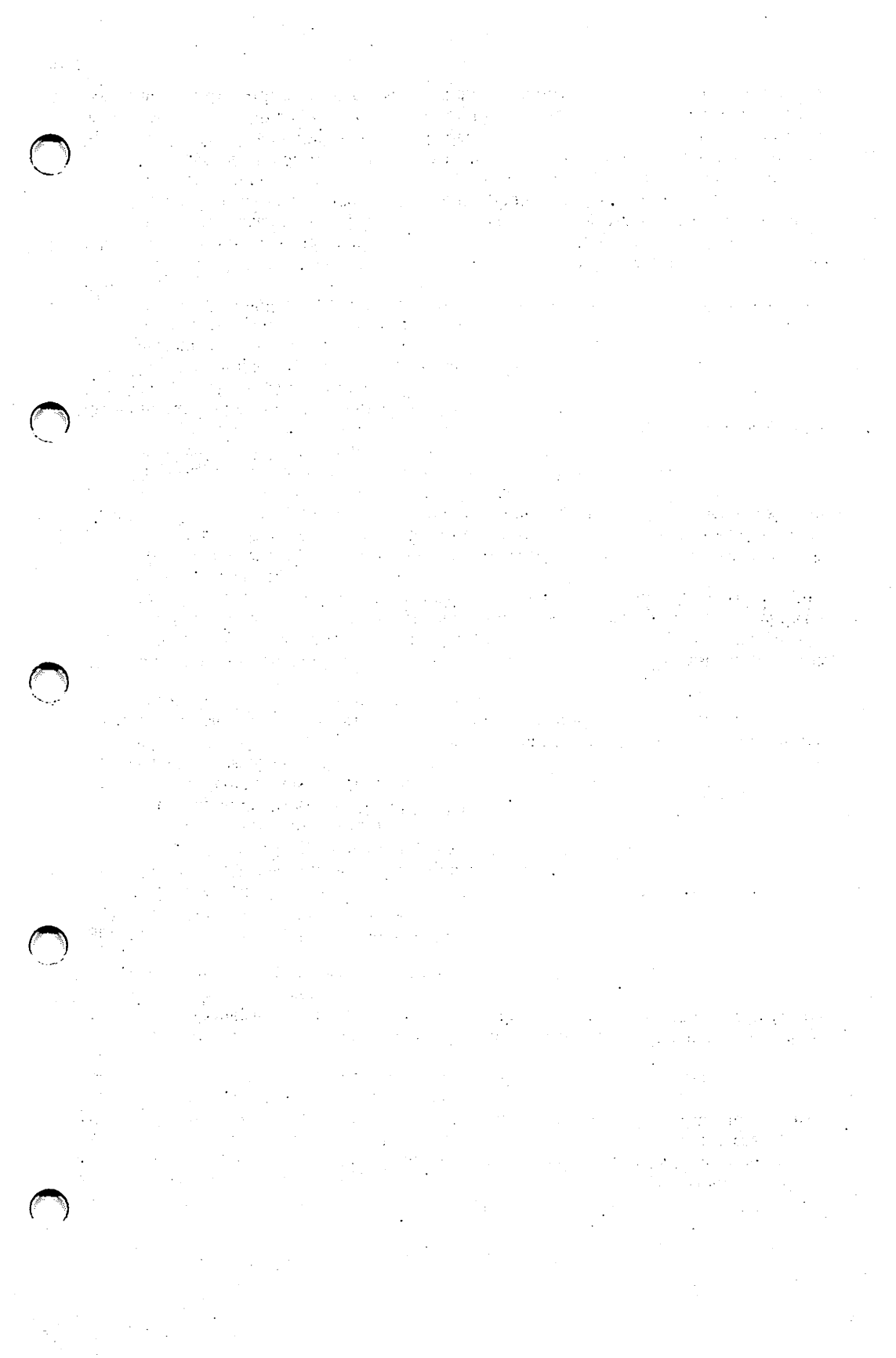
**63.26(1) Requirements for license.** In order to become licensed as a fuel distributor, the person must file a written application with the department. The license must be conspicuously displayed, is valid until revoked or canceled, and is nonassignable. The application shall include, but not be limited to, the following information:

- a. The name under which the distributor will transact business in the state.
- b. The location of the principal place of business of the distributor.
- c. The name and address of the owner(s) of the business, or if a corporation or association, the names and addresses of the principal officers.
- d. The type of fuel(s) to be handled.
- e. The approximate volume of fuel(s) to be handled.
- f. The source of the fuel(s).
- g. The type of customers to be served.
- h. Whether the applicant has a license for a different type of fuel, and if so, the license number.

**63.26(2) Assignment of a license.** The following are nonexclusive situations that are considered assignments, and the acquiring distributor must apply for a new license.

- a. A sale of the taxpayer's business, even if the new owner operates under the same name.
- b. A change of the name under which the distributor conducts business.
- c. A merger or other business combination which results in a new or different entity.

**63.26(3) Denial of a license.** The department may deny a license to any applicant who is, at the time of application, substantially delinquent in paying any tax due which is administered by the department or the interest or penalty on the tax. If the applicant is a partnership, a license may be denied if a partner is substantially delinquent in paying any tax, penalty, or



interest regardless of whether the tax is in any way a liability of or associated with the partnership. If an applicant for a license is a corporation, the department may deny the applicant a license if any officer, with a substantial legal or equitable interest in the ownership of the corporation, owes any delinquent tax, penalty, or interest of the applicant corporation. In this latter instance, the corporation must, initially, owe the delinquent tax, penalty, or interest, and the officer must be personally and secondarily liable for the tax. This is in contrast to the situation regarding a partnership. See rule 13.16(422) for a characterization of the terms "tax administered by the department" and "substantially delinquent" in paying a tax. This subrule is applicable to tax, interest, and penalty due and payable on and after January 1, 1987.

For information concerning records to be kept, see rule 63.3(324).

This rule is intended to implement Iowa Code sections 324.4 as amended by 1986 Iowa Acts, House File 746; 324.5; and 324.36.

**730—63.27(324) Reinstatement of license canceled for cause.** A license holder making application to the department for reinstatement of a license canceled for cause shall be charged the fee required by law.

A license canceled for cause shall be reinstated only on such terms and conditions as the cause may warrant. Terms and conditions will include payments of any applicable fuel tax liability including interest and penalty which is due the department.

Pursuant to the director's statutory authority in Iowa Code section 324.68 as amended by 1982 Iowa Acts House File 2249, to restore licenses after being canceled for cause, the director has determined that upon the cancellation of a motor vehicle fuel tax license the initial time, the license holder will be required to pay all delinquent fuel tax liabilities including interest and penalty, to file reports, and to post a bond and refrain from activities requiring a license under sections 324.4, 324.6, 324.18 and 324.36 as required by the director prior to the reinstatement or issuance of a new motor vehicle fuel tax license.

As set forth above, the director may impose a waiting period during which the license holder must refrain from activities requiring a license pursuant to the penalties provided in Iowa Code section 324.74, for a period not to exceed ninety days to restore a license or issue a new license after canceled for cause. The department may require a statement stating that the license holder has fulfilled all requirements of said order canceling the license for cause, and stating the dates on which the license holder refrained from restricted activities.

Each of the following situations will be considered one offense, for the purpose of determining the waiting period to reinstate a license canceled for cause or issuing a new license after being canceled for cause unless otherwise noted.

Failure to post a bond as required.

Failure to file a monthly or quarterly report timely.

Failure to pay tax timely (including unhonored checks, failure to pay and late payments.)

Failure to file a monthly or quarterly report and pay tax as shown on the report (counts as two offenses).

The hearing officer or director of revenue may order a waiting period after the cancellation for cause not to exceed:

Five days for one through five offenses.

Seven days for six through seven offenses.

Ten days for eight through nine offenses.

Thirty days for ten offenses or more.

The hearing officer or director of revenue may order a waiting period not to exceed:

Forty-five days if the second cancellation for cause occurs within twenty-four months of the first cancellation for cause.

Sixty days if the second cancellation for cause occurs within eighteen months of the first cancellation for cause.

Ninety days if the second cancellation for cause occurs within twelve months of the first cancellation for cause.

Ninety days if the third cancellation for cause occurs within thirty-six months of the second cancellation for cause.

This rule is intended to implement Iowa Code section 324.68.

[Filed 7/5/55; 9/4/59; 12/8/59; 2/26/60, amended 1/18/61; 2/8/61; 5/19/61; 12/7/61; 12/28/61; 7/31/63; 5/13/64; 7/14/65; 11/17/65]

[Filed emergency 4/28/78—published 5/17/78, effective 4/28/78]

[Filed emergency 5/26/78—published 6/14/78, effective 5/26/78]

[Filed 10/12/78, Notice 8/22/79—published 10/31/79, effective 12/5/79]

[Filed 11/21/80, Notice 10/15/80—published 12/10/80, effective 1/14/81]

[Filed 5/8/81, Notice 4/1/81—published 5/27/81, effective 7/1/81]

[Filed 9/11/81, Notice 8/5/81—published 9/30/81, effective 11/4/81]

[Filed 12/4/81, Notice 10/28/81—published 12/23/81, effective 1/27/82]

[Filed 12/31/81, Notice 11/25/81—published 1/20/82, effective 2/24/82]

[Filed 5/7/82, Notice 3/31/82—published 5/26/82, effective 6/30/82]

[Filed 7/16/82, Notice 6/9/82—published 8/4/82, effective 9/8/82]

[Filed 8/13/82, Notice 7/7/82—published 9/1/82, effective 10/6/82]

[Filed 11/19/82, Notice 10/13/82—published 12/8/82, effective 1/12/83]

[Filed 10/19/84, Notice 9/12/84—published 11/7/84, effective 12/12/84]

[Filed 11/2/84, Notice 9/26/84—published 11/21/84, effective 12/26/84]

[Filed 10/18/85, Notice 9/11/85—published 11/6/85, effective 12/11/85]

[Filed 8/22/86, Notice 7/16/86—published 9/10/86, effective 10/15/86]

[Filed 9/5/86, Notice 7/30/86—published 9/24/86, effective 10/29/86]

[Filed 10/31/86, Notice 9/24/86—published 11/19/86, effective 12/24/86]

**81.12(2) Tobacco licenses.** The director may revoke, cancel or suspend the license of any tobacco distributor or tobacco subjobber for violation of any provision in division II of chapter 98, The Code, the rules promulgated thereunder, or any other statute applicable to the sale of tobacco products. The licensee shall be given ten days notice of a revocation hearing under section 98.48(2) and rule 730—7.24(17A). No license may be issued to any person whose license has been revoked under section 98.44(11), The Code, for a period of one year.

This rule is intended to implement Iowa Code sections 98.22, 98.44(11) and 98.48(2).

**730—81.13(98) Permit applications and denials.**

**81.13(1) Applications for permits.** The application forms for all permits issued under Iowa Code chapter 98 are available from the department upon request. The applications shall include, but not be limited to:

- a. The nature of the applicant's business;
- b. The type of permit requested;
- c. The address of the principal office of the applicant;
- d. The place of business for which the permit is to apply;
- e. The names and addresses of principal officers or members not to exceed three, if the business is not a sole proprietorship;
- f. A list of persons who will be the applicant's suppliers or customers or both (whichever is applicable);
- g. If the applicant intends to operate as a cigarette distributor, a certificate from a manufacturer of cigarettes indicating an intention to sell unstamped cigarettes to the applicant;
- h. Whether or not the applicant possesses any other permit issued under Iowa Code chapter 98; and
- i. The signature of the person making the application.

**81.13(2) Denial of application for permit.** The department may deny a permit to any applicant who is, at the time of application, substantially delinquent in paying any tax due which is administered by the department or the interest or penalty on the tax. If the applicant is a partnership, a permit may be denied if a partner is substantially delinquent in paying any tax, penalty, or interest regardless of whether the tax is in any way a liability of or associated with the partnership. If an applicant for a permit is a corporation, the department may deny the applicant a permit if any officer, with a substantial legal or equitable interest in the ownership of the corporation, owes any delinquent tax, penalty, or interest of the applicant corporation. In this latter instance, the corporation must, initially, owe the delinquent tax, penalty, or interest, and the officer must be personally and secondarily liable for the tax. This is in contrast to the situation regarding a partnership. See rule 13.16(422) for characterizations of the terms "tax administered by the department" and "substantially delinquent" in paying a tax. This subrule is applicable to tax, interest, and penalty due and payable on and after January 1, 1987.

**81.13(3) Applications for retail cigarette permits.** Applications for retail cigarette permits are supplied by the department to city councils and county boards of supervisors. The application must be obtained from and filed with the individual council or board.

This rule is intended to implement Iowa Code sections 98.13 as amended by 1986 Iowa Acts, House File 764; 98.16; 98.17; 98.23 and 98.44

**730—81.14(98) Confidential information.** The release of information contained in any reports filed under Iowa Code chapter 98 is governed by the general provisions of Iowa Code chapter 22 since there are no specific provisions relating to confidential information contained in chapter 98. Any requests for information must be made pursuant to departmental rule 730—6.2(17A) and subrule 6.1(5). See rule 6.3(17A).

Any request for information contained in a cigarette and tobacco report must be made in writing to the director. The taxpayer who filed the report will be notified of the request for information and will be allowed two weeks to respond as to whether the infor-



mation requested, if released, would give advantage to competitors and serve no public purpose. The taxpayer who filed the report must substantiate any claim of confidentiality. If substantiated, the request will be denied, otherwise, the information will be released to the requesting party. This rule will not prevent the exchange of information between state and federal agencies.

This rule is intended to implement Iowa Code sections 98.25 and 98.49.

**730—81.15(98) Request for waiver of penalty.** This rule is only applicable to tax due on or before December 31, 1984, and to penalty imposed by Iowa Code section 98.31 for tax due on or after January 1, 1985. Any taxpayer who believes there is a good reason to object to any penalty imposed by the department for failure to timely file returns or pay the tax may submit a request for waiver seeking that the penalty be waived. If it can be shown to the director's satisfaction that the failure was due to reasonable cause, the penalty will be adjusted accordingly. The request must be in the form of an affidavit and must contain all facts alleged as reasonable cause for the taxpayer's failure to file the return, or pay the tax as required by law. The following are examples of situations that may be accepted by the director as being reasonable causes:

1. Showing that the delay in filing was caused by the death or serious illness of the taxpayer or the person charged by the taxpayer to prepare and timely file the report on the taxpayer's behalf.

2. Showing that the delay in filing was caused by destruction by fire or other casualty of the taxpayer's records.

3. Showing that the delay in filing was due to erroneous information given to the taxpayer by an authorized employee of the department.

4. Showing that the delay in filing was caused by a prolonged unavoidable absence of the taxpayer responsible for the filing.

5. Showing that the report or remittance was filed on time, but filed erroneously with another state agency or the Internal Revenue Service.

6. If the taxpayer has had no late filed reports or late payments in the past thirty-six months, the department will allow one late return to be filed without penalty. However, this does not apply to a penalty established by audit.

7. If the return is filed on time, but the face of the return contained a mathematical error and if the taxpayer has had no late filed reports including mathematical errors in the past thirty-six months. However, this does not apply to a penalty established by audit.

8. Showing that the delinquency existed even though the taxpayer exercised ordinary business care and prudence to ensure that the filing of the return or remittance of the tax would occur timely.

9. Where the taxpayer exercised ordinary business care and prudence and was nevertheless unable to file the return within the prescribed time. Failure to pay will be considered to be due to reasonable cause to the extent that the taxpayer has made a satisfactory showing that ordinary business care and prudence were exercised in providing for payment of the liability and was nevertheless either unable to pay the tax or would suffer an undue hardship if the taxpayer paid on the due date. What constitutes ordinary business care and prudence must be determined by the particular facts of a particular case, *Armstrong's Inc. vs. Iowa Department of Revenue*, 320 N.W.2d 623 (Iowa 1982).

Penalty which results from a check given in payment of tax not being honored because of insufficient funds in the account upon which the check is drawn shall not be waived.

This rule is intended to implement Iowa Code sections 98.31 and 98.46.

**730—81.16(98) Inventory tax.** All persons required to be licensed under Iowa Code section 98.13 as distributors shall take an inventory of all cigarettes and little cigars in their possession prior to delivery for resale upon which the tax has been affixed and all unused cigarette and little cigar tax stamps and unused metered imprints in their possession at the close of business on September 30, 1985.

Persons required to take an inventory shall remit the tax due on all cigarette stamps or metered imprints and all cigarettes and little cigars with revenue affixed in their possession prior to delivery for resale. The tax is equal to the difference between the amount paid for cigarette stamps or metered imprints purchased prior to October 1, 1985 (nine mills per cigarette) and the amount that is to be paid for cigarette stamps or metered imprints after September 30, 1985 (thirteen mills per cigarette).

In computing the inventory tax, any discount allowed or allowable under Iowa Code section 98.8, shall not be considered.

This rule is intended to implement Iowa Code sections 98.6 and 98.43 as amended by 1985 Iowa Acts, Senate File 395.

- [Filed 3/14/80, Notice 2/6/80—published 4/2/80, effective 5/7/80]
- [Filed 12/5/80, Notice 10/29/80—published 12/24/80, effective 1/28/81]
- [Filed 5/8/81, Notice 4/1/81—published 5/27/81, effective 7/1/81]
- [Filed without Notice 6/5/81—published 6/24/81, effective 7/29/81]
- [Filed 3/25/82, Notice 2/17/82—published 4/14/82, effective 5/19/82]
- [Filed 5/7/82, Notice 3/31/82—published 5/26/82, effective 6/30/82]
- [Filed 7/16/82, Notice 6/9/82—published 8/4/82, effective 9/8/82]
- [Filed 11/19/82, Notice 10/13/82—published 12/8/82, effective 1/12/83]
- [Filed 9/9/83, Notice 8/3/83—published 9/28/83, effective 11/2/83]
- [Filed 10/19/84, Notice 9/12/84—published 11/7/84, effective 12/12/84]
- [Filed 6/28/85, Notice 5/8/85—published 7/17/85, effective 8/21/85]
- [Filed 8/23/85, Notice 7/17/85—published 9/11/85, effective 10/16/85]
- [Filed 9/5/86, Notice 7/30/86—published 9/24/86, effective 10/29/86]
- [Filed 10/31/86, Notice 9/24/86—published 11/19/86, effective 12/24/86]

**CHAPTER 82  
CIGARETTE TAX**

**730—82.1(98) Permits required.** Every person selling or distributing cigarettes or using or consuming untaxed cigarettes within the state of Iowa must first obtain the appropriate permit.

rental agency office there. Also in Dubuque, the customer pays a total charge for the rental of fifty dollars. No Polk County local option service tax is due. Transfer of possession occurred in Polk County, but payment for the rental did not.

**EXAMPLE 3.** Assume the same facts as in examples 1 and 2, except that before taking possession of the vehicle in Des Moines, customer A pays the rental agency a twenty-five dollar deposit. Also, rental of the vehicle is on a mileage and per day basis. Customer A drives the vehicle to Dubuque, Iowa. There it is discovered that the mileage and per day charges add up to fifty dollars. Customer A pays the rental agency an additional twenty-five dollars in Dubuque which has no local option tax. Polk County local option service tax is due upon the twenty-five dollar deposit paid in Des Moines, but not upon the twenty-five dollars paid in Dubuque. Only the payment made under the lease in Des Moines is subject to Polk County local option tax.

**EXAMPLE 4.** Assume the same taxation situation as in example 1. Customer A rents a car in Dubuque, Iowa, which has no local option tax and drives it to Des Moines which has a local option tax. In Des Moines, A pays fifty dollars for the use of the car. Since transfer of possession of the vehicle did not take place in Polk County, the leasing transaction is not subject to local option service tax. Payment under the lease alone, within a county, does not allow imposition of that county's local option sales tax.

**730—107.7(422B) Special rules regarding utility payments.** Delivery of gas and water occurs and the services of electricity, heat, communication, and cable television are rendered, furnished, or performed at the address of the subscriber who is billed for the purchase of this property or services. If a telephone subscriber with an address in a local option service tax county uses a telephone credit card within Iowa but outside that county to make an intrastate telephone call, billings to the subscriber's number within the local option service tax county are subject to local option tax.

**EXAMPLE.** Assume the whole of Polk County, but no other county in Iowa, has a local option service tax. Mrs. Adams lives in Polk County and has a telephone credit card. While staying at a Fort Dodge hotel, Mrs. Adams uses a telephone credit card to call a number in Cedar Rapids. The charge for this use is billed to Mrs. Adams' number in Polk County. The amount of the charge is subject to Polk County local option service tax.

**730—107.8(422B) Contacts with county necessary to impose collection obligation upon a retailer.** Before any retailer can be required to collect the local option sales or service tax certain minimal connections must exist between the county and the retailer. Basically, the county must have performed or be performing certain services for the retailer for which it can demand repayment in the form of tax. Maintaining any sort of office, sending any solicitor or salesperson, whether independent contractor or employee, or transporting property which the retailer sells into the county in the retailer's own vehicle are nonexclusive examples of activities which require the county's protection. In return for this protection, tax may be imposed. The mere soliciting and acceptance of business by mail and sending products ordered by mail or common carrier to the county are not activities which require a retailer to collect local option sales or service tax.

**730—107.9(422B) Sales are not subject to local option tax.** The local option sales and service tax is imposed upon the same basis as the Iowa state sales and service tax, with five exceptions:

1. The sale of Iowa lottery tickets or shares is not subject to local option sales tax.
2. All gross receipts from the sale of motor fuel and special fuel as defined in Iowa Code chapter 324.
3. For the period beginning July 1, 1985, and ending June 30, 1987, the sale or rental of farm machinery and equipment and industrial machinery, equipment, and certain computers is not subject to local option sales or service tax.
4. For taxes imposed on and after January 1, 1986, the gross receipts from the rental of rooms, apartments, or other sleeping quarters which are taxed under Iowa Code chapter 422A

during the period in which the hotel and motel tax is imposed shall be exempt from local option sales tax.

5. For taxes imposed on or after January 1, 1986, the gross receipts from the sale of natural gas or electricity in a city or county shall be exempt from tax if the gross receipts are subject to a franchise or user fee during the period the franchise or user fee is imposed.

Any limitation upon the right of a subdivision of the state to impose a sales or service tax upon a transaction is not applicable to the local option sales and service tax if the statute which contains the limitation has an effective date prior to July 1, 1985. As a nonexclusive example, a county is not prohibited from imposing a local option sales tax upon the gross receipts from sales of cigarettes or tobacco products which are subject to state sales tax.

This rule is intended to implement Iowa Code supplement subsection 422B.8(1), as amended by 1986 Iowa Acts, Senate File 2302.

**730—107.10(422B) Local option sales and services tax payments to local governments.** When a local sales and services tax is imposed, the treasurer of the state must distribute shares of each county's account in the local sales and services tax fund at least quarterly. The shares are to be remitted to the board of supervisors if the tax is imposed in the unincorporated areas of the county, and to each city where the tax is imposed.

Each county's account is to be proportionately distributed to participating governments seventy-five percent on the basis of the most recent certified federal census population, and twenty-five percent on the basis of the sum of property tax dollars levied by participating boards of supervisors or by cities for the three years from July 1, 1982, through June 30, 1985.

"The most recent certified federal census" is the final count from the most recent decennial census conducted by the United States Department of Commerce, Bureau of the Census, as modified by subsequent certifications from the United States Bureau of the Census.

The "sum of property tax dollars levied" by boards of supervisors or city councils for the three years from July 1, 1982, through June 30, 1985, is the amount obtained by using data from county tax rate reports and city tax rate reports compiled by the office of the state comptroller.

Division of the amount from each county's account to be distributed is done with these steps.

1. The total amount in the county's account to be distributed is first divided into two parts. One part is equal to seventy-five percent of the total amount to be distributed. The second part is the remainder to be distributed.

2. The part comprised of seventy-five percent of the total receipts to be distributed is further divided into an amount for each participating city or unincorporated area. This division is based upon the most recent certified federal census population. Population for each participating city and unincorporated area is determined separately and totaled. The population for each sales tax imposing city or unincorporated area is divided by the total population to produce a percentage for each city or the unincorporated area. The percentages are rounded to the nearest one-hundredth of a percent with the total of all percentages equal to one hundred percent. Each government's percentage is multiplied by seventy-five percent of the sales tax receipts to be distributed. Distributions are to be rounded to the nearest cent.

3. The remaining twenty-five percent of the amount to be distributed is further divided based upon property taxes levied. The sum of property tax dollars to be used is the amount levied for the three years from July 1, 1982, through June 30, 1985. Property taxes levied by participating cities or the board of supervisors, if the local sales tax is imposed in unincorporated areas, are to be determined separately then totaled. The property tax amount for each sales tax imposing city and the board of supervisors, if the sales tax is imposed in unincorporated areas, is divided by the totaled property tax to produce a percentage. The percentages are rounded to the nearest one-hundredth of a percent with the total of all percentages equal to one hundred percent. Each percentage is multiplied by twenty-five percent of the sales tax receipts to be distributed. Distributions are to be rounded to the nearest cent.

4. For each participating city, or the board of supervisors if unincorporated areas of the county participate, the amount determined in "3" is added to the amount found in "2." This

amount is then to be remitted to the appropriate local government.

In order to illustrate the division of local option sales and services tax receipts the following two examples are provided. The numbers are shown in an attempt to reflect reality but are hypothetical.

EXAMPLE 1. If a local option sales tax is approved for all of Pottawattamie County, the distribution of \$100,000 in county-wide receipts would be made in this manner:

Step 1:

Distribution Basis	Amount
Population	\$ 75,000.00
Property Taxes Levied	<u>25,000.00</u>
Total	<u>\$100,000.00</u>

Step 2:

Jurisdiction	Certified Population		Receipts to be Distributed
	Number	Percentage	
Avoca	1,650	1.91%	\$ 1,432.50
Carson	716	0.83%	622.50
Carter Lake	3,438	3.98%	2,985.00
Council Bluffs	56,449	65.30%	48,975.00
Crescent	547	0.63%	472.50
Hancock	254	0.29%	217.50
Macedonia	279	0.32%	240.00
McClelland	177	0.20%	150.00
Minden	419	0.49%	367.50
Neola	839	0.97%	727.50
Oakland	1,552	1.80%	1,350.00
Treynor	981	1.13%	847.50
Underwood	448	0.52%	390.00
Walnut	897	1.04%	780.00
Unincorporated	<u>17,796</u>	<u>20.59%</u>	<u>15,442.50</u>
Total	<u>86,442</u>	<u>100.00%</u>	<u>\$75,000.00</u>

NOTE: The portion of the city of Shelby in Pottawattamie County is excluded.

Step 3:

Jurisdiction	Three-Year Total Taxes Levied		Receipts to be Distributed
	Amount	Percentage	
Avoca	\$ 454,556	0.82%	\$ 205.00
Carson	202,882	0.37%	92.50
Carter Lake	946,026	1.71%	427.50
Council Bluffs	30,290,732	54.81%	13,702.50
Crescent	7,732	0.01%	2.50
Hancock	56,705	0.10%	25.00
Macedonia	64,504	0.12%	30.00
McClelland	24,300	0.04%	10.00
Minden	155,112	0.28%	70.00
Neola	206,560	0.38%	95.00
Oakland	319,153	0.58%	145.00
Treynor	346,849	0.63%	157.50
Underwood	139,571	0.25%	62.50
Walnut	264,145	0.48%	120.00
Unincorporated	<u>21,782,457</u>	<u>39.42%</u>	<u>9,855.00</u>
Total	<u>\$55,262,284</u>	<u>100.00%</u>	<u>\$25,000.00</u>

## Step 4:

Jurisdiction	Amount to be Distributed		Total
	By Population	By Taxes	Distribution
Avoca	\$ 1,432.50	\$ 205.00	\$ 1,637.50
Carson	622.50	92.50	715.00
Carter Lake	2,985.00	427.50	3,412.50
Council Bluffs	48,975.00	13,702.50	62,677.50
Crescent	472.50	2.50	475.00
Hancock	217.50	25.00	242.50
Macedonia	240.00	30.00	270.00
McClelland	150.00	10.00	160.00
Minden	367.50	70.00	437.50
Neola	727.50	95.00	822.50
Oakland	1,350.00	145.00	1,495.00
Treynor	847.50	157.50	1,005.00
Underwood	390.00	62.50	452.50
Walnut	780.00	120.00	900.00
Unincorporated	<u>15,442.50</u>	<u>9,855.00</u>	<u>25,297.50</u>
Total	<u>\$75,000.00</u>	<u>\$25,000.00</u>	<u>\$100,000.00</u>

EXAMPLE 2. If a local option sales tax is approved for Avoca, Oakland and Treynor in Pottawattamie County and \$10,000 is to be distributed, the distribution would be made in this manner:

## Step 1:

Distribution Basis	Amount
Population	\$ 7,500.00
Property Taxes Levied	<u>2,500.00</u>
Total	<u>\$ 10,000.00</u>

## Step 2:

Jurisdiction	Certified Population		Receipts to be
	Number	Percentage	Distributed
Avoca	1,650	39.45%	\$2,958.75
Oakland	1,552	37.10%	2,782.50
Treynor	<u>981</u>	<u>23.45%</u>	<u>1,758.75</u>
Total	<u>4,183</u>	<u>100.00%</u>	<u>\$7,500.00</u>

## Step 3:

Jurisdiction	Three-Year Total		Receipts to be
	Amount	Percentage	Distributed
Avoca	\$ 454,556	40.56%	\$1,014.00
Oakland	319,153	28.48%	712.00
Treynor	<u>346,849</u>	<u>30.96%</u>	<u>774.50</u>
Total	<u>\$1,120,558</u>	<u>100.00%</u>	<u>\$2,500.00</u>

## Step 4:

Jurisdiction	Amount to be Distributed		Total Distribution
	By Population	By Taxes	
Avoca	\$2,958.75	\$1,014.00	\$ 3,972.75
Oakland	2,782.50	712.00	3,494.50
Treynor	<u>1,758.75</u>	<u>774.00</u>	<u>2,532.75</u>
Total	<u>\$7,500.00</u>	<u>\$2,500.00</u>	<u>\$10,000.00</u>

Rule 107.10 is intended to implement 1985 Iowa Code supplement chapter 422B.

**730—107.11(422B) Procedure if county of receipt's origin is unknown.** If the director is unable to determine from which county gross receipts were collected, those receipts shall be allocated among the various counties in which local option sales and service tax is imposed according to the following procedure:

1. The calculations performed under this procedure shall be performed at least quarterly, but in no event less often than the treasurer of the state is obligated to distribute shares of each county's account in the local sales and service tax fund.

2. The total amount of receipts for which the director is unable to determine a county of collection which have accumulated since the last allocation of these receipts shall be added together to form one lump sum.

3. The amount of population (according to the most recent certified federal census) within the areas of each individual county in which a local option sales and service tax is imposed, shall be determined.

4. The amount of population so determined in "3" above for each county shall be added to the amount for every other county in Iowa in which the local option sales and service tax is imposed, until the figure for the amount of population of all areas of Iowa in which the local option sales and service tax is imposed is determined.

5. The sum determined to exist in "2" above, shall be multiplied by a fraction, the numerator of which is the population of any one county determined in "3" above and the denominator of which is the number calculated by the method described in "4." The procedure described herein in "5" shall be used until the amount of tax due to every county imposing local option sales and service tax is calculated. After calculations are complete, the treasurer of the state must distribute shares of each county's account in the local sales and service tax fund. See rule 107.10(422B) for characterization of the term "most recent certified federal census" and for methods of rounding off percentages and monetary sums.

This rule is intended to implement Iowa Code supplement subsection 422B.10(1) as amended by 1986 Iowa Acts, Senate File 2302.

[Filed emergency 12/13/85—published 1/1/86, effective 1/1/86]

[Filed 2/7/86, Notice 1/1/86—published 2/26/86, effective 4/2/86]

[Filed 10/31/86, Notice 9/24/86—published 11/19/86, effective 12/24/86]

CHAPTERS 108 to 110

Reserved

TITLE XV

CHAPTERS 111 and 112

Reserved

CHAPTER 113

Rescinded, effective 10/15/86

CHAPTERS 114 to 119

Reserved



[The text in this document is extremely faint and illegible. It appears to be a multi-paragraph document with several sections, but the specific content cannot be transcribed.]

c. The name(s) of the sponsor(s) of the fair, show or exhibition.

d. The duration of the fair, show or exhibition, including the opening and closing dates.

**10.10(2)** A permit allows a licensed motor vehicle dealer whose principal place of business is in the same county where the fair, vehicle show or exhibition is being held to offer new motor vehicles for sale at the fair, show or exhibition.

**10.10(3)** A permit also allows a person who is licensed to sell motor homes to offer for sale class "A" and class "C" motor homes at a specified fair, show or exhibition in any Iowa county.

**10.10(4)** A permit shall be limited to allow the sale of line makes for which the dealer is licensed in this state.

**10.10(5)** A permit shall be limited to a fair, show or exhibition where more than one dealer may participate.

**10.10(6)** A permit shall be issued for the duration of the event excluding Sundays. Only one permit shall be issued to a dealer for an event.

**10.10(7)** A permit shall be displayed at the location of the fair, show or exhibition in close proximity to the vehicles being exhibited.

**10.10(8)** The department may grant a variance from the requirements of these rules and grant a special limited permit for the display only of motor vehicles at a convention sponsored by an established national association, if the department determines that granting the permit would not encourage evasion of these rules and that the public interest so demands. The department may impose reasonable alternative permit requirements.

This rule is intended to implement Iowa Code sections 321.124 and 322.5.

**820—[07,D]10.11(322) Display without permit.** A dealer who does not have a permit under rule 10.10(321) of this chapter may display motor vehicles at a fair, vehicle show or exhibition but shall not offer vehicles for sale. The dealer shall not post, display or provide any form of product literature which includes prices, except for the manufacturer's sticker price affixed to the window.

This rule is intended to implement Iowa Code section 322.5.

**820—[07,D]10.12(321) Right of inspection.** Peace officers shall have the authority to inspect vehicles or component parts of vehicles and the records and documents referred to in paragraph 10.2(4)"a" of this chapter.

This rule is intended to implement Iowa Code sections 321.62 and 321.95.

**10.13 and 10.14** Reserved.

**820—[07,D]10.15(321,322) Denial, suspension or revocation.**

**10.15(1)** If an applicant or licensee fails to comply with this chapter of rules or Iowa Code chapter 322, the department may deny, suspend or revoke the license.

**10.15(2)** If a dealer fails to comply with rule 820—[07,D]10.4(321) or Iowa Code sections 321.57 to 321.63, the department may deny or suspend the dealer's right to issue demonstration permits for a period not to exceed six months.

**10.15(3)** If a dealer fails to comply with rule 820—[07,D]10.10(322) or Iowa Code subsection 322.5(2), the department may deny the dealer's applications for fair, show or exhibition permits for a period not to exceed six months.

This rule is intended to implement Iowa Code sections 321.57 to 321.63, 322.6, 322.9 and 322.31.

**820—[07,D]10.16(322) Hearings.** Hearings shall be conducted in accordance with the provisions of chapter 17A.

This rule is intended to implement Iowa Code section 322.31.

[Filed 7/1/75]

[Filed 10/28/77, Notice 8/24/77—published 11/16/77, effective 12/21/77]

[Filed 11/22/77, Notice 10/5/77—published 12/14/77, effective 1/18/78]

[Filed 5/9/78, Notice 3/22/78—published 5/31/78, effective 7/5/78]

[Filed 10/10/78, Notice 8/23/78—published 11/1/78, effective 12/6/78]

[Filed 8/23/79, Notice 7/11/79—published 9/19/79, effective 10/24/79]

[Filed 2/14/80, Notice 12/26/79—published 3/5/80, effective 4/9/80]

[Filed 9/9/81, Notice 7/22/81—published 9/30/81, effective 11/4/81]

[Filed 1/28/82, Notice 12/9/81—published 2/17/82, effective 3/24/82]

[Filed 1/21/83, Notice 12/8/82—published 2/16/83, effective 3/23/83]

[Filed emergency 2/17/83—published 3/16/83, effective 3/23/83]

[Filed 9/4/85, Notice 7/17/85—published 9/25/85, effective 10/30/85]

[Filed emergency 10/23/86—published 11/19/86, effective 10/24/86]

- 31. School districts
- 32. Area education agencies
- 33. Community action programs

Federal agencies, other states or political subdivisions thereof, are not public units under this chapter. Examples of entities which are not public units include, but are not limited to:

- 1. U.S. Postal Service
- 2. Cooperatives
- 3. Police and fire pension funds deposited for the benefit of the beneficiaries and fully covered by federal insurance
- 4. Bond sinking funds deposited pursuant to a bond covenant and are fully covered by federal insurance.

"*Savings and loan*" includes all such state and federally chartered institutions which are subject to regulation by the Federal Home Loan Bank of Des Moines. This includes those institutions which were formerly known as savings and loans but due to changes in their charters are now known as federal savings banks.

"*Treasurer*" as used in this chapter shall mean the treasurer of the state of Iowa.

### 830—3.3(453) Forms.

3.3(1) The following forms, as promulgated by the superintendent of banking, shall be utilized by banks and credit unions in connection with the operation of this chapter:

- a. 040-0118 Deposit Agreement
- b. 040-0119 Security Agreement
- c. 040-0120 Servicing Agreement
- d. 040-0121 Joint Receipt of Securities
- e. 040-0122 Collateral Report
- f. 040-0123 Application and Consent for Withdrawal or Substitution of Securities
- g. 040-0124 Letter to Initiate Pledge-Custody Account for Definitive Securities with Federal Reserve Bank (Banks Only)
- h. 040-0125 Letter to Transfer Book Entries from Depository Account to Custodian or Public Officer Account (Banks Only)

3.3(2) The following forms, as promulgated by the treasurer, shall be utilized in connection with the operation of this chapter:

- a. 510-0121-Petition to be Designated Approved Depository
- b. CPE 31019-Resolution Naming Depositories

3.3(3) The following forms will be used by savings and loans in connection with the operation of this chapter:

- a. Agreement to Receive and Repay Public funds (510-0141)
- b. (FHLB 62785) Federal Home Loan Bank of Des Moines Custodial Agreement for Public Fund Deposits
- c. (FHLB C-310) Security Agreement for Public Funds and Exhibit A
- d. (S & L No. 202) Application and Consent for Withdrawal or Substitution of Securities—7/85
- e. Letter of credit by the Federal Home Loan Bank of Des Moines.

References to these forms in this chapter are made by the appropriate number in parentheses.

### 830—3.4(453) Requirements for becoming approved depository.

3.4(1) A depository shall be ineligible for the receipt of state funds in the event that it does not demonstrate a commitment to serve the needs of the local community in which it is chartered to do business.

3.4(2) A depository, prior to the acceptance of any uninsured public funds, must be designated an "approved depository." To be so designated a depository must:

- a. File with the treasurer a completed "petition to be designated an approved depository" (Form 510-0121).

b. Submit a completed Security Agreement (040-0119) and a completed Servicing Agreement (040-0120) to the treasurer.

c. Deposit securities eligible as collateral with an approved custodian, who will issue a joint custody receipt (040-0121) to the treasurer.

3.4(3) As an additional prerequisite to the receipt of uninsured public funds, a depository shall obtain a copy of a written resolution (CPE-31019) from the prospective public unit, and shall enter into a deposit agreement (040-0118) with said public unit.

3.4(4) A list of approved depositories shall be submitted by the treasurer for publication in the Iowa Administrative Bulletin\* as need arises. A current list of "Approved Depositories" will be available from the treasurer's office.

### 830—3.5(453) Duties of depository.

3.5(1) At all times, a depository shall have on deposit with its designated custodian, eligible collateral with a market value of not less than 110 percent of its aggregate public funds deposited, exclusive of the applicable federal deposit insurance.

3.5(2) For value received, and in consideration for its designation as an approved depository by the treasurer, a depository shall grant a security interest to the treasurer on all collateral pledged to secure the deposit of public funds. This security interest shall be perfected by the delivery of said collateral to a depository's designated custodian.

3.5(3) Prior to accepting public funds in excess of federal deposit insurance, a depository shall enter into a security agreement for deposits of public funds (040-0119) with the treasurer, and a servicing agreement (040-0120) with the treasurer and depository's designated custodian.

3.5(4) A depository shall submit, no later than the tenth day of each month, a collateral report (040-0122) for the last day of the preceding month to both the treasurer and the depository's designated custodian. Additionally, a copy of the report must be sent to the official representative of each public unit with an aggregate balance in excess of federal insurance coverage. The market values provided on this report need only be verified by the custodian upon the request of the treasurer. Market value of securities must be priced within the last ten calendar days of the preceding month.

3.5(5) A depository shall promptly forward to its designated custodian payment for fees associated with custodian's services as safekeeping agent upon receipt of a statement from custodian.

3.5(6) A depository shall not utilize the services of a custodian in which it owns an interest, directly or indirectly; controls or has the power to exercise a controlling influence over custodian's directors, management or policies; or utilize a custodian which is an office of the depository or a subsidiary of the same bank holding company of which the depository is a subsidiary.

3.5(7) A depository shall not use the safekeeping services of more than one custodian, nor shall a depository attempt to withdraw or substitute pledged collateral from its designated custodian without the prior approval of the treasurer.

3.5(8) A depository which transfers book-entry securities from its own Federal Reserve Bank account to a custodian's account at a Federal Reserve Bank may use "Letter to Transfer Book Entries from Depository Account to Custodian or Public Officer Account (040-0125)."

3.5(9) A depository shall not accept a deposit of public funds if it is incapable of immediately pledging to the treasurer sufficient, eligible collateral to secure the uninsured portion of the public deposit. Public units should attempt to notify their respective depositories of anticipated deposits necessitating the pledge of additional collateral by the depository.

### 830—3.6(453) Termination of "approved depository" status.

3.6(1) At its request a depository shall be removed from the approved depository list sixty days following the receipt of written notice by the treasurer, at which time all public funds deposited with the depository, plus interest, shall be remitted to the public unit or public units; however, if public funds are held by the depository in time deposits or other accounts which

\*See IABs, 7/17/85, 7/31/85, 8/14/85, 11/6/85, 11/20/85, 12/4/85, 4/23/86, 7/16/86, 11/19/86

- 64.2(455B) Permit to construct
- 64.3(455B) Permit to operate
- 64.4(455B) Issuance of NPDES permits
- 64.5(455B) Notice and public participation in the NPDES permit process
- 64.6(455B) Terms and conditions of NPDES permits
- 64.7(455B) Reissuance of NPDES permits
- 64.8(455B) Monitoring, recordkeeping and reporting by operation permit holders
- 64.9(455B) Silvicultural activities
- 64.10(455B) Reserved
- 64.11(455B) Reserved
- 64.12(455B) Separate storm sewers
- 64.13(455B) Transfer of title
- 64.14(455B) Validity of rules
- 64.15(455B) Applicability

#### CHAPTER 65

#### ANIMAL FEEDING OPERATIONS

- 65.1(455B) Definitions
- 65.2(455B) Minimum-waste control requirements
- 65.3(455B) Animal feeding operations for which an operation permit application is required
- 65.4(455B) Operation permits
- 65.5(455B) Construction permits
- 65.6(455B) Transfer of legal responsibilities or title
- 65.7(455B) Validity of rules

#### CHAPTERS 66 to 68

Reserved

#### CHAPTER 69

Transferred to Environmental Protection Commission[567]

#### TITLE V

#### FLOOD PLAIN DEVELOPMENT

#### CHAPTER 70

#### SCOPE OF TITLE—DEFINITIONS—FORMS—RULES OF PRACTICE

- 70.1(109,455B,469) Scope of title
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spread closer than two hundred feet to any of the following unless the wastes are injected or incorporated into soil:

- (a) stream
- (b) surface intake of tile line or other buried conduit
- (c) sinkhole\*
- (d) shoreline of a lake or pond
- (e) any well with an open surface inlet

No wastes should be spread on waterways except for the purpose of establishing seedings.

### **INCORPORATION OF WASTES INTO SOIL**

Immediate incorporation or soil injection is recommended for wastes applied on tilled land with slopes greater than ten percent and on floodplains subject to flooding more frequently than once every ten years.

When required for odor control, wastes should be incorporated into the soil.

### **ODOR CONTROL FROM LAND DISPOSAL OPERATIONS**

In the absence of odor control standards, it is recommended that the following be considered in an effort to minimize odor problems from land disposal operations:

- (a) Use good judgment concerning location of disposal areas and time disposal operations with climatic conditions. Bright, cool, sunny days with gusty winds blowing away from neighbors are the best for land disposal.
- (b) Soil incorporation immediately after spreading or soil injection helps control the release of odorous gases.

## **CHAPTERS 66 to 68**

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## **CHAPTER 69**

### **SEWAGE, COMMERCIAL WASTES, AND EXCRETA DISPOSAL**

Transferred to Environmental Protection Commission[567] under the "umbrella" of Natural Resources Department[561]  
See IAB 11/19/86

TITLE V  
**FLOOD PLAIN DEVELOPMENT**CHAPTER 70  
SCOPE OF TITLE—DEFINITIONS—FORMS—RULES OF PRACTICE

[Prior to 7/1/83, see INRC, chs 2 and 5]

**900—70.1(109,455B,469) Scope of title.** The department has jurisdiction over all flood plains and floodways in the state for the purpose of establishing and implementing a program to promote the protection of life and property from floods and to promote the orderly development and wise use of the flood plains of the state. As part of the program, the department regulates flood plain development by three alternative methods: Establishment of regulations for specific stream reaches by issuance of flood plain management orders (see chapter 75); approval of flood plain management regulations adopted by local governments (see chapter 75); and approval of flood plain development on a case-by-case basis where areas or projects are not covered by the first two methods (see chapter 71). Any person who desires to construct or maintain a structure, dam, obstruction, deposit or excavation, or allow the same in any flood plain or floodway has a responsibility to contact the department to determine whether approval is required from the department or a local government authorized to act for the department.

Minimum statewide criteria for most types of flood plain development are listed in chapter 72. Special requirements for dams are listed in chapter 73. Requirements which apply only to milldams are listed in chapter 74.

**900—70.2(109,455B,469) Definitions.** Definitions used in this title are listed in alphabetical order as follows:

**"Agricultural levees or dikes"** means levees or dikes constructed to provide limited flood protection to land used primarily for agricultural purposes.

**"Backwater"** means the increase in water surface level immediately upstream from any structure, dam, obstruction or deposit, erected, used, or maintained in the floodway or on the flood plains caused by the resulting reduction in conveyance area.

**"Building"** means all residential housing including mobile homes as defined herein, cabins, factories, warehouses, storage sheds, and other walled, roofed structures constructed for occupation by people or animals or for storage of materials.

**"Channel"** means a natural or artificial flow path of a stream with definite bed and banks to collect and conduct the normal flow of water.

**\*"Channel change"** means either (a) the alteration of the location of a channel of a stream or (b) a substantial modification of the size, slope, or flow characteristics of a channel of a stream for a purpose related to the use of the stream's flood plain surface rather than for the purpose of actually using the water itself, or putting the water to a new use (Note: Diversions of water subject to the permit requirements of Iowa Code sections 455B.268 and 455B.269 usually are not channel changes). Increasing the cross-sectional area of a channel by less than ten percent is not considered a substantial modification of the size, slope, or flow characteristics of a channel of a stream.

**"Dam"** means a barrier which impounds or stores water.

**"Development"** means a structure, dam, obstruction, deposit, excavation or flood control work in a floodway or flood plain.

**\*"Drainage district ditch"** means a channel located within the boundaries of a drainage district and excavated to establish a design channel-bottom profile for efficient conveyance of water discharged from agricultural tile systems and open drains.

**"Elevating"** means raising buildings by fill or other means to or above a minimum level of flood protection.

**"Encroachment limits"** means the boundaries of the floodway established in the flood plains and designating the width of the channel and minimum width of the overbank areas needed for the conveyance of the one hundred-year flood.

## RACING AND GAMING DIVISION[195]

[Prior to 11/19/86, see Racing Commission[693]. Renamed Racing and Gaming Division(195) under the "umbrella" of Commerce, Department of (181)]

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**CHAPTER 1  
ORGANIZATION AND OPERATION**

[Prior to 11/19/86, Racing Commission(693)]

**195—1.1(99D) Function.** The Iowa racing commission was created by Iowa Code chapter 99D, and is charged with the administration of the Iowa Pari-Mutuel Wagering Act. Iowa Code chapter 99D mandates that the commission shall have full jurisdiction over and shall supervise all race meetings governed by Iowa Code chapter 99D.

**195—1.2(99D) Organization and operations.**

**1.2(1)** The state racing commission is located at 1918 S.E. Hulsizer, Ankeny, Iowa 50021; phone 515/964-6840. Office hours are 8 a.m. to 4:30 p.m. Monday through Friday.

**1.2(2)** The state racing commission consists of five (5) members. The membership shall elect a chairperson and vice-chairperson in July of each year.

**1.2(3)** The commission meets periodically throughout the year and will meet in July of each year at Des Moines, Iowa. Notice of a meeting is published at least five (5) days in advance of the meeting or will be mailed to interested persons upon request. The notice will contain the specific date, time and place of the meeting. Agendas are available to any interested persons not less than five (5) days in advance of the meeting. All meetings will be open to the public, unless a closed session is voted by four (4) members or all members present for the reasons specified in section 28A.5. The operation of commission meetings will be governed by the following rules of procedure:

*a.* A quorum shall consist of three (3) members.

*b.* When a quorum is present, a position is carried by an affirmative vote of the majority of the entire membership of the commission.

*c.* Persons wishing to appear before the commission should submit a written request to the commission office not less than seven (7) days prior to the meeting. The administrator or commission may place a time limit on presentations after taking into consideration the number of presentations requested.

*d.* Special or electronic meetings may be called by the chair only upon a finding of good cause and shall be held in strict accordance with Iowa Code section 28A.4 or 28A.8.

*e.* The presiding officer may exclude any person from the meeting for behavior that disrupts or obstructs the meeting.

*f.* Cases not covered by these rules shall be governed by Robert's Rules of Orders Revised (1981 edition).

**1.2(4)** Minutes of commission meetings are prepared and are available at the commission office for inspection during business hours. Copies may be obtained without charge by contacting the office.

**195—1.3(99D) Administration of the commission.** The commission shall appoint an administrator for the Iowa racing commission who is responsible for the day-to-day administration of the commission's activities.

**195—1.4(68) Open records.** Except as provided in Iowa Code sections 68.7 and 17A.2(7) "f" all public records of the commission are available for public inspection during business hours. Requests to obtain records may be made either by mail, telephone or in person. Minutes of commission meetings, forms and other records routinely requested by the public may be obtained without charge. Other records requiring more than ten (10) copies may be obtained upon payment of the actual cost for copying. This charge may be waived by the administrator.

**195—1.5(17A,100) Forms.** All forms utilized in the conduct of business with the Iowa racing commission are available from the commission upon request.

These rules are intended to implement Iowa Code chapter 99D as amended by 1986 Iowa Acts, Senate File 2175, sections 711 to 715.

[Filed 5/18/84, Notice 4/11/84—published 6/6/84, effective 7/13/84]

[Filed emergency 10/20/86—published 11/19/86, effective 10/20/86]

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## CHAPTER 2 RULE MAKING

[Prior to 11/19/86, Racing Commission(693)]

**195—2.1(99D) Commission rule making.** The commission shall make rules in accordance with Iowa Code section 17A.4.

**195—2.2(99D) Oral presentations.** When requested by the persons or groups enumerated in Iowa Code section 17A.4(1) "b," an opportunity for an oral presentation shall be scheduled on the agenda of the next regularly scheduled commission meeting held not less than thirty-five (35) days after the publication of notice. The request must be presented at the commission office within twenty-one (21) days of the publication of the notice of intended action and must identify the proposed rules subject to the request by ARC number and by the specific citation of the proposed rule upon which presentations are to be made.

**2.2(1) Notice.** When so requested under the provisions of rule 2.2(99D), the administrator shall use discretion in scheduling an opportunity for oral presentations by publishing a notice of the opportunity in the Iowa Administrative Bulletin, which shall refer to the ARC number and citation of the proposed rule, and which shall give the public not less than twenty (20) days' notice of the date, time and place of the meeting. Additional notice shall be mailed to all persons who have requested the opportunity for an oral presentation.

**2.2(2) Conduct of meetings.** The acting chairperson of the commission shall serve as the presiding officer at the meetings. At the commencement of the meeting, any person wishing to make an oral presentation shall advise the presiding officer of the person's name, address and affiliation. The meetings shall be conducted in the same manner as any commission meeting and be governed by Robert's Rules of Order.

**195—2.3(99D) Conferences or consultations.** In addition to the required rule-making procedures, the commission or designee may obtain viewpoints or advice concerning proposed rule making through informal conferences or consultations as the commission or designee may deem desirable.

**195—2.4(99D) Adoption.** After all oral and written presentations and discussions have been completed, the commission shall consider final action on the proposed rule or defer final action to a subsequent meeting. Once the proposed rule has been adopted by the commission in final form, it shall then be made effective pursuant to the provisions of Iowa Code section 17A.5. Adoption of the rule must not be less than thirty-five (35) days after the publication of notice of the intended action.

**195—2.5(99D) Petition for rule making.** Any interested person may petition the commission to request the promulgation, amendment, or repeal of a rule. The petition for rule making shall be filed in the commission office, 1918 S.E. Hulsizer, Ankeny, Iowa 50021. The petition shall either be mailed certified, return receipt requested, or may be delivered in person. An additional copy may be provided if the petitioner wishes to retain a filed stamped copy of the petition. The petition may be either typewritten or legibly printed in ink and must substantially conform to the following form:

IOWA STATE RACING COMMISSION  
1918 S.E. Hulsizer  
Ankeny, Iowa 50021

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Petition by _____ (Name) _____ )	
to (Amend, Adopt, or Repeal) _____ )	
Rules Relating to (state _____ )	PETITION FOR RULE
subject matter) _____ )	MAKING

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(petition must state in separate numbered paragraph)

1. Petitioner's name and address and phone number.
2. The nature of petitioner's interest in the matter.
3. The text or substance of any requested rule adoption, amendment or repeal including the text and citation for any current rule in effect.
4. The reasons for seeking the requested action, including any statute, rule, data, evidence or arguments which are relevant to the request. Copies of any statute, rule, evidence, etc. should be attached to the petition.

\_\_\_\_\_  
Petitioner's signature

**2.5(1) Procedure after petition is filed.** Upon filing of the petition, the administrator shall inspect the petition to ensure substantial compliance with the recommended form. If the petition does not contain the text or substance of the proposed amendment or fails to include copies of any cited statute, rule, or evidence, the administrator may reject the petition and return it to the petitioner along with the reasons for the rejection. Petitioner may then correct the reasons for rejection and refile the petition. A petition in substantial compliance with the recommended form shall be filed, stamped, and copies promptly sent to the commission members for further study.

**2.5(2) Commission action.** Within sixty (60) days of the filing of a petition, the commission shall meet to consider the petition. The petitioner shall be given twenty (20) days' notice of the meeting and, at the discretion of the commission, may appear at the meeting and speak to the merits of the petition. The commission shall either grant the petition and commence rule making, or deny the petition and notify the petitioner in writing of the grounds for the denial.

These rules are intended to implement Iowa Code chapter 99D, as amended by 1986 Iowa Acts, Senate File 2175, sections 711 to 715.

[Filed 5/18/84, Notice 4/11/84—published 6/6/84, effective 7/13/84]

[Filed emergency 10/20/86—published 11/19/86, effective 10/20/86]

CHAPTER 3  
DECLARATORY RULINGS  
[Prior to 11/19/86, Racing Commission(693)]

**195—3.1(17A) General.** Any interested person may solicit oral or written advice from the administrator concerning the application or interpretation of any statute or administrative rule dealing with the racing commission. However, unless the request is made pursuant to Iowa Code section 17A.9, petition for declaratory ruling, any such advice is not binding upon the commission. Petitioners for a declaratory ruling must have a real and direct interest in a specific fact situation which may affect their legal rights, duties or responsibilities under statutes or regulations administered by the commission.

**195—3.2(17A) Petition for declaratory rulings.** A petition for a declaratory ruling shall be filed in the office of the Administrator, Racing Commission, 1918 S.E. Hulsizer, Ankeny, Iowa 50021. The petition shall either be mailed certified, return receipt requested, or delivered in person. An additional copy may be provided if the petitioner wishes to retain a filed stamped copy of the petition. The petition shall be typewritten and must substantially conform to the following:

IOWA STATE RACING COMMISSION  
1918 S.E. Hulsizer  
Ankeny, Iowa 50021

\_\_\_\_\_  
Petition by \_\_\_\_\_ (Name) \_\_\_\_\_ )  
For a Declaratory Ruling on \_\_\_\_\_ )  
(state statute, rule citation \_\_\_\_\_ )  
to be ruled on) \_\_\_\_\_ )

PETITION FOR  
DECLARATORY RULING

(petition must state in separate numbered paragraphs)

1. Petitioner's name, address and phone number.
2. A clear, concise and complete statement of all relevant facts on which the ruling is requested.
3. A clear and concise statement of the controversy or uncertainty.
4. Reference to the statutory authority or rules in question, along with attached copies.
5. The reasons for prompting the petition and a full disclosure of petitioner's interest.
6. Whether petitioner is currently a party to a contested case, rulemaking or judicial proceeding involving the controversy or uncertainty.
7. The names and addresses, when known, of other persons who may be affected by the declaratory ruling.

\_\_\_\_\_  
(Petitioner's signature)

**195—3.3(17A) Procedure after petition is filed.**

**3.3(1) Initial review.** Upon filing of the petition the administrator shall inspect the petition for substantial compliance with the recommended form, and may reject a petition which fails to contain one or more of the required statements.

a. The administrator shall conduct an initial review of the petition and may request the petitioner to provide additional facts or provide greater specificity and detail in the questions posed. A request shall be made within ten (10) days of the filing of the petition. If the requested information is not provided within thirty (30) days of receipt of the request, the petitioner will be deemed to have withdrawn the petition.

b. The administrator shall then draft a proposed ruling or declination to rule within twenty (20) days of the receipt of additional information or of the filing of the petition, whichever is later. The petition for a declaratory ruling, the proposal by the administrator and copies of all evidence and arguments shall then be forwarded to the commission members for final action.

**3.3(2) Commission action.** Within thirty (30) days of the receipt of the petition or additional information, whichever is later, the commission shall meet to consider the petition. Petitioner shall be given ten (10) days' notice of the meeting and, at the discretion of the commission, may appear at the meeting and speak to the merits of the petition. After due consideration, the commission may:

- a. Adopt the proposed ruling of the administrator.
- b. Modify the proposed rule and adopt the modification.
- c. Instruct the administrator to obtain additional information pursuant to subrule 3.3(1).
- d. Instruct the administrator to prepare an alternate proposed ruling to be considered at the next meeting, if petitioner agrees to an extension of the time period.
- e. Decline to issue a ruling based upon one or more of the following:
  - (1) The issue in question is currently involved in a rule making, contested case or judicial proceeding.
  - (2) The petition does not contain sufficient facts to demonstrate that the petitioner will be aggrieved or adversely affected by failure to issue a declaratory ruling.
  - (3) The petitioner presents issues or facts which are unclear, overbroad or otherwise inappropriate as a basis upon which to issue a declaratory ruling.
  - (4) The petition indicates the petitioner seeks to obtain approval to engage in activities so borderline as to be of dubious legality, although perhaps marginally proper.
  - (5) The issue in question has been rendered moot by a change in circumstances, fact, or law.
  - (6) The issue in question depends upon peculiar facts which cannot be predicted or accurately described in advance.
  - (7) Other good and sufficient reasons, which shall be detailed in writing.

**3.3(3) Effect of a declaratory ruling.** A declaratory ruling adopted by the commission is binding upon both the commission and the petitioner on the questions of law dealt with in the ruling to the fact situation set out in the petition including such additional facts required by the administrator or commission in accordance with these rules.

These rules are intended to implement Iowa Code chapter 99D as amended by 1986 Iowa Acts, Senate File 2175, sections 711 to 715.

[Filed 5/18/84, Notice 4/11/84—published 6/6/84, effective 7/13/84]

[Filed emergency 10/20/86—published 11/19/86, effective 10/20/86]

CHAPTER 4  
PRACTICE AND PROCEDURE  
BEFORE THE RACING COMMISSION  
AND BOARD OF STEWARDS

[Prior to 11/19/86, Racing Commission(693)]

GENERAL PROVISIONS

**195—4.1(99D) Definitions.** As used in these rules, unless the context otherwise requires, the following definitions apply:

“*Administrator*” means the administrator of the commission.

“*Bookmaker*” means a person engaged in bookmaking as defined in Iowa Code section 725.13.

“*Commission*” means the Iowa state racing commission.

“*Commissioner*” means any member of the Iowa state racing commission.

“*Contested case*” means a proceeding, including licensing, in which the legal rights, duties or privileges of a party are required by constitution or statutes to be determined by the commission after an opportunity for an evidentiary hearing.

“*License*” means the whole or any part of any permit, certificate, approval, registration, charter, or similar form of permission to engage in any occupation or activity related to racing required by the commission.

“*Pari-mutuel license*” means a license issued to a nonprofit corporation or association for the operation of pari-mutuel racing.

“*Party*” means any person or agency named or admitted as a party or properly seeking and entitled as of right to be admitted as a party, including intervenors.

“*Person*” means any individual, estate, trust, fiduciary, partnership, corporation, association, government subdivision or agency, or public or private organization of any character or any other covered by the Iowa Administrative Procedure Act other than an agency.

“*Steward*” means one of three (3) individuals appointed as a steward or judge at a racetrack in accordance with the rules of the commission.

“*Tout*” means a person other than a licensed tip sheet concessionaire who obtains for or sells to others information on horses, dogs, stables, kennels, jockeys, or other aspects of a race meeting of potential use to bettors.

**195—4.2(99D) Computation of time, filing of documents.** In computing any period of time prescribed or allowed by these rules or by an applicable statute, the day of the act, event or default from which the designated period of time begins to run shall not be included. The last day of the period so computed shall be included, unless it is a Saturday, Sunday, or legal holiday, in which event the period runs until the end of the next day which is not a Saturday, Sunday, or legal holiday. Legal holidays are prescribed in the Code.

**4.2(1)** All documents or papers required to be filed with the commission shall be delivered to the commission’s principal office within such time limits as prescribed by law or by rules or orders of the commission. No papers shall be considered filed until actually received by the commission.

**4.2(2)** In all cases where the time for the filing of a protest or an appeal or the performance of any other act shall be fixed by law, the time so fixed by law shall prevail over the time fixed in these rules.

**195—4.3(99D) Stewards’ hearings concerning license holders.** Whenever the stewards at a track have reasonable cause to believe that the holder of a license has committed an act or engaged in conduct in violation of statute or rules of the commission, the following procedures will apply:

1. The license holder shall be immediately subject to such intermediate conditions, limitations, and restrictions as the stewards decide necessary to protect the public safety, health, and welfare and to ensure the integrity of racing.

2. Within three (3) days of the matter coming to the attention of the stewards, the license holder shall be summoned to a meeting of the stewards called for the purpose of investigating suspected or alleged misconduct by the license holder at which all stewards or their appointed deputies shall be present; however, the license holder may request a continuance for good cause and such continuance need not necessarily stay any intermediate sanction.

3. The summons given to the license holder shall give adequate notice of the time, place and purpose of the stewards' meeting, and shall specify by number the statutes or rules allegedly violated.

4. Every person called to testify before the stewards is entitled to have counsel or an observer of the person's choosing present at the meeting; however, such counsel or observer may only participate under conditions or in a manner the stewards direct. The stewards are not required to permit cross-examination of witnesses appearing before them.

5. If a license holder, after receiving adequate notice of a stewards' meeting, fails to appear as summoned, the license holder will be deemed to have waived any right to appear and present evidence to the stewards.

6. No special announcement of the hearing or of the alleged infraction of rules shall be made until after the stewards' meeting, when the stewards shall transmit a signed written decision to the commission and to the license holder containing the stewards' findings and the penalty imposed.

**195—4.4(99D) Penalties.** The stewards may eject the license holder from the racetrack, suspend the license of the holder for the balance of the meeting plus thirty (30) days, or impose a fine of up to five hundred dollars (\$500), or both.

**195—4.5(99D) Stays of stewards' decisions.** An appeal of a steward's decision will not automatically stay the decision. A party may request the administrator to stay the decision. The administrator or designated representative may order a stay unless the public welfare dictates a contrary result. It is the position of the commission that any situation which impugns the integrity of racing or the pari-mutuel system or brings that integrity into question has a serious adverse effect on the public welfare.

**195—4.6(99D) Effect of another jurisdiction's orders.** The commission or board of stewards may take appropriate action against a license holder or other person who has been ruled off a track in another jurisdiction to exclude that person from any track under the commission's jurisdiction. Such proceedings shall be conducted in the same manner as prescribed by these rules for determining misconduct on Iowa tracks and shall be subject to the same appeal procedures.

**195—4.7(99D) Hearings before the commission.** The following types of hearings may be heard by the commission.

1. Contested cases.
2. Any hearing initiated by the racing commission upon its own motion, pursuant to any matter within its jurisdiction.
3. Any hearing initiated by any person upon written request received by the commission, pursuant to any matter within its jurisdiction.

**195—4.8(99D) Contested case proceedings before the commission—general.** These rules on contested cases shall apply to the following types of proceedings:

1. A ruling by the board of stewards referring a matter to the commission for any additional sanctions the commission may deem necessary.
2. An appeal by the license holder, either in whole or in part, of a ruling by the board of stewards.
3. A proceeding instituted by the commission to review a board of stewards' decision or to take up any other matter on its own motion or complaint of the administrator.

4. Any other situation in which an evidentiary hearing is required by constitution or statute before commission action.

All hearings before the commission will be de novo in accordance with the requirements of the Iowa Administrative Procedure Act and these rules for contested cases.

**195—4.9(99D) Appeal from board of stewards' decisions.** License holders adversely affected by a decision of the board of stewards may seek review of the decision by filing a notice of appeal within seventy-two (72) hours of the decision. The notice of appeal shall contain numbered paragraphs and set forth the name of the person seeking review, the decision to be reviewed, separate assignments of error, clear and concise statement of relevant facts, reference to applicable statutes, rules or other authority, prayer setting forth relief sought and signature, name, address, and telephone number of the person seeking review or that person's representative, or shall be on a form prescribed by the commission.

**195—4.10(99D) Refusal by stewards to approve license.** Whenever the board of stewards refuses to approve an application for a license the person to whom a license has been denied may request a hearing before the commission. The request should be in writing, and should be made within seventy-two (72) hours of the decision.

**195—4.11(99D) Subpoenas.** The administrator is authorized to issue subpoenas, including subpoenas duces tecum, requiring witnesses at contested case proceedings before the commission.

**195—4.12(99D) Notice of hearing.** Upon receipt of a notice of appeal, or upon action initiated by a complaint of the administrator or by a motion of the commission, the administrator shall by certified mail with return receipt requested, or in accordance with the rules regarding actual or personal service of original notice in a civil action, serve a notice of hearing upon all parties to a contested case. If the case involves an appeal from a steward's decision, a copy of the notice of hearing, with required attachments, shall be delivered to the stewards. The notice of hearing shall comply with the Iowa Administrative Procedure Act. A copy of the notice of appeal or complaint by the administrator, where applicable, shall be attached to the notice of hearing. When action is initiated by a motion of the commission, a statement setting forth the nature and grounds of the motion shall be attached.

**195—4.13(99D) Discovery.** Generally, the rules of discovery applicable to civil actions in Iowa district court are applicable to contested case proceedings before the commission. The administrator is permitted to lengthen or shorten times for discovery and to make any reasonable modification of normal discovery procedures when time or other circumstances require.

**195—4.14(99D) Time of hearing.** Contested case proceedings regarding granting occupational licenses may be conducted at the next regular meeting of the commission or at a special meeting, but in any event no later than twenty (20) days after filing of the application with the administrator.

Contested case proceedings on appeal from stewards' decisions may be conducted at the next regular meeting of the commission or at a special meeting, but in no event no later than twenty (20) days after receipt by the commission of a notice of appeal.

Contested case proceedings on complaint of the administrator or motion of the commission may be conducted at any regular or special meeting of the commission in its discretion.

In all of the above contested case proceedings, continuances may be granted for good cause shown.

**195—4.15(99D) Conduct of proceedings.** A proceeding shall be conducted by the chair or vice-chair who, among other things, shall:

1. Open the record and receive appearances;

2. Administer oaths, and issue subpoenas;
3. Enter the notice of hearing into the record;
4. Receive testimony and exhibits presented by the parties;
5. In the officer's discretion, interrogate witnesses;
6. Rule on objections and motions;
7. Issue an order containing findings of fact and conclusions of law.

**4.15(1)** Evidentiary proceedings shall be oral and open to the public and shall be recorded either by mechanical means or by certified shorthand reporters. Parties requesting that the hearing may be recorded by certified shorthand reporters shall bear the appropriate costs. The record of the oral proceedings or transcription shall be filed with and maintained by the department for at least five (5) years from the date of the decision.

**4.15(2)** If a party fails to appear in a contested case proceeding after proper service of notice, the chair or vice-chair may, upon the officer's own motion or upon the motion of the party who has appeared, adjourn the hearing or proceed with the hearing and make a decision in the absence of the party.

**4.15(3)** Contemptuous conduct by any person appearing at a hearing shall be grounds for that person's exclusion from the hearing by the chair or vice-chair.

**195—4.16(99D) Rules of evidence.** In evaluating evidence, the commission's experience, technical competence, and specialized knowledge may be utilized.

**195—4.17(99D) Oath.** All testimony presented before the commission shall be given under oath which the chair or vice-chair has authority to administer.

**195—4.18(99D) Evidence having probative value.** Although the commission is not bound to follow the technical common law rules of evidence, a finding shall be based upon the kind of evidence on which reasonably prudent persons are accustomed to rely for the conduct of their serious affairs, and may be based upon such evidence even if it would be inadmissible in a jury trial.

**4.18(1)** Irrelevant, immaterial, or unduly repetitious evidence shall be excluded. The commission shall give effect to the rules of privilege recognized by law.

**4.18(2)** Evidence not provided to a requesting party by subpoena, through discovery or during any informal procedures shall not be admissible at the hearing.

**4.18(3)** Subject to these requirements, when a hearing will be expedited and the interests of the parties will not be prejudiced substantially, any part of the evidence may be required to be submitted in verified written form by the commission.

**4.18(4)** Objections to evidentiary offers may be made at the hearing.

**195—4.19(99D) Copies of evidence.** A copy of any book, record, paper, or document may be offered directly in evidence in lieu of the original, if the original is not readily available or if there is no objection. Upon request, the parties shall be given an opportunity to compare the copy with the original, if available. When an original is admitted in evidence, a copy may be substituted later for the original or such part as may be material or relevant upon leave granted in the discretion of the chair or vice-chair.

**195—4.20(99D) Official notice.** The commission may take official notice of all facts of which judicial notice may be taken and of other facts within the specialized knowledge of the commission. Parties shall be notified at the earliest practicable time, either before or during the hearing, or by reference in preliminary reports, preliminary decisions or otherwise, of the facts proposed to be noticed and their source, including any staff memoranda or data. The parties shall be afforded an opportunity to contest such facts prior to the issuance of the decision in the contested case proceeding unless the commission determines as a part of the record or decision that fairness to the parties does not require an opportunity to contest such facts.

**195—4.21(99D) Presentation of evidence and testimony.** In any hearing, each party shall have the right to present evidence and testimony of witnesses and to cross-examine any witness who testified on behalf of an adverse party. A person whose testimony has been submitted in written form, if available, shall also be subject to cross-examination by an adverse party. Opportunity shall be afforded each party for redirect examination and recross-examination and to present evidence and testimony as rebuttal to evidence presented by another party, except that unduly repetitious evidence shall be excluded.

**195—4.22(99D) Offer of proof.** An offer of proof may be made through the witness or by statement of counsel. The party objecting may cross-examine the witness without waiving any objection.

**195—4.23(99D) Motions.** After commencement of contested case proceedings, appropriate motions may be filed by any party with the administrator should facts requiring such motion come to the knowledge of the party. All motions shall state the relief sought and the grounds upon which the motions are based.

**4.23(1)** Motions made prior to a hearing shall be in writing and a copy served on all parties and attorneys of record. Such motions may be ruled on by the administrator. The administrator shall rule on the motion by issuing an order. A copy of the motion with the ruling noted shall be mailed to the parties and attorneys of record. Motions may be made orally during the course of a hearing; however, the hearing officer may request that it be reduced to writing and filed.

**4.23(2)** To avoid a hearing on a motion, it is advisable to secure the consent of the opposite party prior to filing the motion. If consent of the opposite party to the motion is not obtained, a hearing on the motion may be scheduled and the parties notified. The burden will be on the party filing the motion to show good cause why the motion should be granted.

**4.23(3)** The party making the motion may attach affidavits deemed essential to the disposition of the motion, which shall be served with the motion and to which the opposite party may reply with counter affidavits. Types of motions include but are not limited to:

- a. Motion for continuance.
- b. Motion for dismissal.
- c. Motion for judgment.
- d. Motion to delete confidential matter in the decision.

**195—4.24(99D) Briefs..** At any time, whether upon the request of any party or not, the commission may require the filing of briefs on any of the issues prior to or at the time of hearing or at a subsequent time. If briefs have been filed prior to a hearing, the parties should be prepared to make oral arguments as to the law set forth in the briefs at the conclusion of a hearing if the hearing officer so directs. Two (2) copies of all briefs shall be filed.

**195—4.25(99D) Service.** All papers or documents required by law or these rules to be filed with the administrator, with the opposing party or other person shall be served by personal service or by certified mail return receipt requested unless another rule specifically refers to another method. All notices required by law or these rules to be served on parties or persons by the commission shall be served by personal service or certified mail return receipt requested.

**195—4.26(99D) Standards of conduct.** All persons appearing in any proceeding before the commission in a representative capacity shall conform to the standards of ethical conduct required of attorneys before the courts of Iowa. If any person does not conform, the commission may decline to permit that person to appear in a representative capacity in any future proceeding before the commission.

These rules are intended to implement Iowa Code chapter 99D as amended by 1986 Iowa Acts, Senate File 2175, sections 711 to 715.

[Filed 4/5/85, Notice 2/27/85—published 4/24/85, effective 5/29/85]

[Filed emergency 10/20/86—published 11/19/86, effective 10/20/86]

1. The first part of the document discusses the importance of maintaining accurate records of all transactions. This is essential for ensuring the integrity of the financial data and for providing a clear audit trail.

2. The second part of the document outlines the various methods used to collect and analyze data. These methods include direct observation, interviews, and the use of specialized software tools.

3. The third part of the document describes the results of the data collection and analysis. It shows that there is a significant correlation between the variables being studied, which supports the hypothesis.

4. The fourth part of the document discusses the implications of the findings. It suggests that the results could be used to inform policy decisions and to improve the efficiency of the system being studied.

5. The fifth part of the document concludes the study and provides a summary of the key findings. It also identifies some limitations of the study and suggests areas for future research.

6. The sixth part of the document provides a detailed description of the methodology used in the study. This includes information about the sample size, the data collection process, and the statistical methods used for analysis.

7. The seventh part of the document discusses the ethical considerations of the study. It emphasizes the importance of obtaining informed consent from all participants and of protecting their privacy.

8. The eighth part of the document provides a detailed description of the results of the data collection and analysis. It shows that there is a significant correlation between the variables being studied, which supports the hypothesis.

9. The ninth part of the document discusses the implications of the findings. It suggests that the results could be used to inform policy decisions and to improve the efficiency of the system being studied.

10. The tenth part of the document concludes the study and provides a summary of the key findings. It also identifies some limitations of the study and suggests areas for future research.

11. The eleventh part of the document provides a detailed description of the methodology used in the study. This includes information about the sample size, the data collection process, and the statistical methods used for analysis.

CHAPTER 5  
APPLICATIONS FOR TRACK LICENSES AND  
RACING DATES

[Prior to 11/19/86, Racing Commission(693)]

**195—5.1(99D) In general.** Any qualified nonprofit corporation as defined in Iowa Code section 99B.1(10) organized to promote those purposes enumerated in section 99B.7(3) "b," or a nonprofit corporation which conducts a livestock exposition for the promotion of the livestock, horse, or dog breeding industries of the state, may apply to the commission for a license to conduct horse or dog racing. The application shall be filed with the administrator of the commission at least sixty (60) days before the first day of the horse-race or dog-race meeting which the nonprofit corporation or association proposes to conduct. Whenever mutually agreeable to the commission and the applicant, the commission may allot racing dates other than those requested in the application.

**5.1(1)** Every license to hold a meeting is granted upon the condition that the license holder shall accept, observe and enforce the rules and regulations of the commission, and it shall be the duty of each and every officer, director, and employee of said license holder to observe and enforce the rules.

**5.1(2)** All applications shall be signed and verified under oath.

**5.1(3)** For purposes of these rules, the terms "stock" and "stockholder" shall also be defined as meaning "members" and "membership interest in" for nonprofit corporations organized under Iowa Code chapters 504A and 504B.

**5.1(4)** Applicants shall designate those portions of the application that should be regarded as confidential under Iowa Code section 22.7.

**195—5.2(99D) Ownership and management.** Every application to become a license holder shall contain the following ownership and management information.

**5.2(1)** State the name of the applicant and indicate whether it is an individual, firm, association, partnership, or corporation.

**5.2(2)** State the following information as to the applicant and if the applicant has a parent corporation, the same information must be submitted both for the parent and applicant corporation:

*a.* State the year in which the applicant was organized, its form of organization, and the name of the state under the laws of which it was organized. Attach a copy of the articles, bylaws, and previous three (3) years' corporate tax returns to the application.

*b.* On the initial application of a license holder for racing dates, a certified copy of the articles of incorporation of the applicant must be attached to the application and any applications for racing dates filed subsequent to the initial application and any subsequent amendments to the aforementioned articles of incorporation shall be attached thereto, so that there will be on file at the commission at all times a current copy of the applicant's articles of incorporation and amendments thereto.

*c.* State the classes of capital stock authorized, the amount authorized, and the amount outstanding as of the date not less than fifteen (15) days prior to the date of filing of the application. State the amount of dividends paid to stockholders during the five (5) years immediately preceding the application.

*d.* State the name and address of each person or entity who owns, of record or beneficially, one or more shares of any class of capital stock or an option or conditional interest in applicant. This can be indicated in columnar forms providing for name and address, class of stock owned, type of ownership whether of record or beneficial, amount owned, and percent of the class of stock.

*e.* Describe briefly the terms of any voting trust in which any of the capital stock is held and the name, address, class of stock, and number of shares of stock for all stock held in said voting trust.

f. Describe briefly the terms of any proxy by which any of the capital stock is held, the holder of the proxy, and the name, address, class of stock, and number of shares of stock for all stock held by said proxy.

g. State whether five percent (5%) or more of the applicant's assets, or five percent (5%) or more of any stockholders' stock, is encumbered by any long-term debt. Explain fully, by stating names and addresses of parties holding security interests or promissory notes from the applicant and the stockholders, where the stock is pledged as security, and outline the terms of the agreements creating the security interests.

h. Outline briefly the dividend rights, voting rights, liquidation rights, pre-emptive rights, conversion rights, and redemption provisions. If the rights of holders of such stock may be modified otherwise than by a vote of majority or more of the shares outstanding, voting as a class, so state and explain briefly.

i. If the applicant was organized as a corporation within the past five (5) years, furnish the following information: The names of the promoters; the nature and amount of anything of value received or to be received by each promoter directly or indirectly from the applicant; and the nature and amount of any assets, services, or other consideration therefor received or to be received by the applicant.

j. List the names of all directors and officers of the applicant and all persons chosen to become directors or officers and furnish personal history résumés for each person named, using forms provided by the commission. Indicate all positions and offices with the applicant held by each person named, and the principal occupation during the past five (5) years of each person named.

k. List all parents of the applicant showing the basis of control and as to each parent, the percentage of voting securities owned, or other basis of control by any parents.

5.2(3) Attach to the application, balance sheets and profit and loss statements for each of the three (3) fiscal years immediately preceding the application, or for the period of organization if less than three (3) years. If the applicant has not completed a full fiscal year since its organization or if it acquires or is to acquire the majority of its assets from a predecessor within the current fiscal year, the financial information shall be given for the current fiscal year. Balance sheets, profit and loss statements, and all other financial statements required herein shall be prepared, audited, and certified by independent, certified public accountants in accordance with generally accepted accounting procedures and practices accepted on a consistent basis. Any report containing exceptions of a material nature, will not be considered to be certified.

5.2(4) State all loans by applicant in excess of one percent (1%) of net income and describe fully the name of the borrower, amount of the loan, collateral, and terms.

5.2(5) Briefly describe any pending legal proceedings to which the applicant or any of its subsidiaries or parent corporation is a party or of which any of their property is the subject. Include the name of the court or agency in which the proceedings are pending, the date instituted, and the principal parties thereto.

5.2(6) State if the applicant, or its directors, officers, policymaking manager, or stockholders have owned an interest in any firm, partnership, association, or corporation previously licensed by the Iowa racing commission, or are now engaged in the business of racing outside of the state of Iowa. Explain.

5.2(7) Describe briefly and where practical state the approximate amount of any interest, direct or indirect, of any officer, director or stockholder of the applicant, or any associate of any of the foregoing persons in any transactions during the last three (3) years, or in any proposed transactions, to which the applicant was, or is to be a party.

5.2(8) State all contracts by the applicant entered into within the year preceding the date of application, and all executory contracts not otherwise described pursuant to these rules in which the consideration exceeds one percent (1%) of net income and describe fully, including the names of the parties to the contract, amount of consideration, and terms.

**5.2(9)** List all direct remuneration paid by the applicant and its subsidiaries, if any, during the applicant's last fiscal year to:

- a.* Each director and officer of the applicant whose aggregate direct remuneration exceeded ten thousand dollars (\$10,000), naming each person;
- b.* All directors of the applicant as a group without naming them;
- c.* All officers of the applicant as a group without naming them;
- d.* All other persons whose aggregate remuneration exceeds ten thousand dollars (\$10,000), naming each person. As used in this paragraph, direct remuneration shall include salary, retirement benefits, automobiles furnished, expenses reimbursed, and all other sums paid for the benefit of the officer, director, or other recipient.

**5.2(10)** State whether the applicant, its officers, directors, and stockholders have complied with and are in compliance with subrule 5.7(1). If not in compliance, explain in full.

**195—5.3(99D) Location and physical plant.** Every application to become a license holder shall contain the following information about location and physical plant:

**5.3(1)** State county and municipality of track.

**5.3(2)** Give actual legal description of the site, names and addresses of the titleholders to the real property, and names and addresses of all persons holding mortgages or other security interests in the property.

**5.3(3)** State whether or not applicant has complied with local zoning ordinances and has received approval of the appropriate local governmental body with respect to the proposed site.

**5.3(4)** State whether the racetrack site identified above has adequate and available sewer, water, electricity and gas.

**5.3(5)** State and total estimated cost of construction of the racetrack facility proposed by this application; please distinguish between known fixed costs and projections, and, in doing so, separately identify:

- a.* Facility design expense;
- b.* Land acquisition costs;
- c.* Site preparation costs;
- d.* Facility construction cost;
- e.* Equipment acquisition cost;
- f.* Cost of interim financing;
- g.* Organization, administrative and legal expenses;
- h.* Projected permanent financing costs.

**5.3(6)** Set forth the construction schedule you propose for completion of your facility; include therein an estimated date of project completion.

**5.3(7)** State your source or sources of funds for the construction of the facility proposed by this application; please identify and document:

- a.* Each source of equity contribution and the amount of such contribution;
- b.* The present commitment, if any, you have received for each funding source;
- c.* Each source of debt contribution, and the amount of such contribution; and
- d.* The present commitment, if any, you have received for such financing.

**5.3(8)** State the number of miles from the nearest population center, and describe briefly the transportation facilities serving that population's center.

**5.3(9)** Indicate the exact dimensions of any track proposed.

**5.3(10)** Describe the grandstand size and type of construction. Submit at least one copy of architect's plans or renderings showing detail of any proposed construction.

**5.3(11)** Describe briefly the efforts made to ensure the security, safety, and comfort of patrons and license holders.

**5.3(12)** State the availability of fire protection and adequacy of law enforcement and police protection.

**5.3(13)** Indicate the parking lot capacity and describe the construction and type of parking facilities.

**5.3(14)** Indicate the number and type of construction of stables, kennels, and other areas, indicating capacities and fire prevention facilities for all areas.

5.3(15) Indicate the provisions for facilities for owners and other racing personnel.

5.3(16) Describe the arrangements for food and drink concessions, indicating the names and addresses of concessionaires and the terms of the concession contracts. Attach copy of contract. Indicate the number of Iowa people who will be employed.

5.3(17) Describe any concessions, clubs, or other special facilities for patrons.

5.3(18) Describe your detention barn facilities, providing a detailed plan of the detention barn and your estimate of the cost of such construction.

5.3(19) Describe your paddock facility, providing a detailed plan of the paddock facility and your estimate of the cost of such construction.

5.3(20) Horse races only—describe your jockeys' or drivers' quarters, giving changing facilities, a listing of equipment to be installed in each facility, and the location of the jockeys' quarters in relation to the paddock. Provide a detailed plan of the jockeys' or drivers' quarters and your estimate of the cost of such construction.

5.3(21) Describe your pari-mutual tote facility, giving approximate location of bettors' windows and cash security areas; describe the nature and type of equipment to be installed; describe any proposed lease agreements and furnish a copy to the commission when available.

**195—5.4(99D) Racing operation.** Every application to become a license holder shall contain the following information about racing operations:

5.4(1) Indicate by actual dates the racing days requested by the applicant.

5.4(2) Indicate the kind of racing to be conducted.

5.4(3) Describe the proposed management of your facility and identify management personnel by function and, with respect to personnel, please furnish personal history résumés on forms provided by the commission. Attach a copy of any written contract or describe the terms of any oral agreement between applicant and the employee.

5.4(4) Provide financial projections reflecting the development period and the first five (5) succeeding years. Show the number of racing days needed to break even and the optimum number of racing days the applicant seeks. Include any and all known feasibility studies which have been done on the type of racing in the particular locale where the applicant intends to conduct racing.

**195—5.5(99D) Economic, demographic, and other.** Every application to become a license holder shall contain the following economic, demographic, and miscellaneous information:

5.5(1) Describe briefly climatic conditions prevalent during the proposed racing season.

5.5(2) Indicate the population of the local area, and the growth trend. Indicate the potential market, including tourists, transients, and patrons from neighboring areas.

5.5(3) Indicate the principal sources of local income, showing the percentage from farming and ranching, industrial, professional and services, and military and other governmental sources.

5.5(4) Indicate the effect of competition with other racetracks in and out of the state and with other sports or recreational facilities in the area. State in detail what effect the competition from other racetracks will have on the availability of racing stock and track personnel.

5.5(5) Indicate what affect opposition from area residents will have on the economic outlook for the proposed track.

**195—5.6(99D) Commission approval of sale.** In the event the control, whether majority or less of the capital stock, of any corporation holding a license for racing from the commission is to be conveyed, no sale or conveyance shall take effect until approval is obtained from the Iowa racing commission. The application of the purchaser for the permission and approval of the racing commission shall contain, where applicable, the same information as is required to be furnished under rule 5.2(99D).

**195—5.7(99D) Duties and obligations.**

5.7(1) No applicant, officer, director, or stockholder of the applicant, nor any officer or director of any corporation which is a stockholder of the applicant, nor any spouse or lineal heir of any such person, nor any corporation in which the applicant or an officer, director, or stockholder of the applicant holds stock, shall, directly or indirectly, in the name of or on behalf of the applicant, promise or offer to give or cause or procure to be promised, offered or given, any money, goods, present, or reward, or any promise, contract, undertaking obligation, or security for the payment or delivery of any goods, money, present, or reward or any other thing of value whatsoever, to:

- a. Any member of the commission.
- b. Any officer of the state of Iowa.
- c. Any person who is a candidate for public office in the state of Iowa.
- d. Any spouse, lineal heir, or employee of any of the persons listed in paragraph "a," "b," or "c" of this subrule, or any corporation in which any of the persons listed in paragraph "a," "b," or "c" of this subrule is a stockholder, with the intent to influence the action or decision of any such person on any question, matter, cause or proceeding concerning the applicant, which may be pending or which may in the future be brought before any such person in an official capacity.

5.7(2) Upon application to the commission, prior to entering into any such contract or doing any business, or making any such payment or contribution, the provision of subrule 5.7(1) may be waived by the commission, in its discretion, if the proposed contract, or the proposed business, or any proposed payment or contribution, is, under the circumstances, advantageous to the applicant in the conduct of its business of racing.

5.7(3) If any officer, director, or stockholder of the applicant, or any officer or director of any corporation which is a stockholder of the applicant, or any spouse or lineal heir of any such person, or any corporation in which an officer, director, or stockholder is a stockholder shall:

- a. Contract with the applicant, except for bona fide contracts for salaries for directors and officers actually serving as such or for professional services actually rendered; or
  - b. Provide goods or services which are ultimately sold to applicant's patrons;
- then describe such contract, provision, or arrangement.

5.7(4) Evidence of character and reputation. The commission will not issue a license to an applicant if there is substantial evidence that the officers and directors of the nonprofit corporation are not of good repute and moral character. Any evidence concerning an officer's or director's current or past conduct, dealings, habits, or associations or which is otherwise relevant to the officer's or director's character and reputation may be considered. The commission may consider all relevant facts surrounding alleged criminal or wrongful conduct resulting in the filing of criminal charges or a conviction. A criminal conviction of an individual will be conclusive evidence that the individual committed the offense for which the individual was convicted, but this does not preclude the commission from considering evidence that the individual committed additional offenses. The commission will decide what weight and effect evidence about an officer or director should have in the determination of whether there is substantial evidence that the officer or director is not of good reputation and character. Officers and directors who have a significant interest in the management, ownership, operation, or success of an applicant may be held to a more stringent standard of conduct and reputation than others with a less significant interest or role in such matters.

This rule is intended to implement Iowa Code sections 99D.7 and 99D.9.

**195—5.8(99D) Commission approval of contracts.** No applicant shall enter into any contract in which the term exceeds three (3) years or the consideration exceeds five percent (5%) of the net income of the applicant for the year immediately preceding the date of the contract without first submitting advance written notice thereof to the commission and obtaining commission approval therefor.

**195—5.9(99D) Availability of minutes.** Minutes of the meetings of stockholders and directors of the applicant shall be made available to the commissioners, but copies thereof need not be filed as a matter of record in the office of the commission.

**195—5.10(99D) Leased facilities.** If any applicant for a license will lease a racing facility from another entity, the lessor shall be required to provide the same information required by these rules to the commission including copies of all leases, agreements, and contracts of any nature between the lessor entity and the applicant.

**195—5.11(99D) Additional information.** The commission may require any additional information it deems necessary from the applicant for the purpose of ruling on the license application.

**195—5.12(99D) Fair racing applications.** Some of the foregoing requirements contained in this chapter may be waived or modified at the discretion of the commission on an application for a track license to conduct fair racing by a "society" as defined in Iowa Code section 174.1(2) which reads as follows:

174.1 Terms defined. For the purposes of this chapter:

1. "Fair" shall mean a bona fide exhibition of agricultural, dairy, and kindred products, livestock, and farm implements.

2. "Society" shall mean a county or district fair or agricultural society incorporated under the laws of this state for the purpose of holding such fair, and which owns or leases at least ten acres of ground and owns buildings and improvements situated on said ground of a value of at least eight thousand dollars, or any incorporated farm organization authorized to hold an agricultural fair which owns or leases buildings and grounds especially constructed for fair purposes of the value of one hundred and fifty thousand dollars in a county where no other agricultural fair receiving state aid is held.

**195—5.13(99D) Distribution of applications.** The original and six (6) copies of all applications, notices and other matters required by these rules, shall be filed with the Commission Office, 1918 S.E. Hulsizer, Ankeny, Iowa 50021. One additional copy shall be submitted to each commissioner at the address of record on file in the office of the commission. All applications, notices, and other matters shall be verified, under oath, and all copies shall be manually signed in ink.

These rules are intended to implement Iowa Code chapter 99D as amended by 1986 Iowa Acts, Senate File 2175, sections 711 to 715.

[Filed emergency 2/24/84—published 3/14/84, effective 4/1/84]

[Filed 8/24/84, Notice 3/14/84—published 9/12/84, effective 10/17/84]

[Filed 4/5/85, Notice 2/27/85—published 4/24/85, effective 5/29/85]

[Filed emergency 10/20/86—published 11/19/86, effective 10/20/86]

**CHAPTER 6**  
**CRITERIA FOR GRANTING LICENSES AND DETERMINING**  
**RACE DATES**

[Prior to 11/19/86, Racing Commission(693)]

**195—6.1(99D) In general.** This chapter of the rules of the commission sets forth criteria which the commission will consider when deciding whether to issue a license to conduct racing in Iowa. The various criteria may not have the same importance in each instance and other factors may present themselves in the consideration of an application or applications for a license. The criteria are not listed in order of priority.

**6.1(1)** The commission will consider whether or not the applicant is and has been in compliance with the terms and conditions specified in Iowa Code section 99D.9.

**6.1(2)** The commission will consider the amount of revenue to be provided by the proposed facility to the state and local communities through direct taxation on its operation and indirect revenues from tourism, ancillary businesses, creation of new industry, and taxes on employees and patrons.

**6.1(3)** The commission will consider whether the proposed track is viable and properly financed.

**6.1(4)** The commission will consider whether the proposed track is planned in a manner which provides adequate security for all aspects of its operation and for the people working at and visiting the track.

**6.1(5)** The commission will consider whether the proposed track is planned in a manner which promotes efficient and safe operation of all aspects of its facility including, but not limited to, barn and kennel areas, the racing surface, concession areas, and pari-mutuel management areas.

**6.1(6)** The commission will consider whether the proposed track is planned in a manner which promotes efficient, safe, and enjoyable use by patrons including but not limited to parking facilities, concessions, the grandstand, access to pari-mutuel windows, and restrooms.

**6.1(7)** The commission will consider whether the proposed track is in compliance with applicable state and local laws regarding fire, health, construction, zoning, and other similar matters.

**6.1(8)** The commission will consider whether the applicant will employ the persons necessary to operate the track in a manner consistent with the needs, safety, and interests of all persons who will be at the track.

**6.1(9)** The commission will consider the population of the area to be served by a track together with location of other tracks within and without the state of whatever nature.

**6.1(10)** The commission will consider support within the community in which a proposed track is to be located for the promotion and continuation of racing.

**6.1(11)** The commission will consider the character and reputation for honesty of all persons identified with the ownership and operation of the track or licensed business, and their capability to comply with the regulations of the commission and Iowa Code.

**6.1(12)** The commission will consider whether the proposed operation would serve to nurture, promote, develop, and improve the racing industry in Iowa, and provide high quality racing in Iowa.

**6.1(13)** The commission will consider whether the proposed operation will maximize purses.

**6.1(14)** The commission will consider whether the proposed operation is beneficial to Iowa breeders.

**6.1(15)** The commission will consider the number and quality of employment opportunities for Iowans created and promoted by the proposed operation.

**6.1(16)** The commission will consider such other factors as may arise in the circumstances presented by a particular application.

**195—6.2(99D) Limited number of licenses.** If the commission receives applications for racetracks, all of which cannot be granted in the best interests in the state of Iowa, it will consider which of the applications best promotes the considerations set forth in rules 195—6.1(99D) and 195—6.3(99D).

**195—6.3(99D) Determining race dates.** When determining race dates to be allotted to licensees, the commission will consider the economic and practical feasibility of racing at the various tracks. Factors to be considered include, but are not limited to, the competing markets within and without the state, the effects that various types of racing have on one another, the quality of racing provided at various tracks, past dates, past performance at tracks, and past compliance by licensees with the requirements of the laws, stability of dates, and stability of racing circuit. The general policy of the commission is that overlapping racing dates are undesirable unless in different geographic market areas and unless both tracks agree to such dates. The commission shall also consider the licensee's compliance with those considerations in subrules 6.1(1) to 6.1(16).

These rules are intended to implement Iowa Code chapter 99D as amended by 1986 Iowa Acts, Senate File 2175, sections 711 to 715.

[Filed 5/18/84, Notice 4/11/84—published 6/6/84, effective 7/13/84]

[Filed emergency 10/20/86—published 11/19/86, effective 10/20/86]

CHAPTER 7  
GREYHOUND RACING  
[Prior to 11/19/86, Racing Commission(693)]

**195—7.1(99D) Terms defined.** As used in these rules, unless the context otherwise requires, the following definitions apply:

“*Added money*” means a sum by which the established purse is increased.

“*Age*” is the age of a greyhound, determined from the day it was whelped.

“*Association*” means a nonprofit corporation or other legal entity licensed, or required to be licensed, to conduct a recognized race meeting in Iowa.

“*Authorized agent*” means a person appointed pursuant to subrule 7.3(21).

“*Breeder*” of a greyhound is the owner or lessee of the dam at the time of whelping.

“*Breeding place*” means the location of whelping.

“*Commission*” means the Iowa racing commission.

“*Day*” means twenty-four (24) hours ending at midnight.

“*Declaration*” means the act of withdrawing an entered greyhound from a race at least one-half hour before the time for the drawing of post positions for the race in which it is entered.

“*Entrance fee*” means a fee set by the association which must be paid in order to make a greyhound eligible for a stakes race.

“*Equipment*” as applied to a greyhound, means muzzles and number blankets.

“*Established weight*” means the racing weight established by the owner or trainer as the greyhound’s best racing weight.

“*Foreign substance*” means any drug, medicine, or any other substance foreign to the greyhound’s body, which does or could affect the racing condition of a greyhound, or which does or could affect sampling or testing procedures. Foreign substances include but are not limited to stimulants, depressants, local anesthetics, narcotics, and analgesics.

“*Forfeit*” means money due but lost because of an error, fault, neglect of duty, breach of contract, or a penalty.

“*Greyhound*” means a greyhound registered with the National Greyhound Association.

“*Kennel name*” means any type of name other than the legal name or names of the owners.

“*Lawful authority*” means any court of competent jurisdiction.

“*Law or laws*” means Iowa Code chapter 99D together with any and all amendments thereto.

“*Lead-out*” is the attendant that handles the greyhounds while en route to the starting box.

“*Lessee*” or “*lessor*” means a person who has leased a greyhound for racing or breeding purposes.

“*Licensee*” means any person or association that has been duly issued a currently valid license to participate in racing in this state.

“*Lure*” means a mechanical apparatus consisting of the following component parts: A stationary rail installed around the track, a motorized mechanism which travels on the rail, a pole which is attached to the mechanism and extends out over the track, and to which a decoy approved by the commission is attached.

“*Maiden*” is a greyhound which has never, in any country, won an official race. Conditions referring to a maiden shall mean maidens at the time of starting. A maiden which has been disqualified after finishing first is still to be considered a maiden.

“*Matinee*” means a schedule of races conducted upon a racetrack in daylight hours.

“*Meeting*” is an entire consecutive period for which license to conduct greyhound racing has been granted by the commission to any one association.

“*Month*” means a calendar month.

“*Night performance*” means a schedule of races conducted upon a racetrack during night hours.

“*Owner*” means any person possessing all or part of the legal title of a greyhound including lessee.

“*Place*” means the position in which a greyhound finishes in a race, and, more specifically, win-first, place-second, and show-third.

*"Post position"* means the position assigned to a greyhound for the start of the race.

*"Post time"* is the time set for the arrival of the greyhounds at the starting box for a race.

*"Program"* is a schedule of races of either a matinee or night performance conducted in any racing day.

*"Race"* is a contest for purse, stakes or entry fees on any course and in the presence of duly appointed racing officials.

1. *"Hurdle race"* is a race over a course in which jumps or hurdles are used.

2. *"Overnight race"* means a race for which entries close seventy-two (72) hours, or less, before the time to set for the first race of the day on which such race is to be run.

3. *"Purse race"* is a race for money or other prizes for which the entrance money, if any, must be paid and every other condition complied with at the time of closing entries.

4. *"Race on the flat"* is a race over a course in which no jumps or other obstacles are placed.

5. *"Sweepstakes"* or *"stakes"* is a race publicly declared open to all complying with its conditions to be fulfilled wholly or in part subsequent to its closing and in which required fees are to be paid for each greyhound engaged. No overnight event, whatever may be its conditions, shall be considered a sweepstakes within the meaning of this rule.

*"Racetrack"* means the entire area licensed to the permittee.

*"Recognized meeting"* means any racing meeting given by an association in good standing within the enclosure of any racetrack licensed and conducted under the sanction of law and the rules of the duly appointed commission.

*"Rule off"* means the act of barring from the grounds of an association and denying all racing privileges.

*"Rules"* means the rules herein prescribed and any amendments or additions to them.

*"Scratch"* means the act of withdrawing an entered greyhound from a race after the program is printed.

*"Starter,"* a greyhound is a starter for the race when the starting box opens.

*"Subscription"* means the act of nominating to a stake race.

*"Suspended"* means that any privilege granted by the officials of a racing meeting or by the commission has been temporarily withdrawn.

*"Tote/totalizator"* means the machines which sell mutuel tickets and the board on which the approximate odds are posted.

*"Trainer"* means a person employed by an owner to condition greyhounds for racing.

*"Weighing in"* means the weight of the greyhound taken at first weighing in, in accordance with the rules.

*"Weighing out"* means the weight of the greyhound previous to post time or time of the race in which it is entered.

*"Weight loser"* means a greyhound recognized by the officials known to be a consistent weight loser while in the lockout kennel.

*"Whelped,"* a greyhound is whelped at the time of its birth.

*"Year"* means a calendar year.

#### **195—7.2(99D) Track licensees' responsibilities.**

**7.2(1) Maintenance of grounds, facilities and uniform track.** Each licensee shall at all times maintain its grounds and facilities so as to be neat and clean, well-landscaped, painted and in good repair, with special consideration for the comfort and safety of patrons, employees, and other persons whose business requires their attendance; with special consideration for the health and safety of the greyhounds; and shall have available adequate and proper implements to maintain a uniform track, weather conditions permitting.

**7.2(2) Results boards, totalizators required.** Each licensee shall provide and maintain mechanically operated totalizators and electronic boards showing odds, results, and other racing information located in plain view of patrons.

**7.2(3) Lighting.** Each association shall provide and maintain adequate illumination in the kennel area, parking area, and racetrack area.

7.2(4) *Facilities for commission.* Each association shall provide adequate furnished office space, including utilities and necessary office equipment, for the exclusive use of the commission employees and officials. The licensee also shall make available to the commission box seats and appropriate parking places for use throughout each racing day.

7.2(5) *Sanitary facilities for patrons.* Each licensee shall, on every racing day, provide adequate and sanitary toilets and washrooms, and furnish free drinking water for patrons and persons having business on the association's grounds.

7.2(6) *First-aid room.* Each licensee shall equip and maintain adequate first-aid facilities and have in attendance a competent physician or licensed nurse during racing hours.

7.2(7) *Communications system.* Each licensee shall install and maintain in good working service communications systems between the stewards, pari-mutuel department, starting box, public address announcer, paddock, and testing area.

7.2(8) *Security.* Each licensee shall provide and maintain competent police and watchpersons services night and day, in and about the grounds to secure such restricted areas as the kennel area, the paddock, the testing area, the pari-mutuel area and elsewhere where needed. They shall furnish daily to the commission and to the division of criminal investigation office a report on any disturbances, drunkenness, or disorderly conduct committed by any person on the grounds.

7.2(9) *Ejection or exclusion.* A licensee may eject or exclude any persons, licensed or unlicensed, from the grounds or a part thereof, solely of its own volition and without any reason or excuse given therefor, provided, however, such ejection or exclusion is not founded on race, creed, color, or national origin.

The licensee shall eject or exclude from the grounds all persons believed to be engaged in a bookmaking activity or solicitation of bets or touting, and a report shall be submitted promptly to the commission, to the stewards, and to the division of criminal investigation.

Licensees shall eject or exclude from the grounds all persons who as a business or for any compensation, shall directly or indirectly, accept anything of value to be wagered or to be transmitted or delivered for wager to any pari-mutuel wagering enterprise or participate in any such transmission (Iowa Code section 725.7(1)).

Licensees shall eject or exclude from the kennel areas all persons except those whose presence is authorized as:

a. Persons licensed to conduct an activity, the conduct of which requires the presence of the licensee in the kennel area;

b. Guests of licensed owners or trainers physically in the company of such owners or trainers;

c. Persons physically in the company of and under the control and supervision of a racing official, security guard, or association public relations department representative.

Reports of all ejections or exclusions from association grounds for any reason shall be made immediately to the commission, stewards, and the division of criminal investigation, such reports stating the names of all persons and circumstances.

7.2(10) *Admissions.* In addition to the requirements of Iowa Code sections 99D.14 and 99D.19, tax-exempt admission credentials shall not be transferable and licensees shall exclude or eject from the grounds any person attempting to use tax-exempt admission credentials not issued to that person by the association. Tax-exempt passes shall be limited to holders of current valid occupational licenses.

All gates used for admission of patrons must have turnstiles of a type approved by the commission, equipped with meters. Turnstiles must be numbered consecutively or have other means of individual identification.

All licensees must give a ticket good for one admission to each person having paid an admission charge on a day when races are discontinued due to weather, malfunction of equipment, or other unforeseen circumstances which might prevent the patron from participating in a major portion of any racing program conducted by the licensee.

a. A supply of tickets shall be prepared and available for distribution prior to the opening of any race meeting. The holder of a ticket shall be admitted without further charge on any race day of the meeting.

b. The number of tickets distributed shall be reported to the racing commission immediately after distribution.

c. All tickets presented for admission must be filed with the racing commission daily.

7.2(11) Every license to hold a race meeting in Iowa is granted upon the condition that the licensee shall accept, observe, and enforce the rules of the commission. Furthermore, it shall be the duty of each and every officer, director, and every official and employee to observe and enforce the rules. Failure to comply with the rules of the commission may result in such penalties as the commission deems proper, including revocation of the license.

7.2(12) Any licensee contemplating any change of any kind pertaining to the racetrack itself, or the erection of any buildings, stands, or other structures, or the remodeling of any of these which are to be used as a part of the facilities for conducting a race meeting, on the grounds of the licensee, must first submit plans to and receive the approval of the commission.

7.2(13) *Photofinish camera.* Each licensee shall provide and maintain at the finish line a photofinish camera for photographing the finish of races. The photofinish photographer shall promptly furnish to the stewards prints of all finishes as may be requested and in the number required for public posting. The licensee shall retain and secure all photofinish prints until the first day of the following racing season.

7.2(14) *Patrol films or videotapes.* Each licensee shall at all times during a race meeting provide and maintain personnel and equipment necessary to produce adequate motion pictures or videotapes and record with same each race from start to finish. Films and videotapes shall be retained and secured by the licensee until the first day of the following racing season.

7.2(15) *Minimum purse.* Each licensee shall submit to the commission thirty (30) days prior to the opening of the race meeting, the purse schedule for the upcoming race meeting. This schedule shall include the percent of the pari-mutuel commission, or takeout, dedicated to purses and the minimum purse paid for any race at the upcoming meeting.

7.2(16) *Financial report.* Each licensee shall file with the commission an annual balance sheet and profit and loss statement pertaining to the licensee's racing activities in the state, together with a list of all directors, officers, or members of the licensee or other persons, including concession and management companies, having any beneficial interest in the racing activities of each licensee.

#### 195—7.3(99D) Licensing.

7.3(1) All persons participating in any capacity in a racing meeting, including all persons who perform services in connection with the conduct of the racing meeting, shall be required to obtain a license from the commission. The licensing requirements of this rule are applicable, but not limited to, trainers, assistant trainers, greyhound owners, lessors, lessees, lead-outs, kennel masters, kennel helpers, veterinarians, watchmen, starters, timers, stewards, and other persons acting as participants or officials at any race meeting, including all employees of the track's pari-mutuel department, and all individuals, corporations or other entities holding concession, management or consultant contracts with the licensed association, and the officers and directors of such corporations and of licensed associations.

7.3(2) Applicants for licenses may be called upon to submit satisfactory evidence of financial responsibility and, after a license has been issued, must maintain a record of financial responsibility during the period for which a license is issued.

7.3(3) An application for a license shall be made on a form prescribed by the commission and all licensees are obligated to know the provisions of the rules of the commission and the statutes of the Iowa Code governing racing in the state of Iowa. In compliance with Iowa Code section 99D.8A, each applicant must complete and sign an application on the form prescribed and published by the commission. The application shall state the full name, social security number, residence, date of birth, and other personal identifying information of the applicant that the commission deems necessary. The application shall state whether the applicant has any of the following:

- a. A record of conviction of a felony;
- b. An addiction to alcohol or a controlled substance;
- c. A history of mental illness or repeated acts of violence.

7.3(4) Each applicant shall submit to being fingerprinted and supply descriptions of physical characteristics to the commission in the manner prescribed on the application forms.

7.3(5) Licensing fees—commission. The following fees shall be charged by the Iowa racing commission for licenses issued:

For manager, assistant manager, concession operator, kennel name, owner-trainer, racing director, racing secretary, and mutuel manager: \$20.

For announcer, corporate director/officer, assistant racing secretary, authorized agent, chart writer, clerk of scales, steward/judge, film patrol, kennel master, lure operator, owner, partnership, photofinish operator, starter, timer, tip sheet operator, track superintendent, trainer, veterinarian, and all other officials: \$10.

For concession employee, groom, kennel helper, lead-out, mutuel employee, totalizator, and all others: \$5.

Duplicate licenses shall be available for \$5.

7.3(6) The commission shall charge the applicant a fee set by the division of criminal investigation to cover the cost associated with the search and classification of fingerprints. This fee is in addition to any other license fee charged by the commission.

a. For the first license issued to any individual in Iowa, the commission shall collect a fee of \$16.50 and remit such amount to the division of criminal investigation to defray the costs of criminal history investigations for each individual applicant.

b. For the second and all subsequent licenses issued to any individual in Iowa, the commission shall collect a fee of \$4.50 and remit this amount to the division of criminal investigation to defray the costs of criminal history investigations for each applicant.

c. Individuals applying for more than one license at the same time shall be charged only one fee above, as appropriate.

7.3(7) A person who knowingly makes a false statement on the application is guilty of an aggravated misdemeanor.

7.3(8) The holder of an occupational license shall consent to agents of the Iowa division of criminal investigation or commission employees designated by the administrator of the commission to the search without a warrant of the licensee's person, personal property and effects, and premises which are located within the racetrack enclosure or adjacent facilities under control of the licensed association to inspect or investigate for criminal violations of Iowa Code chapter 99D or violations of the rules and regulations adopted by the commission.

7.3(9) Denials. A license shall be denied if the applicant:

a. Owns, operates, or has an interest in any bookmaking or other illegal enterprise, or who is connected with or associated with any illegal enterprise.

b. Is unqualified, by experience or otherwise, to perform the duties required.

c. Has not demonstrated financial responsibility or has failed to meet any monetary obligation in connection with a race meeting held in this state.

d. Whose conduct in Iowa or elsewhere in connection with greyhound racing has been objectionable, obnoxious, or detrimental to the best interests of racing.

e. Has made misrepresentations or false statements on the license application.

f. Has engaged in any activity or practice which in the opinion of the commission is undesirable or detrimental to the best interests of racing in the state of Iowa by reflection on the honesty and integrity of the spirit of racing.

g. Has been guilty of fraud or attempted fraud.

h. Is not of good repute and moral character as defined in subrule 5.7(4).

7.3(10) The commission may impose probationary sentences on licensees. Any licensee who by an overt act of commission or omission violates any of the rules of the commission during the probationary sentence period shall thereupon have the license revoked.

7.3(11) In considering each application for a license, the stewards may require the applicant, as well as endorsers of the applicant, to appear before them and show that said applicant

is qualified in every respect to receive the license requested. Ability as well as integrity must be clearly shown by the applicant in order to receive a license.

**7.3(12)** Greyhound racing and participation therein in the state of Iowa is a privilege, and not a right, granted only by the commission by license subject to compliance with the rules of the commission and Iowa Code chapter 99D. Acceptance of a license shall be construed as consent and agreement to the rules and failure to comply, shall be grounds for immediate revocation of this license.

**7.3(13)** All licensees, when present in the kennel area, paddock area, or any other restricted area, including behind the mutuel lines, must wear their license badge issued by the racing commission or passes issued by the association.

**7.3(14)** All licenses are temporary until completion of necessary background investigation, including fingerprinting processing through the division of criminal investigation and the FBI, and research and review of records on file with the National Association of State Racing Commissioners, courts, law enforcement agencies and the commission. Any licensed person who allows another person use of the license badge for the purpose of transferring any of the benefits may be suspended, fined, or have the license revoked, or both. No license shall be transferable and no duplicate cards shall be issued except upon payment of a fee.

**7.3(15)** The responsibility of licensing an employee rests with the employer. Employment of a nonlicensed individual without reporting to the stewards and immediately obtaining a license for the employee may be cause for suspension or fine or both.

**7.3(16)** Fraudulent and corrupt practices—grounds for denial, suspension, or revocation of a license. In addition to the criteria in subrule 7.3(9), the commission in its discretion may refuse to issue a license to an applicant, or may suspend or revoke a license issued, or order disciplinary measures, on the following grounds:

*a.* Offering, promising, giving, accepting, or soliciting a bribe in any form, directly or indirectly, to or by a person having any connection with the outcome of a race, or failure to report knowledge of same immediately to the stewards. See also Iowa Code section 99D.24, subsections 1“c” and 4.

*b.* Causing or attempting to cause, or participation in any way in any attempt to cause the prearrangement of a race result, or failure to report knowledge of same immediately to the stewards. See also Iowa Code section 99D.24, subsections 1“c” and 4.

*c.* Making false or misleading statements to the commission or the stewards, in the course of an investigation.

*d.* Failure to comply with any order or ruling of the commission, stewards, or a racing official pertaining to a racing matter.

*e.* Use of profane, abusive, or insulting language to, or interference with a commissioner, a member of the commission staff or racing official, while they are discharging their duties.

*f.* Illegal sale, possession, receipt or use of a controlled substance; intoxication; use of profanity; fighting or any conduct of a disorderly nature on association grounds.

*g.* Employment or harboring of unlicensed persons required by these rules to be licensed.

*h.* Discontinuance of or ineligibility for activity for which the license was issued.

*i.* Failure to disclose the true ownership or interest in any greyhound.

*j.* Possession, on association grounds without written permission from the commission or stewards, of:

(1) Firearms.

(2) Battery or buzzer, or electrical device, or other appliance which could be used to alter the speed of a greyhound in a race or a workout. See also Iowa Code section 99D.24(6).

*k.* Possession on association grounds by a person other than a licensed veterinarian of:

(1) Hypodermic needle or hypodermic syringe, or other device which could be used to administer any substance to a greyhound.

(2) Narcotics or medication, or drug, or substance which could be used to alter the speed of a greyhound.

*l.* Cruelty to or neglect of a greyhound entrusted to the licensee's care.

*m.* Use of a live animal in lieu of an artificial lure for training a greyhound after the greyhound has been entered or registered to race at a licensed race meeting in Iowa, or at any time at a facility under the commission's jurisdiction.

*n.* Conviction of a crime in any state or jurisdiction. Consideration shall be given to the seriousness of the crime (felony, serious misdemeanor, misdemeanor, etc.), the date of the conviction and the nature of the crime.

*o.* The applicant or licensee is or has been suspended or ruled off a recognized race course in another jurisdiction by a board of stewards or the commission of that jurisdiction.

*p.* Violation of any rule of the commission, or aiding or abetting any person in the violation of any such rule.

**7.3(17) Owners and trainers.**

*a.* Each owner must obtain a current owner's license from the commission to enter or race greyhounds at racetracks in Iowa.

*b.* All owners and trainers of greyhounds and their kennel employees are subject to the laws of Iowa and the rules promulgated by the commission immediately upon acceptance and occupancy of kennel accommodations from or approved by an association or upon making entry to run on its track. Owners, trainers, and kennel employees shall abide by laws and rules and accept the decision of the stewards on any and all questions subject to their right of appeal to the commission.

*c.* No greyhound may be raced in this state unless the trainer has been granted a current license.

*d.* Requirements for trainer's license. In addition to other rules applicable to licensees, a holder of a trainer's license:

(1) Must be an individual person eighteen (18) years or older.

(2) Must be qualified by experience or competence to care for and train greyhounds as determined by the stewards.

(3) Must be in charge of a greyhound eligible to race.

*e.* A licensed trainer shall bear primary responsibility for the proper care, health, training condition, safety, and protection against administration of prohibited drugs or medication of greyhounds in the charge of said trainer. The licensed trainer of a greyhound found to have been administered a medication, drug, or foreign substance in violation of these rules or Iowa Code chapter 99D, shall have the burden of proof showing freedom from negligence in the exercise of a high degree of care in safeguarding the greyhound from tampering; and, failing to prove freedom from negligence, shall be subject to disciplinary action.

*f.* The assistant trainer, kennel helper, or any other person having the immediate care and custody of a greyhound found to have been administered a medication, drug, or foreign substance in violation of these rules or Iowa Code chapter 99D, if found negligent in guarding or protecting the greyhound from tampering, shall be subject to disciplinary action.

*g.* When a trainer and assistant trainer are to be absent from the kennel or grounds where greyhounds are racing, they shall provide a licensed trainer or assistant trainer to assume complete responsibility for all greyhounds under their care, and they shall both sign a "trainer's responsibility" form which must be approved by the stewards.

*h.* No owner, trainer, assistant trainer, racetrack employee, or other person shall accept directly or indirectly, any bribe, gift, or gratuity in any form which intends to or might influence the results of any race.

*i.* Any owner or trainer who does not have the greyhound at the weighing-in room promptly at the time appointed may have the greyhound scratched and, in addition, the owner or trainer may be liable for a fine.

*j.* No medicine, antiseptic, fluid or any matter containing any color causing the marring of identification marks shall be used on any part of a greyhound.

*k.* Any owner, trainer or other person interested in any greyhound or greyhounds at a meeting licensed by the commission, who shall bet with or through any handbook, shall be ejected from the grounds of the association and shall be refused admission to the grounds of all other

licensed associations in Iowa. In the case of the owner of any greyhound, the entries of that owner shall be refused for all Iowa tracks.

*l.* Licensed trainers shall maintain the kennel area assigned to them in a clean, neat and sanitary condition at all times, and ensure that fire prevention rules are strictly observed in those areas.

**7.3(18) Kennels.**

*a.* A licensed owner wishing to race under a kennel name may do so by registering for the racing season with the commission and by paying the prescribed fee.

*b.* In applying to race under a kennel name the applicant must disclose the identities behind a kennel name and comply with partnership and corporation rules, if applicable.

*c.* Changes in identities involved in a kennel name must be reported immediately to and require approval from the commission.

*d.* A licensed kennel owner cannot be a party to more than one kennel name at the same time, nor can the real name of the licensed kennel owner be used for racing purposes, so long as the owner has a registered name.

*e.* A licensed owner who has registered under a kennel name may at any time abandon it, after having given written notice to the commission.

*f.* A kennel name may be changed at any time by registering a new kennel name and by paying the prescribed fee.

*g.* A licensed owner may not register as a kennel name one which the commission determines to be either misleading to the public or unbecoming to the sport.

*h.* All persons represented by a kennel name must sign an authorized agent's application which appoints one person to act as the agent for the kennel name.

*i.* If a corporation is involved in the identity behind a kennel name, the applicant must comply with the licensing rules covering corporations.

**7.3(19) Partnerships.**

*a.* All partnerships, including husband and wife, must be registered with the commission on forms furnished by the commission, at which time a license may be issued allowing the partnership to participate at Iowa racetracks. Each of the partners must be licensed as an owner and the rules covering partnerships must be complied with.

*b.* Partnership papers shall, among other things, set forth the following:

(1) The name and address of each person having any interest in the greyhound involved.

(2) The relative proportions of the interest.

(3) To whom the winnings are payable.

(4) In whose name the greyhound shall run.

(5) With whom the power of entry and declaration rests.

(6) The terms of any contingency, lease or any other arrangement.

*c.* In case of emergency, authority to sign declarations of partnership may be given to the racing secretary by a telegram promptly confirmed in writing.

*d.* The share or any part of the share of a part owner of any greyhound cannot be assigned without the written consent of the other partners; and filed with the racing secretary and the racing commission.

*e.* Each of the partners must be licensed as an owner.

*f.* All parties to a partnership and each of them shall be jointly and severally liable for all stakes, forfeits, and other obligations.

**7.3(20) Corporations.**

*a.* All corporations must be duly licensed and must register to do business according to the laws of the state of Iowa. The corporation must submit a complete list of stockholders and the number of shares owned by each stockholder whose ownership exceeds five percent (5%) of the corporation.

*b.* The corporation shall notify the commission immediately if any change of stock ownership occurs which exceeds ten percent (10%).

*c.* The corporate name under which the corporation does business in Iowa shall be considered a kennel name for purposes of these rules.

**7.3(21) Authorized agents.**

a. All persons represented by a kennel name, corporation, or partnership must sign an authorized agent's application which appoints one person to act as the agent for the kennel name, corporation, or partnership respectively.

b. The application for a license as an authorized agent must be signed by the principal and clearly set forth the powers of the agent, including whether the agent is empowered to collect money from the track licensee. Applications must be notarized and a copy filed with the track bookkeeper.

c. Changes in an agent's powers or revocation of an agent's authority must be in writing, notarized and filed with the commission and the track bookkeeper.

d. The term of the authorized agent's license shall be until the end of the calendar year.

**195—7.4(99D) Disciplinary actions.**

**7.4(1) *Disciplinary measures by stewards.*** Upon the finding of a violation of these rules, or an attempted violation, on the grounds of a licensed facility, the stewards may suspend the license of any person for no greater period than thirty (30) days after the close of the race meeting or they may impose a fine not to exceed five hundred dollars (\$500) or both. They may also suspend the license of any person currently under suspension or in bad standing in any other state or jurisdiction by the state racing commission or a board of stewards of any recognized meeting. All suspensions and fines must be reported to the commission. If the punishment so imposed is not, in the opinion of the stewards, sufficient, they shall so report to the commission. All fines and suspensions imposed by the stewards shall be promptly reported to the racing secretary and racing commission in writing. See subrule 4.3(6).

a. Fines must be paid within forty-eight (48) hours and delinquents may be suspended. All moneys imposed as fines shall be paid directly at the commission office at the track where the infraction occurred.

b. When a greyhound or the holder of an occupational license is suspended by the stewards at one track, the suspension shall immediately become effective on all other tracks under the jurisdiction of the commission until the case in question is decided by the commission.

c. Rules pertaining to and rulings against licensees shall apply in like force to the spouse and members of the immediate family or households of the licensee, unless there is a showing on the part of an affected spouse, or affected member of the immediate family or household of the licensee, and the stewards in their discretion so find, that the continuation of participation in racing by such affected person will in no way circumvent the intent of the rule, or effect of the ruling, by permitting a person under the control or direction of the licensee to serve in essence as a substitute for a suspended licensee, or person ineligible to participate in a particular activity.

**7.4(2) *Disciplinary measures by commission.*** Upon the finding of a violation of these rules, or an attempted violation, on the grounds of any licensed racetrack, during the conduct of a race meeting in the state, the commission may:

a. Deny, suspend, revoke or declare void any license applied for or issued by the commission, or fine a holder of an occupational license not to exceed one thousand dollars (\$1,000), or both. See Iowa Code section 99D.7(18).

b. Upon a hearing de novo of the matter determined by the stewards, the commission may affirm, reverse, or revise the stewards' ruling in all respects.

c. Cause any person, licensed or unlicensed, found to have interfered with, or contributed toward the interference of, the orderly conduct of a race or race meeting or any person whose presence is found by the commission to be inconsistent with maintaining the honesty and integrity of the sport of racing, to be excluded or ejected from the entire grounds or any portion of a licensed racetrack for any length of time the commission may deem the presence of that person remains inconsistent with maintaining the honesty and integrity of the sport of racing in the state of Iowa. This rule should not be construed to limit in any way the right of the track licensee to eject or exclude any person for any reason other than race, color, creed, sex, or national origin.

d. When the holder of an occupational license has that license suspended or revoked for any fraudulent practice in relation to a particular greyhound wholly or partly owned by that licensee, the licensee shall return all money or prizes which their greyhound has fraudulently won.

#### **195—7.5(99D) Registration.**

**7.5(1)** No greyhound shall be entered or permitted to race or to be schooled at any racetrack licensed by the commission unless properly registered by the National Greyhound Association of Abilene, Kansas. The National Greyhound Association (NGA) shall be recognized as the official breeding registry of all greyhounds. The Iowa racing commission may certify any greyhound whose lack of registration with the approved registry is attributable to arbitrary, discriminatory or other unreasonable action or inaction.

**7.5(2)** A greyhound shall not be entered for racing or schooling at any official track unless it has been tattooed and registered in the NGA stud book and the last four (4) past-performance lines are made available to the racing secretary.

**7.5(3)** The Iowa state racing commission shall have access at all times to the NGA Breeding Registry and transfer files.

**7.5(4)** A certificate of registration for each greyhound shall be filed with the racing secretary at the racetrack where the greyhound is to be schooled, entered, or raced. All certificates of registration must be available at all times for inspection by the stewards.

**7.5(5)** All transfers of any title to a leasehold or other interest in greyhounds schooled, entered, or racing at any track under the jurisdiction of the commission shall be registered and recorded with the National Greyhound Association of Abilene, Kansas.

**7.5(6)** No title, leasehold, or other interest in any greyhound will be recognized by the commission until the title, leasehold, or other interest shall be evidenced by written instrument duly filed with and recorded by the National Greyhound Association of Abilene, Kansas, and certified copies filed with the commission and the racing secretary at the track where the greyhound is to be schooled, entered, or raced.

**7.5(7)** Whenever a greyhound is sold or transferred, or any interest in a greyhound is sold or transferred, during a meeting and after the greyhound has been registered in for the meeting, a copy of the bill of sale must be filed with the racing secretary, who must forward it to the commission.

**7.5(8)** When a greyhound is sold with its engagements, or any part of them, the seller cannot strike it out of the engagements. In all cases of sale by private treaty, the written acknowledgment of both parties that the greyhound was sold with the engagements is necessary to entitle the seller or buyer to the benefit of this rule. If certain engagements are specified, only those are sold with the greyhound. When the greyhound is sold by public auction, the advertised conditions of the sale are sufficient evidence, and if certain engagements are specified, only those are sold with the greyhound. The lessee of the greyhound shall file a copy of the lease agreement with the commission and the racing secretary. The lease agreement shall include:

- a. The name of the greyhound.
- b. The name and address of the owner.
- c. The name and address of the lessee.
- d. The kennel name, if any, of each party.
- e. The terms of the lease.

#### **195—7.6(99D) Entries.**

**7.6(1)** Every entry in a race must be in the name of the registered owner, lessee, or a kennel name and may be made in person, in writing, by telephone or telegraph. The full name of every person having an ownership in a greyhound or accepting the trainer's percentage, or having any interest in its winnings, must be registered with the racing secretary before it starts at any meeting, as must every change in ownership or interest made during that meeting. See rule 7.5(99D).

7.6(2) A greyhound shall not be qualified to run in any race unless it has been and continues duly entered for the same; and unless otherwise specified by the conditions of a race, or disqualified by violation of racing rules, any greyhound eligible at the time of entry shall continue to be qualified, except in an overnight event, in which it must be eligible at the time of the start.

7.6(3) The entrance to a race shall be free unless otherwise stipulated in its conditions. If the conditions require an entrance fee, it must accompany the entry.

7.6(4) Any person having an interest in a greyhound less than the interest or property of any other person is not entitled to assume any of the rights or duties of an owner as provided by these rules including, but not limited to, the right of entry and declaration.

7.6(5) Joint subscriptions and entries may be made by any one or more of the owners. However, all partners and each of them shall be jointly and severally liable for all fees and forfeits.

7.6(6) The racing officials shall have the right to call on any person in whose name a greyhound is entered to produce proof that the greyhound entered is not the property either wholly or in part of any person who is disqualified, or to produce proof of the extent of interest or property in the greyhound and failing of such proof shall declare the greyhound out of the race.

7.6(7) No greyhound shall be permitted to start that has not been fully identified.

7.6(8) Any person who knowingly attempts to establish the identity of a greyhound or its ownership shall be held to account the same as the owner and shall be subject to the same penalty in case of fraud or attempted fraud.

7.6(9) No disqualified greyhound shall be allowed to enter or to start in any race.

7.6(10) A greyhound shall not be qualified to be entered or to start in any race if owned in whole or in part or is under the control, directly or indirectly, of a disqualified person.

7.6(11) No greyhound shall be permitted to enter or to start unless conditioned by a licensed trainer.

7.6(12) No greyhound on the schooling list or the veterinarian's list shall be qualified to enter or to start.

7.6(13) A female greyhound in season shall not be permitted on the track; nor shall a lactating female greyhound be eligible to school officially or to race.

7.6(14) Entries which have closed shall be compiled without delay by the racing secretary and conspicuously posted.

7.6(15) No alteration shall be made in any entry after closing of entries, but an error may be corrected.

7.6(16) In purse races, there shall be at least eight (8) greyhounds of completely different ownership drawn for each race, except under the following conditions:

a. In all Grade A 5/16 mile races, and in all Grade M 5/16 mile races, there shall be at least seven (7) greyhounds of completely different ownership.

b. In all races of 3/8 mile or longer, there shall be at least seven (7) greyhounds of completely different ownership.

c. No double entries shall be allowed until all single interests are used and double entries shall be uncoupled for wagering purposes.

d. No trainer or owner shall have more than two (2) greyhounds in any race excepting in stakes or sweepstake races.

7.6(17) No greyhound under the age of fourteen (14) months shall be eligible to enter or race.

7.6(18) The post position of greyhounds in starting shall be assigned by lot or drawing, supervised by one of the stewards.

7.6(19) The association shall have the right to withdraw or change any unclosed race.

a. Entries for stakes races, the conditions of which have previously been published, shall close at the time advertised and no entry shall be received after that time.

b. In the absence of notice to the contrary, entrance and declarations for sweepstakes which close during or on the eve of a race meeting, close at the office of the racing secretary who shall make provisions therefor. Closing at all other times for sweepstakes shall be at the office of the association.

c. In the event the number of entries to any stake race is in excess of the number of greyhounds that may, because of track limitations, be permitted to start, the starters for the race shall be determined by the racing secretary, according to the conditions of the race.

d. The person entering a greyhound is liable for nominating, sustaining and starting fees. Neither the subscriber nor the subscriber's transferee will receive any refund of fees because of the death or withdrawal of a greyhound, or because of a mistake in its entry if the greyhound is ineligible.

e. Entrance money is not refunded on the death of a greyhound or its failure to start.

f. The entrance money, starting and subscription fees in every race shall be distributed as provided in the conditions of the race. If a race is not run, all stakes or entrance money shall be refunded.

g. No entry, subscription, or right of entry under it shall become void upon the death of the nominator or subscriber.

h. A greyhound shall not become a starter for a race unless there has been duly paid any stake or entrance money payable in respect to that race.

i. A person entering a greyhound becomes liable for the entrance money or stake.

j. An entry of a greyhound in a sweepstakes is a subscription to the sweepstakes and the subscriber is liable for stake and forfeit, but should the subscriber transfer the entry, the subscriber is liable only in case of default to the transferee. Similarly, the seller of a greyhound with engagements is liable for stakes or forfeit if the engagement is not kept.

k. When a person is prevented by these rules from entering or starting a greyhound for any race without pay arrears for which the person would not otherwise be liable, and pays said arrears, the greyhound may be entered or started and the arrears placed on the forfeit list as due the person who paid them.

(1) If the seller of a greyhound with engagements is compelled to pay arrears through the purchaser's default, the amount may be placed on the forfeit list as due from the purchaser to the one who paid. This rule shall also apply in the transfer of entries when the transferee defaults.

(2) The racing secretary, with the approval of the stewards, shall have full authority to waive the obligations incurred by this rule according to the circumstances of the case.

(3) If the racing secretary should allow a greyhound to start in a race without its entrance money or stake having been paid, the racing secretary shall be liable for it.

l. Any person not having money to credit with the association must, before the person's greyhound can start, pay (in cash, if required) to the association, all entrance money, stakes and arrears then due it or on the greyhound intended to start.

m. If a greyhound is sold to a disqualified person, said greyhound's racing engagements shall be void as of the date of sale.

n. The racing secretary is the person authorized to receive entries and declarations.

#### **195—7.7(99D) Declarations and scratches.**

7.7(1) The declaration of a greyhound out of an engagement is irrevocable.

7.7(2) Declarations in sweepstakes shall be made in the same manner as is provided for making entries to the racing secretary who shall record the day and hour of receipt and give early publicity thereto.

7.7(3) Declarations in purse races must be made by the owner, trainer, or authorized agent to the racing secretary or assistant to the racing secretary at least one-half hour before the time designated for the drawing of post positions on the day previous to the day on which the greyhound is to race, or at the time the racing secretary may appoint.

7.7(4) Any greyhound which is withdrawn from a race after the overnight entries are finally closed shall be deemed a scratch. Such a greyhound shall lose all preference accrued up to that date unless excused by the stewards.

a. To scratch a greyhound entered in a race, sufficient cause must be given to satisfy the stewards, and the cause must be reported immediately.

b. Any scratches that occur that are the result of a violation of a racing rule must carry a penalty or a suspension, or both, of the greyhound for a period of six (6) racing days. Scratches for other causes must be disciplined at the discretion of the stewards.

c. However, if any owner or trainer fails to have the greyhound entered at the track at the appointed time for weighing in and as a result the greyhound is scratched, the stewards shall impose a fine or suspension, or both, on the person or persons responsible.

d. If three (3) or more greyhounds are withdrawn or scratched in any one race, the stewards may cancel the race.

e. The stewards may scratch a greyhound entered in a race for sufficient cause.

7.7(5) All greyhounds scratched from a race because of overweight or underweight shall receive a suspension of six (6) racing days and must school back before starting in an official race. Greyhounds so scratched may school during their suspension.

7.7(6) The post position of greyhounds in starting shall be assigned by lot or drawing, supervised by the state steward and racing secretary, at a time and place properly posted in the paddock, at least one (1) day previous to the running of the races, so that any and all owners, trainers or authorized agents interested may be present if they so desire.

#### 195—7.8(99D) Racing officials.

##### 7.8(1) *Duties of racing officials—general.*

a. The officials of a race meeting shall include the board of stewards (presiding steward, associate steward, and state steward); director of racing; racing secretary; assistant racing secretary; paddock judge; kennel master; clerk of scales; timer; chart writer; lure operator; starter; mutuel manager; announcer; mutuels supervisor; and veterinarian.

b. All designated racing officials shall be appointed by the association holding the meeting except the state steward, mutuels supervisor, and veterinarian which shall be appointed by the commission. Appointments by the associations are subject to the approval of the commission which reserves the right to demand a change of personnel for what it deems good and sufficient reason, the successor to officials so replaced to be subject to the approval of the commission.

c. Associations shall submit to the commission for approval the names of all racing officials not less than thirty (30) days prior to the first day of the meeting. One person may serve in more than one official position if that person can do so without detriment to any of the other positions and if that person has the consent and approval of the commission, provided that neither the racing secretary nor the director of racing may serve as a steward except in temporary emergency situations.

d. No one interested in the result of a race, either because of ownership of any greyhound entered, or of its sire or dam, or because of wagers or otherwise, shall act as a racing official.

e. If any owner, trainer, attendant, or any other person licensed by the commission uses profane or indecent language to a racing official or otherwise disturbs the peace of any track enclosure, that person shall be liable for a fine, suspension, or both, or may be ruled off, and the action shall be immediately reported to the commission.

f. No one interested in the result of a race because of ownership interest in any entered greyhound, wagers, or in any other manner may act as an official at the meeting.

g. Racing officials shall report to the stewards all observed violation of the rules.

h. Any grievance or complaint against a track official, an employee of the permittee, or a licensee shall be made in writing within five (5) days of the alleged objectionable act or behavior. The grievance or complaint shall be made to the stewards, who shall consider the matter, take whatever action is deemed to be appropriate, and make a full report of their action to the commission.

i. Any grievance or complaint against an official or employee of the commission shall be reported in writing within five (5) days of the alleged objectionable act or behavior. The grievance or complaint shall be made to the administrator of the commission, who shall refer the matter to the commission.

##### 7.8(2) *Duties of chart writer.*

a. The chart writer shall compile the information necessary for a program which shall be printed for each racing day and shall contain the names of the greyhounds that are to run in each of the races for that day. These names shall appear in the order of their post positions to be designated by numerals placed at the left and in lines with the names of the greyhounds in each race, which numerals shall also be prominently displayed on each greyhound.

b. The program or form sheet must carry at least two (2) past performances of each greyhound at the track where it is to race. However, if a greyhound has raced within ten (10) racing days at a track under the jurisdiction of the commission, not less than two (2) past performances of the greyhound at the track may be carried on the program or form sheet. The program or form sheet must also contain name, color, sex, date of whelping, breeding, established racing weight, number of starts in official races, and number of times finishing first, second and third, name of owner, lessee, (if applicable) name of trainer, distance of race, track record, and other information to enable the public to properly judge the greyhound's ability.

c. In case the name of a greyhound is changed, the new name, together with the former name, shall be published in the official entries and program until after the greyhound has started six (6) times.

**7.8(3) Duties of clerk of scales.**

a. The duties of the clerk of the scales shall include:

- (1) Weighing all greyhounds in and out.
- (2) Posting of scale sheet of weights promptly after weighing.
- (3) Preventing any greyhound from passing the scales or running with an overweight or an underweight of more than one and one-half (1½) pounds. The clerk of scales shall promptly notify the paddock judge, who will report to the stewards any infraction of the rules as to weight or weighing.

(4) Reporting all late scratches and weights for display on the tote board or on a bulletin board located in a place conspicuous to the wagering public.

b. The clerk of the scales shall report to the stewards any violations of weight rules or any attempt to alter specified weights.

c. All greyhounds must be weighed in and weighed out with the muzzle, collar, and lead strap.

d. The clerk of the scales shall keep a list of all greyhounds known as "weight losers" and shall notify the stewards as to the weight loss before each race.

**7.8(4) Duties of stewards.**

a. There shall be three (3) stewards for each race meeting, two (2) of whom shall be appointed by the commission and one of whom shall be nominated by the association for approval by the commission. Names of association nominees for stewards shall be submitted no later than sixty (60) days before commencement of a race meeting and be accompanied by biographical data setting up the experience and qualifications of the nominees. The commission may consider for appointment or approval:

(1) Persons who have engaged in greyhound racing in a capacity and for a period satisfactory to the commission.

(2) Persons who have satisfactorily passed an optical examination within one year prior to approval as a steward evidencing corrected 20/20 vision and ability to distinguish colors correctly.

(3) Persons who have satisfied the commission that income, other than salary as a steward, is independent of and unrelated to patronage of or employment by any occupational licensee under the supervision of such steward, so as to avoid the appearance of any conflict of interest or suggestion of preferential treatment of an occupational licensee.

b. The laws of Iowa and the rules of racing supersede the conditions of a race and the regulations of a race meeting, and, in matters pertaining to racing, the orders of the stewards supersede the orders of the officers of the association.

c. The stewards shall have the power to interpret the rules and to decide all questions not specifically covered by them.

d. All questions pertaining to which their authority extends shall be determined by a majority of the stewards.

*e.* The stewards shall have the power to regulate and control owners, trainers, grooms, and other persons attendant on greyhounds and also over all officials and licensed personnel of the meeting.

*f.* The stewards shall have control over and free access to all stands, weighing rooms, enclosures and all other places in use for the purpose of racing.

*g.* The stewards shall have the power to determine all questions arising with reference to entries and racing.

*h.* Persons entering greyhounds to run on licensed Iowa tracks agree in so doing to accept the decision of the stewards on any questions relating to a race or racing.

*i.* The stewards shall have the power to punish for violation of the rules any person subject to their control and in their discretion to impose fines or suspensions or both for infractions.

*j.* The stewards shall have the power to order the exclusion or ejection from all premises and enclosures of the association any person who is disqualified for corrupt practices on any race course in any country.

*k.* The stewards shall have the power to call for proof that a greyhound is neither itself disqualified in any respect, nor nominated by, nor the property, wholly or in part, of a disqualified person, and in default of proof being given to their satisfaction, they may declare the greyhound disqualified.

*l.* The stewards shall have the power at any time, to order an examination by person or persons they think fit of any greyhound entered for a race or which has run in a race.

*m.* The stewards shall take notice of any questionable conduct with or without complaint and shall investigate promptly and render a decision on every objection and on every complaint made to them.

*n.* The stewards shall report all objections and complaints to the commission as soon as received by them and shall make prompt report of their investigation and decision to the commission.

*o.* The stewards, in order to maintain necessary safety and health conditions and to protect the public confidence in greyhound racing as a sport, shall have the right to authorize a person or persons in their behalf to enter into or upon the buildings, kennels, rooms, motor vehicles, trailers, or other places within the grounds of a licensed racetrack, to examine same, and to inspect and examine the person, personal property, and effects of any person within such place, and to seize any illegal articles or any items as evidence found.

*p.* During each racing day a majority of the stewards of the meeting shall be at the office building on the grounds of the association where the racing meeting is being held, not later than weighing-in time, to exercise the authority and perform the duties imposed on the stewards by the rules of racing.

*q.* If only one (1) judge is present in the stand, the association shall name one (1) or more persons to serve with the judge. If none of the stewards are present, the association shall name at least two (2) persons to serve during the absence of the stewards, immediately filing a written report with the commission.

*r.* When a vacancy occurs among the racing officials other than the stewards, prior to post time of the first race of the day, or when a vacancy occurs after the racing of the day has started, the stewards shall immediately fill the vacancy. The appointment shall be effective only for the day unless the association fails to fill the vacancy on the following day and has notified the stewards of its action not less than one (1) hour before post time of the first race of the day. Appointments shall be reported immediately to the commission by the stewards.

*s.* A greyhound, after leaving the paddock for the post, may be excused by the stewards, but only in cases where they consider the greyhound injured, disabled, or unfit to run. All money on the greyhound shall be refunded.

(1) After a greyhound has been placed in the starting box, no refund shall be made and all wagers stand. In case of mechanical failure to the starting box when a greyhound or greyhounds are prevented from starting, a full and complete refund shall be made on said greyhound or greyhounds.

(2) The decision as to whether the greyhound or greyhounds were prevented from starting by a mechanical failure shall be made by the stewards after consultation with the starter.

t. The stewards shall determine the finish of a race by the relative position of the muzzles, or noses, if the muzzle is lost or hanging, of each greyhound. They shall immediately notify the mutuel department of the numbers of the first three (3) greyhounds.

(1) The stewards shall promptly display the numbers of the first three (3) greyhounds in each race in order of their finishes. If the stewards differ in their placing, the majority shall prevail.

(2) On all tracks, a photofinish camera shall be installed as an aid to the stewards; however, in all cases, the camera is merely an aid and the decision of the stewards shall be final. The type of equipment used is to be approved by the commission. Each association shall keep on file for one (1) year after the close of the meeting, each plate or film of each race for reference or reproduction upon request of the commission.

(3) Whenever it is considered advisable to consult a picture from the photofinish camera, the stewards may post without waiting for a picture, such placements as are in their opinion unquestionable and after consulting the picture, make other placements. However, in no case shall the race be declared official until the stewards have determined the greyhounds finishing first, second and third.

(4) Nothing in these rules shall be construed to prevent the stewards from correcting an error before the display of the sign "Official" or from recalling the sign "Official" in case it has been displayed through error.

u. Any greyhound may be placed on the schooling list by the stewards at any time, for any reason which, in their opinion, warrants such action.

v. The stewards shall each day keep a log of all infractions of the rules and of all rulings of the stewards upon matters coming before them during the meeting.

w. During the term of suspension of any owner, trainer, or other person on any track under the jurisdiction of the commission, it shall be the duty of the stewards and of the association to see that the ruling against the offender is enforced.

#### **7.8(5) Duties of lead-outs.**

a. Owners, trainers, or attendants will not be allowed to lead their own greyhounds from the paddock to the starting box, except by permission of the board of stewards in schooling races. The greyhounds shall be led from the paddock to the starting box by lead-outs, provided by each association for that purpose and licensed by the commission. There shall be one (1) lead-out for each greyhound in the race.

b. Lead-outs will be required to present a neat appearance and conduct themselves in an orderly manner and must be attired in clean uniforms provided by the association.

c. The lead-out must handle the greyhound in a humane manner, put the greyhound in its proper box before the race, and then retire to an assigned place.

d. No lead-out will be permitted to wager on any race or to have any interest in any greyhound racing at the track where the lead-out is employed.

e. Lead-outs shall be assigned to by lot to post positions by paddock judge or designee before each race and a record of assignment shall be maintained.

f. Lead-outs are prohibited from holding any conversation with the public or with one another, either in the paddock, en route to the starting post, or while returning to the paddock.

g. Smoking while in uniform and on duty is prohibited.

#### **7.8(6) Duties of a paddock judge.**

a. No greyhound shall be permitted to start in a schooling or purse race that has not been fully identified and checked against the card index system of identification maintained by each association. The identification cards shall be filled in and completed by the paddock judge before greyhounds are entered for schooling or for a purse race.

b. The paddock judge shall fully identify and check against the card index system of identification maintained by the association all greyhounds starting in schooling and purse races. The paddock judge shall report to the judges any greyhound or greyhounds who do not conform to the card index identification.

c. Under the supervision of the paddock judge, the kennel master shall unlock the kennels immediately before weigh-in time to see that the kennels are in perfect repair and that nothing has been deposited in any of the kennels for the greyhounds' consumption. The kennel master

shall see that the kennels are sprayed, disinfected, and kept in proper sanitary condition. The kennel master or assistant kennel master must receive the greyhounds from the trainer, one at a time, and see that each greyhound is placed in its kennel; and remain on guard from that time until the greyhounds are removed for the last race.

*d.* As each greyhound is weighed in there shall be an identification tag attached to its collar indicating the number of the race in which the greyhound is entered and its post position. This tag shall not be removed until the greyhound has been weighed out and blanketed.

*e.* The paddock judge shall not allow anyone to weigh in a greyhound for racing, unless the person has a valid owner's, trainer's, or assistant trainer's license issued by the commission.

*f.* After the greyhounds are placed in the lock-out kennels, no person other than the kennel master, racing officials, persons approved by the commission, or designated representatives of the commission shall be allowed in or near the lock-out kennels.

*g.* The paddock judge shall carefully compare the identification card with the greyhound while in the paddock before post time.

*h.* Before leaving the paddock for the starting box, every greyhound must be equipped with a regulation muzzle and blanket. The muzzles and blankets used shall be approved by the paddock judge, who shall carefully examine them in the paddock before the greyhound leaves for the post.

*i.* The paddock judge shall keep on hand, ready for use, extra muzzles of all sizes, lead straps, and collars.

*j.* The paddock judge shall report all infractions of the rules and any irregularities to the board of stewards.

**7.8(7) Duties of racing secretary.**

*a.* The racing secretary shall discharge all duties whether expressed or required by the rules of greyhound racing; report to the stewards as the case may demand, all violations of these rules and shall keep a complete record of all races.

*b.* The racing secretary is responsible for maintaining a file of all National Greyhound Association lease and ownership papers on greyhounds racing at the meeting. The racing secretary shall inspect all papers and documents dealing with owners and trainers, partnership agreements, appointments of authorized agents, and adoption of kennel names to be sure they are accurate, complete, and up to date. The racing secretary has the authority to demand the production of any documents or other evidence in order to be satisfied as to their validity and authenticity to ensure compliance with the rules.

*c.* The racing secretary shall receive all entries and declarations. Conditions of races shall not conflict with these rules and the racing secretary shall each day as soon as the entries have closed, have been compiled, and the declarations have been made, post in a conspicuous place an overnight listing of the greyhounds in each race. The racing secretary shall make every effort to ensure fairness and equal opportunity for all greyhound owners and kennel owners in the forming of all races.

*d.* The racing secretary shall not allow any greyhound to start in a race unless the greyhound is entered in the name of the legal owner and unless the owner's name appears on the registration papers or on a legal lease or bill of sale attached to the registration papers.

*e.* Assistant racing secretary. The association may employ an assistant racing secretary, who shall assist the racing secretary in the performance of duties and serve under the supervision of the racing secretary.

**7.8(8) Duties of starter.**

*a.* The starter shall give orders and take measures, not in conflict with the rules of greyhound racing necessary to secure a fair start.

*b.* The greyhounds shall be started from a type of starting box approved by the commission and there shall be no start until, and no recall after, the doors of the starting box have opened.

*c.* The starter shall report causes of delay, if any should occur, to the stewards.

*d.* A false start, due to any faulty action of the starting box, break in the machinery, or other cause, is void, and the greyhounds may be started again as soon as practicable, or the race may be canceled at the discretion of the stewards.

**7.8(9) Duties of photofinish operator/timer.**

a. The photofinish operator/timer shall maintain the photofinish and timing equipment in proper working order and shall photograph each race.

b. The photofinish operator/timer shall be responsible for and declare the official time of each race. The time of the race shall be taken from the opening of the doors of the starting box.

c. Each association shall be required to install an automatic timing device approved by the commission. The timer shall use the time shown on the timing device as the official time of the race if the timer is satisfied that the timing device is functioning properly; otherwise, the timer shall use the time shown on the stop watch. When the stop watch time is used as the official time of the race, it shall be so announced to the public.

**195—7.9(99D) Medication and administration, sample collection, chemists, and veterinarians.****7.9(1) Medication and administration.**

a. No greyhound, while participating in a race, shall carry in its body any medication, or drug, or foreign substance, or metabolic derivative thereof, which is a narcotic, or which could serve as a local anesthetic, or tranquilizer, or which could stimulate or depress the circulatory, respiratory, or central nervous system of a greyhound, thereby affecting its speed.

b. Also prohibited are any drugs which might mask or screen the presence of the prohibited drugs, or prevent or delay testing procedures.

c. Proof of detection by the commission chemist of the presence of a medication, or drug, or foreign substance, or metabolic derivative thereof, prohibited by 7.9(1) "a" in a saliva, urine, or blood specimen duly taken under the supervision of the commission veterinarian from a greyhound immediately prior to or promptly after running in a race, shall be prima facie evidence that the greyhound was administered with the intent that it would carry or that it did carry prohibited medication, drug, or foreign substance, in its body while running in a race in violation of this rule.

d. No person other than a licensed veterinarian shall administer, or cause to be administered, or participate, or attempt to participate, in any way in the administration to a greyhound registered for racing, of any medication, drug, or foreign substance on the day of the race for which a greyhound is entered prior to a race.

e. Any such person found to have administered a medication, drug, or foreign substance which caused or could have caused a violation of this rule, or caused or participated or attempted to participate in any way in the administration, shall be subject to disciplinary action.

f. The owner, trainer, kennel helper, or any other person having charge, custody or care of the greyhound is obligated to protect the greyhound properly and guard it against the administration or attempted administration, and if the stewards shall find that any person has failed to show proper protection and guarding of the greyhound, or if the stewards find that any owner, lessee, or trainer is guilty of negligence, they shall impose punishment and take other action they deem proper under any of the rules including reference to the commission.

**7.9(2) Sample collection.**

a. Urine, blood, and other specimens shall be taken and tested from any greyhounds the stewards of the meeting, commission veterinarian, or the commission's representatives may designate. Tests are to be under the supervision of the commission. The specimens shall be collected by the commission veterinarian or other person or persons the commission may designate.

b. An area located within a reasonable proximity of the paddock must be set aside and be under the supervision of the commission veterinarian for the purpose of collecting body fluid samples for any tests required by the commission. The building, location, arrangement, furnishings, and facilities, including refrigeration and hot and cold running water, must be approved by the commission.

c. No unauthorized person shall be admitted at any time to the building or the area utilized for the purpose of collecting the required body fluid samples or the area designated for the retention of greyhounds pending the obtaining of body fluid samples.

d. During the taking of specimens from a greyhound, the owner, or responsible trainer, or a kennel representative designated by the owner or trainer, shall be present and witness the taking of the specimen and so signify in writing.

e. A security guard, approved by the commission, must be in attendance during the hours designated by the commission.

f. The commission veterinarian, the board of stewards, agents of the division of criminal investigation, or the authorized representatives of the commission may take samples of any medicine or other materials suspected of containing improper medication, drugs, or other substance which could affect the racing condition of a greyhound in a race which may be found in kennels or elsewhere on racetracks or in the possession of any person connected with racing, and the same shall be delivered to the official chemist for analysis.

g. Nothing in these rules shall be construed to prevent:

(1) Any greyhound in any race from being subjected by the order of a steward or the commission veterinarian to tests of body fluid samples for the purpose of determining the presence of any foreign substance.

(2) The state steward or the commission veterinarian from authorizing the splitting of any sample.

(3) The commission veterinarian from requiring body fluid samples to be stored in a frozen state for future analysis.

**7.9(3) Chemist.**

a. The commission shall employ one or more chemists or contract with one or more qualified chemical laboratories to determine by chemical testing and analysis of body fluid samples whether a substance or drug is present which may affect the outcome of a race or which may interfere with the testing procedure as provided in Iowa Code section 99D.23(1).

b. All body fluid samples taken by or under direction of the commission veterinarian or authorized representative of the commission shall be delivered to the laboratory of the official chemist for analysis. Each sample shall be marked or numbered and bear information essential to its proper analysis; but the identity of the greyhound from which the specimen was taken or the identity of its owners, trainer, or kennel shall not be revealed to the official chemist or the staff of the chemist. The container of each sample shall be sealed as soon as the sample is placed therein.

c. The commission chemist shall be responsible for safeguarding and testing each specimen delivered to the laboratory by the commission veterinarian.

d. The commission chemist shall conduct individual tests on each specimen, screening same for prohibited substances, and conducting other tests to detect and identify any suspected prohibited substance or metabolic derivative thereof with specificity. Pooling of specimens shall be permitted only with the knowledge and approval of the commission.

e. Upon the finding of a test negative for prohibited substances, the remaining portions of the specimen may be discarded. Upon the finding of tests suspicious or positive for prohibited substances, the tests shall be reconfirmed, and the remaining portion, if available, of the specimen preserved and protected until the stewards rule it may be discarded.

f. The commission chemist shall submit to the state steward a written report as to each specimen tested, indicating by specimen tag identification number, whether the specimen was tested negative or positive for prohibited substances. The commission chemist shall report test findings to no person other than the state steward or a designated representative of the state steward.

(1) In the event the commission chemist should find a specimen suspicious for a prohibited medication, additional time for test analysis, and confirmation may be requested.

(2) The racing association shall not make distribution of any purses until given clearance of chemical tests by the state steward.

g. In reporting to the state steward a finding of a test positive for a prohibited substance, the commission chemist shall present documentary or demonstrative evidence acceptable in the scientific community and admissible in court in support of the professional opinion as to the positive finding.

*h.* No action shall be taken by the state steward on the report of the official chemist unless and until the medication, drug, or other substance has been properly identified as well as the greyhound from which the sample was taken, nor until an official report signed by the chemist has been received by the state steward.

*i.* The cost of the testing and analysis shall be paid by the commission to the official chemist. The commission shall then be reimbursed by each licensed association on a per sample basis so that each association shall bear only its proportion of the total cost of testing and analysis.

**7.9(4) Commission veterinarian.**

*a.* The commission shall employ a graduate veterinarian licensed to practice in the state of Iowa at each race meeting as provided in Iowa Code section 99D.23. This veterinarian shall advise the commission and the stewards on all veterinary matters.

*b.* The commission veterinarian shall be on the grounds of the association at weighing-in time and during all racing hours. The veterinarian shall make an examination of the physical condition of each greyhound at weighing-in time.

*c.* The commission veterinarian shall observe each greyhound as it enters the lock-out kennel, examine it when it enters the paddock prior to the race, and recommend to the board of stewards that any greyhound deemed unsafe to race or physically unfit to produce a satisfactory effort in a race be scratched.

*d.* The commission veterinarian shall place any greyhound determined to be sick or have a communicable disease, or any greyhound deemed unsafe, unsound, or unfit on a veterinarian's list which shall be posted in a conspicuous place available to all owners, trainers, and officials.

*e.* Once a greyhound has been placed on the veterinarian's list it may be allowed to race only after it has been removed from the list by the commission veterinarian. The entry of any greyhound on the veterinarian's list may be accepted only after three (3) calendar days from the placing of the greyhound on the veterinarian's list have elapsed.

*f.* The commission veterinarian shall have full access to each and every kennel where greyhounds are kenneled on the licensee's premises. The commission veterinarian shall inspect the general physical condition of the greyhounds, sanitary conditions of the kennels, segregation of female greyhounds in season, segregation of sick greyhounds, the types of medicine found in use, cruel and inhumane treatment, and any other matters or conditions which are brought to the attention of the commission veterinarian.

*g.* The commission veterinarian shall have supervision and control of the detention area for the collection of samples for the testing of greyhounds for prohibited medication as also provided in Iowa Code section 99D.23. The commission may employ persons to assist the commission veterinarian in maintaining the detention area and collecting specimens.

*h.* The commission veterinarian shall not buy or sell any greyhound under the veterinarian's supervision; nor shall the commission veterinarian wager on a race under the veterinarian's supervision, nor be licensed to participate in racing in any other capacity.

**7.9(5) Practicing veterinarian.**

*a.* Every practicing veterinarian licensed by the commission shall keep a written record of their practice on the premises of a licensee relating to greyhounds participating in racing.

(1) This record shall include the name of the greyhound treated, the nature of the greyhound's ailment, the type of treatment prescribed and performed for the greyhound, the date and time of treatment.

(2) This record shall be kept for practice engaged in at all licensed racetracks in the state of Iowa and shall be produced without delay upon the request of the board of stewards or the commission.

*b.* Practicing veterinarians engaged in private practice on tracks under the jurisdiction of the commission shall be licensed to practice in the state of Iowa.

*c.* Only practicing veterinarians licensed by the commission may administer to or prescribe for greyhounds on the premises of any licensee except in cases of emergency.

**195—7.10(99D) Schooling.**

7.10(1) Greyhounds must be properly schooled in the presence of the stewards, and must, in the opinion of the stewards, be sufficiently experienced before they can be entered or started.

7.10(2) All schooling races shall be at a distance not less than the distance nearest to 5/16 mile in use at the track.

7.10(3) Any greyhound that has not raced for a period of ten (10) racing days or more shall be officially schooled at least once at its racing weight before being eligible for entry.

7.10(4) Each official schooling race must consist of at least six (6) greyhounds. However, if this condition creates a hardship, less than six (6) may be schooled with the permission of the commission steward.

7.10(5) No hand schooling will be considered official.

7.10(6) All greyhounds in official schooling races must be raced at their established racing weight and started from the box wearing blankets.

7.10(7) Any greyhound may be ordered on the schooling list by the stewards at any time for good cause and must be schooled officially and satisfactorily before being allowed to enter a race.

7.10(8) Each association shall provide a photofinish camera approved by the commission, to be in operation at all official schooling races.

**195—7.11(99D) Qualifying time.**

7.11(1) Each association licensed by the commission shall establish qualifying time.

7.11(2) Each association shall notify the commission at least three (3) days before the first day of official racing of the qualifying times established, and such time, while in effect, shall be continuously posted on the notice board at the track. Any change in the qualifying time established, during the course of the meeting, shall be made only with the approval of the commission.

7.11(3) Any greyhound that fails to meet the qualifying time as established shall not be permitted to start other than in futurity or stakes races.

**195—7.12(99D) Grading.**

7.12(1) Each association licensed by the commission shall establish a grading system and purse structure to be approved by the commission.

7.12(2) The racing secretary shall submit the proposed grading system and purse structure to be in effect at the race meeting ten (10) days prior to the opening of the meeting.

**195—7.13(99D) Weights and weighting.**

7.13(1) All greyhounds must be weighed not less than one (1) hour before the time of the first race of the day.

7.13(2) Before a greyhound is allowed to school or race at any track, the owner or trainer must establish the racing weight of each greyhound entered with the clerk of scales.

7.13(3) At weighing-in time, should there be a variation of more than one and one-half (1½) pounds either way from its established weight, the stewards shall order the greyhound scratched.

7.13(4) At weighing-out time, if a greyhound loses weight in excess of two (2) pounds from its weigh-in weight while in the lock-out kennels, the stewards shall order the greyhound scratched. However, if, in the opinion of the veterinarian, the loss of weight while in the lock-out kennels does not impair the racing condition of the greyhound, the stewards may allow the greyhound to race.

7.13(5) The weight regulations provided in subrules 7.13(1) to 7.13(4) shall be printed in the daily program.

7.13(6) If at weighing-in time, there should be more than two (2) pounds variation between the weight of its present race and the weight at weighing-in time of its last race, the stewards shall order the greyhound scratched.

7.13(7) The established racing weight may be changed from time to time on written request of the owner or trainer and by written consent of the stewards, providing change is made four (4) calendar days before the greyhound is allowed to race at the new weight.

a. All greyhounds having an established weight change of more than one (1) pound must be schooled at least once, or more at the discretion of the stewards, at the new established weight before being eligible for starting.

b. Greyhounds that have not raced or schooled officially for a period of three (3) weeks will be allowed to establish a new racing weight with the consent of the stewards.

7.13(8) The stewards shall have the privilege of weighing a greyhound entered in a race at any period from the time it enters the lock-out kennel until post time.

7.13(9) Immediately after being weighed in, the greyhounds shall be placed in lock-out kennels under the supervision of the paddock steward and no owner or other person excepting the paddock steward, veterinarian, kennel master, clerk of scales, lead-out, stewards, or commission representatives shall be allowed in or near the lock-out kennels.

#### 195—7.14(99D) Rules of the race.

7.14(1) When two (2) greyhounds run a dead heat for first place, all prizes and moneys to which the first and second greyhounds would have been entitled shall be divided equally between them; this applies in dividing prizes and moneys whatever the number of greyhounds running a dead heat and whatever places for which the dead heat is run.

7.14(2) If a greyhound bolts the course, runs in the opposite direction, or does not run the entire prescribed distance for the race, it shall forfeit all rights in the race and, no matter where it finished, the stewards shall declare the finish of the race the same as if it were not a contender. However, for the purpose of the rule, the greyhound shall be considered a "starter."

7.14(3) If a greyhound bolts the course, or runs in the opposite direction during the running of the race, and in so doing, in the opinion of the stewards, interfered with any other greyhound in the race, the stewards shall declare it "No Race" and all moneys wagered shall be refunded; except when, in the opinion of the stewards, the interference clearly did not interfere with the outcome of the race.

7.14(4) If it appears that a greyhound may interfere with the running of the race because of failure to leave the box, because of an accident or for any other reason, any person under the supervision of the stewards stationed around the track, may remove the greyhound from the track. However, for the purpose of the rule, that greyhound shall be considered a "starter."

7.14(5) All greyhounds must wear the regulation association muzzle and blanket while racing.

7.14(6) Muzzles and blankets must be carefully examined in the paddock by the paddock judge before the greyhounds leave for the post and again be examined before the stewards and the public in front of the judges stand.

7.14(7) All greyhounds must be exhibited in the show paddock before post time of the race in which they are entered.

7.14(8) No race shall be called official unless the lure is in advance of the greyhounds at all times during the race and if at any time during the race, any greyhound or greyhounds catch or pass the lure, the stewards shall declare it "No Race" and all moneys shall be refunded.

7.14(9) The stewards shall closely observe the operation of the lure and hold the lure operator to strict accountability for any inconsistency of operation.

7.14(10) If a greyhound is left in the box when the doors of the starting box open at the start, there shall be no refund.

7.14(11) If a race is marred by jams, spills or racing circumstances other than accident to the machinery while a race is being run, and three (3) or more greyhounds finish, the stewards shall declare the race finished; but if less than three (3) greyhounds finish, the stewards shall declare it "No Race" and all moneys shall be refunded.

7.14(12) Any act of the owner, trainer or handler of a greyhound which would tend to prevent the greyhound from running its best and winning, if possible, shall mean suspension of all persons found guilty of complicity.

**195—7.15(99D) Objections.**

**7.15(1)** Every objection must be made by an owner or the authorized agent of the owner, by a trainer of some other greyhound engaged in the same race, or by an official. Objection must be made to the stewards, who may require that the objection be made in writing with a copy sent immediately to the commission.

**7.15(2)** The stewards may require a cash deposit of two hundred dollars (\$200) to cover costs and expenses in determining an objection. The deposit posted herein may be forfeited if the objection should prove to be without foundation.

**7.15(3)** Any objection, unless otherwise provided, must be made within seventy-two (72) hours after the race is run, and shall be determined by the stewards.

**7.15(4)** Any objection involving a greyhound pertaining to any matter occurring in a race, must be made before the official numbers of the greyhounds' place in the race are posted on the odds board.

**7.15(5)** The stewards must decide every objection pertaining to the race. From every decision an appeal in writing may be made to the commission within forty-eight (48) hours of the time the objector has been officially informed of the decision.

**7.15(6)** Objection to any decision of the clerk of scales shall be made before the greyhounds leave the paddock for the start of the race.

**7.15(7)** Pending a decision on an objection, any money or prize to which the greyhound against which the objection is lodged would be entitled, shall be withheld until the objection is determined.

These rules are intended to implement Iowa Code section 99D.7 and 1986 Iowa Acts, Senate File 2175, sections 711 to 715.

[Filed 4/5/85, Notice 2/27/85—published 4/24/85, effective 5/29/85]

[Filed emergency 9/4/85—published 9/25/85, effective 9/4/85]

[Filed emergency 10/20/86—published 11/19/86, effective 10/20/86]

[Filed emergency 10/20/86—published 11/19/86, effective 10/20/86]

[Filed 10/20/86, Notice 7/30/86—published 11/19/86, effective 12/24/86]



CHAPTER 8  
MUTUEL DEPARTMENTS

[Prior to 11/19/86, Racing Commission(693)]

**195—8.1(99D) Definitions.**

*"Association"* means anyone conducting a licensed meet in Iowa.

*"Board"* means the board of judges or the board of stewards.

*"Commission"* means the Iowa state racing commission.

*"Commission representative"* means an employee of the commission designated to represent them in matters pertaining to the operation of the mutuel department.

*"Daily double"* means a wager to select the winners of two (2) consecutive races and is not a parlay and has no connection with or relation to any other pool conducted by the association and shall not be construed as a "quiniela double."

*"Entry"* means two (2) or more runners are coupled in a race because of common ties and a wager on one of them shall be a wager on all of them.

*"Exacta"* (may also be known as "perfecta" or "correcta") means a wager selecting the exact order of finish for first and second in that race and is not a parlay and has no connection with or relation to any other pool conducted by the association.

*"Field"* is when the individual runners competing in a race exceed the numbering capacity of the totalizator and all runners of the higher number shall be grouped together. A wager on one in the field shall be a wager on all. (No "fields" shall be allowed in greyhound racing.)

*"Law or laws"* means the Iowa Code.

*"Minus pool"* is when the total amount of money to be returned to the public exceeds what is in the pool because of commission being deducted and the rule stipulation that no mutuel tickets shall be paid at less than \$1.10 for each \$1.00 wagered.

*"Mutuel department"* means that area of a racetrack where wagers are made and winning tickets are cashed; where the totalizator is installed and any area used directly in the operation of pari-mutuel wagering.

*"Mutuel manager"* means an employee of the association who manages the mutuel department.

*"Overpayment"* is when the payoff to the public resulting from errors in calculating pools and errors occurring in the communication of payoffs results in more money returned to the public than is actually due.

*"Pic six"* means a betting transaction in which a purchaser of a ticket undertakes to select the winner of six (6) races designated by the association, during one racing card on which that feature is operated. The pic six is an entirely separate pool from all other pools.

*"Place"* means a runner finishing second.

*"Place pool"* means the total amount of money wagered on all runners to finish second.

*"Quiniela"* means a wager selecting two (2) runners to finish first and second, regardless of the order of finish and is not a parlay and has no connection with or relation to any other pool conducted by the association.

*"Quiniela double"* means a wager which consists of selecting the quiniela in each of two (2) designated races and is an entirely separate pool from all other pools and has no connection with or relation to any other pool conducted by the association.

*"Runner"* means each entrant in a race, designated by a number.

*"Show"* means a runner finishing third.

*"Show pool"* is the total amount of money wagered on all runners to finish third.

*"State"* means the state of Iowa.

*"Stewards"* means the board of stewards or board of judges.

*"Totalizator"* is a machine for registering wagers and computing the odds and payoffs.

*"Tote board"* means the board that is used to display to the public the winning approximate odds or approximate payoffs on runner, payoffs, and other pertinent information directly related to a race.

*"Trifecta"* means a wager selecting the exact order of finish for first, second, and third in that race and is not a parlay and has no connection with or relation to any other pool conducted by the association.

“*Twin trifecta*” means a wager in which the bettor selects the three (3) greyhounds that will finish first, second, and third in the exact order as officially posted in each of the two (2) designated twin trifecta races.

“*Underpayment*” is when the payoff to the public resulting from errors in calculating pools and errors occurring in the communication in payoffs results in less money returned to the public than is actually due.

“*Win*” means a runner finishing first.

#### **195—8.2(99D) Pari-mutuel wagering.**

**8.2(1) *Pari-mutuel system of wagering required.*** Each association licensed to conduct racing in this state may permit wagering only on races conducted by that association; no association may accept wagers on races conducted elsewhere by another association. All permitted wagering shall be under the pari-mutuel system, employing an electric totalizator approved by the commission. All systems of wagering other than pari-mutuel, such as bookmaking and auction-pool selling, are prohibited and any person attempting to participate in prohibited wagering shall be ejected or excluded from association grounds.

**8.2(2) *Totalizator required.*** Each association shall install and operate during its race meeting an electric totalizator approved by the commission. The totalizator shall be tested daily under the supervision of the commission to ensure its proper working order.

**8.2(3) *Records to be maintained.*** The pari-mutuel manager shall maintain complete records of all wagering so the commission may upon review ascertain for any race: The opening line and subsequent odds fluctuations, the amount, and at which window wagers were placed on any betting interest, and other information the commission may from time to time require. A copy of wagering records shall be retained by each association and safeguarded for a period not less than one (1) year and may not be destroyed without permission of the commission.

**8.2(4) *Calculation and distribution of pools.*** The only pari-mutuel wagering pools permitted in this state shall be for win, place, show, daily double, and exacta, quiniela, quiniela double, and pic six, each with separate and independent calculation and distribution. From each pool there shall be deducted by each association the take-out percentage as provided by Iowa Code section 99D.11, with the remainder being the net pool for distribution as payoffs to ticket holders as follows:

*a. Win pool.* The amount wagered on the betting interest which finished first is deducted from the net pool, the balance remaining being the profit, the profit is divided by the amount wagered on the betting interest finishing first, such quotient being the profit per dollar wagered to win; payoff includes return of amount wagered and profit thereon.

(1) In the event of a dead heat for first involving runners of two (2) different betting interests, the win pool is distributed as if a place pool; if involving runners of three (3) different betting interests, the win pool is distributed as if a show pool.

(2) In the event no win ticket is sold on the betting interest which finishes first, the net win pool is distributed to holders of win tickets on the runner finishing second, if any; otherwise among holders of win tickets on the runner finishing third.

*b. Place pool.* The amounts wagered to place on the first two (2) runners to finish are deducted from the net pool to determine the profit; the profit is divided into two (2) equal amounts; one half of the profit is divided by the amount wagered to place on the first finisher, such quotient being the profit per dollar wagered to place on the first finisher; and one half of the profit is divided by the amount wagered to place on the second finisher, such quotient being the profit per dollar wagered to place on the second finisher; payoffs include return of amount wagered and profit thereon as to each of the first two (2) finishers.

(1) In the event of a dead heat for first: Between runners representing the same betting interest, the place pool is distributed as if a win pool; if between runner representing two (2) different betting interests, the place pool is distributed as if one (1) betting interest finished first and the other finished second; if between runners representing three (3) different betting interests, the place pool is distributed as if a show pool.

(2) In the event of a dead heat for second; between runners representing the same betting interest, the place pool is distributed as if no dead heat occurred; if between runners representing two (2) or more different betting interests, the profit is divided in half, with one half allocated for wagers to place on the runner which finished first, and the other half divided equally so as to allocate one fourth of the profit on the net place pool for wagers to place on each of two (2) runners finishing in a dead heat for second, or one sixth of the profit for wagers to place on each of three (3) runners finishing in a dead heat for second.

(3) In the event the first and second finishers comprise a single betting interest, the place pool is distributed as if a win pool.

(4) In the event no place ticket is sold on a runner which finishes either first or second, then the place pool is distributed as a win pool and distributed to the holders of place tickets on the runner finishing first or second.

*c. Show pool.* The amounts wagered to show on the first three (3) runners to finish are deducted from the net pool to determine the profit; the profit is divided into three (3) equal amounts; one third of the profit is divided by the amount wagered to show on the first finisher, such quotient being the profit divided by the amount wagered to show on the second finisher, such quotient being the profit per dollar wagered to show on such second finisher; and one third of the profit is divided by the amount wagered to show on the third finisher, such quotient being profit per dollar wagered to show on such third finisher; payoffs include return of amount wagered and profit thereon as to each of the first three (3) finishers.

(1) In the event of a dead heat for first: Between two (2) runners involving different betting interests, or three (3) runners involving three (3) different betting interests, the show pool is distributed as if no dead heat occurred; if between two (2) runners involving the same betting interest, two thirds of the profit is allocated to wagers to show on the coupled betting interest, and one third allocated to wagers to show on the other runner among the first three (3) finishers; if between three (3) runners involving one (1) betting interest, the show pool is distributed as if a win pool.

(2) In the event of a dead heat for second: Between two (2) runners involving two (2) different betting interests, the show pool is distributed as if no dead heat occurred; if between runners involving the same betting interest, two thirds of the profit shall be allocated to wagers to show on the coupled betting interest, and one third allocated to wagers to show on the runner finishing first; if between three (3) runners involving two (2) or three (3) betting interests, one third of the profit is allocated to wagers to show on the runner finishing first, and the remaining two thirds of the profit is divided equally by the number of betting interests finishing in a dead heat for second for proportionate distribution on wagers to show for each betting interest finishing in a dead heat for second.

(3) In the event of a dead heat for third: Between runners involving the same betting interests, the show pool is distributed as if no dead heat occurred; if between runners involving two (2) or more betting interests, two thirds of the profit shall be allocated to wagers to show on the first two (2) finishers, and the remaining one third is divided equally by the number of betting interests finishing in a dead heat for third for proportionate distribution on wagers to show for each betting interest finishing in a dead heat for third.

(4) In the event the first three (3) runners to finish comprise one betting interest, the show pool shall be distributed as a win pool. In the event two (2) runners coupled as a single betting interest finish first and second, or first and third, or second and third, two thirds of the profit shall be allocated to wagers to show on the other runner among the first three (3) finishers.

(5) In the event one (1) runner coupled in the betting by reason of being in the mutuel field or part of a mutuel entry finishes first or second, and another runner included in the same betting interest finishes in a dead heat for third: One half of the profit in the show pool shall be allocated to wagers on such field or entry, one third of the profit in the show pool shall be allocated to wagers on the runner finishing first or second, and the remaining one sixth of the profit shall be allocated to wagers on the runner finishing in a dead heat for third with such field or entry.

(6) In the event only two (2) runners finish in a race, the show pool, if any, shall be distributed as if a place pool; if only one runner finishes, the place and show pools, if any, shall be distributed as if a win pool; if no runner finishes, all money wagered on the race shall be refunded upon presentation and surrender of pari-mutuel tickets sold.

(7) In the event no show ticket is sold on a runner which finishes first, or second, or third, then, the show pool is distributed as a place pool and is distributed to the holders of show tickets on the runners finishing first, second, or third.

*d. Daily double pool.* The amount wagered on the winning combination, such being the runner or betting interest which finishes first in the first daily double race combined with the runner or betting interest which finishes first in the second daily double race, is deducted from the net pool to determine the profit; the profit is divided by the amount wagered on the winning combination, the quotient being the profit per dollar wagered on the winning daily double combination; payoff includes the amount wagered and profit thereon.

(1) In the event of a dead heat for first involving two (2) different betting interests, in one of the two (2) daily double races, the daily double pool is distributed as if a place pool, with half the profit allocated to wagers combining the single winner of one (1) daily double race and one of the betting interests involved in the dead heat in the other daily double race, with the other half of the profit allocated to wagers combining the single winner of one (1) daily double race and the other betting interest involved in the dead heat in the other daily double race.

(2) In the event of dead heats for first involving different betting interests in each of the daily double races, resulting in four (4), six (6), or nine (9) winning combinations; profits will be divided into a corresponding number of parts and calculated and distributed in the same manner as the show pool using the appropriate number of winning combinations in lieu thereof.

(3) If no tickets is sold combining both winners of the daily double, the net pool shall be apportioned between those having tickets including the winner of the first race of the daily double and those having tickets including the winner of the last race of the daily double, and shall be calculated and distributed as a place pool.

(4) If no ticket is sold including the winner of the first race of the daily double, the entire net pool will be paid to the holders of tickets which include the winner of the last race of the daily double.

(5) If no ticket is sold including the winner of the last race of the daily double, the entire net pool will be paid to the holders of tickets which include the winner of the first race of the daily double.

(6) If, after daily double wagering has commenced and a runner not coupled with another as a betting interest in the daily double is excused by the stewards or is prevented from racing because of failure of the starting gate/box to open properly, then daily double wagers combining such runner shall be deducted from the daily double pool and refunded upon presentation and surrender of daily double tickets.

(7) If, after the first race of the daily double has been run, and a runner not coupled with another as a betting interest in the second race of the daily double is excused by the stewards or prevented from racing because of failure of the starting gate/box to open properly, then daily double wagers combining the winner of the first daily double race with the runners prevented from racing in the second daily double race shall be allocated consolation payoffs.

Consolation daily double payoffs shall be determined by dividing the net daily double pool by the amount wagered combining the winner of the first daily double race with every runner or betting interest scheduled to start in the second daily double race, such quotient being the consolation payoff per dollar wagered combining the winner of the first daily double race with the runner prevented from racing in the second daily double race.

Consolation payoffs shall be deducted from the net daily double pool before calculation and allocation of wagers on the winning daily double combination.

(8) If for any reason either daily double race is canceled or declared "no race" by the stewards, then the net daily double pool shall be distributed to wagering combinations which include the runner or betting interest which finished first in the daily double race that is run.

(9) If no daily double ticket is sold requiring distribution, then the entire daily double pool shall be refunded upon presentation and surrender of daily double tickets.

*e. Quiniela pool.* The amount wagered on the winning combinations, being the first two (2) finishers irrespective of which runner finishes first and which runner finishes second, is deducted from the net pool to determine the profit; the profit is divided by the amount wagered on the winning combination, such quotient being the profit per dollar wagered on the winning quiniela combination; payoff includes the amount wagered and profit.

(1) In the event of a dead heat for first: Between runners involving two (2) different betting interests, the net quiniela pool is distributed as if no dead heat occurred; if between runners involving three (3) different betting interests, the net quiniela pool is distributed as if a show pool and is allocated to wagers combining any of the three (3) runners finishing in a dead heat for first.

(2) In the event of a dead heat for second: Between runners involving two (2) different betting interests, the net quiniela pool is distributed as if a place pool and is allocated to wagers combining the first finisher with either runner finishing in a dead heat for second; if between runners involving three (3) different betting interests, the net quiniela pool is distributed as if a show pool, and allocated to wagers combining the first runner with each of the three (3) runners finishing in a dead heat for second.

(3) In the event runners representing a single betting interest finish first and second, the net quiniela pool shall be allocated to wagers combining such single betting interest with the runner or betting interest which finishes third.

(4) In the event no quiniela ticket is sold combining the first finisher with one of the runners finishing in a dead heat for second, then the net quiniela pool is allocated to wagers combining the first finisher with the other runner finishing in a dead heat for second.

(5) In the event no quiniela ticket is sold combining the first finisher with either of the runners finishing in a dead heat for second, then the net quiniela pool is allocated to wagers combining the two (2) runners finishing in the dead heat for second.

(6) In the event no quiniela ticket is sold combining the first finisher with either of the runners finishing in a dead heat for second, or combining the two (2) runners which finished in a dead heat for second, then the net quiniela pool is distributed as if a show pool is allocated to wagers combining any of the first three (3) finishers with any other runners.

(7) In the event no quiniela ticket is sold combining the first two (2) finishers, then the net quiniela pool shall be distributed as if a place pool and is allocated to wagers combining the first finisher with any other runners and wagers combining the second finisher with any other runner.

(8) In the event no quiniela ticket is sold combining runners or betting interest as would require distribution, then the entire quiniela pool shall be refunded upon presentation and surrender of quiniela tickets thereon.

*f. Exacta pool.* The amount wagered on the winning combination, being the first two (2) finishers in exact order as officially posted, is deducted from the net pool to determine the profit; the profit is divided by the amount wagered on the winning combination, such quotient being the profit per dollar wagered on the winning exacta combination; payoff includes the amount wagered and profit thereon.

(1) If no ticket is sold on the winning combination of an exacta pool, the net pool shall be distributed equally between holders of tickets selecting the winning runner to finish first and holders of tickets selecting the second place runner to finish second.

(2) If no ticket is sold that would require distribution of an exacta pool to winner as above defined, the association shall make a complete and full refund of exacta pool.

(3) In case of a dead heat between two (2) runners for first place, the net exacta pool shall be calculated and distributed as a place pool to holders of tickets of the winning combinations. In case of a dead heat between two (2) runners for second place, the exacta pool shall be figured as a place pool, the holders of tickets combining the winning runner and the two (2) runners finishing second participating in the payoff.

(4) In the event of a dead heat for second place, if no ticket is sold on one of the two (2) winning combinations, the entire net pool shall be calculated as a win pool and distributed to those holding tickets on the other winning combination.

(5) If no tickets combine the winning runner with either of the place runners in the dead heat, the exacta pool shall be calculated and distributed as a place pool to holders of tickets representing any interest in the net pool.

(6) In the event of any entry finishing first and second, the net exacta pool shall be distributed to holders of tickets selecting the entry to win combined with the runners finishing third.

*g. Quiniela double pool.* The amount wagered on the winning combination, being the quiniela winner in the first quiniela double race combined with the quiniela winner of the second quiniela double race, is deducted from the net pool to determine the profit; the profit is divided by the amount wagered on the winning combinations, such quotient being the profit per dollar wagered on the winning quiniela double combinations; payoff includes the amount wagered and profit thereon.

(1) Each bettor purchasing quiniela double tickets designates a quiniela selection in both of the two (2) quiniela double races for which tickets are sold at the time the tickets are purchased. Quiniela double tickets must be purchased for both of the two (2) quiniela double races prior to the first of the two (2) races, without any exchange between the first and second races.

(2) If the purchaser of a quiniela double ticket fails to select the quiniela of the first half of the quiniela double, no refund or return shall be made, except as provided elsewhere in this rule and the circumstances or outcome of the second half of the quiniela double cannot change this result.

(3) If a runner is scratched in the first quiniela double race, all quiniela double tickets issued that included the scratched runner shall be refunded.

(4) If a runner is scratched in the second quiniela double race, the total amount of the winning combinations in the first quiniela double race shall be divided into the net pool and this amount per dollar shall be multiplied times the amount wagered that included the scratched runner. This total shall be deducted from the net pool and shall be used to pay those tickets combining the winner of the second quiniela double race with the scratched runner. The balance of the net pool shall be paid to the holders of the tickets on the runners that finish first and second.

(5) If no quiniela double ticket is sold as winning combination in the first quiniela double race, the pool shall be divided among those tickets including one of the runners finishing first or second and distribution shall be calculated and made as a place pool.

(6) If no quiniela double ticket is sold as winning combination in the second quiniela double race the pool shall be divided between those tickets that have the winning combination in the first quiniela double race and include one of the runners finishing first or second in the second quiniela double race and distribution shall be calculated and made as a place pool.

(7) If a quiniela double ticket is sold with the winning combination in the first quiniela double race and combines only one of the two (2) winners in the second quiniela double race and no quiniela double ticket with the correct combination in the first quiniela double race includes the other winner, the entire pool shall be distributed as a win pool to the holders of those tickets.

(8) If a quiniela double ticket is sold with the winning combination in the first quiniela double race and none of those tickets include either the first or second runner in the second quiniela double race, the entire net pool shall be distributed as a win pool to holders of those quiniela double tickets that were sold with the winning combination in the first quiniela double race.

(9) In the event of a dead heat for place in the first quiniela double race, all tickets combining the first runner and any of the runners placing shall be considered holders of the winning combination in the first quiniela double race of equal status for distribution of the pool.

(10) In the event of a dead heat for place in the second quiniela double race, the net pool shall be divided, calculated and distributed as a place pool to the holders of tickets with the winning combination in the first quiniela double race and a combination in the second quiniela double race combining the first runner and any of the place runners.

(11) In the event of a dead heat by two (2) runners for the place position in the second quiniela double race where no ticket combines the first runner with either of the place entries, one half

of the profits of the pool shall be awarded to those tickets combining the winning combination in the first quiniela double race and the runner finishing first in the second quiniela double race; and one-fourth of the profits of the pool shall be awarded to those tickets combining the winning combination in the first quiniela double race and either of the runners finishing in the dead heat for second in the second quiniela double race.

(12) If for any reason either quiniela double race is canceled or declared "no race" by the stewards, then the net quiniela double pool shall be distributed to wagering combinations which include the runners or betting interests which finished first and second in the quiniela double race that is run.

*h. Pic six.* Pic-six wagering will be permitted only upon application to and approval by the Iowa racing commission.

(1) The pic-six pari-mutuel pool is not a parlay and has no connection with or relation to any other pari-mutuel pool conducted by the association, nor to any win, place, or show pool shown on the totalizator, nor to the rules governing the distribution of other pools.

(2) The pic-six pari-mutuel pool consists of amounts contributed for a selection for win only in each of six (6) races designated by the association with the approval of the commission. Each person purchasing a pic-six ticket shall designate the winning horse in each of the six (6) races comprising the pic six.

(3) Those runners constituting an entry of coupled runners or those runners coupled to constitute the mutuel field in a race comprising the pic six shall race as a single wagering interest for the purpose of the pic-six pari-mutuel pool calculations and payouts to the public. However, if any part of either an entry or the field racing as a single wagering interest is a starter in a race the entry or the field selection shall remain as the designated selection to win in that race for the pic-six calculation and the selection shall not be deemed a scratch.

(4) The pic-six pari-mutuel pool shall be calculated as follows:

One hundred percent (100%) of the net amount in the pari-mutuel pool subject to distribution among winning ticket holders shall be distributed among the holders of pari-mutuel tickets which correctly designate the official winner in each of the six (6) races comprising the pic six.

In the event there is no pari-mutuel ticket properly issued which correctly designates the official winner in each of the six (6) races comprising the pic six, seventy-five percent (75%) of the pari-mutuel pool shall not be distributed but shall be retained by the association as distributable amounts and shall be carried over and included in the pic-six pari-mutuel pool for the next succeeding racing date as an additional net amount to be distributed. The remaining twenty-five percent (25%) shall be distributed among the holders of pic-six tickets which correctly designate the most official winners of the races comprising the pic six.

Should no distribution be made pursuant to this subrule on the last day of the association's meeting, then the entire distributable pool and all moneys accumulated therein shall be distributed to the holders of tickets correctly designating the most winning selections of the pic six for that day. In the event that the pic six is canceled or declared "no race" on the last day of the meeting, any carry-over from previous pic-six pools shall be carried over to the first pic six of the next meeting.

(5) In the event a pic-six pari-mutuel ticket designates a selection in any one or more of the races comprising the pic six and that selection is scratched, excused or determined by the stewards to be a nonstarter in the race, the actual favorite, as evidenced by the amounts wagered in the win pool at the time of the start of the race, will be substituted for the nonstarting selection for all purposes, including pool calculations and payoffs.

(6) In the event of a dead heat for win between two (2) or more runners in any pic-six race, all runners in the dead heat for win shall be considered as winning runners in the race for the purpose of calculating the pool.

(7) In the event one (1) or two (2) of the races comprising the pic six of the day is canceled for any reason or in the event one (1) or two (2) of the races comprising the pic six is declared as no race by the stewards, the distribution of the entire net amount wagered on the pic six that day shall be among the holders of pari-mutuel tickets which correctly designate the most winning selections in all of the remaining races comprising the pic six on that day. Any retained

distributable amounts carried over from any prior pic-six pool pursuant to 8.2(4)“h”(4) shall be carried over to the next succeeding racing date, or performance if applicable, of that meeting.

In the event the stewards cancel or declare as no race three (3) or more of the races comprising the pic six, all pari-mutuel tickets on the pic six shall be refunded and the pic six shall be canceled in its entirety for that day and any retained distributable amounts carried over from any prior pic-six pool pursuant to 8.2(4)“h”(4) shall be carried over to the next succeeding racing date, or performance if applicable, of that meeting.

(8) No pari-mutuel ticket for the pic-six pool shall be sold, exchanged, or canceled after the time of the closing of wagering in the first of the six (6) races comprising the pic six, except for refunds on pic-six tickets as required by this rule, and no person shall disclose the number of tickets sold in the pic-six pool or the number or amount of tickets selecting winners of pic-six races until the stewards have determined the last race comprising the pic six each day to be official.

*i. Trifecta pool.* The amount wagered on the winning combination, being the first three (3) finishers in exact order as officially posted, is deducted from the net pool to determine the profit; the profit is divided by the amount wagered on the winning combination, such quotient being the profit per dollar wagered on the winning trifecta combination. The payoff includes both the amount wagered and the profit.

(1) If no ticket is sold on the winning combination, the profit shall be apportioned equally among the holders of tickets selecting the first and second place greyhounds in their exact order.

(2) If no ticket selecting the first and second greyhounds is sold, the profit shall be apportioned equally among the holders of tickets selecting the first and third greyhounds in their exact order.

(3) If no ticket selecting the winning combination, the first and second greyhound, or the first and third greyhound is sold, the profit shall be apportioned equally among the holders of tickets selecting the second and third greyhounds with any other greyhound in their exact order.

(4) If no ticket requiring distribution of the pool pursuant to this rule is sold, the profit shall be apportioned equally among the holders of tickets selecting the greyhound finishing first.

(5) If no ticket requiring distribution of the pool pursuant to paragraphs 1, 2, 3, and 4 of this subrule is sold, the profit shall be apportioned equally among the holders of tickets selecting the greyhound finishing second.

(6) If no ticket requiring distribution of the pool pursuant to paragraphs 1, 2, 3, 4, and 5 of this subrule is sold, the profit shall be apportioned equally among the holders of tickets selecting the greyhound finishing third.

(7) If a race on which there is trifecta wagering results in a dead heat for first place, the winning combinations shall include the first two (2) greyhounds as finishing in either first or second and the greyhound finishing third.

(8) If a race on which there is trifecta wagering results in a dead heat for second place, the winning combinations shall include the greyhound finishing first and the two (2) greyhounds finishing in a dead heat as finishing in either second or third.

(9) If a race on which there is trifecta wagering results in a dead heat for third place, the winning combinations shall include the greyhound finishing first, the greyhound finishing second, and either of the greyhounds finishing in a dead heat for third as finishing third.

(10) In all combinations described in paragraphs 7, 8 and 9 of this subrule, the profit shall be divided in separate pools, calculated as a place pool and paid off accordingly.

(11) If a race on which there is trifecta wagering results in a triple dead heat or double dead heat, the net pool will be divided by the number of all such win, place, and show combinations thus formed, calculated as separate pools and paid off accordingly.

(12) If a greyhound is scratched or declared a nonstarter, no trifecta tickets designating such a greyhound may be issued. All tickets previously issued designating such a greyhound shall be refunded and the money representing those tickets shall be deducted from the total pool.

(13) Trifecta wagering will be permitted only at licensed greyhound facilities upon application to and approval by the Iowa Racing Commission.

*j. Twin trifecta.* Twin trifecta wagering will be permitted only upon application to and approval by the racing commission.

(1) Twin trifecta tickets shall be sold and exchanged by the association in multiples of two dollars (\$2) and only from authorized ticket issuing machines.

(2) Each bettor purchasing twin trifecta tickets shall designate the three (3) selections as the first three (3) greyhounds to finish in that order in the first race of the two (2) designated twin trifecta races.

(3) After wagering closes for the first half of the twin trifecta, the mutuel department will divide the net distributable pool on the twin trifecta into two (2) separate pools of equal amount.

(4) The moneys in the first part of the divided pool will be distributed to the holders of twin trifecta tickets selecting the first three (3) greyhounds, in order, on the first designated twin trifecta race, in accordance with the established pari-mutuel practice.

(5) The term "first part of divided pool" shall mean one half of the net distributable pool of the total moneys wagered in the twin trifecta on the current program only and, specifically excluded therefrom shall be any carryover of any special cumulative second race twin trifecta pool from any previous program.

(6) The second part of the divided pool will be placed in a separate pool to be distributed to holders of "second half" twin trifecta tickets selecting the first three (3) greyhounds, in order, on the second designated twin trifecta race, in accordance with the established pari-mutuel practice.

(7) In the first half of the twin trifecta only, if there is a failure to select, in exact order, the first three (3) greyhounds, payoffs and exchanges shall be made on twin trifecta tickets selecting in the following order of priority:

1. Tickets selecting the win and place finishes in that order, for example 1-2-All. If no ticket is sold combining the win and place finish, then

2. Tickets selecting the winner, for example, 1-All-All, or

3. Failure to select winner to win, regardless of the selection of the exact order of the second or third greyhound shall cause a refund of the entire twin trifecta pool on that program upon presentation and surrender of all twin trifecta tickets.

(8) In the first half of the twin trifecta race, if less than three (3) greyhounds finish or if the board of stewards declares the event "no race" then the entire twin trifecta pool on that program shall be refunded upon presentation and surrender of twin trifecta tickets.

(9) After the official declaration of the first three (3) greyhounds to finish in the first race of the twin trifecta, each bettor holding a winning ticket must, prior to the running of the second twin trifecta race, exchange such winning ticket for both the monetary value established by the mutuel department and a twin trifecta exchange ticket, and at such time shall select the three (3) dogs to finish in the second race of the twin trifecta in exact order as officially posted. No further money shall be required of holders of the winning tickets in order to make the exchange.

No person shall disclose the number of the winning trifecta tickets eligible for exchange in the second twin trifecta race, nor shall any person disclose any information regarding those tickets during the exchange process until the race terminating the twin trifecta has been declared official.

(10) No twin trifecta exchange ticket upon the second race shall be issued except upon surrender of the twin trifecta tickets from the first race as described in these rules. Mutuel windows shall be open for the purpose of cashing and exchanging winning twin trifecta tickets only after the first half of the twin trifecta has been declared official.

(11) If a winning twin trifecta ticket from the first race is not presented for cashing and exchange within the time provided, the bettor may still collect the monetary value attached to the ticket but forfeits all rights to any distribution of the second race twin trifecta pool.

(12) If a greyhound is scratched in the first race of the twin trifecta races, all twin trifecta tickets on the scratched dog will be refunded. If a greyhound is scratched in the second race of the twin trifecta races, public address announcements will be made and reasonable time will be given for exchange of tickets on the scratched greyhound. In the event of a dead heat or dead heats in either the first or second race of the twin trifecta, all twin trifecta tickets

selecting the correct order of finish counting a greyhound in a dead heat as finishing in any position dead heated, shall be winning tickets. The payoff will be calculated as a place pool (or as a show pool if multiple dead heats).

(13) In the event there is no twin trifecta ticket issued accurately selecting the officially declared first three finishers of the second twin trifecta race, in the exact order, such second race pool, as divided earlier, shall be held for the next consecutive racing program and combined with that program's second race twin trifecta pool. Distribution of this special cumulative second race twin trifecta pool will be made only upon accurate selection, in the exact order, of the first three (3) officially declared finishers of the second twin trifecta race.

(14) On the final program of any official race meeting, the entire accumulated second race twin trifecta pool must be distributed except as provided in this rule. In the event, on that final racing program, no second half twin trifecta ticket accurately selects the officially declared first three (3) finishers, in exact order, the payoffs on the twin trifecta shall be made in the following order of priority:

1. Tickets selecting the win and place finish in that order, e.g., 1-2-All.
2. Tickets selecting the winner, e.g., 1-All-All.
3. All second half twin trifecta exchange tickets.

If in the first race of the twin trifecta on the final day of race meeting, less than three (3) greyhounds finish, or if the board of stewards declares the event "no race," or if racing is canceled prior to the first race of the twin trifecta, any cumulative twin trifecta pool shall be carried over to the first day of the next race meeting.

(15) In the second race of the twin trifecta, if less than three (3) greyhounds finish or if the board of stewards declares the event "no race" then the winning ticket holders who have cashed their tickets on the first half and have received an exchange ticket will be entitled to share in the second half of that program's pool. Any cumulative second half twin trifecta pool from previous programs will remain undistributed and will be carried over to the next program unless the above circumstances occur on the final program of the race meeting. In that instance, those winning ticket holders who have cashed their tickets on the first half and have received an exchange ticket will be entitled to share in the cumulative second half twin trifecta pool.

(16) In the event that racing is canceled for any program after the first half, but prior to the running of the second half of the twin trifecta, the second part of that program's divided pool will be evenly distributed to all holders of second half twin trifecta exchange tickets and winning first half twin trifecta tickets if not exchanged. Any cumulative twin trifecta pool will remain undistributed and will be carried over to the twin trifecta in the next program unless the above circumstances occur on the final program of the race meeting. In that instance, all holders of second half twin trifecta exchange tickets and winning first half twin trifecta tickets if not exchanged will be entitled to share in the cumulative second half twin trifecta pool.

(17) Sale of twin trifecta tickets other than from pari-mutuel machines or from one individual to another shall be deemed illegal and prohibited.

(18) The twin trifecta pool is not a parlay and has no connection to any other pari-mutuel pool conducted by the association, nor to the rules governing the distribution of other pools.

### **195—8.3(99D) Refunds.**

**8.3(1)** If after win, place, or show wagering has commenced, a runner not coupled with another as a betting interest is excused by the stewards or is prevented from racing because of failure of the starting gate/box to open properly, the wagers on such runner shall be deducted from the win, place, and show pools, as the case may be, and refunded upon presentation and surrender thereof. If more than one runner represents a single betting interest by reason of coupling as a mutuel entry or mutuel field, such single betting interest being the sole subject of a wager or part of a combination in a daily double, exacta, quiniela, quiniela double, or pic-six wager, then there shall be no refund unless all of the runners representing such single betting interest are excused by the stewards or are prevented from racing runners because of failure of the starting gate/box to open properly.

**8.3(2)** If after exacta, quiniela, and quiniela double wagering has commenced, a runner not coupled with another as a betting interest is excused by the stewards or is prevented from racing because of failure of the starting gate/box to open properly, then exacta, quiniela, and quiniela double wagers combining such runner with any other runner or betting interest shall be deducted from the exacta, quiniela, and quiniela double pool and refunded upon presentation and surrender of exacta, quiniela, and quiniela double tickets thereon.

**195—8.4(99D) Race canceled.** If for any reason a race is canceled or declared “no race” by the stewards after wagering has commenced on that race, then all wagering shall be refunded upon presentation and surrender of pari-mutuel tickets; except as otherwise provided for in these rules.

**195—8.5(99D) Totalizator breakdown.** In the event of an irreparable breakdown of the totalizator during the wagering on a race, the wagering on that race shall be declared closed and the payoff shall be computed on the sums wagered in each pool up to the time of the breakdown.

**195—8.6(99D) Minimum wager and payoff.** For all wagers except the trifecta, the minimum wager to be accepted by any licensed association shall be two dollars (\$2). The minimum payoff on a two dollar (\$2) wager shall be two dollars and twenty cents (\$2.20). The licensed association may set the minimum wager for the trifecta or certain trifecta combinations at one dollar (\$1): otherwise the minimum wager for the trifecta shall be two dollars (\$2). The minimum payoff for a one dollar (\$1) wager shall be one dollar and ten cents (\$1.10).

**195—8.7(99D) Minors prohibited from wagering.** No minor shall be permitted by any licensed association to purchase or cash a pari-mutuel ticket.

**195—8.8(99D) Odds or payoffs posted.** Approximate odds, based on win pool betting for finishing first for each betting interest, shall be posted on one or more boards or television screens within view of the wagering public, at intervals of not more than ninety (90) seconds. If daily double wagering is conducted, before off-time of the second daily double race, the possible payoff for each two dollar (\$2) daily double wager combining the winner of the first daily double race with every runner or betting interest in the second daily double race shall be posted or announced; excepting that, in the event of a dead heat for first in the first daily double race, or a scheduled starter in the second daily double race is excused so as to cause a consolation daily double pool, then posting of all possible payoffs shall not be mandatory, but the association shall make every effort to compute daily double prices and advise the public of them by posting or public address announcement as soon as possible and prior to the running of the second daily double race.

**195—8.9(99D) Betting explanation.** Each association shall cause to be published in the daily race program a general explanation of pari-mutuel betting and an explanation of each type of betting pool offered; the explanation shall be posted in conspicuous places about the association grounds so as to adequately inform the public. Such explanation shall be submitted to the state steward prior to publication so as to ensure an absence of conflict with these rules.

The association shall post a copy of the commission rules regarding the calculation and distribution of the wagering pools in a conspicuous place.

**195—8.10(99D) Prior approval required for betting pools.** Each association desiring to offer daily double, quiniela, or quiniela double wagering, shall first apply in writing to the commission and obtain specific approval as to number of betting races and type of wagering to be offered on a single day.

**195—8.11(99D) Pools dependent upon entries.**

**8.11(1)** Unless the commission approves a prior written request from the association to alter wagering opportunities for a specific race, each association shall offer win, place, and show wagering on all programmed races involving six (6) or more betting interests.

**8.11(2)** If runners representing five (5) or fewer betting interests qualify to start in a race, then the association may prohibit show wagering on that race; if runners representing four (4) or fewer betting interests qualify to start in a race, then the association may prohibit multiple and both place and show wagering on that race.

**8.11(3)** If, by reason of a runner being excused by the stewards after wagering has commenced or a runner is prevented from racing because of failure of a starting gate/box to open properly, the number of actual starters representing different betting interests is:

a. Reduced to five (5), then the association may cancel show wagering on that race and that entire show pool shall be refunded upon presentation and surrender of show tickets;

b. Reduced to four (4) or fewer, then the association may cancel both place and show wagering on that race and the entire place pool and show pool shall be refunded upon presentation and surrender of such place and show tickets.

**195—8.12(99D) Pari-mutuel ticket sales.**

**8.12(1)** No pari-mutuel tickets shall be sold except by the association conducting the races on which wagers are made, and tickets shall be sold only at regular "seller" windows properly designated by signs showing the type and denomination of tickets to be sold at such windows. No pari-mutuel ticket may be sold after the totalizator has been locked and no association shall be responsible for ticket sales entered into but not completed by issuance of a ticket before the totalizator has been locked.

**8.12(2)** Any claim by a person that the person has been issued a ticket other than that requested, must be made before that person leaves the seller window and before the totalizator is locked.

**8.12(3)** After purchasing a ticket and after leaving a ticket window, a person shall not be entitled to enter for issuance an incorrect ticket, or claim refund or payment for tickets discarded, or lost, or destroyed, or mutilated beyond identification.

**8.12(4)** Payment on valid pari-mutuel tickets shall be made only upon presentation and surrender to the association where the wager was made within sixty (60) days following the close of the meet during which the wager was made. Failure to present any such ticket within sixty (60) days shall constitute a waiver of the right to receive payment.

**8.12(5)** Payment of valid pari-mutuel tickets shall be made on the basis of the order of finish as purposely posted on the infield results board and declared "official" by the stewards; and subsequent change in the order of finish or award of purse money as may result from a subsequent ruling by the steward or commission, shall in no way affect the pari-mutuel payoff.

**8.12(6)** The association shall be responsible for the correctness of all payoff prices posted as "official" on the infield results board. If an error is made in posting the payoff figures on the public board, and ascertained before any tickets are cashed, then the posting error may be corrected accompanied by a public address announcement, and only the correct amounts shall be used in the payoff, irrespective of the initial error on the public board.

**8.12(7)** Prior to posting payoffs, the pari-mutuel manager shall require each of the computer printout sheets (calculating sheets) of the race to be proven by the computer (calculator) and the winners verified. This proof shall show the amounts for commission, breakage, and payoffs, which added together shall equal the total pool. All pay slips are to be checked with computer printout sheets (calculating sheets) as to winners and prices before being issued to cashiers, and all board prices are to be rechecked with the computer printout sheet (calculator) before released to the public.

**8.12(8)** Whenever the recapitulation of the sales registered by each ticket issuing machine subsequently proves that the actual amount in the pool, or pools, is less than the amount used in calculating the payoff, the deficiency shall be deposited in the pool or pools by the association. Should the recapitulation of sales prove that the actual amount in the pool or pools

is greater than the amount used in calculating the pay-off due to a mechanical error of the totalizator, resulting in underpayment to the public, then the aggregate or the underpayments shall be paid into the corresponding pool of the next race or races, in amounts determined by the state steward and the pari-mutuel manager. If any error should occur in computing the daily double, quiniela double or pic-six pool, the underpayment shall be added to the daily double, quiniela double or pic-six pool of the following day. Overpayments and underpayments subsequently discovered upon recapitulation after the close of a meeting may be adjusted, and any underpayment resulting from the final adjustment shall be paid to the state as provided in Iowa Code chapter 556.

**195—8.13(99D) Betting interests involving more than one runner.** When two (2) or more runners entered for the same race are determined by the stewards to have common ties through ownership or training and are joined by the stewards as a “mutuel entry,” the mutuel entry shall become a single betting interest and a wager on one (1) runner in a mutuel entry shall be a wager on all runners in the same entry. When the number of runners competing in a race exceeds the numbering capacity of the totalizator, the racing secretary shall assign the highest pari-mutuel numbers to runners so that the highest numbered runner within the numbering capacity of the totalizator, together with runners of higher numbers, shall be grouped in the “mutuel field” as a single betting interest, and a wager on one (1) runner in the mutuel field shall be a wager on all runners in the same field.

**195—8.14(99D) Emergency situation.** In the event any emergency arises in connection with the operation of the pari-mutuel department not provided for by these rules, then the pari-mutuel manager, after consultation with the mutuels supervisor, shall make a decision and render a full report to the commission.

**195—8.15(99D) Commission mutuels supervisor.** The commission may employ a mutuels supervisor with accounting experience to serve as the commission’s designated representative at each race meeting as provided in Iowa Code section 99D.19.

**8.15(1)** The mutuels supervisor shall be responsible for ascertaining whether the proper amounts have been paid from pari-mutuel pools to the betting public, to the association, and to the appropriate levels of government, by checking, auditing, and filing with the commission verified reports accounting for daily pari-mutuel handle distribution and attendance for each preceding racing day and the final report at the conclusion of each race meeting.

*a.* Daily reports to the commission shall show for each race the number of starters, number of betting interests, total money wagered in each betting pool, refunds, purses, distance, conditions, or grade, and any minus pools resulting, with an explanation.

*b.* Daily reports shall also show the sum of all betting pool, total refunds, total pari-mutuel handle for the comparable racing day for the preceding year, cumulative total and daily average pari-mutuel handle for the race meeting, amount of pari-mutuel tax due the state, county and city, taxable admissions and total admissions, temperature, weather, track conditions, and post time of first race.

**8.15(2)** The commission mutuels supervisor shall submit to the commission on or before seven (7) days after the close of each race meeting a final verified report giving in summary form a recapitulation of the daily reports for each race meeting and other information the commission may require.

**8.15(3)** The commission mutuels supervisor shall have full access to all the books, records, papers and pari-mutuel equipment of the licensee and to all places within the enclosure of the meeting at all times. The officers and employees of the licensee shall promptly give the commission mutuels supervisor information requested, and shall cooperate with the supervisor in the performance of the supervisor’s duties.

**8.15(4)** A licensee shall keep its books and records so as to clearly show the following:  
*a.* The total number of admissions to races conducted by it on each racing day, including the number of admissions upon free passes or complimentary tickets.

b. The amount received daily from admission fees.

c. The total amount of money wagered during the race meet.

The commission mutuels supervisor shall supervise and check the admissions to determine if the licensee is complying with the provisions of Iowa Code section 99D.19.

These rules are intended to implement Iowa Code chapter 99D.

[Filed 4/5/85, Notice 2/27/85—published 4/24/85, effective 5/29/85]

[Filed emergency 9/4/85—published 9/25/85, effective 9/4/85]

[Filed emergency 2/27/86—published 3/26/86, effective 2/27/86]

[Filed emergency 4/14/86—published 5/7/86, effective 4/15/86]

[Filed emergency 10/20/86—published 11/19/86, effective 10/20/86]

[Filed 10/20/86, Notice 7/30/86—published 11/19/86, effective 12/24/86]

## CHAPTER 9 HARNESS RACING

[Prior to 11/9/86, Racing Commission(693)]

### 195—9.1(99D) Terms defined.

*"Added money early closing event"* is an event closing in the same year in which it is to be contested, in which all entrance and declaration fees received are added to the purse.

*"Age"* means the age of a horse, reckoned from the first day of January of the year of foaling, except foals born in November and December of any year—in which case the age shall be reckoned from January 1 of the succeeding year effective November 1, 1970, and thereafter. Provided further that for foals foaled after December 31, 1980, the exception for foals of November and December shall not apply.

*"Appeal"* is a request for the commission to investigate, consider, and review any decisions or rulings of judges or officials of a meeting. The appeal may deal with placings, penalties, interpretations of the rules, or other questions dealing with conduct of races.

*"Claiming race"* is one in which any horse starting therein may be claimed for a designated amount in conformance with the rules.

*"Classified race"* is a race regardless of the eligibility of horses—entries being selected on the basis of ability of performance.

*"Commission"* means the Iowa racing commission.

*"Conditioned race"* means an overnight event to which eligibility is determined according to specified qualifications. Such qualifications may be based upon, among other things:

1. Horses' money winnings in a specified number of previous races or during a specified previous time;
2. A horse's finishing position in a specified number of previous races or during a specified period of time;
3. Age;
4. Sex;
5. Number of starts during a specified period of time;
6. Special qualifications for foreign horses that do not have a representative number of starts in the United States or Canada;
7. Or any one or more combinations of the qualifications herein listed.

Use of records or time bars as a condition is prohibited.

*"Coupled entry"* means two (2) or more horses starting in a race owned or trained by the same person, or trained in the same stable or by the same management.

*"Dash"* is a race decided in a single trial. Dashes may be given in a series of two (2) or three (3) governed by one (1) entry fee for the series, in which event a horse must start in all dashes. Positions may be drawn for each dash. The number of premiums awarded shall not exceed the number of starters in the dash.

*"Declaration"* is the naming of a particular horse to a particular race as a starter.

*"Disqualification"* means debarring a person from acting as an official or from starting or driving a horse in a race. In the case of a disqualified horse, it shall not be allowed to start.

*"Elimination heats"* are heats of a race split to qualify the contestants for a final heat.

*"Expulsion"* means unconditional exclusion and disqualification from any participation, either directly or indirectly, in the privileges and uses of the course and grounds of a member.

*"Extended pari-mutuel meetings"* is a meeting or meetings at which no agricultural fair is in progress with an annual total of more than ten (10) days' duration with pari-mutuel wagering.

*"Futurity"* is a stake in which the dam of the competing animal is nominated either when in foal or during the year of foaling.

*"Green horse"* is one that has never trotted or paced in a race or against time.

*"Guaranteed stake"* is the same as a stake, with a guarantee by the party opening it, that the sum shall not be less than the amount named.

*"Handicap"* is a race in which performance, sex, or distance allowance is made. Post positions for a handicap may be assigned by the racing secretary. Post positions in a handicap claiming race may be determined by claiming price.

**"Heat"** is a single trial in a race two (2) in three (3), or three (3) heat plan.

**"In harness"** means that the performance shall be to a sulky as defined in this rule.

**"Late closing race"** is a race for a fixed amount to which entries close less than six (6) weeks and more than three (3) days before the race is to be contested.

**"Maiden"** is a stallion, mare or gelding that has never won a heat or race at the gait at which it is entered to start and for which a purse is offered. Races or purse money awarded to a horse after the "official sign" has been posted shall not be considered winning performance or affect status as a maiden.

**"Match race"** is a race which has been arranged and the conditions agreed upon between the contestants.

**"Matinee race"** is a race where an entrance fee may be charged and where the premiums, if any, are other than money.

**"Nomination"** is the naming of a horse or, in the event of a futurity, the naming of foal in utero, to a certain race or series of races, eligibility of which is conditioned on the payment of a fee at the time of naming and the payment of subsequent sustaining fees or starting fees, or both.

**"Overnight event"** is a race for which declarations close not more than three (3) days (omitting Sundays) or less than one (1) day before such race is to be contested. In the absence of conditions or notice to the contrary, all entries in overnight events must close not later than 12 noon the day preceding the race.

**"Protest"** is an objection, properly sworn to, charging that a horse is ineligible to a race, alleging improper entry or declaration, or citing any act of an owner, driver, or official prohibited by the rules, and which, if true, should exclude the horse or driver from the race.

**"Record"** is the fastest time made by a horse in a heat or dash which he won. A "standard record" is a record of 2:20 or faster for two (2)-year olds and 2:15 or faster for all other ages.

**"Stake"** means a race which will be contested in a year subsequent to its closing in which the money given by the track conducting the same is added to the money contributed by the nominators, all of which except deductions for the cost of promotion, breeders, or nominators awards belongs to the winner or winners. In any event, except as otherwise provided in these rules, all of the money contributed in nominating, sustaining, and starting payments must be paid to the winner or winners.

**"Sulky"** is defined as a dual-shaft, dual-wheel racing vehicle. The use of any sulky in competition at any member racetrack shall be subject to the approval of the judges, and where the general condition, overall construction, or a particular structural feature of a sulky is determined by the judges to be dangerous or unsafe, they shall not approve its use in competition.

**"Two in three"** means a horse must win two (2) out of three (3) heats to be entitled to first money.

**"Walk over"** means when only horses in the same interest start. In a "stake race" a "walk over" is entitled to all the stake money and forfeits. To claim the purse the entry must start and go once over the course.

**"Winner"** means the horse whose nose reaches the wire first.

**"Wire"** is a real or imaginary line from the center of the judges' stand to a point immediately across, and at right angles to the track.

**195—9.2(99D) Racing officials—stewards.** There shall be three (3) stewards serving at each licensed race meeting, one of whom will be appointed by the commission and two (2) appointed by the association. The state steward may also serve as the presiding judge at the discretion of the commission.

**195—9.3(99D) Presiding judge.** The presiding judge shall:

**9.3(1)** Have supervision over associate judges, patrol judges, starter, paddock judge, clerk of the course, timer, and charter.

**9.3(2)** Sign each sheet of judges' book, verifying the correctness of the record.

**9.3(3)** Be responsible for the maintenance of the records of the meeting and the forwarding thereof to the commission and the United States Trotting Association (USTA).

9.3(4) Report in writing to the commission, with a copy to the USTA, violations of the rules by a track, its officers, or race officials, giving detailed information thereon.

**195—9.4(99D) Powers of the state steward and judges.** The state steward and judges shall have the following powers:

9.4(1) Assess fines and penalties as prescribed by these rules.

9.4(2) Determine all questions of fact relating to the race.

9.4(3) Decide any differences between parties to the race. Should any case occur that may or may not be covered by the rules, it shall be determined by the officials. When no penalty is provided, the state steward and judges shall have the authority to state penalties as they deem just, recommending to the commission more severe penalties if they deem them deserved.

9.4(4) Declare pools and bets "off" in the case of fraud, no appeal to be allowed for their decision in that respect. All pools and bets follow decision of the judges. A decision in respect to pools and bets shall be made at the conclusion of the race upon the observation of the judges and upon such facts as an immediate investigation shall develop. A reversal or change of decision after the intentional flashing of the "official" sign at the conclusion of the heat or dash shall not affect the distribution of mutuel pools made upon the official order of finish. When the mutuel pool and all wagers are declared "off" for fraud, the guilty parties shall be fined, suspended, or both.

9.4(5) Have jurisdiction over horses, drivers, and assistants and discipline by a fine not exceeding five hundred dollars (\$500) or by suspension for the balance of the meeting plus thirty (30) days, or both, any person who shall fail to obey their orders or the rules.

9.4(6) Conduct inquiries into violation of any rules and take such action as may be appropriate in compliance with chapter 4 of state racing commission rules.

9.4(7) Consider complaints of foul from the patrol judges, owners or drivers in a race and no others.

**195—9.5(99D) Judges' stand occupants.** No one but the judges, clerk of the course, racing secretary, starter and timers, official announcer, and officials and representatives of the commission shall be allowed in the stand during a race.

**195—9.6(99D) Duties of the state steward and judges.** It shall be the duty of the state steward and judges to:

9.6(1) Exclude from the race any horse that in their opinion is improperly equipped, dangerous, or unfit to race or liable to cause accident or injury to another horse or driver in the race, and which shall include horses that are sick, lame, or injured.

9.6(2) Investigate any apparent or possible interference, or other driving violation, whether or not complaint has been made by a driver.

9.6(3) Investigate any act of cruelty seen by them or reported to them by any person toward a race horse during a meeting at which they officiate.

9.6(4) Immediately thereafter, or on the day of the race conduct an investigation of any accidents to determine the cause thereof, and the judges shall make all accidents a matter of record in the judges' book and completely fill out an accident report. The stewards shall keep a log, recording therein all complaints made to them and the disposition thereof and all investigations by the stewards and their findings thereon and all rulings made by the stewards. Within seven (7) days after the end of a meeting, the stewards shall make a report in writing to the commission of all infractions of the rules and all rulings of the stewards upon matters coming before them during such meeting.

9.6(5) State steward and judges shall be in the judges' stand fifteen (15) minutes before the first race and at all times when the horses are on the track.

9.6(6) Observe the preliminary warming up of horses, noting behavior of horses, lameness, equipment, conduct of drivers, changes in odds, and any unusual instances pertaining to horses or drivers participating in races.

9.6(7) Be in communication with the patrol judges from the time the starter picks up the

horses until the finish of the race. Any violation of the rules shall be reported by the patrol judge witnessing the incident and a written record made. At least one patrol judge shall observe the drivers throughout the stretch, specifically noting changing course, interference, improper use of whips, breaks, and failure to contest the race to the finish.

**9.6(8)** Post the objection sign or inquiry sign on the odds board in the case of a complaint or possible rule violation, and immediately notify the announcer of the objection and the horse or horses involved. As soon as the judges have made a decision, the objection sign shall be removed, the correct placing displayed, and the "official" sign flashed. The winning horse and driver shall return to the winning circle to be saluted.

**9.6(9)** Display the photo sign if the order of finish among the contending horses is less than a half-length or a contending horse is on a break at the finish. After the photo has been examined and a decision made, a copy or copies shall be made, checked by the presiding judge, and posted for public inspection.

**9.6(10)** Sign the judges' book after each race, verifying the correctness of the record by the clerk of the course.

#### **195—9.7(99D) Paddock.**

**9.7(1)** Every licensee shall provide a paddock or receiving barn containing stalls to hold a minimum of one (1) race and a minimum of four (4) retention stalls for collection of body fluid samples.

**9.7(2)** The paddock or receiving barn must be completely enclosed with a fence and all openings through said fence shall be policed so as to exclude unauthorized personnel.

**9.7(3)** Horses must be in the paddock at the time prescribed by the presiding judge and except for warmup trips, no horse shall leave the paddock until called to the post.

**9.7(4)** The only persons entitled to admission to the paddock are the owners, trainers, drivers, grooms, and caretakers of horses competing on the date of the race, and officials whose duties require their presence in the paddock or receiving barn.

**9.7(5)** No driver, trainer, groom, or caretaker, once admitted to the paddock or receiving barn, shall leave the same, other than to warm up said horse, until the race or races for which admission was granted is contested.

**9.7(6)** No person except an owner, who has another horse racing in a later race, or an official, shall return to the paddock until all races of that program shall have been completed.

**9.7(7)** During racing hours each track shall provide the services of a blacksmith within the paddock.

**9.7(8)** During racing hours each track shall provide suitable extra equipment as may be necessary for the conduct of racing without unnecessary delay.

**9.7(9)** Paddock judge. Under the direction and supervision of the presiding judge, the paddock judge will have complete charge of all paddock activities. The paddock judge is responsible for:

a. Getting the fields on the track for post parades in accordance with the schedule given to the paddock judge by the presiding judge.

b. Maintaining a card which will show a list of all equipment worn and a tattoo number for each horse racing at the meeting. Inspection of horses for changes in equipment, broken or faulty equipment, and head number.

c. Proper check-in and check-out of horses and drivers.

d. Direction of the activities of the paddock blacksmith.

e. Immediate notification of the presiding judge of anything that could in any way change, delay, or otherwise affect the racing program.

f. The paddock judge shall see that only properly authorized persons are permitted in the paddock.

g. Inspection and supervision of the maintenance of all emergency equipment kept in the paddock.

h. Notify judges of the reason for any horse returning to the paddock after having entered the track for the post parade and before the start of the race.

- i.* Notification of judges of all trainers and grooms who leave the paddock in an emergency.
- j.* Supervising and maintaining the cleanliness of the paddock.
- k.* Supervising the identification of horses in a race.
- l.* Supervising the conduct of all persons in the paddock.
- m.* Reporting any cruelty to any horse that the paddock judge observes to the presiding judge.

**195—9.8(99D) Duties of patrol judges.**

**9.8(1)** Patrol judges shall observe all activity on the racetrack at all times during the racing program. There shall be not less than two (2) patrol judges except in cases where a patrol judge is stationed in the starting gate. They shall immediately report to the presiding judge:

- a.* Any action on the track which could improperly affect the result of a race.
- b.* Every violation of the racing rules.
- c.* Every violation of the rules of decorum.
- d.* The lameness or unfitness of any horse.
- e.* Any lack of proper racing equipment.

**9.8(2)** The patrol judges shall furthermore:

- a.* Be in telephonic or radio communication with the judges during the course of every race and shall immediately advise the judges of every rule violation, improper act, or unusual happening which occurs at their station.
- b.* Submit individual daily reports of their observations of the racing to the presiding judge.
- c.* When directed by the commission or the presiding judge, attend hearings or inquiries on violations and testify thereat under oath.
- d.* Some or all of the functions of the patrol judge and the need for patrol judges may be waived by the commission if it determines that film recordings can adequately replace them.

**195—9.9(99D) Duties of the starter.**

**9.9(1)** The starter shall be in the starting car fifteen (15) minutes before the first race.

**9.9(2)** The starter shall have control over the horses from the parade until the word "Go" is given.

**9.9(3)** The starter shall notify the judges of any violations of the rules by any of the drivers.

**195—9.10(99D) Duties of the clerk of the course.** The clerk of the course shall:

**9.10(1)** At the request of the judges assist in drawing post positions.

**9.10(2)** Keep the judges' book and record therein:

- a.* All horses entered and their eligibility numbers.
- b.* Names of owners and drivers and drivers' license numbers.
- c.* A record of each race, giving the position of the horse at the finish.
- d.* Drawn or ruled out horses.
- e.* Time in minutes, seconds, and fifths of seconds.

**9.10(3)** Check eligibility certificates before the race and after the race, enter all information provided for thereon, including the horse's position if it was charted.

**9.10(4)** All protests, fines, penalties, and appeals on forms provided by the presiding judge, and see that the judges' book is properly signed.

**9.10(5)** Forward the copies of the judges' book to the United States Trotting Association and the commission not later than the day following each racing day.

**9.10(6)** After the race, return the eligibility certificate to the owner of the horse or the owner's representative.

**195—9.11(99D) Duties of timers.**

**9.11(1)** At each race there shall be three (3) timers in the judges' or timers' stand, except when an electric timing device is used, in which event there shall be one (1) timer.

**9.11(2)** The chief timer shall sign the judges' book for each race or performance against time verifying the correctness of the record. All times shall be announced and recorded in fifths of seconds.

9.11(3) The timer or timers shall be in the stand fifteen (15) minutes prior to the first race.

9.11(4) The timer's watch shall start when the first horse leaves the point from which the distance of the race is measured.

9.11(5) The time of the leading horse at the quarter, half, three-quarters, and the finish shall be taken. If odd distances are raced, the fractions shall be noted accordingly.

**195—9.12(99D) Duties of the program director.** Each licensee shall designate a program director whose responsibility it shall be to furnish the public complete and accurate past performance information.

**195—9.13(99D) Duties of the racing secretary.** Each licensee shall employ a racing secretary whose duties shall include, but are not necessarily limited to the following:

9.13(1) To receive and to keep safe the eligibility certificates of all horses competing at the race track or stable on grounds owned or cared for by the licensee and to return same to the owner of the horse or the owner's representative upon their departure from the grounds.

9.13(2) To be familiar with the age, class, and competitive ability of all horses racing at the track.

9.13(3) To classify and reclassify horses in accordance with the rules.

9.13(4) To examine all declaration blanks to verify all information set forth therein.

9.13(5) To check the eligibility of all horses drawn in to race and to verify the horse's eligibility with the presiding judge.

9.13(6) To prescribe the standards for overnight events and to prepare and publish condition sheets or condition books in accordance with the rules.

**195—9.14(99D) Medication and administration, sample collection, chemists, and veterinarians.**

**9.14(1) Medication and administration.**

a. No horse, while participating in a race, shall carry in its body any medication, or drug, or foreign substance, or metabolic derivative thereof, which is a narcotic, or which could serve as a local anesthetic, or tranquilizer, or which could stimulate or depress the circulatory, respiratory, or central nervous system of a horse, thereby affecting its speed.

b. Also prohibited are any drugs which might mask or screen the presence of the prohibited drugs, or prevent or delay testing procedures.

c. Proof of detection by the commission chemist of the presence of a medication, or drug, or foreign substance, or metabolic derivative thereof, prohibited by paragraph "a" of this subrule, in a saliva, urine, or blood specimen duly taken under the supervision of the commission veterinarian from a horse immediately prior to or promptly after running in a race, shall be prima facie evidence that the horse was administered with the intent that it would carry or that it did carry prohibited medication, drug, or foreign substance, in its body while running in a race in violation of this rule.

d. No person other than a licensed veterinarian shall administer, or cause to be administered, or participate, or attempt to participate, in any way in the administration to a horse registered for racing, any medication, drug, or foreign substance on the day of the race for which a horse is entered, prior to a race.

e. Any such person found to have administered a medication, drug, or foreign substance which caused or could have caused a violation of this rule, or caused or participated or attempted to participate in any way in the administration, shall be subject to disciplinary action.

f. The owner, trainer, or any other person having charge, custody, or care of the horse is obligated to protect the horse properly and guard it against the administration or attempted administration, and if the stewards shall find that any person has failed to show proper protection and guarding of the horse, or if the stewards find that any owner, lessee, or trainer is guilty of negligence, they shall impose punishment and take other action they deem proper under any of the rules including reference to the commission.

**9.14(2) Sample collection.**

a. Urine, blood, and other specimens shall be taken and tested from any horses the stewards

of the meeting, commission veterinarian, or the commission's representatives may designate. Tests are to be under the supervision of the commission. The specimens shall be collected by the commission veterinarian or other person or persons the commission may designate.

b. An area located within a reasonable proximity of the paddock must be set aside and be under the supervision of the commission veterinarian for the purpose of collecting body fluid samples for any tests required by the commission. The building, location, arrangement, furnishings and facilities, including refrigeration and hot and cold running water, must be approved by the commission.

c. No unauthorized person shall be admitted at any time to the building or the area utilized for the purpose of collecting the required body fluid samples or the area designated for the retention of horses pending the obtaining of body fluid samples.

d. During the taking of specimens from a horse, the owner or responsible trainer, or a representative designated by the owner or trainer, shall be present and witness the taking of the specimens and so signify in writing.

e. A security guard, approved by the commission, must be in attendance during the hours designated by the commission.

f. The commission veterinarian, the board of stewards, agents of the division of criminal investigation, or the authorized representatives of the commission may take samples of any medicine or other materials suspected of containing improper medication, drugs, or other substance which could affect the racing condition of a horse in a race which may be found in stables or elsewhere on racetracks or in the possession of any person connected with racing, and the same shall be delivered to the official chemist for analysis.

g. Nothing in these rules shall be construed to prevent:

(1) Any horse in any race from being subjected by the order of a steward or the commission veterinarian to tests of body fluid samples for the purpose of determining the presence of any foreign substance.

(2) The state steward or the commission veterinarian from authorizing the splitting of any sample.

(3) The commission veterinarian from requiring body fluid samples to be stored in a frozen state for future analysis.

#### 9.14(3) *Chemist.*

a. The commission shall employ one or more chemists or contract with one or more qualified chemical laboratories to determine by chemical testing and analysis of body fluid samples whether a substance or drug is present which may affect the outcome of a race or which may interfere with the testing procedure as provided in Iowa Code section 99D.23(1).

b. All body fluid samples taken by or under direction of the commission veterinarian or authorized representative of the commission shall be delivered to the laboratory of the official chemist for analysis. Each sample shall be marked or numbered and bear information essential to its proper analysis; but the identity of the horse from which the specimen was taken or the identity of its owners, or trainer shall not be revealed to the official chemist or the staff of the chemist. The container of each sample shall be sealed as soon as the sample is placed therein.

c. The commission chemist shall be responsible for safeguarding and testing each specimen delivered to the laboratory by the commission veterinarian.

d. The commission chemist shall conduct individual tests on each specimen, screening same for prohibited substances, and conducting other tests to detect and identify any suspected prohibited substance or metabolic derivative thereof with specificity. Pooling of specimens shall be permitted only with the knowledge and approval of the commission.

e. Upon the finding of a test negative for prohibited substances, the remaining portions of the specimen may be discarded. Upon the finding of tests suspicious or positive for prohibited substances, the tests shall be reconfirmed, and the remaining portion, if available, of the specimen preserved and protected until the stewards rule it may be discarded.

f. The commission chemist shall submit to the state steward a written report as to each speci-

men tested, indicating by specimen tag identification number, whether the specimen was tested negative or positive for prohibited substances. The commission chemist shall report test findings to no person other than the state steward or a designated representative of the state steward.

(1) In the event the commission chemist should find a specimen suspicious for a prohibited medication, additional time for test analysis and confirmation may be requested.

(2) The racing association shall not make distribution of any purses until given clearance of chemical tests by the state steward.

g. In reporting to the state steward a finding of a test positive for a prohibited substance, the commission chemist shall present documentary or demonstrative evidence acceptable in the scientific community and admissible in court in support of the professional opinion as to the positive finding.

h. No action shall be taken by the state steward on the report of the official chemist unless and until the medication, drug, or other substance has been properly identified as well as the horse from which the sample was taken, nor until an official report signed by the chemist has been received by the state steward.

i. The cost of the testing and analysis shall be paid by the commission to the official chemist. The commission shall then be reimbursed by each licensed association on a per sample basis so that each association shall bear only its proportion of the total cost of testing and analysis.

**9.14(4) Commission veterinarian.**

a. The commission shall employ a graduate veterinarian licensed to practice in the state of Iowa at each race meeting as provided in Iowa Code section 99D.23. This veterinarian shall advise the commission and the stewards on all veterinary matters.

b. The commission veterinarian shall be on the grounds of the association one (1) hour before post time and during all racing hours. The veterinarian shall make an examination of the physical condition of each horse prior to post time.

c. The commission veterinarian shall examine each horse as it enters the paddock prior to the race, and recommend to the board of stewards that any horse deemed unsafe to race or physically unfit to produce a satisfactory effort in a race be scratched.

d. The commission veterinarian shall place any horse determined to be sick or have a communicable disease, or any horse deemed unsafe, unsound, or unfit on a veterinarian's list which shall be posted in a conspicuous place available to all owners, trainers, and officials.

e. Once a horse has been placed on the veterinarian's list it may be allowed to race only after it has been removed from the list by the commission veterinarian. The entry of any horse on the veterinarian's list may be accepted only after three (3) calendar days from the placing of the horse on the veterinarian's list have elapsed.

f. The commission veterinarian shall have supervision and control of the detention area for the collection of samples for the testing of horses for prohibited medication as also provided in Iowa Code section 99D.23. The commission may employ persons to assist the commission veterinarian in maintaining the detention area and collecting specimens.

g. The commission veterinarian shall not buy or sell any horse under the veterinarian's supervision; nor shall the commission veterinarian wager on a race under the veterinarian's supervision, nor be licensed to participate in racing in any other capacity.

**195—9.15(99D) Horse ambulance.** There shall be a horse ambulance at all racetracks under the jurisdiction of the commission for the safe and expedient removal of injured animals from the track. However, if humanely possible, all horses shall be removed from the racetrack prior to being destroyed.

**195—9.16(99D) Ambulance for racing strip.** The licensee shall shall furnish a manned ambulance at least two (2) hours prior to post time on each day that the main track is open for racing, equipped ready for immediate duty, and to be placed at the entrance of the racing strip, which is at no time obstructed by people, vehicles, or equipment, so that no time may be lost in times of emergency.

**195—9.17(99D) Deceased and sick horses.** No deceased or sick horse may be removed from the grounds of a licensed racetrack operator without the prior approval of the state veterinarian's office.

**195—9.18(99D) Private practice prohibited.** No veterinarians designated as officials at any race meeting shall practice their profession upon the grounds at a race meeting without special permission from the commission, except in case of an emergency and only for so long as the emergency may exist.

**195—9.19(99D) Veterinarian reports.** Reportable in writing within eight (8) hours to the state veterinarian by the attending veterinarian and the trainer are:

1. Castrations, neutrectomies, and all other major surgical procedure.
2. Contagious and "exotic" appearing diseases.
3. Expired horses.

**195—9.20(99D) Clean equipment.** Paddocks, starting gates, and other equipment subjected to contact by different animals must be kept in a clean condition and free from dangerous surfaces by management.

Sterile equipment must be used for collecting material for the saliva and blood tests. All types of instruments used on horses, including surgical, tattooing, dental, and similar items, must be properly cleaned and sterilized by boiling for fifteen (15) minutes, or autoclaving fifteen (15) minutes at fifteen (15) pounds pressure before use on each animal.

**195—9.21(99D) Entries.**

**9.21(1)** All entries shall be made on forms approved by the commission, and all information required on such forms shall be supplied.

**9.21(2)** Entry forms shall be filled out in ink and shall be signed by the owner or authorized agent, provided that entries may be made by telephone, in which case the person receiving the entry shall reduce it to writing on a prescribed form and indicate that the entry was received by telephone.

**9.21(3)** Entries in overnight events shall comply with these rules.

**195—9.22(99D) Penalties.** The penalty for noncompliance with any of the entry requirements is a fine of not less than five dollars (\$5), nor more than fifty dollars (\$50) for each offense. If the facts are falsely stated for the purpose of deception, the guilty party shall be fined or suspended, or both.

**195—9.23(99D) Sale of horse with entrance due.** If any person shall sell a horse to be free and clear and it appears thereafter that payments were due or to become due in races of any description and for which suspension has been or is subsequently ordered, such seller shall be held for the amount due with the penalty on the same and fined an amount equal to the amount of suspension. Unless that horse has been suspended prior to a sale, a subsequent suspension for unpaid entry fees will have no effect as against a bona fide purchaser for value without notice.

**195—9.24(99D) Receipt of entries.** All entries and payments, except in overnight events, not actually received at the hour of closing shall be ineligible, except entries and payments by letter bearing postmark not later than the following day (omitting Sunday) or entries notified by telegraph, the telegram to be actually received at the office of sending at or before the hour of closing, such telegram to state the color, sex, and name of the horse, also to give the name and residence of the owner and the party making entry.

Whenever an entry or payment in a stake, futurity, or early closing race becomes payable on a Sunday or a legal holiday that falls on Saturday, the payment is to be due on the following Monday and if made by mail, the envelope must be postmarked on or before the following

Tuesday. If a payment falls on a Monday that is a legal holiday, then payment is due on Tuesday, and if made by mail must be postmarked on or before the following Wednesday.

**195—9.25(99D) Postage meter.** Where an entry is received by letter bearing a postage meter date without any postmark by the post office, such postage meter date shall be considered to be a postmark for the purposes of this rule if the letter is actually received within seven days following the closing date of the event. The metered date must conform to the postmark date as set forth above in order to be valid.

**195—9.26(99D) Deviation from published conditions.** All entries and payments not governed by published conditions shall be void and any proposed deviation from these published conditions shall be punished by a fine not to exceed fifty dollars (\$50) for each offense, and any nominator, who is allowed privileges not in accordance with the published conditions of the race or which are in conflict with these rules, shall be debarred from winning any portion of the purse, and the nominator and the secretary or other persons who allowed such privileges shall be deemed to have been parties to fraud.

**195—9.27(99D) Where ineligible horse races.** A nominator is required to guarantee the identity and eligibility of that person's entries and declarations and, if given incorrectly, that person may be fined, suspended, or expelled, and any winnings shall be forfeited and redistributed to eligible entries. A person obtaining a purse or money through fraud or error shall surrender or pay the same to the USTA for redistribution or that person, together with the parties implicated in the wrong, and the horse or horses shall be suspended until the demand is complied with and such purse or money shall be awarded to the party justly entitled to same.

**195—9.28(99D) Transfer of ineligible horse.** A horse entered in an event to which it is ineligible may be transferred to any event to which it is eligible at the same gait.

**195—9.29(99D) Withholding purse.** Tracks shall be warranted in withholding the premium of any horse, without a formal protest, if they shall receive information in their judgment tending to establish that the entry or declaration was fraudulent or ineligible. Premiums withheld under this rule shall be sent to the USTA to await the result of an investigation and order of distribution by this commission.

**195—9.30(99D) Early closing and late closing events.** The licensee shall state the place and date of the event to be raced and no change in date, program, events, or conditions can be made after the nominations have been taken without the written consent of the steward and owner or trainer of all horses eligible at the time the conditions are changed.

**9.30(1)** All nominations and payments, other than starting fees, in early closing events, shall be due on the first and fifteenth of the month.

**9.30(2)** A complete list of nominations to any late closing or early closing event shall be published within twenty (20) days after the date of closing and mailed to each nominator and the commission.

**9.30(3)** If the event does not fill, each nominator, and the commission, shall be notified within ten (10) days and refund of nomination fees shall accompany the notice.

**195—9.31(99D) Subsequent payments.** If subsequent payments are required, a complete list of those making the payment shall be made within fifteen (15) days after the payment was due and the list mailed to each nominator, and the commission.

**195—9.32(99D) Trust funds.** All fees paid in added money early closing events shall be segregated and held as trust funds until the event is contested. If the event is canceled, all fees and trust fund income shall be refunded.

**195—9.33(99D) Stable space.** Tracks accepting nominations to early closing and late closing races, stakes, and futurities will give stable space to any horse nominated and eligible to that event the day before, the day of, and the day after such a race.

**195—9.34(99D) Limitation on conditions.** No conditions of early closing or late closing events shall be used to eliminate horses nominated to an event or to add horses that have not been nominated to an event by reason of the performance of those horses at an earlier meeting held the same season. Early closing events and late closing events shall have not more than two (2) "also eligible conditions."

**195—9.35(99D) Excess entry fees.** When entry fees exceed eighty-five percent (85%) of the advertised purse value, these excess entry fees shall be added to the advertised purse. Where the race is split into divisions, each division shall have a purse value of not less than seventy-five percent (75%) of the advertised purse. However, entry fees in excess of the amount prescribed above may be used toward the amount that must be added.

**195—9.36(99D) Entries and starters required.** Tracks must specify how many entries are required for overnight events and after the condition is fulfilled, the event must be contested except when declared off as provided.

**9.36(1)** In early closing or late closing events, if five (5) or more interests are declared in to start, unless otherwise specified in the conditions, the race must be contested, except when declared off as provided. Stakes and futurities must be raced if one or more horses are declared in to start except when declared off as provided.

**9.36(2)** In an early closing event, if less horses are declared in than are required to start, and all declarers are immediately so notified, the horse or horses declared in and ready to race shall be entitled to all of the entrance money and forfeits from each horse named.

**195—9.37(99D) Elimination heats.** In any race where the number of horses declared in to start exceeds eleven (11) on a half-mile track or sixteen (16) on a larger track, the race, at the option of the track conducting same stated before positions are drawn, may be raced in elimination heats. No more than two (2) tiers of horses, allowing eight (8) feet per horse, will be allowed to start in any race.

Where the race is divided, each division must race for at least seventy-five percent (75%) of the advertised purse. In an added money, early closing event, the race may be divided and raced in divisions and each division raced for an equal share of the total purse if the advertised conditions so provide.

**195—9.38(99D) Elimination plans.** Whenever elimination heats are required, or specified in the published conditions that race shall be raced in the following manner unless conducted under another provision of these rules. The field shall be divided by lot and the first division shall race a qualifying dash for thirty percent (30%) of the purse, the second division shall race a quarter dash for thirty percent (30%) of the purse, and the horses so qualified shall race in the main event for forty percent (40%) of the purse. The winner of the main event shall be the race winner.

**9.38(1)** In the event there are more horses declared in to start than can be accommodated by the two (2) elimination dashes, then there will be added enough elimination dashes to take care of the excess. The percent of the purse raced for each elimination dash will be determined by dividing the number of elimination dashes into sixty (60). The main event will race for forty percent (40%) of the purse.

**9.38(2)** Unless the conditions provide otherwise, if there are two (2) elimination dashes, the first four (4) finishers in each dash qualify for the final; if three (3) or more elimination dashes, not more than three (3) horses will qualify for the final from each qualifying dash.

**9.38(3)** The judges shall draw the positions in which the horses are to start in the main event, i.e., they shall draw positions to determine which of the two (2) dash winners shall have

the pole, and which the second position; which of the two (2) horses that have been second shall start in third position; and which in fourth, etc. All elimination dashes and the concluding heat must be programmed to be raced upon the same day or night, unless special provisions for earlier elimination dashes are set forth in the conditions.

In the event there are three (3) separate heat or dash winners and they alone come back in order to determine the race winner according to the conditions, they will take post positions according to the order of their finish in the previous heat or dash.

**9.38(4)** In any race where the number of horses declared in to start exceeds eleven (11) on a half-mile track or sixteen (16) on a mile track, unless other numbers are specified in the conditions, the race, at the option of the track conducting the same, stated before positions are drawn, may be divided by lot and raced in two (2) divisions with all heat winners from both divisions competing in a final heat to determine the race winner. Each division shall race two (2) heats for twenty percent (20%) of the purse each heat. The remaining twenty percent (20%) of the purse shall go to the winner of the final heat.

**9.38(5)** Whenever elimination heats are required or specified in the published conditions of a stake or futurity, such race may be raced on the three (3) heat plan, irrespective of any provisions in the conditions to the contrary, unless published conditions provide otherwise. That is, the field shall be divided by lot and the first division shall race for thirty percent (30%) of the purse, the second division shall race for thirty percent (30%), and the horses qualifying in the first and second divisions shall race the third heat for thirty percent (30%) of the purse. If, after the third heat, no horse has won two (2) heats, a fourth heat shall be raced by only the heat winners. The race winner shall receive the remaining ten percent (10%) of the purse. The number of horses qualifying to return after each elimination heat will be the same as set out in this rule.

**195—9.39(99D) Overnight events.** Not more than nine (9) horses shall be allowed to start. No horse shall be entered in more than one (1) event on the same program except where the conditions of the race provide that it shall be contested in two (2) or more heats or dashes.

**195—9.40(99D) Entry box and drawing of horses.** The entry box shall be opened by the state steward, or designated representative, at the advertised time. The state steward will be responsible for seeing that at least one (1) horseman or an official representative of the horseman is present. Upon request of the racing secretary, thirty (30) minutes prior to the opening of the box, the state steward, or designated representative, may inform the racing secretary as to the number of horses declared in.

No owner or agent for a horse with a declaration in the entry box shall be denied the privilege of being present. Under the supervision of the state steward, all entries shall be listed, the eligibility checked, preference ascertained, starters selected, and post positions drawn. At an extended meet, if it is necessary to reopen any race, public announcement shall be made at least twice and the box reopened at a definite time.

Such drawings shall be final unless the state steward determines that a horse properly declared was omitted from the race through an error on the part of the track or its agent, or employee, in which event the race may be redrawn. This provision for a redrawing shall not apply unless the error is discovered prior to the publication of the official program.

**195—9.41(99D) Substitute races.** Substitute races may be provided for each day's program and shall be so designated. A substitute race shall be used only if regularly scheduled races fail to fill. Entries in all races shall be posted.

**195—9.42(99D) Drivers.** Declarations shall state who will drive the horse and give the driver's colors. Drivers must be named at the time prescribed by the judges. After being named, no driver shall be changed except by permission of the judges. When a nominator starts two (2) or more horses, the judges shall approve or disapprove the second and third drivers.

**195—9.43(99D) Declaration and withdrawing.** After declaration to start has been made, no horse shall be drawn except by permission of the judges. A fine not to exceed five hundred dollars (\$500), or suspension, may be imposed for drawing a horse without permission, the penalty to apply to both the horse and the party who violates the regulation.

**195—9.44(99D) Entry or coupling.** When starters in a race include two (2) or more horses owned or trained by the same stable or by the same management, or same person, they shall be coupled as an "entry," with no exceptions, and a wager on one (1) horse in the "entry" shall be a wager on all horses in the "entry." If a race is split in two (2) or more divisions, horses in an "entry" shall be seeded in separate divisions, but the divisions in which they compete and their post positions shall be drawn by lot.

**195—9.45(99D) Uncoupled entries.** In allowance, handicap, and stakes races, any "entry" of separate ownership may be uncoupled with permission of the stewards, provided that this permission shall not be granted when to do so would create more than eight (8) separate betting interests. In no event shall this permission be granted in any race on which quinella, perfecta, or exacta wagering is conducted.

**195—9.46(99D) Husband-wife entries.** In case of husband and wife, no entry shall be received from husband or wife while either is disqualified. Husband and wife, unless legally separated shall be considered a single entity. Any ruling which applies to one shall apply equally to the other.

**195—9.47(99D) Medical reasons for ineligibility.** A trainer or owner shall not enter or start, or cause to be entered or started, a horse which:

1. Is not in serviceable sound racing condition.
2. Is a known bleeder.
3. Has been trachea tubed.
4. Is blind or whose vision is seriously impaired in both eyes. A horse blind in one eye may start only if the other eye has normal vision.
5. Does not comply with the rules regarding Coggins tests.

**195—9.48(99D) Observe sanitary, safety, humane rules.** A trainer shall see to it that the stables and immediate surrounding area assigned are sanitary at all times and that the humane laws of the state of Iowa are observed, also, that the fire prevention rules (especially no smoking in the stable area) be strictly observed at all times. Constant misuse of property will be considered when stall assignments are made.

**195—9.49(99D) Halters.** All horses shall be haltered while in the stall.

**195—9.50(99D) Equipment change and records.** The racetrack operator shall require owners and agents of all horses, before starting in a race conducted by the Iowa racing commission, to register with the paddock judge of the racetrack operator regular racing equipment to be worn by the horse to be raced; copies of the same to be available to the presiding judges. Any changes or alterations in this equipment must be approved by the judges.

**195—9.51(99D) Special equipment.** Every sulky used in a race at a licensed meeting shall be equipped with special equipment as the judges may order. The obtaining and installation of this equipment are the responsibility of each owner. A driver shall not drive a sulky not equipped as so ordered by the judges.

**195—9.52(99D) Horses in paddock and receiving barn.** Horses must be in the paddock at the time prescribed by the presiding judge, but at least one (1) hour prior to post time of the race in which the horse is to compete. Except for warm-up scores, no horse shall leave the pad-

dock until called to post.

**9.52(1)** Horses shipped in from approved outside stabling areas must be in the designated receiving barn two (2) hours prior to post time.

**9.52(2)** Persons entitled to admission to the paddock are:

- a. Owners of horses competing on the date of the race.
- b. Trainers of horses competing on the date of the race.
- c. Drivers of horses competing on the date of the race.
- d. Grooms and caretakers of horses competing on the date of the race.
- e. Officials whose duties require their presence in the paddock or receiving barn.

**9.52(3)** No driver, trainer, groom, or caretaker, once admitted to the paddock or receiving barn, shall leave the same other than to warm up said horse until the race or races for which the horse was admitted is contested.

**9.52(4)** No person except an owner, who has another horse racing in a later race, or an official shall return to the paddock until all races of that program have been completed.

**9.52(5)** No more than two members of a registered stable, other than the driver, shall be entitled to admission to the paddock at any one time.

**195—9.53(99D) Postponement of races.** No racing shall be conducted by any racetrack operator over any track which is dangerous to drivers or horses competing thereon. If at any time inclement weather or other conditions appear to make the track unsafe, representatives of management and the horsemen shall meet to determine whether or not racing shall be conducted. If a difference of opinion exists, the decision of the state steward shall be final.

**195—9.54(99D) Postponement procedure.** Early closing races, stakes and futurities shall be postponed to a definite hour the next fair day and good track.

**9.54(1)** Any late closing race, early closing race, stake, or futurity—except as provided in subrule 9.54(2)—that cannot be raced during the scheduled meeting shall be declared off and the entrance money and forfeits shall be divided equally among the nominators who have horses declared in and eligible to start.

**9.54(2)** Unless otherwise provided in the conditions, in order to transfer stakes and futurities to another meeting, unanimous consent must be obtained from the track and from all those having eligibles in the event.

**9.54(3)** Overnight events may be postponed and carried over not to exceed two (2) racing days.

**9.54(4)** At the option of management, any postponed races may be contested in single mile dashes. Where races are postponed under this rule, management shall have the privilege of selecting the order in which the events will be raced in any combined program.

**9.54(5)** Any stake or futurity that has been started and remains unfinished on the last day of the scheduled meeting shall be declared ended and the full purse divided according to the summary except where the commission allows the track to extend the meeting to complete the race.

**195—9.55(99D) Post time.** In the event that racing pursuant to the hours prescribed by the license for the meeting is conducted at night or twilight, the wagering program must be completed no later than midnight.

Post time for the first race of the program may be fixed by the racetrack operator. If post time must be delayed, the operator must receive approval of that delay from the state steward.

**195—9.56(99D) Bonafide contests.** All races shall be bonafide contests with the winner receiving the largest share of the purse and the balance of the purse distribution made according to the order of finish. No hippodroming or other arrangements for equal distribution of the purse money among the contestants is permitted. Violation of this rule will subject the track officials in charge and the owners and drivers to fine or suspension, or both.

**195—9.57(99D) Payment default.** Any track that defaults in the payment of a premium that

has been raced for, shall, after a hearing before the commission, stand suspended, together with its officers. No deduction, voluntary or involuntary, may be made from any purse or stake or futurity other than for payments to be made to the owners, nominators, or breeders of money winning horses and organization or promotion expenses stipulated for stakes and futurities.

**195—9.58(99D) Liability for promoters.** If, during a meeting at a licensed track, a race, which has been promoted by another party or parties, is contested, and the promoters default in the payment of the amount raced for, the same liability shall attach to the licensed track as if the race had been offered by that licensed track.

**195—9.59(99D) Bad checks.** Any track that pays any purse by check, which upon presentation is dishonored, the matter shall immediately be referred to the commission for disposition.

**195—9.60(99D) Advertised purse.** When any track advertises minimum purses and conducts any race for less than said advertised minimum, unless previously sanctioned by the racing commission, such track shall be fined the difference between the advertised minimum and the lesser purse for which the race was conducted and the proceeds of this fine may be distributed among the money winning horses in proportion to their respective winnings.

**195—9.61(99D) Limitation on purse reductions.** No purse for any race may be reduced after the purse has been advertised, published or reflected in the conditions unless notice of this reduction is promptly given to the state steward, promptly posted on the public bulletin board in the racing secretary's office for the inspection of owners, trainers, and the public, and listed in the "overnight sheets."

No purse for any race may be reduced after the first entry is made for any such race.

**195—9.62(99D) False advertising.** Except as herein stated, no track shall advertise to pay or pay any awards other than to owners, nominators, or breeders of money winning horses. Awards may be made to drivers of horses breaking or equaling track or world records, or to leading drivers at meetings.

**195—9.63(99D) Allocation of stalls for extended meets only.**

**9.63(1)** No racetrack operator shall allocate stalls except pursuant to a written stall application and agreement, the form of which shall have been approved by the commission. The racing secretary shall be responsible for stall allocation unless some other official is substituted by the racetrack operator to perform this function and the commission notified.

**9.63(2)** The racing secretary shall give each applicant written notice specifying whether the application, with respect to each stall requested, has been accepted, denied or placed in a pending status. This notice shall be given not later than five (5) days prior to the start of the meeting or ten (10) days after receipt of the stall application, whichever shall be last to occur.

Within ten (10) days after initial notification as required by this rule, final action shall be taken and written notice thereof given with respect to any stall application originally placed, in whole or in part, in a pending status.

**9.63(3)** The racing secretary's view of the best interest of racing and of the meeting in question shall govern the secretary's action on stall applications. The secretary shall be allowed broad discretion in performing this function. Nevertheless, no action on a stall application shall be based upon the race, color, creed, religion, national origin, or sex of the applicant, or an arbitrary or capricious decision, or a decision not related to any reasonable view of the best interests of racing or of the meeting in question.

No stall allocation shall be conditioned upon the payment, transfer, or delivery to the racing secretary, or to any other person so designated, of any money, property, or other thing of value or upon the applicant's promise to make such payment, transfer, or delivery.

**9.63(4)** Any owners, trainers, or other persons, believing they have been aggrieved by a viola-

tion of this rule, may file written complaint with the commission which shall conduct a hearing with respect to the alleged violation. If the commission determines that a violation of this rule has occurred, it may impose a fine upon the racetrack operator not to exceed five hundred dollars (\$500) for each violation, may order that stalls be allocated to the complainant and may take other appropriate action. In order to facilitate the conduct of inquiries into alleged violations of this rule, the racing secretary shall cause all stall applications, stall agreements, correspondence, and other related material to be retained until the close of the meeting or for a period directed by the commission.

**9.63(5)** In passing upon stall applications that are of substantially equal merit, the racing secretary shall give preference to applications submitted with respect to horses owned by Iowa residents.

**9.63(6)** Acceptance of an application for stall space for any horse shall be conditioned upon proof of a negative Coggins test for equine infectious anemia.

**195—9.64(99D) Photofinish and starting gate.**

**9.64(1)** At all tracks a photofinish and starting gate must be used. Whenever the judges use a photo to determine the order of finish, it shall be posted for public inspection during that same racing program. Photofinish equipment shall not be acceptable unless a spinner or target is used therewith.

**9.64(2)** The state steward and presiding judge shall review all photofinishes and confirm or correct the decision of the placing judges before a race is declared official.

**195—9.65(99D) Film recordings.** All racetrack operators shall take and make—at their own expense—a complete recording of all races run. The number and location of recording stations, the type of equipment used and the quality of the image must be satisfactory to the state steward. The state steward shall certify to the commission, three (3) days prior to the opening of any meeting, in writing, that the steward approved the recording system, and believes it to be adequate. No system shall be certified unless it can deliver the recording of the race within two (2) minutes of the finish of that race.

**9.65(1)** These recordings shall be under the control of the state steward and shall not be shown to other persons without permission. The racetrack operator shall hold all recordings for one (1) year from the final date of the race meeting at which they are made. Racetrack operators shall hold for five (5) years all recordings in which there are infractions or claims of foul and other recordings as the state steward shall designate.

**9.65(2)** In order to educate and protect the drivers, racetrack operators shall provide facilities where recordings may be shown to the drivers.

**9.65(3)** The requirements for film recording may be waived by the commission for nonextended meets. The commission may assume part or all of the expense of film recording at nonextended meets.

**195—9.66(99D) Firearms.** No person, except track security personnel and law enforcement officials while engaged in the performance of their official duties, shall possess or discharge any firearm within any racetrack enclosure.

**195—9.67(99D) Interference with officials.** Although track operators have the obligation of general supervision of their meetings, interference with the proper performance of duties of any official is hereby prohibited.

**195—9.68(99D) Penalty for violation of rules.** Any racetrack operator who violates any provision of the Iowa rules of racing may be fined no more than one thousand dollars (\$1,000) for each violation, or be subject to suspension or revocation of license, or both.

**195—9.69(99D) Starting gate.** Horses shall be started from a starting gate. The starter shall have control of the horses from the formation of the parade until the starter gives the word "Go."

9.69(1) After one (1) or two (2) preliminary warming up scores, the starter shall notify the drivers to come to the starting gate. During or before the parade, the drivers must be informed as to the number of scores permitted. Horses may be held on the backstretch not to exceed two (2) minutes awaiting post time, except during an emergency.

9.69(2) The horses shall be brought to the starting gate as near one-quarter of a mile before the start as the track will permit.

9.69(3) Allowing sufficient time so that the speed of the gate can be increased gradually, the following minimum speeds will be maintained:

a. For the first one-eighth mile, not less than eleven (11) miles per hour.

b. For the next one-sixteenth of a mile, not less than eighteen (18) miles per hour.

c. From that point to the starting point, the speed will be gradually increased to maximum speed.

9.69(4) On mile tracks, horses will be brought to the starting gate at the head of the stretch and the relative speeds mentioned in subrule 9.69(3), will be maintained.

9.69(5) The starting point will be a point marked on the inside rail a distance of not less than two hundred (200) feet from the first turn. The starter shall give the word "Go" at the starting point.

9.69(6) When a speed has been reached in the course of a start there shall be no decrease except in the case of a recall.

9.69(7) In case of a recall, a light plainly visible to the driver shall be flashed and a recall sounded, but the starting gate shall proceed out of the path of the horses.

9.69(8) There shall be no recall after the word "Go" has been given, and, any horse, regardless of position, or an accident, shall be deemed a starter from the time entered into the starter's control, unless dismissed by the starter or declared a nonstarter by the stewards.

9.69(9) The starter shall endeavor to get all horses away in position and on gait but no recall shall be had for a breaking horse except as provided in this rule.

9.69(10) The starter may sound a recall only for the following reasons:

a. A horse scores ahead of the gate.

b. There is interference.

c. A horse has broken equipment.

d. A horse falls before the word "Go" is given.

e. When a horse refuses to come to the starting gate before it reaches the pole one-sixteenth of a mile before the start.

9.69(11) Any horse causing two (2) recalls will be dismissed by the starter.

9.69(12) The stewards may declare a horse a nonstarter if any of the circumstances set forth in this rule are applicable, and, if the starter has not dismissed the horse or ordered a recall.

9.69(13) All wagers on any horse dismissed by the starter or declared a nonstarter by the stewards shall be refunded except when a consolation payoff is applicable.

9.69(14) Drivers may be fined by the stewards for failure to come up to position or failure to stay in position, or both.

9.69(15) A fine not to exceed one hundred dollars (\$100) or suspension from driving—not to exceed fifteen (15) days, or both, may be applied to any driver, by the stewards for:

a. Delaying the start.

b. Failure to obey the starter's instructions.

c. Rushing ahead of the inside or outside wing of the gate or rushing the gate.

d. Coming to the starting gate out of position.

e. Crossing over before reaching the starting point.

f. Interference with another driver during the start.

g. Failure to come into position or failure to stay in position.

A hearing must be granted before any penalty is imposed.

195—9.70(99D) **Use of loudspeaker.** Use of a mechanical loudspeaker for any purpose other than to give instructions to drivers is prohibited. The volume shall be no higher than necessary to carry the voice of the starter to the drivers.

**195—9.71(99D) Two tiers.** In the event there are two (2) tiers of horses, the withdrawing of a horse that has drawn or earned a position in the front tier shall not affect the position of the horses that have drawn or earned positions in the second tier. Whenever a horse is drawn from any tier, horses on the outside move in to fill up the vacancy.

**195—9.72(99D) Horses must go the course.** The horses shall be deemed to have started when the word "Go" is given by the starter and all horses must go the course except in case of an accident where it is the opinion of the judges that it is impossible to go the course. Drivers must be mounted in the sulky at the finish of the race or the horse must be placed as not finishing.

**195—9.73(99D) Unmanageable horses.** If, in the opinion of the judges or the starter, a horse is unmanageable or liable to cause accidents or injury to any other horse or to any driver, it may be sent to the barn, but the entry and declaration fees on the horse shall then be refunded. In no event shall such a horse be placed on the outside. When a horse is sent to the barn, the starter will notify the judges who will in turn notify the public.

**195—9.74(99D) Judges' stand.** The judges' stand shall be so located and constructed as to afford to the officials an unobstructed view of the entire track and no obstruction shall be permitted upon a track, or the center field which shall obscure the officials' vision of any portion of the track during the race.

**195—9.75(99D) Distance poles.** All distance poles shall be of standard color designations, namely: Quarterpoles, red and white; eighth poles, green and white; sixteenth poles, black and white.

**195—9.76(99D) Licensed outrider.** The licensee shall furnish a licensed outrider who is to be on duty and suitably mounted each day during racing hours. The outrider must display excellent riding ability. Among the duties of the outrider shall be:

1. Leading tough horses.
2. Holding a horse during an equipment change before race.
3. Controlling the horses until they reach the gate.
4. Catching the horses if they stray at the gate or after an accident.
5. Detour other horses away from an accident.

**195—9.77(99D) Stables.** Stables and immediate surrounding areas must be kept in a sanitary condition at all times, satisfactory drainage must be provided and manure and other refuse must be promptly and properly removed.

**195—9.78(99D) Fire prevention.** Licensees shall make adequate provision for fire prevention, protection against fire, and fire suppression within the enclosure.

**195—9.79(99D) Starting gate shields.** The arms of all starting gates shall be provided with a screen or a shield in front of the position of each horse, and such arms shall be perpendicular to the rail.

**195—9.80(99D) Riding with the starter.** No persons shall be allowed to ride in the starting gate except the starter and the starter's driver or assistant, and a patrol judge, unless permission has been granted by the state steward.

**195—9.81(99D) Drivers, trainers, and agents.** No driver is eligible to participate in races without a driver's license issued by the USTA. Drivers lacking said license must petition the commission for an Iowa driver's license.

**195—9.82(99D) Approval of license.** Drivers must present their licenses to the clerk of the course before driving.

**195—9.83(99D) Driver's bench.** Drivers wearing colors, but not competing in a particular race, shall view said race from benches set aside for them by the racetrack operator.

**195—9.84(99D) Disorderly conduct.** The following shall constitute disorderly conduct and be reason for a fine, suspension, or revocation of a driver's license:

1. Failure to obey the judges' orders.
2. Failure to drive when programmed unless excused by the judges.
3. Appearing in the paddock in an unfit condition to drive.
4. Fighting.
5. Assaults.
6. Offensive and profane language.
7. Smoking on the track in silks during actual racing hours or in the barns and stables.
8. Warming up a horse prior to racing without silks.
9. Disturbing the peace.
10. Refusal to take a sobriety test when directed by the presiding judge.

**195—9.85(99D) Caretakers.** No attendant of a horse shall appear upon the track one (1) hour preceding post time of the first event of the day or night without proper uniform. No attendant of a horse shall smoke on the track.

**195—9.86(99D) Colors.** Drivers must wear distinguishing colors and shall not be allowed to start in a race or other public performance unless in the opinion of the judges they are properly dressed. No one shall drive during the time when colors are required on a racetrack unless the driver is wearing a type of protective helmet as prescribed by the presiding judge. In any race or appearance on the racetrack during the racing program, rain gear worn by a driver shall be in colors of the driver or the owner.

**195—9.87(99D) Restricted areas for drivers in colors.** Any driver wearing colors who shall appear at a betting window, grandstand or clubhouse, or at a bar or in a restaurant dispensing alcoholic beverages shall be fined not to exceed one hundred dollars (\$100) for each such offense.

**195—9.88(99D) Driver substitutions.** No driver can, without good and sufficient reasons, decline to be substituted by judges. Any driver who refuses to be so substituted may be fined or suspended, or both, by order of the judges.

**195—9.89(99D) Driving violations.** Where the penalty is for a driving violation and does not exceed in time a period of five (5) days, the driver may complete the engagements of all horses declared in before the penalty becomes effective. The driver may drive in stake, futurity, early closing and feature races during a suspension of five (5) days or less, but the suspension will be extended one (1) day for each date the driver races.

**195—9.90(99D) Color registration.** Drivers holding a full license, or registered stables shall register their racing colors with the USTA.

**195—9.91(99D) Repeated violations.** Repeated rule violations shall be considered grounds for refusal to grant or grounds for revocation of any driver's license.

**195—9.92(99D) Accidents.** In the event any person is involved in an accident on the track, the commission may order that person to submit to a physical examination and this examination must be completed within thirty (30) days from request or the license may be suspended until compliance is met.

**195—9.93(99D) Physical examination.** An applicant for a driver's license may be required to take a physical examination before the application will be considered.

The commission reserves the right to require any driver to take a physical examination at any time.

**195—9.94(99D) Objections.** The stewards must decide every objection pertaining to a race.

**195—9.95(99D) Drivers' meeting.** Before the first race at any pari-mutuel meet is contested, officials and drivers shall meet at a time and place designated by the presiding judge and discuss the rules. Every driver shall be notified of the time and place of this meeting in writing with notification delivered at the stable of the driver at least one (1) day in advance of such meeting. Drivers who come in after the meeting has started shall introduce themselves to the state steward or presiding judge and discuss the rules before driving in their first race.

**195—9.96(99D) Traffic procedure.** Horses meeting on the track shall pass to the left.

**195—9.97(99D) Racing conduct.** Although a leading horse is entitled to any part of the track except after position is selected in the home stretch, neither the driver of the first horse or any other driver in the race shall do any of the following things, which shall be considered violations of driving rules:

1. Change either to the right or left during any part of the race when another horse is so near that in altering the position the driver compels the horse following to shorten that horse's stride, or causes the driver of the other horse to pull the horse out of stride.

2. Jostle, strike, hook wheels, or interfere with another horse or driver.

3. Cross sharply in front of a horse or cross over in front of a field of horses in a reckless manner, endangering other drivers.

4. Swerve in and out or pull up quickly.

5. Crowd a horse or driver by "putting a wheel under him."

6. "Carry a horse out" or "sit down in front of a horse," take up abruptly in front of the other horses so as to cause confusion or interference among the trailing horses.

7. Let a horse pass inside needlessly.

8. Laying off a normal pace and leaving a hole when it is well within the horse's capacity to keep the hole closed.

9. Commit any act which shall impede the progress of another horse or cause that horse to "break."

10. Change course after selecting a position in the home stretch and swerve in or out, or bear in or out, in a manner which interferes with another horse or causes that horse to change course or take back.

11. To drive in a careless or reckless manner.

12. Whipping under the arch of the sulky.

13. Failure to set and maintain a proper pace while driving.

**195—9.98(99D) Complaints.** All complaints by drivers of any foul driving or other misconduct during a heat or dash must be made at the termination thereof, unless the driver is prevented from doing so by an accident or injury. Any driver desiring to enter a claim of foul or other complaint of violation of the rules, must before dismounting indicate to the barrier judge a desire to enter such claim or complaint and upon dismounting shall proceed to the telephone or judges' stand where and when such claim, objection, or complaint shall be immediately entered. The judges shall not cause the official sign to be displayed until the claim, objection, or complaint shall have been entered and considered.

After being dismissed by the judges or barrier judge, all drivers must return to the paddock and remain there until the race is made official.

**195—9.99(99D) Violations by entries.** If any of the above violations is committed by a per-

son driving a horse coupled an an entry in the betting, the judges shall set both horses back, if, in their opinion, the violation may be applied individually to the drivers of any entry.

**195—9.100(99D) Penalties.** In the case of interference, collision, or violation of any part of this rule, the offending horse may be placed back one or more positions in that heat or dash, and in the event such collision of interference prevents any horse from finishing the heat or dash, the offending horse may be disqualified from receiving any winnings; and the driver may be fined not to exceed the amount of the purse or stake contended for, or may be suspended or expelled.

**195—9.101(99D) Unsatisfactory driving.** Every heat in a race must be contested by every horse in the race and every horse must be driven to the finish. If the judges believe that a horse is being driven, or has been driven with the design to prevent winning a heat or dash which the horse was evidently able to win, or is being raced in an inconsistent manner, or to perpetrate or to aid a fraud, they shall consider it a violation and the driver, and anyone in concert with the driver, to so affect the outcome of the race or races, may be fined, suspended or expelled. The judges may substitute a competent and reliable driver at any time. The substituted driver shall be paid at the discretion of the judges and the fee retained from the purse money due the horse, if any.

In the event a drive is unsatisfactory due to lack of effort or carelessness, and the judges believe that there is no fraud, gross carelessness, or a deliberate inconsistent drive, they may impose a penalty under this rule not to exceed ten (10) days' suspension or a one hundred dollar (\$100) fine.

**195—9.102(99D) Driver substitution.** If, in the opinion of the judges, a driver is for any reason unfit or incompetent to drive or refuses to comply with the directions of the judges, or exhibits reckless conduct and endangers the safety of horses or other drivers in the race, the driver may be removed and another driver substituted at any time after the positions have been assigned in a race, and the offending driver shall be fined, suspended, or expelled. The substitute driver shall be properly compensated.

**195—9.103(99D) Failure to finish.** If, for any cause other than interference or broken equipment, a horse fails to finish after starting a heat, that horse shall be ruled out.

**195—9.104(99D) Improper conduct.** Loud shouting or other improper conduct is forbidden in a race. After the word "Go" is given, both feet must be kept in the stirrups until after the finish of the race. Drivers must have both feet in the stirrups when horses are parading to the post and during qualifying races.

**195—9.105(99D) Whips and snappers.** Drivers will be allowed whips not to exceed four feet, eight inches, plus a snapper not longer than eight (8) inches. At the discretion of the stewards, brutal use of the whip is a violation punishable by a fine of not more than two hundred dollars (\$200), or suspension, or both. Use of the butt end of the whip is prohibited.

**195—9.106(99D) Goading devices.** The use of any goading device, chain, whip spur, whip spike or nail, headpole burr, line burr, any metal part of a whip or any chemical, mechanical device or appliance—other than the ordinary whip—upon any horse shall constitute a violation of this rule, except that headpole burrs that have been approved by the commission may be used with the permission of the state steward.

**195—9.107(99D) Accidents.** In the case of accidents, only so much time shall be allowed as the judges may deem necessary and proper.

**195—9.108(99D) Use of hobbles.** Any person found guilty of removing or altering a horse's hobbles for the purpose of fraud shall be suspended or expelled. Any horse habitually wear-

ing hobbles shall not be permitted to start in a race without them except by the permission of the judges. Any horse habitually racing freelegged shall not be permitted to wear hobbles in a race except with the permission of the judges. No horse shall be permitted to wear a headpole protruding more than ten (10) inches beyond its nose.

**195—9.109(99D) Breaking.** When a horse or horses break from their gait in trotting or pacing, their driver shall at once, where clearance exists, take such horse to the outside and pull it to its gait.

**9.109(1)** The following shall be considered violations of this rule:

- a. Failure to properly attempt to pull the horse to its gait.
- b. Failure to take to the outside where clearance exists.
- c. Failure to lose ground by the break.

**9.109(2)** If there has been no failure on the part of the driver in complying with 9.109(1) "a," "b," and "c," the horse shall not be set back unless a contending horse on gait is lapped on the hind quarter of the breaking horse at the finish.

**9.109(3)** The judges may set any horse back one or more places if in their judgment any of the above violations have been committed and the driver may be punished.

**9.109(4)** If a horse goes offstride during any part of the race, and, in the opinion of the stewards, interferes with any horse or horses, that interference shall constitute a violation. The offending horse shall be placed behind all horses interfered with unless the driver of the horse or horses interfered with failed to exercise reasonable care to avoid the incident.

**195—9.110(99D) Breaking on purpose.** If, in the opinion of the judges, a driver allows a horse to break for the purpose of fraudulently losing a heat or dash, the driver shall be liable to the penalties elsewhere provided for fraud and fouls.

**195—9.111(99D) Call out breaks.** It shall be the duty of one of the judges to call out every break made, and the clerk shall at once note the break in writing.

**195—9.112(99D) Right of course.** Horses called for a race shall have the exclusive right of the course and all other horses shall vacate the track at once, unless permitted to remain by the judges.

**195—9.113(99D) Penalties.** Any violation of these rules, unless otherwise provided, may be punishable by a fine or suspension, or both.

**195—9.114(99D) Placing.** Unless otherwise provided in the conditions, all purses shall be distributed on the dash basis with the money awarded according to a horse's position in each separate race or heat of a race.

**195—9.115(99D) Money distribution.** Unless otherwise specified in the conditions, the money distribution in dashes shall be fifty percent (50%), twenty-five percent (25%), twelve percent (12%), eight percent (8%), and five percent (5%). In early closing events, late closing events or added money events, if there are less than five (5) starters, the remaining premium shall go to the race winner unless the conditions call for a different distribution. In overnight events, if there are less than five (5) starters, the premium for the positions for which there are no starters may be retained by the track.

If horses have started for any premium, or premiums, but were unable to finish due to an accident or otherwise, all unoffending horses who did not finish will share equally in such premium or premiums.

**195—9.116(99D) Improper conduct.** No owner, trainer, driver, attendant of a horse, or any other person shall use improper language to an official, or be guilty of any improper conduct toward the officers or judges or persons serving under their orders, this improper language or conduct having reference to the administration of the course, or of any race thereon.

**195—9.117(99D) Assault or battery.** No owner, trainer, driver, or attendant of a horse, or any other person, at any time or place shall commit an assault, or an assault and battery, upon any driver who shall drive in a race, or shall threaten to do bodily injury to any driver or shall address to such driver language outrageously insulting.

**195—9.118(99D) Conspiracy not to race.** If any owner, trainer, or driver of a horse shall threaten or join with others in threatening not to race, or not to declare in, because of the entry of a certain horse or horses, or a particular stable, thereby compelling or trying to compel the racing secretary to reject certain eligible entries, it shall be immediately reported to the state steward and the offending parties may be suspended pending a hearing.

**195—9.119(99D) Demand special rewards.** No owner, agent, or driver who has entered a horse shall thereafter demand of the track a bonus of money or other special award or consideration as a condition for starting the horse.

**195—9.120(99D) Betting on starters.** No owner, trainer, driver, agent, employee, or attendant shall bet, or cause any other person to bet on the individual's behalf, on any other horse starting in the same race in which that individual has a starting horse which is owned, trained, driven, or which that person, in any way represents, handles, or has an interest.

**195—9.121(99D) Fraudulent proposals.** If any person under the jurisdiction or control of the commission is approached with any offer or promise of a bribe or with a request or a suggestion for a bribe or for any improper, corrupt, or fraudulent act or practice in relation to a race or racing, or that any race shall be conducted otherwise than fairly in accordance with the rules of the commission, it shall be the duty of that person to report immediately such matters to the judges and the commission. Persons violating this rule will be suspended for a period of not less than thirty (30) days to a lifetime suspension.

**195—9.122(99D) Acts injurious to racing.** Any misconduct on the part of a racetrack operator or participant, fraudulent in its nature or injurious to the character of the turf, although not specified in these rules, is forbidden. Any person or persons who individually, or in concert with one another, shall fraudulently and corruptly, by any means, affect the outcome of any race or affect a false registration or commit any other act injurious to the sport, shall be guilty of a violation.

**195—9.123(99D) Conspiracy to violate rules.** If two (2) or more persons shall combine and confederate together in any manner, regardless of where the persons may be located, for the purpose of violating any of these rules and shall commit some act in furtherance of the said purpose and plan, it shall constitute a conspiracy and a violation.

**195—9.124(99D) Sworn oaths.** In any case where an oath is administered by judges, or a representative of this commission under the Iowa rules of racing, or a notary public, or any other person legally authorized to administer oaths, if the party knowingly swears falsely or withholds information pertinent to the investigation, that party shall be fined or suspended, or both.

**195—9.125(99D) Association with undesirables.** No owner, driver, trainer, groom attendant, or any other person having charge of or access to any horse shall at any time associate with, consort with or in any manner communicate with any known bookmaker, tout, or persons of similar pursuits either on or off the track. If the reputation of gambler, bookmaker, tout, or person of similar pursuit is notorious, the owner, driver, trainer, groom attendant, or other persons having charge of, or access to any horse shall be presumed to have knowledge of the fact. Persons violating this rule will be suspended for a period of not less than thirty (30) days to a lifetime suspension.

**195—9.126(99D) Bookmaking.** Anyone guilty of making a handbook on the grounds of any racetrack operation shall be ejected from the ground, and denied further admission, and any owner, driver, or other person interested in any horse or horses at said meeting, who shall be guilty of betting with or through any such handbook, shall be ejected from the ground or denied admission by order of the stewards.

**195—9.127(99D) Solicitation of wagers.** If any trainer, driver, stable employee, or other person solicits bets, from the public by correspondence or other methods, to be made on the horses in any stable, or passes information to outsiders for betting purposes, such person or persons so offending shall be ruled off the course or denied admission by order of the stewards.

**195—9.128(99D) Suspension until paid.** All persons who shall have been fined under these rules shall be suspended until said fine shall have been paid in full.

**195—9.129(99D) Fines and penalties recorded.** All fines and other penalties imposed by the judges or starter on any person or horse on the grounds of a track shall be recorded in the judges' book. Written or printed notice thereof shall be delivered to the person penalized; notice shall be posted immediately at the office of the track, and notice shall be forwarded immediately to the office of the USTA. All penalties imposed on a driver shall be recorded by track officials on the reverse side of the driver's USTA or Iowa license.

**195—9.130(99D) Definition of suspension.** Whenever the penalty of suspension is prescribed in these rules, it shall be construed to mean an unconditional exclusion and disqualification from the time of receipt of written notice of suspension from privileges and uses of the course and grounds of a track during the progress of a race meeting, unless otherwise specifically limited when suspension is imposed, such as a suspension from driving. A suspension or expulsion of either a husband or wife shall apply in each instance to both the husband and wife. The suspension becomes effective when notice is given unless otherwise specified.

**195—9.131(99D) No right to compete.** No horse shall have the right to compete while owned or controlled wholly or in part by a suspended, expelled, disqualified, or excluded person. An entry made by or for a person or of a horse suspended, expelled, or disqualified, shall be held liable for the entrance fee thus contracted without the right to compete unless the penalty is removed. A suspended, disqualified, or excluded person who shall drive, or a suspended or disqualified horse which shall perform in a race shall be fined not less than fifty dollars (\$50), nor more than one hundred dollars (\$100) for each offense.

**195—9.132(99D) Fraudulent transfer.** The fraudulent transfer of a horse by any person or persons under suspension in order to circumvent said suspension, shall constitute a violation.

**195—9.133(99D) Track enforcement of penalties.** Any track willfully allowing a suspended, disqualified or excluded person to drive in a race, or a suspended or disqualified horse to start in a race or a performance against time, after notice, shall be, together with its officers, subject to fine not exceeding one hundred dollars (\$100) for each offense, or suspension of license.

**195—9.134(99D) Use of track grounds.** Any track willfully allowing the use of its ground by an expelled or unconditionally suspended person or horse shall be, together with its officers, subject to a fine not exceeding fifty dollars (\$50) for each offense or suspension of license.

**195—9.135(99D) Exclusion.** Whenever a person is excluded from a pari-mutuel track by the licensee, the commission, and the USTA shall be notified.

**195—9.136(99D) Track officers.** An expelled, suspended, disqualified, or excluded person cannot act as an officer of a track. A track shall not, after notice from the commission em-

ploy or retain in its employ an expelled, suspended, disqualified, or excluded person. Any track found violating this rule shall be fined not to exceed five hundred dollars (\$500).

**195—9.137(99D) Dishonored check.** Any person who pays an entry, a fine, or other claim to this commission by a draft, check, order, or other paper, which upon presentation is protested, payment refused, or otherwise dishonored, shall be subject to a fine not exceeding the amount of said draft, check, or order. Said persons and horses shall be suspended until the dishonored amount and fine are paid.

**195—9.138(99D) Protests.** Protests may be made only by an owner, manager, trainer, or driver of one of the contending horses, at any time before the winnings are paid over, and shall be reduced to writing and sworn to, and shall contain at least one specific charge which, if true, would prevent the horse from winning or competing in the race.

**195—9.139(99D) Testify under oath.** The judges shall in every case of protest demand that the driver and the owner or owners, if present, shall immediately testify under oath. In case of their refusal to do so, the horse shall not be allowed to start or continue in the race, but shall be ruled out, with a forfeit of entrance money.

**195—9.140(99D) Race under protest.** Unless the judges find satisfactory evidence to warrant excluding the horse, they shall allow the horse to start or continue in the race under protest and the premium, if any is won by that horse, shall be forthwith transmitted to the USTA to allow the parties interested an opportunity to sustain the allegations of the protest.

**195—9.141(99D) Frivolous claim.** Any person found guilty of protesting a horse falsely and without cause or merely with intent to embarrass a race, shall be punished by a fine not to exceed one hundred dollars (\$100), or by suspension or expulsion.

**195—9.142(99D) Change in penalties.** The commission may vacate, modify, or increase any penalty imposed by the judges. In the event an appellant fails to appear at the hearing without good cause, the appellant may be fined not to exceed one hundred dollars (\$100), or receive a suspension not to exceed thirty (30) days.

**195—9.143(99D) Distribution of pools.** Nothing herein contained shall affect the distribution of the pari-mutuel pools when such distribution is made upon the official placing at the conclusion of the heat or race.

**195—9.144(99D) Funds held by USTA.** In case of appeal or protest, the purse money affected will be deposited with the USTA in trust funds pending the decision of the appeal.

**195—9.145(99D) Suspension of judge.** Any judge may be suspended for refusal to accept a protest or appeal or for refusing to act as witness for a person seeking to swear to a protest or appeal.

**195—9.146(99D) Time.** At an extended meet, in every race or performance against time, the time shall be accurately taken by one timer and an approved electric timing device and placed in the record as minutes, seconds, and fifths of seconds. Upon the decision of each race, the time shall be publicly announced or posted. No unofficial timing shall be announced or admitted to the record and when the timers fail to act, no time shall be announced or recorded for that race.

**195—9.147(99D) Error in time.** In any case of alleged error in the record, announcement, or publication of the time made by a horse, the time so questioned shall not be changed to favor said horse or owner except upon the sworn statement of the judges and timers who officiated in the race.

**195—9.148(99D) Leading horse times.** The leading horse shall be timed and that time only announced. No horse shall obtain a win race record by reason of the disqualification of another horse unless a horse is declared a winner by reason of the disqualification of a breaking horse on which it was lapped.

**195—9.149(99D) Dead heat.** In case of a dead heat, the time shall constitute a record for the horses making the dead heat and both shall be considered winners.

**195—9.150(99D) Misrepresentation of time.** Any person who shall be guilty of fraudulent misrepresentation of time or the alteration of the record thereof in any public race or performance against time shall be fined, suspended, or expelled, and the time declared not a record.

**195—9.151(99D) Time performance.** A record can be made only in a public race or performance against time, the horse to trot or pace the distance published according to rule. The word must be given by a licensed starter or presiding judge. The time must be taken by an approved electric timing device and one timer. The record of the race shall be signed by the judges, timer, and starter. A saliva and urine test shall be taken of all winning horses that start in a performance against time.

**195—9.152(99D) Judges at timing.** There shall be three (3) judges in the stand during such performance, who shall not act as official timers.

**195—9.153(99D) Time schedule.** No performance against time shall be earlier than 10 a.m.

**195—9.154(99D) Race against record.** In performances against time, a horse must start to equal or beat a specified time, and a losing performance shall not constitute a record.

**195—9.155(99D) Accompaniment permitted.** When a horse performs against time, it will be allowed accompaniment by any other horse in the performance, but not to precede or be harnessed with or in any way attached to that horse. If an auto, jeep, truck, or any other vehicle is used, the occupant or occupants of the accompanying vehicle shall not blow the horn, shout, strike the vehicle, or make any other noise aimed at scaring the horse to a greater effort.

**195—9.156(99D) Number of time trials.** At an extended meet, in performances against time, the horse must start to equal or beat a specified time, and a losing performance shall not constitute a record. The record shall be three (3) trials and the fastest winning time made by that horse.

**195—9.157(99D) Stable enclosures fenced.** All stable enclosures must be properly fenced and all racetrack operators shall control entries and departures to said area. A watchperson shall grant entry only to those persons properly identified. A record shall be kept of all visitors lacking proper credentials. They shall be admitted only after approval is given by the state steward or racing secretary.

**195—9.158(99D) Report of arrival and departure of horses.** At an extended meet, all horses arriving or leaving a race meeting must be registered with a gateperson. Upon entering, a horse's health certificate must be turned in at the gate.

The departure slip must be signed by the racing secretary before horses can be moved off the grounds. This slip must be collected by the gateperson.

**195—9.159(99D) Stable area security.** Each racetrack operator shall furnish gatepersons and night watchpersons for all stable enclosures. The operator shall furnish to the state steward a complete tabulation showing name, duty, place stationed, and portions of enclosures super-

vised by such gatepersons and night watchpersons. In the event horses are stabled outside the racetrack that are eligible to race at a meeting of the racetrack operator, the same precautions apply.

The racetrack operator shall also employ a sufficient number of guards to patrol the stable areas and make investigations.

**195—9.160(99D) Policing of premises.** The racetrack operator shall provide a sufficient number of guards, and also watchpersons, to maintain order on all parts of the racing enclosure. No tipsters shall be allowed on any part of the licensed premises. No groom or stable attendant shall loiter in the betting ring or any place else with the evident intention of making tips for remunerations or for free. Anyone found shall be reported to the board of stewards for appropriate action under Iowa racing rules. A written report shall be made by the stewards to said offender's employer.

**195—9.161(99D) Security reports.** Every person in charge of security at each racetrack shall submit a report each day of all incidents involving arrests and ejections, and all information relating to any criminal conduct, suspected or real, or any violation of the rules of the Iowa racing commission. Reports shall be submitted to the Iowa racing commission, the state steward, and the division of criminal investigation. At the discretion of the person in charge of security, matters of a confidential nature may be designated confidential and reported separately to the division of criminal investigation for investigative purposes.

**195—9.162(99D) Licensing.**

**9.162(1)** All persons participating in any capacity in a racing meeting, including all persons who perform services in connection with the conduct of the racing meeting, shall be required to obtain a license from the commission. The administrator of the commission may waive the application and fee requirements for volunteer mutuel and concession workers at non-extended meets. In accepting such waiver, the volunteer worker will sign an agreement (on a form provided by the commission) to abide by the rules of the commission and shall be subject to all rules as if they are holders of an occupational license.

**9.162(2)** Applicants for licenses may be called upon to submit satisfactory evidence of financial responsibility and, after a license has been issued, must maintain a record of financial responsibility during the period for which a license is issued.

**9.162(3)** An application for a license shall be made on a form prescribed by the commission and all licensees are obligated to know the provisions of the rules of the commission and the statutes governing racing. In compliance with Iowa Code section 99D.8A, each applicant must complete and sign an application on the form prescribed and published by the commission. The application shall state the full name, social security number, residence, date of birth, and other personal identifying information of the applicant that the commission deems necessary. The application shall state whether the applicant has any of the following:

- a. A record of conviction of a felony;
- b. An addiction to alcohol or a controlled substance;
- c. A history of mental illness or repeated acts of violence.

**9.162(4)** Each applicant shall submit to being fingerprinted and supply descriptions of physical characteristics to the commission in the manner prescribed on the application forms.

**9.162(5)** A person who knowingly makes a false statement on the application is guilty of an aggravated misdemeanor.

**9.162(6)** The holder of an occupational license shall consent to agents of the Iowa division of criminal investigation or commission employees designated by the administrator of the commission to the search without a warrant of the licensee's person, personal property and effects, and premises which are located within the racetrack enclosure or adjacent facilities under control of the license association to inspect or investigate for criminal violations of Iowa Code chapter 99D or violations of the rules adopted by the commission.

**9.162(7)** Licensing fees—commission. The following fees shall be charged by the Iowa racing commission for licenses issued:

For manager, assistant manager, concession operator, owner-trainer, owner-driver, trainer-driver, owner-trainer-driver, racing director, racing secretary, and mutuel manager: Twenty dollars (\$20).

For announcer, corporate director/officer, assistant racing secretary, authorized agent, chart writer, clerk of scales, steward/judge, film patrol, driver, owner, partnership, photofinish operator, starter, timer, tip sheet operator, track superintendent, trainer, veterinarian, and all other officials: Ten dollars (\$10).

For concession employee, groom, lead-out, mutuel employee, totalizator, and all others: Five dollars (\$5).

Duplicate licenses shall be available for five dollars (\$5).

**9.162(8)** The commission shall charge the applicant a fee set by the division of criminal investigation to cover the cost associated with the search and classification of fingerprints. This fee is in addition to any other license fee charged by the commission.

*a.* For the first license issued to any individual in Iowa, the commission shall collect a fee of sixteen dollars fifty cents (\$16.50) and remit such amount to the division of criminal investigation to defray the costs of criminal history investigations for each individual applicant.

*b.* For the second and all subsequent licenses issued to any individual in Iowa, the commission shall collect a fee of four dollars fifty cents (\$4.50) and remit this amount to the division of criminal investigation to defray the costs of criminal history investigations for each applicant.

*c.* Individuals applying for more than one license at the same time shall be charged only one fee above, as appropriate.

*d.* The fingerprint fees may be waived by the administrator of the commission at nonextended meets.

**9.162(9)** Denials. A license shall be denied if the applicant:

*a.* Owns, operates, or has an interest in any bookmaking or other illegal enterprise, or who is connected with or associated with any illegal enterprise.

*b.* Is unqualified, by experience or otherwise, to perform the duties required.

*c.* Has not demonstrated financial responsibility or has failed to meet any monetary obligation in connection with a race meeting held in this state.

*d.* Whose conduct in Iowa or elsewhere in connection with standardbred racing has been objectionable, obnoxious, or detrimental to the best interests of racing.

*e.* Has made misrepresentations or false statements on the license application.

*f.* Has engaged in any activity or practice which in the opinion of the commission is undesirable or detrimental to the best interests of racing in the state of Iowa by reflection on the honesty and integrity of the spirit of racing.

*g.* Has been guilty of fraud or attempted fraud.

*h.* Is not of good repute and moral character as defined in subrule 5.7(4).

**9.162(10)** The commission may impose probationary sentences on licensees. Any licensee who by an overt act of commission or omission violates any of the rules of the commission during the probationary sentence period shall thereupon have the license revoked.

**9.162(11)** In considering each application for a license, the stewards may require the applicant, as well as endorsers of the applicant, to appear before them and show that said applicant is qualified in every respect to receive the license requested. Ability as well as integrity must be clearly shown by the applicant in order to receive a license.

**9.162(12)** Standardbred racing and participation therein in the state of Iowa is a privilege, and not a right, granted only by the commission by license subject to compliance with the rules of the commission and Iowa Code chapter 99D. Acceptance of a license shall be construed as consent and agreement to the rules, and failure to comply shall be grounds for immediate revocation of this license.

**9.162(13)** All licensees, when present in the stable area, paddock area, or any other restricted area, including behind the mutuel lines, must wear their license badge issued by the racing commission or passes issued by the association.

**9.162(14)** All licenses are temporary until completion of necessary background investigation, including fingerprinting processing through the division of criminal investigation and the FBI, and research and review of records on file with the National Association of State Racing Commissioners, courts, law enforcement agencies, and the commission. Any licensed person who allows another person use of the license badge for the purpose of transferring any of the benefits may be suspended, fined, or have the license revoked. No license shall be transferable and no duplicate cards shall be issued except upon payment of a fee.

**9.162(15)** The responsibility of licensing an employee rests with the employer. Employment of a nonlicensed individual without reporting to the stewards or immediately obtaining a license for the employee may be cause for suspension or fine, or both.

**9.162(16)** Fraudulent and corrupt practices—grounds for denial, suspension, or revocation of a license. In addition to the criteria in subrule 9.162(9), the commission in its discretion may refuse to issue a license to an applicant, or may suspend or revoke a license issued, or order disciplinary measures, on the following grounds:

*a.* Offering, promising, giving, accepting, or soliciting a bribe in any form, directly or indirectly, to or by a person having any connection with the outcome of a race, or failure to report knowledge of same immediately to the stewards. See also Iowa Code section 99D.24(1) “c” and (4).

*b.* Causing or attempting to cause, or participation in any way in any attempt to cause the prearrangement of a race result, or failure to report knowledge of same immediately to the stewards. See also Iowa Code section 99D.24(1) “c” and (4).

*c.* Making false or misleading statements to the commission or the stewards, in the course of an investigation.

*d.* Failure to comply with any order or ruling of the commission, stewards, or a racing official pertaining to a racing matter.

*e.* Use of profane, abusive, or insulting language to, or interference with a commissioner, a member of the commission staff, or racing official, while they are discharging their duties.

*f.* Illegal sale, possession, receipt, or use of a controlled substance; intoxication; use of profanity; fighting or any conduct of a disorderly nature on association grounds.

*g.* Employment or harboring of unlicensed persons required by these rules to be licensed.

*h.* Discontinuance of or ineligibility for activity for which the license was issued.

*i.* Failure to disclose the true ownership or interest in any horse.

*j.* Possession, on association grounds without written permission from the commission or stewards, of:

(1) Firearms.

(2) Battery or buzzer, or electrical device, or other appliance which could be used to alter the speed of a horse in a race or a workout. See also Iowa Code section 99D.24(6).

*k.* Possession on association grounds by a person other than a licensed veterinarian of:

(1) Hypodermic needle or hypodermic syringe, or other device which could be used to administer any substance to a horse.

(2) Narcotics or medication, or drug, or substance which could be used to alter the speed of a horse.

*l.* Cruelty to or neglect of a horse entrusted to the licensee’s care.

*m.* Conviction of a crime in any state or jurisdiction. Consideration shall be given to the seriousness of the crime (felony, serious misdemeanor, misdemeanor, etc.), the date of the conviction, and the nature of the crime.

*n.* The applicant or licensee is or has been suspended or ruled off a recognized race course in another jurisdiction by a board of stewards or the commission of that jurisdiction.

*o.* Violation of any rule of the commission, or aiding or abetting any person in the violation of any such rule.

**195—9.163(99D) Admission to parts of premises.** Only the following listed persons shall be entitled to enter the stable area of a racetrack operation: Members, officers, and employees of the commission who must show their identification cards; management and employees per-

forming duties therein; racing officials; police officers; owners, trainers, grooms, and others performing official duties in the stable area and who possess a valid license from the commission.

Except that the racetrack operator may authorize the entry of other persons, subject to the following minimum conditions: (1) That the authorized persons be required to sign a daily guest log, and record the time of entry and the time of departure; (2) that the authorized persons be required to indicate the name of the person whom they are visiting.

The racetrack operator shall adopt such rules and procedures as deemed necessary to protect the security of the stable area and to prevent the entry of unauthorized persons to that portion of the premises.

Any person violating this rule shall be evicted from the licensed premises by the racetrack operator and thereafter denied admission as a patron or otherwise to any portion of the licensed premises.

**195—9.164(99D) Identification cards and badges.** The Iowa racing commission shall issue identification badges or cards to those persons entitled to enter the stable area. The badges shall be worn openly at all times while performing duties in the area. The identification card shall be displayed upon request of security guards and watchpersons.

An identification card or badge may be taken up by direction of the state stewards upon reasonable cause.

**195—9.165(99D) Admission statements.** Each racetrack operator must prepare daily an itemized, certified admission statement showing:

**9.165(1)** A summary, separating clubhouse and grandstand, showing number of fully paid admissions, complimentary admissions, service charge tickets, and tax-free admission for officials, corporation officers, press, horsemen, employees, racing officials, or other persons entering on tax-exempt admissions; also, the total amount from fully paid tickets, from complimentary or service charge tickets, and all other amounts received as a result of admissions or taxes and the totals therefrom of the amount due the federal government and the amount due the state as a result of the admission ticket tax.

**9.165(2)** Such summary shall also include a report of the daily turnstile reconciliations with the actual count using number and location of turnstiles, with notations listing discrepancies, if any.

**195—9.166(99D) Admissions records.** The racetrack operator shall keep accurate books and records showing total attendance, admissions, both paid and complimentary, the number of taxable and tax-free admissions, and the gross receipts from admissions for each racing day of a meeting. These books and records shall be open to the commission and its duly authorized representatives for examinations and checks to ascertain the amount of taxes due and whether or not these taxes have been paid.

All such reports shall be delivered to the commission on the following day. The weekly reports previously mentioned shall be a complete consolidation of all daily reports.

**195—9.167(99D) Commission approval of tickets and credentials.** For all extended meets, the administrator of the commission must approve all racetrack operators' proposed tickets and credentials before an order can be placed with a printer or supplier.

**9.167(1)** All tax-exempt tickets or credentials of admission for a race meeting shall be designed to include a serial or control number and code letter or number designating classification. These credentials or tickets are to be designed so that they cannot be used for admission more than once on any one racing day and applicable only to the current racing day.

**9.167(2)** All tax-exempt tickets and credentials shall carry in bold type: "Not transferable and will be revoked if transferred."

**9.167(3)** The following shall be printed on all taxable admission tickets and credentials including complimentary, service charge or reduced rates of admission: "State tax—fifty cents."

**195—9.168(99D) Credential and ticket specimens.** For all extended meets, the operator shall require each printer or other supplier to file with the commission certified copies of all manifests, showing serial number and the various types of admission tickets and credentials, including tax-exempt and taxable, furnished to the track immediately after they are ordered.

Each operator must file a certified gate card, showing in complete detail specimen tickets and credentials, with the administrator of the commission at least ten (10) days before the opening of a race meeting. Said tickets and credentials must be approved by the commission administrator before they can be sold or distributed by the operator.

**195—9.169(99D) Tax-exempt credentials.** The racing secretary may issue tax-exempt credentials of admissions only to those persons showing a current license or receipt, and others as may be authorized by the administrator of the commission.

**9.169(1)** The racing secretary shall compile alphabetical group listings of all tax-exempt credentials by classifications authorized by the commission to be issued showing the following: Serial number of credential issued, correct name, kind of license in evidence with number of license or number from license fee receipt. One complete report must be filed with the commission on or before ten (10) days after the opening date of a race meeting, and an additional report for the remainder of the meeting must be filed on closing day.

**9.169(2)** Designated employees and officials of the racetrack operator may issue tax-exempt credentials for employee admission, subject to requirements, restrictions, and limitations as set forth in each respective classification as follows:

a. Regular employee's tax-exempt admission credentials shall be issued only to persons directly on the operator's payroll, and actively employed during the race meeting.

b. Concessionaire tax-exempt admission credentials shall be issued only to persons actually on concessionaire payroll and working during the race meeting. Concession tax-exempt employee credentials shall be issued only with the use of an identification badge, provided by the concessionaire, showing the employee's concession number and name. Said badge to be attached to garment and prominently worn.

**9.169(3)** Designated employees and officials of the operator, and in behalf of the operator, must file requisitions with the administrator of the commission in order to obtain authorization for the issuance of tax-exempt tickets or credentials of admission to members of the working press, service employees, officials, and to persons having official business at the track during a race meeting. Said requisitions prescribed by the administrator of the commission shall be submitted in duplicate under the signature of the commission chair, along with duplicate listing of passes requested, and shall be subject to approval by the commission administrator.

**9.169(4)** The following requirements, restrictions, and limitations shall be observed in the issuance of tax-exempt admission credentials in the classification as hereinafter set forth.

a. Service employee's tax-exempt admission credentials shall be issued only to persons actually engaged in providing service at a race meeting for a contractor, service company, public utility, or others employed during a race meeting. Request for credentials must be made on purveyor's official stationery under duly authorized signature setting forth name of each such employee, duties, and justification for each pass requested.

b. Business tax-exempt admission credentials may only be issued to persons having official business at the track during racing hours and not classified as service employees. Requests for such credentials must be made on company or agency official stationery under the signature of ranking official, setting forth the name of each person for whom a pass is requested, along with duties and justifications.

c. Press tax-exempt credentials may only be issued to members of the working press when requested on the publication's official stationery under the signature of the editor or manager. All requests shall be subject to limitations based on circulation.

d. Official tax-exempt credentials may only be issued to corporate officials and directors of the track, racing officials, and to such others which are supported with proper justifications.

**195—9.170(99D) Tax-exempt credentials report.** The operator must file reports with the commission containing all information relative to the issuance of tax-exempt credentials or other evidence of right to enter grounds. These reports shall include:

1. Classification or type of ticket or credential.
2. The name of pass holder.
3. Serial number of pass.
4. The duties or official business of each pass holder.

One complete report must be filed with the commission on or before ten (10) days after opening date of the race meeting and an additional supplementary report for the remainder of the meeting must be filed on the closing day. In the event the commission employees have custody of tax-exempt tickets and credentials and issuance of tickets or credentials is supported by requisitions prescribed by the commission administrator, at the discretion of the administrator, the filing of the above-mentioned reports may be waived.

A summary shall be prepared by the operator or employees of the commission indicating by classification the amount of tax-exempt tickets or credentials printed, issued, voided, and on hand in each instance. Said summaries are to be submitted to the commission on the closing day of each racing meet.

**195—9.171(99D) Track responsible for credentials.** The operator and duly appointed issuing agents or employees issuing tax-exempt credentials on behalf of the commission shall be held accountable for all tax-exempt tickets and credentials received, issued, voided, and on hand until the final audit has been completed by representatives of the commission.

All unissued and voided tax-exempt tickets and credentials shall be retained until they are released by the commission administrator. Upon release, they are to be destroyed by burning.

**195—9.172(99D) Commission access to records.** Representatives of the commission shall have access to all payrolls and other supporting evidence to verify the eligibility of all holders of tax-exempt tickets or credentials.

The operator shall be subject to the payment of state tax on all disallowed tax-exempt tickets or credentials issued, requisitioned, or unaccounted for by the operator. Additional assessment for unaccounted and disallowed tax-exempt tickets or credentials will be computed on the basis of fifty (50) cents for each such ticket, multiplied by the number of racing days granted to the operator or on a daily usage basis if certified by a certified public accountant.

**195—9.173(99D) Turnstiles.** All gates for the admission of patrons shall have turnstiles equipped with meters, and the turnstiles must be numbered consecutively or have other means of individual identification. The racetrack operator shall test the turnstile equipment at the opening of each racing day. This test is to be made under the supervision and direction of the commission or agents the commission may appoint. A daily turnstile reconciliation is to show a beginning reading and final reading of each turnstile, the total admitted, and also a classified breakdown of all types of admittance. The operator must employ methods, subject to the approval of the commission, to record serial numbers and code letters or numbers each day a tax-exempt ticket or credential is used for admittance, in order to substantiate all tax-exempt admissions.

**195—9.174(99D) Admission to track.** No person shall be admitted to any racetrack after the admission gates have been manned and until the sixth race is run, except by tax-exempt ticket, credentials or the payment of state tax.

The operator must employ methods and procedures in coordination with the start of manning admission gates each day to conduct a thorough check of admission enclosure areas allowing only those persons to remain who produce tax-exempt credentials of admission. All others shall be escorted to the gate and readmitted only through turnstiles on admissions subject to state tax.

**195—9.175(99D) Disciplinary actions.**

**9.175(1) *Disciplinary measures by stewards.*** Upon the finding of a violation of these rules, or an attempted violation, on the grounds of a licensed facility, the stewards may suspend the license of any person for no greater period than thirty (30) days after the close of the race meeting or they may impose a fine not to exceed five hundred dollars (\$500), or both. They may also suspend the license of any person currently under suspension or in bad standing in any other state or jurisdiction by the state racing commission or a board of stewards of any recognized meeting. All suspensions and fines must be reported to the commission. If the punishment so imposed is not, in the opinion of the stewards, sufficient, they shall so report to the commission. All fines and suspensions imposed by the stewards shall be promptly reported to the racing secretary and racing commission in writing. See rule 4.3(99D), paragraph "6."

a. Fines must be paid within forty-eight (48) hours and delinquents may be suspended. All moneys imposed as fines shall be paid directly at the commission office at the track where the infraction occurred.

b. When a horse or the holder of an occupational license is suspended by the stewards at one track, the suspension shall immediately become effective on all other tracks under the jurisdiction of the commission until the case in question is decided by the commission.

c. Rules pertaining to and rulings against licensees shall apply in like force to the spouse and members of the immediate family or households of the licensee, unless there is a showing on the part of an affected spouse, or affected member of the immediate family or household of the licensee, and the stewards in their discretion so find, that the continuation of participation in racing by such affected person will in no way circumvent the intent of the rule, or effect of the ruling, by permitting a person under the control or direction of the licensee to serve in essence as a substitute for a suspended licensee, or person ineligible to participate in a particular activity.

**9.175(2) *Disciplinary measures by commission.*** Upon the finding of a violation of these rules, or an attempted violation, on the grounds of any licensed racetrack, during the conduct of a race meeting in the state, the commission may:

a. Deny, suspend, revoke, or declare void any license applied for or issued by the commission, or fine a holder of an occupational license not to exceed one thousand dollars (\$1,000), or both. See Iowa Code section 99D.7(18).

b. Upon a hearing de novo of the matter determined by the stewards, the commission may affirm, reverse, or revise the stewards' ruling in all respects.

c. Cause any person, licensed or unlicensed, found to have interfered with, or contributed toward the interference of, the orderly conduct of a race or race meeting or any person whose presence is found by the commission to be inconsistent with maintaining the honesty and integrity of the sport of racing, to be excluded or ejected from the entire grounds or any portion of a licensed racetrack for any length of time the commission may deem the presence of that person remains inconsistent with maintaining the honesty and integrity of the sport of racing in the state of Iowa. This rule should not be construed to limit in any way the right of the track licensee to eject or exclude any person for any reason other than race, color, creed, sex, or national origin.

d. When the holder of an occupational license has that license suspended or revoked for any fraudulent practice in relation to a particular horse wholly or partly owned by that licensee, the licensee shall return all money or prizes which their horse has fraudulently won.

**195—9.176(99D) *Revocation of credentials.*** It shall be the duty of each operator to revoke and take up all tax-exempt tickets or credentials immediately of all employees who have been terminated or leave employment and all others whose admission credentials have been revoked by the track operator, or the commission. All such tickets or credentials shall be submitted to the commission's admission revenue representative.

Two (2) copies of each revocation order, prescribed by the commission, duly signed by the head of the department authorizing revocations, shall be submitted to the commission's revenue representative. Said order shall state reasons for revocation.

**195—9.177(99D) Inspections and searches.**

**9.177(1)** The commission or the state steward investigating for violations of law or the rules of the commission shall have the power to permit persons authorized by either of them to search all persons licensed by the commission, and all employees and agents of any racetrack operator licensed by said commission. They may also enter and search the stables, rooms, vehicles, or other places within the track enclosure at which a meeting is held or other tracks or places where horses eligible to race at said race meeting are kept. Further, they may search all vendors who are permitted by said racetrack operator to sell and distribute their wares and merchandise within the racetrack enclosure. These searches may be made in order to inspect and examine the personal effects or property on such persons or kept in such stables, rooms, vehicles, or other places as mentioned. Each licensee, in accepting a license, does thereby irrevocably consent to searches and waives and releases all claims or possible actions for damages that the licensee may have incurred by virtue of any action taken under this rule. Each employee of a licensed operator, in accepting employment, and each vendor who is permitted to sell and distribute merchandise within the racetrack enclosure, does thereby irrevocably consent to such searches and waives and releases all claims or possible actions for damages they may have incurred by virtue of any action taken under this rule. Refusal by any person to be searched pursuant to this rule may result in license suspension or revocation.

**9.177(2)** The commission delegates the authority to conduct inspections and searches, under this rule, to the division of criminal investigation for the state of Iowa.

These rules are intended to implement Iowa Code chapter 99D as amended by 1986 Iowa Acts, Senate File 2175, sections 711 to 715.

[Filed emergency 5/17/85—published 6/5/85, effective 5/17/85]

[Filed emergency 10/20/86—published 11/19/86, effective 10/20/86]

CHAPTER 10  
APPLICATION FOR TAX CREDIT BY  
HORSE RACING LICENSEES

[Prior to 11/19/86, Racing Commission(693)]

**195—10.1(99D) Existing fair horse tracks.**

**10.1(1)** All licensees licensed for horse racing desiring to make application for the tax credit authorized under 99D.15(2) shall do so in such form as the commission may require. The licensee may make application for the tax credit for proposed construction prior to the racing dates from which the pari-mutuel tax will be taken and to which the credit will be applied. Those costs of construction that the commission deems as qualifying under Iowa Code section 99.D15(2) shall be approved and contingent upon sufficient funds from the pari-mutuel tax being paid into the special fund in the office of the state treasurer ten days following the last day of the race meeting of the licensee, a credit in the amount approved by the commission shall be paid to the licensee or a financial institution designated by the licensee.

**10.1(2)** The information required on the application shall include, but is not limited to, the items enumerated in paragraphs "a" to "e" below and the licensee shall also furnish documented evidence of these items:

- a. The general nature of the construction, construction schedule, and detailed cost estimates.
- b. The purpose of the new construction for pari-mutuel use, evidencing that said use was genuine and bona fide (exclusive use for pari-mutuel purposes is not necessary).
- c. The amount of indebtedness incurred as a result of the construction on the licensed facility.
- d. An itemization of the cost, upon completion of construction, including the architect and design expenses, using generally accepted accounting principles and verified by an audit, performed by an independent certified public accountant selected by the licensee and approved by the commission.
- e. A description of any public safety concerns, human and animal welfare concerns, and the economic justification of any proposed construction.

**10.1(3)** Types of construction which qualify for the credit are:

- a. New construction of permanent facilities, defined to include that construction which is ordinary, necessary, and customary at pari-mutuel facilities.
- b. Portions of facilities permanent in nature at most horse tracks, but designed specifically to allow them to be transported from one track to another.

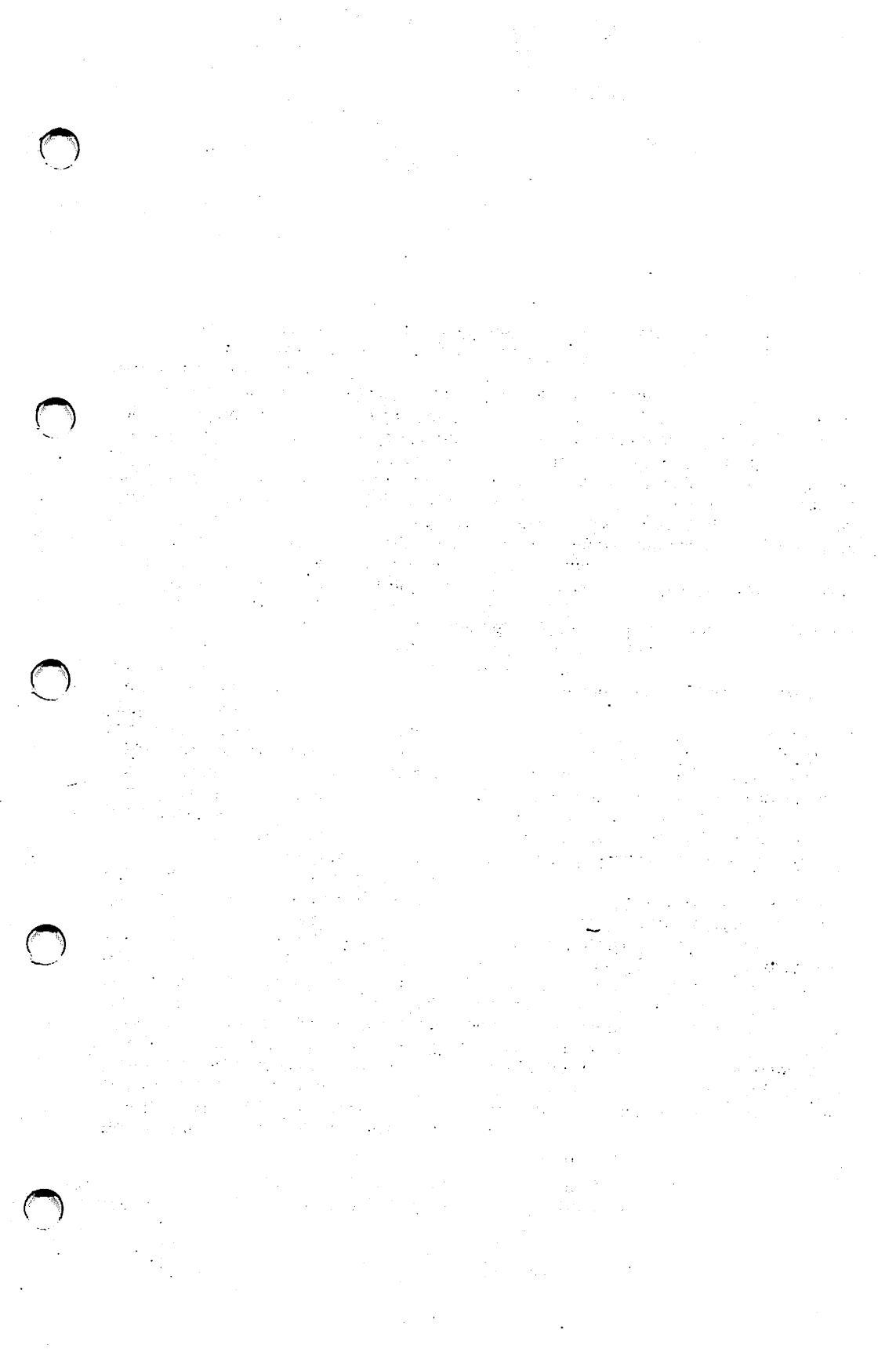
All construction must be for the purposes of conducting pari-mutuel wagering and there must be a genuine and bona fide use for pari-mutuel purposes in order to qualify for the tax credit. The commission shall not approve an application submitted pursuant to this rule unless the commission determines that the construction will promote the safety or comfort of the people or horses and is in the best interest of horse racing in this state generally.

**10.1(4)** The commission will decide which costs of construction qualify for the tax credit under Iowa Code subsection 99D.15(2) and will certify the amount to be paid to the licensee.

This rule is intended to implement Iowa Code chapter 99D as amended by 1986 Iowa Acts, Senate File 2175, sections 711 to 715.

[Filed emergency 10/31/85—published 11/20/85, effective 11/20/85]

[Filed emergency 10/20/86—published 11/19/86, effective 10/20/86]



other than in rebuttal, must be filed with the board not later than the beginning of the first day of the first hearing unless otherwise provided by the board. One copy of such exhibits, compilations or statements shall be furnished to each party upon request. Any other party desiring to introduce any exhibit during the course of a hearing shall furnish an original and three (3) copies of such exhibits for the use of the board, and one copy to each party upon request, unless otherwise provided by the board.

**7.2(7) Parties.** The parties to proceedings before the board are complainants, petitioners, applicants, respondents and intervenors. The term corporation as used herein shall include municipal corporation.

a. *"Complainants"* are persons, corporations or associations who complain to the board by written complaint of any act or things done or omitted to be done in violation, or claimed to be in violation, of chapter 476, or of any order or rules of the board shall be deemed a complainant in any proceeding initiated on its own motion.

b. *"Petitioners"* and *"applicants"* are parties who by written petition, application or filing, apply for or seek relief from the board, and who are not otherwise designated in this rule.

c. *"Respondents"* are parties against whom a complaint or petition is filed, or who by reason of interest or possible interest in the subject matter of a petition or application or the relief sought therein are made respondents, or to whom an order is directed by the board initiating a proceeding.

d. *"Intervenors"* are persons, corporations (including municipal corporations), associations or public authorities who upon written petition, are permitted to intervene in any proceeding before the board.

(1) Intervention of right:

In the case of any inquiry, investigation or hearing on any matter relating to rates or other charges or services within any city or county, the city or county may become a party to the proceeding and an intervenor as a matter of right by filing with the board its written appearance.

Any persons, corporations (including municipal corporations), incorporated associations or public authorities will be permitted to intervene as a matter of right in a proceeding:

When the petitioner has an interest in the subject matter of the proceeding, and

The petitioner's interests are unique and require representation in addition to the existing parties. For the purpose of this provision, existing parties shall include the original parties to the proceeding plus all intervenors that have been approved prior to the filing of the petition for intervention in question. In determining whether a petitioner's interests are unique, requiring representation in addition to the existing parties, the consumer advocate's role of representing the public interest shall not be interpreted as representing every potential interest in a proceeding before the board.

(2) Permissive intervention:

Any persons, corporations (including municipal corporations), associations, or public authorities having an interest in the subject matter of the proceedings but not meeting the requirements of intervention of right, may be permitted to intervene at the discretion of the board. In determining whether to grant intervention, the board shall consider:

1. The prospective intervenor's precise interest in the subject matter of the proceeding.
2. The effect of a decision which may be rendered upon the prospective intervenor's interest.
3. The extent to which the prospective intervenor's interest will be represented by other parties.
4. The availability of other means by which the prospective intervenor's interest may be protected.
5. The extent to which the prospective intervenor's participation may reasonably be expected to assist the development of a sound record through the presentation of relevant evidence and argument.

e. Any party to the proceeding may appear and be heard by an attorney at law

authorized to practice in the state of Iowa. A natural person may appear and be heard in his own behalf. A corporation or association may appear and present evidence by any bona fide officer or employee, provided however, only persons admitted to practice as attorneys and counselors at law shall represent a party in proceedings before this board in any matter involving the exercise of legal skill or knowledge except with consent of the board. All persons appearing in proceedings before this board shall conform to the standard of ethical conduct required of attorneys before the courts of Iowa. If any person does not conform to such standards, the board may decline to permit such person to appear in any proceeding.

f. The board or its examiner may permit all persons, corporations, associations or public authorities to be heard, to examine and cross-examine witnesses, but they shall not be parties to the proceedings unless so designated in subrule 7.2(7), provided, however, that testimony or statement of any person so appearing shall be given under oath and that such person shall be subject to cross-examination by the parties to the proceeding.

g. The board's staff, its representatives and agents may appear at any hearing and shall have all rights of participation as a party to the proceeding.

**7.2(8) Method of intervention.** Unless otherwise ordered by the board, the request to intervene in a proceeding shall be by petition to intervene filed on or before twenty (20) days following the order setting a procedural schedule, but not afterward, except for good cause shown.

A petition to intervene shall substantially comply with the form prescribed in board subrule 2.2(10). The original and ten (10) copies of the petition shall be filed with the board.

The board may, in its discretion, grant or deny such petitions except those petitions meeting the criteria of an intervention of right. The board may also permit intervention by such person limited to particular issues or to a particular stage of the proceeding.

When two (2) or more intervenors have substantially the same interest, the board, in its discretion, may order consolidation of petitions and briefs and limit the number of attorneys allowed to participate in the proceedings to avoid a duplication of effort.

The granting of any petition to intervene shall not have the effect of changing or enlarging the issues specified in the board's notice of hearing, unless the board shall, on motion, amend the same.

**7.2(9) Amendments to pleadings.** Amendments to pleadings may be allowed upon proper motion at any time during the pendency of the proceeding upon such terms as shall be just and reasonable.

**7.2(10) Defective filings.** There will be accepted for filing only such applications, pleadings, documents, testimony and other submissions as conform to the requirements of any applicable rule or order of the board or applicable statute. Applications, pleadings, documents, testimony and other submissions tendered for filing which fail to substantially conform with applicable requirements will be considered defective and may be rejected unless waiver of the relevant requirement has been granted by the board prior to filing. A filing may be rejected by the board even though board employees have file-stamped or otherwise acknowledged receipt of the filing.

No application, pleading, document, testimony or other submission filed with a tariff incorporating changes in rates, charges, schedules, or regulations for public utility service shall be rejected as defective under this rule after the date of a board order docketing investigation of the tariff as a formal proceeding.

This rule is intended to implement Iowa Code sections 474.6, 476.1 to 476.3, 476.6, 476.8, 476.10, 476.31 to 476.33.

### **199—7.3(476) Complaints.**

**7.3(1) Complaints.** Complaints shall be handled by the board as provided by section 476.3.

**7.3(2) Form of complaint.** A complaint shall substantially comply with the form prescribed in board subrule 2.2(7). The original and ten (10) copies of the complaint shall be filed with the board.

[Filed February 18, 1966]

[Filed without notice 10/8/75—published 10/20/75]

[Filed 2/11/76, Notice 7/14/76—published 2/23/76, effective 3/29/76]

[Filed emergency 8/10/77 after Notice 6/1/77—published 9/7/77, effective 8/10/77]

[Filed 8/7/78, Notice 2/8/78—published 9/6/78, effective 10/11/78]

[Filed emergency 9/18/78—published 10/4/78, effective 10/11/78]

[Filed emergency 6/30/81 after Notice 3/4/81—published 7/22/81, effective 7/1/81]

[Filed emergency 7/10/81—published 8/5/81, effective 7/10/81]\*

[Filed 8/28/81, Notice 7/8/81—published 9/16/81, effective 10/21/81]

[Filed 10/20/81, Notice 11/26/80—published 11/11/81, effective 12/16/81]†

[Filed 12/17/81, Notice 8/19/81—published 1/6/82, effective 2/10/82]

[Filed 12/31/81, Notice 8/5/81—published 1/20/82, effective 2/24/82]

[Filed 1/28/82, Notice 9/30/81—published 2/17/82, effective 3/24/82]

[Filed 2/12/82, Notice 10/28/81—published 3/3/82, effective 4/7/82]

[Filed emergency after Notice 2/22/82, Notice 1/6/82—published 3/17/82, effective 2/24/82]

[Filed emergency 6/28/82—published 7/21/82, effective 6/28/82]

[Filed 11/19/82, Notice 9/1/82—published 12/8/82, effective 1/12/83]

[Filed emergency 6/3/83—published 6/22/83, effective 7/1/83]

[Filed 9/9/83, Notice 6/8/83—published 9/28/83, effective 11/2/83]

[Filed without Notice 9/26/83—published 10/12/83, effective 12/1/83]

[Filed 10/21/83, Notice 8/3/83—published 11/9/83, effective 12/14/83]

[Filed without Notice 11/4/83—published 11/23/83, effective 1/1/84]

[Filed 11/4/83, Notice 8/31/83—published 11/23/83, effective 1/1/84]

[Filed 1/27/84, Notice 11/23/83—published 2/15/84, effective 3/21/84]

[Filed 1/27/84, Notice 12/21/83—published 2/15/84, effective 3/21/84]

[Filed 2/24/84, Notice 11/23/83—published 3/14/84, effective 4/18/84]

[Filed 4/9/84, Notice 1/18/84—published 4/25/84, effective 5/30/84]

[Filed 11/6/84, Notice 8/29/84—published 11/21/84, effective 12/26/84]

[Filed 11/16/84, Notice 9/12/84—published 12/5/84, effective 1/16/85]

[Filed 5/31/85, Notice 4/24/85—published 6/19/85, effective 7/24/85]

[Filed 8/23/85, Notice 6/19/85—published 9/11/85, effective 10/16/85]

[Filed 2/7/86, Notice 12/4/85—published 2/26/86, effective 4/2/86]

[Filed 3/7/86, Notice 12/4/85—published 3/26/86, effective 4/30/86]

[Filed 5/2/86, Notice 3/26/86—published 5/21/86, effective 6/25/86]

[Filed 7/11/80, Notice 5/21/86—published 7/30/86, effective 9/3/86]\*\*

[Filed 8/8/86, Notice 3/26/86—published 8/27/86, effective 10/1/86]\*\*

[Filed emergency 9/18/86—published 10/8/86, effective 9/18/86]

[Filed 10/31/86, Notice 9/10/86—published 11/19/86, effective 12/24/86]

\*Objection to emergency filing—filed 9/15/81

†Effective date of 7.4(1)\*P\*(2) delayed seventy days by administrative rules review committee.

\*\*See Utilities Division, IAB 7/30/86

CHAPTER 8  
CIVIL PENALTIES

[Prior to 10/8/86, Commerce Commission(250)]

**199—8.1(476) Civil penalty for willful violation.** The board may assess a penalty against a public utility upon finding that the utility willfully violated a provision of Iowa Code chapter 476, a board rule, or a provision of an order lawfully issued by the board.

A willful violation exists where the evidence shows that the utility intentionally or knowingly violated a board rule, a provision of an order lawfully issued by the board in a proceeding involving the same utility, or a provision of Iowa Code chapter 476.

This rule is intended to implement Iowa Code supplement sections 476.51 and 476.20.

**199—8.2(476) Procedure.** A request for imposition of civil penalties must be made within one hundred eighty (180) days of the date the party filing the request knew or should have known of the alleged violation. The one hundred eighty (180)-day limit is tolled by commencing an informal complaint proceeding in accordance with Iowa Administrative Code 199—chapter 6.

**8.2(1) Request by nonboard party.** As a part of a request for a formal proceeding in accordance with Iowa Administrative Code 199—6.5(476) or as part of any other contested case proceeding, the consumer advocate or any other person may request the board to impose civil penalties against a utility for a willful violation of a provision of Iowa Code chapter 476, a board rule, or an order lawfully issued by the board in a proceeding involving the same utility.

In a complaint proceeding, the request for imposition of civil penalties must appear on the face of a request for formal proceeding filed in accordance with the provisions of Iowa Administrative Code 199—chapter 6. Upon receiving approval from the board, a party may amend its request for a formal proceeding to request the board to impose civil penalties at any time prior to the close of the submission of evidence. In any other contested case proceeding, the request must be made by written motion prior to the close of the submission of evidence.

**8.2(2) Board request.** On its own motion, the board may raise the issue of imposing civil penalties against a utility for a willful violation of Iowa Code chapter 476, a board rule, or a provision of an order lawfully issued by the board in a proceeding involving the same utility, as part of a contested case proceeding with adequate notice or by commencing a formal complaint proceeding in accordance with the provisions of Iowa Administrative Code 199—chapter 6.

**8.2(3) Hearing.** If necessary, a hearing shall be held in accordance with the provisions of Iowa Administrative Code 199—chapter 6 where there is an issue of adjudicative fact. The utility may waive its right to a hearing. A separate hearing on an adjudicative fact is not required if the same issue of adjudicative fact has been fully litigated by the identical parties with adequate notice as part of a contested case proceeding.

This rule is intended to implement Iowa Code supplement sections 476.51 and 476.20.

**199—8.3(476) Penalties assessed.** The board, in its discretion, may levy penalties of not more than one hundred dollars (\$100) per violation or one thousand dollars (\$1000) per day of a continuing violation, whichever is greater.

In determining the amount of penalty to be imposed for a willful violation, the board may consider the following factors in exercising its statutory discretion to impose civil penalties up to the maximum amount:

1. Gravity of the offense;
2. The utility's prior record of Code, rule, and order violations;
3. The actual or potential harm or injury to an individual or the public resulting from the violation.

This rule is intended to implement Iowa Code supplement sections 476.51 and 476.20.

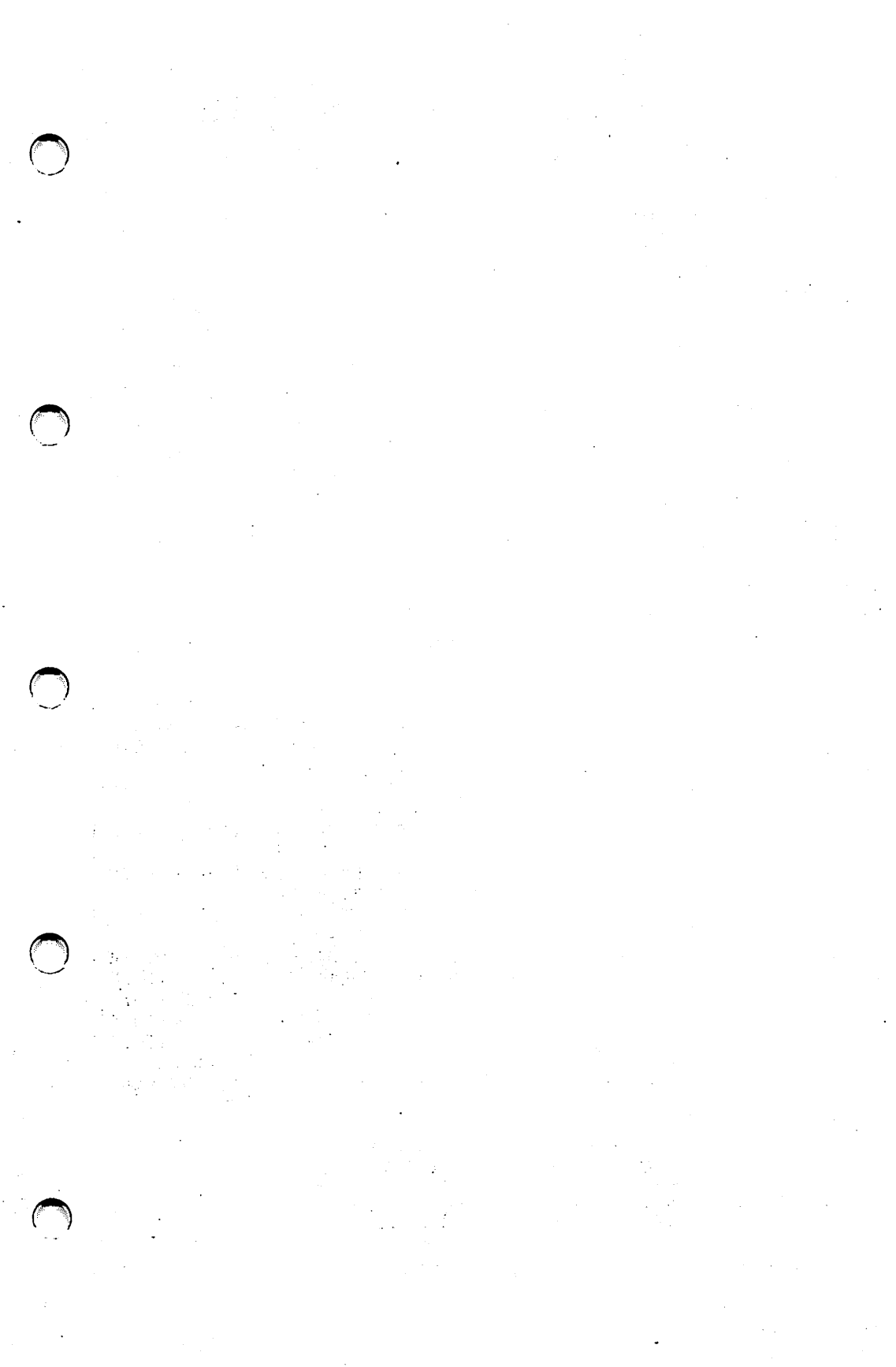
# CULTURAL AFFAIRS, DEPARTMENT OF[221]

[Created by 1986 Iowa Acts, Senate File 2175]

## CHAPTER 1

### IOWA COMMUNITY CULTURAL GRANTS PROGRAM

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CHAPTER 1  
IOWA COMMUNITY CULTURAL GRANTS PROGRAM  
[See also Planning and Programming(630) chapter 18, which will be rescinded 1/1/87]

**221—1.1(71GA,SF2175) Purpose.** The purpose of the Iowa community cultural grants program is to establish a program of grants to cities and community groups for the development of community programs that would provide local jobs for Iowa residents and at the same time promote a city's historical, ethnic, and cultural heritage, through the development of festivals, music, drama, cultural programs or tourist attractions.

**221—1.2(71GA,SF2175) Program description.** Any city or community group, as defined by these rules, is eligible to apply for and receive a grant through the program. The program shall operate as a competitive grants program and be administered by the department of cultural affairs under the direction and supervision of the director of the department of cultural affairs or designee. Cities and community groups may make application to the department of cultural affairs which will approve or disapprove applications based on criteria described in these rules. Contractual agreements specifying the terms of the grant award shall then be executed between the department of cultural affairs and successful grant recipients.

**221—1.3(71GA,SF2175) Definitions.** When used in this chapter, unless the context otherwise requires:

*"Act"* means 1986 Iowa Acts, Senate File 2175.

*"Administrative costs"* means reasonable and necessary costs and charges associated with the planning and execution of proposed project or program; such as, bookkeeping, travel, consumable supplies, project development, project management, printing, and audit costs.

*"Advisory committee"* means the committee established by the Act comprised of representatives from the arts division of the department of cultural affairs, the state historical society of Iowa, and the tourism division of the department of economic development.

*"Application"* means a request for an Iowa community cultural grants program that complies with the requirement of rule 221—1.5(71GA,SF2175).

*"Community group"* shall not include a school, church, convention or association of churches or organizations operated primarily for religious purposes, and which is operated, supervised, controlled or principally supported by a church, convention or association of churches.

*"Cost"* means all the costs of the project or program.

*"Eligible activity"* refers to festivals, performing visual and literary arts, tourist attractions and activities and services that will increase historic preservation, arts, tourism services and contribute to the cultural enrichment of the community which provide jobs for Iowa residents, and are available to the general public.

*"Eligible applicant"* means an incorporated city or a community group which is federally tax exempt and incorporated under the Iowa nonprofit corporation Act. Nonprofit organizations that have not yet achieved tax-exempt status may apply through an alternative organization (fiscal agent), which is tax exempt and otherwise eligible to apply.

*"Fiscal agent"* means an organization which meets the definition of eligible applicant. The fiscal agent becomes the legal applicant of record, redistributes the funds to the intended receiver, and is entirely responsible for all published requirements of the grants program, including contracts, revised budgets, fiscal records and reports.

*"Grantee"* means any applicant receiving grant funds under this program.

*"In-kind services"* means a noncash contribution provided by a grantee as a part of the grantee's matching share of a project, which shall not exceed one-half of the match requirement. Expenses such as labor costs, transportation costs, rent, or supplies may be included in computing in-kind services.

*"Iowa community cultural grants program"* (ICCG) means the program established and authorized by the Act.

“Local matching funds” means at least fifty percent (50%) or more of the total program or project cost which must be provided by the city or community group submitting an application for a grant and which shall not include any portion of another state or federal grant.

“Proposed project” means one or more eligible activities for which a city or community group has submitted a single application for grant funds. Only one application may be submitted by an applicant, unless the eligible applicant is serving only as a fiscal agent for another group in additional applications.

**221—1.4(71GA,SF2175) Application procedures.** Applicants shall submit applications to the Department of Cultural Affairs, Historical Building, Des Moines, Iowa 50319. Applications shall be in the form prescribed by the department of cultural affairs and shall contain information identified in rule 221—1.5(71GA,SF2175). All applications submitted shall be reviewed by the advisory committee with their remarks and recommendations for grantees and grant awards being submitted to the director of the department of cultural affairs or designee, which will determine final grantee’s awards to the extent funds are available.

**221—1.5(71GA,SF2175) Contents of application.** Each application shall contain the following information as required in the annual request for proposal package:

1. Description of the proposed project or program including a time schedule for implementing the proposed project or program.
2. The amount of grant funds requested.
3. The amount of city, private or other local cash or in-kind resources or combination thereof, which are committed in an amount not less than fifty percent (50%) of the total project or program cost.
4. Include, if necessary, a description of in-kind services to be contributed in lieu of providing up to one-half of the entire match in cash.
5. A description of how the proposed project will create jobs immediately and the estimated number of jobs. A description of how the proposed project will generate future jobs, the estimated number of jobs and the sources of funding.
6. A description of the proposed project’s historical, ethnic, cultural heritage and tourism value for the city or community.
7. A budget for the project or program.
8. A designation as to whether or not the program or project existed prior to the deadlines for grant applications established by the commission.

**221—1.6(71GA,SF2175) Review and rating of applications.** The department of cultural affairs shall conduct a preliminary review of each application to determine that the applicant is eligible, that the application is complete, that the proposed project is consistent with the program purpose of providing jobs through eligible activities and that requested grant funds will be matched with a local match equal to not less than fifty percent (50%) of the total project cost with no more than one-half of the match being in-kind services. Applications, which do not meet these criteria will not be considered for funding. Applications which meet the minimum criteria will be rated by the advisory committee on the following factors to determine recommendations to the director of the department of cultural affairs or designee on the order and amount of funding.

1. Number and impact of full-time or part-time jobs or both, created and paid from this grant. (Projects funded in the previous fiscal year and requesting a continuation grant will be limited to a maximum of 200 points in this category.) . 250 points
  2. Number and impact of potential, continuing or recurring jobs created. (Projects funded in the previous fiscal year and requesting a continuation grant will be limited to a maximum of 200 points in this category.) . . . . . 250 points
  3. Percent of local matching funds in cash . . . . . 100 points
  4. Historical, ethnic, cultural and tourism value and quality . . . . . 400 points
- Total 1,000 points

**221—1.7(71GA,SF2175) Administration of grants.** Grant awards will be made in two categories:

1. \$1,000—\$ 4,999;
2. \$5,000—\$25,000.

A minimum of \$50,000 is reserved for grants ranging from \$1,000—\$4,999, unless a sufficient number of qualified applications are not received.

**1.7(1)** At least twenty-five percent (25%) of the funds appropriated for the Iowa community cultural grants program shall be awarded to community programs or projects which were not in existence prior to the grant application deadline established each year by the director of the department of cultural affairs or designee. Also included in this category may be activities or programs which are a significant expansion of a previously established project.

**1.7(2)** The director of the department of cultural affairs, or designee, reserves the right to not grant all appropriated funds, if there is an insufficient number of acceptable applications submitted to adequately achieve the purpose of the Act as described in rule 221—1.1(71GA,SF2175).

**1.7(3)** The director of the department of cultural affairs, or designee, may reserve up to ten percent (10%) of existing grant revenues to be used, in discretion and in accordance with the purpose of the Act, to fund projects whose time frames do not coincide with the regular granting period. There is no appeals process for these funds, and all grants awarded will be reviewed by the advisory committee and are subject to all regular provisions of the program. All discretionary moneys not expended during a granting cycle will be carried over for a similar purpose in the next granting period.

**221—1.8(71GA,SF2175) Contract agreement.** Upon approval of each grant award, the department of cultural affairs shall prepare a contract agreement, which shall include the terms and conditions of the grant, including grant amount, project description and matching requirements. This contractual agreement must be executed by the director of the department of cultural affairs, or the designee of the director of the department of cultural affairs, and the mayor or other duly authorized official of a recipient city, or a recipient community group. The contract will include dates for requisition of reimbursable expenditures.

**221—1.9(71GA,SF2175) Administrative costs.** No more than five percent (5%) of the total project costs may be used for administrative costs.

**221—1.10(71GA,SF2175) Reporting and audit requirements.** The department of cultural affairs may require grantees to submit progress reports on the status of the project. Any grant of \$15,000 or over will be required to conduct an on-site financial compliance audit of their grant project expenditures at their expense. All grants of less than \$15,000 may be required to submit documentation of expenses for the purposes of a desk audit or may be required to conduct an on-site audit of grant project expenditures at their expense.

**221—1.11(71GA,SF2175) Timing of grants.** In order to promote sound administration and effectuate the intent of the Act, the department of cultural affairs, under the direction of the director or designee, may set one or more deadlines for grant applications and make awards of some or all of the funds appropriated under this Act.

**221—1.12(71GA,SF2175) Appeals.** Eligible applicants whose applications were not funded have the right to appeal the decision to the director of the department of cultural affairs. Appeals must be received in writing at the Department of Cultural Affairs, Historical Building, Des Moines, Iowa 50319 within fifteen (15) days of the notification of declination of funding.

The appellant's argument should contain:

1. The facts of the appeal;
2. An argument in favor of the appeal;
3. The remedy sought.

Appeals will be allowed on the grounds that:

1. Staff or review committee acted outside of the statutory authority;
2. Staff or review committee violated state law, policy or rules;
3. Staff or review committee failed to provide adequate public notice;
4. Staff or review committee altered the review or approval process to the detriment of the applicant without adequate prior notice;
5. Staff or review committee was influenced to act as a result of a conflict of interest;
6. Staff or review committee acted in a biased or unfair manner.

The director of the department of cultural affairs will consider and rule on the appeal after receiving all documentation from the appellant, and will notify the appellant in writing of the decisions within thirty (30) days. The decision of the director of the department of cultural affairs is final except as provided for in Iowa Code sections 17A.19 and 17A.20.

The department of cultural affairs intends to solicit applications for grant funds on or about January 15 each year funds are available, as decided by the director or designee. Applicants will be given approximately sixty (60) days to respond to the applications.

Persons or organizations wishing to receive an application for grant funds may contact the Department of Cultural Affairs, Historical Building, Des Moines, Iowa 50319.

**221—1.13(71GA,SF2175) Annual report.** The department of cultural affairs shall submit to the governor and the general assembly an annual report setting forth the details of the operations of the program on the basis of the calendar year.

These rules are intended to implement 1986 Iowa Acts, Senate File 2175, section 1301.

[Filed emergency 7/29/83—published 8/17/83, effective 7/29/83]

[Filed emergency 7/12/84 after Notice 6/6/84—published 8/1/84, effective 7/12/84]

[Filed emergency after Notice 9/20/85, Notice 7/3/85—published 10/9/85, effective 9/20/85]

[Filed emergency 10/21/86—published 11/19/86, effective 10/21/86]

c. Either

(1) is unlikely to return to the previous industry or occupation, or  
(2) is long-term unemployed with limited opportunities for work in the same or similar occupations in the areas where the individual resides; and

d. Has accepted a training opportunity for which information was made available by the state.

**4.39(15)** Notwithstanding all other provisions of this rule, academic training may be approved for an individual who:

a. Is one of a substantial group of eligible individuals who have been terminated from their jobs due to a plant closing; or

b. Has limited opportunities for work in the same or similar occupation in the area where the individual resides.

Therefore, those individuals may apply for division approved training which may include academic courses. This training should increase the employability of the individual.

This rule is intended to implement Iowa Code section 96.4(6) as amended by 1986 Iowa Acts, House File 2484, section 623, and Public Law 97-35.

**345—4.40(96) Division approved training (DAT)—procedure.**

**4.40(1)** A claimant may receive job insurance while attending a training course approved by the division. While attending the approved training course the claimant need not be available for work or actively seeking work. After completion of division approved training the claimant must, in order to continue to be eligible for job insurance, place no restriction on employability. The claimant must be able to work, available for work and be actively searching for work. In addition, the claimant may be subject to disqualification for any refusal of work without good cause.

**4.40(2)** The claimant must show satisfactory attendance and progress in the training course and must demonstrate that such claimant has the necessary finances to complete the training to substantiate the expenditure of job insurance funds. In addition, the nature of the training must be vocational rather than academic.

**4.40(3)** For those individuals who are otherwise eligible, but who are financially incapable of paying tuition and related course fees, the division may provide up to one thousand dollars (\$1,000) per individual in a twenty-four (24)-calendar-month period. The criteria is:

a. Funds must be available.

b. Approval of division approved training must be received prior to payment to the educational institution.

c. Individuals must certify financial need to qualify for DAT tuition and fees. An individual cannot have income of more than one hundred twenty-five percent (125%) of their weekly unemployment insurance benefit amount. Income is defined as job insurance benefits and wages.

d. Individuals must apply for financial assistance at an educational institution and provide a copy to the division. Financial assistance shall be defined as grants and scholarships for tuition and fees.

e. Tuition and fees can be approved for the length of the course up to the twenty-four (24)-month maximum, even if the job insurance benefits subsequently exhaust or the claimant becomes ineligible.

f. Tuition and fees cannot be approved for a person who is currently attending class.

g. Any obligation to the training institution from the division approved training assistance fund combined with other financial aid, which is awarded to the student and can only be used for tuition and fees, may not exceed the total cost of tuition and fees at the training institution.

h. Any DAT funds which are not used by the educational institution due to whatever the reason, shall be returned to the division within ninety (90) days of completion of the course.

This rule is intended to implement Iowa Code section 96.13(3) as amended by 1986 Iowa Acts, House File 2484, section 623.

**345—4.41(96) Unemployed parents program (AFDC-UP).** Unemployed parents program (AFDC-UP) under Public Law 94-566, an unemployed parent who is eligible for both unemployment insurance and aid to dependent children-unemployed parent program (AFDC-UP) shall be required to collect any unemployment insurance to which the individual is entitled before receiving any payments under the AFDC-UP program.

This rule is intended to implement Iowa Code chapter 91 and Public Law 94-566.

**345—4.42(96) Retention of DSS referral form.** When an unemployed parent presents the DSS referral Form PA-2138-5 to the job service representative, the representative will take the form, sign it and complete a Form 60-0150.

**4.42(1)** The weekly benefit amount and maximum benefit amount of the claimant will be entered in job service comments on Form PA-2138-5. If the person is not monetarily eligible, that notation will be entered and the form mailed to social services.

**4.42(2)** An AFDC-UP claimant may have the claim protested which can affect eligibility. Social services may request additional information on a subsequent Form PA-2138-5 concerning nonmonetary allowances or disqualifications on the claim, which will be furnished in the comments section of the form.

This rule is intended to implement Iowa Code chapter 91 and Public Law 94-566.

**4.43** Rescinded, effective September 5, 1986. See 345—5.13(96).

**4.44** Rescinded, effective September 5, 1986. See 345—5.14(96).

**345—4.45(96) Trade Act of 1974.** Unemployment benefits payable to claimants under the Trade Act of 1974 (P.L. 93-618), shall be determined in accordance with the rules of the United States department of labor as published in the Code of Federal Regulations, chapter 29, parts 70 and 91. The Trade Act of 1974 is designed to pay unemployment benefits to workers who become unemployed due to foreign production of goods replacing domestic production.

**345—4.46(96) Extended benefits.**

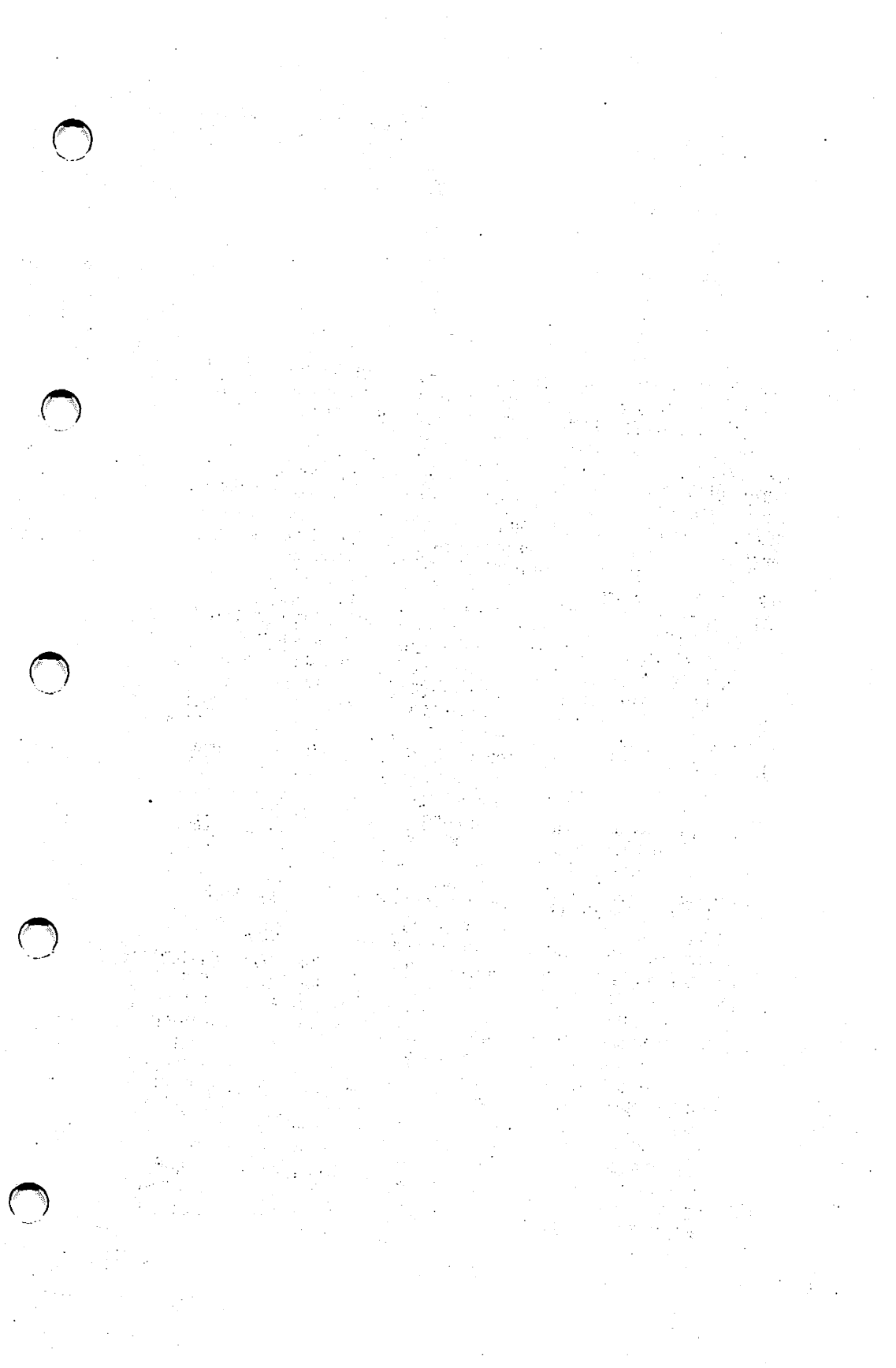
**4.46(1)** Public Law 91-373, as amended by Public Law 96-499, provides that during a high period of unemployment, individuals will be entitled to extended benefits providing they have exhausted all of their regular state or federal unemployment benefits and have no right to any such benefits under any state or federal law. Individuals who meet the above criteria are entitled to one-half of the benefits received on their state or federal claim with a maximum entitlement of an amount equal to an additional thirteen (13) times their weekly benefit amount. The cost of the extended benefits program is shared 50-50 between the state and federal government except that any state that does not have a noncompensable waiting period shall not receive reimbursement for the federal share of the first week of extended benefit payments. The extended benefit program shall terminate when the insured unemployment rate drops below a specific percentage.

**4.46(2)** Extended benefits for unemployment compensation shall be determined in accordance with the Iowa employment security law and the rules thereunder and also shall be in substantial compliance with the rules of the United States department of labor as published in the Code of Federal Regulations, chapter 20, parts 615 and 650.

This rule is intended to implement Iowa Code sections 96.7(3)“a”(3), 96.19(25), 96.29 and Public Law 96-499.

**345—4.47(96) Disaster benefits.** Benefits under the Disaster Relief Act of 1974. Unemployment benefits payable under Public Law 93-288, the Disaster Relief Act of 1974 will be determined in accordance with the rules of the United States Department of Labor and published in the Code of Federal Regulations, chapter 20, parts 625 and 650, and chapter 32, part 1710.16. These benefits are payable to claimants who are unemployed due to natural disasters. A claimant who is eligible for regular unemployment benefits shall not be eligible for disaster relief benefits.

- [Filed 12/29/55; amended 12/29/58, 6/23/59, 12/4/59, 11/22/61, 4/21/72]
- [Filed 10/28/75, Notice 9/22/75—published 11/17/75, effective 12/23/75]
  - [Filed 4/29/76, Notice 3/22/76—published 5/17/76, effective 6/21/76]
  - [Filed 12/9/76, Notice 11/3/76—published 12/29/76, effective 2/2/77]
- [Filed 9/30/77, Notice 8/24/77—published 10/19/77, effective 11/23/77]
  - [Filed 5/24/78, Notice 4/5/78—published 6/14/78, effective 7/19/78]
  - [Filed 8/17/78, Notice 6/28/78—published 9/6/78, effective 10/11/78]
- [Filed 12/22/78, Notice 11/15/78—published 1/10/79, effective 2/14/79]
  - [Filed emergency 6/22/79—published 7/11/79, effective 7/1/79]
- [Filed 10/12/79, Notice 6/27/79—published 10/31/79, effective 12/5/79]
  - [Filed emergency 11/29/79—published 12/26/79, effective 11/29/79]
  - [Filed 2/12/80, Notice 10/31/79—published 3/5/80, effective 4/9/80]
  - [Filed 7/31/80, Notice 4/30/80—published 8/20/80, effective 9/24/80]
- [Filed 12/4/80, Notice 10/1/80—published 12/24/80, effective 1/28/81]
  - [Filed 4/10/81, Notice 2/18/81—published 4/29/81, effective 6/4/81]
  - [Filed emergency 6/15/81—published 7/8/81, effective 7/1/81]
- [Filed 11/6/81, Notice 7/8/81—published 11/25/81, effective 12/30/81]
- [Filed 4/23/82, Notice 11/25/81—published 5/12/82, effective 6/17/82]
- [Filed 8/26/82, Notice 7/21/82—published 9/15/82, effective 10/20/82]
  - [Filed emergency 9/10/82—published 9/29/82, effective 9/10/82\*]
- [Filed 10/8/82, Notice 8/18/82—published 10/27/82, effective 12/2/82]
  - [Filed emergency 10/25/82—published 11/24/82, effective 10/25/82]
- [Filed 1/27/83, Notice 10/13/82—published 2/16/83, effective 3/23/83]
- [Filed 3/11/83, Notices 11/25/81, 5/26/82—published 3/30/83, effective 5/5/83]
  - [Filed 3/28/83, Notice 2/16/83—published 4/13/83, effective 5/18/83]
  - [Filed emergency 3/31/83—published 4/27/83, effective 4/1/83]
  - [Filed emergency 6/27/83—published 7/20/83, effective 7/1/83]
  - [Filed emergency 8/3/83—published 8/31/83, effective 8/3/83]
- [Filed 2/10/84, Notice 8/31/83—published 2/29/84, effective 4/5/84]
- [Filed 5/2/84, Notice 2/29/84—published 5/23/84, effective 6/27/84]
- [Filed 4/27/84, Notice 2/29/84—published 5/23/84, effective 6/28/84]
  - [Filed emergency 6/1/84—published 6/20/84, effective 6/1/84]
- [Filed 8/24/84, Notice 6/20/84—published 9/12/84, effective 10/17/84]
- [Filed 1/11/85, Notice 8/29/84—published 1/30/85, effective 3/6/85]
- [Filed 1/14/85, Notice 10/24/84—published 1/30/85, effective 3/6/85]
- [Filed 8/30/85, Notice 7/3/85—published 9/25/85, effective 10/30/85]
- [Filed 9/20/85, Notice 8/14/85—published 10/9/85, effective 11/13/85]
  - [Filed emergency 6/13/86—published 7/2/86, effective 7/1/86]
  - [Filed emergency 9/5/86—published 9/24/86, effective 9/5/86]
  - [Filed emergency 10/1/86—published 10/22/86, effective 10/1/86]
  - [Filed emergency 10/31/86—published 11/19/86, effective 10/31/86]



# ENVIRONMENTAL PROTECTION COMMISSION[567]

Created by 1986 Iowa Acts, Senate File 2175, under the "umbrella" of the Department of Natural Resources.

Chapters 1 to 68  
Reserved

## CHAPTER 69 ON-SITE WASTEWATER TREATMENT AND DISPOSAL SYSTEMS

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- 69.2(455B) Requirements when dis-  
charged into surface waters
- 69.3(455B) Requirements when dis-  
charged into the soil
- 69.4(455B) Building sewers
- 69.5(455B) Septic tanks
- 69.6(455B) Subsurface absorption  
systems
- 69.7(455B) Mound system
- 69.8(455B) Individual mechanical aro-  
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systems
- 69.9(455B) Intermittent sand filters
- 69.10(455B) Requirements for impervious  
vault toilets
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toilets
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- 69.16(455B) Variances



## CHAPTER 69 ON-SITE WASTEWATER TREATMENT AND DISPOSAL SYSTEMS

[Prior to 7/1/83, Health Dept. Ch 12]

[Prior to 11/19/86, Water, Air and Waste Management(900)]

### **567—69.1(455B) General.**

**69.1(1) *Permit required.*** No on-site wastewater treatment and disposal system shall be installed or reconstructed until an application for a permit has been submitted and a permit has been issued by the administrative authority—the installation shall be in accordance with these rules.

**69.1(2) *Applications.*** These rules are applicable only to on-site wastewater treatment and disposal systems.

**567—69.2(455B) Requirements when discharged into surface waters.** All discharges from on-site wastewater treatment and disposal systems which are discharged into any surface water shall be treated in a manner that will conform with the requirements of the department of natural resources, as referenced in rules 900—chapter 62.

**567—69.3(455B) Requirements when discharged into the soil.** No septage or wastewaters shall be discharged into the soil except in compliance with the requirements contained in these rules.

### **69.3(1) Definitions.**

The “*administrative authority*” is the local board of health as authorized by Iowa Code chapter 137.

“*Approved*” means accepted or acceptable under an applicable specification stated or cited in these rules, or accepted as suitable for the proposed use by the administrative authority.

“*Area drain*” means a drain installed to collect surface or storm water from an open area of a building or property.

The “*building drain*” is that part of the lowest horizontal piping of a house drainage system which receives the discharge from soil, waste, and other drainage pipes inside the walls of any building and conveys the same to the building sewer.

The “*building sewer*” is that part of the horizontal piping from the building wall to its connection with the main sewer or on-site wastewater treatment and disposal system conveying the drainage of one building site.

A “*distribution box*” is a structure or formation of pipes designed to accomplish the equal distribution of wastewater.

“*Dwelling*” means any house or place used or intended to be used by humans as a place of residence.

“*Foundation drain*” means that portion of a building drainage system provided to drain groundwater from the outside of the foundation or over or under the basement floor not including any wastewater.

“*Free access filter (open filter)*” means an intermittent sand filter constructed within the natural soil or above the ground surface with access to the distributor pipes and top of the filter media for maintenance and media replacement.

“*Gravel*” means stone screened from river sand or quarried. Concrete aggregate designated as Class II by the department of transportation is acceptable.

“*Gravelless system*” An absorption system comprised of large diameter (8 and 10 inches) corrugated plastic pipe, perforated with holes on a 120° arc centered on the bottom, wrapped in a sheath of spun bonded nylon filter wrap and installed level in a trench without gravel bedding.

“*Individual mechanical aerobic wastewater treatment system*” means an individual wastewater treatment and disposal system employing bacterial action which is maintained by the utilization of air or oxygen and includes the aeration plant and equipment and the method of final effluent disposal.

*"Intermittent sand filters"* are beds of granular materials 24 to 36 inches deep underlain by graded gravel and collecting tile. Wastewater is applied intermittently to the surface of the bed through distribution pipes or troughs and the bed is underdrained to collect and discharge the final effluent. Uniform distribution is normally obtained by dosing so as to flood the entire surface of the bed. Filters may be designed to provide free access (open filters), or may be buried in the ground (buried filters or subsurface sand filters).

*"Limiting layer"* means bedrock, high groundwater level, or any layer of soil with a stabilized percolation rate exceeding sixty (60) minutes for the water to fall one inch.

A *"mound system"* is an alternative above-ground system used to absorb effluents from septic tanks in cases where either seasonally high water table, high bedrock conditions, slowly permeable soils or limited land areas prevent conventional subsurface absorption systems.

For the purpose of these rules, *"on-site wastewater treatment and disposal system"* means all equipment and devices necessary for proper conduction, collection, storage, treatment, and disposal of wastewater from a dwelling or other facility serving the equivalent of fifteen persons (1500 gpd) or less. Included within the scope of this definition are building sewers, septic tanks, subsurface absorption systems, mound systems, subsurface sand filters, gravelless systems, open sand filters and individual mechanical aerobic wastewater treatment systems.

A soil *"percolation test"* is a procedure used to determine the ability of soils to absorb primary treated wastewater.

*"Reasonably accessible,"* as it applies to a connection to a public sewer system, shall mean a determination made by the administrative authority as to the practicality of the connection.

*"Roof drain"* is a drain installed to receive water collecting on the surface of a roof and discharging into an area or storm drain system.

*"Septage"* means the liquid contents (including sludge and scum) of a septic tank normally pumped out periodically and transported to another site for disposal.

A *"septic tank"* is a watertight structure into which wastewater is discharged for solids separation and digestion, referred to as part of the closed portion of the treatment system.

*"Sewage wastewater"* is the water-carried waste derived from ordinary living processes.

*"Sludge"* means the digested or partially digested solid material accumulated in a wastewater treatment facility.

A *"subsurface absorption system,"* also referred to as an *"oxidation bed,"* is an open-jointed or perforated system of pipes into which the primary treated effluent from the distribution box is discharged for direct absorption into the soil, referred to as part of the open portion of the treatment system.

A *"subsurface sand filter"* is a system whereby the effluent from a distribution box is discharged into open-jointed or perforated pipes, filtered through a layer of sand, and collected by lower open-jointed or perforated pipes for discharge to the surface, to a subsurface absorption system or to land application. A subsurface sand filter is an intermittent sand filter which is placed within the ground and provided with a natural topsoil cover over the crown of the distribution pipes.

*"Wastewater management district."* An entity organized in accordance with permitting legislation to perform various specific functions such as planning, financing, construction, supervision, repair, maintenance, operation and management of on-site wastewater treatment and disposal systems within a designated area.

**69.3(2) Minimum distances.** All on-site wastewater treatment and disposal systems shall be located in accordance with the distances shown in Table I.

TABLE I

Minimum Distance in Feet from	Closed Portion of Treatment System (1)	Open Portion of Treatment System (2)
Private water supply well	50	100
Public water supply well	200	200
Groundwater heat pump bore hole	100	100
Lake or reservoir	50	100
Stream on open ditch	25	25
Dwelling or other structure	10	10
Property lines	10	10
Other type subsurface treatment system	5	10
Water lines continually under pressure	10	10
Suction water lines	50	100
Foundation drains or subsurface tiles	10	10

(1) Includes septic tanks, mechanical aeration tanks and impervious vault toilets.

(2) Includes subsurface absorption systems, mound systems and intermittent sand filters.

**69.3(3) General regulations.**

*a. Connections to public sewer.*

(1) No on-site wastewater treatment and disposal system shall be installed where a public sanitary sewer is reasonably accessible as determined by the local administrative authority unless an exception is granted in writing.

(2) When a public sanitary sewer becomes reasonably accessible, any building then served by an on-site wastewater treatment and disposal system shall connect to said public sanitary sewer within a time frame set by the administrative authority.

(3) When a public sanitary sewer is not reasonably accessible, every building wherein persons reside, congregate or are employed, shall be provided with an approved on-site wastewater treatment and disposal system.

*b. Construction, alteration or repair.* All on-site wastewater treatment and disposal systems constructed, altered, or repaired after the effective date of these rules shall comply with these requirements.

*c. Discharge restrictions.* It is prohibited to discharge any wastewater from on-site wastewater treatment and disposal systems (except intermittent sand filters or other systems approved by the administrative authority) to any ditch, stream, pond, lake, natural or artificial waterway, county drain tile, surface water drain tile, land drain tile or to the surface of the ground. Under no conditions shall effluent from on-site wastewater treatment and disposal systems be discharged to any abandoned well or sinkhole.

**69.3(4) Site evaluation.** A site evaluation shall be conducted prior to issuance of a construction permit. Consideration shall be given, but not be limited, to the impact of the following: topography; drainageways; terraces; floodplain; percent of land slope; location of property lines; location of easements; buried utilities; existing and proposed tile lines; existing, proposed and abandoned water wells; amount of available area for the installation of the system; evidence of unstable ground; and soil factors including percolation tests and soil survey maps if available.

**567—69.4(455B) Building sewers.**

**69.4(1) Location and construction.** The types of construction and distances as shown in Table II shall be maintained for the protection of water supplies. The distances shall be considered minimum and increased where possible to provide better protection.

TABLE II

Sewer Construction	Distance from Well Water Supply	
	Private	Public
1. Schedule 40 plastic pipe with approved type joints or cast iron soil pipe (extra heavy or centrifugally cast) with joints of caulked lead or preformed gaskets, both encased with a minimum of 6" of concrete.	5	10
2. Schedule 40 plastic pipe with approved type joints or cast iron soil pipe (extra heavy or centrifugally cast) with joints of caulked lead or preformed gaskets.	10	20
3. Sewer pipe installed to remain watertight and root-proof.	50	75

**69.4(2) Requirements for building sewers.**

**a. Type.** Building sewers used to conduct wastewater from a building to an on-site wastewater treatment and disposal system shall be constructed of plastic pipe meeting the minimum requirements of ASTM Standards D3033-73 and D3034-73, or cast iron, or vitrified clay, and all with approved type joints.

**b. Size.** Such building sewers shall not be less than four inches in diameter.

**c. Grade.** Such building sewers shall be laid to the following minimum grades:  
 4-inch sewer ..... 12 inches per 100 feet  
 6-inch sewer ..... 8 inches per 100 feet

**69.4(3) Cleanouts.**

**a. Spacing.** A cleanout shall be provided at least every 100 feet.

**b. Change of direction.** An accessible cleanout shall be provided at each change in direction or grade, if the change exceeds 45 degrees.

**567—69.5(455B) Septic tanks.**

**69.5(1) General requirements.**

**a. Easements.** No septic tank shall be located upon another property or lot other than that property or lot upon which the wastewater originates unless easements to that effect are legally recorded and approved by the proper administrative authority.

**b. Fill ground.** Any septic tank placed in fill ground shall be placed upon an approved base.

**c. Access.** Access must be provided to all parts of septic tanks necessary for adequate inspection, operation, and maintenance in accordance with 69.5(3)"c."

**69.5(2) Capacity.**

**a. Minimum capacity.** Every septic tank shall have a minimum capacity below the water line as specified in the following table:

1 and 2-bedroom homes	750 gal.
3-bedroom homes	1,000 gal.
4-bedroom homes	1,250 gal.
5-bedroom homes	1,500 gal.
6-bedroom homes	1,750 gal.

**b. Approval required.** In the event that any installation serves more than a six-bedroom home or its equivalent, or serves a facility other than a home with the equivalent of fifteen persons or less, approval of septic tank capacity and design must be obtained from the ad-

ministrative authority. Sufficient liquid volume should be provided for a 24-hour fluid retention time at maximum sludge depth and scum accumulation.

*c. Minimum depth.* Minimum water depth in any compartment shall be three feet.

*d. Maximum depth.* Maximum depth of water for calculating capacity of the tank shall not exceed 6 feet.

*e. Prohibited wastes.* Septic tanks shall not be used for the disposal of chemical wastes or grease in quantities which might be detrimental to the bacterial action in the tank or for the disposal of drainage from roof drains, foundation drains, or area drains.

*f. Effluent discharge requirements.* All septic tank effluent shall discharge into a subsurface absorption system, an intermittent sand filter, a mound system or other system approved by the administrative authority.

**69.5(3) Construction details.**

*a. Compartmentation.* Every septic tank shall be divided into or have the equivalent of two compartments as follows:

(1) The capacity of the influent compartment shall not be less than 1/2 nor more than 2/3 of the total tank capacity.

(2) The capacity of the effluent compartment shall not be less than 1/3 nor more than 1/2 of the total tank capacity.

*b. Baffles.* Either tees or baffles shall be used as inlet and outlet fixtures. Inlet baffles shall extend at least 8 inches above and 6 inches below the water level of the tank. The outlet baffle shall extend above the water level a distance of at least 8 inches and below the water level a distance of one quarter of the liquid depth. A minimum clearance above the baffle or tee of 2 inches shall be provided. The inlet pipe shall be a minimum of at least 2 inches higher than the outlet pipe. A horizontal separation of at least 36 inches shall be provided between the inlet baffle and the outlet baffle in each compartment. A horizontal slot 4 by 6 inches, or two suitably spaced 4-inch holes in the tank partition may be used instead of a tee or baffle, the top of the slot or holes to be located below the water level a distance of 0.28 times the liquid depth.

*c. Access.* An access opening shall be brought close to the ground surface and shall be so located, with respect to the type of tank construction, that sludge and scum measurements may be readily made. This opening shall be 8 inches in its least dimension. In the event the tank is covered by 24 inches or more of earth backfill, a manhole with a suitable cover shall be extended to within 6 inches of the ground surface, such manhole to be at least 30 inches in diameter and placed over an access opening in the top of the tank. In the event a one-piece concrete lid is used, one manhole of at least 24 inches in diameter shall be provided allowing access to each compartment.

*d. Dimensions.* Every septic tank or compartment shall have a minimum of 4.0 liquid feet from the bottom of the outlet pipe down to the floor; but a liquid depth greater than 6.0 shall not be considered in determining tank capacity. The length of a septic tank should not be less than 5.0 feet and should be approximately two to three times the width, but no tank or compartment shall have an inside width of less than 2.0 feet. The minimum inside diameter of a vertical cylindrical septic tank shall be 5.0 feet.

**69.5(4) Construction materials.**

*a.* Tanks shall be constructed of impervious material not subject to excessive corrosion or decay and capable of supporting the loads to which the tank will be subjected. Metal tanks are prohibited.

*b.* Tank baffles and baffle supports shall be constructed of heavy, durable plastic, concrete or other similar approved corrosion resistant materials.

*c.* Inlet and outlet ports of pipe shall be constructed of heavy, durable plastic sanitary tees or other similar approved corrosion resistant material.

**69.5(5) Wall thickness.** Wall thickness for tanks shall conform to the following specifications:

Segmented blocks, bricks, etc.....	8 inches thick
Poured concrete .....	6 inches thick
Poured concrete, reinforced .....	4 inches thick
Special concrete mix, vibrated and reinforced .....	2 inches thick
Fiberglass or plastic .....	.25 inches thick

69.5(6) *Tank bottoms.* Septic tank bottoms shall conform to the specifications set forth for septic tank walls.

69.5(7) *Tank tops.* Concrete or masonry septic tank tops shall be a minimum of 4 inches in thickness and reinforced with ¼-inch reinforcing rods in a 6-inch grid or equivalent. Fiberglass or plastic tank tops shall be a minimum of ¼-inch in thickness and shall have reinforcing and be of ribbed construction.

69.5(8) *Bedding.* Fiberglass or plastic tanks shall be placed upon a firm bed of sand and the space between the tank and the excavation shall be filled with sand or similar stable granular material, or tanks shall be mounted on concrete pads. Provisions should be made to prevent flotation when the tanks are empty.

69.5(9) *Coating.* All concrete, block and brick surfaces in septic tanks shall be sealed for watertightness with a protective coating of bituminous materials.

69.5(10) *Connecting pipes.*

a. *Minimum diameter.* The pipes connecting septic tanks installed in series may be 4 inches minimum diameter schedule 40 plastic pipe, if laid on firm bedding, or cast iron soil pipe of 4 inches minimum diameter.

b. *Tank connections.* All inlet and outlet connections at the septic tanks shall be sealed with an appropriate material.

c. *Joints.* All joints in connecting schedule 40 plastic or cast iron pipes between septic tanks in series shall be approved plastic pipe connections or caulked lead or compression-type gaskets.

d. *Pipe in unstable ground.* Cast iron soil pipe shall be used extending across excavations or unstable ground to at least 2 feet beyond the point where the original ground has not been disturbed in septic tank installations. Schedule 40 plastic pipe may be substituted for cast iron soil pipe when laid on a firm bed of sand or similarly stable granular material extending from the bottom of the excavation to the centerline of the pipe throughout its entire length. The first 12 inches of backfill over the pipe shall be applied in thin layers using material free from stones, boulders, large frozen chunks of earth or any similar material that would damage or break the pipe.

567—69.6(455B) *Subsurface absorption systems.*

69.6(1) *General requirements.*

a. *Locations.* All subsurface absorption systems shall be located on the property to maximize the vertical separation distance from the bottom of the absorption trench to the seasonal high ground water level, bedrock or other limiting layer, but under no circumstances shall this vertical separation be less than 3.0 feet.

b. *Soil survey reports.* During a site analysis and investigation, maximum use should be made of soil survey reports which are available from USDA Soil Conservation Service for most of the counties in Iowa. An identification of the percolation potential can be made from soil map units in Iowa by scientists representing the multiagencies contributing to the Iowa cooperative soil survey program.

c. *Percolation test procedures.* Percolation tests are required before any lateral field is installed.

(1) A minimum of three test holes distributed evenly over the proposed lateral field are required.

(2) Percolation test holes shall be 4 to 12 inches in diameter and to the same depth as the proposed absorption trenches (not to exceed 36 inches in depth).

(3) Sides and bottoms of the test holes shall be scratched or roughened to provided a natural surface. All loose material shall be removed from each hole.

(4) The bottoms of the test holes shall be covered with approximately 2 inches of rock to protect the bottom from scouring action when the water is added.

(5) Fill hole with at least 12 inches of clean water and maintain this depth for at least 4 hours and preferably overnight if clay soils are present. It is important that the soil be allowed to soak for a sufficiently long period of time to allow the soil to swell if accurate results are to be obtained.

(6) In sandy soils with little or no clay, soaking is not necessary. If, after filling the hole twice with 12 inches of water, the water seeps completely away in less than 10 minutes, the test can proceed immediately.

(7) Except for sandy soils, percolation rate measurements should be made at least 15 hours but no more than 30 hours after the soaking period began. Any soil that sloughed into the hole during the soaking period is removed and the water level is adjusted to 6 inches above the gravel (or 8 inches above the bottom of the hole). At no time during the test is the water level allowed to rise more than 6 inches above the gravel.

(8) Immediately after adjustment, the water level is measured from a fixed reference point to the nearest 1/16 inch at 30-minute intervals. The test is continued until two successive water level drops do not vary by more than 1/16 inch. At least three measurements are made.

(9) After each measurement, the water level is readjusted to the 6-inch level. The last water level drop is used to calculate the percolation rate.

(10) In sandy soils or soils in which the first 6 inches of water added after the soaking period seeps away in less than 30 minutes, water level measurements are made at 10-minute intervals for a 1-hour period. The last water level drop is used to calculate percolation rate.

(11) The percolation rate is calculated for each test hole by dividing the time interval used between measurements by the magnitude of the last water level drop. This calculation results in a percolation rate in terms of minutes per inch. To determine the percolation rate for the area, the rates obtained from each hole are averaged. (If tests in the area vary by more than 20 minutes per inch, variations in soil type are indicated. Under these circumstances, percolation rates should not be averaged.) Example: If the last measured drop in water level after 30 minutes is 5/8 inch, the percolation rate = (30 minutes)/(5/8 inch) = 48 minutes/inch.

(12) An area is deemed suitable for conventional soil absorption if the average percolation test rate is sixty minutes per inch or less and greater than one minute per inch. However, if an alternative type system is proposed (mound, etc.) then the percolation test should be extended to determine whether a percolation rate of 120 minutes per inch is achieved.

(13) An additional test hole 6 feet in depth or to rock, whichever occurs first, shall be provided in the center of the proposed absorption area to determine the location of groundwater or rock formations. This 6-foot test hole may be augered the same size as the percolation test holes or may be made with a soil probe.

(14) The lineal feet or square footage of required absorption fields, as determined from percolation test results, are listed in Tables IIIa, IIIb and IIIc.

*d. Storm drains.* Roof, foundation and storm drains shall not discharge into nor upon subsurface absorption systems.

*e. Prohibited construction.* There shall be no construction of any kind, including driveways, covering the septic tank, distribution box or absorption field of an on-site wastewater treatment and disposal system.

*f. Connecting lines.* Connecting lines under driveways shall be constructed of cast iron or schedule 40 plastic pipe, and shall be insulated to prevent freezing.

*g. Easements.* No wastewater shall be discharged upon any property or lot other than the property or lot upon which it originates unless easements to that effect are legally recorded and approved by the administrative authority.

*h. Groundwater.* If groundwater is present within three feet of the final grade, the area shall be classified as unsuitable for the installation of a subsurface absorption system. Consult the administrative authority for an acceptable alternative method of wastewater treatment.

*i. Site limitations.* In situations where specific location or site characteristics would appear to prohibit normal installation of on-site wastewater treatment and disposal systems, design

modifications may be approved by the administrative authority which could overcome such limitations. Examples of such modifications could be the installation of subsurface drainage, use of shallow trenches, use of dual soil treatment areas or water conservation plans.

**69.6(2) Percolation rates.**

*a. Percolation charts.* Table IIIa, percolation chart, specifies lineal feet of lateral trenches required in accordance with the results of the standard percolation tests. Tables IIIb and IIIc list optional methods for determining length of lateral trenches or sizing of absorption beds. The alternative option for increased rock usage (Table IIIb) is used when the size of lots limits the use of trench lengths prescribed in Table IIIa. Absorption beds (Table IIIc) are generally installed only when the lot size limitations preclude the installation of a lateral trench system. Further details concerning limitations of these two alternatives should be obtained from the administrative authority prior to requesting authorization for installation.

*b. Unsuitable absorption.* In the event the percolation rate exceeds 60 minutes per inch of water absorption, the soil conditions are unsuitable for the use of a subsurface absorption system. Soils with a percolation rate below one minute per inch are also unsuitable. Plans for an alternative method of wastewater treatment shall be submitted to the administrative authority for approval prior to construction.

**Table IIIa**  
**Percolation Chart**  
(Lineal feet of absorption trench)

<u>Min. Per Inch</u>	<u>Two- Bedroom 300 gal/day</u>	<u>Three- Bedroom 450 gal/day</u>	<u>Four- Bedroom 600 gal/day</u>	<u>Five- Bedroom 750 gal/day</u>	<u>Six- Bedroom 900 gal/day</u>
5-10	200	265	320	385	460
11-15	230	300	360	435	520
16-20	275	365	440	530	635
21-25	325	420	500	600	720
26-30	360	470	565	680	815
31-35	390	510	615	740	890
36-40	420	550	660	790	950
41-45	450	585	700	840	1010
46-50	475	615	740	890	1070
51-55	495	645	775	930	1115
56-60	510	660	800	960	1150

**Table IIIb**  
**Alternative Option for Increased Rock Usage**

<u>Depth of gravel below distribution line</u>	<u>Reduction in trench lengths as taken from Table IIIa</u>
12"	20%
18"	33%
24"	40%

**Table IIIc**  
**Alternative Option for Use of Absorption Bed**

<u>Percolation Rate Min./Inch</u>	<u>Absorption Area/Bedroom Sq.Ft.</u>	<u>Loading Rate/Day Gal./Sq. Ft.</u>
0- 5	250	.6
6-10	330	.45
11-30	500	.3

**69.6(3) Construction details.**

*a. Depth.* Lateral trenches shall not exceed 36 inches in depth. Not less than 6 inches of porous soil shall be provided over the laterals. Minimum separation between trench bottom and groundwater or rock formation shall be 36 inches.

*b. Width.* Lateral trenches shall be a minimum of 18 inches and a maximum of 36 inches in width at the bottom of the trench. In the event a trenching machine is used to excavate a wider trench, the lineal feet of lateral required shall remain the same as required for an 18-inch trench. Smearred or compacted trench sidewalls and bottoms must be scarified.

*c. Gravel.* A minimum of 6 inches of clean, washed gravel shall be laid below the distribution pipe, and enough gravel shall be used to cover the pipe. This gravel shall be of such size as will pass a 2½-inch screen 100 per cent and will be retained 100 per cent on a ¾-inch screen. When using clean, washed concrete stone, the size shall fall between 1 inch and 2½ inches in size.

*d. Grade.* A maximum grade of 6 inches per 100 feet of run shall be given the distribution pipe.

*e. Pipe.* Distribution pipe shall be not less than 4 inches inside diameter and for open joint clay tile systems not more than 12 inches in length. The tile should be laid with one-quarter inch open joints and strips of tar or asphalt treated paper about 4 inches wide should cover the top half of each joint. Perforated distribution tile or pipe of PVC or other suitable material may also be used in lieu of open-joint tile lines. Performances shall be at least one-half inch and no more than three-fourths inch in diameter and spaced to provide at least the equivalent total opening of comparable diameter foot-long clay tile laid with one-fourth inch open joints.

*f. Joint cover.* All open joints in the distribution pipes which would permit entry of material into the pipe shall be covered with tarred felt (tar paper).

*g. Gravel cover.* Unbacked, rolled, 3½-inch-thick fiberglass insulation, untreated building paper, synthetic drainage fabric, 4 inches to 6 inches of marsh hay or straw or other approved material, shall be so laid as to separate the gravel from the porous backfill.

*h. Compaction.* There shall be minimum use or traffic of heavy equipment on the area proposed for soil absorption. In addition, it is prohibited to use heavy equipment on the bottom of the absorption area.

**69.6(4) Distribution box.**

*a. Design.* When a distribution box is used, it shall be of proper design and installed with separate watertight headers leading from the distribution box to each lateral.

*b. Outlets.* The distribution box shall have outlets at the same level at least 4 inches above the bottom of the box to provide a minimum of 4 inches of water retention in the box.

*c. Baffles.* There shall be a tee or baffle at the inlet to break the water flow.

*d. Unused outlets.* All unused outlet holes in the box shall be securely closed.

*e. Interior coating.* All distribution boxes shall be constructed of corrosion resistant materials, or if constructed of concrete, shall be given a minimum of one coat of bituminous-type material.

*f. Outlet levels.* All outlets of the distribution box shall be made level. A small dam of bituminous or similar material in each outlet of the box will facilitate the leveling of these outlets.

*g. Equal length required.* The soil absorption area serviced by each outlet of the distribution box shall be equal.

*h. Effluent discharge.* Each distribution box shall discharge into a subsurface absorption field or other approved secondary treatment system.

**69.6(5) Pressure systems.**

*a. Pump requirement.* In the event the effluent from the septic tank outlet cannot be discharged by gravity so as to maintain proper lateral depths, the effluent shall discharge into a watertight vented pump pit with an inside diameter of not less than 24 inches, equipped with a tight-fitting manhole cover at grade level. The sump vent shall extend a minimum of 6 inches above grade level and shall be a minimum size of 1¼ inches fitted with a return bend. The pump shall be of a submersible-type of corrosion-resistant material.

*b. Pump setting.* The pump shall be installed in the pump pit in such a manner so as to ensure ease of service and protection from frost and settled sludge and to provide a minimum dosing frequency of two times per day. All electrical devices in the pump pit shall be properly sealed and resistant to corrosion.

*c. Pressure line size.* The pressure line from the pump to the point of discharge shall not be smaller than the outlet of the pump it serves.

*d. Drainage.* Pressure lines shall be installed to provide total drainage between dosings to prevent freezing.

**69.6(6) Gravelless systems.**

*a.* Gravelless subsurface absorption systems may be used as an alternative to conventional 4-inch pipe placed in gravel-filled trenches; however, they cannot be used in areas where conventional systems would not be allowed due to poor permeability, high groundwater, or insufficient depth to bedrock.

*b.* Design approval for these systems must be obtained from the administrative authority prior to installation, and all manufacturing specifications and installation procedures shall be closely adhered to.

*c.* The 8- and 10-inch I.D. corrugated polyethylene tubing used in gravelless systems shall meet the requirements of ASTM F667, Standard Specification for Large Diameter Corrugated Polyethylene Tubing.

*d.* Two rows of perforations shall be provided located 120 degrees apart along the bottom half of the tubing (each 60 degrees up from the bottom centerline). Perforations shall be cleanly cut and uniformly spaced along the length of the tubing and should be staggered so that there is only one hole in each corrugation.

*e.* The tubing should be visibly marked to indicate the top of the pipe.

*f.* All gravelless drainfield pipe shall be encased, at the point of manufacture, with a spun bonded nylon filter wrap.

*g.* The trench for the gravelless system shall be dug with a level bottom. On sloping ground, the trench should follow the contour of the ground to maintain a level trench bottom and to ensure a minimum backfill of six (6) inches.

*h.* It is recommended that the minimum trench width for the gravelless system be 18 inches in sandy loam soil to ensure proper backfill around the bottom half of the pipe. In clay soils, the minimum trench width should be 24 inches.

*i.* The gravelless system may be installed at a trench bottom depth of 18 inches minimum to 36 inches maximum, but a more shallow trench bottom depth of 18 to 24 inches is recommended.

*j.* To promote equal effluent and suspended solids distribution, the slope of the drain pipe should be 0 to 0.5 inches per 100 feet.

*k.* The total length of absorption trench for an 8-inch gravelless tubing installation shall be the same as given in Table IIIa for a conventional absorption trench.

*l.* A reduction of up to twenty percent in total trench length may be considered if 10-inch tubing is used rather than 8-inch.

**567—69.7(455B) Mound system.**

**69.7(1) General requirements.**

*a.* Mound systems shall be permitted only after a thorough site evaluation has been made and landscaping, dwelling placement, effect on surface drainage and general topography have been considered.

*b.* Mound systems shall not be utilized on sites which are subject to flooding with a 10-year frequency.

*c.* Mound systems shall not be utilized on soils where the high groundwater level or bedrock occur within 20 inches of natural grade; or where soil strata having a percolation rate exceeding 120 minutes per inch occur within 20 inches of natural grade.

*d.* Mound systems shall be constructed only upon undisturbed naturally occurring soils.

e. Mound systems shall be located in accordance with the distances specified in Table I as measured from the outer edge of the mound.

f. No buildings, driveways or other surface or subsurface obstructions shall be permitted within 50 feet on the down gradient side of the mound when said mound is constructed on a slope. No future construction shall be permitted in this effluent disposal area as long as the mound is in use.

**69.7(2) Material for mound fill.**

a. The mound shall be constructed using clean, medium-textured sand, sometimes referred to as concrete sand. The sand size shall be at least twenty-five percent with diameters between 2.0 and 0.25mm, less than thirty-five percent with diameters between 0.25 and 0.05mm and less than five percent with diameters between 0.002 and 0.05mm.

b. Rock fragments larger than 1/16 inch (2.0mm) shall not exceed fifteen percent by weight of the material used for sandy fill.

**69.7(3) Construction details.**

a. There shall be a minimum of 3 feet of fill material and undisturbed naturally occurring soils between the bottom of the washed gravel or concrete stone and the highest elevation of the limiting conditions defined in subrule 69.7(1) "c."

b. Gravel or concrete aggregate shall be washed and shall range in size from 1/2 to 2 1/2 inches.

c. A minimum of 1 foot of medium-grade sand must be placed between the bottom of the gravel or concrete aggregate and the top of the plowed surface of the naturally occurring soil.

d. Mound systems shall utilize absorption bed distribution design and shall not be installed on land with a slope greater than six percent. The bed shall be installed with the long dimension parallel to the land contour.

e. Minimum spacing between distribution pipes shall be 4 feet, and a minimum of 3 feet shall be maintained between any trench and the sidewall of the mound.

f. No soil under or up to 50 feet down gradient of the mound may be removed or disturbed except as specified herein.

g. Construction equipment which would cause undesirable compaction of the soil shall be kept off the base area. Construction or plowing shall not be initiated when the soil moisture content is high. If a sample of soil from approximately 9 inches below the surface can be easily rolled into a 1/8- to 1/4-inch diameter wire, the soil moisture content is too high for construction purposes.

h. Aboveground vegetation shall be closely cut and removed from the ground surface throughout the area to be utilized for the placement of the fill material.

i. The area shall be plowed to a depth of 7 to 8 inches, parallel to the land contour with the plow throwing the soil upslope to provide a proper interface between the fill and the natural soil. Tree stumps should be cut flush with the surface of the ground, and roots should not be pulled.

j. The soils with a percolation rate of 61 to 120 minutes per inch are to be calculated on the basis of .25 gal. per sq. ft. per day.

k. The base area of the mound is to be calculated on the results of percolation rate as indicated in Table IV. The base area of the mound below and downslope from the trenches, excluding the area under the end slopes, must be large enough for the natural soil to absorb the estimated daily wastewater flow.

l.

Table IV

<u>Percolation Rate Min./Inch</u>	<u>Permeability</u>	<u>Application Rate Gal./Square Foot/Day</u>
Less than 1	Excessive	Not Suitable
1- 10	Very High	1.25
10- 20	High	1.00
20- 35	Moderate	.75
35- 50	Slow	.50
50-120	Very Slow	.25
Over 120	Too Slow	Not Suitable

*m.* The area of the fill material shall be sufficient to extend 3 feet beyond the edge of the gravel area before the sides are shaped to a 4:1 slope.

*n.* Distribution system.

(1) The distribution pipe shall be rigid plastic pipe, schedule 40 or 80 with 1-inch nominal diameter.

(2) The distribution pipe shall be provided with a single row of 1/4-inch perforations in a straight line 30 inches on center along the length of the pipe or an equivalent design that assures uniform distribution. All joints and connections shall be solvent cemented.

(3) The distribution pipe shall be placed in the clean gravel or concrete aggregate with holes downward. The gravel or stone shall be a minimum of 9 inches in depth below and 3 inches in depth above the pipe.

(4) No perforations shall be permitted within 3 inches of the outer ends of any distribution pipes.

(5) The outer ends of all pressure distribution lines shall be securely capped.

(6) The central pressure manifold should consist of 1 1/2-inch or 2-inch solid plastic pipe using a tee or cross for connecting the distribution lines.

*o.* Construction should be initiated immediately after preparation of the soil interface by placing all of the sandy fill material needed for the mound (to the top of the trench) to a minimum depth of 21 inches above the plowed surface. This depth will permit excavation of the trenches to accommodate the 9 inches of washed gravel or crushed stone necessary for the distribution piping.

*p.* Hand excavate the absorption trench or trenches to a depth of 9 inches making certain that the bottoms of the trenches are level.

*q.* Place 12 inches of gravel in the trench, hand level, and then remove 3 inches of the gravel with a shovel in the location where the distribution pipe will be placed. After placing the distribution pipe, cover the pipe with 2 inches of gravel.

*r.* The top of the gravel shall be covered with unbacked, rolled 3 1/2-inch thick fiberglass insulation, untreated building paper, synthetic drainage fabric, or a 4- to 6-inch layer of marsh hay or straw or other suitable material. Plastic or treated building paper shall not be used.

*s.* After installation of the distribution system, gravel and material over the gravel, the entire mound is to be covered with topsoil native to the site or of similar characteristics to support vegetation found in the area. Crown the entire mound by providing 12 inches of topsoil on the side slopes with a minimum of 18 inches over the center of the mound. The entire mound shall be seeded, sodded or otherwise provided with a grass cover to assure stability of the installation.

*t.* The area surrounding the mound shall be graded to provide for diversion of surface runoff water.

**69.7(4) Dosing.**

*a.* Pressure dosing shall be required for mound systems.

*b.* The mound system shall be dosed not more than two times per day.

*c.* The size of the dosing pump or siphon shall be capable of maintaining an approximate pressure of one psi at the outer ends of the distribution lines.

**567—69.8(455B) Individual mechanical aerobic wastewater treatment systems.**

**69.8(1) General requirements.**

*a.* All individual mechanical aerobic wastewater treatment plants shall meet the standards prescribed in Standard No. 40, Section 5 and Section 6 of the National Sanitation Foundation.

*b.* All individual mechanical aerobic wastewater treatment plants shall be installed, operated and maintained in accordance with the manufacturer's instructions and the requirements of the administrative authority. The aerobic plants shall have a minimum treatment capacity of 150 gallons per bedroom per day or 500 gallons, whichever is greater. Installation of these types of plants should be restricted to those locations where they can be monitored by the local administrative authority.

c. The effluent from individual mechanical aerobic wastewater treatment plants shall receive additional treatment through the use of intermittent sand filters, mound systems or subsurface absorption systems of the same magnitude as prescribed in rules 69.6(455B), 69.7(455B) and 69.9(455B).

d. Maintenance agreements and responsibility waivers shall be recorded in the abstract of title for the premise on which mechanical aerobic treatment systems are installed.

e. These types of systems are allowed only when site conditions preclude any other type of individual private wastewater disposal system as described in this regulation.

69.8(2) Reserved.

**567—69.9(455B) Intermittent sand filters.**

**69.9(1) General requirements.**

a. *Location.* Intermittent sand filters shall be located in accordance with the distances specified in Table I.

b. *Use.* Intermittent sand filters shall be used when the administrative authority determines that this method of wastewater treatment is deemed necessary for the protection of the public health.

c. *Sampling.* A sampling port must be installed at the discharge point or in the discharge line. Effluent sampling of intermittent sand filters shall be performed during the early spring, midsummer and early fall of each year or as directed by the administrative authority. The maximum carbonaceous BOD<sub>5</sub>, inhibited and fecal coliform count requirements are as follows:

<u>Effluents Discharging To</u>	<u>Fecal Coliform/100 ml</u>	<u>BOD<sub>5</sub></u>
Class "A" waters: Primary contact water use*	200	25
Class "B" waters: Secondary contact water use	no limit	25
Class "C" waters: Source of potable water supply	no limit	25
General water quality criteria	no limit	25

\*A separation distance of 750 feet shall be maintained between any point of discharge and a primary recreational area as specified in the "Recommended Standards for Bathing Beaches" of the Great Lakes-Upper Mississippi River Board of State Public Health and Environmental Managers.

d. *Prohibited construction.* There shall be no construction such as buildings or concrete driveways, covering any part of an intermittent sand filter.

**69.9(2) Construction.**

a. *Number.* A subsurface sand filter shall consist of one filtering bed or two or more filtering beds connected in series and separated by a minimum of 6 feet of undisturbed earth.

b. *Pipelines.* Each bed shall contain horizontal sets of distribution lines and collector lines. These lines shall be equivalent to schedule 40 PVC pipe or other suitable materials.

(1) One collector line shall be provided for each 6 feet of width or fraction thereof. A minimum of 2 collector lines shall be provided. The upper end of each collector line shall be sealed or plugged.

(2) The collector lines shall be laid to a grade of one inch in 10 feet (or 0.5 to 1.0%). The tops of open joints in the collector lines may be covered with tarred felt (tar paper) to prevent intrusion of the media.

(3) Gravel ¾ inch to 2½ inches in size shall be placed around and over the lower collector lines until there is a minimum of 4 inches of gravel over the pipes.

(4) The gravel shall be overlaid with a minimum of 3 inches of washed pea gravel 1/8 inch to 3/8 inch size interfacing with the filter media.

(5) A minimum of 24 inches of coarse washed sand shall be placed over the pea gravel. The sand shall have an effective size of 0.5 to 2.0mm with a uniformity coefficient of less than 3.5. Not more than 1.0% of the media shall be less than 0.13mm in size.

(6) Six inches of gravel 3/4 inch to 2 1/2 inches in size shall be placed upon the sand in the bed.

(7) Distribution lines shall be level and shall be horizontally spaced a maximum of 3 feet apart, center to center.

(8) Venting shall be placed on the downstream end of the distribution lines with each distribution line being vented or connected to a common vent. Vents shall extend at least 12 inches above the ground surface with the outlet screened, or provided with a perforated cap.

(9) Enough gravel shall be carefully placed to cover the distributors.

(10) A layer of material such as unbacked, rolled 3 1/2 inches thick fiberglass insulation, untreated building paper of 40 to 60 lb. weight, synthetic drainage fabric or 4 inches to 6 inches of marsh hay or straw shall be placed upon the top of the upper layer of gravel. In dry sandy soils, a 4-inch layer of hay or straw covered with untreated building paper is suggested to prevent the backfill from filtering down into the rock unless fiberglass or drainage fabric is used.

(11) A minimum of 12 inches of backfill shall be provided over the beds.

*c. Distribution boxes.* A distribution box shall be provided for each filter bed.

*d. Box location.* The distribution boxes shall be placed upon undisturbed earth outside the filter bed.

*e. Distribution.* Separate watertight lines shall be provided leading from the distribution boxes to each of the distributor lines in the beds.

*f. Pumps.* A pump shall be installed when adequate elevation is not available for the system to operate by gravity.

(1) The pump shall be of corrosion-resistant material.

(2) The pump shall be installed in a watertight pit.

(3) The dosing system shall be designed to flood the entire filter during the dosing cycle.

A dosing frequency of greater than two times per day is recommended.

*g. Dosing siphons.* When a dosing siphon is used where elevations permit, such siphon shall be installed as follows:

(1) Dosing siphons shall be installed between the septic tank and the first filter bed.

(2) Dosing siphons shall be installed with strict adherence to the manufacturer's instructions.

*h. Dosing tanks.* The dosing tank shall be of such size that the siphon will flood the entire filter during the dosing cycle. A dosing frequency of greater than two times per day is recommended.

#### 69.9(3) Sizing of subsurface sand filters.

*a.* Residential systems shall be sized at a rate of 240 square feet of surface area per bedroom.

*b.* Effluent application rates for commercial systems shall not exceed the following:

(1) 1.5 gallon/square feet/day for double bed sand filters.

(2) 1.0 gallon/square feet/day for single bed sand filters.

(3) Total surface area for any sand filter system shall not be less than 200 square feet.

#### 69.9(4) Free access sand filters.

*a. Description.* Media characteristics and underdrain systems for free access filters are similar to those for subsurface filters. Distribution is often provided through pipelines and directed on splash plates located at the center or corners of the sand surface. Occasionally, troughs or spray nozzles are employed as well, and ridge and furrow application has been successful during winter operation in severe climatic conditions. Dosing of the filter should provide for flooding the bed to a depth of approximately 2 inches. Dosing frequency is usually greater than two times per day. For coarser media (greater than 0.5mm), a dosing frequency greater than 4 times per day is desirable. Higher acceptable loadings on these filters as compared to subsurface filters relates primarily to the accessibility of the filter surface for maintenance. Gravel is not used on top of the sand media, and the distribution pipes are normally exposed above the surface.

*b. Distribution.* Distribution to the filter may be by means of troughs laid on the surface, pipelines discharging to splash plates located at the center or corners of the filter, or spray distributors. Care must be taken to ensure that lines discharging directly to the filter surface do not erode the sand surface. The use of curbs around the splash plates or large stones placed around the periphery of the plates will reduce the scour. A layer of washed pea gravel placed over the filter media may also be employed to avoid surface erosion. This practice will create maintenance difficulties, however, when it is time to rake or remove a portion of the media surface.

*c. Covers.* Free access filters may be covered to protect against severe weather conditions, and to avoid encroachment of weeds or animals. The cover also serves to reduce odor conditions. Covers may be constructed of treated wooden planks, galvanized metal, or other suitable material. Screens or hardware cloth mounted on wooden frames may also serve to protect filter surfaces. Where weather conditions dictate, covers should be insulated. A space of 12 to 24 inches should be allowed between the insulated cover and sand surface.

*d. Loading.* The hydraulic loading for free access sand filters should be from 2.0 to 5.0 gpd/sq.ft. when treating septic tank effluent and 5.0 to 10.0 gpd/sq.ft. when treating the effluent from a mechanical aerobic wastewater treatment facility.

*e. Number of filters.* Dual filters each sized for the design flow, are recommended for treating septic tank effluent. Single filters are adequate for mechanical aerobic wastewater treatment facility effluent.

**567—69.10(455B) Requirements for impervious vault toilets.** All impervious vault toilets hereafter constructed or required by the administrative authority to be reconstructed shall comply with the following requirements:

**69.10(1) Location.** Impervious vault toilets shall be located in accordance with the distances given in Table 1, subrule 69.3(2).

**69.10(2) Construction.** The vault shall be constructed of reinforced, impervious concrete at least 4 inches thick. The superstructure including floor slab, seat, seat cover, riser and building shall comply with good design and construction practices to provide permanent safe, sanitary facilities. The vault shall be provided with a cleanout opening fitted with a fly-tight cover.

**567—69.11(455B) Requirements for portable toilets.** All portable toilets shall be designed to receive and retain the wastes deposited therein and shall be located and maintained in a manner that will prevent the creation of any nuisance condition.

**567—69.12(455B) Requirements for chemical toilets.** All chemical toilets shall comply with the following requirements:

**69.12(1) Tank.** Chemical toilets for use in isolated residences shall have a receptacle of smooth, impervious material that is resistant to chemicals and easily cleanable.

**69.12(2) Vent.** When vents are required for chemical toilets, they shall be of durable corrosion-resistant material installed in a workmanlike manner.

**69.12(3) Mixing and chemical charge.** The fixture shall be equipped with a mixing device and shall be charged with a chemical or chemicals of bactericidal nature and proper concentration. Chemical recharges shall be added and mixed with the contents when necessary to maintain sufficient solution strength and to suppress odors.

**69.12(4) Toilet rooms.** Chemical toilets shall be located in toilet rooms which are well-lighted, ventilated and maintained in a nuisance-free condition.

**69.12(5) Final disposal of receptacle contents.** The receptacle contents shall be disposed of in such a manner that a nuisance will not be created. The recommended method of disposal is discharging to a municipal sewage treatment facility.

**567—69.13(455B) Other methods of wastewater disposal.** Other methods or types of private wastewater treatment and disposal systems shall be installed only after plans and specifications for each project have been approved by the administrative authority.

**567—69.14(455B) Disposal of septage from on-site wastewater treatment and disposal systems.** The collection, storage, transportation and disposal of all septage shall be carried out in a sanitary manner which does not endanger the public health or create a nuisance condition.

**69.14(1) Methods of septage disposal.**

a. Discharge (with owner approval) to a municipal or other permitted wastewater treatment system.

b. Discharge (with owner approval) to permitted sludge lagoons or sludge drying beds.

c. Land application in accordance with the following requirements:

(1) Land application of stabilized septage shall be in accordance with 121.3(2) of these rules.

(2) Septage is considered stabilized if treated as follows: Stabilize the septage by adding and thoroughly mixing sufficient lime to produce a mixture with a pH of 12. Provide a minimum of two hours of contact time after mixing the lime with the septage prior to applying to land.

(3) Other methods of stabilization may be acceptable if shown to be equivalent to subrule 69.14(1)“c”(2) above.

d. Discharge (with owner approval) to a permitted sanitary landfill in accordance with 900—chapters 102 and 103 of these rules and the following requirements:

(1) Stabilize the septage by adding and thoroughly mixing sufficient lime to produce a mixture with a pH of 12.

(2) Provide a minimum of two hours of contact time after mixing the lime with the septage prior to applying to the landfill.

(3) Dewater the septage.

(4) Obtain a special waste authorization permit from the department.

**69.14(2) Sludge pumpers/haulers.** Individual administrative authorities shall have the option to require a licensing program for sludge pumpers/haulers in their respective counties. As a minimum, these programs may include but not be limited to the following program elements:

1. Fee assessment for all qualified pumpers/haulers.

2. Periodic inspection of pumpers/haulers equipment.

3. Require minimum equipment standards.

4. Provide acceptable disposal methods for pumpers/haulers.

5. Require pumpers/haulers to maintain a log of day-to-day activities including specific information about individual systems.

6. Require pumpers/haulers to periodically submit requested log information to administrative authority.

**567—69.15(455B) Alternative or innovative on-site wastewater treatment and disposal systems.**

**69.15(1) Alternative or innovative systems** are to be designed in accordance with, and operated in accordance with approved standards and operating procedures established by individual administrative authorities.

a. Plans and specifications, meeting all applicable rule requirements, should be prepared and submitted to the administrative authorities by a registered professional engineer. Included with the engineering submittal should be adequate supporting data relating to the effectiveness of the proposed system.

b. For systems designed to discharge treated effluent into waters of the state, it will be necessary to obtain a discharge permit from the department of natural resources. The administrative authority is responsible for determining that the requirements of the permit are met including the monitoring program.

c. Administrative authorities should prepare for signature an enforceable agreement to be placed on record which would require that present and future system owners meet all applicable rule requirements. In the event of noncompliance, the administrative authority shall require that adequate steps be taken by the system owner to bring the system into compliance.

*d.* Wastewater management districts may be formed for the purpose of providing specialized control of on-site wastewater treatment and disposal systems located in certain problem areas or in intensive development areas. Formation of such wastewater management districts shall be coordinated under the guidance of the administrative authority and shall meet all applicable rule requirements.

**69.15(2)** Reserved.

**567—69.16(455B) Variances.** Variances to these rules may be granted by the department of natural resources or the administrative authority provided sufficient information is submitted to substantiate the need and propriety for such action. Applications for variances and justification shall be in writing and copies filed with the department.

These rules are intended to implement Iowa Code chapter 455B, division III, part 1 as amended by 1986 Iowa Acts, Senate File 2175, sections 1899, 1899A and 1899B.

[Filed emergency 6/3/83—published 6/22/83, effective 7/1/83]

[Filed 12/2/83, Notice 6/22/83—published 12/21/83, effective 1/25/84]

[Filed 8/24/84, Notice 5/9/84—published 9/12/84, effective 10/18/84]

[Filed 10/31/86, Notice 5/21/86—published 11/19/86, effective 12/24/86]



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