

State of Iowa

# Iowa Administrative Code Supplement

Biweekly

October 7, 1987



**PHYLLIS BARRY**  
DEPUTY CODE EDITOR

**DONNA WATERS**  
ADMINISTRATIVE CODE ASSISTANT

---

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

Pursuant to Iowa Code section 17A.6, the Iowa Administrative Code [IAC] Supplement is published biweekly.

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 the 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. 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.

**Editor's phone: (515) 281-3355 or (515) 281-8157**

### UPDATING INSTRUCTIONS October 7, 1987, Biweekly Supplement

#### IOWA ADMINISTRATIVE CODE

	Remove Old Pages*	Insert New Pages
<b>REVENUE</b>		
<b>DEPARTMENT[730]</b>	Analysis, p.1— Ch 6, p.22	Page 1
<b>The following are some of the "umbrella" Departments, Commissions, and Divisions created by state government reorganization.</b>		
<b>Insurance Division[191]</b>	Analysis, p.5, 5a Analysis, p.7—Ch 1, p.1 Ch 29, p.1, 2 Ch 35, p.5 Ch 50, p.12— Ch 50, p.136 Ch 50, p.62, 63 Ch 55, p.2—Ch 56, p.1	Analysis, p.5, 5a Analysis, p.7—Ch 1, p.1 Ch 29, p.1, 2 Ch 35, p.5 Ch 50, p.12— Ch 50, p.136 Ch 50, p.62, 63 Ch 55, p.2—Ch 56, p.1
<b>ECONOMIC</b>		
<b>DEVELOPMENT, IOWA</b>		
<b>DEPARTMENT OF[261]</b>	Analysis, p.3—Analysis, p.6 Ch 23, p.1—Ch 23, p.18 Ch 26, p.9 Ch 41, p.1—Ch 41, p.3	Analysis, p.3—Analysis, p.6 Ch 23, p.1—Ch 23, p.19 Ch 26, p.9—Ch 27, p.2 Ch 41, p.1—Ch 41, p.3

\*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>Industrial Services Division[343]</b>	Ch 2, p.1, 2	Ch 2, p.1, 2
<b>Labor Services Division[347]</b>	Analysis, p.2a, 3 Analysis, p.5, 6 Ch 32, p.1—Ch 32, p.6 Ch 99, p.1—Ch 110, p.1	Analysis, p.2a, 3 Analysis, p.5, 6 Ch 32, p.1—Ch 32, p.10 Ch 100, p.1—Ch 110, p.1
<b>INSPECTIONS AND APPEALS DEPARTMENT[481]</b>	Analysis, p.1, 2 Analysis, p.5—Ch 1, p.3 Ch 5, p.1—Ch 7, p.2 Ch 64, p.47, 48	Analysis, p.1, 2 Analysis, p.5—Ch 1, p.3 Ch 5, p.1—Ch 7, p.2 Ch 64, p.47—Ch 74, p.1
<b>LAW ENFORCEMENT ACADEMY[501]</b>	Ch 2, p.1—Ch 2, p.4	Ch 2, p.1—Ch 2, p.4
<b>PUBLIC HEALTH DEPARTMENT[641]</b>	Analysis, p.1—Analysis, p.4 Ch 13, p.1 Ch 19, p.2—Ch 25, p.1 Ch 75, p.1—Ch 77, p.1 Ch 91, p.1—Ch 91, p.4	Analysis, p.1—Analysis, p.4 Ch 11, p.1—Ch 13, p.1 Ch 19, p.2—Ch 25, p.1 Ch 75, p.1—Ch 77, p.1 Ch 91, p.1—Ch 91, p.4
<b>REVENUE AND FINANCE DEPARTMENT[701]</b>	Analysis, p.1, 2 Ch 2, p.3, 4 Ch 30, p.5, 6 Ch 52, p.1—Ch 52, p.4 Ch 52, p.17, 18 Ch 71, p.12—Ch 71, p.15 Ch 74, p.1—Ch 74, p.3 Ch 78, p.1—Ch 79, p.1 Ch 79, p.4—Ch 80, p.13 Ch 122, p.1—Ch 124, p.1	Analysis, p.1, 2 Ch 2, p.3—Ch 6, p.14 Ch 30, p.5, 6 Ch 52, p.1—Ch 52, p.4 Ch 52, p.17, 18 Ch 71, p.12—Ch 71, p.15 Ch 74, p.1—Ch 74, p.3 Ch 78, p.1—Ch 79, p.1 Ch 79, p.4—Ch 80, p.13 Ch 122, p.1—Ch 124, p.1
<b>Lottery Division[705]</b>	Analysis, p.1, 2 Ch 10, p.1—Ch 10, p.6	Analysis, p.1, 2 Ch 10, p.1—Ch 11, p.2
<b>Index</b>	"A" Tab, p.5, 6 "C" Tab, p.1, 2 "M" Tab, p.1-4 "N" Tab, p.3-6 "S" Tab, p.15-18	"A" Tab, p.5, 6 "C" Tab, p. 1, 2 "M" Tab, p.1-4 "N" Tab, p.3-6 "S" Tab, p.15-18

\*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.

# REVENUE DEPARTMENT[730]

Renamed by 1986 Iowa Acts, chapter 1245  
Revenue and Finance Department[701]

## CHAPTERS 1 to 90

Transferred to Revenue and Finance  
Department[701]

## CHAPTERS 91 to 96

Transferred to Chapters 20 to 25 of Racing  
and Gaming Division[195] of the  
Department of Commerce[181]

## CHAPTERS 97 to 125

Transferred to Revenue and Finance  
Department[701]



- CHAPTER 31**  
**LIFE INSURANCE COMPANIES—**  
**VARIABLE ANNUITIES CONTRACTS**  
 31.1(508) Definitions  
 31.2(508) Insurance company qualifications  
 31.3(508) Filing, policy forms and provision  
 31.4(508) Separate account or accounts and investments  
 31.5(508) Required reports  
 31.6(508) Examination of agents and other persons  
 31.7(508) Foreign companies

- CHAPTER 32**  
**DEPOSITS BY A DOMESTIC LIFE**  
**COMPANY IN A CUSTODIAN BANK**  
**OR CLEARING CORPORATION**  
 32.1(508) Purpose  
 32.2(508) Definitions  
 32.3(508) Requirements upon custodial account and custodial agreement  
 32.4(508) Requirements upon custodians  
 32.5(508,511) Deposit of securities

- CHAPTER 33**  
**VARIABLE LIFE INSURANCE**  
**MODEL REGULATION**  
 33.1(508A) Authority  
 33.2(508A) Definitions  
 33.3(508A) Qualification of insurer to issue variable life insurance  
 33.4(508A) Insurance policy requirements  
 33.5(508A) Reserve liabilities for variable life insurance  
 33.6(508A) Separate accounts  
 33.7(508A) Information furnished to applicants  
 33.8(508A) Applications  
 33.9(508A) Reports to policyholders  
 33.10(508A) Foreign companies  
 33.11(508A) Qualifications of agents for the sale of variable life insurance  
 33.12(508A) Separability article

- CHAPTER 34**  
**NONPROFIT HEALTH SERVICE**  
**CORPORATIONS**  
 34.1(514) Purpose  
 34.2(514) Definitions

- 34.3(514) Annual report requirements  
 34.4(514) Arbitration  
 34.5(514) Filing requirements  
 34.6(514) Participating hospital contracts  
 34.7(514,70GA,ch27) Composition, nomination, and election of board of directors

- CHAPTER 35**  
**ACCIDENT AND HEALTH INSURANCE**  
 35.1(509) Purpose  
 35.2(509) Scope  
 35.3(509) Definitions  
 35.4(509) Required provisions  
 35.5(509) Application and certificates not required  
 35.6(509) Facility of payment  
 35.7(509) General filing requirements  
 35.8 to 35.19 Reserved  
 35.20(509A) Life and health self-funded plans  
 35.21(509) Review of certificates issued under group policies

- CHAPTER 36**  
**INDIVIDUAL ACCIDENT AND**  
**HEALTH—MINIMUM STANDARDS**  
 36.1(514D) Purpose  
 36.2(514D) Applicability and scope  
 36.3(514D) Effective date  
 36.4(514D) Policy definitions  
 36.5(514D) Prohibited policy provisions  
 36.6(514D) Accident and sickness minimum standards for benefits  
 36.7(514D) Required disclosure provisions  
 36.8(514D) Requirements for replacement  
 36.9(514D) Filing requirements  
 36.10(514D) Loss ratios  
 36.11(514D) Certification  
 36.12(514D) Severability

- CHAPTER 37**  
**MINIMUM STANDARDS—GROUP**  
**MEDICARE SUPPLEMENT**  
 37.1(509) Purpose  
 37.2(509) Applicability and scope  
 37.3(509) Minimum standards  
 37.4(509) Loss ratios

**CHAPTER 38****COORDINATION OF BENEFITS**

- 38.1(509,514) Purpose
- 38.2(509,514) Applicability
- 38.3(509,514) Definitions
- 38.4(509,514) Model COB contract provision
- 38.5(509,514) Order of benefits
- 38.6(509,514) Reduction in a plan's benefits when it is secondary-general
- 38.7(509,514) Reasonable cash value of services
- 38.8(509,514) Excess and other nonconforming provisions
- 38.9(509,514) Allowable expense
- 38.10(509,514) Subrogation
- 38.11(509,514) Effective date—existing contracts

**CHAPTER 39**

Reserved

**CHAPTER 40****HEALTH MAINTENANCE ORGANIZATIONS**

(Health and Insurance—Joint Rules)

- 40.1(514B) Definitions
- 40.2(514B) Application
- 40.3(514B) Inspection of evidence of coverage
- 40.4(514B) Governing body and enrollee representation
- 40.5(514B) Quality of care
- 40.6(514B) Change of name
- 40.7(514B) Change of ownership
- 40.8(514B) Termination of services
- 40.9(514B) Complaints
- 40.10(514B) Cancellation of enrollees
- 40.11(514B) Application for certificate of authority
- 40.12(514B) Deposit requirements
- 40.13(514B) Fidelity bond
- 40.14(514B) Annual report
- 40.15(514B) Cash or asset management agreements
- 40.16(514B) Deductibles and coinsurance charges
- 40.17(514B) Reinsurance
- 40.18(514B) Provider contracts
- 40.19(514B) Agents' duties

**CHAPTER 41**

Reserved

- 50.44 Reserved
- 50.45(502) Definition of offer
- 50.46 to 50.55 Reserved
- 50.56(502) Registration of publicly offered cattle feeding programs
- 50.57(502) Registration and operation of oil and gas drilling programs
- 50.58(502) Rules relating to real estate programs
- 50.59(502) Act defined
- 50.60 to 50.79 Reserved
- 50.80(502) Commodity pool Programs

#### CHAPTERS 51 to 54 Reserved

#### CHAPTER 55 IOWA BUSINESS OPPORTUNITY SALES ACT

- 55.1(523B) Definitions and interpretations
- 55.2(523B) Jurisdictional authority
- 55.3(523B) Registration application procedure
- 55.4(523B) Exemption application procedure
- 55.5(523B) Surety bond, trust account or letter of credit
- 55.6(523B) Orders
- 55.7(523B) Investigations and subpoenas
- 55.8(523B) Forms
- 55.9(523B) Fees

#### CHAPTER 56 WORKERS' COMPENSATION GROUP SELF-INSURANCE

- 56.1(87,505) General provisions
- 56.2(87,505) Definitions
- 56.3(87,505) Requirements for self-insurance
- 56.4(87,505) Approval of service companies
- 56.5(87,505) Excess insurance
- 56.6(87,505) Rates and reporting of rates
- 56.7(87,505) Special provisions
- 56.8(87,505) Certificate of approval; termination
- 56.9(87,505) Examinations
- 56.10(87,505) Board of trustees—membership, powers, duties, and prohibitions

- 56.11(87,505) Association membership; termination; liability
- 56.12(87,505) Requirements of sales agents
- 56.13(87,505) Requirements for continued approval
- 56.14(87,505) Misrepresentation prohibited
- 56.15(87,505) Investments
- 56.16(87,505) Refunds
- 56.17(87,505) Premium payment; reserves
- 56.18(87,505) Deficits and insolvencies
- 56.19(87,505) Grounds for nonrenewal or revocation of a certificate of relief from insurance
- 56.20(87,505) Hearing and appeal
- 56.21(87,505) Existing approved self-insurers
- 56.22(87,505) Severability clause

#### CHAPTER 57 WORKERS' COMPENSATION SELF-INSURANCE FOR INDIVIDUAL EMPLOYERS

- 57.1(87,505) General provisions
- 57.2(87,505) Definitions
- 57.3(87,505) Requirements for self-insurance
- 57.4(87,505) Additional security requirements
- 57.5(87,505) Application for an individual self-insurer
- 57.6(87,505) Approval of service companies
- 57.7(87,505) Excess insurance
- 57.8(87,505) Insolvency
- 57.9(87,505) Renewals
- 57.10(87,505) Periodic examination
- 57.11(87,505) Grounds for nonrenewal or revocation of a certificate of relief from insurance
- 57.12(87,505) Hearing and appeal
- 57.13(87,505) Existing approved self-insurers
- 57.14(87,505) Severability clause

**ORGANIZATION AND PROCEDURES****CHAPTER 1****ORGANIZATION OF DIVISION**

[Prior to 10/22/86, Insurance Department(510)]

**191—1.1(502,505) Organization.** The insurance division is headed by the commissioner of insurance who is assisted by a first and second deputy commissioner and other assistants. The functions of the division are divided into six bureaus:

*Administrative bureau* exercises general supervision and control over the insurance and securities business in the state of Iowa and provides supervision and direction to the various bureaus of the insurance division, including administrative support.

*Insurance examination bureau* is responsible for the admission and continuous monitoring of all insurance companies operating in Iowa, including review of applications for admission, review of annual statements, examination of companies and control of securities on deposit with the division.

*Property and casualty bureau* is responsible for the review and approval of policy forms and rates relating to property and casualty lines of insurance, review and investigation of citizen complaints concerning insurance practices, and general legal support for the division.

*Life and health bureau* is responsible for review and approval of all life and accident and health forms, Blue Cross and Blue Shield forms and rates, health maintenance organization forms and rates, credit life and accident and health rates and forms, and technical advice on citizen complaints concerning life and accident and health insurance.

*Agent examination and licensing bureau* is responsible for the testing, licensing and supervision of all insurance agents in the state, citizen complaints concerning agent conduct, and investigation of alleged agent misconduct in advance of hearings concerning suspension or revocation of agent licenses.

*Securities bureau* is responsible for the registration of securities issuers, dealers, and agents within the state; the regulation and examination of dealers and agents; and the enforcement of securities law and regulations in civil and criminal proceedings.

**191—1.2(502,505) Location.** The insurance division is located in the Lucas State Office Building in Des Moines, Polk County, Iowa.

These rules are intended to implement Iowa Code section 505.1 as amended by 1986 Iowa Acts, Senate File 2175, section 745.

[Filed 7/1/75]

[Filed emergency 7/1/85—published 7/30/86, effective 7/1/86]

[Editorially transferred from [510] to [191], IAC Supp. 10/22/86; see IAB 7/30/86]

**CHAPTER 29**  
**CONTINUATION RIGHTS UNDER GROUP ACCIDENT**  
**AND HEALTH INSURANCE POLICIES**

**191—29.1(509B) Definitions.** As used in this chapter:

*"COBRA"* means Title X of the federal Consolidated Omnibus Budget Reconciliation Act (P.L. 99-272), as amended by the Tax Reform Act of 1986 (P.L. 99-514).

*"Continuation right"* refers to the right under Iowa Code chapter 509B of an employee or member or the employee's or member's spouse and dependent children whose coverage under a group accident and health insurance policy would terminate because of termination of employment or membership or dissolution or annulment of marriage or death of the employee or member to continue their accident and sickness insurance under the policy for the period, and under the terms specified, in that chapter.

*"Employer"* means that person which provides group accident or health insurance to its employees, or former employees, or the dependents of such persons, regardless of whether the employer directly contracts with an insurance company for a policy or obtains insurance by virtue of its membership in an organization which is deemed to be a "group policyholder."

*"Group policyholder"* means a person which both contracts with an insurance company for accident or health insurance policies and provides group accident or health insurance to individuals by virtue of their membership in an organization. An organization shall not be deemed to be a "group policyholder" to the extent that its members are "employers" and those "employers" in turn provide benefits to their employees and their dependents under the "employer's" benefit plan. Hence, if an individual has group accident or health insurance by virtue of employment, all obligations fall on the "employer" even if that insurance is provided by virtue of the "employer's" membership in an organization which is deemed to be a "group policyholder."

*"Policy"* means the group accident and health insurance policy maintained by an employer or group policyholder for the employer's employees or group policyholder's members to implement the employer's or group policyholder's benefit plan for its employees or members.

**191—29.2(509B) Notice regarding continuation rights.**

**29.2(1)** An employer or group policyholder must provide written notice of the continuation right arising by virtue of termination of employment or membership, other than the notice required by Iowa Code section 509B.3(7), no later than ten days after termination.

**29.2(2)** The employee or member shall make an election regarding continuation of coverage in writing within ten days of the later of the date the insurance coverage would cease by virtue of termination of employment or membership or the date the notice set forth in subrule 29.2(1) is given and pay the premiums for the continuation coverage within 31 days of the date the group insurance would otherwise terminate. Payment by the employee or member shall be made in advance of coverage commencing.

**29.2(3)** An employer or group policyholder need only give written notice of termination of continuation coverage by reason of nonpayment of premium by the employee or member once, in advance, to the employee or member in some general form such as the certificate of coverage referred to in section 509B.3(7).

**29.2(4)** In the event of a right to continuation coverage arising because of dissolution or annulment of marriage or death of the employee or member, the person eligible for continuation, who shall be the spouse or the custodial parent or legal guardian on behalf of a dependent child, must notify the employer or group policyholder of the occurrence of the event within 30 days after the dissolution or annulment of marriage or death of the employee or member. Within ten days of receipt of that notice, the employer or group policyholder shall give the person notice of the continuation right, and that person shall have ten days from the date the latter notice is received to elect continuation coverage in writing from the employer or group policyholder.

**29.2(5)** An election to continue coverage received by an employer or group policyholder from an employee or member or other eligible person shall be promptly transmitted to the issuer of the policy. The issuer shall then cause coverage to be effective within ten days of receipt by the employer or group policyholder of the election, subject to receipt of the premium from the employee or member.

**29.2(6)** Notwithstanding subrule 29.2(5), continuation coverage shall run from the date of the qualifying event. An adequate premium to cover this period may be charged by an insurer.

**191—29.3(509B) Qualifying events for continuation rights.**

**29.3(1)** A dependent child ceasing to be a dependent of its parent or legal guardian is not an event qualifying for a continuation right.

**29.3(2)** Loss of continuation rights under COBRA, chapter 509B, or any other state group health insurance continuation law, is not an event qualifying for a continuation right.

**29.3(3)** Multiple qualifying events shall not be recognized under chapter 509B.

**29.3(4)** Voluntary termination of membership in an association shall not be a qualifying event.

**191—29.4(509B) Interplay between chapter 509B and COBRA.**

**29.4(1)** In the event an employee is eligible for a continuation right under Iowa Code chapter 509B and is also eligible for continuation of benefits from the employer under COBRA, an employer shall be deemed to comply with the requirements of chapter 509B if the employer offers to qualified beneficiaries the continuation right under COBRA. An election in favor of COBRA continuation shall satisfy the requirements of chapter 509B.

**29.4(2)** In lieu of, and as an alternative to the procedure set forth in subrule 29.4(1), the employer may give the employee continuation benefits, and charge the employee for continuation costs, on terms most favorable to the employee, as between chapter 509B and COBRA. For example, an employee could offer continuation for the period provided in COBRA — 18 months, as opposed to the 9 months under chapter 509B — but only at the cost to the employee allowable under chapter 509B—100 percent of the per-employee cost, as opposed to the 102 percent per-employee cost allowable under COBRA.

**191—29.5(509B) Effective date for compliance.**

**29.5(1)** An insurer renewing an existing policy on or after July 1, 1987, shall provide a continuation right in its policy no later than the renewal date of the policy.

**29.5(2)** Policies issued or delivered on or after July 1, 1987, shall contain the continuation right as of the date of issuance or delivery.

These rules are intended to implement Iowa Code sections 509B.3 and 509B.5.

[Filed 7/24/87, Notice 6/17/87—published 8/12/87, effective 9/16/87]

[Filed emergency 9/18/87—published 10/7/87, effective 9/18/87]

**35.20(3) *Plan shortfalls.*** If the resources of any self-funded plan subject to this rule are not adequate to fully cover all claims under that plan, then the public body sponsoring that plan shall make up the shortfall from other resources.

**191—35.21(509) Review of certificates issued under group policies.**

**35.21(1) *Nondiscretionary groups.*** A certificate of coverage delivered in this state under a group life or accident and health insurance policy issued to a group substantially as described in Iowa Code section 509.1, subsections (1) to (7), shall not be reviewed by the commissioner if the policy is issued outside of this state.

**35.21(2) *Discretionary groups.*** A certificate of coverage delivered in this state under a group life or accident and health insurance policy issued to a group not substantially as described in section 509.1, subsections (1) to (7), shall not be reviewed by the commissioner if the policy is issued outside of this state and if the policy is issued or offered in a state which has reviewed and approved the policy under a statute substantially similar to subsection 509.1(8).

These rules are intended to implement Iowa Code sections 509.1, 509.6, and 509A.14.

[Filed 11/16/65]

[Filed 11/18/85, Notice 10/9/85—published 12/4/85, effective 1/8/86]

[Filed 7/11/86, Notice 6/4/86—published 7/30/86, effective 9/3/86]\*

[Editorially transferred from [510] to [191] IAC Supp. 10/22/86; see IAB 7/30/86]

[Filed 9/18/87, Notice 8/12/87—published 10/7/87, effective 11/11/87]



- d. Sharing directly or indirectly in profits or losses in the account of any customer without the written authorization of the customer and the broker-dealer which such agent represents;
- e. Dividing or otherwise splitting commissions, profits or other compensation receivable in connection with the purchase or sale of securities in this state with any person not a licensed broker-dealer or agent; and
- f. Engaging in any of the practices specified in paragraphs "b", "c", "d", and "n" of 50.9(1).

**191—50.10(502) Unsolicited order exemption.**

**50.10(1)** Any registered broker-dealer effecting a transaction pursuant to an unsolicited order or offer to buy, and claiming an exemption from registration based solely upon the availability of subsection 3 of section 203 of the Act, shall require the customer to acknowledge that in fact the transaction is unsolicited.

**50.10(2)** The acknowledgment required by this rule shall be obtained by the broker-dealer on or before the settlement date for the transaction.

**50.10(3)** For the purposes of this rule the acknowledgment shall take the following form:

a. The confirmation required to be given pursuant to 50.10(1) shall have stamped on it, or otherwise boldly displayed, the words "Unsolicited Order, Notify Immediately if Otherwise"; or

b. A signed statement from the customer which indicates that the order was unsolicited and contains the name of the customer, the name of the securities involved, the number of securities involved, the price at which the securities were purchased, the date of transaction and the total dollar amount of the transaction including commissions paid.

**50.10(4)** For the purposes of this rule the customer will be presumed to have acknowledged that the transaction was unsolicited if the customer does not indicate otherwise on or before the settlement date.

**50.10(5)** A broker-dealer shall notify the administrator, in writing, that it is executing unsolicited orders in a security whenever the following conditions are met:

a. More than six (6) unsolicited orders or offers to buy such security are received during any three (3) consecutive business days;

b. The only exemption from registration being relied upon for the transaction is that provided by subsection 3 of section 203 of the Act.

**191—50.11(502) General licensing provision.**

**50.11(1)** The administrator may enter an order withdrawing the application submitted on behalf of any person desiring to take the agent's or principal's examination if that person is eligible to take the examination or to retake the same and has not done so within sixty (60) days after becoming eligible.

**50.11(2)** All applications to take the agent's examination must be on file with the administrator at least five (5) business days before the person on whose behalf the application is filed may take the examination.

**50.11(3)** All agent's examinations shall be given at the time and place designated by the administrator.

**50.11(4)** Examination fee. The fee for administering the agent's and principal's examinations shall be ten dollars (\$10) for each sitting without regard to whether either part I or part II or both are administered.

**191—50.12(502) Rules of conduct.**

**50.12(1)** Each broker-dealer, after execution of and before completion of each transaction with its customer, shall give or send to the customer a written confirmation setting forth:

*a.* A description of the security purchased or sold, the date of the transaction, the price at which the security was purchased or sold and any commission charged;

*b.* Whether the broker-dealer was acting for its own account, as agent for the customer, as agent for some other person, or as agent both for the customer and some other person;

*c.* When the broker-dealer is acting as agent for the customer, either the name of the person from whom the security was purchased or to whom it was sold or the fact that such information will be furnished upon the request of the customer.

**50.12(2)** Each broker-dealer shall establish written supervisory procedures and a system for applying such procedures which may reasonably be expected to prevent and detect any violations of chapter 502 and the rules and orders thereunder. Such procedures shall include the designation and qualification of a number of supervisory employees reasonable in relation to the number of its licensed agents, offices, and transactions in this state.

**50.12(3)** Every broker-dealer whose principal office is located in this state shall have at least one partner, officer or licensed agent employed on a full-time basis at its principal office.

**191—50.13(502) Registration of agent.** Every person who acts as agent for a broker-dealer or issuer and who is required to be registered as such shall file with the administrator a Form U-4 as adopted by the Securities and Exchange Commission in Securities Exchange Act Release number 11424.

**191—50.14(502) Application to act as an issuer who employs agents.**

**50.14(1)** Every issuer who employs a person who is an agent within the meaning of section 102(2) of the Act shall apply to the administrator for authority to act as an issuer who employs agents. Such application shall be by letter setting forth the issuer's intent to employ agents for the sale of its securities, listing each agent by name and address, and fully describing the subject securities.

**50.14(2)** The administrator may waive the examination requirement for licensing of agents of issuers of securities pursuant to sections 202(4), (5), (6), (7), (8), (9), (12) of the Act, if application is filed showing good cause for such waiver.

**50.15** Reserved.

**191—50.16(502) Uniform limited offering exemption.****50.16(1) Preliminary notes.**

*a.* This rule is the North American Securities Administrators Association Uniform Limited Offering Exemption as adopted in September 1983, without any of the footnotes and may be cited as the "Uniform Limited Offering Exemption."

*b.* Nothing in this exemption is intended to or should be in any way construed as relieving issuers or persons acting on behalf of issuers from providing disclosure to prospective investors adequate to satisfy the antifraud provisions of this state's securities law.

*c.* In view of the objective of this rule and the purposes and policies underlying this Act, the exemption is not available to any issuer with respect to any transaction which, although in technical compliance with this rule, is part of a plan or scheme to evade registration or the conditions or limitations explicitly stated in this rule.

*d.* Nothing in this rule is intended to relieve registered broker-dealers or agents from the due diligence, suitability, or "know your customer" standards, or any other requirements of law otherwise applicable to such registered persons.

**50.16(2) Exemption.** By authority delegated to the administrator to promulgate rules in Iowa Code sections 502.607(1) and 502.203(16), the following transaction is determined to be exempt from the registration provisions of the Iowa Uniform Securities Act:

a. Any offer or sale of securities offered or sold in compliance with Regulation D, Rules 230.501-503 and 505, of the Securities Act of 1933 as made effective in Release No. 33-6389 and which satisfies the following further conditions and limitations:

(1) No commission, fee or other remuneration shall be paid or given, directly or indirectly, to any person for the sale to any prospective purchaser in this state unless such person is registered under Iowa Code section 502.301.

(2) It is a defense to a violation of this subrule if the issuer sustains the burden of proof to establish that the issuer did not know and in the exercise of reasonable care could not have known that the person who received a commission, fee, or other remuneration was not appropriately registered in this state.

b. No exemption under this rule shall be available for the securities of any issuer if any of the parties described in Securities Act of 1933, Regulation A, Rule 230.252 sections (c), (d), (e), or (f), as amended before 1986:

(1) Has filed a registration statement which is subject to a currently effective registration stop order entered pursuant to any state's securities law within five (5) years prior to the filing of the notice required under this exemption;

(2) Has been convicted within five (5) years prior to the filing of the notice required under this exemption, of any felony or misdemeanor in connection with the offer, purchase, or sale of any security or any felony involving fraud or deceit, including but not limited to forgery, embezzlement, obtaining money under false pretenses, larceny, or conspiracy to defraud;

(3) Is currently subject to any state administrative enforcement order or judgment entered by that state's securities administrator within five (5) years prior to the filing of the notice required under this exemption or is subject to any state's administrative enforcement order or judgment in which fraud or deceit, including but not limited to making untrue statements of material facts and omitting to state material facts, was found and the order or judgment was entered within five (5) years prior to filing of the notice required under this exemption;

(4) Is currently subject to any state's administrative enforcement order or judgment which prohibits, denies, or revokes the use of any exemption from registration in connection with the offer, purchase or sale of securities; or

(5) Is currently subject to any order, judgment, or decree of any court of competent jurisdiction temporarily or preliminarily restraining or enjoining, or is subject to any order, judgment or decree of any court of competent jurisdiction, permanently restraining or enjoining, the party from engaging in or continuing any conduct or practice in connection with the purchase or sale of any security, or involving the making of any false filing with the state entered within five (5) years prior to the filing of the notice required under this exemption.

(6) The prohibitions of subparagraphs (1) to (3) and (5) above shall not apply if the person subject to the disqualification is duly licensed or registered to conduct securities related business in the state in which the administrative order or judgment was entered against such person or if the broker-dealer employing such party is licensed or registered in this state and the Form BD filed with this state discloses the order, conviction, judgment, or decree relating to such person. No person disqualified under subrule 50.16(2), paragraph "b," may act in a capacity other than that for which the person is licensed or registered.

(7) Any disqualification caused by 50.16(2), paragraph "b," is automatically waived if the state securities administrator or agency of the state which created the basis for disqualification determines upon a showing of good cause that it is not necessary under the circumstances that the exemption be denied.

c. The issuer shall file with the state administrator:

(1) Not later than 15 days following the date of the first sale in this state, a notice in the form required by Regulation D, Rule 230.503 to be filed with the Securities and Exchange Commission. This notice shall be accompanied by one copy of any written information furnished to investors and a consent to service of process on Form U-2; and a filing fee of \$100.

(2) Filing occurs on the earlier of the date received by the administrator or the date the documents are mailed with the United States postal service by registered or certified mail addressed to the administrator's office in Des Moines, Iowa.

d. In all sales in this state to investors who are not accredited under 17 Code of Federal Regulation (CFR) 230.501(a) the issuer and any person acting on its behalf shall have reasonable grounds to believe that one of the following conditions is satisfied:

(1) The investment is suitable for the purchaser upon the basis of the facts, if any, disclosed by the purchaser as to the purchaser's other security holdings and as to the purchaser's financial situation and needs. For the purpose of this condition only, it may be presumed that if the investment does not exceed 10 percent of the investor's net worth, it is suitable;

(2) The purchaser, either alone or with a purchaser's representative has such knowledge and experience in financial and business matters that the purchaser is or they are capable of evaluating the merits and risks of the prospective investment.

**50.16(3) Integration.** Transactions which are exempt under this rule may not be combined with offers and sales exempt under any other rule or Iowa Code chapter 502. However, nothing in this limitation shall act as an election. Should for any reason the offer and sale fail to comply with all of the conditions for this exemption, the issuer may claim the availability of any other applicable exemption.

**50.16(4) Orders.** The administrator may, by rule or order, increase the number of purchasers permitted by 17 CFR 230.505(b)(2)(ii) or waive any other conditions of this exemption.

**191—50.17(502) Commissions on limited offerings.** In addition to those commissions or remuneration which may be permitted by order, the administrator will grant permission for the payment of commission under section 203(9) of the Act when the following conditions have been complied with:

1. Commissions given on account of the sale of the securities are paid only to broker-dealers registered with the administrator pursuant to the Act;

2. Commissions to be paid do not exceed the commission limitation imposed on offerings registered with the administrator;

3. An offering document is made available to all offerees and purchasers at the time the first written offer is made, the confirmation of the sale, payment is made pursuant to the sale, or delivery of the security pursuant to the sale, whichever first occurs;

4. The offering document proposed to be used is supplied to the administrator at least 15 days prior to its being given to the first offeree.

(f) Any other agreement, arrangement or transactions, proposed or contemplated, may be restricted in the discretion of the Administrator if it would be considered unfair to the Participants in the Program.

(g) A Program shall not engage in pyramiding.

(h) All of the foregoing restrictions shall be disclosed in the prospectus and contained in the partnership agreement or charter document.

*k. Federal tax consequences.* The prospectus shall disclose the following tax aspects:

(1) A summary of an acceptable opinion from tax counsel or a ruling from the IRS covering federal tax questions relative to the Program, which may be based on reasonable assumptions described in the opinion letter. To the extent the opinion of counsel or IRS ruling is based on the maintenance of or compliance with certain requirements or conditions by the Sponsor(s), the prospectus shall, to the extent practicable, contain representations that such requirements or conditions have been met and that the Sponsor(s) shall use their best efforts to continue to meet such requirements or conditions.

(2) Tax treatment of the Program.

(3) Tax treatment of the Participants.

(4) Method of allocation of losses or profits and cash distributions.

(5) Any other pertinent information applicable to the tax aspects of the investment.

(6) The possibility of the requirement for filing state tax returns with states in which interests are held.

*l. Commodities futures markets.* At a minimum, the prospectus should disclose the following characteristics of the commodities markets:

(1) That the commodities markets are extremely volatile and the risk of loss is great;

(2) That procedures used in trading Commodities Futures contracts including, but not limited to, the margin requirements on the commodities to be invested in by the Program, the exchanges or board of trade on which the Program anticipates trading, and a description of the applicable exchange requirements.

*m. Licensing and regulation.* The prospectus shall disclose any licensing or registration requirements of the Program and the impact of regulation by the Commodity Futures Trading Commission.

*n. Notification.* Each Participant shall be notified within seven business days from the date of any decline in the Net Asset Value Per Unit to less than fifty percent of the Net Asset Value on the last valuation date. Included in the notification shall be a description of the Participants' voting rights pursuant to 50.80(6)"b".

*o. Material changes.* Any material changes in the Program's basic investment policies or structure shall require prior written approval by Participants holding a majority of units held by Participants. A material change shall include, specifically, any transfer or withdrawal of the Sponsor's interest in the Program.

*p. Summary of agreement of limited partnership or other charter documents.*

*q. Legal proceedings.* Briefly describe any legal proceedings to which the Program or the Sponsor is or was a party which is material to the program and any material legal proceedings between the Sponsor and Participants in any prior Program of the Sponsor.

*r. Financial information required on application.* The Sponsor or the Program shall provide as an exhibit to the application or where indicated below shall provide as part of the prospectus, the following financial information and financial statements:

(1) Balance sheet of the Program. As part of the prospectus, a balance sheet of the Program as of the end of its most recent fiscal year, prepared in accordance with generally accepted accounting principles and accompanied by an auditor's report without material qualification by an independent certified public accountant or an independent public accountant, and an unaudited balance sheet as of a date not more than ninety days prior to the date of filing.

(2) Balance sheet of the Sponsor.

(a) Balance sheet of the corporate Sponsor. A balance sheet of any corporate Sponsor as of the end of its most recent fiscal year, prepared in accordance with generally accepted

accounting principles and accompanied by an auditor's report without material qualification by an independent certified public accountant or an independent public accountant and an unaudited balance sheet as of a date not more than ninety days prior to the date of filing. Such statements shall be included in a prospectus.

(b) Balance sheet of the individual Sponsor. A balance sheet for each individual Sponsor as of a time not more than ninety days prior to the date of filing an application; such balance sheet may be unaudited and should conform to generally accepted accounting principles and shall be signed and sworn to by such Sponsor. A representation of the amount of such net worth must be included in the prospectus.

(3) Statement of income for corporate Sponsor. A statement of income for the last fiscal year of any corporate sponsor (or for the life of the corporate Sponsor, if less) prepared in accordance with generally accepted accounting principles and accompanied by an auditor's report without material qualification by an independent certified public accountant or independent public accountant, and an unaudited statement for any interim period ending not more than ninety days prior to the date of filing any application.

(4) Filing of other statements. The Administrator may, where consistent with the protection of investors, request additional financial statements of the Sponsor, Advisor, Clearing Broker or any Affiliate thereof, or permit the omission of one or more of the statements required under this subrule 50.80(8), paragraph "r", and the filing, and substitution thereof, of appropriate statements verifying financial information having comparable relevance to an investor in determining whether the investors should invest in the Program.

#### **50.80(9) Miscellaneous provisions.**

*a. Fiduciary duty.* The Program agreement shall provide that the Sponsor shall have fiduciary responsibility for the safekeeping and use of all funds and assets of the Program, whether or not in his immediate possession or control, and that he shall not employ, or permit another to employ such funds or assets in any manner except for the exclusive benefit of the Program.

*b. Redemptions.* The Program shall provide an opportunity at least quarterly for the redemption of Program interests at the Net Asset value as of the Valuation Date upon the written request of any Participant. The Participant must notify the Sponsor of the Participant's intent to redeem at least thirty days prior to the redemption date. The Sponsor must indicate the Valuation Dates for redemption in the prospectus and must honor those requests within thirty days following the Valuation Date, unless the quantity of redemptions would be detrimental to the tax status of the Program. In that case, redemptions will be selected by lot, and Participants notified within thirty days whether or not their interests were redeemed. The Sponsor may provide to suspend redemptions if the effect of substantial redemptions would impair the ability of the Program to operate in pursuit of its objectives.

This rule is intended to implement Iowa Code section 502.607, subsection (1).

[Filed 8/1/63; amended 5/18/71, 7/3/75]

[Filed 1/13/76, Notice 11/17/75—published 1/26/76, effective 3/1/76\*]

[Filed 8/30/76, Notice 7/26/76—published 9/8/76, effective 10/13/76]

[Filed 12/30/82, Notice 10/27/82—published 1/9/83, effective 2/24/83]

[Filed emergency 7/15/83—published 8/3/83, effective 7/15/83]

[Filed 8/27/85, Notice 7/17/85—published 9/25/85, effective 10/30/85]

[Editorially transferred from [510] to [191], IAC Supp. 10/22/86; see IAB 7/30/86]

[Filed 10/17/86, Notice 9/10/86—published 11/5/86, effective 12/10/86]()

[Filed 9/18/87, Notice 8/12/87—published 10/7/87, effective 11/11/87]

## CHAPTERS 51 to 54

Reserved

\*Objection to rules 50.19 and 50.44, see IAC Supplement 3/8/76

() Two ARCs.

days (120) prior to the filing of the application;

b. A profit and loss statement and statement of changes in financial position for each of the three (3) fiscal years preceding the date of the balance sheet, or for the period of the seller's and any predecessor's existence if less than three years;

c. If prepared, a copy of seller's most recent audited financial statement; and

d. Such other financial information as may be required pursuant to Iowa Code section 523B.4(3) "i."

55.1(7) Every seller claiming an exemption from registration based upon the availability of Iowa Code section 523B.1(1) "b"(3) shall permit all purchasers to use the trademark or service mark in conjunction with the operation of the business.

55.1(8) Every seller claiming an exemption from registration based upon the availability of Iowa Code section 523B.1(1) "b"(8) shall not pursue negotiations with a potential buyer unless representation of potential buyer is begun at the earliest of, and continued from, the following events:

a. Prior to, or concurrently with, the first offer made to the purchaser by the seller;

b. Prior to confirmation of any sale or payment pursuant to any sale;

c. Prior to the delivery of any merchandise; or

d. Prior to the point at which any services are performed in preparation for or pursuant to any such sale.

**191—55.2(523B) Jurisdictional authority.**

55.2(1) *Scope.* The provisions of the Act concerning offer and sale shall apply when the offer or sale is made in this state.

55.2(2) *Definition of "in this state."* For the purposes of the Act, Iowa Code section 523B.1(1) "a," and this chapter, an offer is made in this state, whether or not either party is then present in this state, when the offer originates from this state or is directed by the seller to this state and is received by the purchaser in this state.

This rule is intended to implement Iowa Code section 523B.10.

**191—55.3(523B) Registration application procedure.** Every application for registration for the offer or sale of a business opportunity shall be filed with the administrator, along with a fee of \$250 and shall contain the information set forth in Iowa Code section 523B.4. The seller shall submit a consent to service and, if applicable, a corporate resolution, both of which shall be on the form provided by the administrator. All forms shall be notarized.

This rule is intended to implement Iowa Code section 523B.2(4).

**191—55.4(523B) Exemption application procedure.**

55.4(1) Every seller desiring confirmation of the availability of an exemption under Iowa Code section 523B.1(1) "b"(1) to (9) shall submit the following information:

a. A written request for an exemption which contains a description of the actual facts that are the basis for the request and a citation to the applicable subsection of the rule or statute.

b. Such further information or documentation as may be required by the administrator.

55.4(2) Every application for exemption must be accompanied by a \$50 fee.

55.4(3) Every application submitted pursuant to this rule shall be signed by a principal of the applicant business and the signature shall be properly notarized.

This rule is intended to implement Iowa Code sections 523B.2(4) and 523B.10.

**191—55.5(523B) Surety bond, trust account or letter of credit.**

55.5(1) Pursuant to Iowa Code section 523B.3, a business opportunity seller shall not be permitted to do business in this state unless the business opportunity seller has obtained a surety bond, trust account or letter of credit.

**55.5(2) Dollar amount required.** The amount of the surety bond, trust account or guaranteed letter of credit shall be a minimum of \$15,000, but the administrator may require a greater amount if it is determined that the greater amount is necessary for the protection of purchasers of the business opportunity.

**55.5(3) Criteria for determining amount.** For the purposes of administering Iowa Code section 523B.3, any or all of the following criteria may be determinative as to whether a greater amount of coverage under the surety bond, trust account or guaranteed letter of credit shall be required.

- a. If the business has actively operated for less than two years.
- b. If the business opportunity or seller has capital or real property investment in this state with a fair market value of less than \$100,000.
- c. If the net worth of the business opportunity, as demonstrated by seller's balance sheet reflects a net worth of less than \$100,000.

This rule is intended to implement Iowa Code section 523B.3.

**191—55.6(523B) Orders.** The administrator may, by order, take actions which are necessary or appropriate for the protection of purchasers and to implement the purposes of the Act.

This rule is intended to implement Iowa Code section 523B.10.

**191—55.7(523B) Investigations and subpoenas.**

**55.7(1) The administrator may:**

- a. Make private and public investigations within or outside of this state as the administrator deems necessary to determine whether a person has violated or is about to violate any provision of the Act or any rule or order hereunder or to aid in the enforcement of the Act or in the prescribing of rules and forms hereunder;
- b. Require or permit any person to file a statement, under oath or otherwise as the administrator determines as to all the facts and circumstances concerning the matter to be investigated, and
- c. Publish information concerning any violation of the Act or any rule or order hereunder.

**55.7(2)** For the purpose of any investigation or proceeding under this Act, the administrator or any officer designated by the administrator may administer oaths and affirmations, subpoena witnesses, compel their attendance, take evidence and require the productions of any books, papers, correspondence, memoranda, agreements, or other documents or records which the administrator deems relevant or material to the inquiry.

**55.7(3)** No person is excused from attending and testifying or from producing any document or record before the administrator or in obedience to subpoena of the administrator or any officer designated by it, or in any proceeding instituted by the administrator, on the grounds that the testimony or evidence, documentary or otherwise, required of said person may tend to incriminate or subject that person to a penalty or forfeiture; but no individual may be prosecuted or subjected to any penalty or forfeiture on account of any transaction, matter, or thing concerning which that person is compelled, after claiming privilege against self-incrimination, to testify or produce evidence, documentary or otherwise, except that the individual testifying is not exempt from prosecution and punishment for perjury or contempt committed in testifying.

This rule is intended to implement Iowa Code section 523B.10.

**191—55.8(523B) Forms.** Forms and instructions are developed by the division to aid and assist applicants in fulfilling the requirements set forth by the Act.

Copies of all necessary forms and instructions may be obtained from the Iowa Division of Insurance, Securities Division, Lucas State Office Building, Des Moines, Iowa 50319.

The list which follows describes these forms and instructions which members of the public shall use when dealing with the division. Each direction shall be complied with and each question in every form answered in the same manner as if the forms and instructions were embodied in these rules.

FORM NUMBER	DESCRIPTION
BSOP 1	Business Opportunity Registration/Exemption Application. Used when filing for registration or applying for exemption under the Act. Provides information regarding the applicant. 1 page, both sides.
BSOP 2	Seller's Disclosure Form. Used when filing for registration under the Act. Provides information regarding principals of the business opportunity. 1 page.
BSOP 3	Business Opportunity Seller's Bond. Used by issuer of the surety bond obtained pursuant to the Act. 1 page.
BSOP 4	Consent to be Sued by Service on Commissioner of Insurance. Used by parties registering under the Act. 1 page.
BSOP 5	Resolution Authorizing Appointment of Commissioner of Insurance as Process Agent. Used by parties registering under or requesting confirmation of exemption from the Act. 1 page.

This rule is intended to implement Iowa Code section 523B.10.

**191—55.9(523B) Fees.** The following fees are hereby established by the administrator:

1. Application packet.....\$ 5.00
2. Certification .....\$ 5.00
3. Filing fee (exemptions) .....\$ 50.00
4. Filing fee (registrations) .....\$250.00
5. List of registrants .....\$ 10.00
6. Name change .....\$ 10.00
7. Photocopies of records (per page) .....\$ 0.50

All fees are nonrefundable.

This rule is intended to implement Iowa Code section 523B.10.

[Filed 9/10/82, Notice 8/4/82—published 9/29/82, effective 11/3/82]

[Editorially transferred from [510] to [191] IAC Supp. 10/22/86; see IAB 7/30/86]

[Filed 9/18/87, Notice 8/12/87—published 10/7/87, effective 11/11/87]

## CHAPTER 56 WORKERS' COMPENSATION GROUP SELF-INSURANCE

[Prior to 10/22/86, Insurance Department(510)]

### 191—56.1(87,505) General provisions.

56.1(1) Associations which are issued a certificate of approval by the commissioner shall not be deemed to be insurance companies and shall not be subject to the provisions of the insurance laws and regulations contained in Title XX of the Iowa Code except as otherwise provided in this chapter or by statute. Associations are not subject to the premium tax under Iowa Code section 432.1.

56.1(2) The purpose of this chapter is to provide reasonable conditions and restrictions for the approval of self-insurance for workers' compensation liability for associations of employers that have formed an insurance association under Iowa Code section 87.4.

56.1(3) The authority to promulgate these rules is found in Iowa Code section 505.8.

56.1(4) Certificates of relief from insurance shall not exempt a mutual association from Iowa Code chapters 85, 85A, 85B, 86 and 87.

### 191—56.2(87,505) Definitions.

56.2(1) "*Commissioner*" shall mean the commissioner of the insurance division of Iowa, appointed by the governor pursuant to Iowa Code section 505.2.

56.2(2) "*Division*" shall mean the insurance division of Iowa.

56.2(3) "*Employer*" shall be defined as set forth in Iowa Code section 85.61.

56.2(4) "*Workers' compensation self-insurance association*" or "*association*" means a not-for-profit unincorporated association consisting of five (5) or more employers who are members of the same bona fide business or professional association which has been in existence for not less than five (5) years, and who enter into agreements to pool their liabilities for workers' compensation benefits and employer's liability in this state pursuant to Iowa Code section 87.4.

56.2(5) "*Administrator*" means an individual, partnership or corporation engaged by a workers' compensation self-insurance association's board of trustees to carry out the policies established by the association's board of trustees and to provide day-to-day management of the association.

56.2(6) "*Insolvent*" or "*insolvency*" means the inability of a workers' compensation self-insurance association to pay its outstanding lawful obligations as they mature in the regular course of business, as may be shown either by an excess of its required reserves and other liabilities over its assets or by its not having sufficient assets to reinsure all of its outstanding liabilities after paying all accrued claims owed by it.

56.2(7) "*Net premium*" means premium derived from standard premium adjusted by any advance premium discounts.

56.2(8) "*Service company*" means a person or entity which provides services not provided by the administrator, including but not limited to, (a) claims adjustment, (b) safety engineering, (c) compilation of statistics and the preparation of premium, loss and tax reports, (d) preparation of other required self-insurance reports, (e) development of members' assessments and fees, and (f) administration of a claim fund.

56.2(9) "*Standard premium*" means the premium derived from the manual rates adjusted by experience modification factors but before advance premium discounts.

56.2(10) "*Workers' compensation*," when used as a modifier of "benefits," "liabilities," or "obligations" means both workers' compensation and employer's liability.

### 191—56.3(87,505) Requirements for self-insurance.

56.3(1) A proposed workers' compensation self-insurance association shall file with the commissioner its application for a certificate of approval accompanied by a nonrefundable filing fee in the amount of one hundred dollars (\$100). The application shall include the association's name, location of its principal office, date of organization, name and address of each member, and such other information as the commissioner may reasonably require, together with the following:

- 19.78(7A,17A,29USC 1501 et seq.) Reallocation process
- 19.79(7A,17A,29USC 1501 et seq.) Compliance review system
- 19.80(7A,7B,29USC 1501 et seq.) Audit resolution procedures
- 19.81(7A,7B,29USC 1501 et seq.) Debt collection procedure
- 19.82(7B,29USC 1501 et seq.) Sanctions for violations of the Act
- 19.83(7B,29USC 1501 et seq.) Appeals of sanctions
- 19.84 and 19.85 Reserved
- 19.86(7A,7B,17A, 29USC 1554) State administrative entity complaint procedures
- 19.87(7A,7B,29USC 1554) Transition provision and effective date

#### CHAPTER 20

##### CHILD CARE GRANTS PROGRAM

- 20.1(71GA,ch33) Purpose
- 20.2(71GA,ch33) Program description
- 20.3(71GA,ch33) Definitions
- 20.4(71GA,ch33) Program administration
- 20.5(71GA,ch33) Contents of application
- 20.6(71GA,ch33) Project specifications
- 20.7(71GA,ch33) Review and rating of applications
- 20.8(71GA,ch33) Grant agreement
- 20.9(71GA,ch33) Allowable costs
- 20.10(71GA,ch33) Reporting requirements
- 20.11(71GA,ch33) Monitoring
- 20.12(71GA,ch33) Termination

#### PART III

##### DIVISION OF

##### FINANCIAL ASSISTANCE

#### CHAPTER 21

##### DIVISION RESPONSIBILITIES

- 21.1(71GA,ch1245) Purpose
- 21.2(71GA,ch1245) Structure

#### CHAPTER 22

##### COMMUNITY ECONOMIC BETTERMENT PROGRAM

- 22.1(99E) Purpose
- 22.2(99E) Definitions
- 22.3(99E) Board and committee
- 22.4(99E) Eligible applicants
- 22.5(99E) Eligible projects
- 22.6(99E) Applications for assistance
- 22.7(99E) Selection criteria

- 22.8(99E) Award process
- 22.9(99E) New business opportunities program
- 22.10(99E) Administration of projects—financial management
- 22.11(99E) Miscellaneous

#### CHAPTER 23

##### COMMUNITY DEVELOPMENT BLOCK GRANT

##### NONENTITLEMENT PROGRAM

- 23.1(15,PL93-383) Goals and objectives
- 23.2(15,PL93-383) Definitions
- 23.3(15,PL93-383) Eligibility
- 23.4(15,PL93-383) Eligible and ineligible activities
- 23.5(15,PL93-383) Application requirements for the competitive program
- 23.6(15,PL93-383) Selection criteria for the competitive program
- 23.7(15,PL93-383) Application requirements for the economic development set-aside program
- 23.8(15,PL93-383) Selection criteria for economic development set-aside program
- 23.9(15,PL93-383) Application requirements for the public facilities set-aside program
- 23.10(15,PL93-383) Funding allocation
- 23.11(15,PL93-383) Administration
- 23.12(15,PL93-383) Miscellaneous
- 23.13(15,PL93-383) Imminent threat contingency fund
- 23.14(15,PL93-383) CDBG interim financing program

#### CHAPTER 24

##### EMERGENCY SHELTER GRANTS PROGRAM

- 24.1(PL 99-500) Purpose
- 24.2(PL 99-500) Definitions
- 24.3(PL 99-500) Eligible applicants
- 24.4(PL 99-500) Eligible activities
- 24.5(PL 99-500) Ineligible activities
- 24.6(PL 99-500) Application procedures
- 24.7(PL 99-500) Application review and approval process
- 24.8(PL 99-500) Matching requirements

- 24.9(PL 99-500) Grant ceilings
- 24.10(PL 99-500) Restrictions placed on nonprofit recipients
- 24.11(PL 99-500) Compliance with applicable federal and state laws and regulations
- 24.12(PL 99-500) Administration

**CHAPTER 25**

Reserved

**CHAPTER 26  
IOWA RENTAL****REHABILITATION PROGRAM**

- 26.1(7A,24CFR511) Definitions
- 26.2(7A,24CFR511) Purpose
- 26.3(7A,24CFR511) Eligibility
- 26.4(7A,24CFR511) Tenant assistance required
- 26.5(7A,24CFR511) Application for funds
- 26.6(7A,24CFR511) Selection criteria
- 26.7(7A,24CFR511) Administration
- 26.8(7A,24CFR511) Amendments and modifications
- 26.9(7A,24CFR511) Remedies for noncompliance
- 26.10(7A,24CFR511) Miscellaneous

**CHAPTER 27****TARGETED SMALL BUSINESS LOAN  
AND EQUITY GRANT PROGRAM**

- 27.1(72GA,SF511) Purpose
- 27.2(72GA,SF511) Definitions
- 27.3(72GA,SF511) Eligibility requirements
- 27.4(72GA,SF511) Application procedure
- 27.5(72GA,SF511) Award agreement
- 27.6(72GA,SF511) Monitoring and reporting

**CHAPTERS 28 to 35**

Reserved

**PART IV*****DIVISION FOR COMMUNITY PROGRESS*****CHAPTER 36****DIVISION RESPONSIBILITIES**

- 36.1(71GA,ch1245) Functions

**CHAPTER 37****CITY DEVELOPMENT BOARD**

- 37.1(368) Expenses, annual report and rules
- 37.2(17A) Forms

**CHAPTER 38****IOWA INTERGOVERNMENTAL  
REVIEW SYSTEM**

- 38.1(7A) Purpose
- 38.2(7A) Definitions
- 38.3(7A) Activities of the state clearinghouse
- 38.4(7A) Areawide clearing-houses
- 38.5(7A,28E,473A) Designation
- 38.6(7A) Review procedures—federal financial assistance
- 38.7(7A) Housing programs
- 38.8(7A) Direct development
- 38.9(7A) Board of regents
- 38.10(7A) Internal process
- 38.11(7A,68A) Information

**CHAPTER 39****IOWA MAIN STREET PROGRAM**

- 39.1(71GA,ch33) Purpose
- 39.2(71GA,ch33) Definitions
- 39.3(71GA,ch33) Program administration
- 39.4(71GA,ch33) Eligible applicants
- 39.5(71GA,ch33) Funding
- 39.6(71GA,ch33) Selection
- 39.7(71GA,ch33) Selection criteria
- 39.8(71GA,ch33) Financial management
- 39.9(71GA,ch33) Performance reviews
- 39.10(71GA,ch33) Noncompliance
- 39.11(71GA,ch33) Forms

**CHAPTER 40****REGIONAL ECONOMIC DEVELOPMENT  
COORDINATION PLANS**

- 40.1(28) Purpose
- 40.2(28) Definitions
- 40.3(28) Regional coordinating council organization
- 40.4(28) Regional economic development coordination plan—suggested contents
- 40.5(28) Submitting and review of the plan
- 40.6(28) Amending the plan

## CHAPTER 41 SATELLITE CENTERS

- 41.1(28) Purpose
- 41.2(28) Definitions
- 41.3(28) Eligible applicants
- 41.4(28) Allowable costs
- 41.5(28) Satellite center director's duties
- 41.6(28) Application procedures
- 41.7(28) Contents of application
- 41.8(28) Application review and grant award
- 41.9(28) Financial management standards
- 41.10(28) Recordkeeping and retention
- 41.11(28) Performance reports and reviews
- 41.12(28) Noncompliance
- 41.13(28) Grant closeouts
- 41.14(28) Compliance with state laws and rules
- 41.15(28) Confidential records

## CHAPTERS 42 to 49 Reserved

## PART V DIVISION OF MARKETING AND BUSINESS DEVELOPMENT

## CHAPTER 50 DIVISION RESPONSIBILITIES

- 50.1(71GA,ch1245) Objectives
- 50.2(71GA,ch1245) Structure

## CHAPTER 51 SPECULATIVE BUILDING LOANS

- 51.1(28) Purpose
- 51.2(28) Procedures
- 51.3(28) Qualifications for loans
- 51.4(28) Composition

## CHAPTER 52 BUSINESS INCUBATOR CENTER PROGRAM

- 52.1(71GA,ch33) Purpose
- 52.2(71GA,ch33) Definitions
- 52.3(71GA,ch33) Grant awards
- 52.4(71GA,ch33) Grant period
- 52.5(71GA,ch33) Funding
- 52.6(71GA,ch33) Grant match requirement
- 52.7(71GA,ch33) Timing and submission of grant proposals

- 52.8(71GA,ch33) Grant proposal
- 52.9(71GA,ch33) Evaluation of proposals
- 52.10(71GA,ch33) Evaluation criteria
- 52.11(71GA,ch33) Conditions of the grant
- 52.12(71GA,ch33) Appeal procedure

## CHAPTER 53 ECONOMIC AND RESEARCH DEVELOPMENT GRANTS

- 53.1(71GA,ch33) Purpose
- 53.2(71GA,ch33) Definitions
- 53.3(71GA,ch33) Grant awards
- 53.4(71GA,ch33) Project proposals
- 53.5(71GA,ch33) Grant match requirement
- 53.6(71GA,ch33) Procedure for submission
- 53.7(71GA,ch33) Restrictions on applications
- 53.8(71GA,ch33) Grant proposal
- 53.9(71GA,ch33) Evaluation of proposals
- 53.10(71GA,ch33) Evaluation criteria
- 53.11(71GA,ch33) Conditions of the grant
- 53.12(71GA,ch33) Appeal procedure

## CHAPTER 54 IOWA TARGETED SMALL BUSINESS PROCUREMENT PROGRAM (SET-ASIDE PROGRAM)

- 54.1(73) Purpose
- 54.2(73) Definitions
- 54.3(73) Preliminary procedures
- 54.4(73) Identification of targeted small businesses
- 54.5(73) Certification
- 54.6(73) Request for review of certification denial
- 54.7(73) Certification review board
- 54.8(73) Decertification
- 54.9(73) Notice of solicitation for bids
- 54.10(73) Negotiated price or bid contract
- 54.11(73) Determination of ability to perform
- 54.12(73) Other procurement procedures
- 54.13(73) Reporting requirements
- 54.14(73) Maintenance of records

**CHAPTER 55  
USE OF TRADEMARK**

55.1(28) Administering law

**CHAPTER 56  
IOWA EXPORT FINANCE INTEREST  
BUY-DOWN PROGRAM**

56.1(28,71GA,ch1246) Purpose  
56.2(28,71GA,ch1246) Eligibility guidelines  
56.3(28,71GA,ch1246) Allowable uses  
56.4(28,71GA,ch1246) Operation guidelines  
56.5(28,71GA,ch1246) Definition

**CHAPTER 57  
AMBASSADOR'S PROGRAM**

57.1(71GA,ch1246) Program established  
57.2(71GA,ch1246) Activities  
57.3(71GA,ch1246) Private participation

**CHAPTER 58  
WELCOME CENTER PROGRAM**

58.1(72GA,HF540) Purpose  
58.2 Reserved  
58.3 Reserved  
58.4(72GA,HF540) Pilot projects

**CHAPTERS 59 to 64  
Reserved**

**PART VI  
DIVISION OF ADMINISTRATION,  
PLANNING, AND POLICY**

**CHAPTER 65  
DIVISION RESPONSIBILITIES**

65.1(71GA,ch1245) Purpose  
65.2(71GA,ch1245) Structure

**CHAPTERS 66 to 72  
Reserved**

CHAPTER 23  
COMMUNITY DEVELOPMENT BLOCK GRANT  
NONENTITLEMENT PROGRAM  
[Prior to 12/3/86, Planning and Programming(630)]

**261—23.1(15,PL93-383) Goal and objectives.** The Act apportions funds to states, on a formula basis, to be used by local governments for the purposes listed in this rule.

As outlined in section 101(c) of the Act, the primary goal of this program is "the development of viable urban communities, by providing decent housing and suitable living environment and expanding economic opportunities, principally for persons of low and moderate income."

In addition to national program goals and objectives the state of Iowa will address the following objectives through its administration of the program:

1. Involve local officials in program decisions, including program design, administrative policies, and review;
2. Simplify the application procedures and administration of the program;
3. Design the program to be flexible enough to address community priorities. As required by federal statute, however, the projected use of funds must give maximum feasible priority to activities which benefit low- and moderate-income families, or aid in the prevention or elimination of slums or blight; or must meet other community development needs having a particular urgency because existing conditions pose a serious and immediate threat to the health or welfare of the community where other financial resources are not available to meet the needs; and
4. Ensure neutrality and fairness in the treatment of all applications submitted.

**261—23.2(15,PL93-383) Definitions.** When used in this chapter, unless the context otherwise requires:

"*Act*" means Title I of the Housing and Community Development Act of 1974, as amended (PL 93-383, PL 97-35, and PL 98-181).

"*Application*" means a request for program funds including the required forms and attachments.

"*Application on behalf of*" means any application submitted by one eligible applicant requesting funds for one or more other eligible applicants.

"*Community*" means any eligible applicant.

"*Community development block grant nonentitlement program*" means the grant program authorized by Title I of the Housing and Community Development Act of 1974, as amended, for cities and counties except those designated as entitlement areas by the U.S. Department of Housing and Urban Development.

"*Competitive program*" means the CDBG nonentitlement program, excluding the economic development set-aside as described in 23.7(15,PL93-383), the public facilities program, described in 23.9(2), and the interim financing program, described in 23.14(15,PL93-383).

"*DED*" or "*IDED*" means the Iowa department of economic development.

"*Economic development*" means the alleviation of physical and economic distress through the stimulation of private investment and community revitalization for projects involving the creation of new jobs or the retention of existing jobs that would otherwise be lost.

"*Economic development set-aside*" means a separate allocation to cities and counties to provide direct financial assistance to private enterprise for projects involving the creation of new jobs or the retention of existing jobs that would otherwise be lost.

"*Eligible applicant*" means any county or incorporated city within the state of Iowa, except those designated as entitlement areas by the U.S. Department of Housing and Urban Development.

"*Equity*" means funds or other interest contributed to the project by the owners of business, other than loans, credit, liens, mortgages, or other liabilities.

**"Grant"** means funds received through the community development block grant nonentitlement program.

**"Historic sites"** means any site listed on the national register of historic sites or any other site deemed to have historical significance by the department of cultural affairs, state historical society of Iowa.

**"HUD"** means the U.S. Department of Housing and Urban Development.

**"Joint application"** means an application submitted by more than one eligible applicant to complete a single project for the benefit of all those applying.

**"Local development corporation"** means any entity meeting one of the following:

1. Organized pursuant to Title VII of the Headstart, Economic Opportunity, and Community Partnership Act of 1974 (42 U.S.C. 2981) or the Community Economic Betterment Act of 1981 (42 U.S.C. 9801 et seq.);

2. Eligible for assistance under Section 502 or 503 of the Small Business Investment Act of 1958 (15 U.S.C. 696);

3. Incorporated under state or local law whose membership is representative of the area of operation of the entity (including nonresident owners of businesses in the area) and which is similar in purpose, function and scope to those specified in "1" or "2" above; or

4. Eligible for assistance under Section 501 of the Small Business Investment Act of 1958 (15 U.S.C. 695).

**"Local effort"** means cash, land, or buildings provided by public or private sources within the community which is used to directly support the costs of program activities as described in an application.

**"Low- and moderate-income families"** means those families earning no more than 80 percent of the median family income of the county as determined by the latest U.S. Department of Housing and Urban Development, section 8 income guidelines. This includes individuals living alone.

**"Low- and moderate-income persons"** means members of low- and moderate-income families as defined in this rule.

**"Multipurpose applications"** means an application having two or more major activities.

**"Multiyear funding"** means a project receiving a funding commitment from two program years' allocations.

**"Neighborhood-based nonprofit organizations"** means an association or corporation, duly organized to promote and undertake community development activities on a not-for-profit basis within a neighborhood. An organization is considered to be neighborhood-based if the majority of either its membership, clientele, or governing body are residents of the neighborhood where activities assisted with CDBG funds are to be carried out.

**"Nonentitlement area"** means an area which is not a metropolitan city.

**"OMB Circular A-87"** means the U.S. Office of Management and Budget report entitled "Cost Principles Applicable to Grants and Contracts with State and Local Governments."

**"OMB Circular A-102"** means the U.S. Office for Management and Budget report entitled "Uniform Administration Requirements for Grants-in-Aid to State and Local Governments."

**"Program income"** means program income as defined by the Iowa CDBG Management Guide.

**"Project"** means an activity or activities funded with community development block grant nonentitlement funds.

**"Recipient"** means any eligible applicant receiving funds under this program.

**"Section 301(d) small business investment company"** means an entity organized pursuant to Section 301(d) of the Small Business Investment Act of 1958 (15 U.S.C. 681(d)), including those which are profit making.

**"Single purpose application"** means an application having only one primary or major activity and any number of other activities incidental to the primary activity.

**"Single-year funding"** means a project receiving a funding commitment from only one program year's allocation.

**261—23.3(15,PL93-383) Eligibility.** All incorporated cities and all counties in the state of Iowa, except those designated as entitlement areas by the U.S. Department of Housing and Urban Development, are eligible to apply for and receive funds under this program.

**261—23.4(15,PL93-383) Eligible and ineligible activities.** This rule provides a list of eligible and ineligible activities under the CDBG program.

**23.4(1) General policy relating to activities outside an applicant's boundaries.** Applicants may conduct activities which are otherwise eligible for block grant assistance which are located outside of their boundaries and which are not inconsistent with state or local law only if the applicant can demonstrate that community objectives could not be achieved if the activities were located within the community's boundaries.

**23.4(2) General policies relating to special assessments.** Special assessments under the block grant program. The term "special assessment" means a fee or charge levied or filed as a lien against a parcel of real estate as a direct result of benefit derived from the installation of a public improvement, such as streets, curbs, and gutters. The amount of fee represents the pro rata share of the capital costs of the public improvement levied against the benefiting properties. This term does not relate to taxes or the establishment of the value of real estate for the purpose of levying real estate, property, or ad valorem taxes. The following policies relate to the use of special assessment under the block grant program:

*a.* There can be no special assessment to recover that portion of a capital expenditure funded with CDBG funds. Recipients may, however, levy assessments to recover the portion of a capital expenditure funded from other sources. Funds collected through special assessments are not program income.

*b.* Program funds may be used to pay all or part of special assessments levied against properties owned and occupied by low- and moderate-income persons when the assessments are used to recover that portion of the capital cost of public improvements financed from sources other than community development block grants, provided that: the assessment represents the property's share of the capital cost of the eligible facility or improvement; and the installation of the public facilities and improvements was carried out in compliance with requirements applicable to activities assisted under the CDBG program.

**23.4(3) Eligible activities.** As authorized by Title I, Section 105 of the Housing and Community Development Act of 1974, as amended, and as further defined in 24 Code of Federal Regulations, Part 570, activities assisted by this program may include only the following:

*a.* Acquisition in whole or in part by a public agency or private nonprofit entity, by purchase, lease, donation, or otherwise, of real property (including air rights, water rights, rights-of-way, easements, and other interests therein) for any public purpose, subject to the limitations of 23.4(4);

*b.* Acquisition, construction, reconstruction, rehabilitation, or installation of public facilities and improvements, except as provided in 23.4(4). Public facilities and improvements eligible for assistance are subject to the policies in 23.4(1);

*c.* Code enforcement in deteriorated or deteriorating areas in which enforcement, together with public improvements and services to be provided, may be expected to arrest the decline of the area;

*d.* Clearance, demolition, and removal of buildings and improvements, including movement of structures to other sites;

*e.* Special projects directed to the removal of material and architectural barriers which restrict the mobility and accessibility of elderly and handicapped persons;

*f.* Payments to housing owners for losses of rental income incurred in holding for temporary periods housing units to be utilized for the relocation of individuals and families displaced by activities under this title;

*g.* Disposition (through sale, lease, donation, or otherwise) of any real property acquired pursuant to this title or its retention for public purposes;

*h.* Provision of public services, including but not limited to those concerned with: employment, crime prevention, child care, health, drug abuse, education, energy conservation, welfare, or recreation needs.

A public service must be either a new service or a quantifiable increase in the level of a service above that which has been provided by or on behalf of the unit of general local government (through funds raised by the unit, or received by the unit from the state in which it is located) during any part of the 12-month period immediately preceding the date of submission of the statement with respect to which funds are to be made available under Title I, and which are to be used for the services, except that no more than 15 percent of the amount of any assistance to a unit of general local government under this title may be used for activities under this paragraph;

*i.* Payment of the nonfederal share required in connection with a federal grant-in-aid program undertaken as part of activities assisted under this title;

*j.* Payment of the cost of completing a project funded under Title I of the Housing Act of 1949;

*k.* Relocation payments and assistance for displaced individuals, families, businesses, organizations, and farm operations, when determined by the grantee to be appropriate;

*l.* Planning activities which consist of all costs of data gathering, studies, analysis and preparation of plans and implementing actions and policy, planning, management capacity-building activities as specified in 24 CFR 570.205;

*m.* Payment of reasonable administrative costs and carrying charges related to the planning and execution of community development and housing activities. Funds used for these purposes shall not exceed 10 percent of the CDBG amount and may not exceed 10 percent of the total contract amount. Administrative funds used for the purpose of housing rehabilitation and relocation activities may exceed 10 percent to as high as 15 percent of the CDBG activity amount and the total activity amount, but only with written approval from the Iowa department of economic development.

*n.* Activities as specified in 24 CFR 570 may be undertaken on an interim basis in areas exhibiting objectively determinable signs of physical deterioration where the recipient has determined that immediate action is necessary to arrest the deterioration and that permanent improvements will be carried out as soon as practicable;

*o.* Grants to neighborhood-based nonprofit organizations, local development corporations, or entities organized under Section 301(d) of the Small Business Investment Act of 1958 to carry out a neighborhood revitalization or community economic development or energy conservation project in furtherance of the objectives of 23.1(15,PL93-383). This may include any activity not specifically listed as ineligible under 23.4(4), except that construction of new housing is eligible under this provision. Allowable activities which are carried out by public or private nonprofit entities include (a) acquisition of real property; (b) acquisition, construction, reconstruction, rehabilitation, or installation of (i) public facilities (except for buildings for the general conduct of government), site improvements, and utilities and (ii) commercial or industrial buildings or structures and other commercial or industrial real property improvements; and (c) planning;

*p.* Financing the rehabilitation of privately owned buildings and improvements, low-income public housing and other publicly owned residential buildings and improvements, and publicly owned nonresidential buildings and improvements otherwise eligible for assistance;

*q.* Rehabilitation, preservation and restoration of historic properties, whether publicly or privately owned. Historic preservation does not include, however, the expansion of properties for ineligible uses, such as buildings for the general conduct of government;

*r.* Acquisition, construction, reconstruction, rehabilitation or installation of distribution lines and facilities of privately owned utilities, including the placing underground of new or existing distribution facilities and lines;

*s.* Renovation of closed school buildings for use as an eligible public facility, for a commercial or industrial facility, or for housing;

t. Special economic development activities if they are necessary and appropriate to carry out an economic development project. Special economic development activities include:

(1) The acquisition, construction, reconstruction, or installation of commercial or industrial buildings, structures, and other real property equipment and improvements, including railroad spurs or similar extension. Provision of such assistance shall be limited to funds distributed through the economic development set-aside as provided for in 23.7(15,PL93-383), the public facilities set-aside as provided in 23.9(15,PL93-383); or the interim financing program as provided for in 23.14(15,PL93-383);

(2) The provision of assistance to private for-profit businesses. Provision of such assistance shall be limited to funds distributed through the economic development set-aside as provided for in 23.7(15,PL93-383), or the interim financing program as provided for in 23.14(15,PL93-383);

u. Construction of housing assisted under Section 17 of the United States Housing Act of 1937; and

v. Reasonable administrative costs of overall program development, management, coordination, monitoring, and evaluation, and similar costs associated with management of the rental rehabilitation and housing development programs authorized under Section 17 of the United States Housing Act of 1937.

**23.4(4) Ineligible activities.** The general rule is that any activity that is not authorized under the provisions of 23.4(3) is ineligible to be carried out with CDBG funds. The following list merely serves as a general guide and does not constitute a list of all ineligible activities.

a. *Purchase of equipment.* The purchase of equipment with block grant funds is generally ineligible.

(1) Construction equipment. The purchase of construction equipment is ineligible, but compensation for the use of such equipment through leasing, depreciation or use allowances pursuant to Attachment B of OMB Circular A-87 for an otherwise eligible activity is an eligible use of block grant funds. An exception is the purchase of construction equipment which is used as a part of a solid waste disposal facility which is eligible for block grant assistance, such as a bulldozer used at a sanitary landfill.

(2) Furnishings and personal property. The purchase of equipment, fixtures, motor vehicles, or furnishings or other personal property not an integral structural fixture is ineligible, except when necessary for use by a recipient or its subgrantees in the administration of its community development program.

b. *Operating and maintenance expenses.* The general rule is that any expense associated with operating, maintaining, or repairing public facilities and works or any expense associated with providing public services not assisted with block grant funds is ineligible for assistance. However, operating and maintenance expenses associated with providing public services or interim assistance otherwise eligible for assistance may be assisted. For example, the cost of a public service being operated with block grant funds in a neighborhood facility may include reasonable expenses associated with operating the public service within the facility, including costs of rent, utilities, and maintenance. Examples of activities which are not eligible for block grant assistance are:

(1) Maintenance and repair of streets, parks, playgrounds, water and sewer facilities, neighborhood facilities, senior centers, centers for the handicapped, parking, and similar public facilities. Examples of maintenance and repair activities for which block grant funds may not be used include the filling of potholes in streets, repairing of cracks in sidewalks, the mowing of recreational areas, and the replacement of expended streetlight bulbs.

(2) Payment of salaries for staff, utility costs, and similar expenses necessary for the operation of public works and facilities; and

(3) Expenses associated with provision of any public service which is not eligible for assistance.

c. *General government expenses.* Except as otherwise specifically authorized in these rules or under OMB Circular A-87, expenses required to carry out the regular responsibilities of the unit of general local government are not eligible for assistance under this part.

*d. Political activities.* No expenditure may be made for the use of equipment or premises for political purposes, sponsoring or conducting candidates' meetings, engaging in voter registration activity or voter transportation, or other partisan political activities.

*e. New housing construction.* Assistance may not be used for the construction of new permanent residential structures or for any program to subsidize or finance new construction except as provided for in 23.4(3)"o." For the purpose of this paragraph, activities in support of the development of low- and moderate-income housing, including clearance, site assemblage, provision of site improvements and provision of public improvements and certain housing preconstruction costs, are not considered as programs to subsidize or finance new residential construction.

*f. Income payments.* The general rule is that assistance shall not be used for income payments for housing or any other purpose.

**261—23.5(15,PL93-383) Application requirements for the competitive program.**

**23.5(1) Restrictions on applicants.**

*a.* No more than one application per community will be considered per year under the competitive program.

*b.* Joint applications from two or more communities will be accepted only in those instances where the most efficient solution to a problem requires mutual action.

*c.* Cities of 2,500 population or over and counties of 6,800 population or over may apply for multiyear funding. Multiyear funding is limited to funding commitments from two program years' allocations. Multiyear funding is also limited to single purpose applications for infrastructure improvements when it can be demonstrated that funds available to a community in one year are not adequate to complete the project.

*d.* All eligible applicants may apply for single-year, single-purpose, or multipurpose funding. Single-year funding does not necessarily require project completion within a 12-month period.

*e.* Communities may not apply on behalf of eligible applicants other than themselves. Applicants will be allowed, however, to utilize staff from counties, areawide planning organizations, or other jurisdictions to administer the program.

**23.5(2) Application procedure.** Each year, prior to solicitation of general competitive applications, the department of economic development will, to the extent funds are available, conduct a training program for all eligible applicants. All eligible applicants will be notified of the time, date, place, and agenda by mail. Application instructions and all necessary forms will be available upon written request to the Department of Economic Development, Division of Financial Assistance, 200 East Grand, Des Moines, Iowa 50309 or by calling (515) 281-3982. The training program will include a discussion of the program's purpose, eligible and ineligible program activities, and instructions regarding the preparation and submission of an application.

The deadline for submission of general competitive applications (original and one copy) shall be two months following the last date of the training program. No applications will be accepted after the deadline for submission. Only data submitted by the established deadline will be considered in the selection process, unless additional data is specifically requested by DED in writing.

Review and ranking of general competitive applications will be performed by DED personnel after consultation, where appropriate, with other state agencies with program responsibility in CDBG-related areas. All applications meeting threshold requirements will be reviewed and ranked within 90 days of the final submission deadline. The anonymity of the communities will be maintained to the greatest extent possible during the review and ranking of applications.

Those applications with the highest rankings will be funded, to the extent that competitive program funding is available. All successful applicants will be notified and invited to a conference with DED personnel to outline procedures to be followed as grant recipients.

**23.5(3) Contents of application.** Each general competitive application must address each of the threshold criteria and demonstrate that each criterion has been satisfied. In addition, each application must contain each of the following items:

- a. Description of community need (and how need was determined);
- b. Project description (includes amount of funding requested, use of funds, project's impact on community need, project schedule, and notification as to whether the project is located in a floodplain);
- c. Percent of project addressed towards low- and moderate-income persons, including method of determination;
- d. Description of local effort, including the amount;
- e. Certifications. All applications will be required to certify that, if they receive funds under this program, they will comply with the following requirements, if applicable;
  - (1) The Civil Rights Act of 1964 (PL 88-352) and Title VIII of the Civil Rights Act of 1968 (PL 90-284);
  - (2) Title I of the Housing and Community Development Act of 1974, as amended;
  - (3) Age Discrimination Act of 1975;
  - (4) Section 504 of the Rehabilitation Act of 1973;
  - (5) Davis-Bacon Act, as amended (40 U.S.C. 276a-276a-5) where applicable under Section 110 of the Housing and Community Development Act of 1974, as amended;
  - (6) 24 Code of Federal Regulations Part 58 (4/1/85);
  - (7) National Environmental Policy Act of 1969;
  - (8) Uniform Relocation Assistance and Real Property Acquisition Policy Act of 1979, Title II and Title III; and
  - (9) Other relevant regulations as noted in the Iowa CDBG Management Guide.

**261—23.6(15,PL93-383) Selection criteria for the competitive program.**

**23.6(1) Threshold criteria.** All applicants must satisfy these criteria before their application will be considered complete and eligible for ranking.

- a. Evidence of local capacity to administer the grant, such as satisfactory previous grant administration, availability of qualified personnel, or plans to obtain qualified personnel.
- b. Acceptable past performance in the administration of community development block grant funds including the timely commitment of program funds, where applicable.
- c. Feasibility of completing the identified project with funds requested. If an applicant intends to use other funding sources, they must be identified and the level of commitment and time frames involved must be explained.
- d. Project must address at least one of the following three objectives:
  - (1) Primarily benefit low- and moderate-income persons. Fifty-one percent or more of those benefiting from a project must be considered low- and moderate-income persons.
  - (2) Aid in the prevention or elimination of slums and blight. The application documents the extent or seriousness of deterioration in the area to be assisted, showing a clear adverse effect on the well-being of the area or community, and illustrating that the activity or activities proposed will alleviate or eliminate the conditions causing the deterioration.
  - (3) Activities designed to meet community development needs having a particular urgency. An activity will be considered to address this objective if the recipient certifies that the activity is designed to alleviate existing conditions which pose a serious and immediate threat to the health or welfare of the community, which are of recent origin or which recently became urgent; that the recipient is unable to finance the activity on its own; and that other sources of funding are not available. A condition will generally be considered to be of recent origin if it developed or became within 18 months prior to original application for CDBG funds.
- e. Project funds may only be used for an eligible activity or activities;
- f. Costs incurred on CDBG funded projects prior to written authorization from DED may not be eligible for reimbursement with CDBG funds;
- g. Conduct a public meeting, after adequate prior notice, to furnish citizens information concerning the amount of grant funds available for proposed community development and housing activities and the range of activities that may be undertaken, including the estimated amount proposed to be used for activities that will benefit persons of low and moderate income and the plans of the applicant to minimize displacement of persons as a result of activities

assisted and to assist persons actually displaced. An acceptable method of meeting this requirement is to follow the guidelines for a public hearing set forth in Iowa Code section 362.3;

*h.* Evidence that the community has engaged in a process to identify its community development and housing needs, including the needs of low- and moderate-income persons, and the activities to be undertaken to meet them;

*i.* Communities that have received a grant from the preceding year's competitive CDBG allocation must have expended at least 25 percent of the total grant amount by the last day of the month preceding the current application deadline in order to be eligible for funding in the current year's competitive CDBG program.

Communities that have received a grant from the competitive CDBG allocation two years preceding the current year must have expended at least 85 percent of the total grant amount by the last day of the month preceding the current application deadline in order to be eligible for funding in the current year's competitive CDBG program.

Communities that have received a grant from the competitive CDBG allocation three or more years preceding the current year must have expended 100 percent of the total grant amount by the last day of the month preceding the current application deadline in order to be eligible for funding in the current year's competitive CDBG program.

For purposes of this subrule, funds will be considered expended from an escrow account or lump-sum drawdown account when a disbursement is made from the account to a vendor for allowable costs incurred.

**23.6(2) Rating factors.**

*a.* The following rating system will be used to rank applications under the competitive program. The highest point total possible is 700. Project specific information is obtained from data contained in applications. The project specific rating factors are:

- (1) Magnitude of need identified by community, 200 points possible.
- (2) Project impact—extent to which project addresses community need, 200 points possible;
- (3) Percent of project funds benefiting low- and moderate-income families, 200 points possible; and
- (4) Local effort, 100 points possible.

*b.* Ties in applications. Ties will be decided in favor of the community whose project benefits the largest number of low- and moderate-income persons.

*c.* Rating of multiyear and multipurpose applications. All applications will be rated on the factors noted in paragraph "a" of this subrule. Multiyear applications will be rated on the basis of the total number of years applied for, and multipurpose applications will be rated on the basis of weighted total of need and impact scores for all the projects included in the application. The weighting will be based on the dollar amount of the CDBG funds and local effort for each project.

*d.* All scores in multipurpose applications will be included in the point score determination and final ranking of CDBG applications. However, individual projects within a multipurpose application must receive a combined score of at least 100 points out of a possible 400 points for the "magnitude of need" and "project impact" rating factors, in order to receive CDBG funding. Projects not meeting this criterion shall be eliminated from any application after final ranking, but prior to funding of the application.

**23.6(3) Verification of data.** Applications which rate high enough to be funded will be reviewed to verify figures or statements in the applications. At the discretion of DED, this may include site visits. In cases where inaccuracies, omissions, or errors are found, DED will have the discretion of rejecting the application or rerating it based on correct information. In cases where an applicant loses funding through this process, its grant amount may be awarded to the highest ranking nonfunded applicant(s). In an instance where the highest ranking nonfunded applicant requests more funds than what is available, DED will have complete discretion concerning the disposition of the excess funds, including renegotiating the amount requested or carrying those funds over to the next program year.

**23.6(4) Negotiation of grant awarded.** DED reserves the right to negotiate the amount of the grant award, the scale of the project and alternative methods of completing the project.

**261—23.7(15,PL93-383) Application requirements for the economic development set-aside program.**

**23.7(1) Restrictions on applicants.**

a. CDBG funds will be limited to interest rate subsidies, principal reduction subsidies, and direct loans. Direct loans will be limited to projects where it can be shown that the initial outlay of funds by the state will be no greater for a direct loan than for another form of subsidy allowed under this rule. In such cases, direct loans will be shown funding preference.

b. Multiyear funding commitments will not be allowed under the economic development set-aside program.

c. A community may not apply on behalf of eligible applicants other than itself.

**23.7(2) Application requirements.** Applications for the economic development set-aside will be accepted by the department of economic development at any time and will be considered on a continuous basis. The department of economic development shall take action on complete applications within 30 days of receipt. Action may include funding the application for all or part of the requested amount, denial of the application for funding, or requesting that additional information be supplied prior to making a final decision.

Review and ranking of applications will be performed by DED personnel. Applications must meet the minimum threshold requirements and receive a minimum score of 250 points in order to be funded.

An original and one copy of the application shall be submitted. Application forms and instructions will be available upon written request from the Department of Economic Development, 200 East Grand, Des Moines, Iowa 50309, or by calling (515) 281-3982.

**23.7(3) Contents of application.** Each application must address each of the threshold criteria and demonstrate that each criterion has been satisfied.

a. Project description (including amount of funding requested, use of funds, and project schedule);

b. Project budget (including other public funds, private loans, and owner's equity); and

c. Certifications. Applicants under the economic development set-aside program will be required to certify that, if they receive funds under this program, they will comply with the same certifications required by applicants for the competitive program.

**261—23.8(15,PL93-383) Selection criteria for economic development set-aside program.**

**23.8(1) Threshold criteria.** All applicants for economic development set-aside funds must satisfy the following minimum requirements to be eligible for funding:

a. At least 51 percent of the permanent jobs created or retained by the proposed project will be available to low- and moderate-income persons;

b. A minimum ratio of one permanent job created or retained for every \$10,000 of CDBG funds awarded must be maintained;

c. The effective interest rate on the total loan package may be brought down to 0 percent to the business requesting assistance;

d. Terms of loans must be consistent with terms generally accepted by conventional financial institutions for the type of property involved;

e. There must be evidence of adequate private equity;

f. There must be evidence that the CDBG funds requested are necessary to make the proposed project feasible;

g. There must be evidence that the project is feasible and that the business requesting assistance can continue as a "going concern" in the foreseeable future;

h. A minimum of five jobs must be created or retained as a result of the proposed activity;

i. Jobs created as a result of other jobs being displaced elsewhere in the state will not be considered new jobs created for the purpose of evaluating the application;

j. No significant negative land use or environmental impacts will occur as a result of the project;

k. There must be evidence of local capacity to administer the grant, such as satisfactory previous grant administration, availability of qualified personnel, or plans to obtain qualified personnel;

l. There must be acceptable past performance in the administration of community development block grant funds, where applicable;

m. Project costs may not be incurred without written authorization from DED;

n. The applicant must conduct a public meeting, after adequate prior notice, to furnish citizens information concerning the amount of funds available for proposed community development and housing activities and the range of activities that may be undertaken, including the estimated amount proposed to be used for activities that will benefit persons of low and moderate income and the plans of the applicant to minimize displacement of persons as a result of activities assisted with these funds and to assist persons actually displaced as a result of these activities. An acceptable method of meeting this requirement is to follow the guidelines for a public hearing set forth in Iowa Code section 362.3.

**23.8(2) Rating factors.**

a. The following rating system will be used to rank applications under the economic development set-aside program. The highest point total possible is 400.

(1) Number of jobs per CDBG funds requests, 100 points possible;

(2) Percent of funds other than CDBG funds in the project (e.g., private or public loans), 100 points possible; and

(3) Need and impact of the project. Considerations are to include local employment conditions, resultant new economic activity, planned hiring under programs of the Job Training Partnership Act, use or availability of other public incentives, project schedule, and property tax enhancement and other effects on the local tax base, 200 points.

In addition, priority will be given to projects that will create manufacturing jobs and projects that add value to Iowa resources. Refinancing or restructuring of existing loans, and projects involving a single retail establishment will be considered low priorities.

b. Ties in applications. Ties will be decided in favor of the project showing the highest number of jobs created or retained.

c. Each project in an application will be rated and ranked separately. Those projects ranked high enough will be funded regardless of the ranking of the remainder of the application.

d. Each activity must receive a score of at least 50 points out of a possible 200 points for the "need and impact" rating criterion in order to receive CDBG funding.

**23.8(3) Verification of data.** Applications which rate high enough to be funded will be reviewed to verify figures or statements in the applications. At the discretion of DED, this may include site visits. In cases where inaccuracies, omissions, or errors are found, DED will have the discretion of rejecting the application or rerating it based on correct information.

**23.8(4) Negotiations of funds awarded.** The amount of CDBG funds awarded shall be the minimum necessary to make the proposal feasible. DED reserves the right to negotiate the effective interest rate, term, and other conditions of the loan prior to grant award.

**23.8(5) Provisions for direct loans.**

a. Income received by a community as a result of an economic development set-aside loan may be retained and used by a community if it can clearly demonstrate the ability to administer a revolving loan fund. Communities that cannot or choose not to establish a revolving loan fund must return principal and interest to the department of economic development. The funds will be deposited into the current year's economic development set-aside fund.

b. In order for a community to demonstrate its ability to administer a revolving loan fund, a reuse plan must be submitted to and approved by the IDIED. The plan must minimally address the following:

(1) Management of the money in the fund;

(2) Capacity to comply with state and national objectives as well as applicable CDBG regulations; and

(3) Ability to capitalize the revolving loan fund adequately within five years of award. Show that it is likely that the community will be able to make a loan of at least \$50,000 from the fund within five years.

c. In order that a community does not accumulate a large amount of idle funds in its revolving loan fund, the following are maximum amounts of CDBG funds that may be retained in a community revolving loan fund:

<u>Population</u>	<u>Dollar Amount</u>
Under 1,000	\$100,000
1,000 - 2,500	\$250,000
2,500 - 10,000	\$500,000
10,000 - 50,000	750,000

Any program income over that specified above must be returned to the IDED. The IDED may require any community having an EDSA revolving loan fund to apply the balance or a portion of the balance of the fund to any proposed eligible project within the community when assistance is being sought from the state through the economic development set-aside (EDSA) program, the community economic betterment account (CEBA) or other IDED programs providing direct financial assistance to a business.

d. Any community opting to retain program income and establish a revolving loan fund must use the money for activities that would qualify under the Iowa economic development set-aside program, including threshold requirements, and must be consistent with the state strategic plan for economic development. Any loan made from such revolving loan fund must first be approved by the IDED. These requirements also apply to program income after original grant closeout.

**261—23.9(15,PL93-383) Application requirements for the public facilities set-aside program.**

**23.9(1) Purpose.** The purpose of the public facilities set-aside program is to provide grants to political subdivisions to aid in economic development that will create or retain jobs.

**23.9(2) Application procedure.** Applications for the public facilities set-aside will be accepted by the department of economic development at any time and will be considered on a continuous basis. The department of economic development shall take action on a complete application within 30 days of receipt. Action may include funding the application for all or part of the requested amount, denial of the application or requesting that additional information be supplied prior to making a final decision.

Review and ranking of applications will be performed by DED personnel. Applications must meet minimum threshold requirements and receive a minimum of 250 points to be funded.

An original and one copy of the application shall be submitted. Application forms and instructions are available upon written request from the Department of Economic Development, 200 East Grand, Des Moines, Iowa 50309 or by calling (515) 281-3982.

**23.9(3) Eligible projects.** Projects eligible for funding under the public facilities set-aside program include, but are not limited to, the following:

- a. Sanitary sewer systems;
- b. Water systems;
- c. Streets and roads;
- d. Storm sewers;
- e. Rail; and
- f. Airport Facilities.

**23.9(4) Contents of application.** Each application must address each of the threshold criteria, and demonstrate that each criterion has been satisfied.

a. Project description (including amount of funding requested, use of funds, and project schedule);

b. Project budget (including other public funds, private loans, and business entity commitment); and

c. Certifications. Applicants under the public facilities set-aside program will be required to certify that, if they receive funds under this program, they will comply with the same certifications required by applicants for the competitive program.

**23.9(5) Selection criteria for public facilities set-aside program.**

*a. Threshold criteria.* All applicants for public facilities set-aside funds must satisfy the following minimum requirements to be eligible for funding:

1. At least 51 percent of the permanent jobs created or retained by the proposed project will be available to low- and moderate-income persons;
2. A minimum ratio of one permanent job created or retained for every \$10,000 of CDBG funds awarded must be maintained;
3. Local governments must contribute 50 percent of the total amount of funds requested from the public facilities set-aside;
4. There must be evidence that the CDBG funds requested are necessary to make the proposed project feasible;
5. There must be evidence that the project is feasible and that the business requesting assistance can continue as a "going concern" in the foreseeable future;
6. Jobs created as a result of other jobs being displaced elsewhere in the state will not be considered new jobs created for the purpose of evaluating the application;
7. No significant negative land use or environmental impacts will occur as a result of the project;
8. There must be evidence of local capacity to administer the grant, such as satisfactory previous grant administration, availability of qualified personnel, or plans to obtain qualified personnel;
9. There must be acceptable past performance in the administration of community development block grant funds, where applicable;
10. Project costs may not be incurred without written authorization from DED;
11. The applicant must conduct a public meeting, after adequate prior notice, to furnish citizens information concerning the amount of funds available for proposed community development and housing activities and the range of activities that may be undertaken, including the estimated amount proposed to be used for activities that will benefit persons of low and moderate income and the plans of the applicant to minimize displacement of persons as a result of activities assisted with these funds and to assist persons actually displaced as a result of these activities. An acceptable method of meeting this requirement is to follow the guidelines for a public hearing set forth in Iowa Code section 362.3.

**23.9(6) Rating factors.**

*a.* The following ratings system will be used to rank applications under the public facilities set-aside program. The highest point total possible is 400.

- (1) Number of jobs per CDBG funds requested, 100 points possible;
- (2) Percent of funds other than CDBG funds in the project (e.g., private or public loans) 50 points possible;
- (3) Need and impact of the project. Considerations are to include local employment conditions, resultant new economic activity, planned hiring under programs of the Job Training Partnership Act, use or availability of other public incentives, project schedule, and property tax enhancement and other effects on the local tax base, 100 points possible;
- (4) Local government financial need. Local government must demonstrate the need for financial assistance for the public facilities project. Factors such as bonding capacity, tax capacity, and tax effort will be considered, 100 points possible; and
- (5) Local match. Local governments must contribute 50 percent of the total amount of public facilities set-aside funds requested to meet minimum threshold requirements. Points will be awarded for contributions above the required minimum, 50 points possible.

*b.* Ties in applications. Ties will be decided in favor of the project showing the highest number of jobs created or retained.

*c.* Each project in an application will be rated and ranked separately. Those projects ranked high enough will be funded regardless of the ranking of the remainder of the application.

*d.* Each activity must receive a score of at least 25 points out of a possible 100 points for the "need and impact" rating criterion in order to receive CDBG funding.

**23.9(7) Verification of data.** Applications which rate high enough to be funded will be reviewed to verify figures or statements in the applications. At the discretion of DED, this may include site visits. In cases where inaccuracies, omissions, or errors are found, DED will have the discretion of rejecting the application or rerating it based on correct information.

**23.9(8) Negotiations of funds awarded.** The amount of CDBG funds awarded shall be the minimum necessary to make the proposal feasible. DED reserves the right to negotiate the effective interest rate, term, and other conditions of the loan or grant prior to award.

**261—23.10(15,PL93-383) Funding allocation.**

**23.10(1) Funds for state administration.** Up to 2 percent of total state program funds may be used for state administration.

**23.10(2) Funds reserved for the imminent threat program.** Up to \$500,000 may be used each year to fund projects that address an imminent threat to public health, safety or welfare which necessitates immediate corrective action. If this fund is not fully allocated in a program year, the excess will be reallocated to the economic development set-aside fund.

**23.10(3) Funds reserved for public facilities financing program.** Up to 10 percent of total program funds will be reserved each year for funding infrastructure projects in support of economic development. If this fund is not fully allocated in any year, the excess will be reallocated to the general competitive program for the following year.

**23.10(4) Funds reserved for economic development set-aside.** Up to 25 percent of total program funds will be reserved each year for the economic development set-aside program. If this fund is not fully allocated in any year, the excess will be reallocated to the economic development set-aside program for the following program year.

**23.10(5) Distribution of competitive funds.** The funds remaining after deducting those used for state administration, the public facilities fund, imminent threat fund, and the economic development set-aside will be open to all eligible applicants on a competitive basis. There is no distinction made based on population.

Competitive grant allocation in this category will be reduced by the amount of DED multi-year commitments.

**23.10(6) Use of recaptured funds.** Any funds recaptured under programs established herein will be returned to the respective program from which it was originally designated and will be disbursed in the next funding cycle in accordance with the rules of the individual programs.

**23.10(7) Grant ceilings.** Maximum grant amounts are as follows:

*a. Competitive program only.*

<u>All Single Year Applicants</u>	<u>Grant Ceiling</u>
0 - 999 population	\$200,000
1,000 - 2,499 population	\$300,000
2,500 - 14,999 population	\$450,000
15,000 - 49,999 population	\$600,000
 <u>Multiyear Applicants</u>	 <u>Grant Ceiling</u>
2,500 - 14,999 population	\$350,000 per year
15,000 - 49,999 population	\$500,000 per year

However, no grantees may receive more than \$1000 per capita, based on the total population within the grantee's jurisdiction. In determining grant ceilings, it is acceptable for a jurisdiction to use any of the following population figures: 1980 census figures; special census figures; adjusted figures based on an annexation that has been completed in accordance with statutory requirements, Iowa Code chapter 368. In determining grant ceilings, county populations will be calculated on the basis of unincorporated areas only. Joint applications may be funded up to one and one-half times the maximum amount allowable for either of the joint applicants.

*b. Economic development set-aside.* The maximum grant for individual applications from any city or county is \$500,000 per application.

*c. Public facilities set-aside.* The maximum grant for individual applications from a city or a county is \$500,000 per application.

**261—23.11(15,PL93-383) Administration.**

**23.11(1) Contracts.** Upon selection of a project(s) for funding, the department of economic development will issue a contract. In the absence of special circumstances in which there is a legal incapacity on the part of the applicant to accept funds for eligible activities, the contract shall be between the department of economic development and the community. The designation by the community of another public agency to undertake activities assisted under this program shall not relieve the recipient of its responsibilities in assuring the administration of the program in accordance with all federal and state requirements, including these rules. These rules and applicable federal and state laws and regulations become a part of the contract.

Certain activities may require that permits or clearances be obtained from other state or federal agencies prior to proceeding with the project. Grant awards may be conditioned upon the timely completion of the requirements.

**23.11(2) Financial management standards.**

*a.* All recipients shall comply with Attachments N and O of OMB Circular No. A-102, "Uniform Administrative Requirement For Grant-in-Aid To State And Local Governments." Any clarifications or modifications of these standards by the state shall be clearly stated in the Iowa CDBG Management Guide provided to each recipient. Where requirements differ between the circular and state or local law, the more restrictive requirement shall prevail. Contracts may also be conditioned to provide other requirements.

*b.* Allowable costs shall be determined in accordance with OMB Circular No. A-87, "Cost Principles Applicable To Grants And Contracts With State And Local Governments." Any clarifications or modifications of this standard by the state shall be clearly stated in the Iowa CDBG Management Guide provided to each recipient with the contract.

*c.* All contracts made under these rules are subject to audit. Recipients shall be responsible for the procurement of audit services and for the payment of audit costs. Audits may be performed by the state auditor's office or by a qualified independent auditor.

Grantees which receive more than \$100,000 in federal financial assistance (including a CDBG grant) in any fiscal year must comply with the provisions of the Single Audit Act of 1984 (PL 98-502) for that fiscal year. In addition, grantees receiving between \$25,000 and \$100,000 in assistance may choose to comply with the Single Audit Act. In such cases, the local government must have an annual audit of all its financial statements. The Act should be consulted for additional compliance requirements.

Grantees which determine that they are not required to comply with the Single Audit Act of 1984 and those who choose not to comply with it shall have audits prepared in accordance with CDBG requirements and state laws and regulations. All audits shall commence within 60 days of the CDBG program's contract expiration date, and be issued within 150 days of the contract expiration date, unless the grantee conducts annual audits on a fiscal year basis.

Variations of these time requirements shall only be allowed with prior approval from DED. Copies of the audit report shall be transmitted to DED and to other agencies as required.

*d. Program income.*

(1) Units of general local government shall be required to return to the federal government interest (except for interest described in 23.11(2) "d"(3)) earned on grant funds advanced in accordance with the "Iowa CDBG Management Guide."

(2) Proceeds from the sale of personal property shall be handled in accordance with Attachment N of OMB Circular No. A-102, "Property Management Standards."

(3) All other program income earned during the grant period may be retained by the recipient and added to funds committed to the program, provided that they are expended for the same type of activity from which the income was derived.

(4) Recipients shall record the receipt and expenditure of revenues related to the program (such as taxes, special assessments, levies, fines, etc.) as part of the grant program transactions.

(5) Program income received subsequent to grant closeout.

1. Except as may be otherwise provided under the terms of the grant agreement or any closeout agreement, program income received subsequent to the end of the grant period may be treated by the recipient as follows: Subject to the requirements of 23.11(2)"d"(5),"2,""3," this income may be treated as miscellaneous revenue, the use of which is not governed by the provisions of the grant. Provided, that if the recipient has another continuing grant under the same multiyear commitment under these rules, the program income received subsequent to the grant closeout shall be treated as program income of the active grant program.

2. Disposition of tangible personal property. The recipient shall account for any tangible personal property acquired with grant funds in accordance with Attachment N of OMB Circular No. A-102, "Property Management Standards."

3. Disposition of real property. Proceeds derived after grant closeout from the disposition of real property acquired with grant funds under this program shall be subject to the program income requirements of 23.11(2)"d"(5)"1" above, provided that where the income may be treated as miscellaneous revenue pursuant to 23.11(2)"d"(5)"1," above, it shall be used by the recipient for community development activities eligible pursuant to 23.4(3) to further the general purposes and objectives of the Act. The use of income subject to this provision is not governed by any other requirements of these rules.

23.11(3) *Requests for funds.* Grant recipients shall submit requests for funds in the manner and on forms prescribed by DED.

23.11(4) *Recordkeeping and retention.* Financial records, supporting documents, statistical records, the environmental review records required by 24 Code of Federal Regulations 58.30, and all other records pertinent to the grant program shall be retained by the recipient in accordance with the provisions of the Iowa CDBG Management Guide, including the following:

a. Records for any displaced person shall be retained for three years after that person has received final payment;

b. Records pertaining to each real property acquisition shall be retained for three years after settlement of the acquisition, or until disposition of the applicable relocation records in accordance with 23.11(4)"a," whichever is later;

c. Representatives of the Secretary of the Department of Housing and Urban Development, the Inspector General, the General Accounting Office, the state auditor's office and the department of economic development shall have access to all books, accounts, documents, records, and other property belonging to or in use by recipients pertaining to the receipt of assistance under these rules.

23.11(5) *Performance reports and reviews.* Grantees shall submit grantee performance reports to DED as prescribed in the Iowa CDBG Management Guide. The reports will assess the use of funds in accordance with program objectives, the progress of program activities, and compliance with certain other program requirements.

DED may perform any reviews or field inspections it deems necessary to assure program compliance, including reviews of grantee performance reports. When problems of compliance are noted, DED may require remedial actions to be taken. Failure to respond to a notification of need for remedial action may result in the implementation of 23.12(3).

23.11(6) *Grant closeouts.* Upon completion of project activities, recipients will initiate grant closeout in accordance with procedures specified in the Iowa CDBG Management Guide.

23.11(7) *Compliance with federal and state laws and regulations.* All grant recipients shall comply with all applicable provisions of the Act and its implementing regulations, including these rules. Recipients shall also comply with any provisions of the Iowa Code governing activities performed under this program.

**261—23.12(15,PL93-383) Miscellaneous.**

23.12(1) *Multiyear guests.* Some communities receive funding commitments from DED from more than one program year's allocation. These commitments will be fully funded for each year of the communities' programs provided performance has been found acceptable in the year previously funded, and provided that the state receives an adequate commitment of funds from HUD for those years. DED shall assess grantee performance.

**23.12(2) *Amendments to contracts.*** Any substantive change to a funded CDBG program will be considered a contract amendment. Changes would include contract time extensions, budget revisions, and significant alterations of existing activities that will change the scope, location, objectives, or scale of the approved activities or beneficiaries. The amendment must be requested in writing, according to guidelines established in the Iowa CDBG Management Guide. No amendment will be valid until approved in writing by DED. The amended program must rate at least as highly on the selection criteria point system as the original application rated.

DED will not approve the addition of a new activity which is unrelated to the original contract activities, unless DED is satisfied that all original activities will also be completed per the contract. DED may allow up to \$10,000 of the original CDBG funds to be utilized for a new activity. These amendments are not subject to rerating; however, they must meet threshold requirements listed in 23.6(1).

Amendments involving the replacement of one activity with another will not be allowed for projects funded under the economic development set-aside program.

**23.12(3) *Remedies for noncompliance.*** At any time before project closeout, DED may, for cause, find that a community is not in compliance with its requirements under this program. At DED's discretion, remedies for noncompliance may include penalties up to and including the return of program funds to DED. Reasons for a finding of noncompliance include, but are not limited to: The recipient using program funds for activities not described in its application, the recipient's failure to complete approved activities in a timely manner, the recipient's failure to comply with any applicable state or federal rules or regulations, or the lack of a continuing capacity of the recipient to carry out the approved program in a timely manner.

**23.12(4) *Contractors and subrecipients limited.*** Project funds shall not be used directly or indirectly to employ, award contracts to, or otherwise engage the services of, or fund any contractor or subrecipient during any period of debarment, suspension, or placement in ineligibility status by the Department of Housing and Urban Development under the provisions of 24 Code of Federal Regulations Part 24.

**23.12(5) *Rescinded, effective September 11, 1987.***

**23.12(6) *Forms.*** The following forms will be used by the department of economic development in the administration of the block grant program:

*a. Grant application forms.*

- (1) Application form for the CDBG Competitive Program.
- (2) Housing Rehabilitation Application Supplement.
- (3) Application for Business Financial Assistance.
- (4) Public Facilities Set-Aside Form.
- (5) Notification of Intent Form.

*b. Grant administration forms.*

- (1) Status of Federal Funds/Request for Funds.
- (2) Grantee Program Schedule.
- (3) Multiyear Activity Chart.
- (4) Grantee Performance Report - Activity Status.
- (5) Grantee Performance Report - Financial.

**261—23.13(15,PL93-383) *Imminent threat contingency fund.*** Up to \$500,000 of program funds allocated to the state may be reserved for communities which are experiencing an imminent threat to public health, safety, or welfare which necessitates corrective action sooner than could be accomplished through the regular application process under the nonentitlement program.

Communities in need of these funds must submit a written request to the Administrator,

Division of Financial Assistance, Department of Economic Development, 200 East Grand Avenue, Des Moines, Iowa 50309. The request must include a description of the community's problem, the amount of funding requested, projected use of funds, and why the problem cannot be remedied through the normal CDBG funding procedure.

Upon receipt of a request for imminent threat funding, DED will make a determination as to whether the community and the project are eligible for funding. This determination will be made by DED, after consultation with appropriate federal, state, or local agencies. A project will be considered eligible for funding only if it meets all of the following criteria:

1. The proposed project must be an eligible project;
2. An immediate threat must exist to health, safety, or community welfare;
3. The threat must be the result of unforeseeable and unavoidable circumstances or events;
4. The threat must require immediate action;
5. No known alternative project or action would be more feasible than the proposed project;
6. Sufficient other local, state, or federal funds (including the competitive CDBG program) either are not available, or cannot be obtained within the time frame required. DED staff will check into this with the office of disaster services, and other public agencies, as appropriate.

If DED determines that the community and the proposed activity are eligible for funding, it shall notify the governor of its determination. Upon the personal authorization of the governor to do so, DED will make funds available to an applicant which meets the eligibility criteria.

Any community receiving funds under the imminent threat program must comply with all laws, rules, and regulations applicable to the CDBG nonentitlement program, with the exception of those rules waived by the governor.

#### **261—23.14(15,PL93-383) CDBG interim financing program.**

**23.14(1) Objective.** The objective of the CDBG interim financing (or short-term grant) program is to benefit low- and moderate-income persons living within eligible Iowa communities by providing short-term or interim financing for the implementation of projects which create or retain employment opportunities, which prevent or eliminate blight, or which accomplish other federal and state community development objectives.

**23.14(2) Eligibility.** All nonentitlement cities and all counties in the state of Iowa are eligible to apply for and receive assistance through the CDBG short-term grant program.

**23.14(3) Eligible activities.** Funds provided through this program may be used for short-term assistance, interim financing, or construction financing for the purchase, construction, rehabilitation, or other improvement of land, buildings, facilities, machinery and equipment, fixtures and appurtenances, or other projects, undertaken by a for-profit organization or business or by a nonprofit organization, which will create permanent jobs or retain jobs that would otherwise be lost.

#### **23.14(4) Application procedure.**

a. Each year the department of economic development shall announce the expected availability of funds for the CDBG short-term grant program.

b. The announcement will include details as to the amount of funds available and other information which may be required or determined to be necessary.

c. Applications may be submitted at any time after the announcement of availability. Applications shall be processed, reviewed, and considered on a first-come-first-served basis. Funding decisions will be made by DED within 30 days of DED's receipt of a complete application and to the extent that funds are available.

d. Applications shall be made in a form and with contents as prescribed by the department of economic development.

e. Applications may be submitted only by eligible communities as described in subrule 23.14(2).

f. Applications received by DED which are incomplete or require additional information, investigation, or extended negotiation may lose funding priority.

**23.14(5) Selection criteria.**

*a. Threshold criteria.* All applicants for CDBG short-term grant program funds must satisfy the following minimum requirements to be eligible for funding:

- (1) A minimum of five jobs must be created or retained as a result of the proposed activity.
- (2) There must be a minimum ratio of one permanent job created or retained for every \$25,000 of CDBG funds awarded.
- (3) There must be evidence of local capacity to administer the grant, such as satisfactory previous grant administration, availability of qualified personnel, or plans to obtain qualified personnel.
- (4) There must be acceptable previous performance in the administration of state or federal programs such as the community development block grant, where applicable.
- (5) The applicant must show the feasibility of completing identified project with funds requested. If an applicant intends to use other funding sources, they must be identified and the level of commitment and time frames involved must be explained.
- (6) Project must address at least one of the following three objectives:
  1. Primarily benefit low- and moderate-income persons. Fifty-one percent or more of those benefiting from a project must be considered low- and moderate-income persons.
  2. Aid in the prevention or elimination of slums and blight. The application documents the extent or seriousness of deterioration in the area to be assisted, showing a clear adverse effect on the well-being of the area of community, and illustrating that the activity or activities proposed will alleviate or eliminate the conditions causing the deterioration.
  3. Activities designed to meet community development needs having a particular urgency. An activity will be considered to address this objective if the recipient certifies that the activity is designed to alleviate existing conditions which pose a serious and immediate threat to the health or welfare of the community which are of recent origin or which recently became urgent, that the recipient is unable to finance the activity on its own, and that other sources of funding are not available. A condition will generally be considered to be of recent origin if it developed or became critical within 18 months prior to original application for CDBG funds.
- (7) Project funds may only be used for an eligible activity or activities.
- (8) Project costs may not be incurred prior to written authorization for DED.
- (9) The applicants must conduct a public meeting to furnish citizens information concerning the amount of funds available for proposed community development and housing activities and the range of activities that may be undertaken, including the estimated amount proposed to be used for activities that will benefit persons of low and moderate income and the plans of the applicant to minimize displacement of persons as a result of activities assisted with such funds and to assist persons actually displaced as a result of such activities. One method of meeting this requirement is to follow the guidelines for a public hearing set forth in Iowa Code section 362.3.
- (10) There must be evidence that the community has engaged in a process to identify its community development and housing needs, including the needs of low- and moderate-income persons, and the activities to be undertaken to meet such needs.
- (11) The project must provide that at least 51 percent of the permanent jobs created or retained by the proposed project will be available to low- and moderate-income persons.
- (12) There must be evidence that the funds requested are necessary to make the proposed project feasible.
- (13) No significant negative land use or environmental impacts will occur as a result of the proposed project.
- (14) There must be evidence that the proposed project will be completed within 15 months of the date of the grant award.
- (15) There must be evidence of an irrevocable letter of credit, or equivalent security instrument, from an AA or better rated lending institution, assignable to DED, in an amount equal to the CDBG short-term grant funds requested plus interest if applicable.

(16) There must be evidence of the commitment of permanent financing for the project.

(17) Applicant must provide an assurance that any program income earned or received as a result of the project shall be returned to DED on or before the end date of the grant contract.

*b. Selection criteria.* Applications will be evaluated on the basis of the following criteria:

(1) Timeliness of the project, including readiness to proceed and proposed term of the interim financing.

(2) The cost in CDBG short-term grant funds per job created or retained.

(3) The amount of interest income returned to DED as a result of the project.

(4) The need for the project.

(5) The impact of the project.

**23.14(6) Negotiation of funds awarded.** The amount of CDBG short-term funds awarded shall be the minimum necessary to make the proposal feasible. DED reserves the right to negotiate the terms and conditions prior to grant award.

**23.14(7) Funding allocation.**

*a.* An amount not to exceed \$7.5 million shall be made available for grants under the CDBG short-term grant program.

*b.* DED reserves the right to award grants totalling a lesser amount than \$7.5 million should overall CDBG funding be reduced or should the CDBG competitive program grantee's use of funds exceed forecasts.

**23.14(8) Program income.** All program income earned and received under the CDBG short-term grant program and as a result of the funded projects shall be returned to DED on or before grant closeout.

These rules are intended to implement Title 1 of the Housing and Community Development Act of 1974, as amended, and Iowa Code section 15.108.

[Filed emergency after Notice 4/2/82, Notice 2/17/82—published 4/28/82, effective 4/2/82]

[Filed 12/7/82, Notice 9/1/82—published 12/22/82, effective 1/26/83]

[Filed emergency 6/3/83—published 6/22/83, effective 6/3/83]

[Filed 9/23/83, Notice 8/17/83—published 10/12/83, effective 11/16/83]

[Filed emergency 1/27/84—published 2/15/84, effective 1/27/84]

[Filed 9/21/84, Notice 8/15/84—published 10/10/84, effective 11/14/84]

[Filed emergency 11/30/84—published 12/19/84, effective 11/30/84]

[Filed emergency 1/29/85—published 2/27/85, effective 1/29/85]

[Filed 9/20/85, Notice 8/14/85—published 10/9/85, effective 11/13/85]

[Filed emergency 10/10/85—published 11/6/85, effective 10/10/85]

[Filed emergency 3/21/86—published 4/9/86, effective 3/21/86]

[Filed emergency 8/8/86—published 8/27/86, effective 8/8/86]\*

[Filed emergency 11/14/86 after Notice 10/8/86—published 12/3/86, effective 11/14/86]

[Filed emergency after Notice 9/11/87, Notice 7/29/87—published 10/7/87, effective 9/11/87]

\*See IAB Economic Development Department.

*Journal of Management Education* 30(6)p. 789-804  
© The Author(s) 2006. Reprints and permissions:  
<http://www.sagepub.com/journalsPermissions.nav>

**26.10(2) *Waivers.*** When the Governor of the state of Iowa has determined that extenuating circumstances exist, the Governor may waive any requirement under these rules not required by law. A waiver may be applied to one or more eligible applicants under this program. Extenuating circumstances for such a waiver may include, but are not limited to, circumstances where undue hardship will result from applying the requirement. Waivers under this subrule will become effective only upon the personal and written authorization of the Governor.

These rules are intended to implement Iowa Code section 7A.3 and Chapter 24 Code of Federal Regulations, Part 511.

[Filed emergency after Notice 10/4/84, Notice 8/15/84—published 10/24/84, effective 10/4/84]

[Filed emergency 8/29/86—published 9/24/86, effective 8/29/86]\*

[Filed emergency 12/19/86—published 1/14/87, effective 12/19/86]

\*See Economic Development, Department of[261], IAB.

**CHAPTER 27**  
**TARGETED SMALL BUSINESS LOAN AND EQUITY GRANT PROGRAM**

**261—27.1(72GA,SF511) Purpose.** The purpose of the targeted small business loan and equity grant program is to assist in the creation of women- and minority-owned small business within the state.

**261—27.2(72GA,SF511) Definitions.**

*"Department"* or *"IDED"* means Iowa Department of Economic Development.

*"Small business"* means a business as defined by Iowa Code section 15.102(4).

*"Targeted small business"* means a business as defined by Iowa Code section 15.102(5).

**261—27.3(72GA,SF511) Eligibility requirements.**

**27.3(1) Residence.** An applicant must be a resident of Iowa to be eligible to apply for assistance.

**27.3(2) Targeted small business.** An applicant may only apply on behalf of a business which meets the targeted small business criteria.

**27.3(3) Who may apply.** Only persons who are owners of a targeted small business, in whole or in part, are eligible to apply. This restriction does not prevent such individuals from receiving help in preparing an application from a city, county, areawide planning organization, community college, satellite center, or other similar agencies.

**261—27.4(72GA,SF511) Application procedure.** Application materials are available from the IDED division of finance. A business plan must accompany the application. It must address marketing, financing, operations, management, organization, and personnel.

**27.4(1) Submittal.** Completed applications shall be submitted to: Targeted Small Business Loan Equity Grant Program, Division of Finance, Iowa Department of Economic Development, 200 East Grand Avenue, Des Moines, Iowa 50309.

**27.4(2) Review.** Applications will initially be reviewed by the IDED staff. Staff will verify the applicant's eligibility under rule 27.3(72GA,SF511). Staff may request additional information from the applicant for purposes of such verification, or to assist in review and analysis of the application. A review committee will review each application and recommend to the director of IDED that applications be granted or denied funding. The committee's recommendations and director's decision will be based on the likelihood of business success, the business's need for assistance, amount of other funds involved in the proposal, the number of certified targeted small businesses in the same field in Iowa, and the probability of displacement of existing jobs within Iowa. The amount or term of the award may differ from that requested by the applicant. In no case may an award exceed \$5000, nor in the case of a loan, may the interest rate charged exceed 5 percent per annum or be less than 0 percent per annum. Awards will generally be in the form of loans. However, grants may be awarded if the department and committee determine that a grant is necessary to secure additional financing.

**261—27.5(72GA,SF511) Award agreement.** Upon approval of an award, the IDED staff will prepare an agreement between IDED and the business which will include the conditions of the award, the responsibilities of both parties, and potential actions in instances of non-compliance.

**261—27.6(72GA,SF511) Monitoring and reporting.**

**27.6(1) *Monitoring.*** The IDED reserves the right to monitor the recipient's records to ensure compliance with the terms of the award.

**27.6(2) *Reporting.*** Assisted businesses will be required to report to the IDED on a regular basis and in a format requested by the department.

These rules are intended to implement 1987 Iowa Acts, Senate File 511.

[Filed emergency 9/11/87—published 10/7/87, effective 9/11/87]

**CHAPTERS 28 to 35**

**Reserved**

THE  
FEDERAL BUREAU OF INVESTIGATION  
UNITED STATES DEPARTMENT OF JUSTICE  
WASHINGTON, D. C. 20535

## CHAPTER 41 SATELLITE CENTERS

**261—41.1(28) Purpose.** The purpose of this chapter is to provide for the establishment of fifteen (15) satellite center, one to be located in each of the merged school districts. This chapter outlines the functions of each satellite center as provided for in the Act, and specifies the funding that will be provided by the department to assist in establishing each center.

**261—41.2(28) Definitions.** The terms used in this chapter will be defined as follows:

*"Act"* means Iowa Code supplement section 28.101.

*"Administrative entity"* means the organization selected by the regional coordinating council to provide office facilities and administrative support to the satellite center for that area.

*"Area"* means the merged area as defined in Iowa Code section 280A.2.

*"Contact person"* means the person designated by the council to whom correspondence and questions may be addressed regarding the satellite center.

*"Council"* means the regional coordinating council as described in Iowa Code supplement section 28.101.

*"Department"* means the Iowa department of economic development.

*"Grant"* means funds awarded to a satellite center by the department.

*"Grant agreement"* means the contract signed by all parties which provides the funding under these rules.

*"Primary research center"* means the primary research and marketing center for business and international trade as established by Iowa Code supplement section 28.101.

*"Recipient"* means the administrative entity designated by the regional coordinating council to house the satellite center.

*"Satellite centers"* mean the fifteen (15) centers established by Iowa Code supplement section 28.101.

**261—41.3(28) Eligible applicants.** The fifteen (15) regional coordinating councils established by the Act are eligible to apply for and receive grants from the department for the purpose of establishing a satellite center if the following requirements have been met: The council's membership is legally constituted according to the Act; and the council has submitted to the department a regional coordinating plan and received written approval for the plan from the department.

An annual update of the plan will be required in order for a council to remain eligible for a satellite center grant allowed by the Act and these rules.

**261—41.4(28) Allowable costs.** Grant funds provided by the department through these rules shall be used by each regional coordinating council to employ a director of the satellite center and pay any associated overhead costs of the center.

The regional coordinating council's administrative entity is responsible for providing the satellite center with a facility to house its operation. This facility must have an appropriate business environment, as well as provide the other appropriate and necessary accoutrements a business would require, including staff support, office equipment, communication and computer equipment, and office supplies.

**261—41.5(28) Satellite center director's duties.** The center director's duties and responsibilities include the following:

1. Overseeing the center's computer system and computer data input including the entry of the cataloged products and services of businesses located in the area.
2. Managing the satellite center.
3. Communicating with the primary research center.
4. Facilitating local marketing activities and efforts of local business to the extent desired by the regional council.
5. Coordinating delivery of all federal, state, and local economic development programs and services within the area.
6. Responding to all trade inquiries initiated by the primary research center.
7. Conducting primary and secondary research or assisting local colleges, universities, and businesses in developing primary research programs.
8. Performing other duties as assigned to the satellite center by the primary research center, the department, and the council.

**261—41.6(28) Application procedures.** Each regional coordinating council shall annually file a grant application with the department in order to receive satellite center funds. The department shall notify each eligible council annually regarding funding availability. Application instructions and any necessary forms can be obtained by contacting the Department of Economic Development, Division for Community Progress, 200 East Grand Avenue, Des Moines, Iowa 50309, (515) 281-3536.

**261—41.7(28) Contents of application.** Each regional coordinating council shall designate an administrative entity which will house and provide administrative support to the satellite center. The council will then forward the name of its administrative entity to the department along with a description of how the selected administrative entity will handle the following needs of each center: facility requirements, administrative staff support, administrative capacity requirements, and equipment needs. Each council shall notify the department of the satellite center director's name.

**261—41.8(28) Application review and grant award.** Following submission of the application by the regional coordinating council the department will determine the eligibility of the council to receive satellite center funding. An annual update of each region's coordination plan will be required in order for a regional coordinating council to be eligible to receive a satellite center grant for the coming year. In addition, the council will be required to annually certify that its membership is legally constituted according to the Act. If the council is eligible, the department will review the application and execute a three-party grant agreement between the department, the regional coordinating council, and the administrative entity to provide funding for the satellite center. No subcontracting of these funds will be allowed without prior consent of the department.

Applications will be solicited annually and grants awarded as funds are available.

The funding of an application under these rules is contingent upon the availability of funds appropriated to the department.

**261—41.9(28) Financial management standards.** All contracts made under these rules are subject to audit. The administrative entity shall be responsible for the procurement of audit services and for payment of audit costs. Audits may be performed by the state auditor's office or by a qualified independent auditor. The administrative entity shall comply with the Single Audit Act of 1984, P.L. 98-502, or in accordance with state laws and regulations, as appropriate, in preparing the audit. Copies of the audit report shall be transmitted to the department within thirty (30) days of its completion.

**261—41.10(28) Recordkeeping and retention.** Financial records, supporting documents, statistical records, and all other records pertinent to the grant shall be retained by the recipient for three (3) years beyond the expiration of the grant, or longer if any litigation or audit is

begun or if a claim is initiated involving the grant covered by the records. In these instances, the records will be retained until the litigation, audit, or claim has been resolved.

Representatives of the department and the state auditor's office shall have access to all books, accounts, documents, records, and other property belonging to or in use by the recipient pertaining to the receipt of assistance under these rules.

**261—41.11(28) Performance reports and reviews.** Each regional coordinating council and its satellite center director shall submit annual performance reports to the department in a form specified by the department. The department may perform any reviews or field inspections it deems necessary to assure program compliance, including reviews of performance reports. When problems of compliance are noted, the department may require remedial actions to be taken.

**261—41.12(28) Noncompliance.** If the department finds that the regional coordinating council, its administrative entity, or its satellite center is not in compliance with the requirements of these rules, any of the parties may be required to refund to the state all disallowed costs. Reasons for a finding of noncompliance include, but are not limited to, a finding that the program funds were used for unauthorized activities, the recipient has failed to complete approved activities in a timely manner, the recipient has failed to comply with applicable laws and regulations or the grant agreement, or the administering entity lacks the capacity to carry out the purposes of the program.

**261—41.13(28) Grant closeouts.** Upon completion of the time period covered by the grant agreement, the department will initiate grant closeout.

**261—41.14(28) Compliance with state laws and regulations.** The regional councils, its administrative entity, and its satellite center must comply with any provisions of the Iowa Code governing activities performed with funds awarded under these rules.

**261—41.15(28) Confidential records.** The public's access to the business information contained in the primary center's data base is limited in accordance with Iowa Code subsection 22.7(6).

These rules are intended to implement Iowa Code section 28.101.

[Filed emergency 12/19/86—published 1/14/87, effective 12/19/86]

[Filed 9/11/87, Notice 7/29/87—published 10/7/87, effective 11/12/87]

CHAPTERS 42 to 49  
Reserved

...the ... of ...

...the ... of ...

...the ... of ...

...the ... of ...

...the ... of ...

...the ... of ...

...the ... of ...

...the ... of ...

...the ... of ...

...the ... of ...

...the ... of ...

...the ... of ...

## CHAPTER 1 PURPOSE AND FUNCTION

**343—1.1(86,17A) Purpose and function.** The function of the division of industrial services of the department of employment services is to adjudicate the rights and duties of persons provided for in Iowa Code chapters 85, 85A, 85B, 86, and 87 and these rules, and to administer and enforce the provisions of chapters 85, 85A, 85B, 86, and 87 and these rules. The indicated chapters provide for the rights and duties of persons injured in employment and the responsible employers and insurance carriers. The chapters are commonly referred to as the workers' compensation chapters of the Iowa Code. The Iowa industrial commissioner is the executive head of the division of industrial services who serves a six-year term, appointed by the governor and confirmed by the senate. Two major sections within the division, compliance and adjudication, carry out the purpose of the division as set out by the laws of this state.

The compliance section prepares and distributes literature concerning the workers' compensation law, rates, judicial decisions, and statistics; responds to written and oral inquiries regarding the law; conducts conferences and training sessions; provides appropriate forms for use in matters under the jurisdiction of the division; establishes and monitors files arising from claims of work-related injuries and illness; and informs parties to a claim of their rights and responsibilities.

The adjudication section determines, by adjudicative means, the rights and liabilities of parties in a disputed claim by conducting hearings and rendering decisions; approving settlements in accordance with the statutes; and conducting appeals within the division.

**343—1.2(86,17A) Location.** Interested persons may contact the Iowa industrial commissioner, 1000 East Grand Avenue, Des Moines, Iowa 50319, or by telephoning (515) 281-5934.

These rules implement Iowa Code sections 17A.3(1)"a" and "b," and 84A.2.

[Emergency filed and effective 9/19/75—published 10/6/75]

[Filed 11/17/75, Notice 10/6/75—published 12/1/75, effective 1/5/76]

[Filed emergency 6/18/82—published 7/7/82, effective 7/1/82]

[Filed emergency 6/26/86—published 7/16/86, effective 7/1/86]

[Filed emergency 8/25/86—published 9/10/86, effective 8/25/86]\*

[Editorially transferred from [500] to [343], IAC Supp. 9/24/86, see IAB 7/16/86]

[Filed emergency 9/11/87—published 10/7/87, effective 9/11/87]

## CHAPTER 2 GENERAL PROVISIONS

**343—2.1(86) Extending time and continuances.** For good cause the industrial commissioner or the commissioner's designee may modify the time to comply with any rule.

**343—2.2(85A,85B,86) Applicability to chapters 85A and 85B.** When appropriate, all rules shall apply to chapters 85A and 85B as well as chapter 85.

**343—2.3(86,87) Representative within the state.** All licensed insurers, foreign and domestic, insuring workers' compensation and all employers relieved from insurance pursuant to Iowa Code section 87.11, shall designate one or more persons geographically located within the borders of this state, which person or persons shall be knowledgeable of the Iowa Workers' Compensation Law and Rules and shall be given the authority and have the responsibility to expedite the handling of all matters within the scope of Iowa Code chapters 85, 85A, 85B, 86, and 87.

The Iowa industrial commissioner shall be advised by letter of the name, address, and phone number of each of the persons so designated. Any change in the identity, address or phone number of the persons so designated shall be reported to the Iowa Industrial Commissioner within ten days after such change occurs.

\*See IAB Industrial Services, Division of[343]

**343—2.4(85) Guides to evaluation of permanent impairment.** The Guides to the Evaluation of Permanent Impairment published by the American Medical Association are adopted as a guide for determining permanent partial disabilities under Iowa Code section 85.34(2)“a”—“r.” The extent of loss or percentage of permanent impairment may be determined by use of this guide and payment of weekly compensation for permanent partial scheduled injuries made accordingly. Payment so made shall be recognized by the industrial commissioner as a prima facie showing of compliance by the employer or insurance carrier with the foregoing sections of the Iowa Workers’ Compensation Act. Nothing in this rule shall be construed to prevent the presentations of other medical opinion or guides for the purpose of establishing that the degree of permanent impairment to which the claimant would be entitled would be more or less than the entitlement indicated in the AMA guide.

This rule is intended to implement Iowa Code section 85.34(2) and 1986 Iowa Acts, Senate File 2175, section 902.

[Emergency filed and effective 9/19/75—published 10/6/75]

[Filed 11/17/75, Notice 10/6/75—published 12/1/75, effective 1/5/76]

[Filed 8/16/76, Notice 7/12/76—published 8/23/76, effective 9/27/76]

[Filed 8/3/77, Notice 6/29/77—published 8/24/77, effective 9/28/77]

[Filed emergency 6/18/82—published 7/7/82, effective 7/1/82]

[Editorially transferred from [500] to [343], IAC Supp. 9/24/86, see IAB 7/16/86]

### CHAPTER 3 FORMS

**343-3.1(17A) Forms.** The following forms are available from the division of industrial services for use in matters under the jurisdiction of the industrial commissioner. Insurance carriers, self-insured employers, or their adjusting agents may reproduce the forms in which event the name, address, telephone number, and identification number may be imprinted. The current revision of the form must be used. Each form is identified by a form number. This form number follows each form name listed below and is used when requesting that specific form.

**3.1(1) Form No. 1—first report of injury.** (Form No. 309-5012) The form contains general information concerning the employee, the employer and the claimed injury. It is to be filed whether or not an adjudication or admission of the injury exists and is to be filed as provided in Iowa Code section 86.11.

**3.1(2) Form No. 2—claim activity report.** (Form No. 309-5007) Upon establishment of a claim with this agency, the industrial commissioner will mail to the insurer this form which will show basic claim data found in the agency files. The form provides for filing of notice of commencement of payments, correcting erroneous claim information, supplying additional information, denying compensability, making of voluntary payments, agreeing to rate and agreeing to make payments under the Workers’ Compensation Act, reporting the status of a claim, or recording benefits paid. Notice of commencement of payments shall be filed within thirty days of the first payment. When liability on a claim is denied, a copy of the letter sent to claimant denying liability shall be filed with this form. This form shall also be filed when compensation is terminated or significantly interrupted. Medical data supporting the action taken shall be attached when temporary total disability or temporary partial disability exceeds thirteen weeks or when the employee sustains a permanent disability. In the event this form is rejected by the agency, a refiling should be made within fifteen days of the date of rejection.

**3.1(3) Form No. 2A—claim activity report.** (Form No. 309-5014) This form is to be used by the insurer as the initiating party when a Form 2 is not available.

**3.1(4) Form No. 2B—supplemental information report.** (Form No. 309-5011) This form should be filed by the employer or insurer whenever a discrepancy with regard to wages, exemptions or benefit rates exists; in death cases with a listing of dependents; or within the fifteen days when requested by the industrial commissioner. The form may also be attached

- 27.8(88) Head, eye and face protection
- 27.9(88) Ear and neck protection
- 27.10(88) Respiratory protection devices

**CHAPTER 28  
OCCUPATIONAL SAFETY AND  
HEALTH STANDARDS FOR  
AGRICULTURE**

- 28.1(88) Adoption by reference

**CHAPTERS 29 and 30  
Reserved**

***CHILD LABOR*  
CHAPTER 31  
Reserved**

**CHAPTER 32  
CHILD LABOR**

- 32.1 to 32.4 Reserved
- 32.5(92) Other work
- 32.6 Reserved
- 32.7(92) Work week
- 32.8(92) Terms
- 32.9 and 32.10 Reserved
- 32.11(92) Superintendent
- 32.12 to 32.16 Reserved
- 32.17(92) Definitions

**CHAPTERS 33 and 34  
Reserved**

**CHAPTER 35  
WAGE COLLECTION PAYMENT**

- 35.1(91A) Definitions
- 35.2(91A) Filing a claim
- 35.3(91A) Investigations
- 35.4(91A) Judicial proceedings

**CHAPTER 36  
DISCRIMINATION AGAINST  
EMPLOYEES**

- 36.1(91A) Definitions
- 36.2(91A) Employee rights
- 36.3(91A) Purposes
- 36.4(91A) General requirements
- 36.5(91A) Unprotected activities distinguished
- 36.6(91A) Complaint under or related to the Act
- 36.7(91A) Proceedings under or related to the Act
- 36.8(91A) Filing of complaint for discrimination or discharge

- 36.9(91A) Withdrawal of complaints
- 36.10(91A) Arbitration or other agency proceedings
- 36.11(91A) Decision of the commissioner

**CHAPTER 37  
Reserved**

**CHAPTER 38  
EMPLOYMENT AGENCY LICENSING**

- 38.1(94,95) Definitions
- 38.2(95) Application and license
- 38.3(94,95,17A) Complaints
- 38.4(94,95,17A) Revocation procedures
- 38.5(95,17A) Hearing procedures
- 38.6(94) Permissible fees charged by agency
- 38.7(94) Agency placement procedures
- 38.8(94,95) Contracts and fee schedules
- 38.9(94) Required records and report
- 38.10(95) Forms

**CHAPTERS 39 and 40  
Reserved**

***BOILERS*  
CHAPTER 41  
ADMINISTRATION**

- 41.1(89) Purpose
- 41.2(89) Inspections
- 41.3(89) Certificate
- 41.4(89) Certificate inspection
- 41.5(89) Special inspections
- 41.6(89) Quality control review
- 41.7(89) Preinspection owner/user preparation
- 41.8(89) Special inspector
- 41.9(89) Notification of explosion
- 41.10(89) Lap seam crack
- 41.11(89) Publication available for review
- 41.12(89) Definitions

**CHAPTER 42  
FEES**

- 42.1(89) Special inspector certification fee
- 42.2(89) Insured boiler certificate fee
- 42.3(89) Fees for inspection

**CHAPTER 43**  
**NEW INSTALLATIONS OF**  
**POWER BOILERS**

- 43.1(89) Installations after July 1, 1959
- 43.2(89) New installations

**CHAPTER 44**  
**EXISTING INSTALLATIONS OF**  
**POWER BOILERS**

- 44.1(89) Maximum allowable working pressure
- 44.2(89) Cast iron headers and mud drums
- 44.3(89) Rivets
- 44.4(89) Safety valves
- 44.5(89) Boiler feeding
- 44.6(89) Water level indicators
- 44.7(89) Pressure gages
- 44.8(89) Steam stop valves
- 44.9(89) Blowoff connection
- 44.10(89) Conditions not covered

**CHAPTER 45**  
**MINIATURE BOILERS AND**  
**MINIATURE MODEL BOILERS**

- 45.1(89) Scope—miniature boilers
- 45.2(89) New installations
- 45.3(89) Existing installations
- 45.4 to 45.9 Reserved
- 45.10(89) Scope—miniature model boilers
- 45.11(89) Welding
- 45.12(89) Materials
- 45.13(89) Piping
- 45.14(89) Safety appliances
- 45.15(89) Safety valves
- 45.16(89) Fusible plugs
- 45.17(89) Water gage
- 45.18(89) Feedwater supply
- 45.19(89) Inspection and washout openings
- 45.20(89) Inspection
- 45.21(89) Stamping

**CHAPTER 46**  
**INSTALLATION OF**  
**STEAM HEATING BOILERS,**  
**HOT WATER HEATING BOILERS**  
**AND HOT WATER SUPPLY BOILERS**

- 46.1(89) Scope
- 46.2(89) New installations
- 46.3(89) Existing installations; steam heating boilers
- 46.4(89) Existing installations; hot water heating boilers

- 46.5(89) Existing hot water supply boilers
- 46.6(89) General requirements for all heating boilers and hot water supply boilers

**CHAPTER 47**  
**WATER HEATER SUPPLY BOILERS**

- 47.1(89) Scope
- 47.2(89) Lining
- 47.3(89) Temperature/pressure relief valves
- 47.4(89) Mounting temperature/pressure relief valves
- 47.5(89) Requirements for common connection of two or more valves
- 47.6(89) Prohibited mountings
- 47.7(89) Shutoff valves prohibited
- 47.8(89) Thermal expansion
- 47.9(89) Stop valves

**CHAPTER 48**  
**PRESSURE VESSELS**

- 48.1(89) New installations
- 48.2(89) Existing installations

**CHAPTER 49**  
**GENERAL REQUIREMENTS FOR**  
**ALL BOILERS AND**  
**PRESSURE VESSELS**

- 49.1(89) Hydrostatic pressure tests
- 49.2(89) Safety appliance
- 49.3(89) Pressure-reducing valves
- 49.4(89) Blowoff equipment
- 49.5(89) Location of discharge piping outlets
- 49.6(89) Electric steam generator
- 49.7(89) Major repairs to boilers and pressure vessels
- 49.8(89) Boiler door latches
- 49.9(89) Clearance
- 49.10(89) Ladders and runways
- 49.11(89) Exit from boiler rooms
- 49.12(89) Air and ventilation
- 49.13(89) Condensate return tank
- 49.14(89) Nuclear power plant components
- 49.15(89) Conditions not covered

**CHAPTER 50**  
**Reserved**

- 96.5(90A) Failure to break hold
- 96.6(90A) Prohibition against hanging on
- 96.7(90A) Abusing referee
- 96.8(90A) Prohibited materials in ring
- 96.9(90A) Contestants' grooming
- 96.10(90A) Time between falls
- 96.11(90A) Contestants' arrival
- 96.12(90A) Contestants of the opposite sex prohibited
- 96.13(90A) Separation of boxing and wrestling
- 96.14(90A) Public safety
- 96.15(90A) Health of wrestler
- 96.16(90A) Wrestling outside of ring
- 96.17(90A) Advertising
- 96.18(90A) Responsibility of promoter

#### CHAPTER 97

##### PROFESSIONAL BOXING

- 97.1(90A) Limitation of rounds
- 97.2(90A) Weight restrictions
- 97.3(90A) Age restrictions
- 97.4(90A) Injury
- 97.5(90A) Knockdown
- 97.6(90A) Limitation on number of bouts
- 97.7(90A) Contestants' arrival
- 97.8(90A) Persons allowed in the ring
- 97.9(90A) Protection of hands
- 97.10(90A) Scoring
- 97.11(90A) Gloves
- 97.12(90A) Proper attire
- 97.13(90A) Use of substances
- 97.14(90A) "Down"
- 97.15(90A) Foul
- 97.16(90A) Penalties
- 97.17(90A) Weight classes
- 97.18(90A) Attendance of commissioner
- 97.19(90A) Weighing of contestants
- 97.20(90A) Officials
- 97.21(90A) General requirements
- 97.22(90A) Public safety
- 97.23(90A) Excessive coaching
- 97.24(90A) Abusive language
- 97.25(90A) Locker rooms
- 97.26(90A) Contracts
- 97.27(90A) Ring requirements
- 97.28(90A) Ring posts
- 97.29(90A) Ropes
- 97.30(90A) Ring floor
- 97.31(90A) Bell
- 97.32(90A) Gloves
- 97.33(90A) Referee's duties

- 97.34(90A) Chief second
- 97.35(90A) Naming referee
- 97.36(90A) Reasons for stopping bout
- 97.37(90A) Forfeit of purse
- 97.38(90A) Inspection for foreign substances
- 97.39(90A) Shaking hands
- 97.40(90A) Assessing fouls
- 97.41(90A) Delaying prohibited
- 97.42(90A) Count
- 97.43(90A) Intentional foul
- 97.44(90A) Use of the ropes
- 97.45(90A) Attending ring physician
- 97.46(90A) Technical knockout
- 97.47(90A) Timekeeper
- 97.48(90A) Seconds
- 97.49(90A) Requirements for seconds
- 97.50(90A) Use of water
- 97.51(90A) Stopping the fight
- 97.52(90A) Removing objects from ring
- 97.53(90A) Decision

#### CHAPTER 98

##### ELIMINATION TOURNAMENTS

- 98.1(90A) Purpose and scope
- 98.2(90A) Bouts, rounds and rest periods
- 98.3(90A) Protective equipment
- 98.4(90A) Weight restrictions
- 98.5(90A) Down
- 98.6(90A) Suspension
- 98.7(90A) Training requirements
- 98.8(90A) Judges
- 98.9(90A) Public safety
- 98.10(90A) Impartiality of timekeeper
- 98.11(90A) Ringside
- 98.12(90A) Physical examination—Female contestants
- 98.13(90A) Contestants of opposite sex prohibited

#### CHAPTER 99

##### AMATEUR BOXING

- 99.1(90A) Purpose
- 99.2(90A) Application
- 99.3(90A) Verification
- 99.4(90A) Forms

#### CHAPTER 100

##### PROFESSIONAL KICKBOXING

- 100.1(90A) Scope and purpose
- 100.2(90A) Rules adopted

**CHAPTERS 101 to 109**  
Reserved**CHAPTER 110**  
**HAZARDOUS CHEMICAL RISKS**  
**RIGHT TO KNOW —**  
**GENERAL PROVISIONS**

- 110.1(88,89B) Purpose, scope and application
- 110.2(88,89B) Definitions
- 110.3(88,89B) Hazard determination
- 110.4(88,89B) Labels and other forms of warning
- 110.5(88,89B) Material safety data sheets
- 110.6(88,89B) Trade secrets
- 110.7(88,89B) Effective dates

**CHAPTERS 111 to 119**  
Reserved**CHAPTER 120**  
**WORKER RIGHT TO KNOW**

- 120.1(88,89B) Worker right to know
- 120.2(88,89B) Hazard determination
- 120.3(88,89B) Written hazard communication program
- 120.4(88,89B) Labels and other forms of warning
- 120.5(88,89B) Material safety data sheets procedures are at 347—110.5(88,89B)
- 120.6(88,89B) Employee information and training
- 120.7 Reserved
- 120.8(88,89B) Discrimination
- 120.9(88,89B) Conduct of inspections
- 120.10(88,89B) Trade secret, medical emergency
- 120.11(88,89B) General procedures for citation, penalties, and appeal
- 120.12(88,89B) Effective date

**CHAPTERS 121 to 129**  
Reserved**CHAPTER 130**  
**COMMUNITY RIGHT TO KNOW**

- 130.1(89B) Employer's duty
- 130.2(89B) Records accessibility
- 130.3(89B) Application for exemption
- 130.4(89B) Burden of proof and criteria
- 130.5(89B) Formal ruling
- 130.6(89B) Requests for information
- 130.7(89B) Filing with division
- 130.8(89B) Grounds for complaint against the employer
- 130.9(89B) Investigation or inspection upon complaint
- 130.10(89B) Order to comply
- 130.11(89B) Effective date

**CHAPTER 131 to 139**  
Reserved**CHAPTER 140**  
**PUBLIC SAFETY/EMERGENCY**  
**RESPONSE RIGHT TO KNOW**

- 140.1(89B) Signs required and adoption by reference
- 140.2(89B) Employer variance applications
- 140.3(89B) Agreement between an employer and fire department
- 140.4(89B) Significant amounts
- 140.5(89B) Information submitted to local fire department
- 140.6(89B) Recommended communications
- 140.7(89B) Procedure for noncompliance
- 140.8(89B) Notice of noncompliance
- 140.9(88,89B) Effective date

## CHAPTERS 29 and 30

Reserved

## CHILD LABOR

## CHAPTER 31

Reserved

## CHAPTER 32

## CHILD LABOR

(Prior to 9/24/86, Labor, Bureau of (530))

32.1 to 32.4 Reserved.

**347—32.5(92) Other work.** Definition of “other work” as used in Iowa Code section 92.5(11) includes manual detasseling of corn when performed from power-operated detasseling machines.

This rule is intended to implement Iowa Code section 92.5.

32.6 Reserved.

**347—32.7(92) Workweek.** Definition of week as used in Iowa Code section 92.7 is interpreted to mean Sunday through Saturday.

This rule is intended to implement Iowa Code section 92.7.

**347—32.8(92) Terms.** The terms used in Iowa Code section 92.8 are defined and applied as specified in this rule.

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

a. All occupations in or about any plant or establishment (other than retail establishments or plants or establishments of the type described in subrule “b.”) manufacturing or storing explosives or articles containing explosive components except where the occupation is performed in a “nonexplosive area”.

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

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

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

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

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

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

c. Definitions.

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

“*Nonexplosive area*” means an area where none of the work performed in the area involves the handling or use of explosives; the area is separated from the explosives area by a distance not less than that prescribed in the American Table of Distances for the protection of inhabited buildings; the area is separated from the explosives area by a fence or is otherwise located

so that it constitutes a definite designated area; and satisfactory controls have been established to prevent employees under 18 years of age within the area from entering any area in or about the plant which does not meet the criteria of this definition.

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

32.8(2) *"Occupations of motor vehicle driver and helper"* means occupations of motor vehicle driver and outside helper on any public road, highway, in or about any mine (including open pit mine or quarry), place where logging or sawmill operations are in progress, or in any excavation.

a. The following are exceptions for occupations of motor vehicle driver and helper:

(1) Incidental and occasional driving where the operation of automobiles or trucks does not exceed 6,000 pounds gross vehicle weight if the driving is restricted to daylight hours; the operation is only occasional and incidental to the child's employment; the child holds a state license valid for the type of driving involved in the job which is to be performed and has completed a state approved driver education course; the vehicle is equipped with a seat belt or similar device for the driver and for each helper; and the employer has instructed each child that the belts or other devices must be used. This exemption shall not be applicable to any occupation of a motor vehicle driver which involves the towing of vehicles.

(2) The driving of a school bus.

b. Definitions.

*"Driver"* means any individual who, in the course of employment, drives a motor vehicle at any time.

*"Gross vehicle weight"* includes the truck chassis with lubricants, water and full tank or tanks of fuel, plus the weight of the cab or driver's compartment, body and special chassis, and body equipment and payload.

*"Motor vehicle"* means any automobile, truck, truck-tractor, trailer, semitrailer, motorcycle or similar vehicle propelled or drawn by mechanical power and designed for use as a means of transportation but shall not include any vehicle operated exclusively on rails.

*"Outside helper"* means any individual, other than a driver, whose work includes riding on a motor vehicle outside the cab for the purpose of assisting in transporting or delivering goods.

32.8(3) *"Occupations involved in logging occupations and occupations in the operation of any sawmill, lath mill, shingle mill, or cooperage-stock mill"* means all occupations with the following exceptions:

a. Exceptions applying to logging:

(1) Work in offices or in repair or maintenance shops.

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

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

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

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

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

- (1) Work in offices or in repair or maintenance shops.
- (2) Straightening, marking, or tallying lumber on the dry chain or the dry drop sorter.
- (3) Pulling lumber from the dry chain.
- (4) Cleanup in the lumberyard.
- (5) Piling, handling, or shipping of cooperage stock in yards or storage sheds, other than operating or assisting in the operation of power-driven equipment.
- (6) Clerical work in yards or shipping sheds, such as done by orderpersons, tallypersons, and shipping clerks.
- (7) Cleanup work outside shake and shingle mills, except when the mill is in operation.
- (8) Splitting shakes manually from precut and split blocks with a froe and mallet, except inside the mill building or cover.
- (9) Packing shakes into bundles when done in conjunction with splitting shakes manually with a froe and mallet, except inside the mill building or cover.

(10) Manual loading of bundles of shingles or shakes into trucks or railroad cars, provided that the employer has on file a statement from a licensed doctor of medicine or osteopathy certifying the minor capable of performing this work without injury.

The exceptions in paragraph "b," subparagraphs (1) to (10), do not apply to a portable sawmill the lumberyard of which is used only for the temporary storage of green lumber and in connection with which no office or repair or maintenance shop is ordinarily maintained and work which entails entering the sawmill building.

#### Definitions.

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

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

**32.8(4)** *"Occupations involved in the operation of power-driven woodworking machines"* means operating power-driven woodworking machines including supervision or controlling the operation of the machines, feeding material into the machines, and helping the operator to feed material into the machines, but not including the placing of material on a moving chain or in a hopper or slide for automatic feeding. Also included are occupations of setting up, adjusting, repairing, oiling or cleaning power-driven woodworking machines and the operations of off-bearing from circular saws and from guillotine-action veneer clippers.

#### Definitions.

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

- a. The removal of material or refuse from a circular saw or guillotine-action veneer clipper where the material or refuse has been conveyed away from the saw table or point of operation

by a gravity chute or by some mechanical means such as a moving belt or expansion roller, and

b. The following operations when they do not involve the removal of material or refuse directly from a saw table or from the point of operation; the carrying, moving or transporting of materials from one machine to another or from one part of a plant to another; the piling, stacking, or arranging of materials for feeding into a machine by another person; and the sorting, tying, bundling or loading of materials.

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

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

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

Definitions.

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

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

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

32.8(6) *"Occupations involved in the operation of elevators and other power-driven hoisting apparatus"* means:

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

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

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

d. Exception. Iowa Code section 92.8(6) shall not prohibit the operation of an automatic elevator and an automatic signal operation elevator provided that the exposed portion of the car interior (exclusive of vents and other necessary small openings), the car door and the hoistway doors are constructed of solid surfaces without any opening through which a part of the body may extend; all hoistway openings at floor level have doors which are interlocked with the car door so as to prevent the car from starting until all doors are closed and locked; the elevator (other than hydraulic elevators) is equipped with a device which will stop and hold the car in case of overspeed or if the cable slackens or breaks; and the elevator is equipped with upper and lower travel limit devices which will normally bring the car to rest at either terminal and a final limit switch which will prevent the movement in either direction and will open in case of excessive over-travel by the car.

e. Definitions.

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

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

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

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

*"Elevator"* means any power-driven hoisting or lowering mechanism equipped with a car or platform which moves in guides in a substantially vertical direction. The term shall include both passenger and freight elevators, (including portable elevators or tiering machines), but shall not include dumbwaiters.

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

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

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

32.8(7) *"Occupations involved in the operation of power-driven metal forming, punching and shearing machines"* means occupations of operator of or helper on the following power-driven metal forming, punching, and shearing machines.

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

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

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

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

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

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

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

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

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

**32.8(8)** *"Occupations in connection with mining"* means all work performed underground in mines and quarries; underground working, open-pit, or surface part of any coal-mining plant that contribute to the extraction, grading, cleaning, or other handling of coal; on the surface at underground mines and underground quarries; in or about open-cut mines, open quarries, clay pits, and sand and gravel operations; at or about placer mining operations; at or about dredging operations for clay, sand or gravel; at or about bore-hole mining operations; in or about all metal mills, washer plants, or grinding mills reducing the bulk of the extracted minerals; and at or about any other crushing, grinding, screening, sizing, washing or cleaning operations performed upon the extracted minerals except where the operations are performed as a part of a manufacturing process.

The term "occupations in connection with mining" shall not include:

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

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

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

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

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

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

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

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

Nothing in this subrule shall be construed to permit any employment of minors in any other occupation otherwise prohibited by Iowa Code chapter 92.

**32.8(9)** *"Occupations in or about slaughtering and meat packing establishments and rendering plants"* means:

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

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

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

d. All occupations involved in the operation or feeding of the following power-driven meat-processing machines, including the occupations of setting-up, adjusting, repairing, oiling, or cleaning the machines:

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

2. Snout pullers and jaw pullers;

3. Skinning machines;

4. Horizontal rotary washing machines;

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

6. Grinding, mixing, chopping, and hashing machines; and

7. Presses (except belly-rolling machines).

e. All boning occupations.

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

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

Definitions.

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

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

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

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

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

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

**32.8(10)** *"Occupations involved in the operation of certain power-driven bakery machines"* means the occupations of operating, assisting to operate or setting up, adjusting, repairing, oiling, or cleaning any horizontal or vertical dough mixer; batter mixer; bread dividing, rounding, or molding machine; dough brake; dough sheeter; combination bread slicing and wrapping machines; or cake cutting band saw and the occupations of setting up or adjusting a cooky or cracker machine.

**32.8(11)** *"Occupations involved in the operations of paper-products machines"* means operating or assisting to operate any of the following power-driven paper-products machines and includes:

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

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

c. The occupations of setting up, adjusting, repairing, oiling, or cleaning the machines in paragraphs "a" and "b" of this subrule including those which do not involve hand feeding.

**Definitions.**

*"Operating or assisting to operate"* means all work which involves starting or stopping a machine covered by this subrule, placing materials into or removing them from the machine, or any other work directly involved in operating the machine.

*"Paper-products machine"* means power-driven machines used in the remanufacture or conversion of paper or pulp into a finished product. The term is understood to apply to the machines whether they are used in establishments that manufacture converted paper or pulp products, or in any other type of manufacturing or nonmanufacturing establishments.

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

**32.8(12)** *"Occupations involved in the manufacture of brick"* means the manufacture of brick, tile and related products and includes the manufacture of clay construction products and of silica refractory products and includes:

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

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

c. Nothing in this subrule shall be construed to permit any employment of minors in any other occupation otherwise prohibited by Iowa Code chapter 92.

**Definitions.**

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

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

**32.8(13)** *"Occupations involved in the operation of circular saws, band saws, and guillotine shears"* means

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

b. The occupations of setting-up, adjusting, repairing, oiling, or cleaning circular saws, band saws, or guillotine shears.

**Definitions.**

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

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

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

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

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

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

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

**32.8(14) “Wrecking, demolition and shipbreaking operations”** means all work, including cleanup and salvage work, performed at the site of the total or partial razing, demolishing, or dismantling of a building, bridge, steeple, tower, chimney, other structure, ship or other vessel.

**32.8(15) “Roofing operations”** means all work performed in connection with the application of weatherproofing materials and substances (such as tar or pitch, asphalt prepared paper, tile, slate, metal, translucent materials, and shingles of asbestos, asphalt or wood) to roofs of buildings or other structures. The term also includes all work performed in connection with the installation of roofs, including related metal work such as flashing; and alterations, additions, maintenance and repair, including painting and coating, of existing roofs. The term shall not include gutter and downspout work; the construction of the sheathing or base of roofs; or the installation of television antennas, air conditioners, exhaust and ventilating equipment or similar appliances attached to roofs.

**32.8(16) “Excavation occupations”** means all occupations involved with:

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

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

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

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

**32.8(17) to 32.8(20)** Reserved.

**32.8(21)** Occupations deemed by the labor commissioner to be hazardous to life or limb as provided by Iowa Code section 92.8(21) include the following:

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

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

This rule is intended to implement Iowa Code section 92.8, subsections (1) to (10), (13), (14), (16) and (21).

**32.9 and 32.10** Reserved.

**347—32.11(92) Superintendent.** **“Superintendent”** means the superintendent of a public school, and in the case of a nonpublic accredited school to be the superintendent or individual with equal responsibilities.

This rule is intended to implement Iowa Code section 92.11.

**32.12 to 32.16** Reserved.

**347—32.17(92) Definitions.**

**“Part-time, occasional, or volunteer work”** as used in Iowa Code section 92.17(1) means work for which compensation is not usually given.

**“Part-time”** as used in Iowa Code section 92.17(3) means one-half of the maximum hours allowed under Iowa Code chapter 92.

*"Occupation or business operated by the child's parents"* as used in Iowa Code section 92.17(4) means those operated by the child's parent where the parent has control of the day to day operation of the business and is on the premises during the hours of the child's employment.

This rule is intended to implement Iowa Code section 92.17.

[Filed 4/15/71; amended 2/9/72]

[Filed emergency 9/5/86—published 9/24/86, effective 9/24/86]

[Filed 9/10/87, Notice 7/29/87—published 10/7/87, effective 11/11/87]

## CHAPTERS 33 and 34 Reserved

### CHAPTER 35 WAGE COLLECTION PAYMENT [Prior to 9/24/86, Labor, Bureau of (530)]

#### **347—35.1(91A) Definitions.**

*"Claim for wages"* means the printed form available upon request from the division.

*"Commissioner"* as used herein shall mean the labor commissioner of division of labor services or a designee.

*"Division"* means the division of labor services of the department of employment services.

*"Enforceable claim"* as used herein shall mean a claim for wages which merits judicial proceedings and one which is collectible.

**347—35.2(91A) Filing a claim.** A claim for wages shall be made by filing a complete claim for wages form with the division located at 1000 East Grand Avenue, Des Moines, Iowa 50319. The claim for wages form is available upon request. The requests may be made by telephoning, writing, or personally visiting the division.

#### **347—35.3(91A) Investigation.**

**35.3(1)** Upon receipt by the division of a completed and signed claim for wages form from an aggrieved employee, the commissioner shall commence investigation of the claim for wages and the allegations therein. The commissioner's investigation is not to be construed as a contested case as defined in Iowa Code chapter 17A.

**35.3(2)** The commissioner shall advise the employer in writing of the allegations contained in the claim for wages and shall request a response from the employer within fourteen (14) days' time from the date of the letter. This period may be extended by the commissioner for good cause.

**35.3(3)** If the employer fails to answer the commissioner's request for response within the fourteen (14) day period, as extended by the commissioner, the commissioner may determine the employee's claim to be enforceable.

**35.3(4)** If the employer answers the commissioner's request for response within the established time, the commissioner shall notify the aggrieved employee of the employer's response and afford that employee an opportunity to present additional information in support of the employee's claim for wages. The employee shall submit the requested additional information within fourteen (14) days from the date of the letter. This period may be altered by the commissioner for good cause.

**35.3(5)** Upon receipt of the requested additional information from the employee, the commissioner may determine additional information is required from the employer.

## CHAPTER 99 AMATEUR BOXING

[Prior to 9/24/86, Athletics Commissioner[110] ch 4]

**347—99.1(90A) Purpose.** This chapter applies to amateur boxing contests. Until the promoter assures compliance with this chapter, no contest shall be considered as a sanctioned or permitted event of the Iowa amateur boxing federation.

**347—99.2(90A) Application.** All promoters of organized amateur boxing contests shall complete an application form obtained from the United States of America Amateur Boxing Federation, Iowa amateur boxing federation. The application shall include an attached signed statement that the promoter prohibits contestants who are thirty years of age or over from participating in boxing tournaments where other contestants are under thirty years of age, and prohibits those over thirty years of age from participating in individual bouts unless both contestants are over thirty years of age. The Iowa amateur boxing federation shall provide the labor commissioner with the completed application and promoter statement within seven days after the date of the contest.

**347—99.3(90A) Verification.** Verification of the contestant's age shall be made by the promoter at the time of the preflight physical examination. Proof of age shall be through a birth certificate or equivalent document provided by the contestant.

**347—99.4(90A) Forms.** Forms to comply with this chapter will be provided by the labor commissioner.

These rules are intended to implement Iowa Code chapter 90A.

[Filed 1/24/85, Notice 11/21/84—published 2/13/85, effective 3/20/85]\*

[Filed emergency 9/5/86—published 9/24/86, effective 9/24/86]

## CHAPTER 100 PROFESSIONAL KICKBOXING

**347—100.1(90A) Scope and purpose.** This chapter applies to professional kickboxing contests. The labor commissioner finds that professional kickboxing is a contest within the scope of Iowa Code chapter 90A. Until a promoter assures compliance with this chapter, a professional kickboxing contest shall not be licensed by the labor commissioner. This chapter does not apply to any professional boxing or professional wrestling event.

**347—100.2(90A) Rules adopted.** The labor commissioner adopts by reference the kickboxing rules and regulations of the World Karate Association used for all World Karate Association professional kickboxing events. These rules and regulations are published by the World Karate Association, "The Official Rules of the World Karate Association," January 1987 edition.

These rules are intended to implement Iowa Code chapter 90A.

[Filed emergency 9/11/87—published 10/7/87, effective 9/11/87]

## CHAPTERS 101 to 109 Reserved

**CHAPTER 110**  
**HAZARDOUS CHEMICAL RISKS RIGHT TO KNOW—**  
**GENERAL PROVISIONS**

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

**347—110.1(88,89B) Purpose, scope and application.**

**110.1(1) Purpose.** The purpose of chapters 110, 120, 130, and 140 is to implement Iowa Code chapter 89B. The rules in chapter 110 are to ensure that the hazards of all chemicals produced or imported by chemical manufacturers or importers are evaluated and that the information is transmitted to affected employers. This chapter is enforced under Iowa Code chapters 88 and 89B.

Chapter 120 provides that information concerning chemical hazards is transmitted to affected employers and employees. This transmittal of information is to be accomplished by means of a comprehensive hazard communication program, which is to include container labeling and other forms of warning, material safety data sheets, and employee training. This chapter is enforceable under Iowa Code chapter 88.

Chapter 130 addresses the procedures for the public to gain access to information on hazardous chemicals used in the community, the administrative procedures to determine the extent of the information required to be presented, and the actions to compel the release of the information when the employer does not voluntarily release the information.

Chapter 140 addresses the procedures by which an employer submits information to the local fire department on the hazardous chemicals at the employer's workplace.

**110.1(2) Scope, application, and exemptions.** These chapters require chemical manufacturers or importers to assess the hazards of chemicals which they produce or import, and all employers, except those exempted in subrule 110.1(3), to provide information to their employees about the hazardous chemicals to which they are exposed, by means of a hazard communication program, labels and other forms of warning, material safety data sheets, and information and training. In addition, this section requires distributors to transmit the required information to employers. These rules apply to any chemical which is known to be present in the workplace so that employees may be exposed under normal conditions of use or in a foreseeable emergency.

**110.1(3) Exemption of employers—laboratories.** These rules apply to laboratories only as follows:

a. Employers shall ensure that labels on incoming containers of hazardous chemicals are not removed or defaced;

b. Employers shall maintain any material safety data sheets that are received with incoming shipments of hazardous chemicals, and ensure that they are readily accessible to laboratory employees; and

c. Employers shall ensure that laboratory employees are apprised of the hazards of chemicals in their workplaces in accordance with rule 120.6(88,89B).

**110.1(4) Exemption of employers—educational research laboratories.** Except for Iowa Code section 89B.9, 347—chapter 120 does not apply to research laboratories at a public or private educational institution provided the educational research laboratory submits a plan for supervision and handling of hazardous chemicals and for the development of training programs for employees.

a. *Components of a plan for research laboratories:*

(1) Education training component. A research laboratory shall submit a plan of the supervision and training program for the employees who work in an educational research laboratory. This plan shall be designed to inform the employees in writing and orally of the nature of the hazardous chemicals to which they are exposed during the course of their employment and the potential health risks which the hazardous chemicals pose. Training shall be provided in the proper and safe procedures for handling all categories of hazardous chemicals under

# INSPECTIONS AND APPEALS DEPARTMENT[481]

## CHAPTER 1 ADMINISTRATION

- 1.1(10A) Organization
- 1.2(10A) Definitions
- 1.3(10A) Audits division
- 1.4(10A) Investigations division
- 1.5(10A) Inspections division
- 1.6(10A) Appeals and fair hearings division
- 1.7(10A) Administering discretion
- 1.8(10A) Employment appeal board
- 1.9(10A) Foster care review board
- 1.10(10A) The state appellate defender
- 1.11(10A) Hospital licensing board

## CHAPTER 2 PETITIONS FOR RULEMAKING

- 2.1(17A) Petition for rulemaking
- 2.2(17A) Briefs
- 2.3(17A) Inquiries
- 2.4(17A) Agency consideration

## CHAPTER 3 DECLARATORY RULINGS

- 3.1(17A) Petition for declaratory ruling
- 3.2(17A) Briefs
- 3.3(17A) Inquiries
- 3.4(17A) Agency consideration
- 3.5(17A) Refusal to issue ruling
- 3.6(17A) Contents of declaratory ruling—  
effective date
- 3.7(17A) Effect of a declaratory ruling

## CHAPTER 4 CONTESTED CASE HEARINGS

- 4.1(10A) Definitions
- 4.2(10A) Jurisdiction
- 4.3(10A) Transmission of contested cases
- 4.4(10A) Continuances
- 4.5(10A) Discovery and subpoenas
- 4.6(10A) Procedures

## CHAPTER 5 INVESTIGATIONS AND HEARINGS RELATING TO PROFESSIONAL LICENSURE WITHIN THE DEPARTMENT OF PUBLIC HEALTH

- 5.1(10A) Definitions
- 5.2(10A) Applicability
- 5.3(10A) Inspection of beauty salons  
and barber shops
- 5.4(10A) Investigations of complaints
- 5.5(10A) Preliminaries to the hearing
- 5.6(10A) Conduct of the hearing
- 5.7(10A) Decisions in contested cases
- 5.8(10A) Costs of transcript

## CHAPTER 6 Reserved

## CHAPTER 7 INVESTIGATIONS

- 7.1 Reserved
- 7.2(10A) Institutions designed to accom-  
modate the needs of juveniles
- 7.3(10A) Complaint investigation
- 7.4 Reserved

**CHAPTERS 8 to 29**

Reserved

***INSPECTIONS DIVISION*****CHAPTER 30****FIELD SURVEY ADMINISTRATION**

- 30.1(10A) Inspections division
- 30.2(10A) Definitions
- 30.3(170,170A,170B,191A) Licensing
- 30.4(170,170A,170B,191A) License fees
- 30.5(170,170A,170B,191A) Returned checks
- 30.6(170,170A) Double licenses
- 30.7(170,170A,191A) Disposal standards
- 30.8(170,170A,170B,191A) Inspection frequency
- 30.9(170A) Inspection notice in food service establishments
- 30.10(170,170A,170B,191A) Local contracts
- 30.11(22) Examination of records
- 30.12(170,170A,170B,191A) Denial, suspension or revocation of a license to operate
- 30.13(10A) Formal hearing

**CHAPTER 31****FOOD ESTABLISHMENT INSPECTIONS**

- 31.1(170) Inspection standards
- 31.2(170) Wholesale food standards
- 31.3(170) Bottled drinking water standards
- 31.4(170) Proper care of seafood
- 31.5(170) Labeling
- 31.6(170) Adulterated food and disposal
- 31.7(170) Health hazard
- 31.8(170) Enforcement
- 31.9(170) Toilets and lavatories

**CHAPTER 32****FOOD SERVICE ESTABLISHMENT INSPECTIONS**

- 32.1(10A) Inspection standards
- 32.2(10A) Posting of inspection results
- 32.3(170A) Clarification of ordinance

**CHAPTER 33****FOOD AND BEVERAGE****VENDING MACHINE INSPECTIONS**

- 33.1(191A) Definitions
- 33.2(191A) Inspection standards
- 33.3(191A) Enforcement
- 33.4(191A) Appeal rights

**CHAPTERS 34 to 36**

Reserved

**CHAPTER 37****HOTEL AND MOTEL INSPECTIONS**

- 37.1(170B) Building and grounds
- 37.2(170B) Guest rooms
- 37.3(170B) Bedding
- 37.4(170B) Lavatory facilities
- 37.5(170B) Glasses and ice
- 37.6(170B) Employees
- 37.7(170B) Room rates
- 37.8(170B) Inspections
- 37.9(170B) Enforcement

**CHAPTERS 38 to 49**

Reserved

**CHAPTER 50****HEALTH CARE FACILITIES ADMINISTRATION**

- 50.1(10A) Inspections
- 50.2(10A) Definitions
- 50.3(10A) Licensing
- 50.4(10A) Fines and citations
- 50.5(10A) Denial, suspension or revocation
- 50.6(10A) Formal hearing
- 50.7(10A) Additional notification

**CHAPTERS 51 to 55**

Reserved

**CHAPTER 56****FINING AND CITATIONS**

- 56.1(135C) Authority for citations
- 56.2(135C) Classification of violations—classes
- 56.3(135C) Fines
- 56.4(135C) Time for compliance
- 56.5(135C) Failure to correct a violation within the time specified—penalty
- 56.6(135C) Treble fines for repeated violations

**CHAPTER 60****MINIMUM PHYSICAL STANDARDS  
FOR RESIDENTIAL CARE FACILITIES**

- 60.1(135C) Definitions
- 60.2(135C) Variances
- 60.3(135C) General requirements
- 60.4(135C) Construction
- 60.5(135C) Provisions for the  
handicapped
- 60.6(135C) Supervised care unit
- 60.7(135C) Resident dining room, activity  
and recreation areas
- 60.8(135C) Personal care room
- 60.9(135C) Privacy room
- 60.10(135C) Janitor's closet
- 60.11(135C) Dietetic service area
- 60.12(135C) Administration and public  
areas
- 60.13(135C) Linen services
- 60.14(135C) Central stores
- 60.15(135C) Engineering service and  
equipment areas
- 60.16(135C) Details and finishes
- 60.17(135C) Elevator requirements
- 60.18(135C) Mechanical requirements
- 60.19(135C) Electrical requirements
- 60.20(135C) Codes and standards

**CHAPTER 61****MINIMUM PHYSICAL STANDARDS  
FOR INTERMEDIATE CARE  
FACILITIES AND SKILLED NURSING  
FACILITIES**

- 61.1(135C) General requirements
- 61.2(135C) Construction
- 61.3(135C) Provisions for the handicapped
- 61.4(135C) Nursing unit
- 61.5(135C) Resident dining room,  
activity and recreation  
areas
- 61.6(135C) Personal care room
- 61.7(135C) Isolation room
- 61.8(135C) Janitor's closet
- 61.9(135C) Dietetic service area
- 61.10(135C) Administration and public  
areas
- 61.11(135C) Linen services
- 61.12(135C) Central stores
- 61.13(135C) Engineering service and  
equipment areas
- 61.14(135C) Details and finishes
- 61.15(135C) Elevator requirements
- 61.16(135C) Mechanical requirements
- 61.17(135C) Electrical requirements
- 61.18(135C) Codes and standards

**CHAPTER 62**

Reserved

**CHAPTER 63****RESIDENTIAL CARE FACILITIES  
FOR THE MENTALLY RETARDED**

- 63.1(135C) Definitions
- 63.2(135C) Variances
- 63.3(135C) Application for licensure
- 63.4(135C) General requirements
- 63.5(135C) Notifications required by the  
department
- 63.6(135C) Witness fees
- 63.7(135C) Licenses for distinct parts
- 63.8(135C) Administrator
- 63.9(135C) General policies
- 63.10(135C) Reserved
- 63.11(135C) Personnel
- 63.12(135C) Resident care and personal  
services
- 63.13(135C) Admission, transfer, and  
discharge
- 63.14(135C) Contracts
- 63.15(135C) Physical examinations
- 63.16(135C) Dental services
- 63.17(135C) Records
- 63.18(135C) Drugs
- 63.19(135C) Dietary
- 63.20(135C) Orientation program
- 63.21(135C) Individualized program of  
care
- 63.22(135C) Care review committee
- 63.23(135C) Safety
- 63.24(135C) Housekeeping
- 63.25(135C) Maintenance
- 63.26(135C) Laundry
- 63.27(135C) Garbage and waste disposal
- 63.28(135C) Buildings, furnishings, and  
equipment
- 63.29(135C) Family and employee  
accommodations
- 63.30(135C) Animals
- 63.31(135C) Environment and grounds
- 63.32(135C) Supplies
- 63.33(135C) Residents' rights in general
- 63.34(135C) Involuntary discharge or  
transfer
- 63.35(135C) Resident rights
- 63.36(135C) Financial affairs—manage-  
ment
- 63.37(135C) Resident abuse prohibited
- 63.38(135C) Resident records
- 63.39(135C) Dignity preserved
- 63.40(135C) Resident work
- 63.41(135C) Communications

- 63.42(135C) Resident activities
- 63.43(135C) Resident property
- 63.44(135C) Family visits
- 63.45(135C) Choice of physician
- 63.46(135C) Incompetent resident
- 63.47(135C) Demonstration waiver project

#### CHAPTER 64

#### INTERMEDIATE CARE FACILITIES FOR THE MENTALLY RETARDED

- 64.1(135C) Definitions
- 64.2(135C) Variances
- 64.3(135C) Application for licensure
- 64.4(135C) General requirements
- 64.5(135C) Notifications required by the department
- 64.6(135C) Witness fees
- 64.7(135C) Licenses for distinct parts
- 64.8(135C) Administrative support services
- 64.9(135C) Administrator
- 64.10(135C) Communications
- 64.11(135C) Qualified mental retardation professional
- 64.12(135C) General administrative policies and practices
- 64.13(135C) Personnel policies
- 64.14(135C) Staff-resident relationships and activities
- 64.15(135C) Resident-living staff
- 64.16(135C) Admission and release
- 64.17(135C) Contracts
- 64.18(135C) General provisions
- 64.19(135C) Medical service
- 64.20(135C) Dental services
- 64.21(135C) Records
- 64.22(135C) Clothing
- 64.23(135C) Health, hygiene and grooming
- 64.24(135C) Grouping and organization of living units
- 64.25(135C) Training and habilitation services
- 64.26(135C) Health services
- 64.27(135C) Pharmacy services
- 64.28(135C) Physical and occupational therapy
- 64.29(135C) Arrangements for services
- 64.30(135C) Speech pathology and audiology
- 64.31(135C) Psychological services
- 64.32(135C) Dietary
- 64.33(135C) Social services
- 64.34(135C) Recreation services
- 64.35(135C) Care review committee
- 64.36(135C) Fire safety
- 64.37(135C) Safety
- 64.38(135C) Design and equipage of living
- 64.39(135C) Engineering and maintenance
- 64.40(135C) Laundry services
- 64.41(135C) Environment and sanitation
- 64.42(135C) Animals
- 64.43(135C) Facilities for physically handicapped
- 64.44(135C) Research
- 64.45(135C) Residents' rights in general
- 64.46(135C) Involuntary discharge or transfer
- 64.47(135C) Resident rights
- 64.48(135C) Financial affairs—management
- 64.49(135C) Resident abuse prohibited
- 64.50(135C) Resident records
- 64.51(135C) Dignity preserved
- 64.52(135C) Resident work
- 64.53(135C) Communications
- 64.54(135C) Resident activities
- 64.55(135C) Resident property
- 64.56(135C) Family visits
- 64.57(135C) Choice of physician
- 64.58(135C) Incompetent residents

#### CHAPTERS 65 to 69 Reserved

#### INVESTIGATIONS DIVISION

#### CHAPTER 70 Reserved

#### CHAPTER 71 RECOUPMENT SECTION

- 71.1(10A) Definitions
- 71.2(10A) Referral process
- 71.3(10A) Records
- 71.4(10A) Review
- 71.5(10A) Repayment process
- 71.6(10A) Further collection action
- 71.7(10A) Appeal rights
- 71.8(10A) Data processing systems matches
- 71.9(10A) Confidentiality

**CHAPTER 72  
FOOD STAMP**

**INVESTIGATION SECTION**

- 72.1(10A) Definitions
- 72.2(10A) Referrals
- 72.3(10A) Investigation procedures
- 72.4(10A) Findings

**CHAPTER 73**

**MEDICAID FRAUD CONTROL BUREAU**

- 73.1(10A) Definitions
- 73.2(10A) Complaints
- 73.3(10A) Investigative procedures
- 73.4(10A) Audit of clinical and fiscal records by the department
- 73.5(10A) Who shall be reviewed, audited, or investigated
- 73.6(10A) Auditing and investigative procedures
- 73.7(10A) Actions based on audit or investigative findings
- 73.8(10A) Confidentiality
- 73.9(10A) Appeal by provider of care

**CHAPTER 74**

**ECONOMIC ASSISTANCE  
FRAUD BUREAU**

- 74.1(10A) Definitions
- 74.2(10A) Responsibilities
- 74.3(10A) Procedures
- 74.4(10A) Investigations
- 74.5(10A) Executive branch investigations



**CHAPTER 1**  
**ADMINISTRATION**  
**MISSION STATEMENT**

The department of inspections and appeals maintains integrity in state or federal programs and operations through audits, investigations, inspections of designated programs, and through impartial hearings of contested administrative actions to assure compliance with laws, rules and regulations.

**481—1.1(10A) Organization.**

**1.1(1)** The Iowa department of inspections and appeals was established by Iowa Code sections 10A.101 to 10A.601. The chief executive officer of the department is the director of the department of inspections and appeals who shall be appointed by the governor to serve at the pleasure of the governor subject to confirmation by the senate no less frequently than every four years.

**1.1(2)** The director is assisted by a deputy director who is appointed by the director of inspections and appeals.

**1.1(3)** The department is organized into divisions which are further divided into bureaus and sections.

**1.1(4)** The director has general supervision over the administration and operation of all divisions. The director also develops statewide programs in compliance with the goals of the department.

**1.1(5)** The deputy director serves as the principal deputy to the director to assist in the development, implementation, or revision of the policies affecting overall operations and relationships in the agency; confers with staff department heads regarding the progress and problems of specific programs and operations for which they are responsible; reviews activities, reports and records, and determines conformity with policies and procedures and the need for improvements or revisions; determines and ensures that policy required by changes in the law or director action are executed, reports findings and submits recommendations to the director for approval or subsequent actions; supervises divisions requiring administrative coordination, and supervises general administrative matters. The deputy director represents the director in various capacities as directed.

**481—1.2(10A) Definitions.** For rules of the department of inspections and appeals [481], the following definitions apply:

*"Department"* means the department of inspections and appeals.

*"Department of human services"* is referred to as DHS.

*"Director"* means the director of the department.

**481—1.3(10A) Audits division.** This division conducts audits, except those conducted by the state auditor's office, including but not limited to the following:

1. Audits of real estate broker trust accounts.
2. Audits relative to the administration of hospitals and health care facilities.
3. Audits relative to the administration and disbursement of funds under the state supplemental assistance program and the state medical assistance program.
4. Audits relative to the administration and disbursement of funds from the energy research and development fund designated for the weatherization program or the energy assistance program.

**481—1.4(10A) Investigations division.** This division conducts investigations including but not limited to the following:

1. Investigations relative to the practice of regulated professions and occupations, except those within the jurisdiction of the board of medical examiners, the board of pharmacy examiners, the board of dental examiners, and the board of nursing.

2. Investigations relative to proposed sales within the state of subdivided land situated outside of the state.
3. Investigations relative to applications for beer and liquor licenses.
4. Investigations relative to the standards and practices of hospitals, hospices, and health care facilities.
5. Investigations relative to the liquidation of overpayment debts owed to the department of human services.
6. Investigations relative to the operations of the department of elder affairs.
7. Investigations relative to the administration of the state supplemental assistance program, the state medical assistance program, the food stamp program, and the aid to dependent children program.
8. Investigations relative to the internal affairs and operations of agencies and departments within the executive branch of state government, except for institutions governed by the state board of regents.

**481—1.5(10A) Inspections division.** This division conducts inspections including but not limited to the following:

1. Land situated outside of the state which is proposed for sale within the state.
2. Food establishments, including groceries, restaurants, hotels, food and beverage vending machines, state educational or charitable institutions for licensing determination, and sanitation inspections in any locality of the state upon the written petition of five or more residents of a particular locality. Correctional and penal institutions are also inspected for sanitary conditions.
3. Licensing procedures relative to the hospice program, hospitals, and health care facilities. The division shall be the sole designated licensing authority for these programs and facilities.
4. Hospital and health care facility construction projects and licensing boards established within the department of public health, except the board of medical examiners, the board of pharmacy examiners, the board of dental examiners, and the board of nursing.
5. Child foster care facilities and private institutions for the care of dependent, neglected, and delinquent children.

**481—1.6(10A) Appeals and fair hearings division.** This division conducts hearings including but not limited to the following:

1. Hearings and appeals relative to foster care facilities, child day care facilities, administration of the state medical assistance program, administration of the state supplementary assistance program, administration of the food stamp program, and administration of the aid-to-dependent-children program and other programs administered by the department of human services. Decisions of the division in these areas are subject to review by the department of human services.
  2. Hearings and appeals relative to occupational safety and health regulations and the state elevator code. Decisions of the division in these areas are subject to review by the employment appeal board.
  3. Hearings and appeals relative to administration of the department of general services. Decisions of the division in this area are subject to review by the department of general services.
  4. Hearings and appeals relative to administration of the department of transportation. Decisions of the division in this area are subject to review by the department of transportation.
  5. Appeals relative to professional and occupational license denials, suspensions, revocations, and other matters involving professional and occupational discipline except those within the jurisdiction of the board of medical examiners, the board of pharmacy examiners, the board of dental examiners, and the board of nursing.
- Judicial review of the division's actions in these areas may be sought in accordance with the terms of Iowa Code chapter 17A.
6. Hearings and appeals relative to administration of the department of elder affairs. Decisions of the division in this area are subject to review by the department of elder affairs.

7. Hearings and appeals relative to the licensure or certification of hospitals, hospices, and health care facilities. Decisions of the division in this area are subject to review by the department of inspections and appeals.

8. Hearings and appeals relative to the administration of the department of public health. Decisions of the division in this area are subject to review by the department of public health.

9. Hearings and appeals relative to administration of the department of public safety. Decisions of the division in this area are subject to review by the department of public safety.

10. Hearings and appeals relative to the administration of the department of personnel except those cases within the jurisdiction of the public employment relations board. Decisions of the division in this area shall be determined by the employment appeal board, and the appeal board's decisions shall be considered final agency action under Iowa Code chapter 17A, except for reduction in force appeals which shall be subject to review by the director of the department of personnel.

11. Hearings and appeals relative to the administration of the department of cultural affairs. Decisions of the division in this area are subject to review by the department of cultural affairs.

12. Hearings and appeals relative to administration of the department of natural resources. Decisions of the division in this area are subject to review by the department of natural resources.

13. The administrator shall coordinate the division's conduct of all nonstatutory administrative hearings and appeals provided for in the Iowa administrative code and bulletin.

**481—1.7(10A) Administering discretion.** Nothing in the aforesaid allocation of duties shall be interpreted to prevent flexibility in interdepartmental operations or to forbid other divisional allocations of duties in the discretion of the director of the department of inspections and appeals.

**481—1.8(10A) Employment appeal board.** The employment appeal board consists of three members appointed by the governor, subject to confirmation by the senate, to staggered six-year terms. One member shall be qualified by experience and affiliation to represent employers, one member shall be qualified by experience and affiliation to represent employees, and one member shall represent the general public. This board hears and decides contested cases under Iowa Code chapters 19A, 80, 88, 96, 97B and 104 in accordance with administrative rules promulgated by the employment appeal board.

**481—1.9(10A) Foster care review board.** The foster care review board consists of seven members appointed by the governor, subject to confirmation by the senate.

This board administers foster care review programs as defined in Iowa Code section 237.19, in accordance with administrative rules promulgated by the foster care review board.

**481—1.10(10A) The state appellate defender.** The state appellate defender is appointed by the governor and represents indigents on appeal in criminal cases and on appeal in proceedings to obtain postconviction relief when appointed by the district court which issued the judgment or order.

**481—1.11(10A) Hospital licensing board.** This board consists of five individuals who have recognized ability in the field of hospital administration. They are appointed by the governor. The hospital licensing board consults and advises the department of public health on matters of policy affecting Iowa Code chapter 135B. The board reviews and approves rules and standards for the implementation of chapter 135B before they are reviewed and approved by the department of public health and adopted by the department of inspections and appeals.

These rules are intended to implement Iowa Code sections 10A.104, 10A.106, and 17A.3(1), paragraph "a."

[Filed emergency 7/1/86—published 7/16/86, effective 7/1/86]

[Filed 2/6/87, Notice 10/8/86—published 2/25/87, effective 4/1/87]

[Filed without Notice 3/26/87—published 4/22/87, effective 5/27/87]

[Filed 9/18/87, Notice 7/15/87—published 10/7/87, effective 11/11/87]



**CHAPTER 5**  
**INVESTIGATIONS AND HEARINGS RELATING TO**  
**PROFESSIONAL LICENSURE WITHIN**  
**THE DEPARTMENT OF PUBLIC HEALTH**

**481—5.1(10A) Definitions.**

*"Board"* means one of the boards listed in rule 5.2(10A).

*"Hearing officer"* means a hearing officer who is on the staff of the department of inspections and appeals and qualified as a hearing officer under the merit system of personnel administration.

*"Respondent"* means the person against whom a notice of hearing has been filed.

**481—5.2(10A) Applicability.** This chapter shall apply to investigations and contested case hearings for the following boards within the professional licensure division of the department of public health: board of barber examiners, board of chiropractic examiners, board of cosmetology examiners, board of dietetic examiners, board of hearing aid dealers examiners, board of mortuary science examiners, board of nursing home administrator examiners, board of optometry examiners, board of physical and occupational therapy examiners, board of podiatry examiners, board of psychology examiners, board of social work examiners, board of speech pathology and audiology examiners and investigations and contested case hearings for ophthalmic dispensers and respiratory care practitioners.

**481—5.3(10A) Inspection of beauty salons and barber shops.** Inspections of beauty salons and barber shops shall be conducted by staff of the department of inspections and appeals in accordance with an agreement between the department of public health and the department of inspections and appeals.

**481—5.4(10A) Investigations of complaints.** Upon the written request to the department of inspections and appeals by the board or administrative staff of the department of public health division of professional licensure, the department of inspections and appeals will conduct an investigation of a complaint. The written request shall include a copy of the complaint. The department of inspections and appeals shall maintain the confidentiality of the complaint, request for investigation, and investigative report as required by Iowa Code section 258A.6(4). The department of inspections and appeals will prepare an investigative report for each complaint which may include a recommendation concerning probable cause for a contested case hearing. A copy of the investigative report will be submitted to the person who requested the investigation.

**481—5.5(10A) Preliminaries to the hearing.**

**5.5(1)** The board or the department of public health shall consult with the department of inspections and appeals prior to the scheduling of the time for the hearing to determine availability of a hearing officer and shall determine the time and place of the hearing with the approval of the department of inspections and appeals.

**5.5(2)** The board or the department of public health shall have the notice of hearing served in accordance with Iowa Code section 17A.18.

**5.5(3)** Before the hearing has commenced, the board or the assigned hearing officer shall issue subpoenas at the request of any party.

**5.5(4)** Any request for a continuance may not be granted unless approved by the assigned hearing officer.

**481—5.6(10A) Conduct of the hearing.**

**5.6(1)** The procedure in the contested case hearing shall be in accordance with the rules of the department of inspections and appeals.

5.6(2) Every hearing in a contested case shall be presided over by a hearing officer on the staff of the department of inspections and appeals.

5.6(3) The hearing officer shall preside at the hearing, rule on the admission and exclusion of evidence, and advise the board on matters of law; the board itself shall exercise all the other powers relating to the conduct of the hearing but may delegate any or all of them to the hearing officer.

**481—5.7(10A) Decisions in contested cases.**

5.7(1) The hearing officer who presided at the hearing shall be present during the consideration of the contested case, and if requested, shall assist and advise the board and draft the decision for the board.

5.7(2) If requested by the board, the hearing officer shall prepare a proposed decision in a form that may be adopted as the decision in the case. The board itself may adopt the proposed decision in its entirety, or may increase or reduce the proposed penalty, or make other changes, and adopt the balance of the proposed decision.

5.7(3) The hearing officer will transmit the proposed decision to the board within a reasonable period of time following final submission of the case to the hearing officer. The proposed decision of the hearing officer is a public record.

5.7(4) If the proposed decision of the hearing officer is not adopted as provided in subrule 5.7(2), the board may decide the case upon the record. The hearing officer will provide assistance in drafting the decision for the board if requested by the board.

**481—5.8(10A) Costs of transcript.** The costs of preparing a transcript of a contested case for use by the board or for appeal to the district court shall be assessed against the board or the department of public health. If a transcript is requested by the respondent, the cost of the transcript shall be paid by the respondent.

These rules are intended to implement Iowa Code sections 10A.202 and 10A.402.

[Filed emergency 7/1/86—published 7/16/86, effective 7/1/86]

[Filed 2/6/87, Notice 10/8/86—published 2/25/87, effective 4/1/87]

[Filed without Notice 3/26/87—published 4/22/87, effective 5/27/87]

**CHAPTER 6**

[481—Chapter 6 amended and transferred to 481—Chapter 73, IAB, 10/7/87]

## CHAPTER 7 INVESTIGATIONS

**7.1** Rescinded, effective November 11, 1987.

**481—7.2(71GA,ch1245) Institutions designed to accommodate the needs of juveniles.**

**7.2(1) Definitions.**

*"Commissioner"* means the commissioner of the department of human services.

*"Complaint"* means any communication to the licensing authority resulting in a request for an investigation.

*"Department"* means the department of inspections and appeals.

*"Director"* means the director of the department of inspections and appeals.

*"Facility"* means any place subject to licensing restrictions of the department of human services and designed to house and to meet needs of juveniles.

*"Licensing authority"* means the department of human services.

**7.2(2) Licensing process.** The department shall conduct preliminary investigations and recommend action to the commissioner.

a. Requests for licensure received from the licensing authority shall be investigated pursuant to standards set out in human services rules 441—chapters 105, 107, 108, 114, 115, and 116.

b. Written recommendations shall be submitted to the licensing authority for approval.

c. If department recommendations are not accepted, the licensing authority shall return a written explanation of strong and sufficient reasons to the department.

**481—7.3(71GA,ch1245) Complaint investigation.** The department staff will conduct an investigation of a facility when a request is received by the director from the commissioner.

**7.3(1)** All information concerning any investigation shall be confidential and is subject to Iowa Code 217.30.

**7.3(2)** A written report of each special investigation shall be submitted to the commissioner within time frames established at the time of the initial request.

**7.4** Rescinded, effective September 30, 1987.

These rules are intended to implement Iowa Code section 10A.104.

[Filed emergency 7/1/86—published 7/16/86, effective 7/1/86]

[Filed 2/6/87, Notice 10/8/86—published 2/25/87, effective 4/1/87]

[Filed 8/6/87, Notice 7/1/87—published 8/26/87, effective 9/30/87]

[Filed 9/18/87, Notice 7/29/87—published 10/7/87, effective 11/11/87]



possessions for their use while in the facility. The personal property shall be kept in a safe location which is convenient to the resident. (II)

**64.55(2)** Residents shall be advised, prior to or at the time of admission, of the kinds and amounts of clothing and possessions permitted for personal use, and whether the facility will accept responsibility for maintaining these items, e.g., cleaning and laundry. (II)

**64.55(3)** Any personal clothing or possessions retained by the facility for the resident during his/her stay shall be identified and recorded on admission and a record placed on the resident's chart. The facility shall be responsible for secure storage of such items, and they shall be returned to the resident promptly upon request or upon discharge from the facility. (II)

**481—64.56(135C) Family visits.** Each resident, if married, shall be ensured privacy for visits by his/her spouse; if both are residents in the facility, they shall be permitted to share a room, if available. (II)

**64.56(1)** The facility shall provide for needed privacy in visits between spouses. (II)

**64.56(2)** Spouses who are residents in the same facility shall be permitted to share a room, if available, unless one of their attending physicians documents in the medical record those specific reasons why an arrangement would have an adverse effect on the health of the resident. (II)

**64.56(3)** Family members shall be permitted to share a room, if available, if requested by both parties, unless one of their attending physicians documents in the medical record those specific reasons why an agreement would have an adverse effect on the health of the resident. (II)

**481—64.57(135C) Choice of physicians.** Each resident shall be permitted free choice of a physician and a pharmacy, if accessible. The facility may require the pharmacy selected to utilize a drug distribution system compatible with the system currently used by the facility. (II)

**481—64.58(135C) Incompetent residents.**

**64.58(1)** Each facility shall provide that all rights and responsibilities of the resident devolve to the resident's responsible party, when a resident is adjudicated incompetent in accordance with state law, or when the attending physician or qualified mental retardation professional has documented in the resident's record the specific impairment that has rendered the resident incapable of understanding these rights. The resident's specific impairment shall be re-evaluated annually by the attending physician or qualified mental retardation professional. (II)

**64.58(2)** The fact that a resident has been adjudicated incompetent does not absolve the facility from advising the resident of these rights to the extent the resident is able to understand them. The facility shall also advise the responsible party, if any, and acquire a statement indicating an understanding of residents' rights. (II)

These rules are intended to implement Iowa Code section 135C.14 and 1986 Iowa Acts, Senate File 2175, section 508, subsection 1, paragraph "g" and section 512, subsection 4.

[Filed 8/18/77, Notice 2/23/77—published 9/7/77, effective 10/13/77]

[Filed without Notice 10/14/77—published 11/2/77, effective 12/8/77]

[Filed 1/20/78, Notice 12/14/77—published 2/8/78, effective 3/15/78]

[Filed 5/26/78, Notice 3/8/78—published 6/14/78, effective 7/19/78]

[Filed 7/7/78, Notice 5/31/78—published 7/26/78, effective 9/1/78]

[Filed 10/13/78, Notice 9/6/78—published 11/1/78, effective 12/7/78]

[Filed 11/9/78, Notice 6/28/78—published 11/29/78, effective 1/3/79]

[Filed 5/20/82, Notice 12/23/81—published 6/9/82, effective 7/14/82]

[Filed 3/11/83, Notice 1/5/83—published 3/30/83, effective 5/4/83]

[Filed 1/10/86, Notice 11/6/85—published 1/29/86, effective 3/5/86]

[Filed 5/16/86, Notice 1/1/86—published 6/4/86, effective 7/9/86]

[Filed emergency 7/1/86—published 7/16/86, effective 7/1/86]\*

[Filed emergency 9/19/86—published 10/8/86, effective 9/19/86]

[Filed 2/6/87, Notice 10/22/86—published 2/25/87, effective 4/1/87]

[Filed emergency 6/25/87—published 7/15/87, effective 7/1/87]

## CHAPTERS 65 to 69 Reserved

\*See IAB, Inspections and Appeals Department.

## INVESTIGATIONS DIVISION

CHAPTER 70  
ReservedCHAPTER 71  
RECOUPMENT SECTION**481—71.1(10A) Definitions.**

**"Active case"** means that a household is receiving human service assistance.

**"Allotment reduction"** means an amount withheld from a financial or food stamp assistance benefit. Specifically, grant reduction refers to the Aid to Dependent Children program and benefit reduction refers to the Food Stamp program.

**"Closed case"** means that a household is no longer receiving a particular human service program benefit.

**"Debtor"** means a current or former recipient, or an authorized representative, of human service assistance (usually the head of the household) who has been determined by the department of human services (hereafter known as DHS) to be responsible for the repayment of a particular overpayment.

**"Demand letter for overissuance (Form FP-2322-0)"** means the letter sent informing the debtor that an overpayment in food stamp benefits has occurred. It identifies the amount overpaid, the causes of the overpayment, and the different options the debtor has to repay the overpayment. This form is voluntarily completed by the debtor. Failure to complete and return this form may result in further collection actions.

**"Economic assistance fraud bureau"** means the economic assistance fraud bureau of the department of inspections and appeals.

**"Human service assistance"** means any program that the DHS administers which confers a financial, medical, or food stamp assistance benefit.

**"Overpayment"** means the dollar amount of human service assistance by program, received by or on behalf of a person, in excess of that allowed by law, rules, or regulations for any given month(s).

**"Recoupment"** means the repayment of an overpayment, directly from the debtor by allotment reduction, or both.

**"Referral form"** means the overpayment/recoupment information input (Form PA-2228-0) completed by DHS. The form tells the program, the amount, the dates, and the reason for the overpayment. It also lists information on the debtor for identification purposes.

**"Repayment agreement"** means the agreement to repay (Form PA-3164-0) sent to a debtor to voluntarily complete and return. The form tells the amount and program(s) overpaid and gives the debtor a choice of repayment methods. Failure to return this form may result in further collection actions.

**481—71.2(10A) Referral process.** The recoupment process begins when the referral form is received from DHS. The referral specifies which human service program(s) is overpaid.

**481—71.3(10A) Records.** The recoupment section maintains a record for each overpayment which has occurred for a debtor. The record is filed under the debtor's name. This information is also listed in the Iowa Administrative Code, 441—11.2(217,421).

**481—71.4(10A) Review.** The recoupment section reviews the record to determine whether a referral for suspected fraud will be made to the economic assistance fraud bureau. The referral criteria include all client error overpayments and overpayments over \$1000; they may also include multiple client error overpayments or DHS request for investigation.

DHS completes an overpayment/recoupment supplemental information (Form PA-2229-0) for a referral for fraud investigation. No further recoupment action will be taken until the

economic assistance fraud bureau completes the investigative process. If no referral is made for fraud investigation, the repayment process begins.

**481—71.5(10A) Repayment process.** Payments are made in cash or by allotment reduction. The amount of allotment reduction is different for agency and client error. Iowa Administrative Code 441—46.5(239), "Source of recoupment," explains the amounts. Methods of collection may include but are not limited to the following:

**71.5(1) Active cases.**

a. An ADC overpayment is collected by grant reduction in an amount determined by DHS.

b. When an overpayment is made in the food stamp program, a demand letter of overissuance (Form FP-2322-0) is sent to the debtor. The overpayment is collected by the following methods:

(1) Agency error — A reasonable amount and rate of payment are determined by the debtor and are reviewed by the recoupment section. Payment is made in cash, food stamps, or benefit reduction.

(2) Client error — Payment is made in cash, food stamps, or benefit reduction. If the debtor chooses benefit reduction, the amount is determined by DHS. If a debtor chooses cash payment, the amount cannot be less than the benefit reduction amount. The debtor may choose to repay more than the minimum required for benefit reduction.

c. The other human service assistance overpayments are collected by cash payments from the debtor. The agreement to repay (Form PA-3164-0) is sent to the debtor along with a cover letter explaining the overpayment. A reasonable amount and rate of payment are determined by the debtor and are reviewed by the recoupment section when the form is received.

**71.5(2) Closed cases.**

a. The repayment agreement form for any human service assistance overpayment(s) is sent to the debtor.

b. A demand letter for overissuance (Form FP-2322-0) for food stamp overpayment(s) is sent to the debtor.

**481—71.6(10A) Further collection action.** If complete repayment has not been received by the above methods, further collection action may be taken. This action includes, but is not limited to the following:

1. Claims below \$2000, small claims court action.
2. Claims of \$2000 or above, referral to the attorney general for district court action.
3. State income tax refund in accordance with Iowa Administrative Code 441—Chapter 11.
4. Debtor's estate or bankruptcy proceedings.
5. From sponsors in special alien cases under Iowa Administrative Code 441—subrule 46.5(4).

The recoupment section may use one or more of the above actions listed for any overpayment that has occurred.

**481—71.7(10A) Appeal rights.** If a notice of adverse action is received by the debtor and the debtor wishes to contest the overpayment claim, a request is submitted to DHS. The repayment process does not begin until completion of the appeal process outlined in the Iowa Administrative Code 441—Chapter 7, "Fair Hearings and Appeals."

**481—71.8(10A) Data processing systems matches.** The recoupment section compares information with other data processing systems to identify the location, resources, or income of a debtor. Part or all of a system is used. The recoupment section uses, but is not limited to the following systems:

1. Social security,
2. Department of employment services,
3. Department of revenue and finance,
4. Chilton credit services,
5. Department of transportation (drivers license and motor vehicle registration), and
6. Department of human services.

**481—71.9(10A) Confidentiality.** The record is confidential in accordance with DHS rules 441—Chapter 9, “Confidentiality and Records of the Department.” Any request for information should be sent to DHS.

These rules are intended to implement Iowa Code sections 10A.105, 10A.402(5), 17A.3(1) “b,” and 22.11.

[Filed 9/18/87, Notice 7/29/87—published 10/7/87, effective 11/11/87]



CHAPTER 72  
FOOD STAMP INVESTIGATION SECTION

**481—72.1(10A) Definitions.**

*"Client"* means any person who has made an application for or is receiving public assistance from the department of human services.

*"Collateral contact"* means a source other than the client knowledgeable about pertinent information relative to the client's eligibility.

*"Eligibility factors"* means conditions considered necessary by DHS for a person to be entitled to public assistance.

*"Overpayment"* means the dollar amount of public assistance, by program received by, or on behalf of, a person in excess of that allowed by law for any given month(s).

*"Program error rate"* means the percentage of misspent dollars for public assistance programs as determined by DHS.

*"Public assistance"* means aid to families with dependent children, food stamps, Medicaid assistance, state supplementary assistance and refugee cash assistance.

*"Referral"* means a request to investigate client eligibility factors for the food stamp program. The request shall be made by DHS for help from the department on (Form 427-0328) the referral to investigations.

*"Refusal to cooperate"* by client means the client has failed to attend a scheduled interview or assist in the gathering of information about pertinent eligibility factors as defined by DHS with the investigator.

**481—72.2(10A) Referrals.** Errors in public assistance benefits arise primarily from three areas: income, resources, and household composition. A flexible list of indicators in those three areas has been identified. One or more indicators must be present for a referral to the food stamp investigation section. A current copy is available from the Department of Inspections and Appeals, Lucas State Office Building, Des Moines, Iowa 50319 or DHS local offices. The food stamp investigation section is responsible for investigating referrals to:

1. Determine whether information supplied by the client is correct;
2. Assist in reducing the program error rate;
3. Identify overpayments for recoupment or recovery.

**481—72.3(10A) Investigation procedures.** Procedures for investigations may include but not be limited to the following steps.

**72.3(1)** The food stamp investigation section shall inform the client of the referral by sending an introductory letter (Form 427-0326).

**72.3(2)** Client information may be verified by using:

- a. Property verification to identify possible property ownership. (Form 427-0325)
- b. Postmaster statement to verify current address. (Form 427-0336)
- c. Motor vehicle information to identify possible vehicle ownership. (Form 427-0324)

**72.3(3)** If an in-person visit is necessary, a letter (Form 427-0323) is sent to the client. During the interview the client will be informed of the purpose of the investigation, the types of information being investigated, what their responsibilities are in terms of cooperating in the investigation, and the consequences of refusing to cooperate in an investigation. Failure to attend a scheduled interview without prior notification to the investigator and failure to assist in providing information relevant to eligibility factors will signify refusal to cooperate on the part of the client.

The client may be asked to sign the following releases during an office or home interview with the investigator of the food stamp investigation section.

1. Landlord questionnaire (427-0318),
2. Mortgage questionnaire (427-0320),
3. Earned income questionnaire (427-0321),

4. Bank questionnaire (427-0319),
5. Miscellaneous information (427-0317).

Each form used will be explained during the interview and is used as a courtesy to the client. If the client has previously received public assistance benefits and a discrepancy(s) is present, the investigation may continue to determine whether an overissuance of benefits has been made. However, clients who have never received benefits, and withdraw their application or are denied benefits, will not be subject to continued investigation.

72.3(4) The DHS client file may be requested.

72.3(5) Collateral contacts may be used to collect information by the food stamp investigation section. The client may also supply other sources for information.

**481—72.4(10A) Findings.** The food stamp investigation section shall report the results of the investigation to DHS using Form 427-0315, Transmittal A. Clients refusing to cooperate in an investigation will also be reported. All decisions about food stamp eligibility will be made by DHS. The client will need to clarify any discrepancies with DHS. Failure to cooperate will result in cancellation of food stamp benefits. Future food stamp application(s) will not be processed until cooperation with the investigator is completed. DHS use of the findings may also adversely affect other public assistance benefits. The food stamp investigation section must follow the terms of the contract between DHS and the department with respect to confidentiality. A copy of the contract is available upon request through the department director's office.

These rules are intended to implement Iowa Code sections 10A.104(5), 10A.402(7), 17A.3(1)“b,” and 22.11.

[Filed 9/18/87, Notice 4/22/87—published 10/7/87, effective 11/11/87]

## CHAPTER 73 MEDICAID FRAUD CONTROL BUREAU

[Prior to 10/7/87, 481—Chapter 6, "Medicaid Provider Audits"]

The purpose of this chapter is to define steps which may be taken by the department of inspections and appeals to ensure that provider payments for Medicaid services and supplies are made in accordance with provider manual and Medicaid rules.

### 481—73.1(10A) Definitions.

**"Abuse"** means provider practices that are inconsistent with sound fiscal, business, or medical practices, and result in an unnecessary cost to the Medicaid program, or in reimbursement for services that are not medically necessary or that fail to meet professionally recognized standards for health care.

**"Authorized representative"** within the context of these rules means that person appointed to carry out audit or investigative procedures, including assigned auditors, investigators, or agents contracted for specific audits or investigative procedures.

**"Bureau"** means the Medicaid fraud control bureau.

**"Claim"** means a tangible and legible history which documents the criteria established for clinical records as set forth in rule 441—79.3(249A).

**"Confidence level"** means the probability that an overpayment or underpayment rate determined from a random sample of charges is less than or equal to the rate that exists in the universe from which the sample was drawn.

**"Customary and prevailing"** means (1) the most consistent charge by a Medicaid provider for a given service and (2) a fee within the range of usual charges for a given service billed by most providers with similar training and experience in the state of Iowa.

**"Extrapolation"** means that the total amount of overpayment or underpayment will be estimated by using sample data meeting the confidence level requirement.

**"Fiscal agent"** means an organization which processes and pays claims on behalf of the department of human services.

**"Fiscal record"** means a tangible and legible history which documents the criteria established for fiscal records as set forth in human services rule 441—79.3(249A).

**"Fraud"** means an intentional deception or misrepresentation made by a person with the knowledge that the deception could result in some authorized benefit to the person or some other person. It includes any act that constitutes fraud under applicable federal or state law.

**"Generally accepted auditing procedures"** means those procedures published in Standards for Audit of Governmental Organizations, Programs, Activities & Functions, 1972 edition, by the Comptroller General of the United States.

**"Overpayment"** means any payment or portion of a payment made to a provider which is incorrect according to the laws and rules applicable to the Medicaid program and which results in a payment greater than that to which the provider is entitled.

**"Procedure code"** means the identifier which describes medical services performed or the supplies, drugs or equipment provided.

**"Provider"** means an individual, firm, corporation, association, or institution which provides or has been approved to provide goods or services to someone receiving state medical assistance.

**"Random sample"** means a systematic (or every nth unit) sample for which each item in the universe has an equal probability of being selected.

**"Underpayment"** means any payment or portion of a payment not made to a provider for services delivered to eligible recipients according to the laws and rules applicable to the Medicaid program and to which the provider is entitled.

**"Universe"** means all items (claims), submitted by a specific provider for payment during a specific time period, from which a random sample will be drawn.

**481—73.2(10A) Complaints.** Complaints are received in writing or verbally from any source. The department may acknowledge in writing receipt of a complaint.

Each complaint is recorded in a log and assigned a number. Complaints received and logged include as much of the following information as possible:

1. Case number,
2. Provider name, address, phone and identification number,
3. Referral source,
4. Date complaint received,
5. Allegation.

**481—73.3(10A) Investigative procedures.** Initial complaints are reviewed and evaluated by an investigator or auditor to determine whether the provider and the recipient participate in the Medicaid program.

**73.3(1)** The investigator or auditor conducts a preliminary review. A written summary of the preliminary review is prepared and submitted to an evaluation team made up of:

- Bureau chief,
- Legal counsel,
- Investigator, and
- Auditor.

**73.3(2)** The evaluation team determines further disposition of the complaint. Options available to the bureau include, but are not limited to:

- a. Referring the complaint to other affected agencies,
- b. Assigning the case to an investigator or auditor, for review, audit or investigation,
- c. Determining no action be taken.

**481—73.4(10A) Audit of clinical and fiscal records by the department.**

**73.4(1)** Authorized representatives of the department shall have the right, upon proper identification, and using generally accepted auditing procedures, to review the clinical and fiscal records of the provider to determine whether:

- a. Claims for goods or services have been accurately paid.
- b. The provider has furnished the services to Medicaid recipients.
- c. The provider has retained clinical and fiscal records which substantiate claims submitted for payment during the audit period.

**73.4(2)** Records generated and maintained by the department of human services, its fiscal agent, or by the department of inspections and appeals may be used by auditors or investigators and in all proceedings relative to audits or investigations conducted.

**481—73.5(10A) Who shall be reviewed, audited, or investigated.** Any Medicaid provider may be reviewed, audited, or investigated at any time at the discretion of the department.

**481—73.6(10A) Auditing and investigative procedures.** The department will select the appropriate method of conducting an audit or investigation and will protect the confidential nature of the records being reviewed. The provider may be required, by administrative subpoena, to furnish records to the department. The provider may select the method of delivering any requested records to the department.

**73.6(1)** Audit or investigative procedures may include, but are not limited to, the following:

- a. Comparing clinical and fiscal records with each claim.
- b. Interviewing recipients of services, and employees of providers.
- c. Examining third party payment records.
- d. Comparing Medicaid charges with private patient charges to determine that the charge to Medicaid is not more than the customary and prevailing fee. Records of privately paying patients will be requested by subpoena.

**73.6(2)** Use of statistical sampling techniques. The department's procedures for auditing Medicaid providers may include the use of random sampling and extrapolation. When this procedure is used, all sampling will be performed within acceptable statistical methods, yielding not less than a 95 percent confidence level. Findings of the sample will be extrapolated to the universe for the audit period.

*a.* The audit or investigative findings generated through the audit or investigative procedures shall constitute prima facie evidence in all department proceedings of the number and amount of requests for payment as submitted by the provider.

*b.* When the department's audit or investigative findings have been generated through the use of sampling and extrapolation, and the provider disagrees with the findings, the burden of proof of compliance rests with the provider. The provider may present evidence to show that the sample was invalid. The evidence may include a 100 percent audit of the universe of provider records used by the department in the drawing of the department's sample. Any such audit must:

- (1) Be arranged and paid for by the provider,
- (2) Be conducted by a certified public accountant,
- (3) Demonstrate that bills and records not reviewed in the department's sample were in compliance with program regulations, and
- (4) Be submitted to the department with all supporting documentation.

**481—73.7(10A) Actions based on audit or investigative findings.**

**73.7(1)** The department shall report the results of an audit or investigation of provider records to concerned parties consistent with applicable rules.

**73.7(2)** When fraud is found, the department shall refer to an agency empowered to prosecute as provided for in Iowa Code sections 10A.402(7) and 249A.5.

**73.7(3)** When error or abuse is found the department will refer to DHS.

**481—73.8(10A) Confidentiality.** All material and information compiled during the audit or investigative procedure is confidential in accordance with Iowa Code section 10A.105.

**481—73.9(10A) Appeal by provider of care.** Collection decisions are made by DHS. Providers may appeal decisions of the department according to rules in human services 441—Chapter 7.

These rules are intended to implement Iowa Code sections 10A.105, 10A.402(7), and 249A.5.

[Filed emergency 7/1/86—published 7/16/86, effective 7/1/86]

[Filed 2/6/87, Notice 10/8/86—published 2/25/87, effective 4/1/87]

[Filed 9/18/87, Notice 7/29/87—published 10/7/87, effective 11/11/87]



**CHAPTER 74**  
**ECONOMIC ASSISTANCE FRAUD BUREAU**

**481—74.1(10A) Definitions.**

*"Investigator"* means anyone searching for information on behalf of the division of investigations in the department.

*"Warrant"* means a check drawn on state funds in payment of public assistance. The warrant is issued by department of human services (DHS).

**481—74.2(10A) Responsibilities.** The economic assistance fraud bureau is responsible for investigating, assembling, and reporting information about recipients of any DHS economic assistance and other investigations as provided for in Iowa Code chapter 10A.

**481—74.3(10A) Procedures.** Procedures are based on the destination of the information gathered.

**74.3(1)** An investigation requested because of public assistance overpayment and received from the recoupment section may include the following steps.

- a. The recipient file is sent to the department by DHS.
- b. An interview may be conducted with anyone who may have knowledge pertinent to the case.
- c. An interview with the individual being investigated may be conducted when the Miranda warning is used; the individual shall be requested to sign a statement of rights and acknowledgment and waiver (Form 427-042). This form explains the rights of the individual and is signed by the investigator and the subject of the investigation.

d. Assembled information may be presented to the appropriate county attorney.

e. The economic assistance fraud bureau may use all investigative evidence gathering procedures, including administrative subpoena, which are in compliance with appropriate city, county, state and federal laws, rules, and regulations. Information collected about recipients of public assistance is confidential and will not be released during an investigation to anyone not involved in the investigation.

**74.3(2)** Lost or stolen warrants are investigated by the economic assistance fraud bureau when a written request is received from DHS. The results of the investigation are returned to DHS.

- a. The decision to issue or withhold a second warrant is made by DHS.
- b. If a warrant is not replaced and someone is to be prosecuted, the department prepares information for the appropriate county attorney.
- c. Specific procedures followed by both the department and DHS staff are contained in "Lost/Stolen Warrant Replacement Procedures" agreed to by department and DHS staff. A copy is available upon request through the Director's Office, Department of Inspections and Appeals, Lucas State Office Building, Des Moines, Iowa 50319.

**481—74.4(10A) Investigations.** Investigations may be conducted before a license or permit is issued when requested by the alcoholic beverages division of the department of commerce.

**74.4(1)** The material gathered is confidential and will be returned to the alcoholic beverages division.

**74.4(2)** Inquiries relative to these investigations must be sent to alcoholic beverages division.

**481—74.5(10A) Executive branch investigations.** Conduct investigations as requested by agencies, commissions and boards within the executive branch of state government.

These rules are intended to implement Iowa Code sections 10A.105, 10A.402(7), 17A.13 and 22.11.

[Filed 9/18/87, Notice 7/29/87—published 10/7/87, effective 11/11/87]



## CHAPTER 2 MINIMUM STANDARDS FOR IOWA LAW ENFORCEMENT OFFICERS

[Appeared as Ch 1 prior to 4/10/85]

[Prior to 3/11/87, Law Enforcement Academy(550), Ch 2]

**501—2.1(80B) General requirements for law enforcement officers.** In no case shall any person hereafter be selected or appointed as a law enforcement officer unless the person:

**2.1(1)** Is a citizen of the United States and a resident of Iowa or intends to become a resident upon being employed. Railway special agents, who are approved by the commissioner of public safety as special agents of the department, shall be exempt from the Iowa residency requirement.

**2.1(2)** Is eighteen years of age at the time of appointment.

**2.1(3)** Has a valid driver's or chauffeur's license issued by the state of Iowa. Railway special agents, who are approved by the commissioner of public safety as special agents of the department, shall be exempt from the requirement that they possess a valid driver's or chauffeur's license issued by the state of Iowa.

**2.1(4)** Is not addicted to drugs or alcohol.

**2.1(5)** Is of good moral character as determined by a thorough background investigation including a fingerprint search conducted of local, state and national fingerprint files and has not been convicted of a felony or a crime involving moral turpitude. Moral turpitude is defined as an act of baseness, vileness, or depravity in the private and social duties which a person owes to another person, or to society in general, contrary to the accepted and customary rule of right and duty between person and person. It is conduct that is contrary to justice, honesty or good morals. The following nonexclusive list of acts has been held by the courts to involve moral turpitude: Income tax evasion, perjury, or its subornation, theft, indecent exposure, sex crimes, conspiracy to commit a crime, defrauding the government and illegal drug sales. Various factors, however, may cause an offense which is generally not regarded as constituting moral turpitude to be regarded as such. For example, a record of a number of convictions for simple assault would involve moral turpitude, whereas a singular act would not.

When the hiring authority is prohibited from receiving criminal history data as specified under Iowa Code chapter 692, then the fingerprints will be taken by a police department under civil service, a sheriff's department or a state law enforcement agency and submitted to the Iowa law enforcement academy director for search.

**2.1(6)** Has successfully passed the physical agility test developed by the Iowa law enforcement academy.

**2.1(7)** Is not by reason of conscience or belief opposed to the use of force, when necessary to fulfill that person's duties.

**2.1(8)** Is a high school graduate with a diploma, or possesses a GED equivalency certificate.

**2.1(9)** Has an uncorrected vision of not less than 20/100 in both eyes, corrected to 20/20, and normal color vision. Normal color vision, as determined by the American Optical Company, Pseudo-Isochromatic Plates test, requires correct identification of ten out of the fourteen test plates.

**2.1(10)** Has normal hearing in each ear. Hearing is considered normal when, tested by an audiometer, hearing sensitivity thresholds are within 25db measured at 1000Hz, 2000Hz and 3000Hz averaged together.

**2.1(11)** Is examined by a licensed physician or surgeon and meets the physical requirements necessary to fulfill the responsibilities of a law enforcement officer.

**2.1(12)** Reserved.

**2.1(13)** Rescinded, effective August 7, 1985.

**501—2.2(80B) Mandatory psychological testing and administrative procedures.** In no case shall any person be selected or appointed as a law enforcement officer unless that person has performed satisfactorily in preemployment cognitive or personality tests, or both, prescribed by the Iowa law enforcement academy.

**2.2(1) Required cognitive test.**

a. Applicants for a deputy sheriff position shall take the Entry Level Department Selection Procedure tests which were supplied to all county civil service commissions in October of 1980. A minimum satisfactory score to be eligible for employment shall be eighty (80).

b. Other than deputy sheriff positions, applicants for law enforcement positions, in the final selection process after June 18, 1986, shall successfully complete the Science Research Associates Verbal Form (SRA) cognitive test designated by the Iowa law enforcement academy. The Science Research Associates Verbal Form cognitive test, taken by applicants in the final selection process after June 30, 1986, must have that test administered by the Iowa law enforcement academy or its designee and scored by the Iowa law enforcement academy. Minimum satisfactory score on the Science Research Associates Verbal Form cognitive test (SRA) is a raw score of thirty-seven (37).

**2.2(2) Required personality test.**

a. The Minnesota Multiphasic Personality Inventory (MMPI) test shall be taken by all applicants in the final selection process for a law enforcement position.

b. The prescribed personality test for an applicant in the final selection process shall be administered by the Iowa law enforcement academy or its designee. The prescribed personality test for an applicant in the final selection process shall be evaluated by the Iowa law enforcement academy. These tests shall be evaluated and test results and evaluations shall be forwarded to a law enforcement agency for selection purposes only by the Iowa law enforcement academy upon proper waiver by the applicant.

**2.2(3) Test administration.**

a. The Iowa law enforcement academy will acquire the mandated personality tests, administer, process and evaluate test results and provide designated law enforcement agencies with test results and evaluations of those test results upon proper waiver by the applicant.

b. The Iowa law enforcement academy shall have prescheduled testing dates each fiscal year. Nonscheduled testing dates may also be provided.

**2.2(4) Cognitive test.**

a. At the discretion of the employing agency, prescribed cognitive tests may be administered by qualified individuals who receive prior approval to administer those tests by the Iowa law enforcement academy.

b. The Science Research Associates Verbal Form cognitive test (SRA) may be administered to applicants not in the final selection process.

c. All testing materials shall be forwarded to the Iowa law enforcement academy within seven (7) days of the testing date.

**2.2(5) Personality tests.**

a. At the discretion of the employing agency, the Minnesota Multiphasic Personality Inventory test may be administered by a qualified individual designated by the Iowa law enforcement academy. However, test results of applicants, in the final selection process, shall be evaluated by the Iowa law enforcement academy. These academy evaluations shall only be performed by an individual who is licensed to practice psychology in Iowa or by a psychologist who is under the direction and supervision of a person licensed to practice psychology in Iowa.

b. The Minnesota Multiphasic Personality Inventory (MMPI) test may be administered to applicants who are not in the final selection process.

c. All testing materials shall be forwarded to the Iowa law enforcement academy within seven days of the testing date.

**2.2(6) Cost of tests.**

a. SRA cognitive test cost.

(1) Nonstate agencies—SRA cognitive test cost. The Iowa law enforcement academy will pay one half of all costs of SRA tests purchased through the Iowa law enforcement academy, except for the cost of test administration provided by other than the Iowa law enforcement academy.

(2) State agencies—SRA cognitive test cost. The Iowa law enforcement academy, or its designee, will administer all SRA cognitive tests to applicants for a state law enforcement position at no cost to the state agency or applicant except for the cost of test administration provided by other than the Iowa law enforcement academy.

b. Minnesota Multiphasic Personality Inventory (MMPI) test.

(1) State agencies. The Iowa law enforcement academy or its designee shall administer, without cost to the applicant or state agency, up to two Minnesota Multiphasic Personality Inventory tests per vacancy to be filled by the employing state agency except for the cost of test administration provided by other than the Iowa law enforcement academy.

(2) Nonstate agencies with vacancies. For nonstate agencies who have law enforcement position vacancies to be filled, the Iowa law enforcement academy will reimburse the applicant or employing agency for one half of the Minnesota Multiphasic Personality Inventory costs for up to two Minnesota Multiphasic Personality Inventory tests that are scored and evaluated by the Iowa law enforcement academy for each law enforcement vacancy.

c. Nonstate agencies, no vacancy. Nonstate agencies who have no vacancy for a law enforcement position but choose to administer Minnesota Multiphasic Personality Inventory tests purchased through the Iowa law enforcement academy will be reimbursed by the Iowa law enforcement academy for one half of the cost of the Minnesota Multiphasic Personality Inventory test to either the applicant or employing agency for every vacancy that is filled.

The Minnesota Multiphasic Personality Inventory tests may be purchased from the Iowa law enforcement academy and administered to a group of applicants larger than the group who will ultimately reach the final selection process. The full cost per applicant will be borne by the applicant in the larger group and will be limited to the cost per test from the supplier plus handling costs. The larger group test scores will not be evaluated by the Iowa law enforcement academy unless requested.

#### **2.2(7) Availability of test scores.**

a. Forwarding of cognitive test results. Individual cognitive test scores of cognitive tests purchased through the Iowa law enforcement academy shall be provided by the Iowa law enforcement academy to prospective employing agencies upon request and proper waiver by the applicant for a minimal handling fee.

b. Forwarding of Minnesota Multiphasic Personality Inventory (MMPI) test results. The evaluation by the Iowa law enforcement academy of Minnesota Multiphasic Personality Inventory tests will be available to any prospective employing agency upon request and proper waiver by the applicant for a minimal handling fee.

c. Transfer of scores—state applicants. Test scores of applicants for state positions shall not be transferred or forwarded to nonstate agencies without payment of test costs to the Iowa law enforcement academy.

d. Certified law enforcement officers. Law enforcement officers certified through training by the Iowa law enforcement academy are not required to take a cognitive test but may be required to do so at the discretion of the employing agency.

e. Commingling of cognitive test scores forbidden. The Deputy Sheriff's Entry Level Department Selection Procedure test results may not be used for law enforcement positions which under these rules require the taking of the SRA cognitive test. Likewise, SRA cognitive test results may not be used for positions which require the taking of the Deputy Sheriff's Entry Level Department Selection test.

#### **2.2(8) Tests are valid for specific period.**

a. The Iowa law enforcement academy evaluations of the Minnesota Multiphasic Personality Inventory may only be used for twelve months to comply with these mandated testing rules. Any applicants who have not been hired within twelve months of their taking Minnesota Multiphasic Personality Inventory test must retake the examination before being hired.

b. If a test is required under these rules, the applicants must successfully pass the required cognitive test within 24 months. Should the applicant not be hired within this time frame the applicant must successfully complete the mandated cognitive test before being hired.

c. At its discretion the employing agency may elect to require an applicant to retake any Iowa law enforcement academy required psychological test as well as any other tests that it may deem necessary in its selection process.

**2.2(9) Construction.** Nothing in these rules should be construed to preclude a Civil Service Commission or employing agency from requiring an applicant for a law enforcement position to take tests other than those mandated by these rules so long as the applicant in the final selection process has complied with these rules. These rules shall not be construed as altering or changing the current authority of a Civil Service Commission.

**501—2.3(80B) Higher standards not prohibited.** While no law enforcement officer can be selected who does not meet requisite minimum requirements, they shall not limit or restrict law enforcement agencies in establishing additional recruitment standards.

These rules are intended to implement Iowa Code section 80B.11 and 1986 Iowa Acts, chapter 1246, section 411.

[Filed 12/12/68; amended 12/8/70]

[Filed 12/30/75, Notice 8/11/75—published 1/26/76, effective 3/1/76]

[Filed 3/3/76, Notice 1/26/76—published 3/22/76, effective 4/26/76]

[Filed 2/5/81, Notice 10/1/80—published 3/4/81, effective 7/1/81]

[Filed 9/29/82, Notice 3/31/82—published 10/13/82, effective 11/17/82]

[Filed emergency after Notice 5/18/84, Notice 2/1/84—published 6/6/84, effective 6/1/84]

[Filed emergency 12/26/84—published 1/16/85, effective 1/1/85]

[Filed 3/18/85, Notice 1/2/85—published 4/10/85, effective 5/15/85]

[Filed 6/11/85, Notice 1/16/85—published 7/3/85, effective 8/7/85]

[Filed emergency 6/19/86—published 7/16/86, effective 6/19/86]

[Filed emergency 7/1/86—published 7/30/86, effective 7/1/86]

[Filed 2/20/87, Notice 10/22/86—published 3/11/87, effective 4/21/87]

[Filed 8/17/87, Notice 3/11/87—published 9/9/87, effective 10/14/87]

# PUBLIC HEALTH DEPARTMENT[641]

Created by 1986 Iowa Acts, chapter 1245.

Rules of divisions under this Department "umbrella" include Substance Abuse[643], Professional Licensure[645], Dental Examiners[650], Medical Examiners[653], Nursing Examiners[655] and Pharmacy Examiners[657]. Transfer will be completed at a later date.

## CHAPTER 1

### COMMUNICABLE DISEASE CONTROL

- 1.1(139) Director of public health
- 1.2(139) Reportable diseases
- 1.3(139) Reporting
- 1.4(139) Forms
- 1.5(139) Who should report
- 1.6(139) Isolation
- 1.7(139) Quarantine
- 1.8(139) Disinfection

## CHAPTER 2

### OPHTHALMIA PROPHYLACTICS

- 2.1(140) Treatment of infant eyes

## CHAPTER 3

### BLOOD TESTING LABORATORIES

- 3.1(140,596) Approved prenatal blood testing laboratories
- 3.2(140,596) Report of results by laboratory

## CHAPTER 4

### BIRTH DEFECTS INSTITUTE

- 4.1(136A) Newborn screening policy
- 4.2(136A) Physician responsibility
- 4.3(136A) Time sequence for screening tests
- 4.4(136A) Unattended birth
- 4.5(136A) Central laboratory
- 4.6(136A) MSAFP testing program
- 4.7(136A) Regional genetic consultation service patient fees
- 4.8(136A) Clinic service
- 4.9(136A) Fees
- 4.10(136A) Sliding fee schedule

## CHAPTER 5

### MATERNAL DEATHS

- 5.1(135) Reporting of maternal deaths

## CHAPTER 6

### VENEREAL DISEASE PROPHYLACTICS

- 6.1(135) Definitions
- 6.2(135) Application for permit
- 6.3(135) Permit number and decal to be displayed
- 6.4(135) Compliance
- 6.5(135) Standards

## CHAPTER 7

### IMMUNIZATION OF PERSONS ATTENDING ELEMENTARY OR SECONDARY SCHOOLS OR LICENSED CHILD-CARE CENTERS

- 7.1(139) Definitions
- 7.2(139) Persons included
- 7.3(139) Persons excluded
- 7.4(139) Required immunizations
- 7.5(139) Proof of immunization
- 7.6(139) Provisional enrollment
- 7.7(139) Records and reporting
- 7.8(139) Providing immunization services
- 7.9(139) Compliance
- 7.10(139) Effective date

## CHAPTER 8

### SEXUAL ASSAULT EXAMINATION AND REIMBURSEMENT

- 8.1(135) Reimbursable services
- 8.2(135) Claim for reimbursement

## CHAPTER 9

### OUTPATIENT DIABETES EDUCATION PROGRAMS

- 9.1(509,514,514B) Scope
- 9.2(509,514,514B) Definitions
- 9.3(509,514,514B) Powers and duties
- 9.4(509,514,514B) Application procedures
- 9.5(509,514,514B) Diabetes program management
- 9.6(509,514,514B) Program staff
- 9.7(509,514,514B) Qualifications of program director, coordinator, and staff

- 9.8(509,514,514B) Renewal application procedures
- 9.9(509,514,514B) Enforcement
- 9.10(509,514,514B) Complaints
- 9.11(509,514,514B) Appeal process
- 9.12(509,514,514B) Formal contest

#### CHAPTER 10 DEFINITIONS

- 10.1(135) Definitions

#### CHAPTER 11 FINANCIAL ASSISTANCE TO ELIGIBLE ACQUIRED IMMUNE DEFICIENCY PATIENTS

- 11.1(135) Definitions
- 11.2(135) Program established—purpose
- 11.3(135) Residency requirements
- 11.4(135) Application procedures
- 11.5(135) Consideration of gross income and other financial and medical resources
- 11.6(135) Types of financial assistance available and limitations
- 11.7(135) Procedures for determining eligibility
- 11.8(135) Transfer or disposal of resources at less than fair market value
- 11.9(135) Payment procedures
- 11.10(135) Denial, suspension, revocation or reduction of financial assistance
- 11.11(135) Confidential records
- 11.12(135) Contingency of program

#### CHAPTER 12 Reserved

#### CHAPTER 13 MILK AND MILK PRODUCTS

- 13.1(135) Jurisdiction

#### CHAPTER 14 Reserved

#### CHAPTER 15 SWIMMING POOLS

- 15.1(135) Applicability
- 15.2(135) Scope
- 15.3(135) Definitions
- 15.4(135) All swimming pools
- 15.5(135) New installations

#### CHAPTER 16 GARBAGE AND REFUSE

- 16.1(135) Definitions
- 16.2(135) Accumulation of garbage and refuse
- 16.3(135) Collection of garbage and refuse
- 16.4(135) Disposal of garbage and refuse
- 16.5(135) Dead animals

#### CHAPTER 17 SANITATION OF HABITABLE BUILDINGS

- 17.1(135) General

#### CHAPTER 18 TOURIST CAMPS, TRAILER CAMPS, CABIN CAMPS, CONSTRUCTION CAMPS AND SIMILAR ESTABLISH- MENTS AND AREAS

- 18.1(135) General

#### CHAPTER 19 MASS GATHERINGS

- 19.1(135) Definitions
- 19.2(135) General prohibition
- 19.3(135) Notice and plan
- 19.4(135) Requirements
- 19.5(135) Violation of these rules

#### CHAPTER 20 COMMUNITY WATER FLUORIDATION GRANT PROGRAM

- 20.1(135) Purpose
- 20.2(135) Definitions
- 20.3(135) Application process
- 20.4(135) Contents of application
- 20.5(135) Review and rating of application
- 20.6(135) Project contracts
- 20.7(135) Project records
- 20.8(135) Conditions of contract awards
- 20.9(135) Procurement
- 20.10(135) Termination
- 20.11(135) Appeals

#### CHAPTERS 21 to 24 Reserved

#### CHAPTER 25 PLUMBING CODE

- 25.1(135) Minimum requirements
- 25.2(135) Applicability

#### CHAPTERS 26 to 72 Reserved

**CHAPTER 73  
SPECIAL SUPPLEMENTAL FOOD  
PROGRAM FOR WOMEN, INFANTS,  
AND CHILDREN (WIC)**

- 73.1(135) Program explanation
- 73.2(135) Adoption by reference
- 73.3(135) Availability of rules
- 73.4(135) Certain rules exempted from public participation
- 73.5(135) Staffing of local agencies
- 73.6(135) Certification of participants
- 73.7(135) Food delivery
- 73.8(135) Food package
- 73.9(135) Education
- 73.10(135) Health services
- 73.11(135) Appeals and fair hearings—local agencies and food vendors
- 73.12(135) Appeals and fair hearings—participants
- 73.13(135) State monitoring of local agencies
- 73.14(135) Migrant services
- 73.15(135) Civil rights
- 73.16(135) Audits
- 73.17(135) Reporting
- 73.18(135) Program violation
- 73.19(135) Data processing
- 73.20(135) Outreach
- 73.21(135) Caseload management
- 73.22(135) Grant application procedures for local agencies
- 73.23(135) Integration of services with other health programs
- 73.24(135) Participant rights

**CHAPTER 74  
FAMILY PLANNING SERVICES**

- 74.1(135) Program explanation
- 74.2(135) Adoption by reference
- 74.3(135) Availability of rules
- 74.4(135) Denial, suspension, revocation or reduction of contracts with local agencies or services

**CHAPTER 75  
STATEWIDE INDIGENT OBSTETRICAL  
AND NEWBORN  
PATIENT CARE PROGRAM**

- 75.1(72GA,SF511) Definitions
- 75.2(72GA,SF511) Covered services
- 75.3(72GA,SF511) Quota assignment
- 75.4(72GA,SF511) Eligibility criteria

- 75.5(72GA,SF511) Application procedures
- 75.6(72GA,SF511) Reimbursement of providers
- 75.7(72GA,SF511) Reassignment of county quotas
- 75.8(72GA,SF511) Appeals and fair hearings

**CHAPTER 76  
Reserved**

**CHAPTER 77  
LOCAL BOARDS OF HEALTH**

- 77.1(137) Organization of local boards of health
- 77.2(137) Operating procedures of local boards of health
- 77.3(137) Expenses of board of health members

**CHAPTER 78  
DISTRICT HEALTH DEPARTMENTS**

- 78.1(137) Minimum standards for district health departments
- 78.2(137) Preparation of district health department plan
- 78.3(137) Approval of district health departments
- 78.4(137) Additions to district health departments
- 78.5(137) Withdrawal from district health departments

**CHAPTER 79  
PUBLIC HEALTH NURSING**

- 79.1(135) Applicability
- 79.2(135) Scope
- 79.3(135) Definitions
- 79.4(135) Local board of health responsibility
- 79.5(135) Assignment of responsibilities
- 79.6(135) Services billable to state grant funds
- 79.7(135) Provider agency responsibilities

**CHAPTER 80  
HOMEMAKER-HOME HEALTH AIDE  
SERVICES**

- 80.1(135) Eligibility
- 80.2(135) Sliding fee scale cost analysis
- 80.3(135) Standards
- 80.4(135) Records
- 80.5(135) Evaluation

- 80.6(135) Mediation of homemaker-home health aide disputes
- 80.7(135) Local appeals
- 80.8(135) State review request
- 80.9(135) State review procedure
- 80.10(135) Decision of hearing officer
- 80.11(135) Appeal to director
- 80.12(135) Record of hearing
- 80.13(135) Decision of director
- 80.14(135) Exhausting administrative remedies
- 80.15(135) Petition for judicial review

#### CHAPTER 81

#### GENERAL RULES FOR MIGRATORY LABOR CAMPS

- 81.1(138) Shelters
- 81.2(138) Water supply
- 81.3(138) Waste disposal
- 81.4(138) Bathing facilities
- 81.5(138) Central dining facilities
- 81.6(138) Safety and fire

#### CHAPTERS 82 to 85

Reserved

#### CHAPTER 86

#### PLACES WHERE DEAD HUMAN BODIES ARE PREPARED FOR BURIAL OR ENTOMBMENT

- 86.1(156) Certificate of inspection
- 86.2(156) Preparation room
- 86.3(156) Preparation room standards
- 86.4(156) Correction of deficiencies

#### CHAPTERS 87 to 90

Reserved

#### CHAPTER 91

#### GOVERNOR'S ALLIANCE ON SUBSTANCE ABUSE

- 91.1(135) Mission statement
- 91.2(135) Organization
- 91.3(135) Purpose
- 91.4(135) Alliance created
- 91.5(135) Membership
- 91.6(135) Meetings
- 91.7(135) Programs
- 91.8(135) Availability of grants
- 91.9(135) Request for proposals
- 91.10(135) Selection of applications
- 91.11(135) Grant awards
- 91.12(135) Suspension of grants
- 91.13(135) Termination of grants
- 91.14(135) Appeals

#### CHAPTERS 92 to 94

Reserved

#### CHAPTER 95

#### CERTIFICATE OF BIRTH— REGISTRATION FEE

- 95.1(144) Birth certificates—when filing fee required
- 95.2(144) Collection
- 95.3(144) Waivers
- 95.4(144) Fee deposit
- 95.5(144) Responsibilities of institutions
- 95.6(144) Local registrar
- 95.7(144) County registrars
- 95.8(144) State registrar
- 95.9(144) Retention
- 95.10(144) Forms

## CHAPTER 10 DEFINITIONS

[Prior to 7/29/87, Health Department(470)]

### 641—10.1(135) Definitions.

**Department.** Department as hereinafter used shall refer to the Iowa department of public health.

**Dwelling.** A dwelling is any house or building or portion thereof which is occupied in whole or in part as the home or residence of one or more human beings, either permanently or transiently.

**Health officer.** Health officer shall mean the health officer of a local board of health as defined in section 135.1(3).

**Local board.** Local board shall refer to a local board of health in cities and towns and in townships, as defined in section 137.2.

**Public swimming pool.** Public swimming pool shall mean any swimming pool open to the public either publicly or privately owned.

[Filed prior to July 1, 1952]

[Filed emergency 7/10/87—published 7/29/87, effective 7/10/87]

## CHAPTER 11 FINANCIAL ASSISTANCE TO ELIGIBLE ACQUIRED IMMUNE DEFICIENCY PATIENTS

**641—11.1(135) Definitions.** For the purpose of these rules, the following definitions shall apply:

**"AIDS"** means acquired immune deficiency syndrome.

**"Applicant"** means a person who applied to the department for financial assistance. An application from or on behalf of an unemancipated minor under 18 years of age, or any disabled person who is 18 years of age or older who is still dependent and living in the home, shall be processed as if the applicant were a minor.

**"Approved medications"** means those antiviral drugs which have been determined by the Food and Drug Administration (FDA) to prolong the life of a patient with AIDS.

**"ARC"** means AIDS-related complex, a condition where a person has become infected with the AIDS virus and develops some signs and symptoms of infection, but no opportunistic diseases.

**"Department"** means the Iowa department of public health.

**"Director"** means the director of public health.

**"Eligible"** means a patient meeting criteria set by FDA for treatment with specified drug(s).

**"Exempt financial resources"** means:

1. A homestead as defined in these rules,
2. Personal property as defined in these rules,
3. Life insurance,
4. Equity in a motor vehicle,
5. Income earned by dependents of the applicant or patient,
6. Public assistance, welfare payments, or child support payments specifically used for dependents of the applicant or patient,
7. Funeral contracts or burial trusts not to exceed \$2,000 per family member,
8. The balance due on a sales contract when commercial or farm property or a business is sold on contract. Payments received on the contract, however, shall be considered as gross income, and
9. The equity value of commercial or farm property or of a business as specified in subrule 11.5(3).

**"Family member"** means the applicant, the applicant's spouse, any children under 18 years of age, and any disabled children 18 years of age or older who are still dependent and living in the home. If the applicant is an unemancipated minor, family member means the applicant's parent(s) or guardian(s), any siblings under 18 years of age, and any disabled siblings under 18 years of age, and any disabled siblings under 18 years of age or older who are still dependent and living in the home.

**"Financial assistance"** means the program funds provided to or on behalf of patients for those expenses directly related to cost of approved life-prolonging medications for AIDS.

**"Financial resources"** means personal, public or private assets available to applicants to offset the expenses associated with life-prolonging medications for AIDS.

**"Financial status"** means the level of income into which applicants are categorized for purposes of determining the extent of their eligibility to receive financial assistance.

**"Gross income"** means money derived from any source (excluding borrowed money or loans obtained for specific uses) available to applicants to offset the expenses associated with medications for AIDS patients other than funds provided by this program. Gross income includes, but is not limited to:

1. Money wages or salary,
2. Net income from nonfarm self-employment,
3. Net income from farm self-employment,
4. Royalties,
5. Dividends,
6. Interest,
7. Income from estates or trusts,
8. Net rental income (including farm property rental),
9. Public assistance or welfare payments such as supplemental security income,
10. Pensions (disability or retirement) and annuities (including regular insurance payments),
11. Unemployment compensation,
12. Workers' compensation,
13. Alimony,
14. Veterans pensions and benefits, and
15. Strike benefits.

**"Health insurance"** means comprehensive health insurance expense reimbursement policies, but specifically excludes all hospital and surgical indemnity policies.

**"HIV positive"** means the positive results of a laboratory analysis for the presence of antibodies to the AIDS virus.

**"Homestead"** means the dwelling occupied or intended to be occupied by the applicant as a home during all or part of the period of eligibility applied for. It shall include a garage, if applicable, and only so much of the land surrounding it as is reasonably necessary for use as a home. The word "dwelling" shall encompass a fixed or mobile home located on land or water or any building occupied wholly or in part as a home. When a homestead has more than one dwelling situated thereon, the dwelling shall be considered to be the one in which the applicant lives the majority of time.

When an applicant is confined in a nursing home, extended-care facility or hospital, the applicant shall be considered as occupying or living on the homestead provided the applicant does not lease, rent or otherwise receive profits from other persons for the use thereof.

**"Laboratory analysis"** means blood test analysis by a public, private, or hospital clinical laboratory confirming antibodies to the AIDS virus.

**"Medical resources"** means a public or private resource which is or may be available to pay all or a part of the medical costs of a patient including, but not limited to, the following:

1. Medicare (Title XVIII),
2. Medical assistance (Title XIX),
3. Health insurance policies and health maintenance organization contracts, whether issued on an individual or a group basis including coverage carried by an absent or noncustodial parent,

4. The Veterans Administration,
5. CHAMPUS (Civilian health and medical program of the uniformed services),
6. Vocational rehabilitation, and
7. County relief.

*"Nonexempt financial resources"* means:

1. Certificates of deposit,
2. Checking accounts,
3. Fund-raising drives,
4. Market value of stocks and bonds,
5. Savings accounts, and
6. The equity value of commercial or farm property or of a business as specified in subrule 11.5(3).

7. Equity value of properties used for rental income.

*"Patient"* means a person who applies to the department for financial assistance and who is approved to receive the assistance.

*"Period of eligibility"* means the 12-month maximum time frame for which financial assistance may be approved.

*"Personal property"* means property of any kind, except real property as defined in these rules, and is limited to household goods and nontaxable personal property.

*"Physician"* means a person who is licensed under Iowa Code chapter 148, 150, or 150A.

*"Program"* means the disease assessment (AIDS) program conducted by the department.

*"Provider"* means a professional in the area of health care and related fields, public or private organization, which provides services, directly or indirectly, for the treatment of AIDS.

*"Real Property"* means commercial or farm property or a business including machinery and equipment used by the applicant in the prosecution of ordinary business.

**641—11.2(135) Program established—purpose.** The purpose of the program is to provide financial assistance to eligible persons who are HIV positive, who are unable to pay for antiviral life-prolonging medications that have been prescribed, and who have been enrolled in the program by a physician.

**641—11.3(135) Residency requirements.**

**11.3(1)** To be eligible for financial assistance, applicants shall be residents of the state of Iowa. Residence is that place in which a person is living for other than a temporary purpose. Residence once acquired continues until the person abandons it and acquires residence elsewhere.

**11.3(2)** Temporary absence is the absence of a person during which time there is intent to return, or because of a change in intent, the person does return. A temporary absence from the state of Iowa shall not be deemed to have interrupted residency requirements.

**641—11.4(135) Application procedures.**

**11.4(1)** Persons seeking financial assistance shall apply on forms provided by the department. The address is: Disease Assessment Program, Iowa Department of Public Health, Lucas State Office Building, Des Moines, IA 50319-0075.

**11.4(2)** The date of application shall be the date the application is received by the department.

**11.4(3)** The department shall approve or deny the application or request additional information within 60 days from the date the application is received. Applicants shall be notified by mail of the department's decision.

**11.4(4)** Approved applicants will receive financial assistance for time periods not to exceed 12 months at which time a redetermination of eligibility shall be made by the department. If during an approved period the patient experiences a change in financial status, the patient shall notify the department in writing within 30 days of the date and nature of the change.

Upon receipt of this information, the department shall evaluate the patient in accordance with the eligibility criteria identified in these rules and any subsequent change in financial assistance shall become effective the month following the change in medical or financial status. Patients shall be notified by mail of any change in financial assistance. Failure of the patient to notify the department of any change in financial status during an approved period of eligibility may deny to that patient any increase in financial assistance that may otherwise have been allowed. Similarly, failure of the patient to notify the department of any change in financial status during an approved period of eligibility which would have caused a decrease in financial assistance may result in the recovery of financial assistance as set forth in subrule 11.5(6).

11.4(5) There is no automatic right to receive continued financial assistance from one period of eligibility to the next. Eligibility for continued financial assistance shall be redetermined in the same manner as initial eligibility.

11.4(6) Temporary approval may be granted only one time during a 12-month period for any applicant for up to three months while medicaid, medical assistance and other third party payor applications are being processed for approval or denial. At the discretion of the director one additional three-month "temporary approval" may be awarded. Payment procedures will be the same as specified in 641—11.9(135) for this three-month "temporary approval."

**641—11.5(135) Consideration of gross income and other financial and medical resources.**

11.5(1) All gross income and other financial and medical resources available to an applicant shall be considered in determining eligibility and any financial participation that may be required of the applicant.

11.5(2) The gross income of an applicant's spouse shall be considered available to the applicant in determining the extent of eligibility and financial participation. Similarly, if the applicant is an unemancipated minor, the gross income of the responsible parent(s), guardian(s) or custodian of the minor shall be considered available to the applicant.

11.5(3) The equity value of commercial or farm property or of a business which is not the homestead (including machinery and equipment) owned or controlled by the applicant, the applicant's spouse or if a minor by the applicant's responsible parent(s), guardian(s) or custodian, shall be considered as a countable financial resource. Equity value is defined as the current market value of the property or business, less any legal debt. Verification of the current market value and the substantiation of legal debt shall be the responsibility of the applicant and shall be obtained from a knowledgeable source including, but not limited to:

- a. Real estate brokers;
- b. The local office of the Farmer's Home Administration (for rural land);
- c. A local office for the Agricultural Stabilization and Conservation Service (for rural land);
- d. Banks, savings and loan associations, mortgage companies, and similar lending institutions;
- e. Officials of local property tax jurisdictions; and
- f. County extension services.

Commercial or farm property or a business (which is not the homestead) shall be excluded as a financial resource when the equity value does not exceed \$100,000. When the equity value exceeds \$100,000 only that amount exceeding the \$100,000 limit shall be counted as a financial resource.

11.5(4) Financial assistance shall be approved only for life-prolonging AIDS medications or that part of the cost of life-prolonging AIDS medications for which no other financial or medical resource exists. Applicants shall take all steps necessary to apply for and, if entitled, accept any other financial or medical resource for which they qualify. Failure to do so, without good cause, shall result in the denial or termination of any financial assistance from this program that would have been covered by the other resource.

11.5(5) When another financial or medical resource can be obtained, that resource shall be considered to be available, unless good cause for failure to obtain that resource is determined to exist. Determination of good cause shall be made by the department and shall be based upon information and evidence provided by the applicant or by one acting on the applicant's behalf.

**11.5(6)** Program staff may, for purposes of verification, contact any person or agency referred to in these rules in order to assure that any financial assistance that may be provided is not or will not be provided when another financial or medical resource exists. The department may pursue the recovery of any financial assistance provided for any duplicate or unallowable payment made by the department to or on behalf of the patient.

**641—11.6(135) Types of financial assistance available and limitations.**

**11.6(1)** The financial assistance that may be provided shall be limited as listed below depending upon the financial and medical resources available to the patient.

Pharmaceuticals: Legend (prescription) ordered by a physician not covered by any other resource. Pharmaceuticals are limited to antiviral drugs which have been determined by the Food and Drug Administration to prolong the life of a person with AIDS. Drug reimbursement shall be limited to the average wholesale price, plus \$3. Reimbursement shall be limited to 90 percent of the average wholesale price as stipulated above for patients in financial status category 2, to 80 percent of the average wholesale price as stipulated above for patients in financial status category 3, to 70 percent of the average wholesale price as stipulated above for patients in financial status category 4, to 60 percent of the average wholesale price as stipulated above for patients in financial status category 5, to 50 percent of the average wholesale price as stipulated above for patients in financial status category 6. For patients with other third-party payor resources, reimbursement shall not exceed the average retail price not paid in full by those resources. Any charges that exceed the wholesale reimbursed amount shall be the responsibility of the patient.

**11.6(2)** Should program appropriations be insufficient to meet all eligible requests for financial assistance, it shall be the responsibility of the department to take appropriate and necessary action to ensure that program expenses do not exceed program funds. This action may include, but need not be limited to:

- a. Reducing the amount of financial assistance provided to each patient.
- b. Setting a maximum limit on the amount of financial assistance which may be provided to each patient.

**641—11.7(135) Procedures for determining eligibility.**

**11.7(1)** Upon receipt of application, the department shall review the application for completeness. Applications found to be incomplete shall be returned to the applicant with appropriate instructions or shall be held by the department pending receipt of additional information from the applicant or other parties.

**11.7(2)** If the applicant is a minor, necessary information shall be provided by the responsible parent, guardian or custodian of the minor.

**11.7(3)** An application shall be considered complete when the information contained therein enables the department to determine the applicant's financial status in accordance with the eligibility criteria established by the department. When necessary, program staff will verify resources shown on the application and will inform applicants of other resources that may be available to them.

**11.7(4)** When applicable, a copy of the most recent federal and state income tax return of the applicant, the applicant's spouse, the applicant's parent(s) or the legal guardian or custodian financially responsible for the care of the applicant shall be submitted to the department and shall be considered a part of the application.

**11.7(5)** Based on the evaluation of each application, the type(s) of financial assistance provided shall be determined and made known to the applicant by mail. Financial assistance shall be available for approved pharmaceuticals incurred no more than three months prior to the month the application is received by the department.

**11.7(6)** The criteria that follow shall be the criteria utilized to determine the applicant's financial status and eligibility:

a. All income shall be included in the determination of gross income. In regard to nonexempt financial resources, \$2000 will be disregarded for the first family member plus \$1000 for each additional family member living in the home.

b. Six financial status categories, plus a medical assistance category, shall be used as set forth in Appendix 1. These categories are presented in dollar ranges based on percentage increases of the 1987 Department of Health and Human Services poverty income guidelines. Each range is increased proportionately by the number of family members. The financial status category into which the applicant falls for eligibility purposes is determined upon evaluation of the applicant's gross income and other financial and medical resources. The type(s) of financial assistance which may be provided is displayed in Appendix 2.

11.7(7) Eligible applicants who qualified and participated in the investigational new drug (IND) AZT treatment program will be given first priority to receive the AZT life-prolonging medication.

**641—11.8(135) Transfer or disposal of resources at less than fair market value.**

11.8(1) In determining eligibility for financial assistance, resources that have been given away or otherwise transferred or disposed of within six months prior to the month of application at less than fair market value for the purpose of establishing eligibility for financial assistance shall be counted as if those resources were still available as shown below:

a. For uncompensated value between \$6,000 and \$18,000: One period of eligibility from the date of transfer or disposal.

b. For uncompensated value between \$18,001 and \$30,000: Two periods of eligibility from the date of transfer or disposal.

c. For uncompensated value between \$30,001 and \$42,000: Three periods of eligibility from the date of transfer or disposal.

d. For uncompensated value between \$42,001 and over: Four periods of eligibility from the date of transfer or disposal.

11.8(2) Transfer or disposal of resources shall be presumed to be for the purpose of establishing eligibility for financial assistance unless convincing evidence to the contrary is furnished to verify that the transaction was exclusively for some other purpose. Examples of the giving away or selling or otherwise transferring or disposing of resources at less than fair market value include, but are not limited to, establishing a trust, contributing to a charity or other organization, removing a name from a joint bank account, or decreasing the extent of ownership interest in a resource.

11.8(3) Convincing evidence to verify that the transaction was exclusively for a purpose other than establishing eligibility may include documents, letters and contemporaneous writings, as well as other circumstantial evidence.

**641—11.9(135) Payment procedures.**

11.9(1) Patients shall submit claims for approved financial assistance items on forms provided by the department with sufficient documentation to clearly support the amount(s) claimed.

11.9(2) Providers of service, on behalf of patients, may submit claims on forms other than those provided by the department provided those forms contain information equivalent to that required by the department.

11.9(3) Program staff shall review claims submitted for appropriateness and accuracy based upon the patient's medical and financial status at the time services were provided. Claims submitted for amounts greater or lesser than what the patient is entitled to shall be adjusted accordingly. Upon issuance of the warrant, a copy of the claim form shall accompany the warrant and any necessary adjustment(s) shall be noted identifying the amount and the reason for the adjustment(s).

11.9(4) Reimbursement of approved expenses incurred by patients may be made directly to the patient when the patient possesses the necessary expense documentation.

11.9(5) Reimbursement of approved expenses may be made directly to the provider of service on behalf of the patient when the provider possesses the necessary expense documentation.

11.9(6) When other financial or medical resources are available to the patient, the program will consider for payment any eligible expense claim or portion thereof provided the claim is for approved expenses incurred no more than 12 months prior to the month the claim is received by the program.

11.9(7) The department shall consider the date of claim to be the date the extent of the department's liability has been determined. Funds allocated to this program for the fiscal year in which such determinations are made shall also be the funds from which payment is made.

**641—11.10(135) Denial, suspension, revocation or reduction of financial assistance.**

11.10(1) The department may deny, suspend, revoke or reduce financial assistance based upon eligibility and financial criteria and other pertinent sections of these rules. Applicants or patients so affected shall be notified by certified mail, return receipt requested, or by personal service.

11.10(2) Provided that rule changes affecting the types or limitations of financial assistance are made in accordance with the rule-making process pursuant to Iowa Code chapter 17A, the appeal provisions of this rule shall not apply to any action taken pursuant to subrule 11.6(2).

11.10(3) Notwithstanding subrule 11.10(2), upon receipt of a notice of denial, suspension, revocation or reduction, the applicant or patient may request an appeal. The appeal shall be made in writing to the department within 30 days from the date of the applicant's or patient's receipt of the department's notice of denial, suspension, revocation or reduction of financial assistance. The address is: Iowa Department of Public Health, Lucas State Office Building, Des Moines, IA 50319-0075. If such a request is made within the 30-day time period, the notice shall be deemed to be suspended. Prior to or at the hearing, the department may rescind the notice upon satisfaction that the reason for the denial, suspension, revocation or reduction of financial assistance has been or will be removed. After the hearing, or upon default of the aggrieved party, the hearing officer shall affirm, modify or set aside the denial, suspension, revocation or reduction of financial assistance. If no request for appeal is received within the 30-day time period, the department's notice of denial, suspension, revocation or reduction of financial assistance shall become the department's final agency action.

11.10(4) Upon receipt of an appeal that meets contested case status, the appeal shall be forwarded within five working days to the department of inspections and appeals pursuant to the rules adopted by that agency regarding the transmission of contested cases. The information upon which the adverse action is based and any additional information which may be provided by the applicant or patient shall also be provided to the department of inspections and appeals.

11.10(5) The hearing shall be conducted according to the procedural rules of the department of inspections and appeals found in 481—Chapter 4, Iowa Administrative Code.

11.10(6) When the hearing officer makes a proposed decision and order, it shall be served by certified mail, return receipt requested, or delivered by personal service. That proposed decision and order then becomes the department's final agency action without further proceedings ten days after it is received by the aggrieved party unless an appeal to the director is taken as provided in subrule 11.10(7).

11.10(7) Any appeal to the director for review of the proposed decision and order of the hearing officer shall be filed in writing and mailed to the director by certified mail, return receipt requested, or delivered by personal service within ten days after the receipt of the hearing officer's proposed decision and order by the aggrieved party. A copy of the appeal shall also be mailed to the hearing officer. Any request for an appeal shall state the reason for appeal.

11.10(8) Upon receipt of an appeal request, the hearing officer shall prepare the record of the hearing for submission to the director. The record shall include the following:

- a. All pleadings, motions, and rules.
- b. All evidence received or considered and all other submissions by recording or transcript.
- c. A statement of all matters officially noticed.
- d. All questions and offers of proof, objections and ruling thereon.
- e. All proposed findings and exceptions.
- f. The proposed decision and order of the hearing officer.

**11.10(9)** The decision and order of the director becomes the department's final agency action upon receipt by the aggrieved party and shall be delivered by certified mail, return receipt requested, or by personal service.

**11.10(10)** It is not necessary to file an application for a rehearing to exhaust administrative remedies when appealing to the director or the district court as provided in Iowa Code section 17A.19. The aggrieved party to the final agency action of the department who has exhausted all administrative remedies may petition for judicial review of that action pursuant to Iowa Code chapter 17A.

**11.10(11)** Any petition for judicial review of a decision and order shall be filed in the district court within 30 days after the decision and order becomes final. A copy of the notice of appeal shall be sent to the department by certified mail, return receipt requested, or by personal service. The address is: Iowa Department of Public Health, Lucas State Office Building, Des Moines, IA 50319-0075.

**11.10(12)** The party who appeals a final agency action to the district court shall pay the cost of the preparation of a transcript of the contested case hearing for the district court.

**641—11.11(135) Confidential records.** The department shall maintain the confidential nature of the information collected in a manner which prevents the identification of persons who are requesting and have received financial assistance. Access to the information shall be limited to departmental personnel having a need for such information in connection with their official duties. Pursuant to Iowa Code section 22.9, the requirements of Iowa Code section 22.2 must be waived in order to prevent denial of federal funds.

**641—11.12(135) Contingency of program.** The continuation of the reimbursement program depends on the availability of federal funds or on appropriation of state general funds.

These rules are intended to implement Iowa Code section 135.11

[Filed emergency 9/18/87—published 10/7/87, effective 9/18/87]

**CHAPTER 12**  
**SEWAGE, COMMERCIAL WASTES, AND EXCRETA DISPOSAL**

[Transferred to WAWM, ch 69, effective 7/1/83]

**CHAPTER 13**  
**MILK AND MILK PRODUCTS**

[Prior to 7/29/87, Health Department(470)]

**641—13.1(135) Jurisdiction.** The production, processing and distribution of milk and milk products are by law under the jurisdiction of the Iowa department of inspections and appeals.

Cities also are granted by Iowa Code section 368.25, the power to adopt ordinances pertaining to milk sanitation. It is therefore suggested that cities and towns regulate production, transportation, processing, handling, sampling, examination, grading, labeling, regrading and sale of milk and milk products, the inspection of dairy herds, dairies and milk plants, the issuing and revocation of permits to milk producers and distributors, the placarding of restaurants and other establishments serving milk or milk products in accordance with the terms of the unabridged form of the current edition of the Milk Ordinance and Code recommended by the United States Public Health Service, a copy of which is on file with the department or which may be procured from the United States public health service or the Superintendent of Documents, Washington, D.C.

[Filed prior to July 1, 1952]

[Filed emergency 7/10/87—published 7/29/87, effective 7/10/87]



**641—19.4(135) Requirements.** The following shall be provided and in operation at least 24 hours before the mass gathering is scheduled to begin.

**19.4(1) Water supply.** All water shall be from a source approved by the Iowa department of public health. If water is not available in a pressure system, the transportation vehicles must be approved by the Iowa department of public health.

*a.* For each 24-hour period, at least 5,000 gallons of water shall be provided for each 1,000 attendants. Water shall be continuously available.

*b.* At least four outlets shall be provided for each 1,000 attendants. One-half of the outlets shall be of fountain type. The outlets shall be conveniently located.

*c.* No common drinking cup shall be provided or allowed to be used.

**19.4(2) Washing facilities.** Hand washing facilities with soap and paper towels shall be provided for use of food handlers. These facilities must be located conveniently to each food concession and kitchen.

**19.4(3) Toilet facilities.**

*a.* The method of toilet waste disposal shall be approved by the Iowa department of public health.

*b.* All toilet facilities shall be enclosed and separate facilities shall be provided for each sex.

*c.* At least ten individual toilet compartments shall be provided for each 1,000 attendants or fraction thereof.

*d.* Toilet facilities shall be conveniently located and be accessible for servicing.

*e.* Toilet facilities shall be kept clean and supplied with toilet tissue.

*f.* Toilet facilities shall be at least 200 feet from food service facilities.

**19.4(4) Solid waste.** Receptacles for the collection of solid waste shall be located at convenient locations. The receptacles shall be readily accessible to collection vehicles. The pick up and removal of refuse, trash, garbage and rubbish shall be made at least once a day and more often if necessary. Final disposal shall be to a site approved by the Iowa department of public health.

**19.4(5) Medical facilities and personnel.** Each site shall be provided with an adequately staffed first aid station. Arrangements shall be made for ambulance service. There shall be some means of summoning an ambulance if required. The first aid station shall be readily accessible to ambulances.

**19.4(6) Food service facilities.** All food service facilities must be inspected and approved by the Iowa department of inspections and appeals before operation.

**19.4(7) Telephone.** At least one telephone shall be provided in a convenient location for each 1,000 attendants.

**19.4(8) Civil defense.** Notification of disaster service, local board of health, and law enforcement agency shall be provided.

**641—19.5(135) Violation of these rules.** Violation of these rules while the mass gathering is in progress, either by default of provision of required services or facilities or because of influx of greater number of attendants than anticipated, shall be grounds for immediately closing the mass gathering by order of the director of public health or other legal means instituted by the director or other state official.

These rules implement Iowa Code section 135.11.

[Filed August 17, 1971]

[Filed 1/21/87, Notice 11/19/86—published 2/11/87, effective 3/18/87]

[Filed emergency 7/10/87—published 7/29/87, effective 7/10/87]

CHAPTER 20  
COMMUNITY WATER FLUORIDATION GRANT PROGRAM

**641—20.1(135) Purpose.** The purpose of the Iowa community water fluoridation grant program is to provide grants to communities and other public water systems with fluoride deficient public water supplies to assist them in implementing community water fluoridation.

The dental health bureau, division of family and community health of the Iowa department of public health, will administer federal Preventive Health and Health Services block grant funds to reimburse eligible local governments and nonprofit public systems for costs involved in implementing water fluoridation.

**641—20.2(135) Definitions.**

*"Cost"* means costs related to the implementation of community water fluoridation including, but not necessarily limited to purchase of equipment for introducing fluoride into the water supply, fluoride analytical equipment, estimated fluoride chemicals for the first year's operation of fluoridation, design services, and installation of equipment including all necessary plumbing and electrical connections.

*"Director"* means the director of the Iowa department of public health.

*"Eligible applicant"* means an incorporated city which operates a fluoride deficient public water system or a fluoride deficient public water system which is federally tax exempt and incorporated under the Iowa nonprofit corporation act. Public water systems (operated by incorporated cities or otherwise as above) which currently fluoridate may apply for grant funds for equipment replacement.

*"Fluoride deficient"* refers to a public water supply that contains less than 0.7 milligrams of fluoride ion per liter of water.

**641—20.3(135) Application process.** Applicants shall submit applications to the Dental Health Bureau, Division of Family and Community Health, Iowa Department of Public Health, Lucas State Office Building, Des Moines, Iowa 50319-0075.

**641—20.4(135) Contents of application.** Each application shall contain the following information:

1. Description of the present water system including sources of water, treatment processes, existing chemical additions, and structures housing existing facilities.
2. Number of users connected to the water system.
3. Copy of governing body's authorization to implement community water fluoridation.
4. Mineral analysis of raw water and treated water.

**641—20.5(135) Review and rating of application.** The dental health bureau shall conduct a review of each application to determine that the applicant is eligible and that the application is complete. The priority of eligible applicants will be established by the department based on the following criteria in order of importance:

1. Number of people served by the water system. In cases with equal or nearly equal population, priority will be given to water systems serving the higher number of children.
2. Technical difficulty and cost of implementing fluoridation.
3. Amount of fluoride deficiency, i.e., the difference between the optimum fluoride concentration as established by the department and the fluoride concentration provided in the finished water produced by the water system.
4. Date of authorization of fluoridation by the water system governing body.
5. Applicants for funding of equipment replacement shall be lower in priority than applicants initiating community water fluoridation. The department shall evaluate these applicants based on the immediacy of the need for replacement, the population served by the water system, and the cost of the replacement equipment.

**641—20.6(135) Project contracts.** The department shall execute a contract with each grantee for the amount of funds awarded to each project. The grantee shall not install, construct, or purchase any equipment, chemical or service except preliminary consultation services, prior to the execution of a contract with the department. The total amount of funds awarded shall include only those costs related to the implementation of community water fluoridation or to those costs related to replacement of equipment in existing fluoridation installations. The contract period will be for a 12-month period, with extensions beyond that time for justifiable reasons. The grantee shall submit a claim voucher to the department after the installation is placed in operation. On the claim voucher, the grantee shall enter the total expenditures for all approved costs established in the project contract. With the claim voucher the grantee shall submit receipts for all costs incurred in implementing the project.

**641—20.7(135) Project records.** Grantees will keep records of the fluoridation system operation as specified in the project contract.

**641—20.8(135) Conditions of contract awards.**

**20.8(1)** Conditions of contract awards will include reporting requirements of fluoridation system operation, monitoring requirements, training requirements of water works personnel and the procedures involved with the purchase and installation of equipment.

**20.8(2)** A grantee shall prepare or cause to have prepared, plans, specifications, and schedules as required by the rules of the Iowa department of natural resources, environmental protection division. A grantee shall submit the plans, specifications, and schedules to the department of public health.

**20.8(3)** The bureau of dental health shall review the submission within two weeks of its receipt and forward the plans, specifications, and schedules to the department of natural resources within 15 business days of its receipt. The fee for this submission is reimbursable to the grantee from awarded funds.

**20.8(4)** The grantee shall agree to operate and monitor the equipment within the requirements of the department for a period of five years from the date fluoridation operation is initiated. The grantee shall agree to analyze water samples on site for fluoride content within the requirements of the department of natural resources and shall report the results of these analyses to the department of public health monthly.

**20.8(5)** The grantee shall agree to also submit at least one split sample per month to a laboratory certified by the department of natural resources for the determination of fluoride levels. The results of that analysis shall be reported to the department monthly. If a water system operated by the grantee serves less than 500 persons, then the frequency of submission shall be at least quarterly.

**20.8(6)** The grantee shall notify the department within five business days if the operation of the fluoridation system is interrupted for more than 14 consecutive days. The notification shall include the reasons for the interruption of operation and its anticipated duration.

**20.8(7)** The bureau of dental health will determine:

*a.* If the cost of the system components, including chemical feed equipment, chemical storage, and any appurtenant equipment are reasonable with respect to the cost of similar projects completed within the last calendar year.

*b.* The eligibility of any service or piece of equipment specified for reimbursement under the grant.

**641—20.9(135) Procurement.** The grantee shall procure the major components of the fluoridation system, including the chemical feed device, any scale or tank, any control device, analytical equipment, and any apparatus or piece of equipment costing more than \$300 by a competitive bid process.

Design services, installation services, and procurement of fluoride chemicals may be negotiated with any firm, bearing in mind that according to Iowa Code section 19B.7, the law requires

the promotion of equal opportunity in all state contracts and services and the prohibition of discriminatory and unfair practices within any program receiving or benefiting from state financial assistance in whole or in part. All negotiated agreements are subject to the review of the department. The department shall judge the reasonableness of the negotiated costs with respect to similar systems and may require additional negotiation or competitive bids before an agreement is implemented.

A firm bidding on fluoridation projects shall provide in writing to the grantee and to the department the brand name and model number of each major component of the fluoridation system and product literature to demonstrate the capability of the component of meeting the requirements of the grantee and the department. The department shall be the sole judge of the appropriateness of each major component and may require that a modified bid be submitted. If the firm has submitted an apparent low bid, it shall be afforded a reasonable time to submit a modified bid before the project is awarded. All bids are confidential until the governing body of the community officially awards the project.

A grantee may, with the written approval of the department, award the project to other than the low bidder.

**641—20.10(135) Termination.** In the event the grantee fails to comply with the grant award stipulations, standards, or conditions within a five-year period of the project award, the department may act to recover the amount of the grant award from the grantee.

**641—20.11(135) Appeals.** Applicants whose applications were not funded have the right to appeal the decision.

Any applicant whose proposal has been filed according to rules governing the grant process, and who is aggrieved by the awards made pursuant to these rules, may request an appeal based upon a showing that the rules governing the grant selection process have not been applied properly. The appeal must be filed with the director of the Iowa Department of Public Health within one month of the notification as to awards.

Requests for appeals must be in writing and clearly state how the department failed or erred in following the rules of the grant process as governed by these administrative rules or procedures outlined in the program application. The request must also describe the remedy being sought.

These rules implement Iowa Code section 135.11.

[Filed 9/18/87, Notice 7/29/87—published 10/7/87, effective 11/11/87]

## CHAPTERS 21 to 24

Reserved

[Chapters 21 to 34 rescinded, 12/23/81, IAB]

CHAPTER 25  
PLUMBING CODE

[Prior to 7/29/87, Health Department(470), ch 25]

**641—25.1(135) Minimum requirements.** The provisions of this code shall be construed to establish minimum requirements of chapters 1 to 13 and Appendix D of the Uniform Plumbing Code, 1985 Edition as published by the International Association of Plumbing and Mechanical Officials, 5032 Alhambra Avenue, Los Angeles, California 90032, and are hereby adopted by reference with amendments as the state plumbing code as authorized by Iowa Code section 135.11(5).

Local ordinances or rules and regulations may provide for higher but not lower standards than those found in the above-mentioned code and consistent with Iowa Code section 364.3(3).

**641—25.2(135) Applicability.** The provisions of this code are applicable to the plumbing in buildings and premises within cities and to plumbing in buildings and premises located outside the corporate limits of any city but which are served by individual connections to municipal water supply or sewer systems located inside the corporate limits.

Amendments:

a. Section 103. Add the following definitions:

“Building storm drain”, a building (house) storm drain is a building drain used for conveying rain water, surface water, groundwater, subsurface water, or other similar discharge to a building storm sewer or a combined building sewer extending to a point not less than three feet outside the building wall.

“Building storm sewer”, a building (house) storm sewer is the extension from the building storm drain to the public storm sewer, combined sewer, or other point of disposal.

b. Section 120. Add the following definitions:

“Storm sewer”, a storm sewer is a sewer used for conveying rain water, surface water, condensate, cooling water, or similar liquid wastes, exclusive of sewage and industrial waste.

“Subsoil drain”, a subsoil drain is a drain which receives only subsurface or seepage water and conveys it to a place of disposal.

c. Section 201. Delete the subsections e, f, g, h, i and j.

Add to Section 201:

(e) The provisions of this code are not intended to prevent the use of any alternative material or method of construction, provided any such alternative has been first approved by the Iowa department of public health.

(f) Requests for consideration of alternative provisions or applications thereof shall be submitted by the building owner or agent in writing with substantiating data and drawings.

(g) The granting of such alternative provisions or applications will be stated in writing along with limitations or conditions thereof.

d. Section 203. Revise subsections (a), (b), and (d) to read as follows:

(a) Copper tube for underground drainage and vent piping shall have weight of not less than that of copper drainage tube Type L.

(b) Copper tube for above ground drainage and vent piping shall have weight of not less than that of copper drainage tubing Type M. Exception: Type DWV may be used in one- and two-family dwellings.



**CHAPTER 75**  
**STATEWIDE INDIGENT OBSTETRICAL AND**  
**NEWBORN PATIENT CARE PROGRAM**

**641—75.1(72GA,SF511) Definitions.**

*"Applicant"* means a person for whom assistance under this program is being requested.

*"Delivery"* means that the delivery occurs after 20 weeks gestation.

*"Director"* means the administrator of a maternal health center or other designated agency.

*"Family"* means a group of two or more persons related by birth, marriage, or adoption who reside together or a unit of one who is an unrelated individual not living with any relatives. The unborn fetus will be counted as a family member.

*"Nonquota case"* means a patient who is provided obstetrical or newborn care services at the University of Iowa Hospitals and Clinics under the indigent nonquota obstetrical care program established pursuant to Iowa Code chapter 255 and referenced in 1987 Iowa Acts, Senate File 511, section 436.

*"Obstetrical and newborn care services"* means those types of services as recognized by the latest editions of The American College of Obstetricians and Gynecologists, "Standards for Obstetric-Gynecologic Services" and The American Academy of Pediatrics, "Standards and Recommendations for Hospital Care of Newborn Infants."

*"Poverty level"* means poverty income guidelines established by the United States Department of Health and Human Services.

*"Program"* means the indigent obstetrical and newborn patient care program for quota cases.

*"Provider"* means a licensed hospital or a licensed physician who agrees to service eligible patients.

*"Quota case"* means a patient who is provided obstetrical or newborn care by licensed hospital or physician under the indigent obstetrical patient quota program established pursuant to 1987 Iowa Acts, Senate File 511, section 438.

*"Resident"* means the individual must be a legal resident of the state and reside in one of the designated 90 counties.

*"Spend-down"* means the process by which an applicant obligates income for allowable medical expenses to reduce income to a qualifying level. The medical expenses used for spend-down cannot be paid for with funds from this program.

*"Spend-down interval"* means one month for delivery services and six months for antepartum and delivery services.

**641—75.2(72GA,SF511) Covered services.** The following obstetrical and newborn care services may be provided through the indigent obstetrical patient care program:

1. Antepartum and postpartum care except where patient qualifies for antepartum and postpartum care provided by the department of public health, maternal and child health care program.

2. Normal delivery.

3. Cesarean section.

4. Newborn hospital care.

5. Sick newborns who qualify as a quota case will be covered until the patient is stabilized and transferred to University of Iowa Hospitals and Clinics, where the patient may be eligible to receive care as a county quota indigent patient pursuant to Iowa Code chapter 255.

6. Inpatient transportation from one hospital to another when authorized by a medical provider.

7. One outpatient visit for false labor.

8. Excluded services for quota cases will include but not be limited to elective abortion, elective hysterectomy, circumcision, nonobstetric related procedures and services.

**641—75.3(72GA,SF511) Quota assignment.** The department of public health shall establish the quota annually for each county. The formula used shall be based upon, but not limited to, the following criteria:

1. Dollars available to the program.
2. Average number of births for the most recent three-year period for each county.
3. Per capita income for each county.

**641—75.4(72GA,SF511) Eligibility criteria.** The certification process to determine eligibility for services under this program will include the following requirements:

**75.4(1) Income.**

a. Income guidelines will be set at 150 percent of the poverty income guidelines published by the United States Department of Health and Human Services. State income guidelines will be adjusted following any change in Department of Health and Human Services guidelines.

b. Income information will be provided by the applicant, who will attest in writing to the accuracy of the information contained on the application. The director may request verification of income.

c. All earned and unearned income of family members as defined by DHHS poverty guidelines will be used in calculating the applicant's gross income for purposes of determining initial and continued eligibility.

d. Income will be estimated prospectively as follows:

(1) Annual income will be estimated based on the applicant's income for the past three months unless the applicant's income will be changing or has changed, or

(2) In the case of self-employed families the past year's income tax return will be used in estimating annual income unless a substantial change has occurred.

(3) Terminated income will not be considered.

e. An applicant for this program whose income falls between 150 percent and 300 percent of the poverty level guidelines may qualify through spend-down of medical expenses of all family members as follows:

(1) The applicant must provide copies of medical bills or a statement from the providers of projected medical expenses.

(2) Medical expenses which can be used to meet spend-down are as follows:

1. Health insurance premiums, deductibles, or coinsurance charges.

2. Medical and dental expenses as defined by the Internal Revenue Service.

(3) In order to qualify with spend-down, the amount of spend-down, adjusted by the spend-down interval, must be equal to or less than the projected and actual medical expenses.

**75.4(2) Resources.**

a. The resource limitation for an applicant will be \$10,000 per household.

b. The following are countable resources:

(1) Unobligated cash.

(2) Savings accounts.

(3) Stocks, bonds, certificates of deposit, excluding internal revenue service defined retirement plans.

c. Resource information will be provided by the applicant, who will attest in writing to the accuracy of the information contained on the application. The director may request verification of resources.

**75.4(3) Noneligibility for Title XIX or medically needy without spend-down.** In order to be eligible, the applicant must not be eligible for services under Title XIX or the medically needy program without a spend-down.

**75.4(4) Residency.** The applicant for this program must be a legal resident of Iowa currently living in any county except Clinton, Cedar, Scott, Muscatine, Louisa, Washington, Iowa, Johnson, or Keokuk.

**641—75.5(72GA,SF511) Application procedures.**

**75.5(1)** A person desiring obstetrical and newborn care under this program, or the parent or guardian of a minor desiring such care, may apply to the director of the maternal health center serving the person's county of residence at any time between confirmation of the pregnancy and not later than 60 days after delivery. If there is no maternal health center covering that county, the department will designate an agency.

**75.5(2)** The applicant will provide the following information to be considered for eligibility under this program:

*a.* Income and resource information on an application form.

*b.* Written verification obtained from the department of human services certifying that the applicant is not eligible for Title XIX or the medically needy program without a spend-down. The applicant will submit this copy within 60 days of applying with the director. To meet this 60-day deadline, the applicant will need to apply with the department of human services before or immediately after contacting the director.

**75.5(3)** Assignment of quotas shall be on a first-come, first-served basis based upon application date.

**75.5(4)** The director will provide written notification to the applicant regarding determination of eligibility or noneligibility and applicant's right to appeal a denial.

**75.5(5)** After an applicant has been determined to be eligible, the patient or provider will report any changes in eligibility or status of pregnancy to the director within 10 days from the date the change occurred.

**75.5(6)** Standardized application, determination of eligibility, and certification forms will be furnished by the department of public health to the directors.

**75.5(7)** Copies of appropriate certification forms will be mailed by the director to the department of public health as follows:

*a.* In counties covered by the department of public health's maternal and child health program, certification forms will be sent at 26 weeks or more gestation.

*b.* In counties not covered by maternal and child health programs, certification forms will be sent upon determination of eligibility for patients whose antepartum care will also be paid through the program.

**75.5(8)** Receipt of a certification form for a quota patient by the department of public health shall be considered the point in time when the quota has been used.

**75.5(9)** A woman who resides in a county which exceeds the patient quota allocated for the county, and who meets eligibility under rule 75.4(72GA,SF511) shall be served at the University of Iowa Hospitals and Clinics pursuant to Iowa Code section 255.16.

**75.5(10)** Maternal health center directors shall negotiate 28E agreements with general relief directors for the purpose of coordinating application and eligibility services for obstetric patients under Iowa Code chapter 255.

**641—75.6(72GA,SF511) Reimbursement of providers.**

**75.6(1)** The University of Iowa Hospitals and Clinics and other hospitals will submit their billings on the UB 82, uniform hospital billing form, and physicians will submit their billings on the HCFA 1500. Forms will be furnished by the providers.

**75.6(2)** Providers will submit bills after delivery but not more than 60 days after the delivery or after determination of eligibility, whichever occurs later, to the department of public health.

**75.6(3)** Reimbursement for physicians and hospitals will be based upon the Title XIX rates. Bills will be adjusted accordingly by the department of public health and forwarded to the department of revenue and finance for payment.

**75.6(4)** Providers may be reimbursed for antepartum care prior to the patient becoming ineligible, as long as the patient is counted as a quota case.

**75.6(5)** On an annual basis the department of public health will furnish participating physicians with a list of reimbursable procedure codes and maximum rate.

**75.6(6)** The indigent obstetrical care fund is last pay. Private insurance shall be billed first.

**75.6(7)** All providers of services to quota obstetrical and newborn patients shall agree to accept as full payment the reimbursements allowable under the medical assistance program established pursuant to Iowa Code chapter 249A, up to a maximum of medical assistance's average reimbursement for the most recent fiscal year. When the medical assistance reimbursement methodologies change, the maximum reimbursement may be based upon projection.

**75.6(8)** The obstetrical and newborn indigent program will pay, out of a set-aside fund, for certain cases that exceed the current year's maximum reimbursement rate. Cases that can be paid out of this fund are:

*a.* Allowable physician and hospital costs associated with DRGs 370, 371, 372, 374, 375 for the woman. Costs associated with DRGs 383, 384 will be covered if followed by a qualifying delivery event.

*b.* Allowable physician and hospital costs for the newborn associated with DRGs 385, 385.1, 389, 390.

*c.* Care provided to newborns under DRGs 386, 386.1, 387, 387.1, 388, 388.1, 389.1, 390.1 are defined under rule 75.2(72GA,SF511) as being outside the scope of this program. These services could, however, be covered by Iowa Code chapter 255 or medically needy programs.

*d.* Physicians who provide obstetrical or newborn care at the University of Iowa Hospitals and Clinics are not entitled to receive any compensation for the provision of such care to persons certified as eligible under this program.

**75.6(9)** In all other cases, the maximum reimbursement level will apply. If the total reimbursable charges exceed the maximum reimbursement level, reimbursement to providers will be prorated based upon allowable reimbursement amounts.

**75.6(10)** Certifications for quota cases received by June 30 will have medical assistance's average reimbursement and the 10% fund encumbered.

**641—75.7(72GA,SF511) Reassignment of county quotas.**

**75.7(1)** Unused quota numbers will be assigned by the department of public health after March 31 of each year to counties according to receipt of request on a case-by-case, first-come basis.

**75.7(2)** Request for additional quotas cannot be made until all quotas have been used in a given county.

**75.7(3)** Requests for additional quotas may be submitted by directors and must be based on pending applications. Requests will be made on forms provided by the department of public health designed to provide necessary information regarding pending applications.

**641—75.8(72GA,SF511) Appeals and fair hearings.**

**75.8(1) Right of appeal.** An applicant shall have the right to appeal whenever a decision of the director or the state program results in the individual's denial of eligibility for the program or denial as a quota case. No appeal can be filed for denial as a quota case, if there are no quotas available. Quotas would not be available if already assigned or sequestered to cases under appeal. Quotas will only be held when applicant is appealing a change in status.

**75.8(2) Request for reconsideration.** The applicant seeking to appeal shall first request reconsideration by the director of the denial of eligibility for this program or denial as a quota case. The written request shall be made within 15 days from the date the individual received notice of the decision which is the subject of appeal. The written request shall state the adverse decision being appealed and the reasons the applicant believes state standards were not correctly applied. The director shall reconsider the application and make a written determination with notice of right to appeal to the state within 10 days of receipt of the request. If the denial stands, the applicant may appeal to the department of public health.

**75.8(3) Request for hearing.** An appeal is brought by filing an appeal with the Division Director, Division of Family and Community Health, Department of Public Health, Lucas State Office Building, Des Moines, Iowa 50319-0075, within 30 days of the director's final determination in subrule 75.8(2).

**75.8(4) Contested use.** Upon receipt of an appeal that meets contested case status, the appeal shall be forwarded within five working days to the department of inspections and appeals pursuant to the rules adopted by that agency regarding the transmission of contested cases. The information upon which the adverse action is based and any additional information which may be provided by the aggrieved party shall also be provided to the department of inspections and appeals.

**75.8(5) Hearing.** The hearing shall be conducted according to the procedural rules of the department of inspections and appeals found in 481—Chapter 4, Iowa Administrative Code.

**75.8(6) Decision.** A written decision of the hearing officer shall be issued, where possible, within 30 days from the date of the request for a hearing unless the parties agree to a longer period of time. The decision of the hearing shall be served by certified mail, return receipt requested, or delivered by personal service. That proposed decision and order then becomes the department's final agency action without further proceedings 10 days after it is received by the aggrieved party unless an appeal to the director of public health is taken as provided in subrule 75.8(7).

**75.8(7) Appeal to director.** Any appeal to the director of public health for review of the proposed decision and order of the hearing officer shall be filed in writing and mailed to the director of public health by certified mail, return receipt requested, or delivered by personal service within 10 days after the receipt of the hearing officer's proposed decision and order by the aggrieved party. A copy of the appeal shall also be mailed to the hearing officer. Any appeal shall state the reason for appeal.

**75.8(8) Record of hearing.** Upon receipt of an appeal request, the hearing officer shall prepare the record of the hearing for submission to the director of public health. The record shall include the following:

- a. All pleadings, motions and rules.
- b. All evidence received or considered and all other submissions by recording or transcript.
- c. A statement of all matters officially noticed.
- d. All questions and offers of proof, objections and rulings thereon.
- e. All proposed findings and exceptions.
- f. The proposed decision and order of the hearing officer.

**75.8(9) Decision of director.** The decision and order of the director of public health becomes the department's final agency action upon receipt by the aggrieved party and shall be delivered by certified mail, return receipt requested, or by personal service.

**75.8(10) Exhausting administrative remedies.** It is not necessary to file an application for a rehearing to exhaust administrative remedies when appealing to the director of public health or the district court as provided in Iowa Code section 17A.19. The aggrieved party to the final agency action of the department who has exhausted all administrative remedies may petition for judicial review of that action pursuant to Iowa Code chapter 17A.

**75.8(11) Petition for judicial review.** Any petition for judicial review of a decision and order shall be filed in the district court within 30 days after the decision and order becomes final. A copy of the notice of appeal shall be sent to the department by certified mail, return receipt requested, or by personal service. The address is: Division Director, Division of Family and Community Health, Iowa Department of Public Health, Lucas State Office Building, Des Moines, Iowa 50319-0075.

These rules are intended to implement 1987 Iowa Acts, Senate File 511, sections 435 to 447.

[Filed emergency 9/18/86—published 10/8/86, effective 10/1/86]

[Filed 1/23/87, Notice 10/8/86—published 2/11/87, effective 3/18/87]

[Filed emergency 7/10/87—published 7/29/87, effective 7/10/87]

[Filed emergency 9/16/87—published 10/7/87, effective 9/18/87]

## CHAPTER 76

Reserved

## CHAPTER 77

## LOCAL BOARDS OF HEALTH

[Prior to 7/29/87, Health Department(470), ch 77]

**641—77.1(137) Organization of local boards of health.**

**77.1(1) Officers of local board of health.** Each local board of health shall, at its first meeting during any calendar year, elect one of its members to serve as chairperson until the first meeting of the following calendar year.

*a.* The local board of health may elect a vice-chairperson, secretary, or other such officers as it may deem advisable.

*b.* In case of a vacancy of the office of chairman due to death, resignation, or other cause, a successor shall be elected at the next meeting of the board, who shall serve the remainder of the term.

**77.1(2) Meetings of local board of health.** The place, date and time of regular meetings of the local board of health shall be determined by vote of the board, and shall comply with the provisions of the open meetings law which is found in Iowa Code chapter 21.

*a.* Each local board of health shall meet at least four times yearly.

*b.* Special meetings of the board may be called as needed by the chairperson, or by any three board members. At least 24-hours' notice shall be given of special meetings, except in case of emergency.

**77.1(3) Quorum of local board of health.** Fifty percent or more of the board membership shall constitute a quorum.

**641—77.2(137) Operating procedures of local boards of health.**

**77.2(1)** The following information shall be submitted to the Iowa department of public health:

*a.* Names, addresses, and telephone numbers of members of the local board of health, which shall be submitted within one month after their appointment.

*b.* Names of the chairperson and any other officers elected by the board, which shall be submitted within one month after their election.

*c.* Names, addresses, and telephone numbers of board employees, information as to whether these are full- or part-time employees, and the salary they are to receive, which shall be submitted within one month following their employment.

*d.* Notice of resignation, discharge or other termination of the services of any employee, which shall be submitted within one month following termination.

*e.* A copy of the minutes of each regular and special meeting of the board, which shall include at least

(1) the date and place of the meeting,

(2) a list of members present,

(3) a report of any official board actions and shall be submitted within one month of the date of the meeting.

**77.2(2)** An annual report of expenditures for the previous calendar year, to be submitted on forms provided by the Iowa department of public health, which shall be submitted within 30 days of the close of the county fiscal year.

**641—77.3(137) Expenses of board of health members.**

**77.3(1)** The following may be considered necessary expenses of board of health members:

*a.* Reimbursement for travel in private car on board of health business at the same rate as provided for a public officer or employee in Iowa Code section 79.9.

CHAPTER 91  
GOVERNOR'S ALLIANCE ON SUBSTANCE ABUSE

**641—91.1(135) Mission statement.** The alliance is created in the department of public health in order to promote coordination in the implementation of services in the areas of drug and alcohol abuse prevention, intervention and treatment.

The alliance is responsible for administering two federal programs created by the Anti-Drug Abuse Act of 1986. The purpose of the high-risk youth program is to encourage the development of projects which improve efforts to prevent the onset or the continuation of substance abuse and provide intervention services to those youth who adhere to the federal definitions of high-risk. The purpose of the narcotics control program is to improve the apprehension, prosecution, adjudication, detention and rehabilitation of drug offenders or drug-involved offenders. The narcotics control program also seeks to promote the eradication of illicit drug-producing plants, to enhance treatment programs for drug offenders and drug-involved offenders and to promote programs which concentrate on major drug offenders.

**641—91.2(135) Organization.** Pursuant to Executive Order number 32 and in accordance with the Anti-Drug Abuse Act of 1986 (Public Law 99-570), the governor's alliance on substance abuse is created within the department of public health. The director of public health is the chief administrative officer. The governor shall appoint an administrator of the alliance. The administrator is responsible for preparation of federal grant applications for specific programs under the Anti-Drug Abuse Act of 1986, implementation and monitoring of grant programs pursuant to regulations published for the Anti-Drug Abuse Act of 1986, providing assistance to the governor's alliance on substance abuse in achieving its mission, and other supervisory duties as the administrator of the alliance.

**641—91.3(135) Purpose.** The purpose of the governor's alliance on substance abuse is to promote the development of a comprehensive and coordinated state effort in the implementation of services for alcohol and drug abuse prevention, intervention and treatment, and to promote the development of programs which enhance the justice system's response to the drug-involved offender.

**641—91.4(135) Alliance created.** Pursuant to Executive Order number 32, the governor's alliance on substance abuse is created to assist the director of the department of public health and the administrator of the alliance in the following duties:

1. To facilitate interagency and community planning.
2. To develop a statewide strategy for drug law enforcement and for addressing the needs of high-risk youth and to encourage the development of programs appropriate to implementing the strategy.
3. To consult with the governor, commission on substance abuse and community groups on drug abuse prevention and treatment policies.
4. To work with the department of public health to increase awareness of the cost of substance abuse to business, government and families.
5. To stimulate a comprehensive coordinated approach to alcohol and drug abuse prevention, intervention and treatment services in Iowa.

**641—91.5(135) Membership.** The alliance shall be composed of not more than 20 members appointed by the governor, who represent the criminal justice system, treatment programs, prevention programs, mental health programs, parent and community groups and a designee from the departments of public health, public safety, corrections, human services, personnel

and education and the commission on children, youth, and families. All members shall serve a two-year term. Each member appointed by the governor shall have one vote. A chairperson shall be appointed by the governor for a term of one year. Vacancies on the alliance shall be filled within 60 days in the same manner as original appointments are made.

**641—91.6(135) Meetings.** The alliance shall meet at least once each quarter of each year. Special meetings of the alliance may be called by the chairperson or, in the absence of the chairperson, by the vice-chairperson, or at the written request of three or more members. All meetings of the alliance shall be held in accordance with Iowa Code chapter 21.

**91.6(1) Quorum.** A quorum shall consist of two-thirds of the voting members. Action of the alliance must be approved by a simple majority of the voting members.

**91.6(2) Order of business.** The meetings shall be presided over by the chairperson, vice-chairperson or temporary chairperson as designated by the chairperson. Unless otherwise stipulated, Robert's Rules of Order are to be followed in conducting the meeting.

**91.6(3) Notice, minutes, and agenda.**

a. The administrator of the alliance shall provide advance public notice of the time and place of each meeting in accordance with Iowa Code section 21.4.

b. The administrator shall cause to be kept minutes of all meetings showing the time, place, members present, and the action taken at each meeting. The minutes will constitute the official record of all actions by the alliance. Minutes of each meeting will be prepared and distributed to members.

c. At least one week prior to the date of the meeting, the administrator, in cooperation with the chairperson, shall cause the distribution of the agenda. At least one week prior to the meeting, members may submit an item to be included on the agenda. This agenda shall also show the date, time and place of the meeting.

**641—91.7(135) Programs.** The department is designated by the governor to administer the high-risk youth program and narcotics control program, created by the Anti-Drug Abuse Act of 1986.

**641—91.8(135) Availability of grants.** In any year in which federal funds are available under the Anti-Drug Abuse Act of 1986, the department shall award grants to eligible applicants for projects in accordance with the purpose and goals of the high-risk youth program and the narcotics control program. The amount of money granted shall be contingent upon the funds available to the state of Iowa and shall be amended in accordance with federal regulations governing the Anti-Drug Abuse Act of 1986.

**641—91.9(135) Request for proposals.** The administrator of the alliance shall announce through public notice a request for proposals. Applicants shall request an application form by the deadline set by the administrator. All applications must be written and be completed in accordance with instructions included in the application. If a proposal does not contain the information specified in the application or if the application is received past the due date, it will be disapproved.

**641—91.10(135) Selection of applications.**

**91.10(1)** All applications received and which meet the minimum criteria established in the application instructions shall be reviewed by the administrator of the alliance and a grant review committee to be appointed by the administrator of the alliance. The review committee will make recommendations to the administrator for funding of programs under the Anti-Drug Abuse Act of 1986. Review committee for the high-risk youth grant program shall consist of representatives from substance abuse prevention programs, treatment programs, youth service programs, education, and the juvenile justice system. The review committee for the narcotics

control grant program shall consist of representatives from law enforcement, prosecutors, courts, corrections, substance abuse treatment programs, and the juvenile justice system.

**91.10(2) Criteria for selection of narcotics control and high-risk youth projects.**

a. Adherence to federal program criteria published by the bureau of justice assistance, United States Department of Justice. (July 1987)

b. Project goals and objectives fall within the purposes identified in the Anti-Drug Abuse Act of 1986.

c. Demonstrated need for the project in the area to be served.

d. Community support demonstrated and coordination of activities among existing agencies.

e. The general program structure including, but not limited to, how well goals can be met, how realistic the objectives are, the administration of funds, stability of the organization, the overall quality of the proposed project in comparison to other proposals, and the types of services to be offered.

f. The appropriateness of the plan for using the funds and completeness of the proposed budget.

g. Applicant provides all certified assurances in accordance with the Anti-Drug Abuse Act of 1986.

**91.10(3)** All applicants will be notified of the department's decision by mail.

**641—91.11(135) Grant awards.** All applicants selected to receive a grant shall be provided a grant award kit which shall include the terms and conditions of the grant, including the grant amount, project description and matching requirements, all assurances to be certified by the grant recipient and other items which may be required by the federal government pursuant to the Anti-Drug Abuse Act of 1986. Audits and evaluations must be conducted as required by the Anti-Drug Abuse Act of 1986 and upon the request of the administrator of the alliance.

**641—91.12(135) Suspension of grants.** When, as determined by the department, a grantee has materially failed to comply with the terms and conditions of the grant, the department may, with ten days' written notice to the grantee, suspend the grant. Suspensions shall remain in effect until the grantee has shown to the satisfaction of the department that corrective action has been or will be taken or until the department terminates the contract.

**641—91.13(135) Termination of grants.** Any grant agreement may be terminated in whole or in part by the department if the grantee fails to comply with the terms and conditions of the grant agreement, or fails to comply with any federal regulations governing the Anti-Drug Abuse Act of 1986 or for lack of adequate funds to support the grant. Written notice of the decision to terminate will be provided by certified mail to the grantee within 30 days. Any grantee may terminate a grant agreement only after demonstrating compliance with state and federal fiscal requirements and providing any assurances as may be requested by the department. The grant may be terminated by the grantee upon giving 30 days' written notice to the department.

**641—91.14(135) Appeals.** Applicants whose applications were not funded have the right to appeal the decision.

**91.14(1)** Any applicant whose proposal has been filed according to rules governing the grant process, and who is aggrieved by the awards made pursuant to these rules, may request an appeal based upon a showing that the rules governing the grant selection process have not been applied properly. The appeal must be filed with the director of the Iowa department of public health within seven working days of the notification as to awards.

**91.14(2)** Requests for appeals must be in writing and clearly state how the alliance failed or erred in following the rules of the grant process as governed by these administrative rules or procedures outlined in the program application kit. The request must also describe the remedy being sought.

**91.14(3)** The department shall refrain from awarding any funds until it has received the decision of the director as to any appeal. The review will be conducted as expeditiously as possible so that all funds can be distributed in a timely fashion.

**91.14(4)** This procedure shall end the review process at the administrative level.

These rules are intended to implement Iowa Code section 135.11(13).

[Filed emergency 7/8/87—published 7/29/87, effective 7/8/87]

[Filed 9/16/87, Notice 7/29/87—published 10/7/87, effective 11/11/87]

CHAPTERS 92 to 94

Reserved

# REVENUE AND FINANCE DEPARTMENT[701]

Created by 1986 Iowa Acts, Chapter 1245.

Rules under this Department "umbrella" will also include Lottery Division

## CHAPTER 1

### STATE BOARD OF TAX REVIEW— ADMINISTRATION

- 1.1(17A) Establishment, general course and method of operations, methods by which and location where the public may obtain information or make submissions or requests

## CHAPTER 2

### CONDUCT OF APPEALS, RULES OF PRACTICE AND PROCEDURE

- 2.1(421,17A) Definitions  
2.2(421,17A) Notice of appeal  
2.3(421,17A) Contents of notice of appeal  
2.4(421,17A) Certification by director  
2.5(421,17A) Motions and special appearances  
2.6(421,17A) Responsive pleadings  
2.7(421,17A) Docketing  
2.8(421,17A) Filing of papers  
2.9(421,17A) Hearing an appeal  
2.10(421,17A) Amendments  
2.11(421,17A) Appearances by appellant  
2.12(421,17A) Prehearing procedure  
2.13(421,17A) Continuances  
2.14(421,17A) Place of hearing  
2.15(421,17A) Members participating  
2.16(421,17A) Presiding officer  
2.17(421,17A) Rulings of the chair  
2.18(421,17A) Rules of evidence  
2.19(421,17A) Transcript of hearing  
2.20(421,17A) Suspension or alterations of rules  
2.21(17A) Declaratory rulings  
2.22(17A) Petitions for rulemaking

## CHAPTERS 3 to 5

Reserved

## TITLE I

### ADMINISTRATION

## CHAPTER 6

### ORGANIZATION, PUBLIC INSPECTION

- 6.1(17A) Establishment, organization, general course and method of operations, method by which and location where the public may obtain information or make submissions or requests  
6.2(17A) Public inspection  
6.3(17A) Examination of records by other state officials  
6.4(17A) Copies of proposed rules  
6.5(17A) Regulatory flexibility analysis procedures  
6.6(17A) Retention of records and returns by the department

## CHAPTER 7

### PRACTICE AND PROCEDURE BEFORE THE DEPARTMENT OF REVENUE AND FINANCE

- 7.1(17A) Definitions  
7.2(17A) Scope of rules  
7.3(17A) Business hours  
7.4(17A) Computation of time, filing of documents  
7.5(17A) Form and style of papers  
7.6(17A) Persons authorized to practice before the department  
7.7(17A) Resolution of tax liability  
7.8(17A) Protests  
7.9(17A) Identifying details  
7.10(17A) Docket  
7.11(17A) Informal procedures and dismissals of protest  
7.12(17A) Answer  
7.13(17A) Subpoenas  
7.14(17A) Commencement of contested case proceedings  
7.15(17A) Discovery  
7.16(17A) Prehearing conference  
7.17(17A) Contested case proceedings  
7.18(17A) Interventions  
7.19(17A) Record and transcript  
7.20(17A) Rehearing

7.21(17A)	Service
7.22(17A)	Reserved
7.23(17A)	Ex parte communications
7.24(17A)	Licenses
7.25(17A)	Declaratory rulings
7.26(17A)	Rulemaking proceedings

## CHAPTER 8

### FORMS

8.1(17A)	Forms
----------	-------

## CHAPTER 9

### FILING AND EXTENSION OF TAX LIENS AND CHARGING OFF UNCOLLECTIBLE TAX ACCOUNTS

9.1(422.423)	Definitions
9.2(422.423)	Lien attaches
9.3(422.423)	Purpose of filing
9.4(422.423)	Place of filing
9.5(422.423)	Time of filing
9.6(422.423)	Period of lien
9.7(422.423)	Fees

## CHAPTER 10

### INTEREST, PENALTY, AND EXCEPTIONS TO PENALTY

10.1(421)	Definitions
10.2(421)	Interest
10.3(324,422,450)	Interest or refunds
10.4(421)	F frivolous return penalty
10.5(421)	Exceptions from penalty provisions for taxes due and payable on or after January 1, 1987

## TITLE II

### EXCISE

## CHAPTER 11

### ADMINISTRATION

11.1(422.423)	Definition
11.2(422.423)	Statute of limitations
11.3(422.423)	Credentials and receipts
11.4(422.423)	Retailers required to keep records
11.5(422.423)	Audit of records
11.6(422.423)	Billings
11.7(422.423)	Collections
11.8(422.423)	No property exempt from distress and sale
11.9(422.423)	Information confidential
11.10(422)	Bonding procedure

## CHAPTER 12

### FILING RETURNS, PAYMENT OF TAX, PENALTY AND INTEREST

12.1(422)	Returns and payment of tax
12.2(422.423)	Remittances
12.3(422)	Permits
12.4(422)	Nonpermit holders
12.5(422.423)	Regular permit holders responsible for collection of tax
12.6(422.423)	Sale of business
12.7(422)	Bankruptcy, insolvency or assignment for benefit of creditors
12.8(422)	Vending machines and other coin-operated devices
12.9(422)	Claim for refund of tax
12.10(422.423)	Penalty and interest computation
12.11(422.423)	Request for waiver of penalty
12.12(422)	Extension of time for filing
12.13(422)	Determination of filing status
12.14(422.423)	Immediate successor liability for unpaid tax
12.15(422.423)	Officers and partners—personal liability for unpaid tax
12.16(422)	Show sponsor liability
12.17(422)	Purchaser liability for unpaid sales tax

## CHAPTER 13

### PERMITS

13.1(422)	Retail sales tax permit required
13.2(422)	Application for permit
13.3(422)	Permit not transferable—sale of business
13.4(422)	Permit—consolidated return optional
13.5(422)	Retailers operating a temporary business
13.6(422)	Reinstatement of canceled permit
13.7(422)	Reinstatement of revoked permit
13.8(422)	Withdrawal of permit
13.9(422)	Loss or destruction of permit

**701—2.11(421,17A) Appearances by appellant.** Any appellant may appear in person, or, in the case of corporations, partnerships or other associations, by its duly authorized representative, or by an attorney at law or a certified public accountant authorized to practice in the state of Iowa.

**701—2.12(421,17A) Prehearing procedure.** The state board, on its own motion or on the written request of any party, may order a prehearing conference to consider:

1. The desirability of amending pleadings.
2. Agreeing to the admission of facts, documents or records not really controverted, to avoid unnecessary proof.
3. Limiting the number of witnesses.
4. Settling any facts of which the state board is to be asked to take judicial notice.
5. Stating and simplifying the factual and legal issues.
6. Consolidation or separation of cases.
7. Possibility of compromise.
8. Manner of submission of case.
9. Any other matter which may aid, expedite or simplify the hearing.

The state board shall make an order reciting any action taken at the prehearing conference which will control the subsequent course of the case relative to matters it includes, unless modified to prevent manifest injustice.

**701—2.13(421,17A) Continuances.** Any hearing may be continued for good cause. Requests for continuance prior to the hearing shall be in writing, promptly filed with the state board immediately upon the cause becoming known.

**701—2.14(421,17A) Place of hearing.** Unless otherwise designated by the state board, the hearing shall be held in the office of the State Board of Tax Review, Hoover State Office Building, Des Moines, Iowa 50319.

**701—2.15(421,17A) Members participating.** All appeals shall be heard by a minimum of two (2) members of the state board or a hearing officer. Orders and decisions shall be signed by one member of the board and shall name members participating. Decisions shall affirm, modify, remand or reverse the director's decision, order or directive. A majority decision by the state board shall govern and control. Written dissenting decisions may be filed.

**701—2.16(421,17A) Presiding officer.** The chairperson of the state board, the chairperson's designated member or a hearing officer appointed according to Iowa Code chapter 17A shall preside at the hearing.

**701—2.17(421,17A) Rulings of the chair.** The presiding member shall rule upon motions, objections and other evidentiary matters arising during a hearing, or such rulings may be deferred to the state board or reserved.

**701—2.18(421,17A) Rules of evidence.** Although the state board 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. Therefore, the state board may give probative effect to evidence on which reasonably prudent persons are accustomed to rely for the conduct of their serious affairs. Irrelevant, immaterial or unduly repetitious evidence shall be excluded. The state board shall give effect to the rules of privilege recognized by law. 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.

Documentary evidence may be received in the form of copies or excerpts, if the original is not readily available. Upon request, parties shall be given an opportunity to compare the copy with the original, if available.

Witnesses at the hearing, or persons whose testimony has been submitted in written form if available, shall be subject to cross-examination by any party as necessary for a full and true disclosure of the facts.

Official notice may be taken of all facts of which judicial notice may be taken and of other facts within the specialized knowledge of the state board.

**701—2.19(421,17A) Transcript of hearing.** Hearings shall be stenographically reported and a transcript thereof shall be made if in the opinion of the state board a permanent record is deemed necessary. Either party may provide a certified court reporter at their own expense.

**701—2.20(421,17A) Suspension or alterations of rules.** The board may in its discretion, on its own motion, or upon request by the parties, amend, modify or suspend any of its rules or may adopt other or different rules for the conduct of hearings and procedure before the board.

**701—2.21(17A) Declaratory rulings.** The state board will not consider or rule upon petitions for declaratory rulings as to the applicability of any statutory provision, rule or other written statement of law or policy, decision or order. Upon request, the state board may review a ruling of the department of revenue and finance disposing of a petition for a declaratory ruling properly submitted to the department of revenue and finance.

**701—2.22(17A) Petitions for rule making.** The state board will not consider any petitions of interested persons requesting the promulgation, amendment or repeal of a substantive tax rule. Such petitions should be submitted to the department of revenue and finance. The board will, however, consider and dispose of petitions of interested persons requesting the amendment or repeal of procedural or administrative rules of the state board of topics covered in chapter 1 or 2 of these rules or the promulgation of such rules.

These rules are intended to implement Iowa Code sections 421.1, 441.49 and chapter 17A.

[Filed July 1, 1975]

[Filed emergency 1/20/77, Notice 12/15/76—published 2/9/77, effective 1/20/77]

[Filed emergency 4/12/79—published 5/2/79, effective 4/12/79]

[Filed 9/12/80, Notice 8/6/80—published 10/1/80, effective 11/5/80]

[Filed 3/25/83, Notice 2/16/83—published 4/13/83, effective 5/18/83]

[Filed emergency 11/14/86—published 12/17/86, effective 11/14/86]

CHAPTERS 3 to 5  
Reserved

TITLE I  
ADMINISTRATION

CHAPTER 6  
ORGANIZATION, PUBLIC INSPECTION

**701—6.1(17A) Establishment, organization, general course and method of operations, methods by which and location where the public may obtain information or make submissions or requests.**

**6.1(1) *Establishment of the department of revenue and finance.*** By an Act of the general assembly (chapter 1245, Acts of the 71st GA), a department of revenue and finance was created in lieu of three separate state agencies. The department is administered by the director with a three-member state board of tax review and a five-member lottery board established within the department for administrative and budgetary purposes. As to the organization and functions of the state board of tax review, see rules contained in Chapters 1 to 5. As to the organization and functions of the lottery board, see rules contained in 705—Chapters 1 to 10.

The department of revenue and finance in recognizing its responsibilities has adopted the following creed to guide and lend direction to its endeavors:

“The Department of Revenue and Finance is dedicated to serving the citizens of Iowa and other public officials, while performing the following missions:

- Collect all taxes due, which any person may be required by law to pay, but no more;
- Conduct the Iowa lottery in an effort to maximize the amount of revenues for the state in a manner that maintains the dignity of the state and the general welfare of its people;
- Manage the state's financial resources by utilizing generally accepted accounting principles and procedures, by operating cost effective accounting and payroll systems, by processing claims timely and accurately, and by preparing and issuing financial statements.

In carrying out these missions, the department resolves to provide the best service possible in a cordial and helpful manner and to provide maximum opportunity and incentive for the professional growth and development of all our employees.”

The office of the department is maintained at the seat of government in the Hoover State Office Building, P.O. Box 10460, Des Moines, Iowa 50306. The lottery division maintains an office at 2015 Grand Avenue, Des Moines, Iowa 50312.

The department maintains field offices in six regions of the state and in seven cities outside the state.

**6.1(2) *Organization.*** For ease of administration, the director has organized the department into divisions which are in some instances further divided into bureaus, sections, subsections and units.

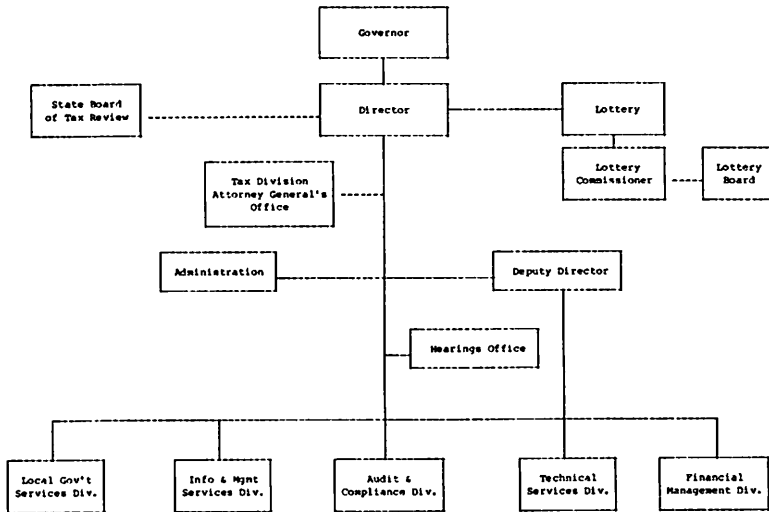
**6.1(3) *Methods by which and location where the public may obtain information or make submissions or requests.*** The department of revenue and finance maintains its principal office in the Hoover State Office Building, P.O. Box 10460 at Des Moines, Iowa 50306 and maintains regional offices located in Sioux City, Waterloo, Council Bluffs, Des Moines, Cedar Rapids, and Davenport. This affords members of the public two possible alternatives for obtaining information or making submissions or requests depending upon the person's particular location and the type of information needed.

*a. Principal office.* Members of the public wishing to obtain information or make submissions or requests on any matters may do so at the department's principal office. Applications for permits or licenses may be obtained and submitted at the principal office and any assistance needed in filling out the applications will be provided if the taxpayer so desires. Requests for confidential information should be submitted to the director and the appropriate form will be provided and should be filled out and submitted to the director. Members of the public wishing to inspect information required to be made available to members of the public may do so in the director's office.

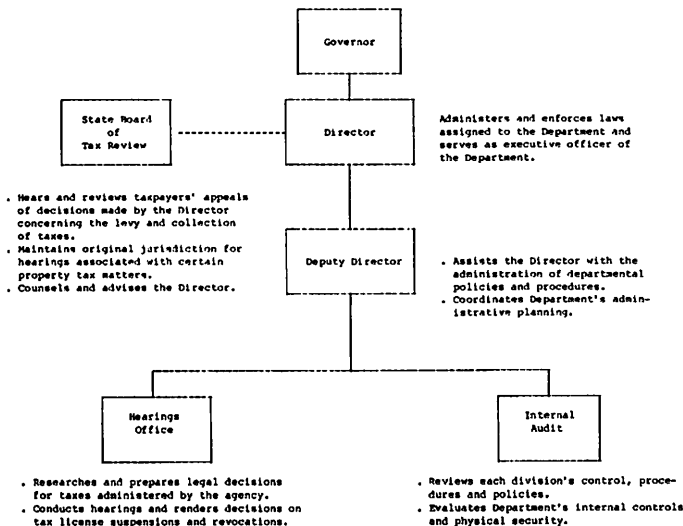
b. Regional offices. The regional offices provide an excellent means of aiding taxpayers. Members of the public desiring forms, aid, assistance or other information are encouraged to contact the regional office located in their particular area. However, regional offices do not have facilities for making available all matters available for public inspection under 6.2(17A). The regional offices and auditors do have copies of all rules and will make them available to the public. Members of the public needing forms or needing assistance in filling out forms are encouraged to contact the regional offices.

This rule is intended to implement Iowa Code sections 421.14 and 422.1.

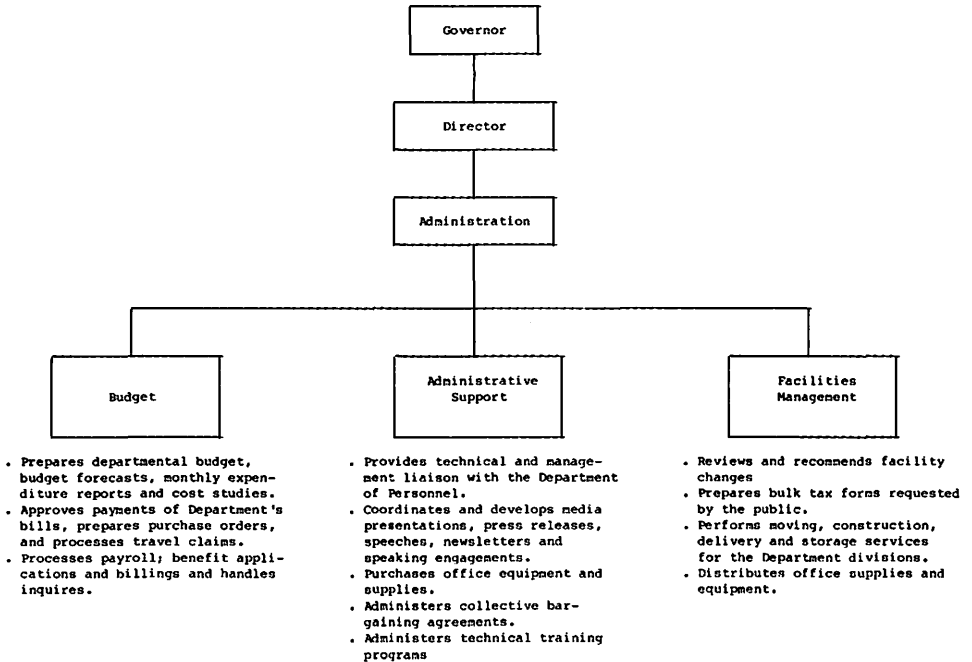
DEPARTMENT OF REVENUE & FINANCE



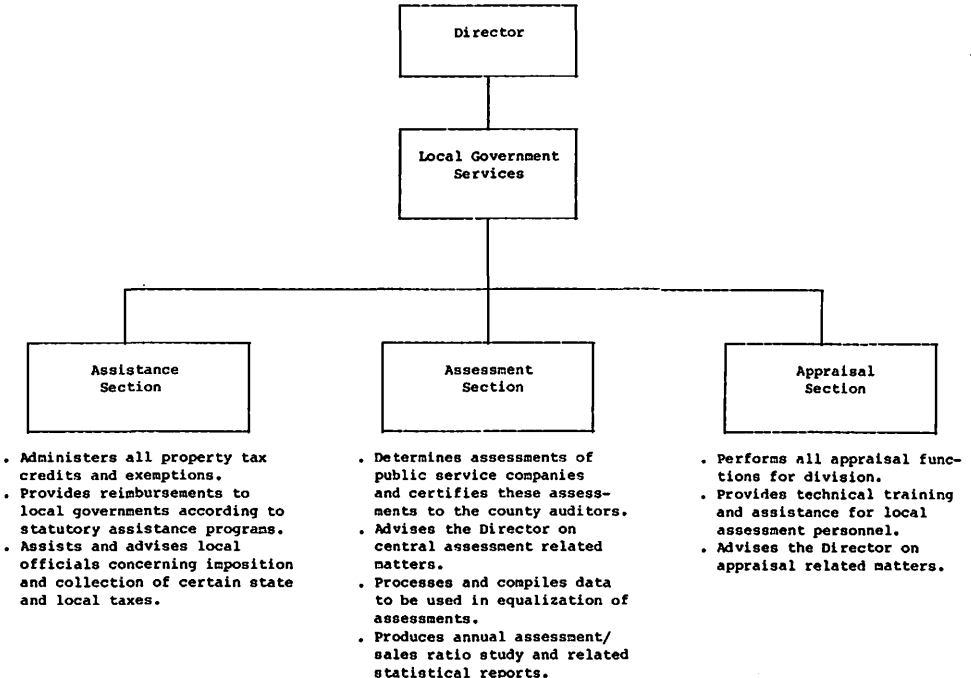
ADMINISTRATION



## ADMINISTRATION

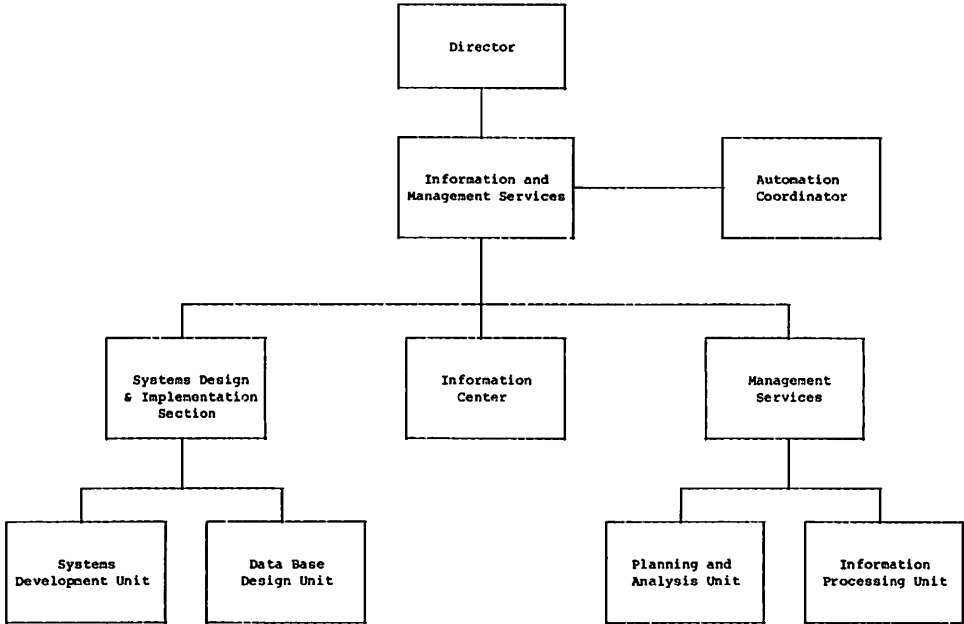


## LOCAL GOVERNMENT SERVICES



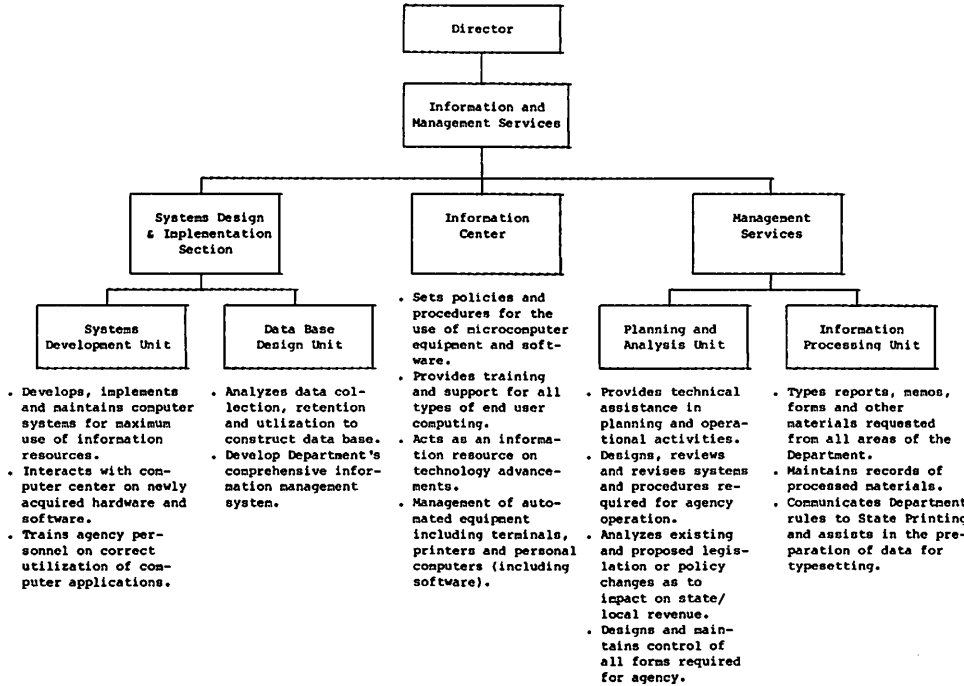
INFORMATION AND MANAGEMENT SERVICES

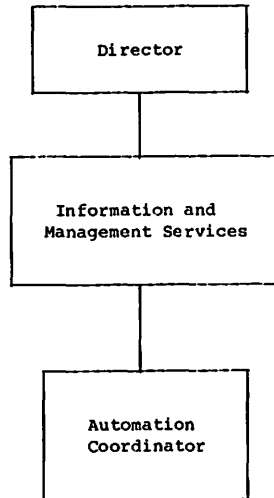
5



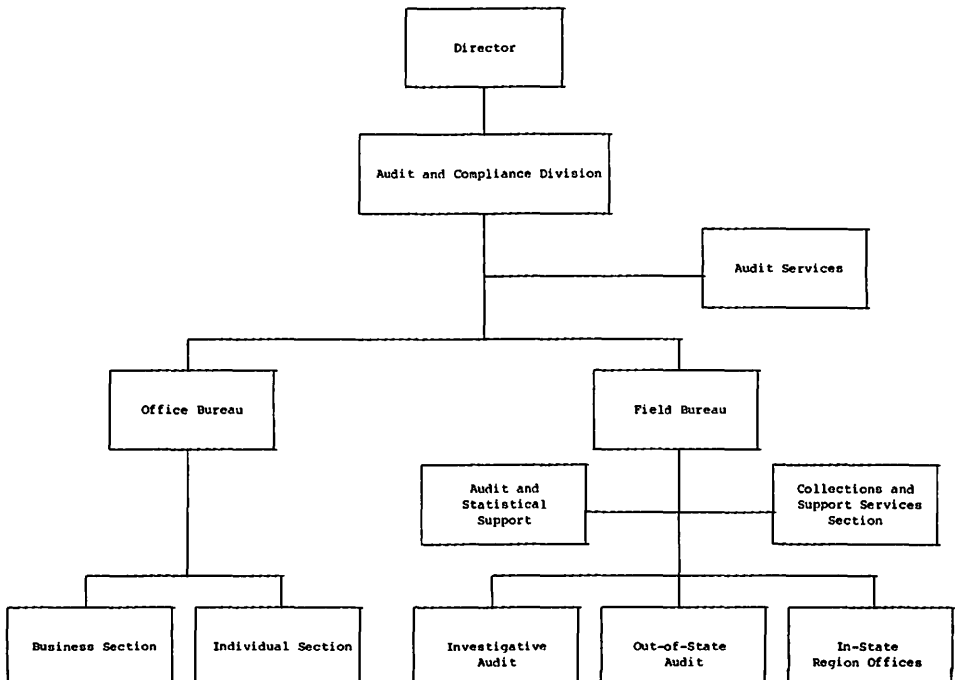
INFORMATION AND MANAGEMENT SERVICES

6



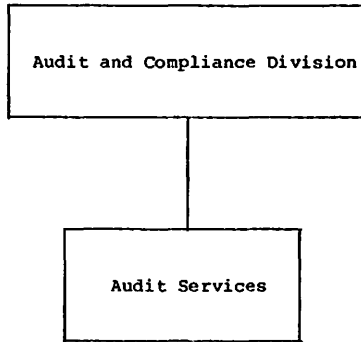
**INFORMATION AND MANAGEMENT  
SERVICES**

- . Coordinates long and short range planning for automation of agency activities.
- . Reviews and recommends further enhancements for automation equipment.
- . Coordinates necessary security procedures relevant to automated information system.

**AUDIT AND COMPLIANCE DIVISION**

AUDIT AND COMPLIANCE DIVISION  
Audit Services

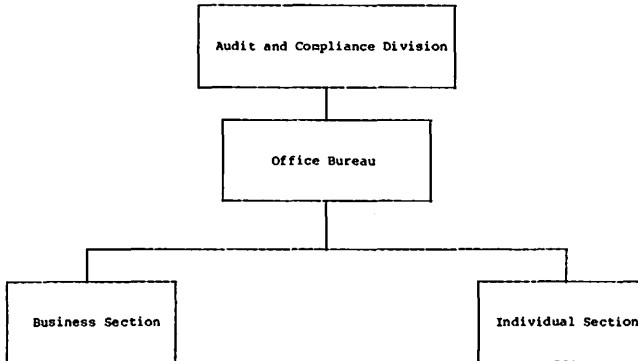
9



- . Develops selective audit criteria for both field audits and office audits; selects programs for testing; monitors test results and makes recommendation for audit programs.
- . Participates in the formal appeal process through writing fact sheets, resolution letters, informal conferences and audit matters.
- . Conducts various special projects for the Department such as: selective office and field audit review; drafting audit manuals, developing audit standards and quality control; conducting training sessions; and preparing statistical information for various reports.

AUDIT AND COMPLIANCE DIVISION  
Office Bureau

10

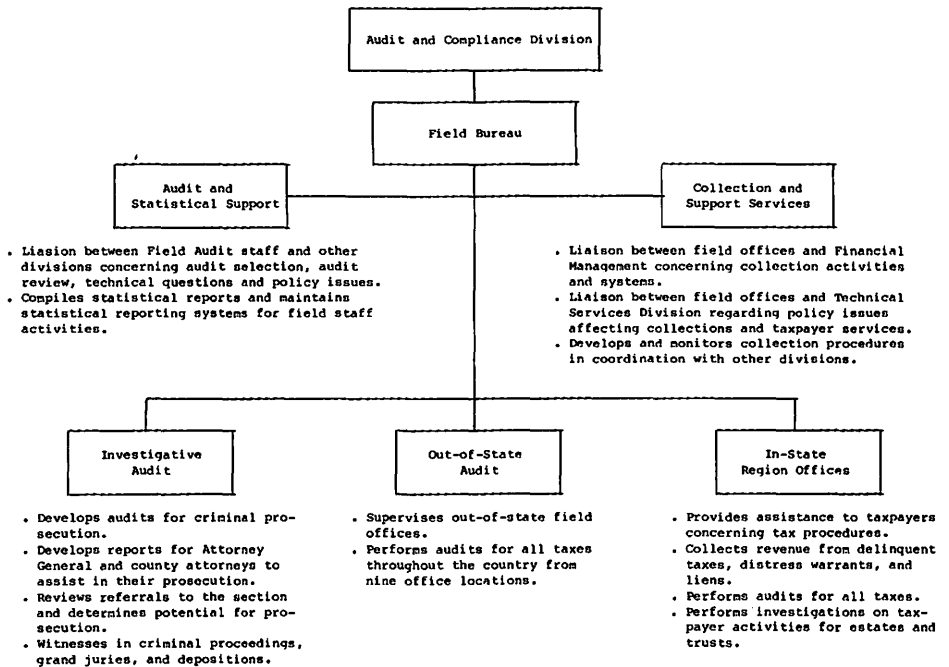


- . Conducts office audit of corporation returns for assessment or refund and enforces corporate nexus regulations and compliance with regard to Iowa nonfilers.
- . Performs franchise tax office examinations and determines the distribution of the franchise tax.
- . Examines, verifies and approves sales/use claims for refund and requests warrants for issue.
- . Reviews and corrects errors on motor vehicle fuel tax monthly and quarterly reports; reviews and approves MVT credit claims; and verifies gallonage shown on motor fuel terminal reports and matches to the motor fuel gallons reported as received by individual motor fuel distributors.
- . Processes and examines cigarette and tobacco reports and verifies sales of cigarette revenue to cigarette distributors.

- . Office examination of fiduciary, inheritance, and individual income tax returns.
- . Generates billings/refunds from office examinations.
- . Reviews federal audits and participates in federal/state exchange program.
- . Maintains federal printouts as required by the federal/state agreement.
- . Performs match programs to identify nonfilers and under reporting of income and refers potential criminal cases to Investigative Audit Unit.

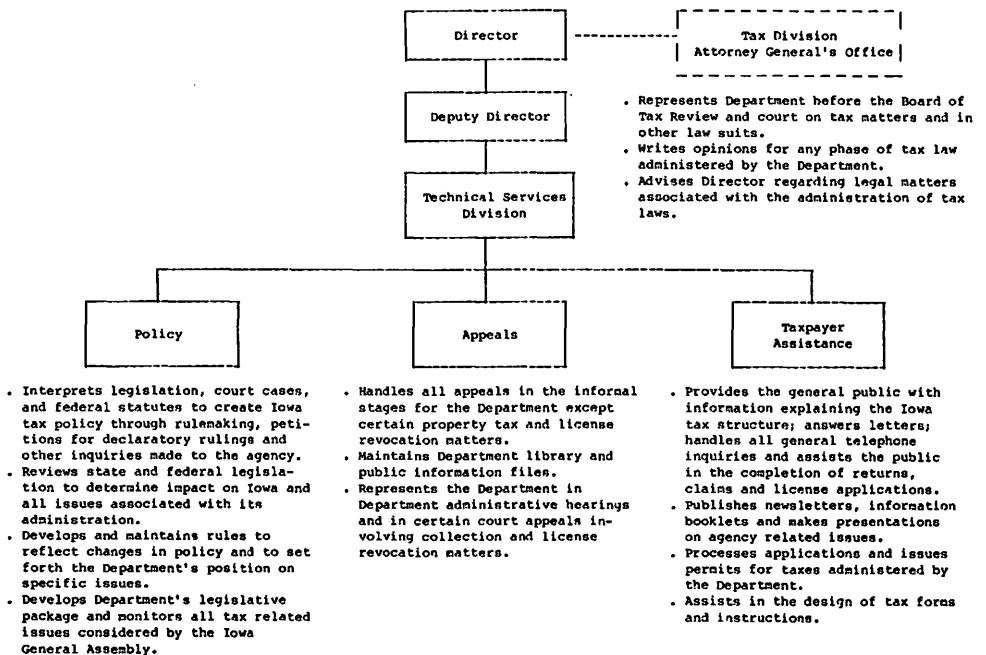
**AUDIT AND COMPLIANCE DIVISION**  
Field Bureau

11



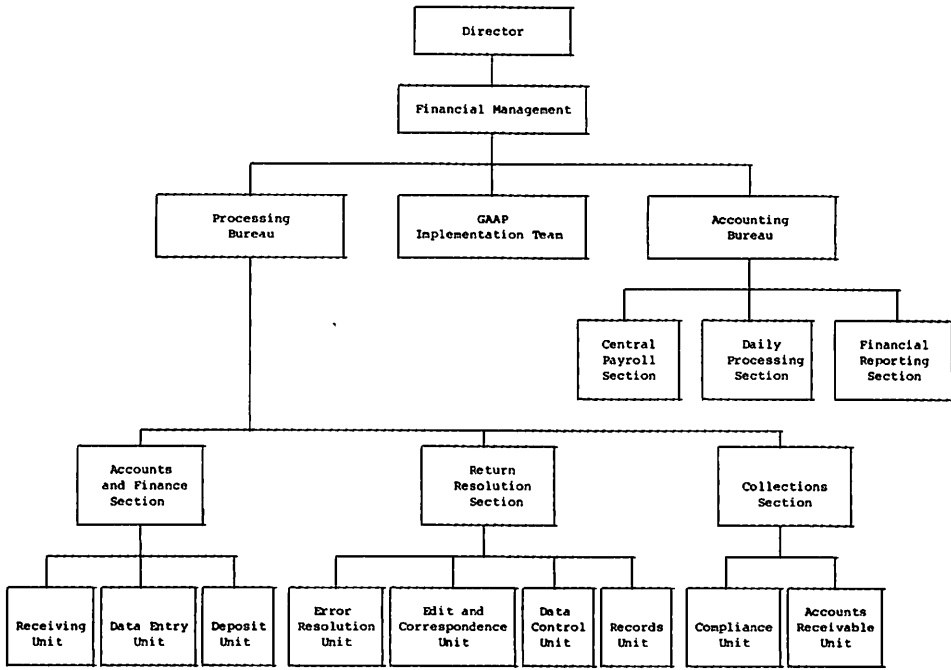
**TECHNICAL SERVICES**

12

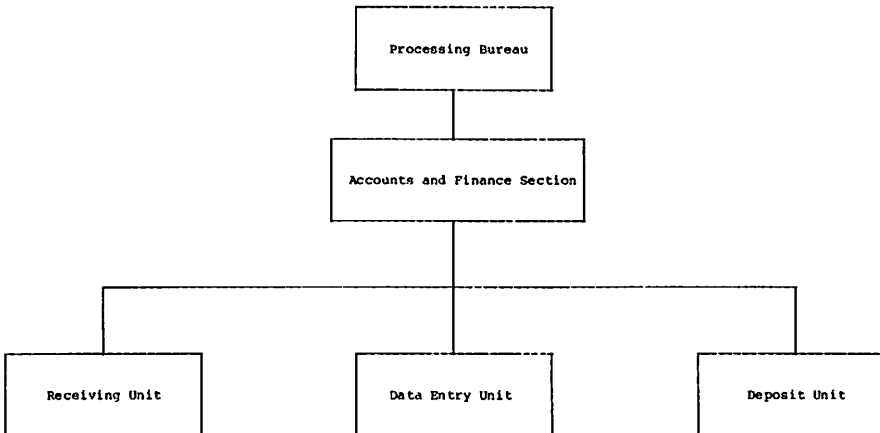


## FINANCIAL MANAGEMENT

13


 FINANCIAL MANAGEMENT  
 Processing Bureau  
 Accounts & Finance

14

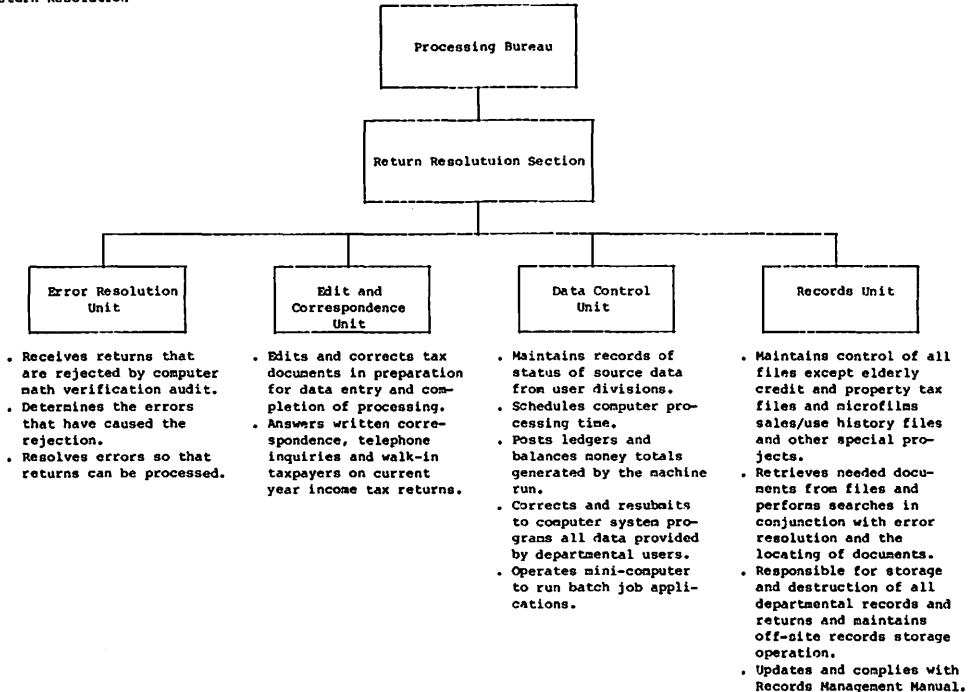


- Reconciles amount of money remitted to the amount reported on the returns.
- Routes returns and documents to proper processing points.
- Processes changes and cancellations for all tax systems administered by the Department.

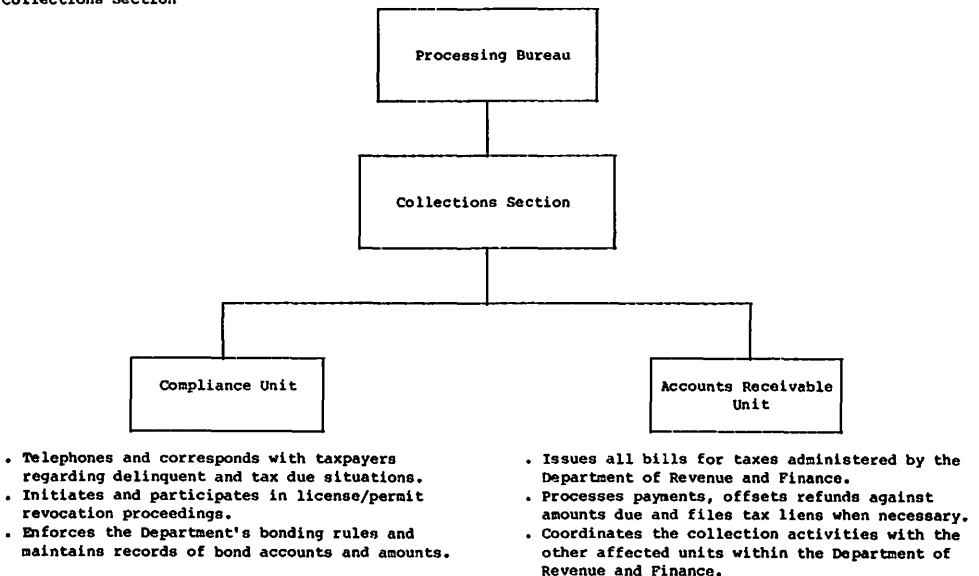
- Transcribes data from forms and documents onto magnetic disks for computer utilization.

- Validates and batches incoming documents.
- Keeps bookkeeping records of revenue received and prepares monthly revenue reports.
- Separates checks from returns and encodes and deposits the checks.
- Routes and maintains control of document flow.
- Sells cigarette stamps to licensed distributors.

**FINANCIAL MANAGEMENT**  
Processing Bureau  
Return Resolution

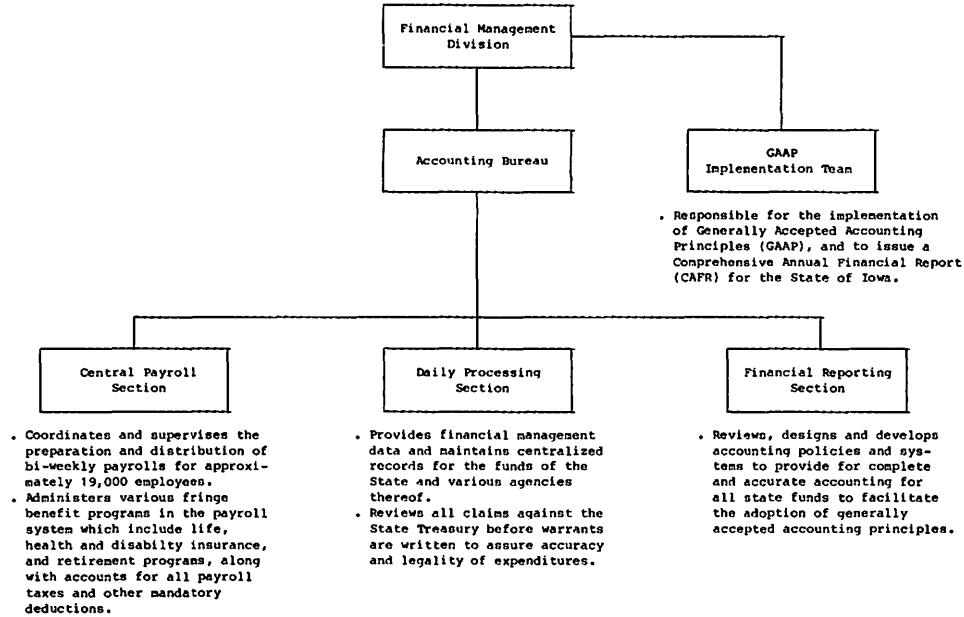


**FINANCIAL MANAGEMENT**  
Processing Bureau  
Collections Section



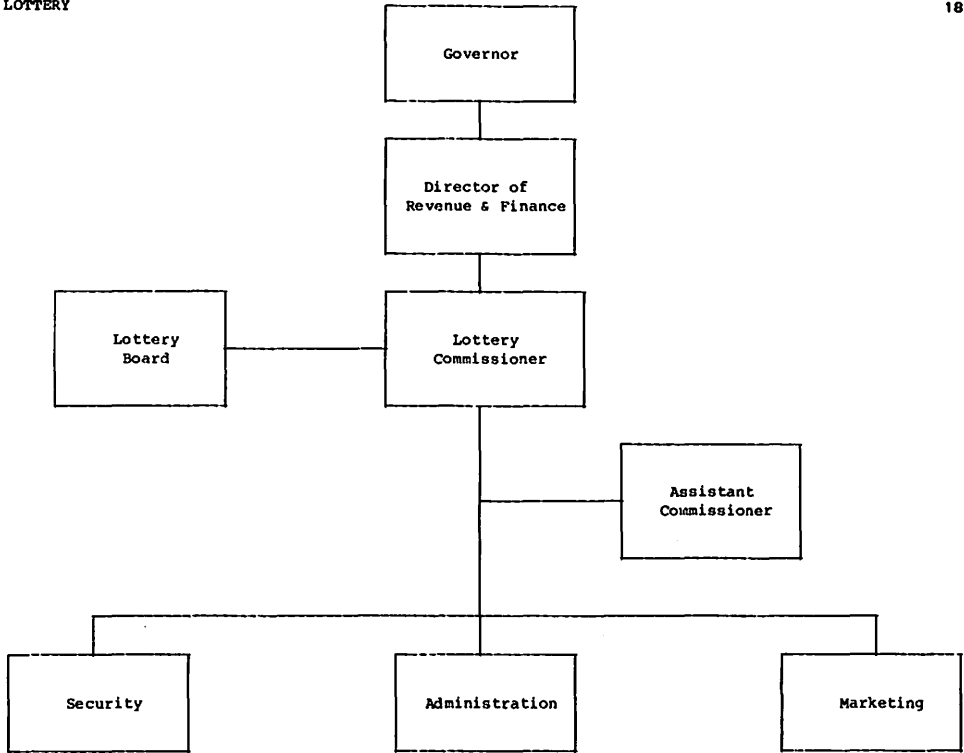
FINANCIAL MANAGEMENT  
Accounting Bureau

17

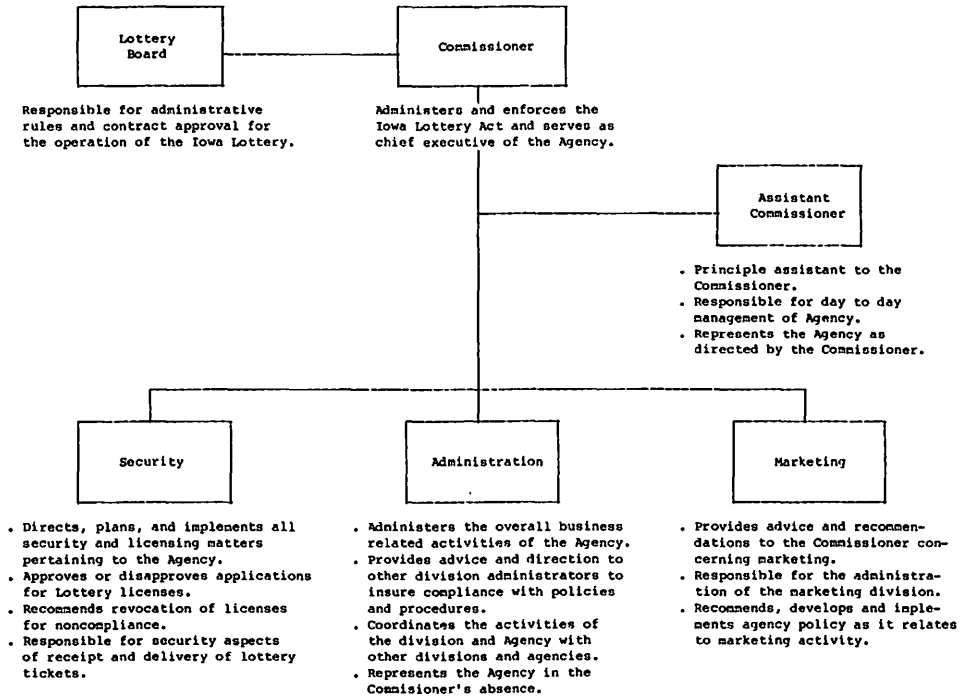


LOTTERY

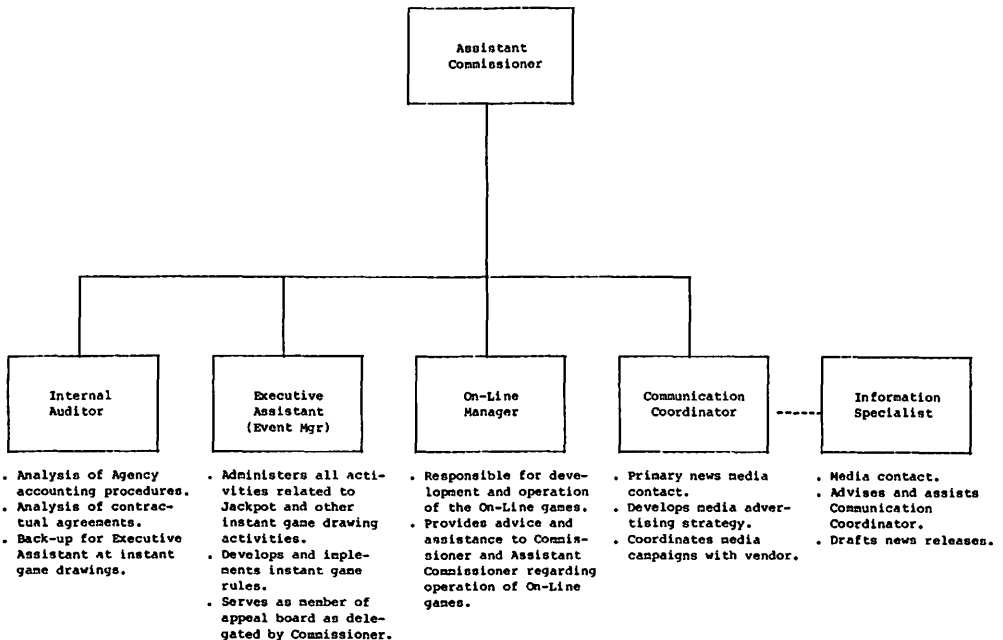
18



## LOTTERY



## LOTTERY



**701—6.2(17A) Public inspection.** Effective July 1, 1975, Iowa Code section 17A.3 “c” and “d” provides that the department shall index and make available for public inspection certain information. Pursuant to this requirement the department shall:

1. Make available for public inspection all rules;
2. Make available for public inspection and index by subject all written statements of law or policy, or interpretations formulated, adopted, or used by the department in the discharge of its functions;
3. Make available for public inspection and index by name and subject all final orders, decisions and opinions.

Section 17A.3 “c” and “d” also excepts certain matters from the public inspection requirement:

Except as provided by constitution or statute, or in the use of discovery or in criminal cases, the department shall not be required to make available for public inspection those portions of its staff manuals, instructions or other statements issued by the department which set forth criteria or guidelines to be used by its staff in auditing, in making inspections, in settling commercial disputes or negotiating commercial arrangements, or in the selection or handling of cases such as operational tactics or allowable tolerances or criteria for the defense, prosecution, or settlement of cases, when the disclosure of such statements would: (1) Enable law violators to avoid detection; or (2) facilitate disregard of requirements imposed by law; or (3) give a clearly improper advantage to persons who are in an adverse position to the state.

Identifying details which would clearly warrant an invasion of personal privacy or trade secrets will be deleted from any final order, decision or opinion which is made available for public inspection upon a proper showing by the person requesting such deletion as provided in 7.16(S).

Furthermore, the department shall not make available for public inspection or disclose information deemed confidential under sections 422.20 and 422.72.

Unless otherwise provided by statute, by rule or upon a showing of good cause by the person filing a document, all information contained in any petition or pleading shall be made available for public inspection.

All information accorded public inspection treatment shall be made available for inspection in the office of the Iowa Department of Revenue and Finance, P.O. Box 10460, Des Moines, Iowa 50306 during established office hours.

These rules are intended to implement Iowa Code chapter 17A.

**701—6.3(17A) Examination of records by other state officials.** Upon the express written approval of the director or deputy director of revenue and finance, officers or employees of the state of Iowa may examine state tax returns and information belonging to the department to the extent required as part of their official duties and responsibilities. Written approval will be granted in those situations where the officers or employees of the state of Iowa have (1) statutory authority to obtain information from the department of revenue and finance and (2) the information obtained is used for tax administration purposes. Where information is obtained from the department of revenue and finance on a regular basis, the director of revenue and finance may enter into a formal agreement with the state agency or state official who

is requesting the information. The agreement will cover the conditions and procedures under which specific information will be released. The following persons do not need written approval from the director or deputy director of revenue and finance to examine state information and returns:

1. Assistant attorneys general assigned to the department of revenue and finance.
2. Local officials acting as representatives of the state in connection with the collection of taxes or in connection with legal proceedings relating to the enforcement of tax laws.
3. The child support recovery unit of the department of human services to secure a taxpayer's name and address per the terms of an interagency agreement. (Also see Iowa Code section 252B.9).
4. The job service division per the terms of an interagency agreement.
5. The legislative fiscal bureau regarding sample individual income tax information to be used for statistical purposes. (Also see Iowa Code section 422.72(1)).
6. The auditor of state, to the extent that the information is necessary to complete the annual audit of the department as required by Iowa Code section 11.2. (Also see Iowa Code section 422.72(1)).

Tax information and returns will not be released to officers and employees of the state who do not meet the requirements set forth above. [See Letter Opinions, November 25, 1981, Richards to Bair, Director of Revenue and March 4, 1982, Richards to Johnson, Auditor and Bair, Director of Revenue.]

The director may disclose state tax information, including return information, to tax officials of another state or the United States government for tax administration purposes provided that a reciprocal agreement exists which has laws that are as strict as the laws of Iowa protecting the confidentiality of returns and information.

This rule is intended to implement Iowa Code sections 252B.9, 324.63, 421.18, 421.19, 422.20, and 422.72.

**701—6.4(17A) Copies of proposed rules.** A trade or occupational association, which has registered its name and address with the department of revenue and finance, may receive, by mail, copies of proposed rules. Registration of the association's name and address with the department is accomplished by written notification to the Deputy Director of Revenue and Finance, P.O. Box 10460, Des Moines, Iowa 50306. In the written notification, the association must designate, by reference to rule 701—7.2(17A), the type of proposed rules and the number of copies of each rule it wishes to receive. If the association wishes to receive copies of proposed rules not enumerated in rule 701—7.2(17A), it may make a blanket written request at the time of registration or at any time prior to the adoption of such rules. A charge of 25 cents per single-sided page shall be charged to cover the actual cost of providing each copy of the proposed rule. In the event the actual cost exceeds 20 cents for a single-sided page, it will be billed accordingly.

This rule does not prevent an association which has registered with the department in accordance with this rule from changing its designation of types of proposed rules or number of copies of proposed rules which the association desires to receive. If an association makes such changed designation, it must do so by written notification to the deputy director of revenue and finance.

This rule is intended to implement Iowa Code section 17A.4.

**701—6.5(17A) Regulatory flexibility analysis procedures.** Any small business as defined in Iowa Code section 17A.31 or organization of small businesses which has registered its name and address with the department of revenue and finance shall receive by mail a copy or copies of any proposed rule which may have an impact on small business. Registration of the business's or organization's name and address with the department is accomplished by written notification to the Deputy Director of Revenue and Finance, P.O. Box 10460, Des Moines, Iowa 50306. In the written notification, the business or organization must state that it wishes to receive copies of rules which may have an impact on small business, the number of copies of each

rule it wishes to receive, and must also designate, by reference to rule 701—7.2(17A), the types of proposed rules it wishes to receive. If the small business or organization of small businesses wishes to receive copies of proposed rules not enumerated in rule 701—7.2(17A), it may make a blanket written request at the time of registration or at any time prior to the adoption of the rules. A charge of 20 cents per single-sided page shall be imposed to cover the actual cost of providing each copy of the proposed rule. In the event the actual cost exceeds 20 cents for a single-sided page, it will be billed accordingly.

The administrative rules review committee, the governor, a political subdivision, at least 25 persons signing the request who qualify as a small business, or an organization representing at least 25 persons which is registered with the department as provided in this rule may request issuance of a regulatory flexibility analysis by writing to the Director of Revenue and Finance, P.O. Box 10460, Des Moines, Iowa 50306. The request shall contain the following information: The name of the persons qualified as a small business and the name of the small business or the name of the organization as stated in its request for registration and an address; if a registered organization is requesting the analysis, a statement that the registered organization represents at least 25 persons; the proposed rule or portion of the proposed rule for which a regulatory flexibility analysis is requested; the factual situation which gives rise to the business's or organization's difficulties with the proposed rule; any of the methods for reducing the impact of the proposed rule on small business contained in Iowa Code section 17A.31(4) which may be particularly applicable to the circumstances; the name, address and telephone number of any person or persons knowledgeable regarding the difficulties which the proposed rule poses for small business and other information as the business or organization may deem relevant.

This rule is intended to implement Iowa Code sections 17A.31 to 17A.33.

**701—6.6(422) Retention of records and returns by the department.** The director may destroy any records, returns, reports or communications of a taxpayer after they have been in the custody of the department for three years, or at such later time when the statute of limitations for audit of the returns or reports has expired. The director may destroy any records, returns, reports or communications of a taxpayer before they have been in the custody of the department for three years provided that the amount of tax and penalty due has been finally determined.

This rule is intended to implement Iowa Code section 422.62.

[Filed July 1, 1975]

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

[Filed 5/9/80, Notice 4/2/80—published 5/28/80, effective 7/2/80]

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

[Filed 4/23/81, Notice 3/18/81—published 5/13/81, effective 6/17/81]

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

[Filed 8/12/83, Notice 7/6/83—published 8/31/83, effective 10/5/83]

[Filed 4/5/85, Notice 2/27/85—published 4/24/85, effective 5/29/85]

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

[Filed 9/18/87, Notice 8/12/87—published 10/7/87, effective 11/11/87]

**701—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 10 percent of the tax required to be paid. Department rule 30.1(423) describes in detail the persons who are subject to this 10 percent penalty. For any person who is not a retailer, the penalty for failure to timely pay use tax is 5 percent 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 15 percent of the tax required to be paid. Department rule 30.1(423) described in detail the persons who are subject to this 15 percent 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 701—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 1987 Iowa Acts, House File 334.

**701—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 believes 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 must be filed with the department within the statutory period provided in Iowa Code section 422.73(1). 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 situations 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.

**701—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 30 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 a 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]

[Filed emergency 11/14/86—published 12/17/86, effective 11/14/86]

[Filed 1/23/87, Notice 12/17/86—published 2/11/87, effective 3/18/87]

[Filed 9/18/87, Notice 8/12/87—published 10/7/87, effective 11/11/87]

**CHAPTER 52**  
**FILING RETURNS, PAYMENT OF TAX AND**  
**PENALTY AND INTEREST**

[Prior to 12/17/86, Revenue Department(730)]

**701—52.1(422) Who must file.** Every corporation, organized under the laws of Iowa or qualified to do business within this state or doing business within Iowa, regardless of net income, shall file a true and accurate return of its income or loss for the taxable period. The return shall be signed by the president or other duly authorized officer. If the corporation was inactive or not doing business within Iowa, although qualified to do so, during the taxable year, the return must contain a statement to that effect.

**52.1(1) Definitions.**

*a. Doing business.* The term "doing business" is used in a comprehensive sense and include all activities or any transactions for the purpose of financial or pecuniary gain or profit. Irrespective of the nature of its activities, every corporation organized for profit and carrying out any of the purposes of its organization shall be deemed to be "doing business". In determining whether a corporation is doing business, it is immaterial whether its activities actually result in a profit or loss.

For the period from July 1, 1986, through December 31, 1988, the term "doing business" does not include placing of liquor in bailment pursuant to 1986 Iowa Acts, chapter 1246, section 603, if this is the corporation's sole activity within Iowa. Any activities by corporate officers or employees in Iowa in addition to bailment are "doing business" and will subject the corporation to corporation income tax.

*b. Business location.* A "business location" includes a repair shop, parts department, purchasing office, employment office, warehouse, terminal, meeting place for directors, sales office, permanent sample or display room, research facility or a recreational facility for use of employees or customers. A residence of an employee or representative is not ordinarily considered a "business location" of the employer unless the facts indicate otherwise. It would be considered a business location under one or more of the following conditions: A portion of the residence is used exclusively for the business of the employer, the employee is reimbursed or paid a flat fee for the use of this space by the employer, the employee's phone number is listed in the telephone directory under the name of the employer; the employee uses supplies, equipment or samples furnished by the employer, or the space is used by the employee to interview prospective employees, hold sales meetings, or discuss business with customers.

*c. Representative.* A representative does not include an independent contractor. A person may be considered a representative even though that person may not be considered an employee for other purposes such as the withholding of income tax from commissions. If the person is subject to the direct control of the foreign corporation, that person may not qualify as an independent contractor. See *Herff Jones Company v. State Tax Commission*, 430 P 2d 998 (Ore. 1967)

**52.1(2) Corporate activities not creating taxability.** Public Law 86-272, 15 U.S.C.A., sections 381-385, in general prohibits any state from imposing an income tax on income derived within the state from interstate commerce if the only business activity within the state consists of the solicitation of orders of tangible personal property by or on behalf of a corporation by its employees or representatives. Such orders must be sent outside the state for approval or rejection and if approved, must be filled by shipment or delivery from a point outside the state to be within the purview of Public Law 86-272. Public Law 86-272 does not extend to those corporations which sell services, real estate or intangibles in more than one state or to domestic corporations.

If the only activities in Iowa of a foreign corporation selling tangible personal property are those described in "a" through "m" below, such corporation is not subject to the Iowa corporation income tax law under Public Law 86-272.

*a. Usual or frequent activity in Iowa by employees or representatives soliciting orders for tangible personal property which orders are sent outside this state for approval or rejection.*

**b. Solicitation activity by nonemployee independent contractors, conducted through their own office or business location in Iowa.**

**c. The free distribution by soliciting sales persons of product samples and brochures which explain the use of or laud the product, or both. *Miles Laboratories v. Department of Revenue*, 1975, 274 Ore. 395, 546 P.2d 1081; *State ex rel. CIBA Pharmaceutical Products, Inc. v. State Tax Commission*, 1964, Mo., 328 S.W.2d 645.**

d. Leasing of motor vehicles for use by sales persons in soliciting orders. *State ex rel. CIBA Pharmaceutical Products v. State Tax Commission*, supra.

e. Attempts by sales persons to gain new customers. *Olympia Brewing Co. v. Department of Revenue*, 1972, 5 OTR 99, aff'd 511 P.2d 837.

f. Sales persons negotiating a price for a product, subject to approval or rejection of such negotiated price and solicited order outside the taxing state.

g. Demonstrating, prior to the consummation of the sale by acceptance outside the state, how the corporation's product works. *Coors Porcelain Company v. State*, 1974, Colo., 517 P.2d 838; *State ex rel. CIBA Pharmaceutical Products, Inc. v. State Tax Commission*, supra.

h. The placing of advertising in newspapers, radio, and television. *Miles Laboratories v. Department of Revenue*, supra; *Coors Porcelain Company v. State*, supra; NOTE, *State Taxation of Interstate Commerce: Public Law 86-272*, 46 Va.L.Rev. 297,313 (1960).

i. Delivery of goods to customers by corporation in its own or leased vehicles from a point outside the taxing state.

j. Corporate personnel contacting individuals or business which will not purchase the product directly from the corporation. *State ex rel. CIBA Pharmaceutical Products, Inc. v. State Tax Commission*, supra; *Smith Kline & French Laboratories v. State Tax Commission*, 1965, 241 Ore. 50, 403 P.2d 372.

k. Collection of state sales or use taxes from corporation customers. *McGoldrick v. A. H. DuGrenier*, 1940, 309 U.S. 70; *Scripto, Inc. v. Carson*, 1960, 363 U.S. 207.

l. Audit of inventory levels by salespersons to determine if corporation's customer has low or outdated inventory. *The Gillette Co. v. State Tax Commission*, 56 A.D.2d 475, 393 N.Y.S.2d 186 (1977), aff'd, 45 N.Y.2d 846, 410 N.Y.S.2d 65, 382, N.E.2d 764 (1978); *Olympia Brewing Co. v. Department of Revenue*, supra.

m. Rescinded, effective May 1, 1985.

**52.1(3) Corporate activities creating taxability.** If a foreign corporation has one or more of the following activities in Iowa, it is considered to have nexus and shall be subject to the Iowa corporation income tax.

a. Sales persons (or other corporate employees) visiting their customers or users of corporate products for purposes of determining whether customers or users are satisfied. *Clairol, Inc. v. Kingsley*, 1970, 109 N.J. Sup.22, 262 A.2d 213; *Olympia Brewing Co. v. Department of Revenue*, supra.

b. Installation or assembly of the corporate product. *Iron Fireman Mfg. Co. v. State Tax Commission*, 1968, 251 Ore. 227, 445 P.2d 126.

c. Ownership or lease of real estate by corporation. NOTE, supra, at Va.L.Rev. 315.

d. Solicitation of orders for or sale of services or real estate.

e. Sale of tangible personal property (as opposed to solicitation of orders) or performing of services within Iowa.

f. Maintaining a stock of inventory in a public warehouse. *Olympia Brewing Co. v. Department of Revenue*, supra; NOTE, supra, at 46 Va.L.Rev. 315.

g. Existence of a sales office to serve soliciting salespersons. *Jantzen, Inc. v. District of Columbia*, CCH D.C. Tax Case PP 200-219, Superior Court of the District of Columbia, Tax Division, Tax Docket No. 2398, July 26, 1977, aff'd 395 A.2d 29 (D.C. Ct. App. 1978).

h. Corporation's employees engaged in managerial activities. *Clairol, Inc. v. Kingsley*, supra; *Briggs & Stratton v. Commission*, 1968, 3 OTR 174.

i. Salespersons making collections on regular or delinquent accounts. *Olympia Brewing Co. v. Department of Revenue*, supra; *Hervey v. AMF Beaird, Inc.*, 464 S.W.2d 557; *Herff Jones Company v. Tax Commission*, supra; *Cal-Roof Wholesale v. State Tax Commission*, 1966, 242 Ore. 435, 410 P.2d 233.

j. Technical assistance and training within Iowa offered by corporate personnel to purchasers or users of corporate products after the sale. *Briggs & Stratton v. Commission*, supra; *Iron Fireman Mfg. Co. v. State Tax Commission*, supra; *Clairol, Inc. v. Kingsley*, supra.

k. Corporate personnel repairing or replacing faulty or damaged goods. *Olympia Brewing Co. v. Department of Revenue*, supra; *Miles Laboratories v. Department of Revenue*, supra.



l. Corporate personnel picking up from purchaser or user returned merchandise. *Cal-Roof Wholesale v. State Tax Commission*, supra.

m. Corporate personnel rectifying or assisting in rectifying any product complaints, credit complaints, shipping complaints, etc. *Briggs & Stratton v. Commission*, supra; *Cal-Roof Wholesale v. State Tax Commission*, supra.

n. Delivery of corporate merchandise inventory to corporation's distributors or dealers on consignment. *Hervey v. AMF Beaird, Inc.*, supra.

o. Maintaining personal property which is not inventory in the state and which is not related to solicitation of orders. *Olympia Brewing Co. v. Department of Revenue*, supra.

p. Participation in approval of servicing distributors and dealers where purchasers of corporation products can have such products serviced or repaired. *Briggs & Stratton v. Commission*, supra.

q. The rendering of inspection services. *Briggs & Stratton v. Commission*, supra.

r. Corporate personnel conducting credit investigations or arranging for credit and financing for purchasers or corporate products. *Cal-Roof Wholesale v. State Tax Commission*, supra.

s. Salesperson conveying information to customers concerning out-of-stock conditions or delays in shipments, verifying the destruction of damaged merchandise, and coordinating delivery of merchandise, and coordinating delivery of merchandise for special promotions.

t. Inspection of the customers installation of the corporate product or a contractual right to inspect the installation whether or not the inspection was performed. Appeal of *Riblet Tramway Co. v. California State Board of Equalization*, December 12, 1967.

u. Corporate personnel who are based outside Iowa coming into Iowa for purposes such as research, technical assistance or managerial activities.

v. Salespersons using their homes to work from and to store corporate property consisting of product samples, brochures and advertising materials, instructions on use of product, and the like related to solicitation of orders if the corporation compensates the salespersons for the use of their homes and lists the address or telephone number of those homes in its advertising and public announcements.

w. Salespersons carrying samples or replacement parts for both sale and free distribution during solicitation. *Miles Laboratories v. Department of Revenue*, supra.

x. Corporation personnel engaging only occasionally or de minimus in nonsolicitation activities. The quantum of such activities has been held to be irrelevant and even occasional non-solicitation activities can preclude Public Law 86-272 immunity. *Miles Laboratories v. Department of Revenue*, supra; *Herff Jones Company v. Tax Commission*, supra.

y. Corporate personnel setting up displays or removal of old or defective products. *National Tires, Inc. v. Lindley*, 68 Ohio App.2d 71, 426 N.E.2d 793 (1980).

52.1(4) *Taxation of "S" corporations, domestic international sales corporations and real estate investment trusts.* Certain corporations and other types of entities, which are taxable as corporations for federal purposes, may by federal election and qualification have a portion or all of their income taxable to the shareholders or the beneficiaries. Generally, the state of Iowa follows the federal provisions (with adjustments provided by Iowa law) for determining the amount and to whom the income is taxable. Examples of entities which may avail themselves of pass-through provisions for taxation of at least part of their net income are real estate investment trusts, small business corporations electing to file under sections 1371-1378 of the Internal Revenue Code, Domestic International Sales Corporations as authorized under sections 991-997 of the Internal Revenue Code, and certain types of co-operatives and regulated investment companies. The entity's portion of the net income which is taxable as corporation net income for federal purposes is generally also taxable as Iowa corporation income (with adjustments as provided by Iowa law) and the shareholders or beneficiaries will report on their Iowa returns their share of the organization's income reportable for federal purposes as shareholder income (with adjustments provided by Iowa law). Nonresident shareholders or beneficiaries are required to report their distributive share of said income reasonably

attributable to Iowa sources. Schedules shall be filed with the individual's return showing the computation of the income attributable to Iowa sources and the computation of the nonresident taxpayer's distributive share thereof. Entities with a nonresident beneficiary or shareholder shall include a schedule in the return computing the amount of income as determined under chapter 54 of the rules. It will be the responsibility of the entity to make the apportionment of the income and supply the nonresident taxpayer with information regarding the nonresident taxpayer's Iowa taxable income.

**52.1(5) Exempted corporations and organizations filing requirements.**

*a. Application for exemption.* A corporation or organization claiming exemption from taxation pursuant to Iowa Code section 422.34, must file an application for exemption (form 42-044) with the director in such form and manner as may be prescribed by the director containing such information as is necessary to determine the exempt status of the organization. A copy of the federal determination letter must be attached to such application.

*b. Information returns.* Every corporation shall file returns of information as provided by sections 422.15 and 422.16 and any regulations regarding information returns.

*c. Annual return.* If a corporation or organization is notified by the department in writing that it is exempt from the Iowa corporation income tax under section 422.34, the filing of an annual return is not required. If the exemption is denied or revoked by the director, an Iowa corporation income tax return shall be required to be filed within such time as the director may specify and any tax shown to be due shall be paid together with interest thereon from the original due date of the return as prescribed in section 422.21 through the month in which the tax is paid. The corporation or organization shall inform the director in writing of the revocation of or change in exempt status by the Internal Revenue Service within 30 days after the federal determination.

*d. Tax on unrelated business income.* Where a corporation or organization is subject to the federal income tax imposed by section 511 of the Internal Revenue Code on unrelated business income, such corporation or organization is not subject to Iowa corporation income tax on the unrelated business income. Opinion of the Attorney General, Griger to Craft, February 13, 1978.

**52.1(6) Income tax of corporations in liquidation.** When a corporation is in the process of liquidation, or in the hands of a receiver, the income tax returns must be made under oath or affirmation of the persons responsible for the conduct of the affairs of such corporations, and must be filed at the same time and in the same manner as required of other corporations.

**52.1(7) Income tax returns for corporations dissolved.** Corporations which have been dissolved during the income year must file income tax returns for the period prior to dissolution which has not already been covered by previous returns. Officers and directors are responsible for the filing of the returns and for the payment of taxes, if any, for the audit period provided by law.

Where a corporation dissolves and disposes of its assets without making provision for the payment of its accrued Iowa income tax, liability for the tax follows the assets so distributed and upon failure to secure the unpaid amount, suit to collect the tax may be instituted against the stockholders and other persons receiving the property, to the extent of the property received, except bona fide purchasers or others as provided by law.

This rule is intended to implement Iowa Code sections 422.32, 422.33 as amended by 1987 Iowa Acts, Senate File 298, 422.34, and 422.36.

**701—52.2(422) Time and place for filing return.**

**52.2(1) Returns of corporations.** A return of income for all corporations must be filed on or before the due date. The due date for all corporations excepting cooperative associations as defined in section 6072(d) of the Internal Revenue Code, is the last day of the fourth month following the close of the taxpayer's taxable year, whether the return be made on the basis of the calendar year or the fiscal year; or the last day of the period covered by an extension of time granted by the director. When the due date falls on a Saturday, Sunday or a legal holiday, the return will be due the first business day following

whichever is the later, at the statutory rate, to the date refunded. Date of payment means the date the return is filed.

**52.6(14) Overpayment—interest accruing on overpayments resulting from returns due on or after April 30, 1981.** If the amount of tax determined to be due by the department is less than the amount paid, the excess to be refunded will accrue interest from the first day of the second calendar month following the date of payment or the date the return was due to be filed or was filed, whichever is the later.

**52.6(15) Request for waiver of penalty.** This subrule is only applicable to tax that is due on or before December 31, 1984. Any taxpayer who believes he has good reason to object to any penalty imposed by the department for failure to timely file a return 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 and not due to willful neglect, 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 taxpayer's failure to file a return as required by law.

There must be two (2) showings. The first is that the failure to act was not due to willful neglect, and secondly, the failure was due to reasonable cause. A showing that the failure to act was not due to "willful neglect" does not presume that the failure was due to "reasonable cause".

Any taxpayer who believes he has good reason to object to any penalty imposed by the department for failure to timely pay 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 pay the tax as required by law.

The following are examples of situations that may be accepted by the director as being reasonable cause:

a. Where the return or payment was filed on time, but filed erroneously with the Internal Revenue Service or another state agency.

b. A showing that the completed return was mailed in time to reach the department in the normal course of mails, within the legal period. If the due date is a Saturday, Sunday, or legal holiday, the following business day is within the legal period.

c. Where the delay was caused by death or serious illness of the officer responsible for filing.

d. Where the delay was caused by prolonged unavoidable absence of the officer responsible for filing.

e. Where the delinquency was caused by the destruction by fire or other casualty of the taxpayer's place of business or business records.

f. A showing that the delay or failure was due to erroneous information given the taxpayer by an employee of the department.

g. A waiver of penalty will generally apply where a taxpayer has timely filed his return under the provisions of Internal Revenue regulation 1.1502-76(c).

h. If the taxpayer exercised ordinary business care and prudence and was nevertheless unable to file the return within the prescribed time, then the delay is due to a reasonable cause. A 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 tax 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).

This rule is intended to implement Iowa Code section 422.25 as amended by 1986 Iowa Acts, chapter 1007.

[Filed December 12, 1974]

[Filed 12/10/76, Notice 9/22/76—published 12/29/76, effective 2/2/77]

[Filed 4/28/78, Notice 3/22/78—published 5/17/78, effective 6/22/78]

[Filed 12/7/79, Notice 10/31/79—published 12/26/79, effective 1/30/80]

[Filed emergency 6/6/80—published 6/25/80, effective 6/6/80]

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

[Filed 11/20/81, Notice 10/14/81—published 12/9/81, effective 1/13/82]

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

[Filed 9/23/82, Notice 8/18/82—published 10/13/82, effective 11/17/82]

[Filed 10/22/82, Notice 9/15/82—published 11/10/82, effective 12/15/82]

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

[Filed 2/10/84, Notice 1/4/84—published 2/29/84, effective 4/5/84] ◇

[Filed 7/27/84, Notice 6/20/84—published 8/15/84, effective 9/19/84]

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

[Filed 2/22/85, Notice 1/16/85—published 3/13/85, effective 4/17/85]

[Filed 3/8/85, Notice 1/30/85—published 3/27/85, effective 5/1/85]

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

[Filed 9/6/85, Notice 7/31/85—published 9/25/85, effective 10/30/85]

[Filed 12/2/85, Notice 10/23/85—published 12/18/85, effective 1/22/86]

[Filed 6/27/86, Notice 5/7/86—published 7/16/86, effective 8/20/86]

[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 emergency 11/14/86—published 12/17/86, effective 11/14/86]

[Filed 9/18/87, Notice 8/12/87—published 10/7/87, effective 11/11/87]

d. Membership on other boards. A member of a board of review shall not at the same time serve on either the conference board or the examining board, or be an employee of the assessor's office (1948 O.A.G. 120, 1960 O.A.G. 226).

e. Number of members. A conference board may at any time change the composition of a board of review to either three or five members. To reduce membership from five members to three members, the conference board shall not appoint successors to fill the next two vacancies which occur (1970 O.A.G. 342). To increase membership from three members to five members, the conference board shall appoint two additional members whose initial terms shall expire at such times so that no two board members' terms expire at the end of the same year. Also, the conference board may increase the membership of the board of review by an additional two members if it determines a large number of protests warrant the emergency appointments. The terms of the emergency members will not exceed two years.

f. A member of a board of review may be removed from office by the conference board, but only after specific charges have been filed by the conference board.

**71.20(2) Sessions of boards of review.**

a. It is mandatory that a board of review convene on May 1 and adjourn no later than May 31 of each year. However, if either date falls on a Saturday, Sunday, or legal holiday, the board of review shall convene or adjourn on the following Monday.

b. Extended session. If a board of review determines it will be unable to complete its work by May 31, it may request that the director of revenue and finance extend its session up to July 15. The request must be signed by a majority of the membership of the board of review and must contain the reasons the board of review cannot complete its work by May 31. During the extended session, a board of review may perform the same functions as during its regular session unless specifically limited by the director of revenue and finance.

c. Special session. If a board of review is reconvened by the director of revenue and finance pursuant to Iowa Code section 421.17, the board of review shall perform those functions specified in the order of the director of revenue and finance and shall perform no other functions.

**71.20(3) Actions initiated by boards of review.**

a. Internal equalization of assessments. A board of review in reassessment years as provided in Iowa Code section 428.4 has the power to equalize individual assessments as established by the assessor, but cannot make percentage adjustments in the aggregate valuations of classes of property (1966 O.A.G. 416). In nonreassessment years, a board of review can adjust the valuation of an entire class of property by adjusting all assessment by a uniform percentage. Nothing contained in this rule shall restrict the director from exercising the responsibilities set forth in Iowa Code section 421.17.

b. Omitted assessments. A board of review may assess for taxation any property which was not assessed by the assessor, including property which the assessor determines erroneously is not subject to taxation by virtue of enjoying an exempt status (*Talley v. Brown* (1910), 146 Iowa 360, 125 N.W. 248).

c. Notice to taxpayers. If the value of any property is increased by a board of review or a board of review assesses property not previously assessed by the assessor, the person to whom the property is assessed shall be notified by regular mail of the board's action. The notification shall state that the taxpayer may protest the action by filing a written protest with the board of review within five days of the date of the notice. After at least five days have passed since notifying the taxpayer, the board of review shall meet to take final action on the matter, including the consideration of any protest filed. However, if the valuations of all properties within a class of property are raised or lowered by a uniform percentage in a nonreassessment year, notice to taxpayers need be provided only by newspaper publication as described in Iowa Code section 441.35.

**71.20(4) Appeals to boards of review.**

a. A board of review may act only upon written protests which have been filed with the board of review between April 16 and May 5, inclusive. In the event May 5 falls on a Saturday or Sunday, protests filed the following Monday shall be considered to have been timely filed.

Protests postmarked by May 5 or the following Monday if May 5 falls on a Saturday or Sunday shall also be considered to have been timely filed. All protests must be in writing and signed by the taxpayer or the taxpayer's authorized agent. A written request for an oral hearing must be made at the time of filing the protest and may be made by checking the appropriate box on the form prescribed by the department of revenue and finance. Protests may be filed for previous years if the taxpayer discovers that a mathematical or clerical error was made in the assessment, provided the taxes have not been fully paid or otherwise legally discharged.

b. Grounds for protest. Taxpayers may protest to a board of review on one or more of the grounds specified in Iowa Code section 441.37. The grounds for protest and procedures for considering protests are as follows:

(1) The assessment is not equitable when compared with those of similar properties in the same assessing district. If this ground is a basis for the protest, the protest must contain the legal descriptions and assessments of the comparable properties. The comparable properties selected by the taxpayer must be located within the same assessing district as the property for which the protest has been filed (*Maytag Co. v. Partridge*, 210 N.W. 2d 584 (Iowa 1973)). In considering a protest based upon this ground, the board of review should examine carefully all information used to determine the assessment of the subject property and the comparable properties and determine that those properties are indeed comparable to the subject property. It is the responsibility of the taxpayer to establish that the other properties submitted are comparable to the subject property and that inequalities exist in the assessments (*Chicago & N. W. Ry. Co. v. Iowa State Tax Commission* (1965), 257 Iowa 1359, 137 N.W. 2d 246).

(2) The property is assessed at more than its actual value as defined in Iowa Code section 441.21. If this ground is used, the taxpayer must state both the amount by which the property is overassessed and the amount considered to be the actual value of the property.

property.

(3) The property is not assessable and should be exempt from taxation. If using this ground, taxpayers must state the reasons why it is felt the property is not assessable.

(4) There is an error in the assessment. An error in the assessment would most probably involve erroneous mathematical computations or errors in listing the property. The improper classification of property also constitutes an error in the assessment. If this ground is used, the taxpayer's protest must state the specific error alleged.

A board of review must determine:

1. If an error exists, and
2. How the error might be corrected.

(5) There is fraud in the assessment. If this ground of protest is used, the taxpayer's protest must state the specific fraud alleged, and the board of review must first determine if there is validity to the taxpayer's allegation. If it is determined there is fraud in the assessment, the board of review shall take action to correct the assessment and report the matter to the director of revenue and finance.

(6) There has been a change of value of real estate since the last assessment. The board of review must determine that the value of the property as of January 1 of the current year has changed since January 1 of the previous reassessment year. This is the only ground upon which a protest pertaining to the valuation of a property can be filed in a year in which the assessor has not assessed or reassessed the property pursuant to Iowa Code section 428.4. In a year subsequent to a year in which a property has been assessed or reassessed pursuant to Iowa Code section 428.4, a taxpayer cannot protest to the board of review based upon actions taken in the year in which the property was assessed or reassessed (*James Black Dry Goods Co. v. Board of Review for City of Waterloo* (1967), 260 Iowa 1269, 151 N.W. 2d 534; *Commercial Merchants Nat'l Bank and Trust Co. v. Board of Review of Sioux City* (1941), 229 Iowa 1081, 296 N.W. 203).

c. Disposition of protests. After reaching a decision on a protest, the board of review shall give the taxpayer written notice of its decision. The notice shall contain the following information:

- (1) The valuation and classification of the property as determined by the board of review.

(2) If the protest was based on the ground the property was not assessable, the notice shall state whether the exemption is allowed and the value at which the property would be assessed in the absence of the exemption.

(3) The specific reasons for the board's decision with respect to the protest.

(4) That the board of review's decision may be appealed to the district court within 20 days of May 31 or within 20 days of the board's adjournment, whichever date is later. If the adjournment date is known, the date shall be stated on the notice. If the adjournment date is not known, the notice shall state the date will be no earlier than May 31.

This rule is intended to implement Iowa Code sections 441.31 to 441.37 as amended by 1987 Iowa Acts, House File 374.

#### **701—71.21(441) Assessors.**

**71.21(1) *Conflict of interest.*** An assessor shall not act as a private appraiser, or as a real estate broker or option agent in the jurisdiction in which serving as assessor (1976 O.A.G. 744).

##### **71.21(2) *Listing of property.***

*a. Forms.* Assessors may design and use their own forms in lieu of those prescribed by the department of revenue and finance provided that the forms contain all information contained on the prescribed form, are not substantially different from the prescribed form, and are approved by the director of revenue and finance.

*b. Assessment rolls.* Assessment rolls must be prepared in duplicate for each property in a reassessment year as defined in Iowa Code section 428.4. However, the copy of the roll does not have to be issued to a taxpayer unless there is a change in the assessment or the taxpayer requests the issuance of the duplicate copy.

*c. Whenever a date specified in Iowa Code chapter 441 falls on a Saturday, Sunday, or legal holiday, the action required to be completed on or before that date shall be considered to have been timely completed if performed on or before the following day which is not a Saturday, Sunday, or holiday.*

This rule is intended to implement Iowa Code chapter 441.

**71.22 to 71.24** Reserved.

#### **701—71.25(441,443) Omitted assessments.**

##### **71.25(1) *Property subject to omitted assessment.***

*a. Land and buildings.* An omitted assessment can be made only if land or buildings were not listed and assessed by the assessor. The failure to list and assess an entire building is an omission for which an omitted assessment can be made even if the land upon which the building is located has been listed and assessed. See *Okland v. Bilyeu*, 359 N.W.2d 412 (Iowa 1984). However, the failure to consider the value added as a result of an improvement made does not constitute an omission for which an omitted assessment can be made if the building or land to which the improvement was made has been listed and assessed.

*b. Previously exempt property.* Property which has been erroneously determined to be exempt from taxation may be restored to taxation by the making of an omitted assessment. See *Talley v. Brown*, 146 Iowa 360, 125 N.W. 243 (1910). An omitted assessment is also made to restore to taxation previously exempt property which ceases to be eligible for an exemption.

##### **71.25(2) *Officials authorized to make an omitted assessment.***

*a. Local board of review.* A local board of review may make an omitted assessment of property during its regular session only if the property was not listed and assessed as of January 1 of the current assessment year. For example, during its regular session which begins May 1, 1986, a local board of review may make an omitted assessment only of property that was not assessed by the assessor as of January 1, 1986. During that session, the board of review could not make an omitted assessment for an assessment year prior to 1986.

*b. County auditor and local assessor.* The county auditor and local assessor may make an omitted assessment. However, no omitted assessment can be made by the county auditor or local assessor if taxes based on the assessment year in question have been paid or otherwise legally discharged. For example, if a tract of land was listed and assessed and taxes levied

against that assessment have been paid or legally discharged, no omitted assessment can be made of a building located upon that tract of land even though the building was not listed and assessed at the time the land was listed and assessed. See *Okland v. Bilyeu*, 359 N.W.2d 412, 417 (Iowa 1984).

c. *County treasurer.* The county treasurer may make an omitted assessment within four years from the date the tax list which should have contained the assessment should have been delivered to the county treasurer. For example, for the 1985 assessment year, the tax list is to be delivered to the county treasurer on or before June 30, 1986. Thus, the county treasurer may make an omitted assessment for the 1985 assessment year at any time on or before June 30, 1990. However, the county treasurer may make an omitted assessment of a building even if taxes levied against the land upon which the building is located have been paid or legally discharged. See *Okland v. Bilyeu*, 359 N.W.2d 412, 417 (Iowa 1984). The county treasurer may not make an omitted assessment if the omitted property is no longer owned by the person who owned the property on January 1 of the year the original assessment should have been made.

This rule is intended to implement Iowa Code section 443.6.

[Filed 5/11/71; amended 8/16/73]

[Filed 6/21/77, Notice 4/6/77—published 7/13/77, effective 8/17/77]

[Filed emergency 7/21/77—published 8/10/77, effective 7/21/77]

[Filed emergency 8/3/79—published 8/22/79, effective 8/3/79]

[Filed emergency 8/1/80—published 8/20/80, effective 8/1/80]

[Filed 3/25/81, Notice 2/18/81—published 4/15/81, effective 5/20/81]

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

[Filed 3/25/83, Notice 2/16/83—published 4/13/83, effective 5/18/83]

[Filed 7/27/84, Notice 6/20/84—published 8/15/84, effective 9/19/84]

[Filed emergency 8/13/84—published 8/29/84, effective 8/13/84]

[Filed 8/10/84, Notice 7/4/84—published 8/29/84, effective 10/3/84]

[Filed 4/5/85, Notice 1/16/85—published 4/24/85, effective 5/29/85]

[Filed 5/31/85, Notice 4/24/85—published 6/19/85, effective 7/24/85]

[Filed 1/10/86, Notice 12/4/85—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 8/22/86, Notice 7/16/86—published 9/10/86, effective 10/15/86]

[Filed emergency 11/14/86—published 12/17/86, effective 11/14/86]

[Filed 5/15/87, Notice 3/25/87—published 6/3/87, effective 7/8/87]

[Filed 9/18/87, Notice 8/12/87—published 10/7/87, effective 11/11/87]

**CHAPTER 74**  
**SEMIANNUAL MOBILE HOME TAX**  
[Prior to 12/17/86, Revenue Department(730)]

**701—74.1(135D) Computation of semiannual mobile home tax.** The semiannual mobile home tax provided in Iowa Code sections 135D.22(1) and 135D.22(2) shall be computed prior to any reduction made pursuant to Iowa Code sections 135D.22(4) and 135D.22(5).

This rule is intended to implement Iowa Code section 135D.22.

**701—74.2(135D) Movement of mobile home to another county.** If the semiannual tax for the current and subsequent six-month period has been made and subsequently the mobile home is moved to another county, the tax collected shall remain in the county in which originally collected. No reimbursement shall be made either to the owner of the mobile home or to the county to which the mobile home was moved.

If the semiannual tax for the current six-month period has been paid and subsequently the mobile home is moved to another county, the entire tax payment shall remain in the county in which paid.

This rule is intended to implement Iowa Code section 135D.22.

**701—74.3(135D) Sale of mobile home.** If the owner of a mobile home has paid the semiannual tax for the current six-month period and subsequently sells the mobile home, no reimbursement shall be made to the seller for any portion of the tax paid. This rule applies both to sales to private individuals and sales to dealers.

This rule is intended to implement Iowa Code section 135D.22.

**701—74.4(135D) Reduced semiannual tax for the elderly and disabled.**

**74.4(1) Qualified owner.** For purposes of receiving the reduced semiannual tax rate for the elderly and disabled, the term "qualified owner" means any Iowa resident whose name appears on the title to a mobile home as the owner or one of the owners of the mobile home.

**74.4(2) Income.** In determining eligibility for the reduced tax rate, the claimant's income and that of the claimant's spouse shall be the income received during the base year or the income tax accounting period ending during the base year. The base year is the calendar year immediately preceding the year in which the claim is filed.

**74.4(3) Claims.** If a claimant files a valid claim for a reduced tax rate on or before April 1 but prior to July 1 sells the mobile home to a person subject to a tax rate greater than that available to the original claimant, the original reduced rate shall not be allowed for the semiannual tax period beginning July 1 and ending December 31. If the original claimant had paid the semiannual tax for both six-month periods of the current calendar year, the county treasurer shall compute the amount of tax due for the period beginning July 1 and ending December 31 and collect from the new owner the difference between the amount so computed and the tax paid for that period by the original claimant.

If the mobile home remains in the county in which both semiannual tax payments were collected, the county treasurer shall make the necessary adjustments for reimbursement purposes on the supplemental report provided for in subrule 74.4(4). If the mobile home has been moved to a county other than that in which both semiannual tax payments were collected, the county treasurer of the county in which the mobile home is located shall remit to the department of revenue and finance any additional tax collected pursuant to this subrule.

All claims for the reduced semiannual tax rate provided in Iowa Code section 135D.22 shall be made on forms provided by the department of revenue and finance.

**74.4(4) Reports to department of revenue and finance.** On or before April 15 of each year, the county treasurer of each county shall report to the department of revenue and finance the amount of taxes not to be collected for the current calendar year as a result of the reduced tax rate provided in Iowa Code section 135D.22(2). All such reports shall be made on forms prescribed and provided by the department of revenue and finance.

By not later than October 15 of each year, each county treasurer shall submit to the department of revenue and finance a supplemental report listing any additions or deletions to the original report. The supplemental report shall be made on forms prescribed and provided by the director.

**74.4(5) *Payment of claims.*** On December 15 of each year the department of revenue and finance shall remit to each county treasurer an amount equal to the taxes not collected during the current calendar year as a result of the granting of the reduced tax rate.

This rule is intended to implement Iowa Code sections 135D.22 as amended by 1987 Iowa Acts, House File 374.

**701—74.5(135D,441) *Conversion of mobile home to real estate.*** If a mobile home has been converted to real estate, the assessor shall collect the title and return it to the county treasurer. As a condition of conversion, the assessor shall also collect any unpaid semiannual taxes due for the current or prior six-month period.

A mobile home converted to real estate after January 1 shall not be assessed as real estate until January 1 of the year following conversion, and is subject to the tax imposed by Iowa Code section 135D.22 during the calendar year immediately preceding its assessment as real estate.

This rule is intended to implement Iowa Code sections 135D.26, 428.4 and 441.21.

**701—74.6(135D) *Reconversion of real estate to a mobile home.***

**74.6(1) *Requirements for reconversion.*** Real estate may be reconverted to a mobile home only if prior to its conversion to real estate it was subject to taxation under Iowa Code chapter 135D. Before the real estate can be reconverted to a mobile home, the owner must obtain a certificate of title to the mobile home and the written consent of the mortgagee, if any, and satisfy any outstanding delinquent taxes against the real estate upon which the mobile home is located.

**74.6(2) *Tax liabilities.*** Real estate reconverted to a mobile home shall be first subject to taxation under Iowa Code chapter 135D for the six-month period beginning January 1 of the calendar year immediately following the calendar year in which the reconversion takes place. All real estate taxes levied against assessments of the property made as of January 1 of the year in which the reconversion takes place and as of January 1 of any prior year remain payable and constitute a lien against the real estate until paid or otherwise legally discharged. Delinquent taxes against a mobile home assessed as real estate are to be collected pursuant to Iowa Code chapter 445.

This rule is intended to implement Iowa Code section 135D.27.

**701—74.7(135D) *Audit by department of revenue and finance.*** The director of revenue and finance may audit the books and records of the county treasurer to determine if the amounts certified by the county treasurer to the director of revenue and finance as tax not collected due to the reduced tax rate are true and correct. Upon investigation, the director of revenue and finance may order the county treasurer to reimburse the state of Iowa any amounts that were erroneously paid to the county treasurer. The director of revenue and finance may also require that additional payments be made to the county treasurer by the owner of a mobile home if investigation reveals that the county treasurer did not receive the full amounts due in accordance with the Iowa Code section 135D.22.

The director of revenue and finance may initiate investigations or assist the county treasurer's investigations into eligibility of a claimant for the reduced tax rate in accordance with Iowa Code section 135D.22. Upon investigation, the director of revenue and finance may order a claimant to reimburse the state of Iowa any amount erroneously claimed as a reduced tax rate which was reimbursed by the department of revenue and finance to the county treasurer in accordance with Iowa Code section 135D.22. The director of revenue and finance may also issue a reimbursement directly to the claimant if it is determined the claimant did not receive the full benefits to which entitled pursuant to Iowa Code section 135D.22.

This rule is intended to implement Iowa Code section 135D.22.

**701—74.8(135D) Collection of semiannual tax.**

**74.8(1) When delinquent.** The date on which unpaid semiannual mobile home taxes become delinquent is to be determined as follows:

a. If the mobile home is put to use between January 1 and March 31, the tax for the period from January 1 through June 30 becomes delinquent on April 1.

b. If the mobile home is put to use between April 1 and June 30, the prorated tax for the period from the date the mobile home is put to use through June 30 becomes delinquent October 1.

c. If the mobile home is put to use between July 1 and September 30, the tax for the period from July 1 through December 31 becomes delinquent on October 1.

d. If the mobile home is put to use between October 1 and December 31, the prorated tax for the period from the date the mobile home is put to use through December 31 becomes delinquent on April 1 of the following calendar year.

e. For purposes of this rule, a mobile home is "put to use" upon its acquisition from a dealer or its being brought into Iowa for immediate use by a person who is not engaged in the business of manufacturing, sale, or transportation of mobile homes.

**74.8(2) Collection of delinquent tax.** Delinquent semiannual mobile home taxes shall be collected by offering the property at tax sale in accordance with Iowa Code chapter 446.

[Filed 8/19/77, Notice 7/13/77—published 9/7/77, effective 10/12/77]

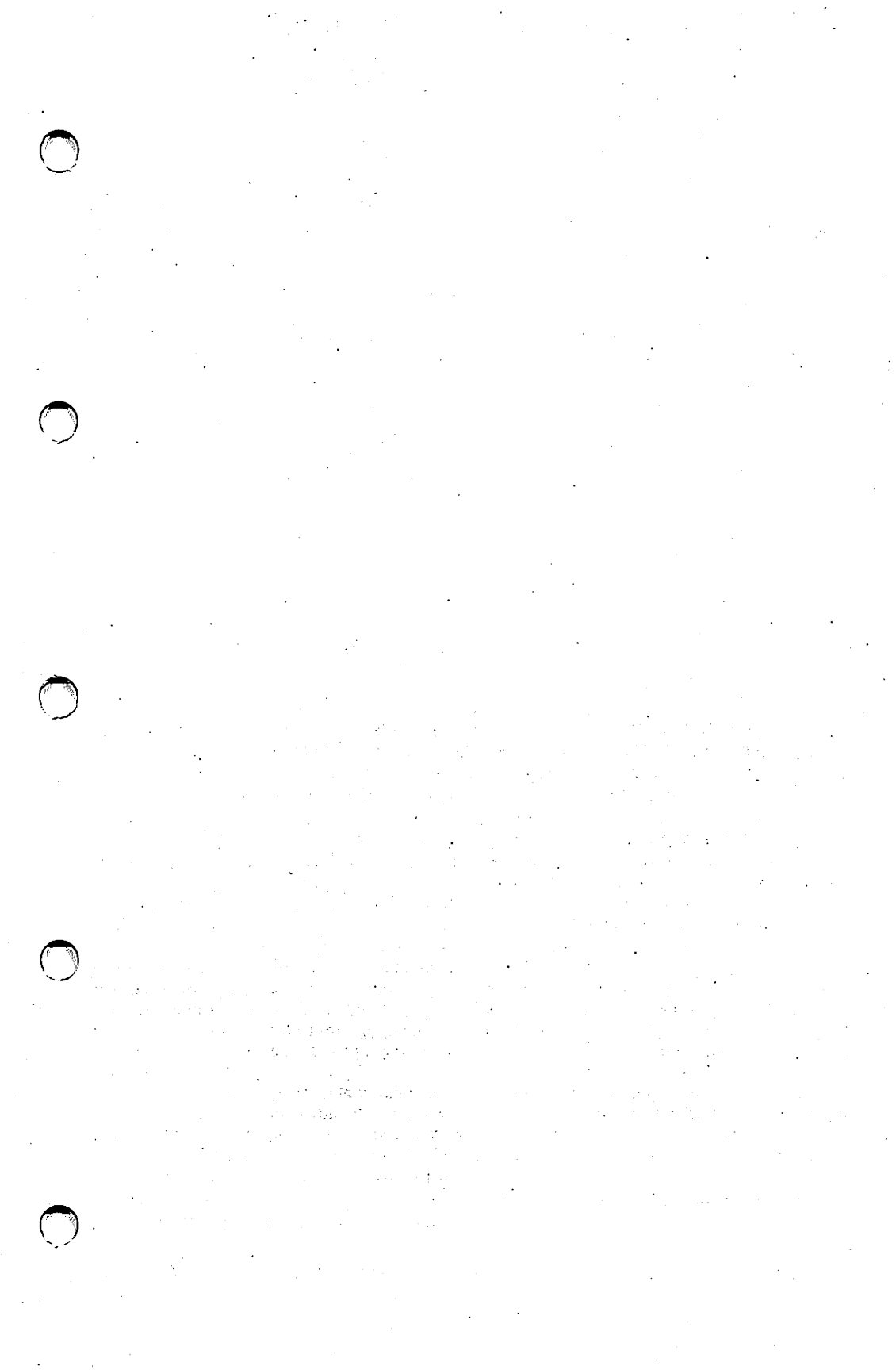
[Filed emergency 8/1/80—published 8/20/80, effective 8/1/80]

[Filed 6/28/85, Notice 5/22/85—published 7/17/85, effective 8/21/85]

[Filed 8/9/85, Notice 7/3/85—published 8/28/85, effective 10/2/85]

[Filed emergency 11/14/86—published 12/17/86, effective 11/14/86]

[Filed 9/18/87, Notice 8/12/87—published 10/7/87, effective 11/11/87]



**CHAPTER 78**  
**PROPERTY TAX EXEMPTIONS**  
[Prior to 12/17/86, Revenue Department(730)]

**701—78.1(427,441) Responsibility of local assessors.**

**78.1(1)** The assessor shall determine the taxable status of all property. If an application for exemption is required to be filed under Iowa Code subsection 427.1(23), the assessor shall consider the information contained in the application in determining the taxable status of the property. The assessor may also request from any property owner or claimant any additional information necessary to the determination of the taxable status of the property. However, the assessor shall not base the determination of the taxable status of property solely on the statement of objects or purposes of the organization, institution, or society seeking an exemption. The use of the property rather than the objects or purposes of the organization, institution, or society shall be the controlling factor in determining the taxable status of property. (*Evangelical Lutheran G.S. Society v. Board of Review of Des Moines*, 200 NW 2d 509; *Northwest Community Hospital v. Board of Review of Des Moines*, 229 NW 2d 738.)

**78.1(2)** In determining the taxable status of property, the assessor shall construe the appropriate exemption statute and these rules in a strict manner. If there exists any doubt as to the taxable status of property, the property shall be subject to taxation. The burden shall be upon the organization, society, or institution to show that the exemption should be granted. (*Evangelical Lutheran G.S. Society v. Board of Review of Des Moines*, 200 NW 2d 509; *Southside Church of Christ of Des Moines v. Des Moines Board of Review*, 243 NW 2d 650; *Aerie 1287, Fraternal Order of Eagles v. Holland*, 226 NW 2d 22.)

**78.1(3)** If the assessor determines that all or part of a property is subject to taxation, the assessor shall notify the taxpayer by the issuance of an assessment roll as provided in Iowa Code sections 441.26 and 441.27. If the assessor determines that property has been erroneously exempted from taxation, the assessor shall revoke the exemption for the current assessment year but not for prior assessment years.

**78.1(4)** The assessor's determination of the taxable status of property may be appealed to the local board of review pursuant to Iowa Code section 441.37.

This rule is intended to implement Iowa Code section 427.1 and section 441.17(11) as amended by 1987 Iowa Acts, Senate File 264.

**701—78.2(427,441) Responsibility of local boards of review.**

**78.2(1)** If an application for exemption is filed with the local board of review, the board of review shall act in accordance with subrules 78.1(1) and 78.1(2). If the board of review determines that all or a portion of a property is subject to taxation, the board of review shall assess the property as provided in Iowa Code subsection 427.1(24) and give notice to the taxpayer as provided in Iowa Code section 441.36. If the board of review determines that property has been erroneously exempted from taxation, the board of review shall revoke the exemption for the current assessment year, but not for prior assessment years. An application filed with the local board of review is valid only if no application was filed with the local assessor by February 1, and only if filed with the local board of review during its regular annual session beginning on May 1.

**78.2(2)** If a board of review acts in response to a protest arising from an assessor's determination of the taxable status of property, the board of review shall notify the taxpayer of its disposition of the protest in accordance with the provisions of Iowa Code section 441.37.

This rule is intended to implement Iowa Code section 427.1 and section 441.35(3) as amended by 1987 Iowa Acts, Senate File 264.

**701—78.3(427,443) Responsibility of county auditors.**

**78.3(1)** If an application for exemption is filed with the county auditor, the county auditor shall proceed to act in accordance with subrules 78.1(1) and 78.1(2). If the county auditor determines that all or a portion of a property is subject to taxation, the county auditor shall assess the property as provided in Iowa Code subsection 427.1(24) and give notice to the tax-

payer by the use of the same procedure as set forth in Iowa Code section 443.7. An application filed with the county auditor shall be valid only if no application was filed with the local assessor by February 1 or with the local board of review during its regular annual session beginning on May 1.

**78.3(2)** In addition to determining the taxable status of property in response to an application submitted pursuant to Iowa Code subsection 427.1(23) or 427.1(24), the county auditor may, pursuant to Iowa Code section 443.6, assess for taxation any property which the assessor erroneously omitted because of determining the property to be exempt from taxation (*Talley v. Brown*, 1910, 146 Iowa 360, 125 N.W. 248, 140 Am. St. Rep. 282).

This rule is intended to implement Iowa Code section 427.1.

**701—78.4(427) Application for exemption.**

**78.4(1)** Each society or organization seeking an exemption under Iowa Code sections 427.1(6), 427.1(9), or 427.1(34) shall file with the appropriate local official a statement containing the following information:

- a. The legal description of the property for which an exemption is requested.
- b. The use of all portions of the property, including the percentage of space not used for the appropriate objects of the society or organization and the percentage of time such space is so utilized.
- c. A financial statement showing the income derived and the expenses incurred in the operation of the property.
- d. The name of the organization seeking the exemption.
- e. If the exemption is sought under Iowa Code section 427.1(9), the appropriate objects of the society or organization.
- f. The book and page number on which is recorded the contract of purchase or the deed to the property and any lease by which the property is held.
- g. An oath that no persistent violations of the laws of the state of Iowa will be permitted or have been permitted on such property.
- h. The signature of the president or other responsible official of the society or organization showing that information contained in the claim has been verified under oath as correct.

**78.4(2)** The statement of objects and uses required by Iowa Code subsection 427.1(23) shall be filed only on forms prescribed by the director of revenue and finance and made available by local officials.

**78.4(3)** Applications for exemptions required under Iowa Code subsection 427.1(23) must be filed with the assessor not later than February 1 of the year for which the exemption is requested. An application filed with the local board of review must be filed with the board of review while the board is in session, but not later than July 1 of the year for which the exemption is requested. If the application is filed with the county auditor, it must be filed not later than July 1 of the year for which such exemption is claimed.

**78.4(4)** The assessor must list for taxation any property for which an application for exemption has not been filed with the assessor. If no properly completed application is filed by July 1 of the assessment year for which the exemption would apply, no exemption shall be allowed against the property. (1964 O.A.G. 437).

This rule is intended to implement Iowa Code section 427.1.

**701—78.5(427) Partial exemptions.** In the event a portion of property is determined to be subject to taxation, the taxable value of such property shall be an amount which bears the same relationship to the total value of the entire property as the area of the portion subject to taxation bears to the area of the entire property. If a portion of a structure is subject to taxation, a proportionate amount of the value assigned to the land upon which the structure is located shall also be subject to taxation.

This rule is intended to implement Iowa Code section 427.1.

**701—78.6(427,441) Taxable status of property.**

**78.6(1)** The status of property on July 1 of the fiscal year which commences during the assessment year determines its eligibility for exemption in situations where no claim is required to be filed to procure a tax exemption. If the property is in a taxable status on July 1, no exemption is allowable for that fiscal year. If the property is in an exempt status on July 1, no taxes are to be levied against the property during that fiscal year.

Exceptions to this rule are as follows:

*a.* Land acquired by the state of Iowa or a political subdivision thereof after July 1 in connection with the establishment, improvement or maintenance of a public road shall be taxable for that portion of the fiscal year in which the property was privately owned.

*b.* All current and delinquent tax liabilities are to be canceled and no future taxes levied against property acquired by the United States or its instrumentalities, regardless of the date of acquisition, unless the United States Congress has authorized the taxation of specific federally-owned property. (1980 O.A.G. #80-1-19). The following exceptions apply:

(1) Real and personal property owned by the Federal Housing Authority (FHA) and real property owned by the Federal Land Bank Association is subject to taxation and any tax liabilities existing at the time of the acquisition are not to be canceled. However, the personal property of the Federal Land Bank Association is exempt from taxation. (1982 O.A.G. #82-1-16; 12 USCS §2055).

(2) Existing tax liabilities against property acquired by the Small Business Administration are not to be canceled if the acquisition takes place after the date of levy. However, no taxes are to be levied if the acquisition takes place prior to the levy date or for subsequent fiscal years in which the Small Business Administration owns the property on July 1. (15 USCS §646).

**78.6(2)** The status of property during the fiscal year for which an exemption was claimed determines its eligibility for exemption in situations where a claim is required to be filed to procure a tax exemption. If the property is used for an appropriate purpose for which an exemption is allowable for all of the fiscal year for which the exemption is claimed, no taxes are to be levied against the property during that fiscal year. If the property for which an exemption has been received is used for an appropriate purpose for which an exemption is allowable for only a portion of the fiscal year for which the exemption is claimed, the taxes shall be prorated in accordance with the period of time the property was in a taxable status during the fiscal year.

This rule is intended to implement Iowa Code sections 427.1(1) and 427.2 as amended by 1982 Iowa Acts, chapter 1183.

**701—78.7(427) Personal property.** No tax exemption shall be allowed pursuant to Iowa Code section 427.1(10) unless the personal property is owned by the institution or society claiming the exemption.

This rule is intended to implement Iowa Code section 427.1(10).

[Filed 8/3/79, Notice 5/2/79—published 8/22/79, effective 9/26/79]

[Filed 3/25/81, Notice 2/18/81—published 4/15/81, effective 5/20/81]

[Filed 9/23/82, Notice 8/18/82—published 10/13/82, effective 11/17/82]

[Filed emergency 11/14/86—published 12/17/86, effective 11/14/86]

[Filed 9/18/87, Notice 8/12/87—published 10/7/87, effective 11/11/87]

**CHAPTER 79**  
**REAL ESTATE TRANSFER TAX AND DECLARATIONS OF VALUE**  
[Prior to 12/17/86, Revenue Department(730)]

**701—79.1(428A) Real estate transfer tax: Responsibility of county recorders.**

**79.1(1) *Materials and equipment.*** County recorders shall use only materials, forms, devices and equipment provided by the department of revenue and finance for the collection of real estate transfer tax and the recording and reporting of such tax collections.

**79.1(2) *Monthly reports.*** County recorders shall submit a report to the department of revenue and finance on or before the tenth day of each month enumerating real estate transfer tax collection information for the preceding month. This report shall be submitted on forms prescribed by the department of revenue and finance and shall contain such information as is deemed necessary by the department.

**79.1(3) *Equipment use, repair and maintenance.***

*a.* Effective for tax collections commencing July 1, 1983, the department of revenue and finance shall provide each county recorder with a device to be used to evidence real estate transfer tax payment. Such devices shall imprint on the document or instrument presented for recording or presented for tax payment, a standard information format on which the recorder shall enter the actual tax payment, date of payment, and initials of the recorder or authorized employee of the recorder. The department of revenue and finance shall be responsible for repair or replacement of these devices.

*b.* It shall be the responsibility of each county recorder to ensure that proper security measures are taken to safeguard the use and storage of the devices utilized to evidence real estate transfer tax payment provided in subrule 79.1(3), paragraph "a."

*c.* County recorders shall accept for recording any documents or instruments for which the correct amount of real estate transfer tax had been paid prior to July 1, 1983, as evidenced by real estate transfer tax stamps issued by equipment formerly provided to county recorders by the department of revenue and finance.

*d.* Upon approval by the department of revenue and finance, county recorders may elect to continue to use equipment issued by the department prior to July 1, 1983, which issued stamps to evidence tax payment. If approved for use, stamps evidencing tax payment shall be used in lieu of tax payment evidence devices provided in subrule 79.1(3), paragraph "a," and shall be used only by affixing such stamps to documents or instruments presented for recording or tax payment. Each stamp shall be initialed by the recorder or authorized employee of the recorder.

*e.* County recorders who have been authorized by the department to continue using real estate transfer tax equipment issued by the department of revenue and finance prior to July 1, 1983, as provided in subrule 79.1(3), paragraph "d," shall be responsible for all supplies, maintenance and repair of the equipment. However, to ensure uniformity of tax payment evidence, county recorders shall obtain approval from the department of revenue and finance prior to using any product producing the actual real estate transfer tax stamp.

*f.* This rule shall not be construed to prevent payment of the real estate transfer tax for conveyances in which the documents or instruments are not actually recorded provided that evidence of tax payment as required by subrule 79.1(3), paragraphs "a" and "d," is placed on such documents or instruments.

**79.1(4) *Recording refused.*** The county recorder shall refuse to record any deed, instrument, or writing regardless of any statement by the grantor, grantee, or their agents that the transaction is exempt pursuant to Iowa Code section 428A.2, if in the recorder's judgment, additional facts are necessary to clarify the taxable status of the transfer or determine the full consideration paid for the property. The county recorder may request from the grantor, grantee, or their agents, any information necessary to determine the taxable status of the transfer or the full amount of consideration involved in the transaction. County recorders under no circumstance shall record any deed or instrument of conveyance for which the proper amount of real estate transfer tax has not been collected. This applies to the collection of tax in excess of the amount due for the actual amount of consideration as well as situations in which an insufficient amount of tax has been collected.

year in which the transfer occurred.

This rule is intended to implement Iowa Code section 428A.1.

**701—79.4(428) Certain transfers of agricultural realty.**

**79.4(1)** In determining whether agricultural realty is purchased by a corporation, limited partnership, trust, alien, or nonresident alien for purposes of providing information required for such transfers by Iowa Code section 428A.1, the definitions in this rule shall apply.

**79.4(2)** Corporation defined. Corporation means a domestic or foreign corporation and includes a nonprofit corporation and cooperatives.

**79.4(3)** Limited partnership defined. Limited partnership means a partnership as defined in Iowa Code section 545.1 and which owns or leases agricultural land or is engaged in farming.

**79.4(4)** Trust defined. Trust means a fiduciary relationship with respect to property, subjecting the person by whom the property is held to equitable duties to deal with the property for the benefit of another person, which arises as a result of a manifestation of an intention to create it. A trust includes a legal entity holding property as a trustee, agent, escrow agent, attorney-in-fact, and in any similar capacity.

Trust does not include a person acting in a fiduciary capacity as an executor, administrator, personal representative, guardian, conservator or receiver.

**79.4(5)** Alien defined. Alien means a person born out of the United States and unnaturalized under our Constitution and laws of the United States. (*Breuer v. Beery*, 189 N.W. 714, 194 Iowa 243, 244 (1922).)

**79.4(6)** Nonresident alien defined. Nonresident alien means an alien as defined in subrule 79.4(5) who is not a resident of the state of Iowa.

This rule is intended to implement Iowa Code section 428A.1.

**701—79.5(428A) Form completion and filing requirements.**

**79.5(1)** *Real estate transfer—declaration of value form.* A real estate transfer-declaration of value form shall be completed for any deed, contract, instrument or writing that grants, assigns, transfers or otherwise conveys real property, except those specifically exempted by law, if the document presented for recording clearly states on its face that it is a document exempt from the reporting requirements as enumerated in Iowa Code section 428A.2, subsections 2 to 13 and 16 to 19, or is a deed given in fulfillment of a previously recorded real estate contract. A real estate transfer-declaration of value form is not required for any transaction that does not grant, assign, transfer or convey real property.

**79.5(2)** *Real estate transfer-declaration of value: Real estate transfer tax.* Requirements for completing real estate transfer-declaration of value forms or exceptions from filing the forms shall not be construed to alter the liability for the real estate transfer tax or the amount of such tax as provided in Iowa Code chapter 428A.

**79.5(3)** *Agent defined.* As used in Iowa Code section 428A.1, an agent is defined as any person designated or approved by the buyer or seller to act on behalf of the buyer or seller in the real estate transfer transaction.

**79.5(4)** *Government agency filing requirements.* The real estate transfer-declaration of value form does not have to be completed for any real estate transfer document in which the state of Iowa or any agency, instrumentality or political subdivision thereof is the grantor, assignor, transferor or conveyor or for any transfer in which the state of Iowa or any agency, instrumentality or political subdivision thereof is the grantee or assignee where there is no consideration. However, any transfer in which any unit of government is the grantee or assignee where there is consideration is subject to the real estate transfer-declaration of value filing requirements (1980 O.A.G. 92) and any transfer to which the United States or any agency or instrumentality thereof is a party to the transfer is subject to the real estate transfer-declaration of value filing requirements. An exception to this subrule is conveyances for public purposes occurring through the exercise of the power of eminent domain.

**79.5(5) Recording refused.** The county recorder shall refuse to record any document for which a real estate transfer-declaration of value is required if the form is not completed accurately and completely by the buyer or seller or the agent of either. The declaration of value shall include the social security number or federal identification number of the buyer and seller and all other information required by the director of revenue and finance, (*Iowa Association of Realtors et al v. Iowa Department of Revenue*, CE 18-10479, Polk County District Court, February 4, 1983.) However, if having made good faith effort, the person or person's agent completing the declaration of value is unable to obtain the social security or federal identification number of the other party to the transaction due to factors beyond the control of the person or person's agent, a signed affidavit stating that the effort was made and the reasons why the number could not be obtained shall be submitted with the incomplete declaration of value. The declaration of value with attached affidavit shall be considered sufficient compliance with Iowa Code section 428A.1 and the affidavit shall be considered a part of the declaration of value subject to the provisions of Iowa Code section 428A.15.

This rule is intended to implement Iowa Code section 428A.1 as amended by 1987 Iowa Acts, House Files 374 and 590, section 428A.2 as amended by 1987 Iowa Acts, House File 374 and section 428A.4 as amended by the 1987 Iowa Acts, House File 590.

**701—79.6(428A) Public access to declarations of value.** Declarations of value are public records and shall be made available for public inspection in accordance with Iowa Code chapter 68A.

This rule is intended to implement Iowa Code chapter 428A.

[Filed 8/17/79, Notice 7/11/79—published 9/5/79, effective 10/10/79\*]

[Filed 12/15/80, Notice 10/29/80—published 12/24/80, effective 1/28/81]

[Filed 7/2/82, Notice 5/26/82—published 7/21/82, effective 8/25/82]

[Filed 9/10/82, Notice 8/4/82—published 9/29/82, effective 11/3/82]

[Filed 8/25/83, Notice 7/20/83—published 9/14/83, effective 10/19/83]

[Filed 5/31/85, Notice 4/24/85—published 6/19/85, effective 7/24/85]

[Filed emergency 11/14/86—published 12/17/86, effective 11/14/86]

[Filed 9/18/87, Notice 8/12/87—published 10/7/87, effective 11/11/87]

\*Effective date of subrule 79.1(4) was delayed by the administrative rules review committee seventy days and delay was lifted on November 14, 1979.

**CHAPTER 80**  
**PROPERTY TAX CREDITS AND EXEMPTIONS**

[Prior to 12/17/86, Revenue Department(730)]

**701—80.1(425) Homestead tax credit.**

**80.1(1) Application for credit.**

a. Except as provided in this paragraph, no homestead tax credit shall be allowed unless the application for homestead tax credit is signed by the owner of the property or the owner's qualified designee and filed with the city or county assessor on or before July 1 of the year in which the credit is first claimed. (1946 O.A.G. 37). Once filed, the claim for credit is applicable to the current year and subsequent years and no further filing shall be required provided the homestead is owned and occupied by the claimant or the claimant's spouse on July 1 of each year. If a person fails to file a claim or record the required evidence of ownership by July 1, the credit may be claimed by filing an application and evidence of ownership with the appropriate assessor by not later than December 31 of the following year. The assessor, county auditor, and county board of supervisors shall act on the claim in accordance with Iowa Code section 425.3. If the claim is allowed by the county board of supervisors, the county treasurer shall file an amended certificate of homestead tax credits with the director of revenue and finance pursuant to Iowa Code section 425.4. A claim filed after July 1 of any calendar year applies to the following assessment year and to the current or prior assessment year if a late claim.

b. In the event July 1 falls on either a Saturday or Sunday, applications for the homestead tax credit may be filed the following Monday.

c. In the event July 1 falls on either a Saturday or Sunday, applications submitted by mail shall be accepted if postmarked on the following Monday.

d. An assessor may not refuse to accept an application for homestead tax credit. If it is the opinion of the assessor that a homestead tax credit should not be allowed, the assessor shall accept the application for credit and recommend disallowance.

e. If the owner of the homestead is on active duty in the armed forces of this state or of the United States, or is 65 years of age or older or is disabled, the application for homestead tax credit may be signed and delivered by a member of the owner's family or the owner's guardian, conservator or designated attorney-in-fact. For purposes of this rule, any person related to the owner by blood, marriage or adoption shall be considered a member of the owner's family.

f. Rescinded, effective June 1, 1983.

g. For purposes of the homestead tax credit statute, the occupancy of the homestead may constitute actual occupancy or constructive occupancy. However, more than one homestead cannot be simultaneously occupied by the claimant and multiple simultaneous homestead tax credits are not allowable. (Op. St. Bd. Tax Rev. No. 212, February 29, 1980.) Generally, a homestead is occupied by the claimant if the premises constitute the claimant's usual place of abode. Once the claimant's occupancy of the homestead is established, such occupancy is not lost merely because the claimant, for some valid reason, is temporarily absent from the homestead premises with an intention of returning thereto (1952 O.A.G. 78).

**80.1(2) Eligibility for credit.**

a. If homestead property is owned jointly by persons who are not related or formerly related by blood, marriage or adoption, no homestead tax credit shall be allowed unless all the owners actually occupy the homestead property on July 1 of each year. (1944 O.A.G. 26; Letter O.A.G. October 18, 1941).

b. No homestead tax credit shall be allowed if the homestead property is owned or listed and assessed to a corporation, partnership, company or any other business or nonbusiness organization. (1938 O.A.G. 441; *Verne Deskin v. Briggs*, State Board of Tax Review, No. 24, February 1, 1972).

c. A person acquiring homestead property under a contract of purchase remains eligible for a homestead tax credit even though such person has assigned his or her equity in the homestead property as security for a loan. (1960 O.A.G 263).

d. A person occupying homestead property pursuant to Iowa Code chapter 499A or 499B is eligible for a homestead tax credit. (1978 O.A.G. #78-2-5; 1979 O.A.G. #79-12-2).

e. A person who has a life estate interest in homestead property shall be eligible for a homestead tax credit, provided the remainderman is related or formerly related to the life estate holder by blood, marriage or adoption or the reversionary interest is held by a non-profit corporation organized under Iowa Code chapter 504A. (1938 O.A.G. 193).

f. A homestead tax credit may not be allowed upon a mobile home which is not assessed as real estate. (1962 O.A.G. 450).

g. A person occupying homestead property under a trust agreement is considered the owner of the property for purposes of the homestead tax credit. (1962 O.A.G. 434).

h. A remainder is not eligible to receive a homestead tax credit until expiration of the life estate to which such person has the remainder interest. (1938 O.A.G. 305).

i. In order for a person occupying homestead property under a contract of purchase to be eligible for a homestead tax credit, the contract of purchase must be recorded in the office of the county recorder where the property is located. A recorded memorandum or summary of the actual contract of purchase is not sufficient evidence of ownership to qualify a person for a homestead tax credit.

j. An owner of homestead property who is in the military service or confined in a nursing home, extended-care facility or hospital shall be considered as occupying the property during the period of service or confinement. The fact that the owner rents the property during the period of military service is immaterial to the granting of the homestead tax credit. (1942 O.A.G. 45). However, no homestead tax credit shall be allowed if the owner received a profit for the use of the property from another person while such owner is confined in a nursing home, extended-care facility or hospital.

k. A person owning a homestead dwelling located upon land owned by another person or entity is not eligible for a homestead tax credit. (1942 O.A.G. 160, O.A.G. #82-4-9). This rule is not applicable to a person owning a homestead dwelling pursuant to Iowa Code chapter 499B.

**80.1(3) Disabled veteran's homestead tax credit.** The disabled veteran's homestead tax credit is allowable to any person who acquired homestead property under the provisions of the United States Code, Title 38, Chapter 21, Sections 801 and 802, pursuant to Iowa Code section 425.15. Even though this financial assistance is available to a disabled veteran on only one homestead during his or her lifetime, the credit may be claimed upon the acquisition of other homesteads providing all qualifications have been met.

**80.1(4) Application of credit.**

a. Except as provided in 80.1(1)"a," if the homestead property is conveyed to another person prior to July 1 of any year, the new owner must file a claim for credit on or before July 1 to obtain the credit for that year. If the property is conveyed after July 1, the credit shall remain with the property for that year provided the previous owner was entitled to the credit.

b. A homestead tax credit may be allowed even though the property taxes levied against the homestead property have been suspended by the board of supervisors. (1938 O.A.G. 288).

c. A homestead tax credit shall not be allowed if the property taxes levied against the homestead property have been canceled or remitted by the board of supervisors. (1956 O.A.G. 78).

d. Only one homestead tax credit can be allowed per legally described tract of land. For purposes of this rule, a legally described tract of land shall mean all land contained in a single legal description. (1962 O.A.G. 435).

e. If the owner of homestead property is also eligible for a military service tax exemption and claims the exemption on the homestead property, the military service tax exemption shall be applied prior to the homestead tax credit when computing net property tax. (*Ryan v. State Tax Commission*, 235 Iowa 222; 16 N.W. 2d 215).

f. If the homestead property contains two dwelling houses and one of the dwelling houses and a portion of the land is sold after a valid application for homestead tax credit has been

filed, the assessor shall prorate the assessment so as to allow the seller a homestead tax credit on that portion of the property which is retained and also allow the purchaser a homestead tax credit on that portion of the property which is purchased, provided the purchaser files a valid application for homestead tax credit by July 1 of the claim year.

g. No homestead tax credit shall be allowed against a homestead on which a dwelling house did not exist as of January 1 of the year in which the credit is claimed.

This rule is intended to implement Iowa Code chapter 425 as amended by 1987 Iowa Acts, House File 374.

**701—80.2(426A,427) Military service tax exemption.**

**80.2(1) Application for exemption.**

a. Except as provided in this paragraph, no military service tax exemption shall be allowed unless the application for the military service tax exemption is signed by the owner of the property or the owner's qualified designee and filed with the city or county assessor on or before July 1 of the year in which the exemption is first claimed (1970 O.A.G. 437). Once filed, the claim for exemption is applicable to the year for which filed and subsequent years and no further filing shall be required provided the claimant or the claimant's spouse owns the property on July 1 of each year. If a person fails to file a claim or record the required evidence of service and property ownership by July 1, the exemption may be claimed by filing an application and evidence of service and property ownership with the appropriate assessor by not later than December 31 of the following year. The assessor, county auditor, and county board of supervisors shall act on the claim in accordance with Iowa Code section 427.6. If the claim is allowed by the county board of supervisors, the county treasurer shall file an amended certificate of military service tax credits with the director of revenue and finance pursuant to Iowa Code section 426A.3.

b. In the event July 1 falls on either a Saturday or Sunday, applications for the military service tax exemption may be filed the following Monday.

c. In the event July 1 falls on either a Saturday or Sunday, applications submitted by mail shall be accepted if postmarked on the following Monday.

d. An assessor may not refuse to accept an application for a military service tax exemption. If it is the opinion of the assessor that a military service tax exemption should not be allowed, the assessor shall accept the application for exemption and recommend disallowance.

e. If the owner of the property is on active duty in the armed forces of this state or of the United States, or is 65 year of age or older or is disabled, the application for military service tax exemption may be signed and delivered by a member of the owner's family or the owner's guardian, conservator or designated attorney-in-fact. For purposes of this rule, any person related to the owner by blood, marriage or adoption shall be considered a member of the owner's family.

**80.2(2) Eligibility for exemption.**

a. A person who was discharged from the draft is not considered a veteran of the military service and is not entitled to a military service tax exemption. (1942 O.A.G. 79).

b. A military service tax exemption shall not be allowed to a person whose only service in the military was with a foreign government. (1932 O.A.G. 242; 1942 O.A.G. 79).

c. In order to be eligible for a military service tax exemption, the veteran must have served on active duty for purposes other than training. A person whose active duty service consisted solely of training shall not be eligible for the exemption. (*Jones v. Iowa State Tax Commission*, 247 Iowa 530, 74 N.W. 2d 563, 567-1956; 1980 O.A.G. #80-10-7).

d. A military service tax exemption shall not be allowed unless the veteran has received a complete and final separation from active duty service. (*Jones v. Iowa State Tax Commission*, 247 Iowa 530, 74 N.W. 2d 563, 567-1956; *In Re Douglas A. Coyle*, State Board of Tax Review, No. 197, August 14, 1979; 1976 O.A.G. 44).

e. As used in Iowa Code section 427.4(3), the term minor child means a person less than 18 years of age or less than 21 years of age and enrolled as a full-time student at an educational institution.

f. A veteran of more than one qualifying war period is entitled to only one military service tax exemption, which shall be the greater of the two exemptions. (1946 O.A.G. 71).

g. The person claiming a military service tax exemption must be an Iowa resident. However, the veteran need not be an Iowa resident if such person's exemption is claimed by a qualified individual enumerated in Iowa Code section 427.4. (1942 O.A.G. 140).

h. A person who has a life estate interest in property may claim a military service tax exemption on such property. (1946 O.A.G. 155; 1976 O.A.G. 125).

i. A remainder is not eligible to receive a military service tax exemption on property to which a remainder interest is paid until expiration of the life estate. (1946 O.A.G. 155).

j. A military service tax exemption shall not be allowed on a mobile home which is not assessed as real estate. (1962 O.A.G. 450).

k. A divorced person may not claim the military service tax exemption of a former spouse who qualifies for the exemption. (Letter O.A.G. August 8, 1961).

l. A surviving spouse of a qualified veteran, upon remarriage, loses the right to claim the deceased veteran's military exemption as he or she is no longer an unremarried surviving spouse of the qualified veteran. (1950 O.A.G. 44).

m. An annulled marriage is considered to have never taken place and the parties to such a marriage are restored to their former status. Neither party to an annulled marriage can thereafter be considered a spouse or surviving spouse of the other party for purposes of receiving the military service tax exemption. (Op. Att'y. Gen. #61-8-10(L)).

n. No military service tax exemption shall be allowed on property that is owned by or listed and assessed to a corporation, partnership, company or any other business or nonbusiness organization. (1938 O.A.G. 441).

o. In the event both a husband and wife are qualified veterans, they may each claim their military service tax exemption on their jointly owned property. (1946 O.A.G. 194). If property is solely owned by one spouse, the owner spouse may claim both exemptions on such property providing the nonowner spouse does not claim his or her exemption on other property.

p. No military service tax exemption shall be allowed if on July 1 of the claim year, the claimant or the claimant's unremarried surviving spouse is no longer the owner of the property upon which the exemption was claimed.

q. A person shall not be denied a military service tax exemption even though the property upon which the exemption is claimed has been pledged to another person as security for a loan. (1960 O.A.G. 263).

r. A qualified veteran who has conveyed property to a trustee shall be eligible to receive a military service tax exemption on such property providing the trust agreement gives the claimant a beneficial interest in the property. (1962 O.A.G. 434).

s. A person owning property pursuant to Iowa Code chapter 499A or 499B is eligible for a military service tax exemption. (1978 O.A.G. #78-2-5; 1979 O.A.G. #79-12-2).

#### 80.2(3) *Application of exemption.*

a. When the owner of homestead property is also eligible for a military service tax exemption and claims the exemption on the homestead property, the military service tax exemption shall be applied prior to the homestead tax credit when computing net property tax. (*Ryan v. State Tax Commission*, 235 Iowa 222; 16 N.W.2d 215).

b. If a portion of the property upon which a valid military service tax exemption was claimed is sold on or before July 1 of the year in which the exemption is claimed, the seller shall be allowed a military service tax exemption on that portion of the property which is retained by the seller on July 1. The purchaser is also eligible to receive a military service tax exemption on that portion of the property which was purchased, provided the purchaser is qualified for the exemptions and files a valid application for the exemption on or before July 1 of the claim year.

c. A military service tax exemption may be allowed even though the taxes levied on the property upon which the exemption is claimed have been suspended by the board of supervisors. (1938 O.A.G. 288).

d. A military service tax exemption shall not be allowed if the taxes levied on the property upon which the exemption is claimed have been canceled or remitted by the board of supervisors. (1956 O.A.G. 78).

This rule is intended to implement Iowa Code chapter 426A, sections 427.3 and 427.4, section 427.5 as amended by 1987 Iowa Acts, House File 374, and section 427.6.

**701—80.3(427) Pollution control property tax exemption.**

**80.3(1)** To secure an exemption for pollution control property, an application must be filed with the assessing authority on or before February 1 of the assessment year for which the exemption is first claimed. It is the responsibility of the taxpayer to secure the necessary certification from the department of natural resources in sufficient time to file the application for exemption with the assessing authority on or before February 1. An exemption for new pollution control property can be secured by filing an application with the assessing authority by February 1 of the assessment year following the year in which the property is installed or constructed. If no application is timely filed in that year, the property will first qualify for exemption in any subsequent year in which an application is filed with the assessing authority on or before February 1.

**80.3(2)** In the event February 1 falls on either a Saturday or Sunday, applications for the pollution control exemption may be filed the following Monday.

**80.3(3)** In the event February 1 falls on either a Saturday or Sunday, applications submitted by mail shall be accepted if postmarked on the following Monday.

**80.3(4)** No pollution control exemption shall be allowed unless the application is signed by the owner of the property or the owner's qualified designee.

**80.3(5)** An assessor may not refuse to accept an application for a pollution control exemption if timely filed and if the necessary certification has been obtained from the department of Natural Resources.

**80.3(6)** The sale, transfer, or lease of pollution control property does not affect its eligibility for exemption as long as the requirements of Iowa Code section 427.1(32) and rule 701—80.3(427), Iowa Administrative Code, are satisfied.

**80.3(7)** No pollution control property tax exemption shall be allowed unless the department of natural resources has certified that the primary use of the property for which the taxpayer is seeking an exemption is to control or abate air or water pollution or to enhance the quality of any air or water in this state.

**80.3(8)** In the event that qualified pollution control property is assessed as a unit with other property not having a pollution control function, the exemption shall be limited to the increase in the assessed valuation of the unit which is attributable to the pollution control property.

**EXAMPLE**

Valuation of unit with pollution control property	\$100,000
Valuation of unit without pollution control property	<u>50,000</u>
Allowable amount of exemption	\$ 50,000

**80.3(9)** The value of pollution control property to be exempt from taxation shall be the fair and reasonable market value of such property as of January 1 of each year for which the exemption is claimed, rather than the original cost of such property.

This rule is intended to implement Iowa Code section 427.1(32) as amended by 1985 Iowa Acts, Senate File 395 and Senate File 24.

**701—80.4(427) Low-rent housing for the elderly and handicapped.**

**80.4(1)** As used in Iowa Code section 427.1(34), the term nonprofit organization means an organization, no part of the net income of which is distributable to its members, directors or officers.

**80.4(2)** As used in Iowa Code section 427.1(34), the term low-rent housing means housing the rent for which is less than that being received or which could be received for similar properties on the open market in the same assessing jurisdiction. Federal rent subsidies received by the occupant shall be excluded in determining whether the rental fee charged meets this definition.

**80.4(3)** As used in Iowa Code section 427.1(34), the term elderly means any person at least sixty-two (62) years of age.

80.4(4) As used in Iowa Code section 427.1(34), the term physically or mentally handicapped means a person whose physical or mental condition is such that they are unable to engage in substantial gainful employment.

80.4(5) The exemption granted in Iowa Code section 427.1(34) extends only to property which is both owned and operated by a nonprofit organization. Property either owned or operated by a private person is not eligible for exemption under Iowa Code section 427.1(34).

80.4(6) The income of persons living in housing eligible for exemption under Iowa Code section 427.1(34) shall not be considered in determining the property's taxable status.

80.4(7) An organization seeking an exemption under Iowa Code section 427.1(34) shall file a statement with the local assessor, board of review or county auditor pursuant to Iowa Code sections 427.1(23) and 427.1(24).

80.4(8) The exemption authorized by Iowa Code section 427.1(34) extends only until the terms of the original low-rent housing development mortgage on the property is paid in full or expires. If an additional mortgage has been secured, the exemption shall extend only until the original mortgage is paid in full or otherwise discharged.

80.4(9) In complying with the requirements of Iowa Code sections 427.1(23) and 427.1(24), the provisions of rule 701—78.4(427) shall apply.

80.4(10) In determining the taxable status of property for which an exemption is claimed under Iowa Code section 427.1(34), the appropriate local tax official shall follow rules 701—78.1(427,441) to 701—78.5(427).

80.4(11) If only a portion of a structure is used to provide low-rent housing units to the elderly and the handicapped, the exemption for the property on which the structure is located shall be limited to that portion of the structure so used. The valuation exempted shall bear the same relationship to the total value of the property as the area of the structure used to provide low-rent housing for the elderly and the handicapped bears to the total area of the structure unless a better method for determining the exempt valuation is available.

80.4(12) The property tax exemption provided in Iowa Code section 427.1(34) shall be based upon occupancy by elderly or handicapped persons as of July 1 of the assessment year. However, nothing in this subrule shall prevent the taxation of such property in accordance with the provisions of Iowa Code section 427.19.

This rule is intended to implement Iowa Code sections 427.1(23), 427.1(24) and 427.1(34).

#### **701—80.5(427A) Personal property tax credit.**

80.5(1) An assessor may not refuse to accept an application for a personal property tax credit. If, in the opinion of the assessor or any other local official, the credit should not be allowed, the assessor shall accept the application for credit and recommend to the director of revenue and finance that the credit be disallowed.

80.5(2) A claim for a personal property tax credit shall not be allowed unless the application for credit is signed by the owner of the personal property or the owner's authorized representative and filed with the city or county assessor on or before July 1 of the year in which the credit is first claimed. (OP. ST. BD. TAX REV. 97, 101, 102, 107, 108). Once filed, the claim for credit is applicable to the current year and subsequent years and no further filing shall be required.

80.5(3) In the event July 1 falls on either a Saturday or Sunday, applications for the personal property tax credit may be filed the following Monday.

80.5(4) In the event July 1 falls on either a Saturday or Sunday, applications submitted by mail shall be accepted if postmarked on the following Monday.

80.5(5) A husband and wife are not each eligible for a separate maximum personal property tax credit regardless of whether they own personal property jointly or independently of one another, with the exception that they may each receive a full credit if they own separate farm units. (OP. ST. BD. TAX REV. 35, 37, 40).

80.5(6) Business enterprises which are controlled or owned by the same person are not each eligible for a separate maximum personal property tax credit but are limited to receiving one full credit between them. (OP. ST. BD. TAX REV. 38, 41, 42, 63, 67).

**80.5(7)** Only one maximum personal property tax credit shall be allowed in a situation where the personal property is owned or controlled by a partnership operation. (OP. ST. BD. TAX REV. 73, 76, 79, 105, 106, 112, 184).

**80.5(8)** The additional personal property tax credit provided for in Iowa Code section 427A.9 is available only to those "persons," as defined in section 427A.2, who applied for and received the original credit provided for in sections 427A.1 to 427A.5. (*Iowa Sign Supplies*, State Board of Tax Review, No. 234, April 14, 1980). If the original credit was applied for and received by such "person", no application is necessary to obtain the additional credit. A personal property owner entitled to the additional credit may be given such credit up until the time when the taxes applicable to the credit have been paid.

**80.5(9)** The amount of any penalty assessment made pursuant to Iowa Code section 441.24 shall be considered part of the assessment of personal property and subject to the personal property tax credit and the limitation provisions of Iowa Code section 427A.11.

**80.5(10)** Personal property is to be assessed to the owner of such property subject to the following exclusions:

a. If the lessor (owner) of the personal property resides in the county where the property is located, the lessee may voluntarily request that the property be listed and taxed to such lessee.

b. If the lessor (owner) of the personal property does not reside in the county where the property is located, the property must be listed and taxed to the lessee. (O.A.G. #66-4-4).

The personal property tax credit should be allowed to the person to whom the property is assessed, providing all criteria for receiving the credit have been satisfied.

This rule is intended to implement Iowa Code chapters 427A and 428.

#### **701—80.6(427B) Industrial property tax exemption.**

**80.6(1)** *Authority of city council and board of supervisors.* A partial exemption ordinance enacted pursuant to Iowa Code section 427B.1 shall be available to all qualifying property. A city council or county board of supervisors does not have the authority to enact an ordinance granting a partial exemption to only certain qualifying properties (1980 O.A.G. 639). As used in this rule, the term "qualifying property" means property classified and assessed as real estate pursuant to subrule 71.1(6), warehouses and distribution centers, research service facilities, and owner-operated cattle facilities. Warehouse means a building or structure used as a public warehouse for the storage of goods pursuant to Iowa Code sections 554.7101 to 554.7603, except that it does not mean a building or structure used primarily to store raw agricultural products or from which goods are sold at retail. Distribution center means a building or structure used primarily for the storage of goods which are intended for subsequent shipment to retail outlets. Distribution center does not mean a building or structure used primarily to store raw agricultural products, used primarily by a manufacturer to store goods to be used in the manufacturing process, used primarily for the storage of petroleum products, or used for the retail sale of goods. A research service facility is one or more buildings devoted primarily to research and development activities or corporate research services. Research and development activities include, but are not limited to, the design and production or manufacture of prototype products for experimental use. A research service facility does not have as its primary purpose the providing of on-site services to the public. Owner-operated cattle facility means a building or structure used primarily in the raising of cattle and which is operated by the person owning the facility.

**80.6(2)** *Prior approval.* Only upon enactment of a partial property tax exemption ordinance in accordance with Iowa Code section 427B.1 may a city council or board of supervisors enact a prior approval ordinance for pending individual projects in accordance with Iowa Code section 427B.4. To obtain prior approval for a project, a property owner's proposal must be approved by a specific ordinance addressing the proposal and passed by the city council or board of supervisors. The original ordinance providing for the partial exemption does not constitute the granting of prior approval for a project. Also, prior approval for a project can only be granted by ordinance of the city council or board of supervisors; an official or representative of a city or county does not have the independent authority to grant prior approval for a project. If a taxpayer has obtained a prior approval ordinance from a city council or board of supervisors, the partial exemption cannot be obtained until the year in which all value added for the project is first assessed. (1980 O.A.G. 639).

80.6(3) *Repeal of ordinance.* A new construction project having received prior approval for exemption in accordance with subrule 80.6(2), shall be granted such exemption upon completion of the project even if the city council or board of supervisors subsequently repeals the ordinance passed in accordance with Iowa Code section 427B.1. (1980 O.A.G. 639).

80.6(4) *Annexation of property previously granted exemption.* A partial property tax exemption which has been granted and is in existence shall not be discontinued or disallowed in the event that the property upon which such exemption has been previously granted is located in an area which is subsequently annexed by a city or becomes subject to the jurisdiction of a county in which an ordinance has not been passed by the city council or county board of supervisors allowing such exemptions within that jurisdiction. The existing exemption shall continue until its expiration.

80.6(5) *Eligibility for exemption.*

a. The value added by new construction or reconstruction and first assessed prior to January 1 of the calendar year in which an ordinance authorizing a partial property tax exemption becomes effective, and new machinery and equipment assessed as real estate acquired and utilized prior to January 1 of the calendar year in which the ordinance or resolution becomes effective is not eligible for exemption. However, the value added as of January 1 of the calendar year in which the ordinance becomes effective is eligible for exemption if the ordinance is in effect prior to February 1 of that calendar year and if all other eligibility and application requirements are satisfied.

EXAMPLE 1: A \$1,000,000 new construction project on qualifying property is begun in July 1984. \$500,000 in value of the partially completed project is completed in 1984 and first assessed as of January 1, 1985. The project is completed in 1985 adding an additional value of \$500,000 which is first assessed as of January 1, 1986, bringing the total assessed value of the completed project to \$1,000,000 as of the January 1, 1986 assessment.

A city ordinance authorizing the partial exemption program is passed and becomes effective January 15, 1987. This project is not eligible for a property tax exemption for any value added as a result of the new construction project.

EXAMPLE 2: Assuming the same factual situation as in Example 1, except that the ordinance authorizing the partial exemption program becomes effective on January 15, 1986, the \$500,000 in assessed value added as of the January 1, 1986 assessment is eligible for the partial exemption if an application is filed with the assessor between January 1 and February 1, inclusive, 1986.

EXAMPLE 3: Assuming the same factual situation as in Example 1, except that the ordinance authorizing the partial exemption program becomes effective on February 15, 1986. Since the statutory application filing deadline is February 1, no value added and first assessed as of January 1, 1986 is eligible for a partial exemption. The project in this example would receive no exemption for any value added as a result of the new construction.

This subrule does not apply to new construction projects having received prior approval in accordance with subrule 80.6(2).

b. New machinery and equipment assessed as real estate shall be eligible for partial exemption only if used primarily in the manufacturing process. For example, computer equipment used primarily to maintain payroll records would not be eligible for exemption, whereas computer equipment utilized primarily to control or monitor actual product assembly would be eligible.

c. If any other property tax exemption is granted for the same assessment year for all or any part of the property which has been granted a partial exemption, the partial property tax exemption shall be disallowed for the year in which the other exemption is actually received.

d. Only qualifying property is eligible to receive the partial property tax exemption (O.A.G. #81-2-18).

e. A taxpayer cannot receive the partial property tax exemption for industrial machinery or equipment if the machinery or equipment was previously assessed in the state of Iowa. Industrial machinery and equipment previously used in another state may qualify for the partial exemption if all criteria for receiving the partial exemption are satisfied.

f. Industrial machinery and equipment is eligible to receive the partial property tax exemption if it changes the existing operational status other than by merely maintaining or expanding the existing operational status. This rule applies whether the machinery and equipment is placed in a new building, an existing building, or a reconstructed building. If new machinery is used to produce an existing product more efficiently or to produce merely a more advanced version of the existing product, the existing operational status would only be maintained or expanded and the machinery would not be eligible for the exemption. However, if the new machinery produces a product distinctly different from that currently produced, the existing operational status has been changed.

**80.6(6) Application for exemption.**

a. An eligible property owner shall file an application for exemption with the assessor between January 1 and February 1, inclusive, of the year for which the value added is first assessed for tax purposes. An application cannot be filed if a valid ordinance has not been enacted in accordance with Iowa Code section 427B.1 (O.A.G. #82-3-5). If an application is not filed by February 1 of the year for which the value added is first assessed, the taxpayer cannot receive in subsequent years the partial exemption for that value added (O.A.G. #82-1-17). However, if a taxpayer has received prior approval in accordance with Iowa Code section 427B.4 and subrule 80.6(2), the application is to be filed by not later than February 1 of the year for which the total value added is first assessed as the approved completed project.

b. In the event that February 1 falls on either a Saturday or Sunday, applications for the industrial property tax exemption may be filed the following Monday.

c. Applications submitted by mail shall be accepted if postmarked on or before February 1, or in the event that February 1 falls on either a Saturday or Sunday, a postmark date of the following Monday shall be accepted.

**80.6(7) Change in use of property.** If property ceases to be used as qualifying property, no partial exemption shall be allowed as of January 1 of the year following the calendar year in which the change in use takes place or for subsequent years. If property under construction ceases to be constructed for use as qualifying property, no partial exemption shall be allowed as of January 1 of the year following the calendar year in which this cessation occurs. However, such a change in the use of the property does not affect the validity of any partial exemption received for the property while it was used or under construction as qualifying property.

This rule is intended to implement Iowa Code sections 427B.1 to 427B.7 as amended by 1987 Iowa Acts, House File 626.

**701—80.7(427B) Assessment of computer and industrial machinery.**

**80.7(1)** Machinery and equipment first acquired or leased after December 31, 1981, and assessed pursuant to Iowa Code section 427B.10 or Iowa Code section 427B.15, is not eligible to receive the partial property tax exemption. Machinery and equipment shall be considered to have been acquired after December 31, 1981, if it is first assessed for taxation as of January 1, 1983, or a subsequent year.

**80.7(2)** The assessment of property assessed under Iowa Code section 427A.1(1)“j” and acquired or initially leased after December 31, 1981, is limited to thirty percent of the property's net acquisition cost regardless of the classification of the real estate in which the property is located.

**80.7(3)** For machinery and equipment and computers first leased after December 31, 1981, the net acquisition cost shall be the cost at which based upon the terms of the lease and general market conditions the property would have been acquired were it purchased instead of leased.

**80.7(4)** Computation of taxpayer's value. Assume a machine is acquired in 1982 at a net acquisition cost of \$10,000 and that the acquisition qualifies for assessment under the new statute. Assume also that the actual depreciated value of the machine as of January 1, 1983, is \$9,000. The value on which taxes would be levied would be limited to \$3,000 ( $\$10,000 \times .30$ ). The state's reimbursement to local taxing bodies would be equal to the actual tax rate times \$6,000 (the difference between depreciated actual value and thirty percent of net acquisition cost). However, the state reimbursement to local taxing bodies applies only to revenue

not collected on computers and industrial machinery acquired during assessment years 1982, 1983, and 1984, and first assessed for the assessment years 1983, 1984, and 1985.

**80.7(5)** If all or a portion of the value of property assessed pursuant to Iowa Code section 427 B.10 or Iowa Code section 427B.15 is eligible to receive an exemption from taxation, the amount of value to be exempt shall be subtracted from the net acquisition cost of the property before the taxpayer's value prescribed in Iowa Code section 427B.10 or 427B.15 is determined. For any year for which the property does not qualify for exemption, the taxpayer's value shall be limited to thirty percent of the full net acquisition cost of the property. For example, if property has a net acquisition cost of \$30,000 and is eligible to receive a pollution exemption for \$15,000 of value, the taxable net acquisition cost would be \$15,000 and the taxpayer's value would be \$4,500 ( $\$15,000 \times .30$ ). The state would reimburse local taxing districts for the tax not collected on the difference between \$4,500 and the depreciated actual value of that portion of the property subject to tax. The state reimbursement to local taxing bodies referred to in this subrule applies only to revenue not collected on computers and industrial machinery acquired during the assessment years 1982, 1983, and 1984, and first assessed for the assessment years 1983, 1984, and 1985.

**80.7(6)** In the event the actual depreciated fair market value of property assessed pursuant to Iowa Code section 427B.10 or Iowa Code section 427B.15 is less than thirty percent of the net acquisition cost of the property, the taxpayer's assessed value would be equal to the actual depreciated fair market value of the property.

This rule is intended to implement Iowa Code sections 427B.10 to 427B.14, and 1985 Iowa Acts, Senate File 395.

#### **701—80.8(404) Urban revitalization partial exemption.**

**80.8(1) Area designated.** An area containing only one building or structure cannot be designated as an urban revitalization area (1980 O.A.G. 786).

**80.8(2) Prior approval.** To obtain prior approval for a project, a property owner's proposal must be approved by a specific resolution addressing the proposal and passed by the city council. The original ordinance providing for the urban revitalization area does not constitute the granting of prior approval for any particular project. Also, prior approval for a project can only be granted by resolution of the city council; an official or representative of a city does not have the independent authority to grant prior approval for a project.

**80.8(3) Eligibility for exemption.** Improvements made as a result of a project begun more than one year prior to a city's adoption of an urban revitalization ordinance are not eligible to receive the partial exemption even though some of the improvements are added during the time the area was designated as an urban revitalization area. For a project commenced within one year prior to the adoption of an urban revitalization ordinance, the partial exemption can be allowed only for those improvements constructed on or after the effective date of the ordinance. (1982 O.A.G. 358).

**80.8(4) Minimum value added.** Once the minimum value added required by Iowa Code section 404.3(7) has been assessed, any amount of additional value added to the property in subsequent years is eligible for the partial exemption. The value added subject to partial exemption for the first year for which an exemption is claimed and allowed shall include value added to the property for a previous year even if the value added in the previous year was not by itself sufficient to qualify for the partial exemption.

For example, assume that an urban revitalization project is begun on commercial property having an actual value of \$50,000 as of January 1, 1984. As a result of improvements made during 1984, the actual value of the property as of January 1, 1985 is determined to be \$55,000. Additional improvements made during 1985 increase the actual value of the property to \$70,000 for the 1986 assessment. In this example, no partial exemption can be allowed for 1985 since the value added for that year is less than fifteen percent of the actual value of the property prior to construction of the improvements. A partial exemption can be allowed for 1986 and subsequent years for the \$20,000 value added in both 1985 and 1986, providing a valid application for the partial exemption is filed between January 1, 1986 and February 1, 1986, inclusive.

**80.8(5) Application for partial exemption.**

*a. Prior approval.* If a taxpayer has secured a prior approval resolution from the city council, the partial exemption cannot be obtained until the year in which all value added for the project is first assessed. A partial exemption can be allowed only if an application is filed between January 1 and February 1, inclusive, of the year in which all value added for the project is first assessed. If an application is not filed during that period, no partial exemption can be allowed for that year or any subsequent year. The submission to the city council of a proposal to receive prior approval does not by itself constitute an application for the partial exemption.

For example, assume a city council approves a prior approval resolution in April 1984 for a revitalization project to be completed in September 1986. Assuming all construction on the project is completed in 1986, no partial exemption can be allowed until 1987 since that would be the year in which all value added for the project is first assessed. To receive the partial exemption, a valid application would have to be filed between January 1, 1987 and February 1, 1987, inclusive.

*b. No prior approval.* If a project has not received a prior approval resolution, a taxpayer has the option of receiving the partial exemption beginning with any year in which value is added to the property or waiting until all value added to the property is first assessed in its entirety. To secure a partial exemption prior to the completion of the project, an application must be filed between January 1 and February 1, inclusive, in each year for which the exemption is claimed.

For example, assume a revitalization project is begun in June 1984 and completed in September 1985, that no prior approval resolution for the project has been approved, and that a ten-year exemption period has been selected. Assume further that as a result of construction on the project, value is added for the assessment years 1985 and 1986. If an application is filed between January 1, 1985 and February 1, 1985, inclusive, a partial exemption could be allowed for the value added for 1985 beginning with the 1985 assessment and ending with the 1994 assessment. If an application is filed between January 1, 1986 and February 1, 1986, inclusive, a partial exemption could be allowed for the value added for 1986 beginning with the 1986 assessment and ending with the 1995 assessment. The partial exemption allowable for the years 1986 through 1995 would be against the value added for 1986 as a result of improvements made during calendar year 1985.

In the example above, the taxpayer may elect not to file an application for the partial exemption in 1985. In this situation, if an application is filed between January 1, 1986 and February 1, 1986, inclusive, a partial exemption could be allowed for the total value added for 1985 and 1986 and would apply to assessments for the years 1986 through 1995.

*c. Filing deadline.* If February 1 falls on a Saturday or Sunday, an application for the partial exemption may be filed the following Monday. Applications submitted by mail must be postmarked on or before February 1, or on or before the following Monday if February 1 falls on a Saturday or Sunday.

*d. Extended deadline.* The city council may by resolution provide that an application for the partial exemption can be filed by February 1 of any assessment year the area is designated as an urban revitalization area.

**80.8(6) Value exempt.** The partial exemption allowed for a year in which an application is filed shall apply to the value added and first assessed for that year and any value added to the project and assessed for a preceding year or years and for which a partial exemption had not been received.

**80.8(7) Minimum assessment.** The partial exemption shall apply only to the value added in excess of the actual value of the property as of the year immediately preceding the year in which value added was first assessed. If the actual value of the property is reduced for any year during the period in which the partial exemption applies, any reduction in value resulting from the partial exemption shall not reduce the assessment of the property below its actual value as of January 1 of the assessment year immediately preceding the year in which value added was first assessed. This subrule applies regardless of whether the reduction in actual

value is made by the assessor, the board of review, a court order, or an equalization order of the director of revenue.

**80.8(8) Value added.** As used in this rule, the term "value added" means the amount of increase in the actual value of real estate directly attributable to improvements made as part of a revitalization project. "Value added" does not include any increase in actual (market) value attributable to that portion of the real estate assessed prior to the year in which revitalization improvements are first assessed.

**80.8(9) Repeal of ordinance.** An urban revitalization project which has received proper prior approval shall be eligible to receive the partial exemption following completion of the project even if the city council subsequently repeals the urban revitalization ordinance before improvements in the project are first assessed (1980 O.A.G. 639).

This rule is intended to implement Iowa Code chapter 404 as amended by 1987 Iowa Acts, Senate File 519.

**701—80.9(161,441) Forest and fruit-tree reservations.**

**80.9(1) Determination of eligibility for exemption.** Property for which an application for exemption as a forest or fruit-tree reservation has been filed shall be inspected by the assessor or county conservation board. The county board of supervisors designates whether all inspections in the county are to be made by the assessor, including any city assessor, or by the county conservation board. When appropriate, aerial photographs may be used in place of an on-site inspection of the property. The assessment or exemption of the property is to be based upon criteria established by the state conservation commission and findings obtained by the inspection of the property or the examination of aerial photographs of the property.

**80.9(2) Application for exemption.**

a. An application for exemption must be filed with the appropriate assessor between January 1 and April 15, inclusive, of the assessment year for which the exemption is first claimed. If the inspection of the property is to be made by the county conservation board, the assessor shall forward the application to the board for its recommendation. Once the application has been accepted, the exemption is applicable to the current and subsequent assessment years and no further application shall be required so long as the property remains eligible for the exemption.

b. If April 15 falls on a Saturday or Sunday, an application for exemption may be filed the following Monday.

c. An application shall be considered to be timely filed if postmarked on or before April 15 or the following Monday if April 15 falls on a Saturday or Sunday.

**80.9(3) Notification to property owner.** If the property is to be inspected by the county conservation board, the board shall make every effort to submit its recommendation to the assessor in sufficient time for the assessor to notify the claimant by April 15. The assessor shall notify the claimant by April 15 of the disposition of the application for exemption. If because of the date on which an application is filed a determination of eligibility for the exemption cannot be made in sufficient time for notification to be made by April 15, the assessor shall assess the property and notify the property owner of the inability to act on the application. The notification shall contain the actual value and classification of the property and a statement of the claimant's right of appeal to the local board of review.

**80.9(4) Appeal of eligibility determination.** If a property for which a claim for exemption as a forest or fruit-tree reservation is assessed for taxation, the property owner may appeal the assessment to the board of review under Iowa Code section 441.37.

**80.9(5) Valuation of property.** For each assessment year for which property is exempt as a forest or fruit-tree reservation, the assessor shall determine the actual value and classification that would apply to the property were it assessed for taxation that year. In any year for which the actual value or classification of property so determined is changed, the assessor shall notify the property owner pursuant to Iowa Code sections 441.23, 441.26 and 441.28.

**80.9(6) Recapture tax.**

a. *Assessment of property.* If the county conservation board or the assessor determines a property has ceased to meet the eligibility criteria established by the state conservation com-

mission, the property shall be assessed for taxation and subject to the recapture tax. The property shall be subject to taxes levied against the assessment made as of January 1 of the calendar year in which the property ceased to qualify for exemption. In addition, the property shall be subject to the tax which would have been levied against the assessment made as of January 1 of each of the five preceding calendar years for which the property received an exemption.

*b. Assessment procedure.* If the determination that a property has ceased to be eligible for exemption is made by the assessor by April 15, the assessor shall notify the property owner of the assessment as of January 1 of the year in which the determination is made in accordance with Iowa Code sections 441.23, 441.26, and 441.28. The assessment of the property for any of the five preceding years and for the current year, if timely notice by April 15 cannot be given, shall be by means of an omitted assessment as provided in Iowa Code section 443.6 (*Talley v. Brown*, 146 Iowa 360, 125 N.W. 243(1910)). Appeal of the omitted assessment may be taken pursuant to Iowa Code sections 443.7 and 443.8.

*c. Computation of tax.* The county auditor shall compute the tax liability for each year for which an assessment has been made pursuant to subrule 80.9(6), paragraph "b." The tax liability shall be the amount of tax that would have been levied against each year's assessment had the property not received the exemption. In computing the tax, the valuations established by the assessor shall be adjusted to reflect any equalization order or assessment limitation percentage applicable to each year's assessment.

*d. Entry on tax list.* The tax liability levied against assessments made as of January 1 of any year preceding the calendar year in which the property ceased to qualify for exemption shall be entered on the tax list for taxes levied against all assessments made as of January 1 of the year immediately preceding the calendar year in which the property ceased to qualify for exemption. However, if those taxes have already been certified to the county treasurer, the recapture taxes shall be entered on the tax list for taxes levied against assessments made as of January 1 of the year in which the property ceased to qualify for exemption. The tax against the assessment made as of January 1 of the year in which the property ceased to qualify for exemption shall be levied at the time taxes are levied against all assessments made as of that date.

*e. Delinquencies.* Recapture taxes shall not become delinquent until the time when all other unpaid taxes entered on the same tax list become delinquent.

*f. Exceptions to recapture tax.*

(1) Fruit-tree reservations. Property which has received an exemption as a fruit-tree reservation is not subject to the recapture tax if the property is maintained as a fruit-tree reservation for at least five full calendar years following the last calendar year for which the property was exempt as a fruit-tree reservation.

(2) Property which has been owned by the same person or the person's direct descendants or antecedents for at least ten years prior to the time the property ceases to qualify for exemption shall not be subject to the recapture tax.

(3) Property described in subrules 80.9(6) "f"(1) and 80.9(6) "f"(2) is subject to assessment as of January 1 of the calendar year in which the property ceases to qualify for exemption.

This rule is intended to implement Iowa Code chapter 161 and section 441.22.

[Filed 1/16/81, Notice 12/10/80—published 2/4/81, effective 3/11/81]

[Filed 2/12/82, Notice 1/6/82—published 3/3/82, effective 4/7/82]

[Filed 4/8/83, Notice 3/2/83—published 4/27/83, effective 6/1/83]

[Filed 7/1/83, Notice 5/25/83—published 7/20/83, effective 8/24/83]

[Filed 7/27/84, Notice 6/20/84—published 8/15/84, effective 9/19/84]

[Filed 8/10/84, Notice 7/4/84—published 8/29/84, effective 10/3/84]

[Filed 12/14/84, Notice 11/7/84—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 8/22/86, Notice 7/16/86—published 9/10/86, effective 10/15/86]

[Filed emergency 11/14/86—published 12/17/86, effective 11/14/86]

[Filed 9/18/87, Notice 8/12/87—published 10/7/87, effective 11/11/87]

## CHAPTER 121

Reserved

## TITLE XVII

*ASSESSOR EDUCATION COMMISSION*

## CHAPTER 122

## ADMINISTRATION

[Prior to 12/17/86, Revenue Department(730)]

**701—122.1(441) Establishment.** Iowa Code section 441.8 established an Assessor Education Commission, hereinafter referred to as the commission. The commission consists of seven members: The director of revenue and finance, two Iowa assessors appointed by the executive board of the Iowa state association of assessors, one member appointed by the state board of tax review, and three lay members appointed by the governor. The lay members are appointed for terms of four years and the appointments are subject to the approval of two-thirds of the members of the senate.

This rule is intended to implement Iowa Code section 441.8.

**701—122.2(441) General operation.** One of the members shall be selected as chairperson and one as vice-chairperson, each to serve in their capacity for one calendar year. Meetings of the commission may be called by the chairperson or a majority of the members of the commission. Meetings will be chaired by the chairperson or the vice-chairperson in the absence of the chairperson. A majority of the members of the commission must be present to constitute a quorum. A majority decision by those members present shall govern and control. The commission will meet at least once each year.

This rule is intended to implement Iowa Code section 441.8.

**701—122.3(441) Location.** While the commission has no offices, persons may obtain information about the commission and its activities at the Department of Revenue and Finance in the Hoover State Office Building, Des Moines, Iowa 50319. Persons wishing to obtain information or make submissions should address correspondence to that address.

This rule is intended to implement Iowa Code section 441.8.

**701—122.4(441) Purpose.** The commission is established to develop and administer a program of continuing education for Iowa assessors and deputy assessors. The program will emphasize assessment and appraisal procedures, assessment laws, rights and responsibilities of taxpayers and property owners related to the assessment of property for taxation, duties of assessors and deputy assessors, and other items related to the positions of the assessor and deputy assessor. The commission will designate the courses to be offered in the program, content of the courses, and the number of hours of classroom instruction. An evaluation of the program will be conducted at least annually with any necessary changes made.

The commission shall certify those assessors and deputy assessors who have received sufficient credit to be eligible for reappointment to his or her present position.

This rule is intended to implement Iowa Code section 441.8.

[Filed 5/25/79, Notice 4/18/79—published 6/13/79, effective 7/18/79]

[Filed 9/14/79, Notice 8/8/79—published 10/3/79, effective 11/7/79]

[Filed emergency 8/1/80—published 8/20/80, effective 8/1/80]

[Filed 11/7/80, Notice 10/1/80—published 11/26/80, effective 12/31/80]

[Filed emergency 11/14/86—published 12/17/86, effective 11/14/86]

## CHAPTER 123 CERTIFICATION

[Prior to 12/17/86, Revenue Department(730)]

**701—123.1(441) General.** Courses in the continuing education program may be taken for tested credit or nontested credit. To receive tested credit for a course, an assessor or deputy assessor must attend each session of the course and attain a grade of at least 70 percent on an examination given at the conclusion of the course. To receive nontested credit for a course, an assessor or deputy assessor must attend each session of the course. Credit will be given for each course equal to the number of hours of classroom instruction contained in the course. A course may be taken for credit only once during the assessor's or deputy assessor's current term of office. A person cannot receive both tested credit and nontested credit for the same course, except for those courses specifically designated by the director of revenue and finance. At the discretion of the director, up to 30 hours of tested credit may be granted for the completion of a narrative appraisal meeting the satisfactory criteria established by a professional appraisal society designated by the director. Only one narrative appraisal may be approved for credit during an assessor's or deputy assessor's current term of office. A term of office for purposes of these rules is six years.

**701—123.2(441) Confidentiality.** Examinations shall be confidential to the members of the commission and persons designated by the commission to have access to the examinations. Persons given access to the examinations are those persons administering the examination, the instructors of the course for which the exam is given and those persons entrusted with the storage and retention of examinations by the commission. The department of revenue and finance will store records of attendance at the courses and scores of the examinations. Any person having access to examinations shall not divulge in any manner not provided by law the results of any examination.

**701—123.3(441) Certification of assessors.** An assessor who has received credit equal to at least one hundred fifty hours of classroom instruction, of which at least ninety hours are tested credit, during his or her term as assessor shall be certified to the assessor's conference board as eligible for reappointment to his or her present position. Certification shall be only that the incumbent has met the requirements to be eligible for reappointment. No scores or other information will be given to the conference board.

If an assessor's term expires prior to January 1, 1986, the number of credits required to be certified to determine eligibility for reappointment shall be prorated according to the percentage of the assessor's term that was covered by the provisions of Iowa Code section 441.8. The credit necessary for certification for reappointment would be determined as follows:

Number of months covered by provisions of section 441.8	$\times 150 =$	Credit necessary for certification for reappointment.
---	----------------	---

72

For example, if an assessor's term expires October 1, 1982, the credit necessary for reappointment would be sixty-nine hours, determined as follows:

12 months (1980) + 12 months (1981) + 9 months (1982)

$\frac{72}{.458}$	$\times 150 =$	
69		

If the number of credits necessary for certification for reappointment as determined according to the above provisions results in a partial credit hour, the required credit shall be rounded to the nearest whole number.

An assessor who was appointed to complete an unexpired term shall be certified as eligible for reappointment if he or she completes the appropriate credits determined as follows:

$$\frac{\text{Number of months of unexpired term filled}}{72} \times 150$$

For example, if an assessor were appointed to fill the last fifteen months of an unexpired term, the credit necessary for certification would be 31 hours determined as follows:

$$\frac{15 \times 150}{72} = 31 \text{ hours}$$

In situations in which the required number of hours of credit must be prorated, at least sixty percent of the credits earned must be tested credit. For example, if the person in the example immediately above must earn thirty-one hours of credit for certification during the fifteen-month period, at least nineteen of the hours must be tested credit ( $31 \times .60 = 18.6 = 19$ ).

**701—123.4(441) Certification of deputy assessors.** A deputy assessor who has received credit equal to at least ninety classroom hours of instruction, of which at least sixty hours are tested, during each six-year period following his or her appointment as deputy assessor, shall be certified to the assessor employing the deputy as eligible to continue as deputy assessor in that position. Certification shall be only that the deputy has or has not met the requirements to be eligible to remain in his or present position. No scores or other information will be given the assessor.

**701—123.5(441) Type of credit.** A course, seminar, workshop, or symposium for which an examination is given may be taken for tested credit or nontested credit at the discretion of the assessor or deputy assessor. However, a course may not be taken twice—once for tested credit and again for nontested credit—unless specific approval is granted by the commission.

**701—123.6(441) Retaking examination.** If an assessor or deputy assessor successfully retakes an examination for a course for which nontested credit previously had been granted, the credit will be changed to tested credit upon receipt by the commission of evidence of passing the examination.

**701—123.7(441) Instructor credit.** An assessor or deputy assessor who serves as an instructor for a course approved by the commission for continuing education may receive nontested credit for the number of hours of classroom instruction. Such credit shall be granted only once for each course, and cannot be granted for a course for which the instructor previously attended and received credit as a student.

**701—123.8(441) Conference board and assessor notification.** Upon receiving credit for the required number of hours of tested and nontested credit, an assessor or deputy assessor should request that the commission notify the appropriate conference board or assessor that the continuing education requirements have been satisfied to ensure timely notification.

Rules 123.1 to 123.8 are intended to implement Iowa Code section 441.8 as amended by 1987 Iowa Acts, House File 374.

[Filed 5/25/79, Notice 4/18/79—published 6/13/79, effective 7/18/79]

[Filed emergency 8/1/80—published 8/20/80, effective 8/1/80]

[Filed 6/2/82, Notice 4/28/82—published 6/23/82, effective 7/28/82]

[Filed emergency 11/14/86—published 12/17/86, effective 11/14/86]

[Filed 9/18/87, Notice 8/12/87—published 10/7/87, effective 11/11/87]

## CHAPTER 124 COURSES

[Prior to 2/17/86, Revenue Department(730)]

**701—124.1(441) Course selection.** The courses selected by the commission for the continuing education program shall emphasize the areas outlined in rule 122.4(441) herein. In establishing courses, the commission will consider current assessor training programs in Iowa, other states and from other sources.

**701—124.2(441) Scheduling of courses.** Courses will be scheduled in such a way as to offer a variety of times to allow flexibility for assessors and deputy assessors to schedule their continuing education program. The number of participants for any course may be limited at the time the course is established to ensure proper training can be given each participant.

**701—124.3(441) Petitioning to add, delete or modify courses.** The commission accepts and encourages the public to provide input into the development of the assessor education program. Any person or group may petition to add, delete or modify all or part of the program by submitting a written request for the commission's consideration.

The overriding consideration in determining whether a specific course is acceptable as continuing education is that it be a formal program of learning which contributes directly to the professional competence of an assessor or deputy assessor.

A continuing education course will qualify only if:

1. An outline of the course content and a description or copy of the final examination are prepared and filed with AEC. In addition, any course changes are required to be filed with the AEC.

2. The course is at least one hour (fifty minute period) in length.

3. The course is conducted by a qualified instructor, discussion leader, or lecturer. A qualified instructor, discussion leader, or lecturer is any individual whose background, training, education or experience makes it appropriate for that person to lead a discussion on the subject matter of the particular course.

4. Certificates of attendance must be sent to the AEC and the student.

5. An organization or person desiring accreditation of a course shall apply to the commission for accreditation at least sixty (60) days in advance of the commencement of the activity on an application provided by the commission (Form 19-361, "Application for course certification and/or accreditation"). The commission shall approve or deny the application in writing within thirty (30) days of receipt, unless an extension of time is agreed to by the applicant and the commission. The application shall state the dates, subjects offered, total hours of instruction, names and qualifications of the instructor, discussion leader or lecturer and shall include a statement of the objectives of the course and how these objectives will be attained, an outline of the course content, a copy of the final examination and any other pertinent information.

**701—124.4(441) Course participation.** It is the responsibility of individual assessors to comply with the enrollment provisions of respective courses designated and established by the commission.

**701—124.5(441) Retaking a course.** If an assessor or deputy assessor fails a course by receiving a grade of less than seventy percent on the final examination or does not meet attendance requirements established by the commission, the course may be retaken. Once a person has passed a course and received credit for the course, no further credit can be received by taking the course again, except for those courses so designated by the commission. However, if an assessor or deputy assessor wishes to retake a course as a refresher for the materials contained in the course, he or she may do so, though no final examination need be taken. If a course is applied for by a person already having received credit, that person will only be allowed in the

## LOTTERY DIVISION[705]

[Prior to 1/14/87; Iowa Lottery Agency(526), renamed Lottery Division(705) under the "umbrella" of Revenue and Finance Department(701) by 1986 Iowa Acts, chapter 1245]

### CHAPTER 1

#### GENERAL PROVISIONS

- 1.1(99E) Identification
- 1.2(99E) Composition of the lottery board
- 1.3(99E) Location of the agency
- 1.4(99E) Time and place of lottery board meetings

### CHAPTER 2

#### DEFINITIONS

- 2.1(99E) General
- 2.2(99E) Specific definitions

### CHAPTER 3

#### LICENSING

- 3.1(99E) Licensing in general
- 3.2(99E) General license
- 3.3(99E) Provisional license
- 3.4(99E) Special limited off-premises sales permit
- 3.5(99E) License fees
- 3.6(99E) Bad checks and EFT transfers
- 3.7(99E) License issuance eligibility
- 3.8 Reserved
- 3.9(99E) Duplicate licenses
- 3.10(99E) Transfer of license prohibited
- 3.11(99E) Change of business structure
- 3.12(99E) Change of ownership
- 3.13(99E) Change of officers
- 3.14(99E) License not a vested right
- 3.15(99E) License to be displayed
- 3.16(99E) Display of material
- 3.17(99E) Tickets convenient to public
- 3.18(99E) Obligations of licensed retailers
- 3.19(99E) Compensation of licensees
- 3.20(99E) Denial, suspension or revocation of a license
- 3.21(99E) Procedure if license is suspended or revoked

### CHAPTER 4

#### OPERATION OF THE LOTTERY

- 4.1(99E) Operation of the lottery
- 4.2(99E) Authorization to sell tickets
- 4.3(99E) Licensed retailer's instructions
- 4.4(99E) Disclosure of probability of purchasing a winning ticket
- 4.5(99E) Location of sale
- 4.6(99E) Price of tickets limitations
- 4.7(99E) Purchaser's obligations

- 4.8(99E) Conflicts of interest and prohibitions

- 4.9(99E) Payment of prizes—general provisions

- 4.10(99E) Licensed retailer identification card

- 4.11(99E) Deposits of lottery revenues

- 4.12(99E) Stolen or lost tickets

- 4.13(99E) Prizes payable after death or disability of owner

- 4.14(99E) Lottery accounts and depositories

- 4.15(99E) Assignment of depository

- 4.16(99E) Erroneous or mutilated tickets

- 4.17(99E) Law enforcement

- 4.18(99E) Experimental retailer incentive programs

- 4.19(99E) Employee incentive program

- 4.20(99E) Advertising

### CHAPTER 5

#### PURCHASING PROCEDURE

- 5.1(99E) Methods of procurement used by the lottery division
- 5.2(99E) Approved vendors
- 5.3(99E) Instructions to vendors
- 5.4(99E) Opening and processing of the bidding document
- 5.5(99E) Vendors appeal
- 5.6(99E) Delivery and acceptance of commodities
- 5.7(99E) How to initiate payment
- 5.8(99E,18) Set-aside for contracts with Iowa female and minority small businesses

### CHAPTER 6

#### VENDORS

- 6.1(99E) Vendor obligations
- 6.2(99E) Vendor prohibitions

### CHAPTER 7

#### HEARINGS, PETITIONS FOR RULEMAKING AND PETITIONS FOR DECLARATORY RULING

- 7.1(99E) Hearing board
- 7.2(99E) Commissioner may suspend or revoke a license pending a hearing

- 7.3(99E) Appearance and practice before the hearing board—who may appear
- 7.4(99E) Standards of ethical conduct
- 7.5(99E) Appearance by former employee of agency or former member of attorney general's staff
- 7.6(99E) Waiver of hearing
- 7.7(99E) Depositions in contested cases—right to take
- 7.8(99E) Official notice—material facts
- 7.9(99E) Form and content of decisions in contested cases and proposed orders
- 7.10(99E) Petitions for rulemaking, amendments or repeal—who may petition
- 7.11(99E) Petitions for rulemaking, amendments or repeal—requisites
- 7.12(99E) Petitions for rulemaking, amendments or repeal—agency must consider
- 7.13(99E) Petitions for rulemaking, amendments or repeal—notice of disposition
- 7.14(99E) Declaratory rulings
- 7.15(99E) Forms

#### CHAPTER 8 INSTANT GAME GENERAL RULES

- 8.1(99E) Instant games authorized—commissioner's authority
- 8.2(99E) Definitions
- 8.3(99E) Instant games criteria
- 8.4(99E) Confidentiality of tickets
- 8.5(99E) Board
- 8.6(99E) Official end of game
- 8.7(99E) Ticket validations requirements
- 8.8(99E) Retailer identification

#### CHAPTER 9 ON-LINE GAME GENERAL RULES

- 9.1(99E) On-line game authorized
- 9.2(99E) On-line game licensing
- 9.3(99E) Unique serial number
- 9.4(99E) Reserved
- 9.5(99E) Game selection
- 9.6(99E) Validation requirements
- 9.7(99E) Public drawings
- 9.8(99E) Official end of game
- 9.9(99E) Reserved
- 9.10(99E) Prize list
- 9.11(99E) Service fee

#### CHAPTER 10 LOTTO

- 10.1(99E) LOTTO
- 10.2(99E) Ticket purchase, characteristics and restrictions
- 10.3(99E) Subscriptions
- 10.4(99E) Determination of prize winners
- 10.5(99E) System plays
- 10.6(99E) Drawings
- 10.7(99E) Price
- 10.8(99E) Changes
- 10.9(99E) Ticket responsibility
- 10.10(99E) Ticket validation requirements
- 10.11(99E) Cancellation of drawings
- 10.12(99E) Claims and payment of claims
- 10.13(99E) Retailers
- 10.14(99E) Players
- 10.15(99E) Unaccepted play
- 10.16(99E) Minors purchasing tickets
- 10.17(99E) Forward sales
- 10.18(99E) One prize
- 10.19(99E) Corrections
- 10.20(99E) Risk

#### CHAPTER 11 PULL-TAB GENERAL RULES

- 11.1(99E) Authorization of game
- 11.2(99E) Definitions
- 11.3(99E) Ticket price
- 11.4(99E) Method of play
- 11.5(99E) Validation
- 11.6(99E) Prizes
- 11.7(99E) Claims
- 11.8(99E) Owner of ticket
- 11.9(99E) Disputed claim
- 11.10(99E) Lottery logo
- 11.11(99E) End of game
- 11.12(99E) Specific game rules
- 11.13(99E) Board approval

## CHAPTER 10 LOTTO

[Prior to 1/14/87; Iowa Lottery Agency(526), ch 10]

**705—10.1(99E) LOTTO.** The commissioner has selected and the lottery board approved the on-line game "LOTTO," the game rules for which are set forth in this chapter.

**10.1(1) LOTTO definitions.** For the purposes of LOTTO, unless the context requires a different meaning or unless inconsistent with the manifest intention of the lottery division:

"*Board*," as used in this chapter, means that area of the play slip which contains the designated number of squares for each play.

"*Central computer*" or "*central computer system*" is a centrally located computer system designated to control, monitor, and communicate with the terminals and to record the plays processed by the terminals.

"*Drawing*" means that process which is used to select randomly six "winning numbers" between one (01) and a "designated number." The "designated number" is determined by the lottery agency, defines the highest number which may be selected, and may be changed by the lottery agency from time to time effective after the end of a specified drawing.

"*Easy pick*" means the random selection by the computer system of six different two-digit numbers from one (01) through a "designated number" which appear on a ticket and are played by a player in the game.

"*Game ticket*" or "*ticket*" means a ticket produced by a terminal, which contains the caption "LOTTO," the drawing day and date, one or more lettered game plays each of which has six two-digit numbers from one (01) through a "designated number," the price of each board, the total price of the ticket, a bar code representation of the ticket serial number, a twenty-three digit serial number, five alphabetic dual security characters, and the time the ticket was issued on the front of the ticket. On the back of the ticket must be an eight-digit ticket stock sequential number followed by two letters and synopsis of game rules.

"*Play*" or "*game plays*" means the six different two-digit numbers from one (01) through a "designated number," which appear on a ticket as a single lettered selection and are played by a player in the game.

"*Play slip*" means a card used by the player in marking a player's game plays and contains one or more boards.

"*Retailer*" means the person or entity licensed by the lottery division to sell player selection game plays.

"*Terminal*" or "*lottery sales center*" means a device which is authorized by the lottery division to function in an on-line, interactive mode with the central computer system, for the purpose of issuing lottery tickets and entering, receiving and processing lottery transactions, including purchases, voiding purchases, validating tickets and receiving reports.

"*Winning numbers*" mean the six two-digit numbers between one (01) and a "designated number," randomly selected at each drawing, which shall be used to determine winning plays contained on a game ticket. Notwithstanding any other provision of these rules to the contrary, the commissioner shall have the right, from time to time, effective after the end of a specified drawing, to increase or decrease the minimum number of numbers which must be selected to have a "winning number," and a public announcement of such change shall be made by the lottery division. Specifically, but without limitation of the foregoing, the commissioner shall have the right to require seven or eight winning numbers between one (01) and a "designated number," rather than six winning numbers between one (01) and a "designated number," as presently required by these rules.

**10.1(2) Reserved.**

**705—10.2(99E) Ticket purchase, characteristics and restrictions.**

**10.2(1)** To play LOTTO, a player must select one or more sets of six different two-digit numbers, between one (01) and a "designated number," for input into a terminal. A player may select each set by verbally communicating the six numbers to a retailer, or by marking

six numbered squares in any one game board on a play slip and submitting the play slip to a retailer, or by requesting "EASY PICK" from the retailer. The retailer will then issue a ticket, via the terminal, containing the selected set or sets of numbers, each of which constitutes a game play. A ticket can contain more than one LOTTO game play.

**10.2(2)** A ticket is subject to the validation requirements of rule 10.10(99E) and a play shall be void unless the play evidenced by the ticket reaches, is accepted by, and is recorded by the central computer.

**10.2(3)** Any play placed on a drawing that has already occurred is void.

**10.2(4)** A play slip has no pecuniary or prize value and shall not constitute evidence of ticket purchase or of numbers selected.

**10.2(5)** A play is void and no prize will be paid unless each of the six printed numbers on the ticket has two digits. For example, "03" is a valid number whereas "3" is not.

**10.2(6)** A ticket may be canceled by returning the ticket to the selling retailer; provided, however, that the ticket shall be returned to the retailer the same day it was purchased and, if purchased on the drawing day, in time to permit canceling to be fully completed prior to the closing time for that day's drawing.

**10.2(7)** In the event that a ticket is canceled, in accordance with the provisions of subrule 10.2(6), the player will be entitled to a refund from the retailer equal to the purchase price of the ticket from the retailer.

**10.2(8)** It shall be the sole responsibility of the player to verify the accuracy of the game play or plays and other data printed on the ticket. In the event of any error, the player's sole remedy shall be the return and cancellation of the ticket, pursuant to subrule 10.2(6), and refund of the purchase price of the ticket, pursuant to subrule 10.2(7). The lottery division shall not be responsible for tickets printed in error, and its liability shall be limited to refund of the purchase price of the erroneous ticket, pursuant to subrules 10.2(6) and 10.2(7).

#### **705—10.3(99E) Subscriptions.**

**10.3(1)** Subscriptions may be offered, when permitted by law, wherein a player selects a LOTTO play, commencing on a designated future drawing date, which the player will play for up to twenty-six or fifty-two (or other designated period) consecutive drawings.

**10.3(2)** The lottery division may terminate subscriptions at any time, in which event the subscription player will be issued a refund for the pro rata portion of the purchase price of the subscription, or will be provided substitute lottery products for the remaining value, at the lottery division's discretion.

**705—10.4(99E) Determination of prize winners.** Prizes shall be determined and awarded on the following basis.

**10.4(1)** When a Jackpot "Share" for a particular LOTTO drawing is equal to or greater than \$5,000 the formula for determining the Jackpot and shares of the Jackpot shall be as follows:

Jackpot Prize Pool =  $P - (M_3 + M_4 + M_5) + R$

Where:  $P$  (Prize Pool) = (48 percent of Noncanceled Sales for Drawing Involved)

$M_3$  (winners matching 3 numbers) =  $\$.48 \times$  (number of noncanceled plays matching 3 numbers; the number can be 0).

$M_4$  (winners matching 4 numbers) =  $\$20 \times$  (number of noncanceled plays matching 4 numbers; the number can be 0).

$M_5$  (winners matching 5 numbers) =  $\$500 \times$  (number of noncanceled plays matching 5 numbers; the number can be 0).

$R$  = Rollover Jackpot Prize Pool which is the Jackpot Prize Pool from the previous drawing, if no valid play matching all 6 numbers drawn was recorded in the previous drawing.

A "Share" of the Jackpot as defined for subrule 10.4(1) is determined by dividing the Jackpot Prize Pool by the number of noncanceled plays matching all six numbers. Unclaimed shares of the Jackpot are added to future prize pools as determined by the commissioner. Holders of each "Share" will receive prize payment in 20 equal installments consisting of an initial payment and 19 subsequent yearly installments in the form of an annuity or may, at the commissioner's option, receive one lump-sum payment if the Jackpot share is less than \$100,000.

Tickets Containing  
The Following Number  
of Matches In One  
Game Play Irrespective  
of Drawing Order

Prize Amount For \$1 Play

All Six Winning  
Numbers

A "Share" of the current  
Jackpot Prize Pool as  
determined above.

Five Winning Numbers

\$500

Four Winning Numbers

\$20

Three Winning Numbers

Free LOTTO Play

**10.4(2)** When a Jackpot Prize "Share" for a particular LOTTO drawing is less than \$5,000 when calculated under the provisions of subrule 10.4(1) then:

"Prize Pool" is defined as 88 percent of the value of gross noncanceled sales for the drawing involved;

"Share Value" is defined as the result of the following formula rounded down to the nearest dollar:

$$\frac{\text{Prize Pool} - N_3 + R}{N_4 + N_5 + N_6}$$

Where:  $N_3$  = \$.48 × number of noncanceled plays matching exactly 3 numbers; the number can be 0.

$N_4$  = number of noncanceled plays matching exactly 4 numbers; the number can be 0.

$N_5$  = number of noncanceled plays matching exactly 5 numbers multiplied by 25; the number can be 0.

$N_6$  = number of noncanceled plays matching all 6 numbers multiplied by 250.

$R$  = Rollover Jackpot Prize Pool which is all the Jackpot Prize money from the previous drawing, if no valid play matching all 6 numbers drawn was recorded in the previous drawing.

A "Share" of the Jackpot Prize is defined for subrule 10.4(2) as the result of dividing the result of the following calculation by the number of noncanceled plays matching all six numbers:  $\text{Prize Pool} + R - (N_3) - (\text{Share Value} \times N_4) - (\text{Share Value} \times N_5 \times 25)$ .

Unclaimed Jackpot Shares are added to future Jackpot Prize Pools as determined by the commissioner.

Tickets Containing  
The Following Number  
of Matches In One  
Game Play Irrespective  
of Drawing Order

Prize Amount For \$1 Play

All Six Winning  
Numbers

A "Share" of the current  
Jackpot Prize Pool as determined  
above.

Five Winning Numbers

25 × a "Share Value" as defined  
above.

Four Winning Numbers

A "Share Value" as defined above.

Three Winning Numbers

Free LOTTO Play

**10.4(3)** For purposes of subrules 10.4(1) and 10.4(2), the commissioner may remove up to 10 percent of the funds from the Prize Pool and place them into a Prize Insurance Fund. The commissioner may place these funds back into the Prize Pool or the Jackpot Pool for special promotions if the commissioner determines that the amount of money available for the Prize Pool or the Jackpot Prize Pool is inadequate or the amount available is not sufficient to pay a minimum prize.

**10.4(4)** The commissioner may round the actual amount of the Jackpot Prize Pool as determined by rule 10.4(99E) to facilitate the purchase of a funding mechanism.

This rule is intended to implement 1985 Iowa Code supplement section 99E.9(3)"d."

**705—10.5(99E) System plays.** In the LOTTO game where six winning numbers are drawn, the player may elect to make one of the following system plays (when the lottery division makes these system plays available):

**10.5(1) Pick 7.** In Pick 7, the player selects seven two-digit numbers between 01 and the "designated number" at a cost of seven times the cost of one play. This play is equivalent to seven separate plays on the seven different ways of picking six numbers out of the selected seven.

**10.5(2) Pick 8.** In Pick 8, the player selects eight two-digit numbers between 01 and the "designated number" at a cost of twenty-eight times the cost of one play. This play is equivalent to twenty-eight separate plays on the twenty-eight different ways of picking six numbers out of eight.

**705—10.6(99E) Drawings.** Drawings shall be conducted in such manner, with the frequency, odds of winning, and at times and places as the lottery division may determine, from time to time, and announce to the public.

**705—10.7(99E) Price.** Game play shall sell for the amount determined by the commissioner, and the lottery division shall make a public announcement of the same. Game plays and tickets may be purchased only through retailers and the lottery division.

**705—10.8(99E) Changes.** The commissioner may, from time to time, change the prize structure, number of numbers which are to be selected from one (01) and to the "designated number," change the "designated number" or change the frequency of the drawings.

**705—10.9(99E) Ticket responsibility.**

**10.9(1)** Until such time as a signature is placed upon the rear portion of a ticket, in the area designated for signature, a ticket shall be owned by the physical possessor of the ticket. When a signature is placed on the rear of the ticket, in the place designated, the person whose signature appears in such area shall be the owner of the ticket and shall be entitled (subject to the validation requirements of rule 10.10(99E)) to any prize attributable thereto.

**10.9(2)** Notwithstanding any name or names submitted on a claim form, the lottery division shall make payment to the person whose signature appears on the rear of the ticket in the space designated for signature. If the signatures of more than one person appear in that space, the lottery division shall make payment to the person identified on the winner's claim form.

to receive payment, which designation shall be made by all persons whose signatures appear on the reverse side of the ticket. In the event that all persons whose signatures appear in the appropriate space cannot identify one person to whom payment should be made, the lottery division shall await such time as a binding determination of entitlement is made. In no event shall more than one person be entitled to a particular prize.

10.9(3) The lottery division shall not be responsible for lost or stolen tickets.

**705—10.10(99E) Ticket validation requirements.**

10.10(1) To be a valid ticket and eligible to receive a prize, all the following requirements must be satisfied:

a. The ticket must have been issued by the lottery division directly or through a retailer, via a terminal, in an authorized manner. The ticket must be intact and must not be mutilated, altered, reconstituted, or tampered with in any manner.

b. The ticket data must have been recorded in the central computer system prior to the play cutoff time for the drawing entered into the central computer. The cutoff time shall be determined by the commissioner. Even if it appears that a play is accepted (by virtue of a printed ticket), any play placed after such cutoff time is not eligible for that (regardless of when the drawing is held).

c. The information appearing on the ticket must correspond precisely with the lottery division computer record.

d. The twenty-three-digit ticket serial number must appear in its entirety, and correspond, using a computer validation file, to the winning game play or plays printed on the ticket. The five alphabetic "dual security" characters must follow the validation number. The dual security characters must correspond logically, using the lottery division codes, to the ticket stock sequential number on the back of the ticket.

e. The ticket must not be defectively printed, fuzzy, produced in error, counterfeit in whole or in part, altered, unreadable, reconstituted, tampered with in any manner, stolen, blank or partially blank, misregistered, or defective.

f. All information appearing on an apparent winning ticket must correspond to the lottery division records of winning tickets, and another ticket with identical data shall not have been paid.

g. The ticket must be intact, fully legible, unpaid previously, complete and not miscut, correspond to the artwork on file at the lottery division, and otherwise regular in every respect.

h. The ticket must pass all other security criteria determined by the lottery division.

i. The ticket must be validated in accordance with the provisions of these rules relating to the procedures for claiming prizes and for the payment thereof.

j. An apparent winning ticket shall be void unless the ticket is printed on a paper stock roll which was in use at the time of the play by, and validly issued to, the retailer from whom the ticket was purchased, and the "dual security" characters shall indicate (using lottery division codes) that the ticket came from a logically correct area of the paper stock roll.

10.10(2) In the event that a ticket fails to pass all the criteria set forth in this rule, the ticket shall be deemed void and ineligible for any prize and shall not be paid. In the event of a dispute or other instance of doubt, the decision of the lottery division shall be final and binding. If the lottery division determines that the ticket is not eligible to receive a prize, then the lottery division may, at its option, replace an invalid, defective or otherwise erroneous ticket with a ticket of equivalent sales price from any current lottery game. Replacement of the ticket shall be the sole and exclusive remedy of the bearer or claimant.

**705—10.11(99E) Cancellation of drawings.** The lottery division has the right to cancel drawings or sales of tickets on holidays, days of special importance, or on days when conditions make conducting the game impractical or inappropriate and to conduct drawings and make-up drawings at times, dates, and pursuant to methods all as determined by the commissioner.

**705—10.12(99E) Claims and payment of claims.**

10.12(1) All prizes must be claimed within ninety days of the drawing in which the prize

was won. Any prize not claimed within the specified period shall be forfeited and the proceeds from any such funds shall be added to future prize pools.

**10.12(2)** To receive direct payment of less than \$600, the player must take the winning ticket to any retailer or lottery division office. The winning ticket must be signed and turned in to the retailer or lottery division office to receive payment. If there is any alteration, mutilation, tear, or other ambiguity on the ticket, then the retailer is not authorized to make direct payment and a claim form shall be submitted to the lottery division.

**10.12(3)** Winning players may submit a claim form for prizes of less than \$600. Claim forms are obtainable from any retailer or lottery division office.

**10.12(4)** Winners must complete a claim form for prizes of \$600 or more and, at the commissioner's option, for \$100 or more, as directed by the commissioner.

**10.12(5)** Claim forms shall be submitted through the retailer, or may be mailed or submitted directly by the claimant to the lottery division.

**10.12(6)** When a claim form is used the winning ticket must be signed by the player and submitted with the claim form.

**10.12(7)** Claims submitted to the lottery division are subject to validation; once validated, the prize will be forwarded to the player.

**10.12(8)** The lottery division's determination on the validity of tickets and the amounts to be paid is final.

**10.12(9)** No payments shall be made unless the player possesses the winning ticket. Tickets should be signed when purchased.

**705—10.13(99E) Retailers.** All retailers shall abide by these rules as well as the published or established procedures for the game(s). A retailer's license to sell tickets can be suspended or terminated by the lottery if the retailer violates these rules or the procedures for the game(s).

**705—10.14(99E) Players.** By purchasing a ticket, the player is subject to the rules of the lottery division. Applicable rules are available at any retailer location or lottery division office.

**705—10.15(99E) Unaccepted play.** If for any reason the player's play is not accepted, then the liability of the lottery division and its retailer is limited to a refund of the amount paid for the play.

**705—10.16(99E) Minors purchasing tickets.** Persons under the age of eighteen are not permitted to purchase tickets.

**705—10.17(99E) Forward sales.** In connection with forward sales of future drawings the player may play from one to the next fifty-two consecutive drawing days.

**705—10.18(99E) One prize.** Players are eligible to receive (subject to the validation requirements of rule 10.10(99E) only one (the highest) prize for each winning game play.

**705—10.19(99E) Corrections.** The lottery division reserves the right to correct and adjust, up or down, the amount of any prize or prizes, whether or not all or part of the prize or prizes has been paid, if it is determined that one or more players were entitled to a portion of a pari-mutuel prize and were not included in such prize calculations (or were included by mistake in such prize calculations).

**705—10.20(99E) Risk.** The placing of plays is done at the player's own risk through the on-line retailer who is acting on behalf of the player in entering the play or plays.

These rules are intended to implement 1985 Iowa Code supplement chapter 99E.

[Filed emergency 4/18/86—published 5/7/86, effective 4/21/86]

[Filed emergency 11/26/86—published 12/17/86, effective 11/26/86]

[Filed emergency 12/23/86—published 1/14/87, effective 12/26/86]

[Filed emergency 9/18/87—published 10/7/87, effective 9/18/87]

## CHAPTER 11 PULL-TAB GENERAL RULES

**705—11.1(99E) Authorization of game.** The lottery board authorizes the commissioner to sell pull-tab tickets which meet the criteria specified in this chapter.

**705—11.2(99E) Definitions.** As used in this chapter the following definitions are applicable. “*Low-tier prizes*” are prizes which are included in the guaranteed low end prize structure of a pull-tab game.

“*Pull-tab tickets*” are lottery tickets that are played by opening tabs to reveal if a prize was won. “Pull-tab tickets” do not include “instant game tickets” that are played by removing a latex covering from the play area.

“*Specific game rules*” are rules issued by the commissioner pursuant to Iowa Code section 99E.9(3)“b” which describe the exact manner in which each game is played and which set forth details concerning each game.

**705—11.3(99E) Ticket price.** The price of a pull-tab ticket shall be 50 cents or 25 cents including sales tax as determined by the commissioner.

**705—11.4(99E) Method of play.** Each pull-tab ticket shall have three, four, or five tabs under which play symbols shall appear. A winning ticket will be determined by matching, aligning, adding, or locating symbols or numbers under the tabs.

**705—11.5(99E) Validation.**

**11.5(1)** Winning tickets will be validated by use of a symbol, number, or color coded marking. A ticket is not valid if it fails to meet any of the following requirements:

- a. The ticket must have been issued by the Iowa lottery in an authorized manner.
- b. The ticket must not be altered, unreadable, reconstructed, or tampered with in any manner.
- c. The ticket must not be stolen nor appear on any list of omitted tickets on file with the lottery.
- d. The ticket must be complete and not blank or partially blank, miscut, misregistered, defective, or printed in error.
- e. The ticket must have exactly the play symbols and captions specified in the specific game rules.
- f. The ticket must pass all validation tests including confidential validation tests.

**11.5(2)** Invalid tickets are void and not eligible to win any prize.

If a ticket is invalid when sold, the purchaser’s sole remedy is to submit the ticket to any lottery office to obtain a replacement ticket or to obtain a refund of the retail sale price. The lottery has no other responsibility or liability in relationship to tickets which are invalid when sold. The lottery shall have no liability or responsibility for tickets invalidated after the time of sale. The commissioner’s determination that a ticket is valid or invalid or that a ticket was valid when sold and was subsequently invalidated shall be final.

**705—11.6(99E) Prizes.** The top prize won on any pull-tab ticket shall not exceed \$500. All prizes awarded in a pull-tab game shall be low-tier prizes.

**705—11.7(99E) Claims.** All prizes must be claimed only at the place of business of the licensee which sold the ticket. Prizes must be claimed prior to the licensee’s first close of business following the sale of the ticket. The winning ticket must be submitted to the licensee to obtain payment of any prize.

**705—11.8(99E) Owner of ticket.** Licensees shall pay prizes only to persons who present winning tickets. The person in physical possession of a pull-tab ticket shall be deemed to be the owner of the ticket who is entitled to prize payment regardless of any signature or other writing which may have been placed on the ticket after purchase.

**705—11.9(99E) Disputed claim.** If a purchaser and a licensee cannot agree as to whether a prize should be paid on any ticket, the purchaser may submit the ticket to any lottery office. The commissioner's determination as to whether or not a prize will be awarded shall be final.

**705—11.10(99E) Lottery logo.** All pull-tab tickets sold by the Iowa lottery shall be conspicuously marked with the logo of the Iowa lottery.

**705—11.11(99E) End of game.** The commissioner shall announce the end of any pull-tab game or games.

**705—11.12(99E) Specific game rules.** Specific game rules governing the play of each game shall be made available by the lottery prior to the beginning of any game as required by Iowa Code section 99E.9(3)"b." Copies of these rules shall be kept on file at all lottery offices.

**705—11.13(99E) Board approval.** Within five days of the selection of a particular pull-tab game, the commissioner shall provide the board members with written notification that a particular game has been selected. The chairperson of the board or a quorum of the board may call a meeting to review the game selection. If the lottery board does not disapprove of the game within five working days following receipt of notice that the game has been selected, the board may not later disapprove of the game.

[Filed emergency 9/18/87—published 10/7/87, effective 9/18/87]

**ADOPTION**

Agencies 441—chs 108, 142, 157

Appeals 441—200.11

Application 441—200.1

Certificate, birth 641—100.3, 100.6, 100.7

Costs 441—200.7

Expenses, tax deduction 701—41.5(3)

Foreign 441—200.9

Foster parents 441—157.2, 200.1(1), 200.2

Hearings 441—200.12

Hospitals, out-of-wedlock cases 470—51.30(5)

Information, release 441—200.10, 200.13

Investigations 441—107.8, 108.4(2,4), 157.3(2), 200.1(2), 200.6

Investigators

Certification

Appeals 441—107.11

Application 441—107.3

Denial 441—107.5, 107.9(1)*b*

Records/forms 441—107.6

Renewal 441—107.4(5)*b*, 107.7

Requirements 441—107.4

Revocation 441—107.5

Crime/abuse record check/evaluation 441—107.8(1), 108.4(2)*d*, 108.4(4), 200.1(2)

Duties 441—107.4(4), 107.8

Fees 441—107.4(4)*c*, 107.8(5)

Records/reports 441—107.6(3), 107.8(4,5), 107.9, 107.10

Placements

Agreements 441—108.4(1)*d*

Hard to place 441—200.6(2), 200.7(3), 201.3(1)

Interstate 441—ch 142, 200.8

Special needs children/sibling groups 441—157.1, 157.2, 200.2(1), 200.7(3), 201.3(1)*h*Records 441—108.5, 200.13; 641—103.1(1)*c*; *see also Investigators above*

Research 441—200.10

Services, purchased

Components 441—157.3

Contracts 441—157.4

Counseling 441—157.1(2), 157.3(5), 157.5

Payment 441—157.5

Special needs/sibling groups 441—157.1, 157.2

Subsidized

Amount 441—201.5

Application 441—201.4, 201.9

Definitions 441—201.2

Eligibility 441—201.3

Funds

Reinstatement 441—201.8

Termination 441—201.7

Services covered 441—201.6

Termination, parental rights 441—200.3

**ADVANCE FUNDING AUTHORITY, IOWA***See IOWA ADVANCE FUNDING AUTHORITY*

**ADVERTISING**

- Accountants 10—11.6(2)
- Agencies, taxable/nontaxable services 701—18.27
- Barbers 645—20.212(1,8)
- Billboards, highway
  - Generally 761—ch 117
  - Acquisition/removal 761—117.8
  - Definitions 761—117.1
  - Locations 761—117.1
  - Maintenance/erection 761—117.3
  - Permits/fees 761—117.6
  - Standards 761—117.3
- Chiropractors 641—173.1(6); 645—40.24(7)
- Cosmetologists 645—62.113(1,8)
- Dairy trade restrictions 30—25.6
- Dentistry 320—21.3, ch 26, 30.4“3,25 - 27”
- Employment agencies 347—38.7(2)
- Fair, state 430—4.1, 4.2
- Funeral directors 470—147.212(1,8)
- Hearing aid dealers 470—145.212(1,8)
- Insurance 191—15.13 - 15.31, 15.40 - 15.49
- Interstate highway signs
  - Camping facilities 761—131.4
  - Locations/specifications 761—ch 117
- Liquor/wine 185—6.1, 13.3
- Loan institutions 187—15.4(1), 16.10, 16.11
- Occupational therapists 470—138.212(1,9)
- Optometrists 470—144.112(1,8)
- Outdoor 761—ch 117
- Permits, outdoor 761—117.6
- Pharmacy/pharmacists 620—6.6, 10.1(4)*g*
- Physical therapists 470—138.112(1,8)
- Physicians 470—135.204(7), 135.401(6), 135.402(7)
- Podiatrists 470—139.212(1,8)
- Political 190—4.4
- Psychologists 470—140.212(14)*d*
- Radioactive equipment, material use 470—39.9
- Real estate 700—1.8, 1.24
- Securities 191—50.25, 50.56(17), 50.57(13), 50.58(8), 50.80(7)
- Taxation
  - Envelopes 701—18.41
  - Sales, retail 701—14.1
  - Services by agencies 701—18.27
- Thrift certificates 187—16.28(9,10)
- Transportation department, formal bids, *see BIDS AND BIDDING PROCEDURES*
- Utilities
  - Generally 199—7.4(6)*e*“24”, 16.7, 16.8
  - Electric 199—16.2(7,8)
  - Gas 199—16.3(7,8)
  - Telephone 199—16.5(5,6)
- Want ads, discrimination 240—3.11, 3.12
- Wrestling, professional 347—96.17

**CAMERAS AND RECORDING DEVICES**

Examiners boards, *see Specific Professions, subhead Examiners Board*

**CAMPAIGN FINANCE DISCLOSURE**

*See also ELECTIONS; POLITICS*

Advertising, political, disclaimers 121-4.4

**Commission**

Affidavit 121-5.4

Agenda 121-5.8

Complaints 121-ch 1, 5.4, 5.6

Counties, reports 121-ch 3, 4.2(4,6), 4.13

Declaratory rulings 121-5.3, 5.5

Duties 121-5.1

Informal settlements 121-5.6

Information 121-5.3, 5.4, 5.10

Organization 121-5.1

Reports/forms/statements/notices 121-ch 4, 5.10

Rule making 121-5.2

Subpoenas 121-1.4, 5.7

Treasurer of record 121-5.9

**Committees**

Amendments 121-4.11, 4.12

Central, inactive 121-4.17

Consultants 121-4.2(9), 4.22

**Contributions**

Identity required 121-4.12

Incumbents 121-ch 7

Loans 121-4.15

Out-of-state 121-4.13

Reports 121-chs 4, 6, 7

Definitions 121-4.5 - 4.9, 4.16, 4.22, 5.9

Deposits, financial institutions 121-4.3

Disclosure reports 121-4.1 - 4.3, 4.9, 4.14, 4.17, ch 7

Dissolution 121-4.8

Filing errors 121-4.10, 4.11

Forms 121-4.1, 4.2

Inactive 121-4.17

Organization 121-4.8, 4.11

Reports, delinquent 121-ch 6

**Complaints**

Counsel representation 121-1.7

Decisions 121-1.9

Hearings 121-1.3 - 1.14

Informal settlements 121-1.6, 1.15, 5.6

Statute of limitations 121-1.1

Subpoenas 121-1.4

Waivers 121-1.10, 1.11

County election commissioners 121-ch 3, 4.2, 4.13, 5.9, 6.1

Forms 121-1.2, 2.12, 4.1, 4.2, 7.2

## CAMPAIGN FINANCE DISCLOSURE(cont'd)

## Funds, election campaign

- Accountability 121—2.5
- Checkoff, tax 121—2.1, 2.9 - 2.11, 5.1
- Definitions 121—4.5 - 4.7
- Deposits, financial institutions 121—4.3
- Expenses 121—2.6, 2.8., 4.2(9), 4.6
- Party distribution 121—2.3, 2.4
- Reports 121—2.2, 2.12, 4.17
- Political contributions, engineers 390—4.7(5)
- Waivers 121—1.10, 1.11, 4.17, 6.6

## CAMPS

Generally 641—18.1

- Fairgrounds, state 430—ch 3, 7.15
- Fees, elderly/handicapped 571—61.2, 62.5(4)
- Forests 571—ch 62
- Memberships, operator registration 61—ch 25
- Migratory labor 641—ch 81
- Parks, state 571—ch 61, 63.3, 63.4
- Sanitation 641—ch 18
- Signs
  - Interstates 761—131.4
  - Off-highway 761—131.7
- Taxation
  - Generally 701—18.43, 26.58
  - Summer 701—17.1(5)h
- Trailer 641—ch 18

## CARE FACILITIES

See also HEALTH CARE FACILITIES

## Day care

- Adult 441—ch 171
- Child 441—chs 109, 154, 170; 680—5.500-5.502
- Family/group 441—chs 110, 154
- Family-life homes 441—ch 111
- Foster care 441—chs 112-116, 156, 202, see also FOSTER CARE

## Intermediate

- Generally 441—ch 81; 481—chs 58, 60
- Fire standards 680—5.600-5.602
- Retardates 441—ch 82; 481—ch 64
- Juveniles, shelter/detention 441—chs 105, 167
- Mentally ill/retarded, county 441—ch 37
- Nursing, skilled 481—chs 59, 61; 600—chs 1-3; 680—5.600-5.602
- Ombudsman program 321—5.4, ch 8, 9.12-9.14
- Residential
  - Adult 441—ch 207, 481—chs 57, 60
  - Children 441—chs 115, 116
  - Fire standards 680—5.550, 5.552, 5.607-5.613
  - Retardates 441—ch 116; 481—ch 63

## CARNIVALS

See AMUSEMENTS AND AMUSEMENT PARKS

**MARRIAGE**

Blood tests, laboratories 641—ch 3

Certificates, *see Records below*

Common law 701—73.25

**Records**

*See also VITAL STATISTICS*

Corrections 641—102.1(3)

Defined 641—96.1, 102.1(4)

Divorce 641—96.1

Legitimation, certificate reissuance 641—100.4

Registration, delayed 641—99.13

**MASS GATHERINGS**

Definitions 641—19.1

Food service 641—19.4(6)

Medical facilities 641—19.4(5)

Notification 641—19.3

Sanitation 641—19.4(1-4,6)

Telephones 641—19.4(7)

Violations 641—19.5

Water supply, approval 641—19.4(1)

**MEAT**

Beef promotion 101—1.1, *see also BEEF INDUSTRY COUNCIL*

Ham defined 30—33.5

**Processing**

*See also RENDERING PLANTS*

Beef/pork reports 750—12.1(2)

Condemned carcasses 30—43.8(3)

Construction, plants 30—43.5

Decharacterization/transportation 30—43.8(3), 43.9, 43.10

Federal standards 30—33.6, 43.1 - 43.5; 567—62.4(32)

Forms/marks 30—43.6

Inspections 30—43.4, 43.8

Occupational safety, child labor 347—32.8(17,18)

Pet food 30—ch 7, 43.8, 43.11(2)

Records 30—43.11

Registration, business 30—43.7

**Sales tax, exemptions**

Food coupon purchases 701—20.1(1)e

Packaging 701—18.7(1,2)

Producers 701—18.9

Smokehouses 567—23.4(9)

**MEDIATION**

Farmers 61—ch 17, *see also FARMS AND FARMERS*

Public employees bargaining, *see PUBLIC EMPLOYMENT RELATIONS BOARD (PERB)*

**MEDICAL ASSISTANCE**

Generally 441—chs 75-87; 481—1.5, *see also HUMAN SERVICES DEPARTMENT*  
Obstetrics/newborns 641—ch 75  
Renal disease 441—78.1(12); 641—111.1, 111.7(6)

**MEDICAL EXAMINERS, COUNTY**

Autopsy report 641—101.1  
Certificate, death 641—99.12(2), 101.1, 101.2, 101.8, 102.1, 127.2  
Cremation 641—127.3  
Jurisdiction 641—101.6(1)b, ch 127  
Unclaimed bodies 470—146.3(6)

**MEDICAL TECHNICIANS AND PARAMEDICS**

*See also AMBULANCES, RESCUE SQUADS*

Ambulances, *see Service Programs, Ambulances/Rescue Squads below*

**Certification**

Emergency medical care personnel 641—132.3 - 132.6, 132.11; 655—6.4(2)  
Out-of-state 641—132.4(5,9)  
Service programs 641—132.7  
Continuing education 641—132.4(8)c, 132.6(10), 132.9(2)c, 132.9(5)d  
Definitions 641—132.1, 132.5  
Director, medical 641—132.6, 132.9; 655—6.4(2)  
Drugs 641—132.8(4)e,i,j, 132.9(7); 620—ch 11  
Forms 641—132.4, 132.6(1,8), 132.7(1)a  
Public health division 641—170.4(3)  
Service programs, ambulances/rescue squads

Authorization 641—132.7, 132.10, 132.15  
Complaints/appeals 641—132.10  
Director 641—132.9; 655—6.4(2)  
Inspections 641—132.7(4)  
Operational requirements 641—132.8  
Out-of-state 641—132.7(2)  
Pilot study 641—132.15  
Records/reports 641—132.7(4), 132.8  
Registered nurses 655—6.4(2)  
Rotorcraft ambulances/air taxis/air carriers 641—132.7(3)  
Variances 641—132.14  
Vehicles, equipment/supply standards 641—132.8(4-10)

**Trainees**

Duties 641—132.6(12)  
Records 641—132.6(7)  
Selection 641—132.6(9)

**Training programs**

Generally 641—132.3, 132.5, 132.6  
Advisory committee 641—132.6(6)  
Applicants 641—132.3  
Approval 641—132.6(1)  
Authorization, denial/renewal 641—132.12  
Institution requirements 641—132.6  
Levels 641—132.5

**MEDICARE**

*See also MEDICAL ASSISTANCE*

Defined 191—36.4(14)

Renal disease 641—111.1, 111.6, 111.8

Supplements, insurance 191—15.9, 36.5(3,7,8,10), 36.6(1)*o*, 36.6(9), 36.7(1,11), 36.10(4), ch 37

**MENTAL HEALTH**

*See also MENTALLY RETARDED*

Apartment living program 441—chs 36, 206

**Centers**

Accreditation 441—33.1, 33.4 - 33.7

Administration 441—33.1, 33.3

Affiliates 441—33.1, 33.3(10,11)

Board 441—33.2, 33.3

Contracts 441—33.3(9)

Definitions 441—33.1

Evaluations 441—33.1, 33.3(6), 33.4(2)*g*, 33.5

Finances 441—33.3(3)

Insurance 441—33.3(8)

Medical assistance providers 441—77.15, 78.16, 79.1(2), 80.2(2)*d*

Personnel 441—33.3(4), 33.4(1)*d*

Records/reports 441—33.1, 33.4(1), 78.16(4)

Safety 441—33.3(7)

Services 441—33.3(9), 33.4, 33.7

Commission 441—1.6, 32.1

Council, developmental disabilities 441—1.7, ch 38

Deputy commissioner 441—1.3(5)

Diagnostic facilities 441—ch 34

Director 441—1.6, 32.1 - 32.3, 33.5(7)

Forms 441—28.2, 28.3, 28.12, 31.4, 33.6, 80.2(2)*d*

**Funds**

Counties, reimbursement 441—ch 31

Grants, allocation 441—1.7(6)*b*, 32.3, ch 38

Hospitals, psychiatric care 441—chs 31, 85; 470—51.33, *see also HOSPITALS*

## MENTAL HEALTH(cont'd)

## Institutions

- Generally 441—chs 28, 29
- Admissions
  - Alcoholism 441—28.2(7,8)
  - Catchment areas 441—28.11
  - Emergencies 441—28.2(8)
  - Substance abuse 441—28.2(5,6,8)
  - Voluntary 441—28.2, 28.11(3)
- Confidential information 441—28.4(8), 28.12
- Costs 441—28.2(3,4), 29.2, *see also Support/Liability below*
- County care facilities 441—ch 37
- Discharge 441—28.4(9,13,14)
- Donations 441—28.9
- Education/recreation 441—28.4(19,20)
- Hospital-schools 441—28.3, 28.11(2), 28.12, ch 30,  
*see also MENTALLY RETARDED*
- Medical services 441—29.2
- Meeting facilities, public use 441—28.7
- News releases/interviews 441—28.6
- Outpatients 441—28.2(9,10), 28.3(4)
- Photographing/recording 441—28.5
- Records 441—28.4(8,22), 28.12
- Rights, patient 441—28.4, 28.10
- Substance abuse unit standards 641—203.11(3)
- Support/liability 441—28.2(3), 28.12(2), 29.3, 30.2
- Tours 441—28.8
- Treatment standards 441—28.2(10), 28.4
- Visiting 441—29.1
- Medical assistance 441—77.15, 77.22, 78.1(16), 78.3(8), 78.16, 78.24, 79.1(2),  
80.2(2)d, ch 85, *see also HUMAN SERVICES DEPARTMENT*
- Provider standards 441—ch 35
- Psychologists 281—73.3“1”, 73.3(8); 470—ch 140; 670—12.25(3)i,  
*see also PSYCHOLOGISTS*
- Records, confidential 441—9.1, 9.2(2), 9.3(1), 9.4(1), 9.5, 9.6, 28.4(8), 28.12,  
33.4(1)b,i, 34.3(5)
- Respite care 441—ch 83
- Sterilization services 441—78.1(16)

## NATURAL RESOURCES DEPARTMENT(cont'd)

## Natural resource commission(cont'd)

## Permits(cont'd)

Park user fee 571—ch 65

Sand/gravel removal 571—ch 19

Trail use, Saylorville 571—66.4(4)

Plants/animals, endangered species 561—1.3(2)e(2); 571—ch 77

Plants/nuts/ginseng gathering 571—ch 54

Prairies, native, tax exemptions 571—ch 25

Property, seizure/disposition 571—ch 8

## Records

Grants 571—24.16, 27.14

Public/confidential 561—ch 2; 571—ch 2

Relocation 571—26.7(1,9,10)

Recreation/tourism 561—ch 1; 571—ch 24

Refuges 571—chs 52, 66

## Relocation assistance

Appeals 571—26.7(7,8)

Certificates 571—26.6

Costs 571—26.2 - 26.4

Division duties 561—1.3(2)d(7)

Exceptions 571—26.2(2), 26.5(4)

Notices 571—26.5, 26.7(8)

Payment 571—26.7

Records 571—26.7(1,9,10)

River crossings, pipelines 199—10.15

Sand/gravel 561—1.3(2)d(7); 571—ch 19

Saylorville multiuse trail 571—ch 66

Snakes 571—76.1(2)

Snowmobiles 561—1.2(9), 1.3(2)c(1); 571—chs 28, 50

Stamp design contest 571—ch 9

Timber buyers 561—1.2(6); 571—ch 72

Trapping 571—51.6, 66.3, ch 97, 108.1, ch 110

Trotlines 571—ch 85

Turtles 571—ch 86

## Water access program

Agreements 571—ch 30

Application 571—30.8, 30.9

Cost-sharing rates 571—30.10

Eligibility 571—30.3, 30.4, 30.12

Funding 571—30.2

Priorities 571—30.7

Reimbursement procedures 571—30.14

Site control 571—30.12

Sponsorship, joint 571—30.11

Watersheds 571—ch 31, *see also SOIL CONSERVATION*

## Wildlife habitats

*See also Game Management Areas above*

Agricultural leases 571—ch 21

Division duties 561—1.2(4), 1.3(2)i, 1.4(5-7)

Grants-in-aid 571—ch 27

**NATURAL RESOURCES DEPARTMENT**(*cont'd*)**Natural resource commission**(*cont'd*)**Wildlife habitats**(*cont'd*)

Refuges 571—ch 52

Stamps, revenue 571—chs 22, 23

Tax exemptions 571—ch 25

Organization 561—ch 1

Preserves board, advisory 561—1.3; 575—chs 1, 2

Welcome center program, project review committee 261—58.4(6)

**NOTARY PUBLIC**

Registration/certification 750—6.6

**NURSERIES, HORTICULTURAL****Dealers**

Certificates 30—26.9, 26.13

Defined 30—26.6

Shipments 30—26.7; 761—400.47

Definitions 30—26.1 - 26.6; 345—3.25(2)

Growers 30—26.4, 26.7

Insects/diseases 30—26.8, 26.15

Inspections 30—26.8, 26.14

Natural resources department sales 571—ch 71

**Stock**

Defined 30—26.1

Standards 30—26.2, 26.12

Storage/display 30—26.10, 26.11

**NURSES***See also HEALTH CARE FACILITIES; HOSPITALS***Colleges/schools**

Administration 655—2.3

Approval 655—2.1, 3.1

Evaluations 655—2.3(1)

Facilities 655—2.4

Faculty 655—2.2(2)d, 2.6

**Programs**

Accreditation 655—3.1

Approval 655—2.2

Changes, approval 655—2.9

Clinical resources 655—2.8

Curriculum 655—2.5

Definitions 655—2.1

Faculty 655—2.6

Funds 655—2.3(1)

Records 655—2.7(3)

Reports 655—2.9

Students 655—2.7

Complaints 655—4.2, 4.3

**NURSES(cont'd)**

## Continuing education

Definitions 655—5.1

Licensee requirements 655—5.2

## Providers

Approval criteria 655—5.3(1-4)

Disciplinary procedures 655—5.3(5)

Records 655—5.3(2)c, 5.3(3)a(9), 5.3(6)a

Relinquishment 655—5.3(6)

Self-study 655—5.1 - 5.3

Definitions 655—1.1, 2.1, 3.1, 4.2, 5.1, 6.1, 7.1

Diabetes education program 641—ch 9

Disciplinary procedures 655—ch 4

## Examiners board

Address 655—1.1

Declaratory rulings 655—1.3(4)

Hearings 655—1.3(5), ch 4

Meetings 655—1.3(2)

Organization 655—ch 1

Records, public 655—1.3(6)

Homemaker-home health aides 641—80.3(3)a, 80.3(4)c

In-home health care 441—ch 177

Licensed practical, standards 655—6.3, 6.5, 6.6

## Licensure

Applications 655—3.3 - 3.5

Authority 655—4.1, 5.2

Duplicates 655—3.4(9)b, 3.6(7,8)

Endorsement 655—3.1, 3.5, 3.6(2), 4.18

Examinations 655—3.1, 3.4

Fees 655—3.1, 3.6, 7.1

Inactive status 655—3.1, 5.2(4)

Mandatory 655—3.2, 3.4(9)b

Qualifications 655—3.3 - 3.5

Reinstatement 655—3.1, 3.6, 4.19

Renewal 655—3.1, 3.6, 5.2(2)a, 7.1, 7.2(9)

Revocation/suspension 655—4.1, 4.17, 4.19, 7.2(10)

Temporary 655—3.1, 3.4(7), 3.5(3)

Verification 655—3.1, 3.7

Peer review committee 655—4.2(4)c, 4.4, 4.14

## Public health nursing

Eligibility, patients 641—79.1

Grants 641—79.6

Health board duties 641—79.4, 79.5

Health department assistance 641—79.2

Providers 641—79.7

## Registered

Advanced practitioners 655—6.1(2), ch 7

Radiographers 655—6.4(1)

Rescue squad, training requirements 655—6.4(2)

Standards 655—6.2

Schools, public 281—73.3“2,” 73.3(14); 655—7.1; 670—3.4(8), 15.22

**NURSING HOME ADMINISTRATORS BOARD OF EXAMINERS**

Address 600—1.3

Appeals 600—2.6

Continuing education

Activities/programs, approval 600—3.3, 3.4

Definitions 600—3.1

Hearings 600—3.5

Inactive practitioners 600—3.9, 3.10

Record, attendance 600—3.7

Waivers 600—3.8 - 3.10

Declaratory rulings 600—1.4

Definitions 600—2.1, 3.1

Forms 600—1.3, 3.4, 3.8, 3.10

Hearings 600—2.6(4-9), 3.5

Inactive practitioners 600—3.9, 3.10

Information, public 600—1.1

Licensure

Applications 600—2.3, 2.4(3)

Equivalency 600—2.7

Examinations 600—2.2(2)c, 2.4(3), 2.6(2)

Expiration/renewal/denial 600—2.4

Fees 600—2.4(1)c,d, 2.5

Qualifications 600—2.2

Requirements 600—2.6

Revocation/suspension 600—2.4, 2.6(4,9)

Voluntary surrender 600—2.6(9)

Meetings 600—2.8(1)f

Organization 600—1.2, 2.8

Provisional 600—2.6(3)

Records/reports 600—2.8(1)c(2), 3.7, 3.8

**NURSING FACILITIES, SKILLED***See also HEALTH CARE FACILITIES**Generally* 481—ch 59

Building requirements 481—ch 61

Medical assistance 441—chs 75, 76, 77.12, 78.12, 79.1(2), 80.2(2)u, 80.5(3),  
ch 83**NUTRITION***See AGING COMMISSION ON: Area Agencies; FOOD*Dietitians, licensing 470—ch 162, *see also DIETITIANS***NUTS**

Gathering, natural resource commission lands 571—54.2

**SOIL CONSERVATION DEPARTMENT**Attorney general representation 61—1.3(1)*g*

## Coal mining/reclamation

*Generally* 780—chs 4, 8, 26, 27

Blaster training, examination/certification 780—4.8, 26.40

Definitions 780—27.20

Eligibility, lands/water 780—4.2, 27.40, 27.50, 27.100

Entry/consent 780—27.70, 27.80, 27.90, 27.150

Forms 780—ch 8

Fund 780—27.20(5), 27.30, 27.140(5)

## Land acquisition

*Generally* 780—27.110, 27.120

Appeals 780—27.170

Appraisal 780—27.110, 27.160, 27.170

Condemnation 780—27.110(3)

Disposition 780—27.140, 27.150

Eligibility 780—27.100

Forms (AML) 780—27.190

Gifts 780—27.120

Liens 780—27.170, 27.180

Management 780—27.130

## Projects

Evaluation 780—27.60

Objectives/priorities 780—27.50

Rule severability 780—27.11

Definitions 780—ch 1, 5.20, 6.70, 9.20, 26.20, 27.20

Districts 780—1.3, 2.2(4), 5.50, 5.51

## Financial incentive program, erosion

*Generally* 780—ch 5

Accounting, records/reports 780—5.90 - 5.92

Agreements, performance/maintenance 780—5.20(20,22), 5.30 - 5.32, 5.52(6), 5.53(5), 5.54(1), 5.58(1), 5.73(1), 5.74(5), 5.95

Applications 780—5.52(6), 5.53(2,4), 5.54(1), 5.58(1), 5.70 - 5.74, 5.95

Appropriations 780—5.41

Compliance 780—5.30 - 5.33, 5.74(2), 5.74(3)*b*

Conservation cover 780—5.60(6)

Definitions 780—5.20

## District programs, allocations

*Generally* 780—5.41(8), 5.50 - 5.58

Funding rates 780—5.60

Lakes, publicly owned 780—5.41(2), 5.52, 5.60(5)

Mandatory 780—5.41(3), 5.54, 5.60(4)

Nonpoint source pollution control 780—5.41(7), 5.58, 5.60(9)

Reserve funds 780—5.57

Voluntary 780—5.41(1,5), 5.51, 5.60(1)

Wind Erosion Control Incentive Program (WECIP) 780—5.42, 5.55, 5.60(8)

Woodland fencing 780—5.41(9), 5.53, 5.60(7)

## Eligible practices, designation

*Generally* 780—5.73, 5.80, 5.81

District 780—5.83

Specifications 780—5.74(2)*a*, 5.74(3)*b*, 5.80, 5.81, 5.84

State 780—5.82

SOIL CONSERVATION DEPARTMENT(*cont'd*)Financial incentive program(*cont'd*)

- Forms 780—5.95
- Refunds, appeals/reviews 780—5.32, 5.33
- Rule severability 780—5.11
- Summer construction incentives (SCI) 780—5.41(5), 5.60(2)
- Tillage research 780—5.41(6)
- Watershed projects, special 780—5.41(4), 5.60(3)
- Forms 780—5.31, 5.52(6), 5.54, 5.60(8,9), 5.74(1), 5.95, ch 8, 9.24(1), 27.190

## Information 780—2.4

## Land preservation/use, funding 780—ch 7

## Loans

*See also SOIL*

- Allocation, districts 780—9.22
- Applications 780—9.24, 9.26(3)
- Definitions 780—9.20
- Eligibility 780—9.23
- Institutions, participating 780—9.21
- Limitations 780—9.26, 9.27
- Project design/construction 780—9.25
- Records 780—9.26(3)
- Repayment 780—9.28
- Reserve funds 780—9.22(4)
- Rule severability 780—9.11

## Organization

- Address 780—2.3(1)
- Committee, state 780—1.1, 2.1, 2.2, 2.3(1), ch 3, 5.10, 5.20(8), 5.33(3,4), 5.60(4)
- Declaratory rulings 780—2.3(3)
- Divisions 780—2.2
- Meetings 780—2.3(1), 3.1
- Programs, authority/scope 780—5.10, 6.10, 7.10, 9.10, 26.10, 27.10
- Rule making 780—2.3

## Soil 2000 program

- Generally* 780—6.10
- Agreements 780—6.50, 6.70(2)
- Conservation folders 780—6.20, 6.30, 6.60, 6.62, 6.70(3)
- Definitions 780—6.70
- Farm unit plan 780—6.40, 6.50(1)
- Records 780—6.50(9), 6.60—6.63
- Rule severability 780—6.11
- Watersheds 780—5.41(2,4), 5.52, 5.56, 5.60(3,5)

**SOLAR ENERGY***See ENERGY***SOLID WASTE DISPOSAL***See WASTE***SPEECH PATHOLOGY AND AUDIOLOGY**

Aides 470—ch 157

Complaints 481—ch 5; 645—301.101, 301.103, 301.113

Confidentiality 645—301.112(9)*b*, 301.113(3)

Continuing education

Hearings 645—301.5

Reports 645—301.6

Requirements 645—301.2, 301.4

Sponsors 645—301.3, 301.4

Waivers 645—301.7

Definitions 470—155.1

Discipline 645—301.109 - 301.113

Ethics 645—301.101, 301.112

Examiners board

Declaratory rulings 470—155.10

Organization 470—155.8

Rule making 470—155.9

Health care facilities, *see HEALTH CARE FACILITIES*

Hearings 481—ch 5; 645—301.104 - 301.108

Inactive practitioners 645—301.8, 301.9

Licenses

Denial 645—301.105

Examination 470—155.4, 155.5; 645—301.6

Expiration 470—155.3(2)

Fees 470—155.3(3)*f*, 155.7

Reciprocity 470—155.5

Renewal 645—301.2(2)

Requirements, *generally* 441—77.14; 470—155.3

Suspension/revocation 470—155.7, 157.7; 645—301.112

Temporary 470—155.3(1,4), 155.6

Malpractice 645—301.102, 301.103

Medical assistance providers 191—36.7(11)*d*;441—77.14, 78.10(3)*c*, 78.14, 78.28(1)*e*, 79.1(2), 80.2(2)*b*, 81.13(8),  
82.2(30)

Peer review committee 645—301.113

Permits, temporary 470—155.3(5)

Reports 645—301.6, 301.102, 301.113

Schools 670—12.25(3)*f,n*, 12.26(4)*a*, 15.17Speech/language clinician 281—73.3“1,2”, 73.3(9); 670—12.25(3)*n*, 15.18

Waivers 470—155.4(4), 155.5; 645—301.7

**SPORTS**

*See ATHLETICS*

**STAMPS**

Cigarette 701—81.1, 82.5 - 82.8, 82.11  
Design, hunting/fishing 571—ch 9  
Duck 571—ch 9, 92.2  
Migratory bird hunting/conservation 571—92.2  
Real estate transfer stamps, cancellation 701—79.1(5)  
Taxation 701—12.16  
Trout 571—ch 9  
Wildlife habitat 571—chs 9, 22, 23

**STATE DEPARTMENTS**

Depositories 781—3.18  
Employee parking 450—10.6  
Legal counsel 61—1.3(1)  
Purchasing procedures 450—chs 2, 5

**STATE EMPLOYEES AND EMPLOYMENT**

*See EMPLOYMENT*

**STATE LIBRARY**

*Generally* 560—1.6 - 1.9



