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The Iowa Administrative Code Supplement is published biweekly pursuant to Iowa Code section 17A.6. The Supplement contains replacement pages to be inserted in the loose-leaf Iowa Administrative Code (IAC) according to instructions included with each Supplement. The replacement pages incorporate rule changes which have been adopted by the agencies and filed with the Administrative Rules Coordinator as provided in Iowa Code sections 7.17 and 17A.4 to 17A.6. To determine the specific changes in the rules, refer to the Iowa Administrative Bulletin bearing the same publication date.

In addition to the changes adopted by agencies, the replacement pages may reflect objection to a rule or a portion of a rule filed by the Administrative Rules Review Committee (ARRC), the Governor, or the Attorney General pursuant to Iowa Code section 17A.4(4); an effective date delay imposed by the ARRC pursuant to section 17A.4(5) or 17A.8(9); rescission of a rule by the Governor pursuant to section 17A.4(6); or nullification of a rule by the General Assembly pursuant to Article III, section 40, of the Constitution of the State of Iowa.

The Supplement may also contain replacement pages for the IAC Index and for the preliminary sections of the IAC: General Information about the IAC, Chapter 17A of the Code of Iowa, Style and Format of Rules, Table of Rules Implementing Statutes, and Uniform Rules on Agency Procedure.

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 of 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.

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UPDATING INSTRUCTIONS

January 12, 2000, Biweekly Supplement

[Previous Supplement dated 12/29/99]

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*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.

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Pursuant to Iowa Code section 17A.6, the Iowa Administrative Code (IAC) is a loose-leaf publication containing all rules adopted and filed by state government agencies and an index to those rules. The IAC is organized by agencies and divided into chapters. Each agency that has been delegated rule-making authority by the Iowa General Assembly has been assigned an agency number which appears in each rule adopted by that agency as well as at the top of each page of the agency's rules.

The first volume of the IAC contains explanatory information under the following headings:

- General Information about the IAC
- Chapter 17A of the Iowa Code
- Style and Format of Rules
- Table of Rules Implementing Statutes
- Uniform Rules on Agency Procedure

Replacement pages incorporating amendments to rules are published and distributed on a biweekly basis as the Iowa Administrative Code Supplement. Each page of rules reflects the date of its publication; and each chapter of rules concludes with a historic listing of the dates on which that chapter changed, including dates of filing with the Administrative Rules Coordinator, publication of Notice of Intended Action in the Iowa Administrative Bulletin, publication of the IAC Supplement, and effective date of the change.

AGRICULTURE AND LAND STEWARDSHIP DEPARTMENT[21]

[Created by 1986 Iowa Acts, chapter 1245]

[Prior to 7/27/88, Agriculture Department[30]]

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CHAPTER 22
APIARY

[Prior to 7/27/88 see Agriculture Department 30—Ch 24]

21—22.1(160) Diseases. The diseases which the state apiarist shall inspect for are, but shall not be limited to: American Foulbrood, European Foulbrood, Nosema and Chalk Brood.

21—22.2(160) Parasites. The parasites for which the state apiarist shall inspect include, but shall not be limited to: the Varroa mite (Varroa jacobsoni), Tropilaelaps mite (Tropilaelaps clareae) and the honeybee tracheal mite (Acarapis woodi).

21—22.3(160) Requirement for the sale of bees. All honeybees offered for sale in Iowa must meet one of the following two requirements:

1. Colonies are apparently free of Varroa mites according to the detection methods listed below.
2. Colonies are under treatment with a miticide approved by EPA for control of Varroa mites in honeybee colonies and have an average of 10 or fewer Varroa mites per 300 adult bees or 500 or fewer Varroa mites per sticky board.

Detection methods to be used for the Varroa mite are the ether roll method with at least 300 adult bees per colony from 20 percent of the colonies in the apiary or the sticky board method with an EPA-approved miticide in 5 percent of the colonies in the apiary.

21—22.4(160) Certificate of inspection required. All honeybees transported into Iowa shall be accompanied by an approved certificate or permit issued by the state of origin or the state of Iowa. The certificate or permit shall indicate that the bees meet one of the two following requirements:

1. An average of 10 or fewer Varroa mites per 300 adult bees was detected by the ether roll test.
2. Colonies are under treatment with a miticide approved by EPA for control of Varroa mites in honeybee colonies at the time of shipment.

21—22.5(160) Certificate of inspection expiration. A certificate of inspection issued by the state of Iowa shall be valid for up to nine months from the date of issuance. An Iowa certificate may be revoked at any time if there is evidence of a disease or parasite infestation or Africanized bees in the certified colonies.

21—22.6(160) American Foulbrood treatment. If upon inspection American Foulbrood disease is detected in colonies, those colonies shall be identified and the disease abated in a timely manner that will prevent spread to neighboring colonies or apiaries as determined by the state apiarist.

The method of disease cleanup will be specified following inspection, depending on the severity of the infection and strength of the bee colony. A strong colony with a light infection of American Foulbrood may be treated with Terramycin or diseased combs removed or a combination of these methods. A severely infected, weak colony must be killed and the diseased combs destroyed by burning or melting at a temperature high enough to kill disease spores. In any case, all combs containing American Foulbrood scale shall be destroyed.

21—22.7(160) Varroa mite treatment. If upon inspection an average of more than 10 Varroa mites are detected in 300 bees by the ether roll method or 500 mites per colony by the sticky board method, then the apiary shall be quarantined and the owner of the apiary ordered to depopulate or treat all colonies with an EPA-approved miticide within ten days from the day the owner is notified.

If an average of 10 or fewer Varroa mites by the ether roll method or 500 or fewer mites by the sticky board method are detected, then the apiary shall be quarantined and the owner of the apiary shall be notified and given instruction on the nature of the mite infestation and the best method of treatment. Such treatment of all colonies in the apiary shall be initiated no later than October 15 of the same year.

21—22.8(160) Undesirable subspecies of honeybees. Each of the following undesirable subspecies of honeybees is found to be capable of inflicting damage to man or animals greater than managed or feral honeybees commonly utilized in North America and is declared a nuisance:

1. African honeybee, (*Apis mellifera scutellata*),
2. Cape honeybee, (*Apis mellifera capensis*), and
3. Any other undesirable subspecies of honeybees determined by the state apiarist to be a threat to the state.

Detection of undesirable subspecies of honeybees in the state shall initiate the quarantine of all colonies within a distance prescribed by the state apiarist of the infested apiary. All colonies within the quarantine area shall be inspected. A recommended eradication or control method shall be determined and prescribed by the state apiarist.

21—22.9(160) European honeybee certification. All honeybees transported into Iowa shall be accompanied by an approved certificate or permit from the state of origin indicating that the bees are European honeybees. Honeybees must be certified by one of the following methods:

1. Honeybees are located outside counties which have been determined by the state of origin to be infested with Africanized honeybees.
2. Honeybees have been tested according to the 1991 NASDA National Certification Plan and found to be European.

The certificate or permit shall state the method used to certify the bees. The certificate or permit shall be dated within 90 days prior to entry into Iowa. Africanized honeybees may not be transported into Iowa.

21—22.10(160) Prohibit movement of bees from designated states. A person shall not directly or indirectly transport or cause to be transported into the state of Iowa honeybees originating in the states of Florida, Georgia, New Jersey, North Carolina, Ohio, Pennsylvania, South Carolina and the counties of Faribault, Freeborn, Mower and Steele in Minnesota. As used in this rule, "honeybees" shall include, but not be limited to, the following: colonies, nucs, packages, banked queens and queen battery boxes. However, the shipping of honeybee queens and attendants in individual queen cages will be allowed when accompanied by a valid certificate of health indicating that the bees are from an apiary free of small hive beetles. This rule shall remain effective until February 18, 2001.

21—22.11(160) Inspection required for the sale of bees, comb, or used equipment. All honeybee colonies, beeswax comb and used beekeeping equipment offered for sale in Iowa shall meet the following requirements:

1. Be inspected for infectious bee diseases and parasites by the Iowa department of agriculture and land stewardship or another state's department of agriculture not more than 60 days prior to the sale.

2. Be apparently free of American foulbrood disease.

These rules are intended to implement Iowa Code sections 160.2, 160.9 and 160.14.

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CHAPTER 47
VALUATION OF LIFE INSURANCE POLICIES
(Including New Select Mortality Factors)

191—47.1(508) Purpose. The purpose of this chapter is to provide tables of select mortality factors and rules for their use, rules concerning a minimum standard for the valuation of plans with nonlevel premiums or benefits, and rules concerning a minimum standard for the valuation of plans with secondary guarantees. The method for calculating basic reserves defined in this chapter will constitute the commissioners' reserve valuation method for policies to which this chapter is applicable. This chapter is issued under the authority of Iowa Code section 508.36(3) "a" (3)(c) and is intended to implement Iowa Code section 508.36(6) "c."

191—47.2(508) Application. This chapter shall apply to all life insurance policies, with or without non-forfeiture values, issued on or after February 16, 2000, subject to the following exceptions and conditions.

47.2(1) This chapter shall not apply to any of the following:

a. Any individual life insurance policy issued on or after February 16, 2000, if the policy is issued in accordance with and as a result of the exercise of a reentry provision contained in the original life insurance policy of the same or greater face amount, issued before February 16, 2000, that guarantees the premium rates of the new policy. This chapter shall also not apply to subsequent policies issued as a result of the exercise of such a provision, or a derivation of the provision, in the new policy.

b. Any universal life insurance policy that meets all the following requirements:

(1) Secondary guarantee period, if any, is five years or less;

(2) Specified premium for the secondary guarantee period is not less than the net level reserve premium for the secondary guarantee period based on the CSO valuation tables as defined in rule 47.3(508) and the applicable valuation interest rate; and

(3) The initial surrender charge is not less than 100 percent of the first year annualized specified premium for the secondary guarantee period.

c. Any variable life insurance policy that provides for life insurance, the amount or duration of which varies according to the investment experience of any separate account or accounts.

d. Any variable universal life insurance policy that provides for life insurance, the amount or duration of which varies according to the investment experience of any separate account or accounts.

e. A group life insurance certificate unless the certificate provides for a stated or implied schedule of maximum gross premiums required in order to continue coverage in force for a period in excess of one year.

47.2(2) Conditions.

a. Calculation of the minimum valuation standard for policies with guaranteed nonlevel gross premiums or guaranteed nonlevel benefits (other than universal life policies), or both, shall be in accordance with the provisions of rule 47.5(508).

b. Calculation of the minimum valuation standard for flexible premium and fixed premium universal life insurance policies that contain provisions resulting in the ability of a policyholder to keep a policy in force over a secondary guarantee period shall be in accordance with the provisions of rule 47.6(508).

191—47.3(508) Definitions. As used in this chapter, the following definitions apply:

“*Basic reserves*” means reserves calculated in accordance with Iowa Code section 508.36(6).

“*Contract segmentation method*” means the method of dividing the period from issue to mandatory expiration of a policy into successive segments, with the length of each segment being defined as the period from the end of the prior segment (from policy inception, for the first segment) to the end of the latest policy year as determined below. All calculations are made using the 1980 CSO valuation tables, as defined in this rule (or any other valuation mortality table adopted by the National Association of Insurance Commissioners (NAIC) after January 1, 2000, and promulgated by rule by the commissioner for this purpose), and, if elected, the optional minimum mortality standard for deficiency reserves stipulated in subrule 47.4(2).

The length of a particular contract segment shall be set equal to the minimum of the value t for which G_t is greater than R_t (if G_t never exceeds R_t , the segment length is deemed to be the number of years from the beginning of the segment to the mandatory expiration date of the policy), where G_t and R_t are defined as follows:

$$G_t = \frac{GP_{x+k+t}}{GP_{x+k+t-1}}$$

where:

x = original issue age;

k = the number of years from the date of issue to the beginning of the segment;

t = 1, 2, ...; t is reset to 1 at the beginning of each segment;

$GP_{x+k+t-1}$ = Guaranteed gross premium per thousand of face amount for year t of the segment, ignoring policy fees only if level for the premium paying period of the policy.

$$R_t = \frac{q_{x+k+t}}{q_{x+k+t-1}}, \text{ However, } R_t \text{ may be increased or decreased by 1 percent in any policy year, at the company's option, but } R_t \text{ shall not be less than one;}$$

where:

x , k and t are as defined above, and

$q_{x+k+t-1}$ = valuation mortality rate for deficiency reserves in policy year $k+t$ but using the mortality of paragraph 47.4(2)“*b*” if paragraph 47.4(2)“*c*” is elected for deficiency reserves.

However, if GP_{x+k+t} is greater than 0 and $GP_{x+k+t-1}$ is equal to 0, G_t shall be deemed to be 1000. If GP_{x+k+t} and $GP_{x+k+t-1}$ are both equal to 0, G_t shall be deemed to be 0.

“*Deficiency reserves*” means the excess, if greater than zero, of

1. Minimum reserves calculated in accordance with Iowa Code section 508.36(10) over
2. Basic reserves.

“*Guaranteed gross premiums*” means the premiums under a policy of life insurance that are guaranteed and determined at issue.

“*Maximum valuation interest rates*” means the interest rates defined in Iowa Code section 508.36(5) that are to be used in determining the minimum standard for the valuation of life insurance policies.

“*1980 CSO valuation tables*” means the Commissioners’ 1980 Standard Ordinary Mortality Table (1980 CSO Table) without ten-year selection factors, incorporated into the 1980 amendments to the NAIC Standard Valuation Law, and variations of the 1980 CSO Table approved by the NAIC, such as the smoker and nonsmoker versions approved in December 1983.

“*Scheduled gross premium*” means the smallest illustrated gross premium at issue for other than universal life insurance policies. For universal life insurance policies, scheduled gross premium means the smallest specified premium described in paragraph 47.6(1)“*c*,” if any, or else the minimum premium described in paragraph 47.6(1)“*d*.”

"Segmented reserves" means reserves, calculated using segments produced by the contract segmentation method, equal to the present value of all future guaranteed benefits less the present value of all future net premiums to the mandatory expiration of a policy, where the net premiums within each segment are a uniform percentage of the respective guaranteed gross premiums within the segment. The uniform percentage for each segment is such that, at the beginning of the segment, the present value of the net premiums within the segment equals:

1. The present value of the death benefits within the segment, plus
2. The present value of any unusual guaranteed cash value (see subrule 47.5(4)) occurring at the end of the segment, less
3. Any unusual guaranteed cash value occurring at the start of the segment, plus
4. For the first segment only, the excess of "a" over "b" below, as follows:
 - a. A net level annual premium equal to the present value, at the date of issue, of the benefits provided for in the first segment after the first policy year, divided by the present value, at the date of issue, of an annuity of one per year payable on the first and each subsequent anniversary within the first segment on which a premium falls due. However, the net level annual premium shall not exceed the net level annual premium on the 19-year premium whole life plan of insurance of the same renewal year equivalent level amount at an age one year higher than the age at issue of the policy.
 - b. A net one-year term premium for the benefits provided for in the first policy year.

The length of each segment is determined by the "contract segmentation method," as defined in this rule. The interest rates used in the present value calculations for any policy may not exceed the maximum valuation interest rate, determined with a guarantee duration equal to the sum of the lengths of all segments of the policy.

For both basic reserves and deficiency reserves computed by the segmentation method, present values shall include future benefits and net premiums in the current segment and in all subsequent segments.

"Tabular cost of insurance" means the net single premium at the beginning of a policy year for one-year term insurance in the amount of the guaranteed death benefit in that policy year.

"Ten-year select factors" means the select factors adopted with the 1980 amendments to the NAIC Standard Valuation Law.

"Unitary reserves" means the present value of all future guaranteed benefits less the present value of all future modified net premiums, where:

1. Guaranteed benefits and modified net premiums are considered to the mandatory expiration of the policy; and
2. Modified net premiums are a uniform percentage of the respective guaranteed gross premiums, where the uniform percentage is such that, at issue, the present value of the net premiums equals the present value of all death benefits and pure endowments, plus the excess of "a" over "b" below, as follows:
 - a. A net level annual premium equal to the present value, at the date of issue, of the benefits provided for after the first policy year, divided by the present value, at the date of issue, of an annuity of one per year payable on the first and each subsequent anniversary of the policy on which a premium falls due. However, the net level annual premium shall not exceed the net level annual premium on the 19-year premium whole life plan of insurance of the same renewal year equivalent level amount at an age one year higher than the age at issue of the policy.
 - b. A net one-year term premium for the benefits provided for in the first policy year.

The interest rates used in the present value calculations for any policy may not exceed the maximum valuation interest rate, determined with a guarantee duration equal to the length from issue to the mandatory expiration of the policy.

"Universal life insurance policy" means any individual life insurance policy under the provisions of which separately identified interest credits (other than in connection with dividend accumulations, premium deposit funds, or other supplementary accounts) and mortality or expense charges are made to the policy.

191—47.4(508) General calculation requirements for basic reserves and premium deficiency reserves.

47.4(1) At the election of the company for any one or more specified plans of life insurance, the minimum mortality standard for basic reserves may be calculated using the 1980 CSO valuation tables with select mortality factors (or any other valuation mortality table adopted by the NAIC after January 1, 2000, and promulgated by rule by the commissioner for this purpose). If select mortality factors are elected, they may be:

- a. The ten-year select mortality factors incorporated into the 1980 amendments to the NAIC Standard Valuation Law;
- b. The select mortality factors in the appendix to this chapter; or
- c. Any other table of select mortality factors adopted by the NAIC after February 16, 2000, and promulgated by rule by the commissioner for the purpose of calculating basic reserves.

47.4(2) Deficiency reserves, if any, are calculated for each policy as the excess, if greater than zero, of the quantity A over the basic reserve. The quantity A is obtained by recalculating the basic reserve for the policy using guaranteed gross premiums instead of net premiums when the guaranteed gross premiums are less than the corresponding net premiums. At the election of the company for any one or more specified plans of insurance, the quantity A and the corresponding net premiums used in the determination of quantity A may be based upon the 1980 CSO valuation tables with select mortality factors (or any other valuation mortality table adopted by the NAIC after February 16, 2000, and promulgated by rule by the commissioner). If select mortality factors are elected, they may be:

- a. The ten-year select mortality factors incorporated into the 1980 amendments to the NAIC Standard Valuation Law;
- b. The select mortality factors in the appendix of this chapter;
- c. For durations in the first segment, X percent of the select mortality factors in the appendix, subject to the following:

- (1) X may vary by policy year, policy form, underwriting classification, issue age, or any other policy factor expected to affect mortality experience;
- (2) X shall not be less than 20 percent;
- (3) X shall not decrease in any successive policy years;
- (4) X is such that, when using the valuation interest rate used for basic reserves, "1" below is greater than or equal to "2";

1. The actuarial present value of future death benefits, calculated using the mortality rates resulting from the application of X;

2. The actuarial present value of future death benefits calculated using anticipated mortality experience without recognition of mortality improvement beyond the valuation date;

(5) X is such that the mortality rates resulting from the application of X are at least as great as the anticipated mortality experience, without recognition of mortality improvement beyond the valuation date, in each of the first five years after the valuation date;

(6) The appointed actuary shall increase X at any valuation date where it is necessary to continue to meet all the requirements of paragraph 47.4(2)"c";

(7) The appointed actuary may decrease X at any valuation date as long as X does not decrease in any successive policy years and as long as it continues to meet all the requirements of paragraph 47.4(2)"c"; and

(8) The appointed actuary shall specifically take into account the adverse effect on expected mortality and lapsation of any anticipated or actual increase in gross premiums.

(9) If X is less than 100 percent at any duration for any policy, the following requirements shall be met:

1. The appointed actuary shall annually prepare an actuarial opinion and memorandum for the company in conformance with the requirements of 191—subrule 5.34(3); and

2. The appointed actuary shall annually opine for all policies subject to this chapter as to whether the mortality rates resulting from the application of X meet the requirements of paragraph 47.4(2)“c.” This opinion shall be supported by an actuarial report, subject to appropriate Actuarial Standards of Practice promulgated by the Actuarial Standards Board of the American Academy of Actuaries. The X factors shall reflect anticipated future mortality, without recognition of mortality improvement beyond the valuation date, taking into account relevant emerging experience.

d. Any other table of select mortality factors adopted by the NAIC after January 1, 2000, and promulgated by rule by the commissioner for the purpose of calculating deficiency reserves.

47.4(3) This rule applies to both basic reserves and deficiency reserves. Any set of select mortality factors may be used only for the first segment. However, if the first segment is less than ten years, the appropriate ten-year select mortality factors incorporated into the 1980 amendments to the NAIC Standard Valuation Law may be used thereafter through the tenth policy year from the date of issue.

47.4(4) In determining basic reserves or deficiency reserves, guaranteed gross premiums without policy fees may be used where the calculation involves the guaranteed gross premium but only if the policy fee is a level dollar amount after the first policy year. In determining deficiency reserves, policy fees may be included in guaranteed gross premiums, even if not included in the actual calculation of basic reserves.

47.4(5) Reserves for policies that have changes to guaranteed gross premiums, guaranteed benefits, guaranteed charges, or guaranteed credits that are unilaterally made by the insurer after issue and that are effective for more than one year after the date of the change shall be the greatest of the following: (1) reserves calculated ignoring the guarantee, (2) reserves assuming the guarantee was made at issue, and (3) reserves assuming that the policy was issued on the date of the guarantee.

47.4(6) The commissioner may require that the company document the extent of the adequacy of reserves for specified blocks, including but not limited to policies issued prior to February 16, 2000. This documentation may include a demonstration of the extent to which aggregation with other non-specified blocks of business is relied upon in the formation of the appointed actuary opinion pursuant to and consistent with the requirements of 191—subrule 5.34(8).

191—47.5(508) Calculation of minimum valuation standard for policies with guaranteed nonlevel gross premiums or guaranteed nonlevel benefits (other than universal life policies).

47.5(1) *Basic reserves.* Basic reserves shall be calculated as the greater of the segmented reserves and the unitary reserves. Both the segmented reserves and the unitary reserves for any policy shall use the same valuation mortality table and selection factors. At the option of the insurer, in calculating segmented reserves and net premiums, either of the adjustments described in paragraph “a” or “b” below may be made:

a. Treat the unitary reserve, if greater than zero, applicable at the end of each segment as a pure endowment and subtract the unitary reserve, if greater than zero, applicable at the beginning of each segment from the present value of guaranteed life insurance and endowment benefits for each segment.

b. Treat the guaranteed cash surrender value, if greater than zero, applicable at the end of each segment as a pure endowment; and subtract the guaranteed cash surrender value, if greater than zero, applicable at the beginning of each segment from the present value of guaranteed life insurance and endowment benefits for each segment.

47.5(2) Deficiency reserves.

a. The deficiency reserve at any duration shall be calculated:

- (1) On a unitary basis if the corresponding basic reserve determined by subrule 47.5(1) is unitary;
- (2) On a segmented basis if the corresponding basic reserve determined by subrule 47.5(1) is segmented; or
- (3) On a segmented basis if the corresponding basic reserve determined by subrule 47.5(1) is equal to both the segmented reserve and the unitary reserve.

b. This rule shall apply to any policy for which the guaranteed gross premium at any duration is less than the corresponding modified net premium calculated by the method used in determining the basic reserves, but using the minimum valuation standards of mortality in subrule 47.4(2) and rate of interest.

c. Deficiency reserves, if any, shall be calculated for each policy, as the excess if greater than zero, for the current and all remaining periods, of the quantity A over the basic reserve, where A is obtained as indicated in subrule 47.4(2).

d. For deficiency reserves determined on a segmented basis, the quantity A is determined using segment lengths equal to those determined for segmented basic reserves.

47.5(3) Minimum value. Basic reserves may not be less than the tabular cost of insurance for the balance of the policy year, if mean reserves are used. Basic reserves may not be less than the tabular cost of insurance for the balance of the current modal period or to the paid-to-date, if later, but not beyond the next policy anniversary, if mid-terminal reserves are used. The tabular cost of insurance shall use the same valuation mortality table and interest rates as that used for the calculation of the segmented reserves. However, if select mortality factors are used, they shall be the ten-year select factors incorporated into the 1980 amendments of the NAIC Standard Valuation Law. In no case may total reserves (including basic reserves, deficiency reserves and any reserves held for supplemental benefits that would expire upon contract termination) be less than the amount that the policyowner would receive (including the cash surrender value of the supplemental benefits, if any, referred to above), exclusive of any deduction for policy loans, upon termination of the policy.

47.5(4) Unusual pattern of guaranteed cash surrender values.

a. For any policy with an unusual pattern of guaranteed cash surrender values, the reserves actually held prior to the first unusual guaranteed cash surrender value shall not be less than the reserves calculated by treating the first unusual guaranteed cash surrender value as a pure endowment and treating the policy as an n year policy providing term insurance plus a pure endowment equal to the unusual cash surrender value, where n is the number of years from the date of issue to the date the unusual cash surrender value is scheduled.

b. The reserves actually held subsequent to any unusual guaranteed cash surrender value shall not be less than the reserves calculated by treating the policy as an n year policy providing term insurance plus a pure endowment equal to the next unusual guaranteed cash surrender value, and treating any unusual guaranteed cash surrender value at the end of the prior segment as a net single premium, where

(1) n is the number of years from the date of the last unusual guaranteed cash surrender value prior to the valuation date to the earlier of:

1. The date of the next unusual guaranteed cash surrender value, if any, that is scheduled after the valuation date; or

2. The mandatory expiration date of the policy; and

(2) The net premium for a given year during the n year period is equal to the product of the net to gross ratio and the respective gross premium; and

(3) The net to gross ratio is equal to "1" divided by "2" below as follows:

1. The present value, at the beginning of the n year period, of death benefits payable during the n year period plus the present value, at the beginning of the n year period, of the next unusual guaranteed cash surrender value, if any, minus the amount of the last unusual guaranteed cash surrender value, if any, scheduled at the beginning of the n year period.

2. The present value, at the beginning of the n year period, of the scheduled gross premiums payable during the n year period.

c. For purposes of this subrule, a policy is considered to have an unusual pattern of guaranteed cash surrender values if any future guaranteed cash surrender value exceeds the prior year's guaranteed cash surrender value by more than the sum of:

(1) One hundred ten percent of the scheduled gross premium for that year;

(2) One hundred ten percent of one year's accrued interest on the sum of the prior year's guaranteed cash surrender value and the scheduled gross premium using the nonforfeiture interest rate used for calculating policy guaranteed cash surrender values; and

(3) Five percent of the first policy year surrender charge, if any.

47.5(5) Optional exemption for yearly renewable term (YRT) reinsurance. At the option of the company, the following approach for reserves on YRT reinsurance may be used:

a. Calculate the valuation net premium for each future policy year as the tabular cost of insurance for that future year.

b. Basic reserves shall never be less than the tabular cost of insurance for the appropriate period, as defined in subrule 47.5(3).

c. Deficiency reserves.

(1) For each policy year, calculate the excess, if greater than zero, of the valuation net premium over the respective maximum guaranteed gross premium.

(2) Deficiency reserves shall never be less than the sum of the present values, at the date of valuation, of the excesses determined in accordance with subparagraph (1) above.

d. For purposes of this subrule, the calculations use the maximum valuation interest rate and the 1980 CSO mortality tables with or without ten-year select mortality factors, or any other table adopted after January 1, 2000, by the NAIC and promulgated by rule by the commissioner for this purpose.

e. A reinsurance agreement shall be considered YRT reinsurance for purposes of this subrule if only the mortality risk is reinsured.

f. If the assuming company chooses this optional exemption, the ceding company's reinsurance reserve credit shall be limited to the amount of reserve held by the assuming company for the affected policies.

47.5(6) Optional exemption for attained-age-based yearly renewable term (YRT) life insurance policies. At the option of the company, the following approach for reserves for attained-age-based YRT life insurance policies may be used:

a. Calculate the valuation net premium for each future policy year as the tabular cost of insurance for that future year.

b. Basic reserves shall never be less than the tabular cost of insurance for the appropriate period, as defined in subrule 47.5(3).

c. Deficiency reserves.

(1) For each policy year, calculate the excess, if greater than zero, of the valuation net premium over the respective maximum guaranteed gross premium.

(2) Deficiency reserves shall never be less than the sum of the present values, at the date of valuation, of the excesses determined in accordance with subparagraph (1) above.

d. For purposes of this subrule, the calculations use the maximum valuation interest rate and the 1980 CSO valuation tables with or without ten-year select mortality factors, or any other table adopted after January 1, 2000, by the NAIC and promulgated by rule by the commissioner for this purpose.

e. A policy shall be considered an attained-age-based YRT life insurance policy for purposes of this subrule if:

(1) The premium rates (on both the initial current premium scale and the guaranteed maximum premium scale) are based upon the attained age of the insured such that the rate for any given policy at a given attained age of the insured is independent of the year the policy was issued; and

(2) The premium rates (on both the initial current premium scale and the guaranteed maximum premium scale) are the same as the premium rates for policies covering all insureds of the same sex, risk class, plan of insurance and attained age.

f. For policies that become attained-age-based YRT policies after an initial period of coverage, the approach of this subrule may be used after the initial period if:

(1) The initial period is constant for all insureds of the same sex, risk class and plan of insurance; or

(2) The initial period runs to a common attained age for all insureds of the same sex, risk class and plan of insurance; and

(3) After the initial period of coverage, the policy meets the conditions of paragraph "e" above.

g. If this election is made, this approach shall be applied in determining reserves for all attained-age-based YRT life insurance policies issued on or after January 1, 2000.

47.5(7) Exemption from unitary reserves for certain *n* year renewable term life insurance policies. Unitary basic reserves and unitary deficiency reserves need not be calculated for a policy if the following conditions are met:

a. The policy consists of a series of *n* year periods, including the first period and all renewal periods, where *n* is the same for each period, except that for the final renewal period, *n* may be truncated or extended to reach the expiry age, provided that this final renewal period is less than ten years and less than twice the size of the earlier *n* year periods, and for each period, the premium rates on both the initial current premium scale and the guaranteed maximum premium scale are level;

b. The guaranteed gross premiums in all *n* year periods are not less than the corresponding net premiums based upon the 1980 CSO Table with or without the ten-year select mortality factors; and

c. There are no cash surrender values in any policy year.

47.5(8) Exemption from unitary reserves for certain juvenile policies. Unitary basic reserves and unitary deficiency reserves need not be calculated for a policy if the following conditions are met, based upon the initial current premium scale at issue:

a. At issue, the insured is aged 24 years or younger;

b. Until the insured reaches the end of the juvenile period, which shall occur at or before the age of 25, the gross premiums and death benefits are level, and there are no cash surrender values; and

c. After the end of the juvenile period, gross premiums are level for the remainder of the premium paying period, and death benefits are level for the remainder of the life of the policy.

191—47.6(508) Calculation of minimum valuation standard for flexible premium and fixed premium universal life insurance policies that contain provisions resulting in the ability of a policy-owner to keep a policy in force over a secondary guarantee period.

47.6(1) General.

a. Policies with a secondary guarantee include:

(1) A policy with a guarantee that the policy will remain in force at the original schedule of benefits, subject only to the payment of specified premiums;

(2) A policy in which the minimum premium at any duration is less than the corresponding one-year valuation premium, calculated using the maximum valuation interest rate and the 1980 CSO valuation tables with or without ten-year select mortality factors, or any other table adopted after January 1, 2000, by the NAIC and promulgated by rule by the commissioner for this purpose; or

(3) A policy with any combination of subparagraphs (1) and (2).

b. A secondary guarantee period is the period for which the policy is guaranteed to remain in force subject only to a secondary guarantee. When a policy contains more than one secondary guarantee, the minimum reserve shall be the greatest of the respective minimum reserves at that valuation date of each unexpired secondary guarantee, ignoring all other secondary guarantees. Secondary guarantees that are unilaterally changed by the insurer after issue shall be considered to have been made at issue. Reserves described in subrules 47.6(2) and 47.6(3) shall be recalculated from issue to reflect these changes.

c. Specified premiums mean the premiums specified in the policy, the payment of which guarantees that the policy will remain in force at the original schedule of benefits, but which otherwise would be insufficient to keep the policy in force in the absence of the guarantee if maximum mortality and expense charges and minimum interest credits were made and any applicable surrender charges were assessed.

d. For purposes of this rule, the minimum premium for any policy year is the premium that, when paid into a policy with a zero account value at the beginning of the policy year, produces a zero account value at the end of the policy year. The minimum premium calculation shall use the policy cost factors (including mortality charges, loads and expense charges) and the interest crediting rate, which are all guaranteed at issue.

e. The one-year valuation premium means the net one-year premium based upon the original schedule of benefits for a given policy year. The one-year valuation premiums for all policy years are calculated at issue. The select mortality factors defined in paragraphs 47.4(2) "b," "c," and "d" may not be used to calculate the one-year valuation premiums.

f. The one-year valuation premium should reflect the frequency of fund processing, as well as the distribution of deaths assumption employed in the calculation of the monthly mortality charges to the fund.

47.6(2) Basic reserves for the secondary guarantees. Basic reserves for the secondary guarantees shall be the segmented reserves for the secondary guarantee period. In calculating the segments and the segmented reserves, the gross premiums shall be set equal to the specified premiums, if any, or otherwise to the minimum premiums, that keep the policy in force, and the segments will be determined according to the contract segmentation method as defined in rule 47.3(508).

47.6(3) Deficiency reserves for the secondary guarantees. Deficiency reserves, if any, for the secondary guarantees shall be calculated for the secondary guarantee period in the same manner as described in subrule 47.5(2) with gross premiums set equal to the specified premiums, if any, or otherwise to the minimum premiums that keep the policy in force.

47.6(4) Minimum reserves. The minimum reserves during the secondary guarantee period are the greater of:

a. The basic reserves for the secondary guarantee plus the deficiency reserve, if any, for the secondary guarantees; or

b. The minimum reserves required by other rules or rules governing universal life plans.

These rules are intended to implement Iowa Code section 508.36(6) "c."

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Appendix
SELECT MORTALITY FACTORS

This appendix contains tables of select mortality factors that are the bases to which the respective percentage of paragraphs 47.4(1) "b," 47.4(2) "b," and 47.4(2) "c" are applied.

The six tables of select mortality factors contained herein include: (1) male aggregate, (2) male non-smoker, (3) male smoker, (4) female aggregate, (5) female non-smoker, and (6) female smoker.

These tables apply to both age last birthday and age nearest birthday mortality tables.

For sex-blended mortality tables, compute select mortality factors in the same proportion as the underlying mortality. For example, for the 1980 CSO-B Table, the calculated select mortality factors are 80 percent of the appropriate male table in this Appendix, plus 20 percent of the appropriate female table in this Appendix.

SELECT MORTALITY FACTORS

IAC 1/12/00

Insurance[191]

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Issue Age	Male Aggregate Duration																			
	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20+
0-15	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100
16	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100
17	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100
18	96	98	98	99	99	100	100	90	92	92	92	92	93	93	96	97	98	98	99	100
19	83	84	84	87	87	87	79	79	79	81	81	82	82	82	85	88	91	94	97	100
20	69	71	71	74	74	69	69	67	69	70	71	71	71	71	74	79	84	90	95	100
21	66	68	69	71	66	66	67	66	67	70	70	70	71	71	71	77	83	88	94	100
22	65	66	66	63	63	64	64	64	65	68	68	68	68	69	71	77	83	88	94	100
23	62	63	59	60	62	62	63	63	64	65	65	67	67	69	70	76	82	88	94	100
24	60	56	56	59	59	60	61	61	61	64	64	64	66	67	70	76	82	88	94	100
25	52	53	55	56	58	58	60	60	60	63	62	63	64	67	69	75	81	88	94	100
26	51	52	55	56	58	58	57	61	61	62	63	64	66	69	66	73	80	86	93	100
27	51	52	55	57	58	60	61	61	60	63	63	64	67	66	67	74	80	87	93	100
28	49	51	56	58	60	60	61	62	62	63	64	66	65	66	68	74	81	87	94	100
29	49	51	56	58	60	61	62	62	62	64	64	62	66	67	70	76	82	88	94	100
30	49	50	56	58	60	60	62	63	63	64	62	63	67	68	71	77	83	88	94	100
31	47	50	56	58	60	62	63	64	64	62	63	66	68	70	72	78	83	89	94	100
32	46	49	56	59	60	62	63	66	62	63	66	67	70	72	73	78	84	89	95	100
33	43	49	56	59	62	63	64	62	65	66	67	70	72	73	75	80	85	90	95	100
34	42	47	56	60	62	63	61	63	66	67	70	71	73	75	76	81	86	90	95	100
35	40	47	56	60	63	61	62	65	67	68	71	73	74	76	76	81	86	90	95	100
36	38	42	56	60	59	61	63	65	67	68	70	72	74	76	77	82	86	91	95	100
37	38	45	56	57	61	62	63	65	67	68	70	72	74	76	76	81	86	90	95	100
38	37	44	53	58	61	62	65	66	67	69	69	73	75	76	77	82	86	91	95	100
39	37	41	53	58	62	63	65	65	66	68	69	72	74	76	76	81	86	90	95	100
40	34	40	53	58	62	63	65	65	66	68	68	71	75	76	77	82	86	91	95	100

Male Aggregate																				
Issue	Duration																			
Age	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20+
71	48	52	55	60	60	65	70	70	70	70	100	100	100	100	100	100	100	100	100	100
72	48	52	55	60	60	65	70	70	70	70	100	100	100	100	100	100	100	100	100	100
73	48	52	55	60	60	65	70	70	70	70	100	100	100	100	100	100	100	100	100	100
74	48	52	55	60	60	65	70	70	70	70	100	100	100	100	100	100	100	100	100	100
75	48	52	55	60	60	65	70	70	70	70	100	100	100	100	100	100	100	100	100	100
76	48	52	55	60	60	65	70	70	70	100	100	100	100	100	100	100	100	100	100	100
77	48	52	55	60	60	65	70	70	100	100	100	100	100	100	100	100	100	100	100	100
78	48	52	55	60	60	65	70	100	100	100	100	100	100	100	100	100	100	100	100	100
79	48	52	55	60	60	65	100	100	100	100	100	100	100	100	100	100	100	100	100	100
80	48	52	55	60	60	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100
81	48	52	55	60	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100
82	48	52	55	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100
83	48	52	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100
84	48	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100
85+	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100

Issue	Male Non-Smoker																				
	Duration																				
	Age	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20+
0-15	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100
16	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100
17	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100
18	93	95	96	98	99	100	100	90	92	92	92	92	95	95	96	97	98	98	99	100	100
19	80	81	83	86	87	87	79	79	79	81	81	82	83	83	86	89	92	94	97	100	100
20	65	68	69	72	74	69	69	67	69	70	71	71	72	72	75	80	85	90	95	100	100
21	63	66	68	71	66	66	67	66	67	70	70	70	71	71	73	78	84	89	95	100	100
22	62	65	66	62	63	64	64	64	67	68	68	68	70	70	73	78	84	89	95	100	100
23	60	62	58	60	62	62	63	63	64	67	68	68	67	69	71	77	83	88	94	100	100
24	59	55	56	58	59	60	61	61	63	65	67	66	66	69	71	77	83	88	94	100	100
25	52	53	55	56	58	58	60	60	61	64	64	64	64	67	70	76	82	88	94	100	100
26	51	53	55	56	58	60	61	61	61	63	64	64	66	69	67	74	80	87	93	100	100
27	51	52	55	58	60	60	61	61	62	63	64	66	67	66	67	74	80	87	93	100	100
28	49	52	57	58	60	61	63	62	62	64	66	66	63	66	68	74	81	87	94	100	100
29	49	51	57	60	61	61	62	62	63	64	66	63	65	67	68	74	81	87	94	100	100
30	49	51	57	60	61	62	63	63	63	64	62	63	66	68	70	76	82	88	94	100	100
31	47	50	57	60	60	62	63	64	64	62	63	65	67	70	71	77	83	88	94	100	100
32	46	50	57	60	62	63	64	64	62	63	65	66	68	71	72	78	83	89	94	100	100
33	45	49	56	60	62	63	64	62	63	65	66	68	71	73	74	79	84	90	95	100	100
34	43	48	56	62	63	64	62	62	65	66	67	70	72	74	74	79	84	90	95	100	100
35	41	47	56	62	63	61	62	63	66	67	68	70	72	74	75	80	85	90	95	100	100
36	40	47	56	62	59	61	62	63	66	67	68	70	72	74	75	80	85	90	95	100	100
37	38	45	56	58	59	61	62	63	66	67	67	69	71	73	74	79	84	90	95	100	100
38	38	45	53	58	61	62	63	65	65	67	68	70	72	74	73	78	84	89	95	100	100
39	37	41	53	58	61	62	63	64	65	67	68	70	71	73	73	78	84	89	95	100	100
40	34	41	53	58	61	62	63	64	64	66	67	69	71	73	72	78	83	89	94	100	100

Male Non-Smoker																				
Issue	Duration																			
Age	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20+
41	34	41	53	58	61	61	62	62	63	65	65	67	69	71	71	77	83	88	94	100
42	34	43	53	58	60	61	62	61	61	63	64	66	67	69	71	77	83	88	94	100
43	32	43	53	58	60	61	60	60	60	60	62	64	66	68	69	75	81	88	94	100
44	32	44	52	57	59	60	60	59	59	58	60	62	65	67	69	75	81	88	94	100
45	32	44	52	57	59	60	59	57	57	57	59	61	63	66	68	74	81	87	94	100
46	32	42	50	54	56	57	57	56	55	56	59	61	63	65	67	74	80	87	93	100
47	30	40	48	52	54	55	55	54	54	55	59	61	62	63	66	73	80	86	93	100
48	30	40	46	49	51	52	53	53	54	55	57	61	62	63	63	70	78	85	93	100
49	29	39	43	48	50	51	50	51	53	54	57	61	61	62	62	70	77	85	92	100
50	29	37	42	45	47	48	49	50	51	54	57	61	61	61	61	69	77	84	92	100
51	27	35	40	43	45	47	48	50	51	53	57	60	61	61	62	70	77	85	92	100
52	27	34	39	42	44	45	48	49	50	53	56	60	60	62	62	70	77	85	100	100
53	25	31	37	41	44	45	47	49	50	51	56	59	61	61	62	70	77	100	100	100
54	25	30	36	39	43	44	47	48	49	51	55	59	59	61	62	70	100	100	100	100
55	24	29	35	38	42	43	45	48	49	50	56	58	59	61	62	100	100	100	100	100
56	23	29	35	38	42	42	44	47	48	50	55	57	58	59	100	100	100	100	100	100
57	23	28	35	38	42	42	43	45	47	49	53	55	56	100	100	100	100	100	100	100
58	22	28	33	37	41	41	43	45	45	47	51	53	100	100	100	100	100	100	100	100
59	22	26	33	37	41	41	42	44	44	46	50	100	100	100	100	100	100	100	100	100
60	20	26	33	37	41	40	41	42	42	45	100	100	100	100	100	100	100	100	100	100
61	20	26	33	37	41	40	41	42	42	75	100	100	100	100	100	100	100	100	100	100
62	19	25	32	38	40	40	41	42	75	75	100	100	100	100	100	100	100	100	100	100
63	19	25	33	36	40	40	41	75	75	75	100	100	100	100	100	100	100	100	100	100
64	18	24	32	36	39	40	75	75	75	75	100	100	100	100	100	100	100	100	100	100
65	18	24	32	36	39	65	70	70	70	70	100	100	100	100	100	100	100	100	100	100
66	18	24	32	36	60	65	70	70	70	70	100	100	100	100	100	100	100	100	100	100
67	18	24	32	60	60	65	70	70	70	70	100	100	100	100	100	100	100	100	100	100
68	18	24	55	60	60	65	70	70	70	70	100	100	100	100	100	100	100	100	100	100
69	18	52	55	60	60	65	70	70	70	70	100	100	100	100	100	100	100	100	100	100
70	48	52	55	60	60	65	70	70	70	70	100	100	100	100	100	100	100	100	100	100

Issue	Male Non-Smoker																			
	Duration																			
Age	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20+
71	48	52	55	60	60	65	70	70	70	70	100	100	100	100	100	100	100	100	100	100
72	48	52	55	60	60	65	70	70	70	70	100	100	100	100	100	100	100	100	100	100
73	48	52	55	60	60	65	70	70	70	70	100	100	100	100	100	100	100	100	100	100
74	48	52	55	60	60	65	70	70	70	70	100	100	100	100	100	100	100	100	100	100
75	48	52	55	60	60	65	70	70	70	70	100	100	100	100	100	100	100	100	100	100
76	48	52	55	60	60	65	70	70	70	100	100	100	100	100	100	100	100	100	100	100
77	48	52	55	60	60	65	70	70	100	100	100	100	100	100	100	100	100	100	100	100
78	48	52	55	60	60	65	70	100	100	100	100	100	100	100	100	100	100	100	100	100
79	48	52	55	60	60	65	100	100	100	100	100	100	100	100	100	100	100	100	100	100
80	48	52	55	60	60	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100
81	48	52	55	60	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100
82	48	52	55	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100
83	48	52	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100
84	48	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100
85+	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100

Issue	Male Smoker																			
	Duration																			
Age	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20+
0-15	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100
16	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100
17	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100
18	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100
19	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100
20	98	100	100	100	100	100	100	99	99	99	100	99	99	99	100	100	100	100	100	100
21	95	98	99	100	95	96	96	95	96	97	97	96	96	96	96	97	98	98	99	100
22	92	95	96	90	90	93	93	92	93	95	95	93	93	92	93	94	96	97	99	100
23	90	92	85	88	88	89	89	89	90	90	90	90	89	90	92	94	95	97	98	100
24	87	81	82	85	84	86	88	86	86	88	88	86	86	88	89	91	93	96	98	100
25	77	78	79	82	81	83	83	82	83	85	84	84	84	85	86	89	92	94	97	100
26	75	77	79	82	82	83	83	82	83	84	84	84	84	85	81	85	89	92	96	100
27	73	75	78	82	82	83	83	82	82	82	82	84	84	80	81	85	89	92	96	100
28	71	73	79	82	81	82	83	81	81	82	82	82	80	80	81	85	89	92	96	100
29	69	72	78	81	81	82	82	81	81	81	81	77	80	80	81	85	89	92	96	100
30	68	71	78	81	81	81	82	81	81	81	76	77	80	80	81	85	89	92	96	100
31	65	70	77	81	79	81	82	81	81	76	77	79	81	81	83	86	90	93	97	100
32	63	67	77	78	79	81	81	81	76	77	77	80	83	83	85	88	91	94	97	100
33	60	65	74	78	79	79	81	76	77	77	79	80	83	85	85	88	91	94	97	100
34	57	62	74	77	79	79	75	76	77	79	79	81	83	85	87	90	92	95	97	100
35	53	60	73	77	79	75	75	76	77	79	80	82	84	86	88	90	93	95	98	100
36	52	59	71	75	74	75	75	76	77	79	79	81	83	85	87	90	92	95	97	100
37	49	58	70	71	74	74	75	76	77	78	79	81	84	86	86	89	92	94	97	100
38	48	55	66	70	72	74	74	75	76	78	79	81	83	85	87	90	92	95	97	100
39	45	50	65	70	72	72	74	74	75	77	79	81	84	86	86	89	92	94	97	100
40	41	49	63	68	71	72	73	74	74	76	78	80	83	85	86	89	92	94	97	100

Male Smoker																				
Issue	Duration																			
Age	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20+
71	48	52	55	60	60	65	70	70	70	70	100	100	100	100	100	100	100	100	100	100
72	48	52	55	60	60	65	70	70	70	70	100	100	100	100	100	100	100	100	100	100
73	48	52	55	60	60	65	70	70	70	70	100	100	100	100	100	100	100	100	100	100
74	48	52	55	60	60	65	70	70	70	70	100	100	100	100	100	100	100	100	100	100
75	48	52	55	60	60	65	70	70	70	70	100	100	100	100	100	100	100	100	100	100
76	48	52	55	60	60	65	70	70	70	100	100	100	100	100	100	100	100	100	100	100
77	48	52	55	60	60	65	70	70	100	100	100	100	100	100	100	100	100	100	100	100
78	48	52	55	60	60	65	70	100	100	100	100	100	100	100	100	100	100	100	100	100
79	48	52	55	60	60	65	100	100	100	100	100	100	100	100	100	100	100	100	100	100
80	48	52	55	60	60	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100
81	48	52	55	60	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100
82	48	52	55	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100
83	48	52	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100
84	48	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100
85+	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100

Female Aggregate																				
Issue	Duration																			
Age	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20+
0-15	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100
16	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100
17	99	100	100	100	100	100	100	100	93	95	96	97	97	100	100	100	100	100	100	100
18	83	83	84	84	84	84	86	78	78	79	82	84	85	88	88	90	93	95	98	100
19	65	66	68	68	68	68	63	63	64	66	69	71	72	74	75	80	85	90	95	100
20	48	50	51	51	51	47	48	48	49	51	56	57	58	61	63	70	78	85	93	100
21	47	48	50	51	47	47	48	49	51	53	57	60	61	64	64	71	78	86	93	100
22	44	47	48	45	47	47	48	49	53	54	60	61	63	64	66	73	80	86	93	100
23	42	45	44	45	47	47	49	51	53	54	61	64	64	67	69	75	81	88	94	100
24	39	40	42	44	47	47	50	51	54	56	64	64	66	69	70	76	82	88	94	100
25	34	38	41	44	47	47	50	53	56	57	64	67	69	71	73	78	84	89	95	100
26	34	38	41	45	49	49	51	56	58	59	66	69	70	73	70	76	82	88	94	100
27	34	38	41	47	50	51	54	57	59	60	69	70	73	70	71	77	83	88	94	100
28	34	37	43	47	53	53	56	59	62	63	70	73	70	72	74	79	84	90	95	100
29	34	38	43	49	54	56	58	60	63	64	73	70	72	74	75	80	85	90	95	100
30	35	38	43	50	56	56	59	63	66	67	70	71	74	75	76	81	86	90	95	100
31	35	38	43	51	56	58	60	64	67	65	71	72	74	75	76	81	86	90	95	100
32	35	39	45	51	56	59	63	66	65	66	72	72	75	76	76	81	86	90	95	100
33	36	39	44	52	58	62	64	65	66	67	72	74	75	76	76	81	86	90	95	100
34	36	40	45	52	58	63	63	66	67	68	74	74	76	76	76	81	86	90	95	100
35	36	40	45	53	59	61	65	67	68	70	75	74	75	76	75	80	85	90	95	100
36	36	40	45	53	55	62	65	67	68	70	74	74	74	75	75	80	85	90	95	100
37	36	41	47	52	57	62	65	67	68	69	72	72	73	75	74	79	84	90	95	100
38	34	41	44	52	57	63	66	68	69	70	72	71	72	74	75	80	85	90	95	100
39	34	40	45	53	58	63	66	68	69	69	70	70	70	73	74	79	84	90	95	100
40	32	40	45	53	58	65	65	67	68	69	70	69	70	73	73	78	84	89	95	100

Issue Age	Female Aggregate																			
	Duration																			
	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20+
41	32	40	45	53	57	63	64	67	68	68	69	69	69	73	74	79	84	90	95	100
42	32	40	45	52	56	61	63	65	66	68	69	68	70	74	75	80	85	90	95	100
43	31	39	45	51	55	59	61	65	65	66	68	69	69	74	77	82	86	91	95	100
44	31	39	45	50	54	58	61	63	64	66	67	68	71	75	78	82	87	91	96	100
45	31	38	44	49	53	56	59	62	63	65	67	68	71	77	79	83	87	92	96	100
46	29	37	43	48	51	54	59	62	63	65	67	69	71	77	78	82	87	91	96	100
47	28	35	41	46	49	54	57	61	62	66	68	69	71	77	77	82	86	91	95	100
48	28	35	41	44	49	52	57	61	63	66	68	71	72	75	77	82	86	91	95	100
49	26	34	39	43	47	52	55	61	63	67	69	71	72	75	75	80	85	90	95	100
50	25	32	38	41	46	50	55	61	63	67	69	72	72	75	74	79	84	90	95	100
51	25	32	38	41	45	50	55	61	63	66	68	69	71	74	74	79	84	90	95	100
52	23	30	36	41	45	51	56	61	62	65	66	68	68	73	73	78	84	89	100	100
53	23	30	36	41	47	51	56	61	62	63	65	66	68	72	72	78	83	100	100	100
54	22	29	35	41	47	53	57	61	61	62	62	66	66	69	70	76	100	100	100	100
55	22	29	35	41	47	53	57	61	61	61	62	63	64	68	69	100	100	100	100	100
56	22	29	35	41	45	51	56	59	60	61	62	63	64	67	100	100	100	100	100	100
57	22	29	35	41	45	50	54	56	58	59	61	62	63	100	100	100	100	100	100	100
58	22	30	36	41	44	49	53	56	57	57	61	62	100	100	100	100	100	100	100	100
59	22	30	36	41	44	48	51	53	55	56	59	100	100	100	100	100	100	100	100	100
60	22	30	36	41	43	47	50	51	53	55	100	100	100	100	100	100	100	100	100	100
61	22	29	35	39	42	46	49	50	52	80	100	100	100	100	100	100	100	100	100	100
62	20	28	33	39	41	45	47	49	80	80	100	100	100	100	100	100	100	100	100	100
63	20	28	33	38	41	44	46	80	80	80	100	100	100	100	100	100	100	100	100	100
64	19	27	32	36	40	42	80	80	80	80	100	100	100	100	100	100	100	100	100	100
65	19	25	30	35	39	72	75	75	80	80	100	100	100	100	100	100	100	100	100	100
66	19	25	30	35	72	72	75	75	80	80	100	100	100	100	100	100	100	100	100	100
67	19	25	30	72	72	72	75	75	80	80	100	100	100	100	100	100	100	100	100	100
68	19	25	68	72	72	72	75	75	80	80	100	100	100	100	100	100	100	100	100	100
69	19	64	68	72	72	72	75	75	80	80	100	100	100	100	100	100	100	100	100	100
70	60	60	64	68	68	72	75	75	80	80	100	100	100	100	100	100	100	100	100	100

Issue	Female Non-Smoker																				
	Duration																				
	Age	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20+
0-15	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100
16	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100
17	96	98	98	98	98	99	99	99	92	92	93	95	95	97	99	99	99	100	100	100	100
18	78	80	80	80	80	81	81	74	75	75	78	79	82	83	85	88	91	94	97	100	100
19	60	62	63	63	63	65	59	59	60	60	64	67	67	70	72	78	83	89	94	100	100
20	42	44	45	45	45	42	42	42	45	45	50	51	53	56	58	66	75	83	92	100	100
21	41	42	44	45	41	42	42	44	47	47	51	53	54	57	59	67	75	84	92	100	100
22	39	41	44	41	41	42	44	45	49	49	54	56	57	58	60	68	76	84	92	100	100
23	38	41	38	40	41	42	44	46	49	50	56	57	58	60	62	70	77	85	92	100	100
24	36	36	38	40	41	42	46	47	50	51	58	59	60	62	63	70	78	85	93	100	100
25	32	34	37	40	41	43	46	49	51	53	59	60	62	63	64	71	78	86	93	100	100
26	32	34	37	41	43	45	47	50	53	53	60	62	63	64	62	70	77	85	92	100	100
27	32	34	38	43	46	47	49	51	53	55	62	63	64	62	62	70	77	85	92	100	100
28	30	34	39	43	47	49	51	53	56	58	63	63	61	62	63	70	78	85	93	100	100
29	30	35	40	45	50	51	52	55	58	59	64	61	62	63	63	70	78	85	93	100	100
30	31	35	40	46	51	52	53	56	59	60	62	62	63	65	65	72	79	86	93	100	100
31	31	35	40	46	51	53	55	58	60	58	62	62	63	65	65	72	79	86	93	100	100
32	32	35	40	45	51	53	56	59	57	58	62	63	63	65	64	71	78	86	93	100	100
33	32	36	41	47	52	55	58	55	58	59	63	63	65	65	65	72	79	86	93	100	100
34	33	36	41	47	52	55	55	57	58	59	63	65	64	65	64	71	78	86	93	100	100
35	33	36	41	47	52	53	57	58	59	61	63	64	64	64	64	71	78	86	93	100	100
36	33	36	41	47	49	53	57	58	59	61	63	64	63	64	63	70	78	85	93	100	100
37	32	36	41	44	49	53	57	58	59	60	62	62	61	62	63	70	78	85	93	100	100
38	32	37	39	45	50	54	57	58	60	60	61	61	61	62	61	69	77	84	92	100	100
39	30	35	39	45	50	54	57	58	60	59	60	60	59	60	61	69	77	84	92	100	100
40	28	35	39	45	50	54	56	57	59	59	60	59	59	59	60	68	76	84	92	100	100

Female Non-Smoker																				
Issue	Duration																			
Age	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20+
71	60	60	64	68	68	72	75	75	80	80	100	100	100	100	100	100	100	100	100	100
72	60	60	64	68	68	72	75	75	80	80	100	100	100	100	100	100	100	100	100	100
73	60	60	64	68	68	72	75	75	80	80	100	100	100	100	100	100	100	100	100	100
74	60	60	64	68	68	72	75	75	80	80	100	100	100	100	100	100	100	100	100	100
75	60	60	64	68	68	72	75	75	80	80	100	100	100	100	100	100	100	100	100	100
76	60	60	64	68	68	72	75	75	80	100	100	100	100	100	100	100	100	100	100	100
77	60	60	64	68	68	72	75	75	100	100	100	100	100	100	100	100	100	100	100	100
78	60	60	64	68	68	72	75	100	100	100	100	100	100	100	100	100	100	100	100	100
79	60	60	64	68	68	72	100	100	100	100	100	100	100	100	100	100	100	100	100	100
80	60	60	64	68	68	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100
81	60	60	64	68	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100
82	60	60	64	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100
83	60	60	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100
84	60	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100
85+	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100

Issue	Female Smoker																			
	Duration																			
Age	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20+
0-15	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100
16	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100
17	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100
18	99	100	100	100	100	100	100	95	96	97	100	100	100	100	100	100	100	100	100	100
19	87	89	92	92	92	92	84	84	86	86	92	93	95	96	99	99	99	100	100	100
20	74	77	80	80	80	73	73	73	75	77	83	83	86	88	90	92	94	96	98	100
21	71	74	78	78	71	71	73	74	77	79	85	86	88	89	90	92	94	96	98	100
22	68	71	75	70	71	71	73	74	78	79	88	90	89	89	92	94	95	97	98	100
23	65	69	67	70	70	70	73	77	79	81	89	90	90	92	92	94	95	97	98	100
24	62	60	64	69	70	70	74	77	79	81	92	90	92	93	93	94	96	97	99	100
25	53	58	63	67	69	70	74	78	81	82	92	93	93	95	95	96	97	98	99	100
26	53	58	63	69	71	72	75	79	82	82	93	93	95	96	90	92	94	96	98	100
27	52	56	63	70	74	74	78	81	82	84	93	95	95	90	90	92	94	96	98	100
28	52	56	64	71	75	77	79	82	85	86	95	95	90	92	92	94	95	97	98	100
29	51	56	64	71	78	78	81	84	86	88	95	90	90	92	92	94	95	97	98	100
30	51	56	64	72	79	79	82	85	88	89	90	90	92	93	93	94	96	97	99	100
31	51	56	64	72	78	81	84	84	88	84	90	90	92	93	93	94	96	97	99	100
32	51	56	64	71	78	81	85	86	84	85	90	90	92	94	93	94	96	97	99	100
33	51	57	62	71	78	82	85	83	84	85	90	92	93	93	93	94	96	97	99	100
34	51	56	62	71	78	82	81	83	85	86	90	92	92	94	93	94	96	97	99	100
35	51	56	62	71	78	79	83	84	85	86	90	91	91	93	93	94	96	97	99	100
36	49	56	62	71	74	79	83	84	85	86	90	90	91	93	92	94	95	97	98	100
37	48	55	62	67	74	79	83	84	85	86	89	90	89	92	91	93	95	96	98	100
38	47	55	57	66	72	77	81	84	86	86	87	88	88	90	91	93	95	96	98	100
39	45	50	57	66	72	77	81	83	85	86	86	87	86	89	90	92	94	96	98	100
40	41	50	57	66	72	77	81	83	84	85	86	86	86	89	89	91	93	96	98	100

Issue Age	Female Smoker Duration																			
	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20+
41	40	50	57	65	71	76	79	81	83	84	85	86	85	89	90	92	94	96	98	100
42	40	49	57	65	69	74	77	80	82	83	84	85	86	90	92	94	95	97	98	100
43	39	49	55	63	69	73	76	78	80	82	83	84	85	92	93	94	96	97	99	100
44	39	48	55	62	67	71	75	78	80	80	82	84	86	93	96	97	98	98	99	100
45	37	47	55	61	65	70	73	76	78	80	81	84	86	94	97	98	98	99	99	100
46	36	46	53	59	63	68	71	75	77	79	83	85	86	93	96	97	98	98	99	100
47	34	44	51	57	62	66	70	75	77	80	83	85	86	93	94	95	96	98	99	100
48	34	44	50	54	60	64	69	74	77	80	84	86	87	92	92	94	95	97	98	100
49	33	42	48	53	58	63	68	74	77	81	84	86	87	92	91	93	95	96	98	100
50	31	41	46	51	57	61	67	74	77	81	85	87	87	91	90	92	94	96	98	100
51	30	39	45	51	56	61	67	74	75	80	83	85	85	90	90	92	94	96	98	100
52	29	38	45	50	56	62	68	74	75	79	81	83	84	90	90	92	94	96	100	100
53	28	37	43	49	57	62	68	73	74	77	79	81	83	89	89	91	93	100	100	100
54	28	36	43	49	57	63	69	73	74	75	78	80	81	87	89	91	100	100	100	100
55	26	35	42	49	57	63	69	73	73	74	76	78	79	86	87	100	100	100	100	100
56	26	35	42	49	56	62	67	71	72	74	76	78	79	85	100	100	100	100	100	100
57	26	35	42	49	55	61	66	69	72	73	76	78	79	100	100	100	100	100	100	100
58	28	36	43	49	55	59	63	68	69	72	76	78	100	100	100	100	100	100	100	100
59	28	36	43	49	54	57	63	67	68	70	76	100	100	100	100	100	100	100	100	100
60	28	36	43	49	53	57	61	64	67	69	100	100	100	100	100	100	100	100	100	100
61	26	35	42	48	52	56	59	63	66	80	100	100	100	100	100	100	100	100	100	100
62	26	33	41	47	51	55	58	62	80	80	100	100	100	100	100	100	100	100	100	100
63	25	33	41	46	51	55	57	80	80	80	100	100	100	100	100	100	100	100	100	100
64	25	33	40	45	50	53	80	80	80	80	100	100	100	100	100	100	100	100	100	100
65	24	32	39	44	49	72	75	75	80	80	100	100	100	100	100	100	100	100	100	100
66	24	32	39	44	72	72	75	75	80	80	100	100	100	100	100	100	100	100	100	100
67	24	32	39	72	72	72	75	75	80	80	100	100	100	100	100	100	100	100	100	100
68	24	32	68	72	72	72	75	75	80	80	100	100	100	100	100	100	100	100	100	100
69	24	64	68	72	72	72	75	75	80	80	100	100	100	100	100	100	100	100	100	100
70	60	60	64	68	68	72	75	75	80	80	100	100	100	100	100	100	100	100	100	100

CHAPTERS 48 and 49
Reserved

SECURITIES

CHAPTER 50
REGULATION OF SECURITIES OFFERINGS AND
THOSE WHO ENGAGE IN THE SECURITIES BUSINESS

[Appeared as Ch 17, 1973 IDR]
[Prior to 10/22/86, Insurance Department[510]]

191—50.1(502) Broker-dealer applications, updates, and renewals.

50.1(1) Broker-dealer applications. Every applicant for an original license to conduct business as a broker-dealer shall file with the administrator:

a. A complete, current Form BD, manually signed and notarized, only if the applicant is not a member of the National Association of Securities Dealers (NASD).

b. The most recent audited financial statement, unless waived by the administrator for good cause. The financial statement shall include a balance sheet, income statement and net capital calculation. The audit shall be performed by an independent certified public accountant according to generally accepted accounting principles. If a waiver is granted, the applicant shall file a financial statement, attested to by the president or financial officer of the broker-dealer, as to its completeness and accuracy.

c. A filing fee of \$200. If the applicant is a member of the National Association of Securities Dealers (NASD), the fee shall be filed with the Central Registration Depository (CRD). If the applicant is not a member of the NASD, the filing fee shall be filed with the administrator.

d. A form known as the Iowa Broker-Dealer Affidavit which may be obtained from the administrator, at the Iowa Securities Bureau, Lucas State Office Building, Second Floor, Des Moines, Iowa 50319. The form requires a manually signed and notarized statement:

(1) That the applicant engaged in no securities transactions with persons in Iowa prior to licensing or identifying past and current Iowa accounts; and

(2) A consent to appointment of the administrator as the applicant's attorney to receive service of any lawful process in a noncriminal proceeding against the applicant, a successor, or personal representative, which grows out of conduct prohibited or made actionable by Iowa Code chapter 502 or any rule or order of the administrator, with the same force and validity as if served personally.

50.1(2) Broker-dealer renewals. Every applicant for renewal of a broker-dealer's license shall submit all of the following by November 30 each year:

a. The applicant's most recent audited financial statements, if not previously submitted to the administrator pursuant to rule 50.6(502).

b. A filing fee of \$200. If the applicant is a member of the National Association of Securities Dealers (NASD), the fee shall be filed with the Central Registration Depository (CRD). If the applicant is not a member of the NASD, the applicant shall file the renewal fee with the administrator. Failure to pay the renewal fee shall be deemed a request for withdrawal of the broker-dealer license and the broker-dealer shall be automatically terminated for failure to renew.

c. If the applicant is not a member of the NASD, an update to the Form BD with the administrator.

50.1(3) Updated filings.

a. If the information contained in an application for original license or renewal becomes inaccurate or incomplete in any material respect, including a change in the name or form of organization of the applicant, a correcting amendment shall be filed within 30 days of the change. Failure to file within 30 days may result in sanctions as authorized by Iowa Code section 502.304.

(1) Members of the National Association of Securities Dealers shall file:

1. In the case of a structural change, i.e., state of incorporation or partnership to corporation, an Iowa Broker-Dealer Affidavit with the administrator. Broker-dealer license fee and fees for all Iowa-licensed agents shall be paid directly to the administrator.

2. In the case of a name change, a new Iowa Broker-Dealer Affidavit with the administrator. No fees are required.

3. Any amendment to Form BD with the Central Registration Depository.

4. Withdrawal requests (Form BDW) with the Central Registration Depository.

(2) Nonmembers of the National Association of Securities Dealers shall file:

1. In the case of a structural change, a new application as set forth in 50.1(1) including the licensing fees for the broker-dealer and all Iowa-licensed agents, with the administrator.

2. In the case of a name change, all amendments to Form BD (specifically including a manually signed page one), an Iowa Broker-Dealer Affidavit, with the administrator.

3. Amendments to Form BD with the administrator.

4. Withdrawal requests with the administrator.

b. Audited financial statements shall be filed within 60 days of the broker-dealer's fiscal year end. The audit shall be performed by an independent certified public accountant according to generally accepted accounting principles. The financial statement shall include a balance sheet, income statement and net capital calculation. Failure to file these statements within 60 days may result in sanctions authorized by Iowa Code section 502.304.

Upon verbal or written request, the most recent unaudited financial statement shall be provided within two business days of the request. Telefaxing or express mail shall be required if necessary to meet the two-business-day limit.

191—50.2(502) Principals. Every broker-dealer registered pursuant to the Iowa Uniform Securities Act (the Act) shall have at least two officers or partners registered as principals, appropriate to the function(s) to be performed, with the National Association of Securities Dealers. The broker-dealer may seek a waiver of this requirement for good cause upon written request to the administrator.

This rule is intended to implement Iowa Code section 502.302.

191—50.3(502) Record-keeping requirements of broker-dealers.

50.3(1) Unless otherwise provided by order of the Securities and Exchange Commission, each broker-dealer registered or required to be registered under Iowa Code chapter 502 shall make, maintain and preserve books and records in compliance with Securities and Exchange Commission rules 17a-3 (17 CFR 240.17a-3(1996)), 17a-4 (17 CFR 240.17a-4 (1996)), 15c2-6 (17 CFR 240.15c2-6 (1996)) and 15c2-11 (17 CFR 240.15c2-11 (1996)), Securities Exchange Act of 1934.

50.3(2) To the extent that the Securities and Exchange Commission promulgates changes to the above-referenced rules, broker-dealers in compliance with such rules as amended shall not be subject to enforcement action by the administrator for violation of this rule to the extent that the violation results solely from the broker-dealer's compliance with the amended rule.

ENGINEERING AND LAND SURVEYING EXAMINING BOARD[193C]

[Prior to 6/1/88, see Engineering and Land Surveying Examiners, Board of [390]]
[Engineering and Land Surveying Examining Board[193C] created by 1986 Iowa Acts, Ch 1245, §716,
within the Professional Licensing and Regulation Division[193] of the Commerce Department[181] “umbrella”]

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SALES OF GOODS AND SERVICES

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CHAPTER 2
MINIMUM STANDARDS FOR PROPERTY SURVEYS
[Prior to 6/1/88, see Engineering and Land Surveying Examiners, Board of[390] Ch 2]

193C—2.1(542B) Scope. Each land surveyor is required to meet the minimum standards for property surveys described by statute or administrative rule. The minimum standards of this rule shall apply to all property surveys performed in this state except those done for acquisition plats as described in Iowa Code chapter 354.

193C—2.2(542B) Definitions.

“Plat” shall mean both plats of survey and subdivision plats as defined in Iowa Code section 355.1.

“Property survey” shall mean any land survey performed for the purpose of describing, monumenting, retracing and establishing boundary lines, dividing, subdividing, or platting one or more parcels of land.

“Retrace” shall mean following along a previously established line to logical termini monumented by corners that are found or placed by the surveyor.

193C—2.3(542B) Boundary location. Every property survey should be made in accordance with the legal description (record title) boundaries as nearly as is practicable. The surveyor shall acquire data necessary to retrace record title boundaries, center lines, and other boundary line locations. The surveyor shall analyze the data and make a careful determination of the position of the boundaries of the parcel being surveyed. The surveyor shall make a field survey, locating and connecting monuments necessary for location of the parcel and coordinate the facts of such survey with the analysis. The surveyor shall set monuments marking the corners of such parcel unless monuments already exist at such corners.

193C—2.4(542B) Descriptions. Descriptions defining land boundaries written for conveyance or other purposes shall be complete, providing definite and unequivocal identification of lines or boundaries. The description must contain dimensions sufficient to enable the description to be platted and retraced and shall describe the land surveyed either by government lot or by quarter-quarter section or by quarter section and shall identify the section, township, range and county; and by metes and bounds commencing with some corner marked and established in the U.S. Public Land Survey System; or if such land is located in a recorded subdivision or recorded addition thereto, then by the number or other description of the lot, block or subdivision thereof which has been previously tied to a corner marked and established by the U.S. Public Land Survey System. If the parcel is described by metes and bounds it may be referenced to known lot or block corners in recorded subdivision or additions.

193C—2.5(542B) Plats. A plat shall be drawn for every property survey performed showing information developed by the survey and including the following elements:

2.5(1) The plat shall be drawn to a convenient scale which shall be clearly stated and graphically illustrated by a bar scale on every plat sheet.

2.5(2) The plat shall show the length and bearing of the boundaries of the parcels surveyed. Where the boundary lines show bearing, lengths or locations which vary from those recorded in deeds, abutting plats or other instruments, there shall be the following note placed along such lines, “recorded as (show recorded bearing, length or location).”

2.5(3) The plat shall show and identify all monuments necessary for the location of the parcel and shall indicate whether such monuments were found or placed and shall include an accurate description of each monument consisting of but not limited to size, shape, material type, capped with license number, and color.

2.5(4) The plat shall be captioned to identify the person for whom the survey was made, the date of the survey, and shall describe the parcel as provided in rule 2.4(542B) above.

2.5(5) The plat shall show that record title boundaries, centerlines, and other boundary lines were retraced to monuments found or placed by the surveyor. The surveyor shall retrace those exterior lines of a section which divide a metes and bounds described parcel to determine acreage for assessment and taxation purposes.

2.5(6) The plat shall show that the survey is tied to a physically monumented land line which is identified by two United States public land survey system corners or by two physically monumented corners of a recorded subdivision. The plat shall show a distance relationship measured by the surveyor between the two corners on the physically monumented land line. The physically monumented land line shall be germane to the survey of the lot, parcel, or tract.

2.5(7) The plat shall bear the signature of the land surveyor, a statement certifying that the work was done by the surveyor or under the surveyor's direct personal supervision, and the surveyor's Iowa licensure number and legible seal as provided in rule 193C—1.30(542B).

2.5(8) The surveyor shall record every plat and description with the county recorder no later than 30 days after signature on the plat by the surveyor. The 30-day requirement shall not apply to subdivision plats.

193C—2.6(542B) Measurements.

2.6(1) Measurements shall be made with instruments and methods capable of attaining the required accuracy for the particular problem involved.

2.6(2) Measurements as placed on the plat shall be in conformance with the capabilities of the instruments used.

2.6(3) The unadjusted closure for all closed traverse surveys shall be not greater than 1 in 5,000 and, for subdivision boundaries, 1 in 10,000.

2.6(4) In a closed traverse the sum of the measured angles shall agree with the theoretical sum by a difference not greater than 30 seconds times the square root of the number of angles.

2.6(5) The unadjusted error of field measurements shall not be greater than 1 in 5,000.

2.6(6) The relative positional tolerance at the 95 percent confidence level shall be as follows:

a. For subdivision boundaries: $\pm(0.13 \text{ feet} + 1:10,000)$.

b. For all other land surveying: $\pm(0.26 \text{ feet} + 1:5,000)$.

2.6(7) Bearings or angles on any property survey plat shall be shown to the nearest one minute; distance shall be shown to the nearest one-tenth foot.

193C—2.7(542B) Monuments. Permanent monuments shall be constructed of reasonably permanent material solidly embedded in the ground and capable of being detected by commonly used magnetic or electronic equipment. The licensed land surveyor shall affix a cap of reasonably inert material bearing an embossed or stencil cut marking of the Iowa licensure number of the licensed land surveyor to the top of each monument set by the surveyor. Monuments or marks placed in pavements need not be capped. See rule 2.3(542B).

193C—2.8(355) U.S. Public Land Survey Corner Certificate.

2.8(1) A corner is considered a part of the U.S. Public Land Survey System if it has the status of a corner of a:

a. Quarter-quarter section or larger aliquot part of a section.

b. Fractional quarter-quarter section or larger fractional part of a section.

c. Government lot.

2.8(2) A U.S. Public Land Survey Corner Certificate shall be prepared by the surveyor as part of any land surveying which includes the use of a U.S. Public Land Survey System corner if one or more of the following conditions exist:

- a. There is no certificate for the corner on file with the recorder of the county in which the corner is located.
- b. The surveyor in responsible charge of the land surveying accepts a corner position which differs from that shown in the public records of the county in which the corner is located.
- c. The corner monument is replaced or modified in any way.
- d. The reference ties in an existing public record are incorrect or missing.

2.8(3) A U.S. Public Land Survey Corner Certificate shall comply with the following requirements:

a. The identity of the corner, with reference to the U.S. Public Land Survey System, shall be clearly indicated.

b. The certificate shall contain a narrative explaining:

- (1) The reason for preparing the certificate.
- (2) The evidence and detailed procedure used in establishing or confirming the corner position whether found or placed.

(3) The monumentation found or placed perpetuating the corner position with an accurate description of each monument including but not limited to size, shape, material type, capped with license number, and color.

(4) The extent of the search for an existing monument when the corner is reset as obliterated or lost.

c. The certificate shall contain a plan-view drawing depicting:

(1) Relevant monuments including, but not limited to, the reference monumentation and an accurate description thereof.

(2) Physical surroundings including, but not limited to, highway and street center lines, fences, structures and other artificial or natural objects as applicable that would facilitate recovery of the corner.

(3) Reference ties in sufficient detail to enable recovery of the corner. There shall be at least three reference ties from the corner to durable physical objects near the corner which are located so that the intersection of any two of the ties will yield a strong corner position recovery. All ties shall be measured to one-hundredth of a foot.

d. The certificate shall contain a certification statement, seal, signature and date by the surveyor in accordance with rule 193C—1.30(542B).

2.8(4) The surveyor shall record the required U.S. Public Land Survey Corner Certificate and forward a copy to the county engineer of the county in which the corner is located within 30 days after completion of the surveying.

These rules are intended to implement Iowa Code sections 355.3 and 542B.2.

[Filed 4/1/77, Notice 12/29/76—published 4/20/77, effective 5/25/77]

[Filed 8/11/83, Notice 5/25/83—published 8/31/83, effective 10/5/83]

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[Filed 3/6/97, Notice 11/20/96—published 3/26/97, effective 4/30/97]

[Filed 11/26/97, Notice 9/24/97—published 12/17/97, effective 1/21/98]

[Filed 8/20/98, Notice 7/15/98—published 9/9/98, effective 10/14/98]

[Filed 4/15/99, Notice 3/10/99—published 5/5/99, effective 6/9/99]

[Filed 12/21/99, Notice 10/20/99—published 1/12/00, effective 2/16/00]

The first part of the document discusses the importance of maintaining accurate records of all transactions. It emphasizes that every entry should be supported by a valid receipt or invoice. This ensures transparency and allows for easy verification of the data. The second section covers the process of reconciling bank statements with the company's internal records. It highlights the need to identify and explain any discrepancies as soon as they are discovered. The third part of the document addresses the issue of budgeting and cost control. It suggests that setting a clear budget at the beginning of each period can help in monitoring expenses and preventing overspending. The final section discusses the role of management in reviewing financial reports and making informed decisions based on the data presented. It stresses that regular communication and reporting are essential for the success of the organization.

Upon a state agency's determination of the necessity for an additional photocopier or a change in an existing photocopier, the agency's request for a photocopier should be sent to the office of records management and a duplicate sent to the superintendent of printing. The office of records management, in consultation with the state agency, shall submit to the superintendent of printing a proposal stating the type of copying, the number of copies per month, and any special copy needs. Using the material submitted by records management, a recommendation shall be made by the superintendent of printing as to the proper equipment that will best fill the needs of the requesting agency. This recommendation will be submitted to the records management commission for final approval.

401—5.17(18) Legal publications. One copy of each legal publication is distributed free of charge to all principal state agencies and each major subdivision thereof, except in specific instances where the number of copies distributed is specified or limited by legislation, following the guidelines as prescribed in Iowa Code section 18.97.

5.17(1) Ordering legal publications. The "Requisition for State Printing" form is used by state agencies to request additional copies of legal documents. Upon approval from the superintendent of printing, the additional copies will be supplied to state agencies free of charge.

To order by mail, publications for sale through the printing division office must be prepaid at the time of the order. Check or money order is to be made payable to: Iowa State Printing Division, and sent to the Iowa State Printing Division, Grimes State Office Building, Des Moines, Iowa 50319.

To eliminate shipping delay, publications may be purchased and picked up in the printing division office in person. Checks, money orders or cash is acceptable in the office.

All publications are priced to include distribution costs. Prices are derived by taking the total price of printing the items, dividing by the number of items ordered, and adding the distribution costs. Prices of publications and ordering instructions are available upon request from the printing division office.

5.17(2) "Iowa Administrative Code" subscription renewal. Subscribers to the "Iowa Administrative Code" supplements which are available by subscription will be notified by the printing division prior to expiration. Renewal prices and instructions will be mailed to each subscriber. All subscriptions will begin on July 1 and end June 30 of the following year. Any subscribers subscribing after July 1 will receive all back issues. Annual subscriptions to the "Iowa Administrative Code" and its supplements are cancellable but nonrefundable.

5.17(3) Outdated Codes. Upon the issuance of a new "Code of Iowa," the previous Code is distributed at the superintendent of printing's discretion, gratuitously to persons requesting same. Quantities will be restricted to one set per person. If it is requested that the outdated Code be mailed, a charge will be made to cover postage. Exact price will be available from the printing division office at the time of ordering.

401—5.18(17,18) Iowa Official Register. The "Iowa Official Register" is distributed by the printing division. It is available to the general public free of charge and mailed upon request. If requesting multiple copies of the "Official Register," the books must be picked up at the printing division warehouse. Prior approval from the superintendent of printing or the superintendent's designee must be obtained if requesting more than five copies.

This rule is intended to implement Iowa Code section 7A.20.

401—5.19(18,49) Publication of ballot and notice. A sample ballot as prescribed in Iowa Code section 49.53 may be published in a reduced size. When a ballot is reduced, the candidates' names on the ballot must not be smaller than six-point type.

401—5.20(18,49) Cost of publication—sample ballot. The charges for the publication of a sample ballot shall not be more than the usual or customary display advertising rate that the newspaper charges its regular advertisers. In a city in which no newspaper is published and with a population of 2000 or less, a maximum cost has been established. The maximum cost for a quarter-page sample ballot must not exceed \$250 and maximum cost for a half-page sample ballot must not exceed \$350.

401—5.21(618) Fees paid to newspapers. The fees paid to newspapers for official publications, notices, orders, citations or other publications required or allowed by law shall not exceed the following rates:

1. Fiscal year 2000—33 cents for one insertion and 23 cents for each subsequent insertion, for each line of eight-point type two inches in length, or its equivalent.

2. Fiscal year 2001—34 cents for one insertion and 23 cents for each subsequent insertion, for each line of eight-point type two inches in length, or its equivalent.

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c. The load-bearing walls of any concrete formed manure storage structure with a designed manure storage depth of less than 120 inches shall be a minimum of 6 inches thick. The load-bearing walls of any concrete formed manure storage structure with a designed manure storage depth of 120 inches or greater shall be a minimum of 8 inches thick. The walls shall be reinforced with a minimum of either #4 rebar placed a maximum of 18 inches on center in each direction or the steel equivalent.

d. All load-bearing walls shall be formed with rigid forming systems and shall not be ground formed.

e. All construction joints of the formed manure storage structure shall be poured to prevent discontinuity of steel and concrete and have rebar placed through the joint that is properly spliced and overlaid.

65.15(15) Berm erosion control.

a. The following requirements shall apply to any anaerobic lagoons, earthen aerobic structures, or earthen manure storage basins constructed after May 12, 1999.

(1) Concrete, riprap, synthetic liners or similar erosion control materials or measures shall be used on the berm surface below pipes where manure will enter the anaerobic lagoon, aerobic structure, or earthen manure storage basin.

(2) Concrete, riprap, synthetic liners or similar erosion control materials or measures of sufficient thickness and area to accommodate manure removal equipment and to protect the integrity of the liner shall be placed at all locations on the berm, side slopes, and base of the anaerobic lagoon, aerobic structure, or earthen manure storage basin where agitation or pumping may cause damage to the liner.

(3) Erosion control materials or measures shall be used at the corners of the anaerobic lagoon, aerobic structure, or earthen manure storage basin.

b. The owner of a confinement feeding operation with an anaerobic lagoon, earthen aerobic structure, earthen manure storage basin, earthen waste slurry storage basin, or earthen egg washwater storage structure shall inspect the structure berms at least semiannually for evidence of erosion. Erosion problems found which may impact either structural stability or liner integrity shall be corrected in a timely manner.

65.15(16) Agricultural drainage wells. After May 29, 1997, a person shall not construct a new or expand an existing earthen aerobic structure, earthen anaerobic lagoon, earthen manure storage basin, earthen waste slurry storage basin, or earthen egg washwater storage structure within an agricultural drainage well area.

65.15(17) Secondary containment barriers for manure storage structures. Secondary containment barriers used to qualify any operation for the exemption provision in subrule 65.12(5) shall meet the following:

a. A secondary containment barrier shall consist of a structure surrounding or downslope of a manure storage structure that is designed to contain 120 percent of the volume of manure stored above the manure storage structure's final grade. If the containment barrier does not surround the manure storage structure, upland drainage must be diverted.

b. The barrier may be constructed of earth, concrete, or a combination of both and shall not have a relief outlet or valve.

c. The base shall slope to a collecting area where storm water can be pumped out. If storm water is contaminated with manure, it shall be land-applied at normal fertilizer application rates in compliance with rule 65.3(455B).

d. Secondary containment barriers constructed entirely or partially of earth shall comply with the following requirements:

(1) The soil surface, including dike, shall be constructed to prevent downward water movement at rates greater than 1×10^{-6} cm/sec and shall be maintained to prevent downward water movement at rates greater than 1×10^{-5} cm/sec.

(2) Dikes shall not be steeper than 45 degrees and shall be protected against erosion. If the slope is 19 degrees or less, grass can be sufficient protection, provided it does not interfere with the required soil seal.

(3) The top width of the dike shall be no less than 3 feet.

e. Secondary containment barriers constructed of concrete shall be watertight and comply with the following requirements:

(1) The base of the containment structure shall be designed to support the manure storage structure and its contents.

(2) The concrete shall be routinely inspected for cracks, which shall be repaired with a suitable sealant.

65.15(18) Human sanitary waste shall not be directed to a manure storage structure or egg washwater storage structure.

65.15(19) Requirements for qualified operations. A confinement feeding operation that meets the definition of a qualified operation shall only use an aerobic structure for manure storage and treatment. This requirement does not apply to a confinement feeding operation that only handles manure in a dry form or to an egg washwater storage structure or to a confinement feeding operation which was constructed before May 31, 1995, and does not expand.

567—65.16(455B) Manure management plan requirements.

65.16(1) In accordance with Iowa Code section 455B.202, the following persons are required to submit manure management plans to the department:

a. An applicant for a construction permit for a confinement feeding operation. However, a manure management plan shall not be required of an applicant for an egg washwater storage structure.

b. The owners of confinement feeding operations, other than a small animal feeding operation, if the operation was constructed or expanded after May 31, 1985, and regardless of whether the operation was required to have a construction permit. Owners of confinement feeding operations which submitted a manure management plan are not required to submit a new plan if the plan meets the requirements of Iowa Code section 455B.200 which are summarized in 65.17(455B). Persons who have previously submitted manure management plans which do not meet the current plan requirements, and persons who have not previously submitted a manure management plan but are now required to do so, have until July 1, 1999, to submit a manure management plan which meets the requirements.

c. A person who applies manure in Iowa that was produced in a confinement feeding operation, other than a small operation, located outside of Iowa.

d. A research college is exempt from this subrule and the manure management plan requirements of rule 65.17(455B) for research activities and experiments performed under the authority of the research college and related to animal feeding operations.

65.16(2) The department shall review and approve or disapprove all complete manure management plans within 60 days of the date they are received.

65.16(3) Manure shall not be removed from a manure storage structure, which is part of a confinement feeding operation required to submit a manure management plan, until the department has approved the plan. As an exception to this requirement, until December 31, 2000, the owner of a confinement feeding operation may remove and apply manure from a storage structure in accordance with a manure management plan which has been submitted to the department, but which has not been approved within the required 60-day period. Manure shall be applied in compliance with rule 65.2(455B).

65.16(4) All persons required to submit a manure management plan to the department shall also pay to the department an indemnity fee as required in Iowa Code section 455J.3 except those operations constructed prior to May 31, 1995, which were not required to obtain a construction permit.

(5) Applying manure within a period of 30 days from the date of initial employment as a commercial manure applicator if the person applying the manure is acting under direct instructions and control of a certified commercial manure applicator who is physically present at the manure application site by being in sight or hearing distance of the supervised person where the certified commercial applicator can physically observe and communicate with the supervised person at all times.

(6) Employed by a research college to apply manure from animal feeding operations that are part of the research activities or experiments of the research college.

b. Certification as a confinement site manure applicator is not required of a person who is either of the following:

(1) A part-time employee of a confinement site manure applicator and is acting under direct instruction and control of a certified confinement site manure applicator who is physically present at the manure application site by being in sight or hearing distance of the supervised person where the certified confinement site manure applicator can physically observe and communicate with the supervised person at all times.

(2) Employed by a research college to apply manure from an animal feeding operation that is part of the research activities or experiments of the research college.

65.19(7) Certified commercial manure applicators have the following obligations:

a. Maintain the following records of manure disposal operations for a period of three years:

(1) A copy of instructions for manure application provided by the owner of the animal feeding operation.

(2) Dates that manure was applied or sold.

(3) The manure application rate.

(4) Location of fields where manure was applied.

b. Comply with the provisions of the manure management plan (MMP) prepared for the animal feeding operation and the requirements of 65.2(455B). If a manure management plan does not exist, the requirements of 65.2(455B) must still be met.

c. Any tanks or equipment used for hauling manure shall not be used for hauling hazardous or toxic wastes, as defined in 567—Chapter 131, or other wastes detrimental to land application and shall not be used in a manner that would contaminate a potable water supply or endanger the food chain or public health.

d. Pumps and associated piping on manure handling equipment shall be installed with watertight connections to prevent leakage.

e. Any vehicle used by a certified commercial manure applicator to transport manure on a public road shall display the certification/license number(s) of the certified applicator with three-inch or larger letters and numbers on the side of the tank or vehicle. The name and address of the certified commercial manure applicator shall also be prominently displayed on the side of the tank or vehicle.

f. Direct connection shall not be made between a potable water source and the tank or equipment on the vehicle.

65.19(8) Discipline of certified applicators.

a. Disciplinary action may be taken against a certified commercial manure applicator or confinement site manure applicator on any of the following grounds:

(1) Violation of state law or rules applicable to certified manure applicators or the handling or application of manure.

(2) Failure to maintain required records of manure application or other reports required by this rule.

(3) Knowingly making any false statement, representation, or certification on any application, record, report or document required to be maintained or submitted under any applicable permit or rule of the department.

b. Disciplinary sanctions allowable are:

(1) Revocation of a certificate.

(2) Probation under specified conditions relevant to the specific grounds for disciplinary action.

Additional training or reexamination may be required as a condition of probation.

c. The procedure for discipline is as follows:

(1) The director shall initiate disciplinary action.

(2) Written notice shall be given to an applicator against whom disciplinary action is being considered. The notice shall state the informal and formal procedures available for determining the matter. The applicator shall be given 20 days to present any relevant facts and indicate the person's position in the matter and to indicate whether informal resolution of the matter may be reached.

(3) An applicator who receives notice shall communicate verbally or in writing or in person with the director, and efforts shall be made to clarify the respective positions of the applicator and director.

(4) Failure to communicate facts and position relevant to the matter by the required date may be considered when determining appropriate disciplinary action.

(5) If agreement as to appropriate disciplinary sanction, if any, can be reached with the applicator and the director, a written stipulation and settlement between the department and the applicator shall be entered. The stipulation and settlement shall recite the basic facts and violations alleged, any facts brought forth by the applicator, and the reasons for the particular sanctions imposed.

(6) If an agreement as to appropriate disciplinary action, if any, cannot be reached, the director may initiate formal hearing procedures. Notice and formal hearing shall be in accordance with 561—Chapter 7 related to contested and certain other cases pertaining to license discipline.

65.19(9) Revocation of certificates. Upon revocation of a certificate, application for certification may be allowed after two years from the date of revocation. Any such applicant must successfully complete an examination and be certified in the same manner as a new applicant.

65.19(10) Record inspection. The department may inspect, with reasonable notice, the records maintained by a commercial applicator. If the records are for an operation required to maintain records to demonstrate compliance with a manure management plan, the confidentiality provisions of subrule 65.17(14) and Iowa Code section 455B.203 shall extend to the records maintained by the applicator.

567—65.20(455B) Manure storage indemnity fund. The manure storage indemnity fund created in Iowa Code chapter 455J will be administered by the department. Moneys in the fund shall be used for the exclusive purpose of administration of the fund and the cleanup of eligible facilities at confinement feeding operation sites.

65.20(1) Eligible facility site. The site of a confinement feeding operation which contains one or more animal feeding operation structures is an eligible site for reimbursement of cleanup costs if one of the following conditions exists:

a. A county has acquired title to real estate containing the confinement feeding operation following nonpayment of taxes and the site includes a manure storage structure which contains stored manure or site contamination originating from the confinement feeding operation.

b. A county or the department determines that the confinement feeding operation has caused a clear, present and impending danger to the public health or environment.

65.20(2) Site cleanup. Site cleanup includes the removal and land application or disposal of manure from an eligible facility site according to manure management procedures approved by the department. Cleanup may include remediation of documented contamination which originates from the confinement feeding operation. Cleanup may also include demolishing and disposing of animal feeding operation structures if their existence or further use would contribute to further environmental contamination and their removal is included in a cleanup plan approved by the department. Buildings and equipment must be demolished or disposed of according to rules adopted by the department in 567—Chapter 101 which apply to the disposal of farm buildings or equipment by an individual or business organization.

567—65.22(455B) Validity of rules. If any part of these rules is declared unconstitutional or invalid for any reason, the remainder of said rules shall not be affected thereby and shall remain in full force and effect, and to that end, these rules are declared to be severable.

These rules are intended to implement Iowa Code chapter 455J; Iowa Code sections 455B.104, 455B.110, 455B.134(3)“e,” 455B.161 to 455B.165, 455B.171 to 455B.188, 455B.191, and 455B.200 to 455B.206; and 1998 Iowa Acts, chapter 1209, sections 41 and 44 to 47.

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**DISCIPLINARY PROCEDURES
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80.4(2) Rescinded IAB 5/13/92, effective 6/17/92.

80.4(3) Rescinded IAB 4/26/95, effective 5/31/95.

80.4(4) The board may waive the examination requirement for an applicant who can show proof of a current registration card from the commission on dietetic registration at the time of application. All applicants providing proof of a current registration card from the commission on dietetic registration who have not been employed in the practice of dietetics within the past five years shall submit to the board a list of each continuing education program completed within the past two years. The board may require additional continuing education in order to grant licensure.

80.4(5) A license is not required for dietitians who are in this state for the purpose of consultation when they are licensed in another state, U.S. possession, or country, or have received at least a baccalaureate degree in human nutrition from a U.S. regionally accredited college or university. Consultation means the practice of dietetics in affiliation with, and at the request of, a dietitian licensed in this state on behalf of a specific patient.

This rule is intended to implement Iowa Code section 147.29.

645—80.5(152A) Requirements for temporary licensure.

80.5(1) An applicant who will be taking the written examination within four months following graduation may be granted a temporary license if evidence of completion of the required academic and experience requirements for licensure is included with the application to the board. The applicant must provide verification of the date of the scheduled examination to the board.

80.5(2) The temporary license shall expire if the applicant fails the examination and employment as a dietitian must then cease until such time as the examination is passed and permanent licensure is granted.

80.5(3) Only one temporary license shall be issued to each applicant.

80.5(4) Applicants shall submit a notarized copy of the results of the examination within two weeks of receipt of the results. Results shall be sent to the Board of Dietetic Examiners, Department of Public Health, Lucas State Office Building, Fifth Floor, Des Moines, Iowa 50319-0075.

645—80.6(152A) Application.

80.6(1) Any person seeking a license shall complete and submit to the board a completed application form which is provided by the board.

80.6(2) The application form shall be completed in accordance with instructions contained in the application.

80.6(3) Each application shall be accompanied by a check or money order in the amount required payable to the Iowa board of dietetic examiners.

80.6(4) No application will be considered by the board until requested supporting documents and fee have been received by the board.

80.6(5) Applications for licensure which do not meet the minimum criteria for licensure shall be retained by the professional licensure division for a maximum of five years from the date the application was received. Persons whose application for licensure is more than five years old must submit a new application and fee(s).

645—80.7(152A) Examinations. In order to qualify for licensing the applicant will be required to take the registration examination for dietitians of the commission on dietetic registration. The board will accept the passing score set by the commission on dietetic registration.

645—80.8(152A) License renewal.

80.8(1) Beginning January 1, 2000, a license to practice as a dietitian shall expire every two years on the fifteenth day of the licensee's birth month. Continuing education requirements shall be completed within the same renewal period for each license holder.

80.8(2) An application and a continuing education report form for renewal of a license to practice as a dietitian shall be mailed to the licensee at least 60 days prior to the expiration of the license. Failure to receive the renewal application shall not relieve the license holder of the obligation to pay biennial renewal fees on or before the renewal date.

80.8(3) The licensee shall submit to the board office 30 days before licensure expiration the renewal fee as specified in 80.9(152A) and the continuing education report form.

80.8(4) A penalty fee is required in addition to the renewal fees for late renewal within 30 days following the license expiration date. The license is lapsed 31 days after the expiration date. An application for reinstatement must be filed with the board with the reinstatement fee, the renewal fee and the penalty fee as outlined in 80.9(152A). Licensees submitting late renewal or application for reinstatement of license shall be subject to an audit of their continuing education report.

80.8(5) Beginning January 1, 2000, the continuing education biennium will be the same as the licensee's renewal biennium, which shall be for two years from the fifteenth day of the licensee's birth month in every even-numbered year.

80.8(6) Licensees who were issued their initial license within six months prior to their birth month in an even-numbered year will not be required to renew their license until the fifteenth day of their birth month two years later. All new licensees are exempt from meeting the continuing education requirement for the continuing education biennium in which the license is originally issued, but the renewal fee for the first renewal shall not be waived except as otherwise stated herein. Licensees will be required to report 30 hours of continuing education for every renewal thereafter.

80.8(7) Dietitians who have not fulfilled the requirements for license renewal or an exemption in the required time frame will have a lapsed license and shall not engage in the practice of dietetics.

645—80.9(152A) Fees. All fees are nonrefundable.

80.9(1) Application fee for a license to practice dietetics is \$100. Biennial renewal fee for a license to practice dietetics for the 2000 renewal cycle only is as follows:

<u>Birth Month</u>	<u>Prorated Fee</u>
January 2000	\$100
February 2000	\$104
March 2000	\$108
April 2000	\$112
May 2000	\$117
June 2000	\$121
July 2000	\$125
August 2000	\$129
September 2000	\$133
October 2000	\$137
November 2000	\$142
December 2000	\$146

80.9(2) Biennial renewal fee for a license to practice dietetics is \$100.

80.9(3) Penalty fee for failure to submit renewal fee when due is \$25.

80.9(4) Reinstatement fee is \$50.

80.9(5) Penalty fee for failure to complete continuing education during the correct compliance period is \$25.

80.9(6) Fee for a duplicate license if the original is lost or stolen is \$10.

80.9(7) Fee for a certified statement that a licensee is licensed in this state is \$10.

645—80.10 to 80.99 Reserved.

645—80.100(152A) Continuing education requirements for licensees.

80.100(1) The continuing education compliance period shall be each biennium beginning the fifteenth day of the licensee's birth month in every even-numbered year and ending two years later on the fifteenth day of the birth month. During this period of time, 30 hours of approved continuing education shall be completed by the licensee in order to renew the license for the renewal biennium beginning on the fifteenth day of the licensee's birth month in the subsequent even-numbered year.

80.100(2) For the 2000 renewal cycle only, 38 hours of continuing education will be due. Continuing education hours will return to 30 hours each biennium at the end of this compliance period.

80.100(3) New licensees are exempt from meeting the continuing education requirement for the continuing education biennium in which the license is originally issued. Licensees will be required to report 30 hours of continuing education for every renewal thereafter.

80.100(4) Hours of continuing education credit may be obtained by attending a continuing education program offered within the state of Iowa which has prior approval by the board, or through participation in other types of activities identified in the individual licensee's professional development portfolio for Commission on Dietetic Registration (CDR) certification. Programs or activities not otherwise prior approved by the board shall be subject to approval in the event of an audit.

80.100(5) No hours of continuing education shall be carried over into the next continuing education period.

80.100(6) It is the responsibility of each licensee to finance the costs of continuing education.

80.100(7) Every licensee shall maintain a record of all continuing education courses attended for four years after the continuing education biennium. Appropriate documentation to be kept includes certificates of attendance for the prior approved continuing education, transcripts for academic coursework, reprints of journal articles published and proof of attendance, description of activity and professional qualifications of the presenter for out-of-state continuing education activities.

80.100(8) Each licensee shall sign a statement on the license renewal continuing education report form indicating compliance with the continuing education requirements. No license shall be renewed without this signature.

80.100(9) The board reserves the right to audit a licensee's continuing education records each biennium. Licensees who are audited will be chosen in a random manner or at the discretion of the board. Falsification of reports or failure to meet continuing education requirements may result in formal disciplinary action.

645—80.101(152A) Approved continuing education activities.

80.101(1) *Obtaining continuing education.* Hours of continuing education credit may be obtained by one of the following:

a. Attending and participating in a continuing education activity offered within the state of Iowa which has prior approval by the board. If the continuing education activity is attended outside the state of Iowa, the continuing education hours can be accrued if the session meets the criteria of the board for subject matter.

b. Attending or participating in continuing education activities that are identified to meet specified objectives in conjunction with the Commission on Dietetic Registration (CDR) professional development portfolio for the licensee. Programs or activities not otherwise approved by the board shall be subject to approval in the event of an audit.

80.101(2) *Criteria for appropriate subject matter.* Appropriate subject matter for continuing education hours reflects the educational needs of the dietitian and the nutritional health needs of the consumer. Subject matter is limited to offerings that are scientifically founded and offered at a level beyond entry-level dietetics for professional growth. The following areas are deemed appropriate subject matter for continuing education credit:

a. Sciences on which dietetic practice, dietetic education, or dietetic research is based including nutrition, biochemistry, physiology, food management and behavioral and social sciences to achieve and maintain people's health.

b. Dietetic practice related to assessment, counseling, teaching, or care of clients in any setting.

c. Management or quality assurance of nutritional care delivery systems.

d. Dietetic practice related to community health care needs.

80.101(3) *Standards for approval of continuing professional education, programs and activities.* Program offerings must be conducted by individuals who have specialized education, training and experience by reason of which said individuals should be considered experts concerning the subject matter of the program. A continuing education activity shall be qualified for approval if the board determines that:

a. It contributes directly to the professional competency of the licensee; and

b. It pertains to subject matters which relate integrally to the practice of dietetics.

80.101(4) *Academic coursework.* Coursework for credit must be completed at a U.S. regionally accredited college or university. To receive continuing education credit the coursework must be beyond entry-level dietetics. One academic semester credit equals 15 continuing education hours. One academic quarter credit equals 10 continuing education hours.

80.101(5) *Scholarly publications.* Publication may be approved if submitted in published form in the continuing education documentation file of the licensee. All publications must appear in referred professional journals. Material related to work responsibilities such as diet and staff manuals and publications for the lay public are unacceptable. Continuing education credit hours may be reported using the following guidelines.

Senior author: first of two or more authors listed

Coauthor: second of two authors listed

Contributing author: all but senior of three or more authors

Research papers

Single author 10 hours

Senior author 8 hours

Coauthor 5 hours

Contributing author 3 hours

Technical articles

Single author 5 hours

Senior author 4 hours

Coauthor 3 hours

Contributing author 2 hours

Information sharing articles 1 hour

Abstracts

Senior author 2 hours

Coauthor 1 hour

80.101(6) *Poster sessions.* Continuing education credit may be obtained for attending juried poster sessions at national meetings that meet the criteria for appropriate subject matter established in 80.101(2). One hour of continuing education credit is allowed for each 12 posters reviewed not to exceed 6 hours in a continuing education biennium. Credit for state meeting poster sessions must have prior approval from this board.

80.101(7) Continuing education hours for presenters. Presenters may receive continuing education hours. Presentations to the lay public are inappropriate. An activity for one hour converts to two hours for the presenter. Two hours per topic is allowed for presenters of poster sessions at national professional meetings. A copy of the abstract or manuscript and documentation of the peer review process must be included in the licensee's documentation list.

80.101(8) Other professional education activities. Unless otherwise addressed in these rules, activities designed to address learning needs documented in the individual licensee's CDR professional development portfolio will be reviewed based on the following:

1. A narrative of how the activity relates to the individual learning plan.
2. A summary of how the activity will be evaluated to ensure achievement of the planned outcomes.

645—80.102(152A) Procedures for approval of continuing education activities.

80.102(1) Prior approval of activities. An organization or person that seeks prior approval of a course, program, or activity shall apply to the board for approval on a form provided by the board at least 30 days in advance of the commencement of the activity. The application shall state the dates, subjects offered, objectives for the activity, total hours of instruction, names and qualifications of speakers and other pertinent information. The board shall approve or deny such application within 60 days of receipt of the application.

80.102(2) Reserved.

80.102(3) Review of programs. The board may monitor and review any continuing education program already approved by the board. Upon evidence of significant variation in the program presented from the program approved, the board may disapprove all or any part of the approved hours granted the program.

645—80.103(152A) Hearings. In the event of denial, in whole or part, of any application for approval of continuing education program of credit for continuing education activity, the applicant or licensee shall have the right to request a hearing. The request must be sent within 20 days after receipt of the notification of denial. The hearing shall be held within 90 days after receipt of the request for hearing. The hearing shall be conducted by the board. The final decision shall be rendered by the board.

645—80.104(152A) Retention of continuing education records. Each continuing education provider shall maintain a record by course offering of Iowa-licensed dietitians and number of continuing education hours earned for a minimum of four years from the date of the program. The licensee shall maintain a record of proof of attendance at each continuing education program for a period of at least four years from the date of completing the continuing education.

645—80.105(152A) Disability or illness. The board may, in individual cases involving disability or illness, grant waivers of the minimum education requirements or extensions of time within which to fulfill the same or make the required reports. A written request for waiver or extension of time shall be submitted by the licensee and shall be accompanied by a verifying document signed by a physician licensed by the board of medical examiners or a licensed psychologist. Waivers of the minimum educational requirements or extensions of time within which to fulfill the same may be granted by the board for any period of time not to exceed one calendar year. In the event that the disability or illness upon which a waiver or extension has been granted continues beyond the period of the waiver or extension, the licensee must reapply. The board may, as a condition of any waiver granted, require the applicant to make up a certain portion or all of the minimum educational requirements waived by such methods as may be prescribed by the board.

645—80.106(152A) Inactive licensure. A licensee who is not engaged in practice in the state of Iowa residing within or without the state of Iowa may be granted a waiver of compliance with continuing education requirements upon written application to the board. The application shall contain a statement that the applicant will not engage in the practice of dietetics in Iowa without first complying with all regulations governing reinstatement after being granted a waiver of compliance. The application for waiver of compliance shall be submitted upon a form provided by the board.

645—80.107(152A) Reinstatement of inactive license.

80.107(1) Inactive practitioners who have been granted a waiver of compliance, prior to engaging in the practice of dietetics in the state of Iowa, shall submit written application for reinstatement on a form provided by the board and pay the current renewal fee.

80.107(2) In addition to the application, the practitioner shall furnish evidence of one of the following:

a. The full-time practice of dietetics in another state of the United States or District of Columbia and completion of continuing education for each year of inactive status substantially equivalent in the opinion of the board to that required under these rules; or

b. Complete the total number of hours of accredited continuing education computed by multiplying 15 by the number of years a waiver of compliance shall have been in effect for the applicant up to a maximum of 60 hours; or

c. Successfully complete the licensing examination conducted within one year immediately prior to the submission of such application for reinstatement.

645—80.108(152A) Reinstatement of lapsed licenses.

80.108(1) A license shall be considered lapsed if not renewed within 30 days of renewal date. If the license lapses, the practice of holding oneself out as licensed to practice dietetics must cease until the license is reinstated by the board.

80.108(2) A licensee who wishes to reinstate a lapsed license shall pay past due renewal fees to a maximum of four years, a reinstatement fee and penalty fees.

80.108(3) Continuing education requirements for the period of time the license was lapsed are not waived, up to a maximum of 60 hours.

80.108(4) Application for reinstatement shall be made on a form provided by the board.

645—80.109 to 80.199 Reserved.

645—80.200(152A) Complaint. Rescinded IAB 6/30/99, effective 8/4/99.

645—80.201(152A) Report of malpractice claims or actions. Rescinded IAB 6/30/99, effective 8/4/99.

645—80.202(152A) Investigation of complaints or malpractice claims. Rescinded IAB 6/30/99, effective 8/4/99.

645—80.203(152A) Alternative procedures. Rescinded IAB 6/30/99, effective 8/4/99.

645—80.204(152A) License denial. Rescinded IAB 6/30/99, effective 8/4/99.

645—80.205(152A) Notice of hearing. Rescinded IAB 6/30/99, effective 8/4/99.

645—80.206(152A) Hearings open to the public. Rescinded IAB 6/30/99, effective 8/4/99.

645—80.215(152A,272C) Reporting of judgments or settlements. Rescinded IAB 6/30/99, effective 8/4/99.

645—80.216(152A,272C) Investigation of reports of judgments and settlements. Rescinded IAB 6/30/99, effective 8/4/99.

645—80.217(152A,272C) Reporting of acts or omissions. Rescinded IAB 6/30/99, effective 8/4/99.

645—80.218(152A,272C) Failure to report licensee. Rescinded IAB 6/30/99, effective 8/4/99.

645—80.219(152A,272C) Immunities. Rescinded IAB 6/30/99, effective 8/4/99.

645—80.220(152A,272C) Principles. The dietetic practitioner shall:

1. Provide professional services with objectivity and with respect for the unique needs and values of individuals.
2. Avoid discrimination against other individuals on the basis of race, creed, religion, sex, age, and national origin.
3. Fulfill professional commitments in good faith.
4. Conduct oneself with honesty, integrity, and fairness.
5. Remain free of conflict of interest while fulfilling the objectives and maintaining the integrity of the dietetic profession.
6. Maintain confidentiality of information.
7. Practice dietetics based on scientific principles and current information.
8. Assume responsibility and accountability for personal competence in practice.
9. Recognize and exercise professional judgment within the limits of the qualifications and seek counsel or make referrals as appropriate.
10. Provide sufficient information to enable clients to make their own informed decisions.
11. Inform the public and colleagues by using factual information and shall not advertise in a false or misleading manner.
12. Promote or endorse products in a manner that is neither false nor misleading.
13. Permit use of the practitioner's name for the purpose of certifying that dietetic services have been rendered only after having provided or supervised the provision of those services.
14. Accurately present professional qualifications and credentials.
15. Present substantiated information and interpret controversial information without personal bias, recognizing that legitimate differences of opinion exist.
16. Make all reasonable effort to avoid bias in any kind of professional evaluation and provide objective evaluation of candidates for professional association membership, awards, scholarships, or job advancements.

These rules are intended to implement Iowa Code chapters 152A and 272C and Iowa Code section 147.55.

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CHAPTERS 81 to 85

Reserved

CHAPTER 86

AGENCY PROCEDURE FOR RULE MAKING

Rescinded IAB 6/30/99, effective 8/4/99

CHAPTER 87

PETITIONS FOR RULE MAKING

Rescinded IAB 6/30/99, effective 8/4/99

CHAPTER 88

DECLARATORY RULINGS

Rescinded IAB 6/30/99, effective 8/4/99

CHAPTER 89

PUBLIC RECORDS AND FAIR INFORMATION PRACTICES

Rescinded IAB 6/30/99, effective 8/4/99

CHAPTER 90

CHILD SUPPORT NONCOMPLIANCE

Rescinded IAB 6/30/99, effective 8/4/99

CHAPTER 91

IMPAIRED PRACTITIONER REVIEW COMMITTEE

Rescinded IAB 6/30/99, effective 8/4/99

CHAPTERS 92 to 99

Reserved

If the aggregate of the tax credits and the tax payments is equal to or greater than 90 percent of the tax liability required to be shown due, the taxpayer will have met the "90 percent" test and the taxpayer's extension will be deemed valid. Therefore, no penalty will be assessed on any amount due when the return is filed within the extension period. However, interest will accrue on the amount required to be shown when the return is filed from the due date of the return through the month in which the return is filed and the tax is paid at the interest rate which is applicable for the year in which the return was to be filed. Interest will continue to accrue if the tax is not paid when the return is filed.

c. Requesting an additional extension in which to file the return. If the taxpayer is unable to file the return by the end of the period of the automatic extension because of unavoidable absence or other legitimate reason, the taxpayer or the taxpayer's representative may request an additional extension to file on Form IA 2688. Form IA 2688 (Application for Additional Extension of Time to File Individual or Partnership Income Tax Return) is to be filed in duplicate with the department on or before the last day of the period covered by the automatic extension. The taxpayer or the taxpayer's representative shall state on the extension form the reason or reasons for requesting additional time to file the taxpayer's return.

The application for additional extension of time to file will be rejected by the department, if the application form was not requested timely or if the application form was not signed by either the taxpayer or the taxpayer's representative. The application will also be rejected if the reason given for the extension request is that the taxpayer is unable to pay or that the taxpayer had requested a federal extension.

The department will return one of the taxpayer's applications for additional extension forms to the taxpayer or the taxpayer's representative. The department will indicate on the application form whether the extension application is approved or rejected and the reason for rejection.

The fact that a taxpayer's application for additional extension was approved by the department does not mean that the taxpayer is not subject to penalty in a situation where the taxpayer has paid less than 90 percent of the tax required to have been shown on the return by the due date of the return.

The application for additional extension of time covers a two-month period beginning with the end of the "automatic" extension. Extension applications will not be granted for more than six months except in unusual situations where circumstances beyond the taxpayer's control have prevented the taxpayer from filing the return within the extended period.

39.2(4) Extension of time for returns for tax years beginning on or after January 1, 1991. The taxpayer is required to file the taxpayer's individual income tax return on or before the due date of the return with payment in full of the amount required to be shown due with the return. However, in any instance where the taxpayer is unable to file the return by the due date because of illness or death in the taxpayer's immediate family, unavoidable absence of the taxpayer, or other legitimate reason, the director may grant a six-month extension of time to file the return.

If the taxpayer has paid at least 90 percent of the tax required to be shown due by the due date and has not filed a return by the due date, the director will consider that the taxpayer has requested an extension of time to file the return and will automatically grant an extension of up to six months to file the return. The taxpayer does not have to file an application for extension form with the department to get the automatic extension to file the return within the six-month period after the due date and not be subject to penalty. However, if the taxpayer wants to make a tax payment to ensure that at least 90 percent of the tax has been paid on or before the due date, the payment should be made with the Iowa tax voucher form. This form can be requested from the Taxpayer Services Section, P.O. Box 10457, Des Moines, Iowa 50306, or by telephone at (515)281-3114.

To determine whether or not at least 90 percent of the tax was "paid" on or before the due date, the aggregate amount of tax credits applicable on the return plus the tax payments made on or before the due date are divided by the tax required to be shown due on the return. The tax required to be shown on the return is the sum of the income tax, lump-sum tax, minimum tax, and school district income surtax. The tax credits applicable are the credits set out in Iowa Code sections 422.8, 422.10, 422.11A, 422.11B, 422.11C, 422.12, 422.12B, 422.12C and 422.111. The tax payments to be considered for purposes of determining if 90 percent of the tax was paid are the withholding tax payments, estimate payments, and the payments made with the Iowa income tax voucher form to ensure that 90 percent of the tax was paid timely.

If the aggregate of the tax credits and the tax payments are equal to or greater than 90 percent of the tax required to be shown due, the taxpayer will have met the "90 percent" test and no penalty will be assessed. However, the taxpayer will still be subject to statutory interest on any tax due when the return is filed.

Any tax elections, such as the election to carry forward a net operating loss occurring in the tax year, will be considered to be valid in instances when the return is filed within the six-month extended period after the due date. The fact that the taxpayer has paid less than 90 percent of the tax required to be shown due will not invalidate any tax elections made on the return, if the return is filed within the six-month extended period.

a. Extensions for taxpayers with tax homes outside the United States and Puerto Rico. Taxpayers with tax homes outside the United States and Puerto Rico may, in some situations, be granted additional time to file their federal income tax returns beyond the six-month period after the federal due date. In some cases, this additional time is needed to meet residency time requirements in a foreign country so the taxpayer will be eligible for the foreign income exclusion which is also applicable to filing Iowa income tax returns. In cases where the taxpayer's tax home is outside the United States and the taxpayer has been granted additional time to file the federal income tax return which is greater than six months from the due date, the taxpayer will be deemed to have the same additional time to file the Iowa return and not be subject to penalty for late filing if 90 percent of the tax required to be shown due on the return was paid by the due date. Taxpayers with tax elections filing returns under these circumstances will be considered to have made these elections timely. However, the taxpayers should attach to their Iowa return documentation showing they were granted additional time after the six-month period from the due date to file their federal returns.

b. Payment of interest on refunds from income tax returns filed in the six-month period after the due date. The following information applies only to Iowa individual income tax returns that are filed for tax years beginning on or after January 1, 1999. In the case of Iowa returns that have overpayments of income tax that are filed in the six-month period after the due date and where at least 90 percent of the tax shown due was paid by the due date, interest at the statutory rate will be paid on the overpayments determined on the returns, starting on the first day of the second month after the end of the six-month extended period and ending in the month in which the refund is issued.

For taxpayers filing Iowa individual income tax returns for calendar-year tax years, the six-month extended period starts May 1 of the year following the end of the tax year and ends on October 31 of the year following the end of the tax year. However, if April 30 falls on a Sunday as it does in the year 2000 for 1999 Iowa individual returns filed in that year, the due date is moved to Monday, May 1. The extended period in this instance starts on Tuesday, May 2, 2000, and ends on October 31, 2000.

EXAMPLE. A husband and wife file their 1999 Iowa return on September 15, 2000. This return has an overpayment of tax of \$200. Because the return is filed in the six-month period after the May 1, 2000, due date, and because the refund is issued in January 2001, interest accrues on the overpayment for the months of December 2000 and January 2001.

This rule is intended to implement Iowa Code section 422.21 and Iowa Code Supplement section 422.25.

701—39.3(422) Form for filing.

39.3(1) Use of and completeness of prescribed forms. Returns shall, in all cases, be made by residents and nonresidents on forms supplied by the department of revenue and finance. Taxpayers not supplied with the proper forms shall make application for the forms to the department, in ample time to have their returns made, verified and filed on or before the due date. Each taxpayer shall carefully prepare a return so as to fully and clearly set forth the data required. For lack of a prescribed form, a statement made by a taxpayer disclosing gross income and the deductions from gross income may be accepted as a tentative return, and if verified and filed within the prescribed time, will relieve the taxpayer from liability to penalties, provided that without unnecessary delay a tentative return is replaced by a return made on the proper form. Each question shall be answered and each direction complied with in the same manner as if the forms and instructions were embodied in these regulations. Individual resident taxpayers shall enter the name of the school district of residence on the return. If the school district is not supplied, the return shall be deemed incomplete.

A return not signed by the taxpayer or the taxpayer's agent or guardian, shall not be deemed completely executed and filed as required by law.

Failure to receive the proper form does not relieve the taxpayer from the obligation of making any return required by statute.

39.3(2) Optional method of filing. The front and back page of the Iowa individual income tax return, if properly completed, may be filed as an optional return, if a complete facsimile or photocopy of the federal return and supporting schedules are attached.

39.3(3) Copy of federal income tax return to be filed by nonresident. A nonresident taxpayer must file a copy of their federal income tax return for the current tax year with their Iowa income tax return. The copy shall include full and complete copies of all farm, business, capital gains and other schedules that were filed with the federal return.

39.3(4) Amended returns. If it becomes known to the taxpayer that the amount of income reported to be federal net income or Iowa taxable income was erroneously stated on the Iowa return, or changed by an Internal Revenue Service audit, or otherwise, the taxpayer shall file an amended Iowa return along with supporting schedules, to include the amended federal return if applicable. A copy of the federal revenue agent's report and notification of final federal adjustments provided by the taxpayer will be acceptable in lieu of an amended return. The assessment or refund of tax shall be dependent on the statute of limitations as set forth in 701—subrule 38.2(1) and rule 701—43.3(422).

39.3(5) Voter's registration forms in income tax booklets and income tax return instructions. Effective for tax years beginning on or after January 1, 1989, income tax return booklets and income tax return instructions shall include two voter registration forms. The voter registration forms to be inserted into the income tax return instruction forms and booklets are to be designed by the voter registration commission. However, effective July 1, 1992, the voter registration forms are to be inserted in the income tax return booklets and income tax return instructions only for odd-numbered tax years. Thus, the voter registration forms will not be included in the income tax return booklets for the 1992 tax year but are to be included in the booklets for 1993.

This rule is intended to implement Iowa Code sections 48.21, 422.21 and 422.22, Iowa Code section 422.13 and 1994 Iowa Acts, Senate File 2223.

701—39.4(422) Filing status.

39.4(1) Single taxpayers. The term "single person" includes, for income tax purposes, an unmarried person, a person legally separated under a decree of divorce or separate maintenance or any other person not properly classified under subrules 39.4(2) through 39.4(8).

39.4(2) Married taxpayers. A taxpayer is considered married for the entire year if on the last day of the tax year the taxpayer is (a) married and living together with the taxpayer's spouse, (b) married and living apart from the spouse, but not legally separated under a decree of divorce or separate maintenance, (c) living together with the spouse in a common law marriage that is recognized by the state where the common law marriage exists or (d) widowed but the spouse died during the year.

39.4(3) Common law marriage. A common law marriage is a social relationship between a man and a woman that meets all the necessary requisites of a marriage except that it was not solemnized, performed or witnessed by an official authorized by law to perform marriages. The necessary elements of a common law marriage are: (a) a present intent of both parties freely given to become married, (b) a public declaration by the parties or a holding out to the public that they are husband and wife, (c) continuous cohabitation together as husband and wife (this means consummation of the marriage), and (d) both parties must be capable of entering into the marriage relationship. No special time limit is necessary to establish a common law marriage. Iowa recognizes, for income tax purposes, all valid common law marriages.

39.4(4) Married filing jointly. Married taxpayers who file a joint return with the Internal Revenue Service may file a joint return with the Iowa department of revenue and finance.

39.4(5) Married filing separately on the same form. Married taxpayers may file separately on the same form. This return is also known as the combined return. If a married taxpayer files a combined return with his or her spouse, any refund will be issued in both names.

39.4(6) Married filing separately. Married taxpayers, each having income in his or her own right, may file separate returns if they do not wish to file separately on the same form.

39.4(7) Head of household. The term "head of household" denotes a single individual and shall have the same meaning as defined in the Internal Revenue Code as defined in the Iowa Code. An individual who is claiming "surviving spouse" status for federal income tax purposes may not claim "head of household" on the Iowa individual income tax return.

39.4(8) Surviving spouse. The term "surviving spouse" shall have the same meaning as defined in the Internal Revenue Code. Individuals who qualify and file as a qualifying widow(er) with a dependent child on the federal return may file using the same filing status on the Iowa return.

This rule is intended to implement Iowa Code section 422.12.

701—39.5(422) Payment of tax.

39.5(1) Payment of tax for wage earners. Withholding of tax on wage earners is required under Iowa Code section 422.16. See 701—Chapter 46.

39.5(2) Payment of tax on income not subject to withholding. Those taxpayers with income not subject to withholding which will produce a tax liability of \$50 or more, shall file and pay a declaration of estimated tax. See 701—Chapter 47 of the rules.

39.5(3) Full estimated payment on original due date. When an extension is requested as provided by Iowa Code section 422.21, the total amount of estimated tax must be paid on or before the due date for filing the return.

39.5(4) Balance of tax due. If the computation on the tax return shows additional tax due, it shall be paid in full with the filing of the return.

39.5(5) Payment of tax by uncertified checks. The department will accept uncertified checks in payment of income taxes, provided the checks are collectible for their full amount without any deduction for exchange or other charges. The date on which the department receives the check will be considered the date of payment, so far as the taxpayer is concerned, unless the check is returned dishonored. If one check is remitted to cover two or more individuals' taxes, the remittance must be accompanied by a letter of transmittal stating: (a) the name of the drawer of the check; (b) the amount of the check; (c) the amount of any cash, money order or other instrument included in the same remittance; (d) the name of each individual whose tax is to be paid by the remittance; and (e) the amount of payment on account of each individual.

k. Failure on the part of the electronic filer to provide W-2s, 1099s, or out-of-state tax returns when requested.

See subrule 39.13(8) for information on administrative procedures relating to suspension of electronic filing from participation in the Iowa electronic filing program.

39.13(8) Administrative procedure for denial of an electronic filer's participation in the Iowa electronic filing program or for suspension of an electronic filer from the Iowa electronic filing program. In a situation where an electronic filer has requested participation in the Iowa electronic filing program, but there is a reason to deny the electronic filer's participation, the department will send the electronic filer a letter to advise that the electronic filer will be denied entry into the program. In another situation where an electronic filer is a participant in the Iowa electronic filing program but the electronic filer is to be suspended from the program for a problem or problems described in subrule 39.13(7), the department will send the electronic filer a letter to notify the filer about the electronic filer's suspension from the program.

In cases where the electronic filer either disagrees with the denial of participation letter or the suspension from participation letter, the electronic filer must file a written protest to the department within 60 days of the date of the denial letter or the suspension letter. The written protest must be filed pursuant to rule 701—7.8(17A). During the administrative review process, the electronic filer's denial of participation or suspension from participation in the Iowa electronic filing program will remain in effect.

This rule is intended to implement Iowa Code sections 422.21 and 422.68 as amended by 1996 Iowa Acts, chapter 1167.

701—39.14(422) Tax benefits for persons serving in support of the Bosnia-Herzegovina hazardous duty area. For tax years beginning on or after January 1, 1995, a number of state tax benefits are authorized for individuals serving in a location designated by the President and Congress as a qualified hazardous duty area or other persons serving in support of the individuals in the hazardous duty area. Public Law No. 104-117 was enacted by Congress on March 20, 1996, and designated Bosnia, Herzegovina, Croatia, and Macedonia as a qualified hazardous duty area so that troops performing peacekeeping duties in the area would be eligible for tax benefits for federal income tax purposes on the same basis they would have been eligible for the same benefits if they had served in a combat zone under prior law.

For Iowa tax purposes, persons serving peacekeeping duties in the hazardous duty area or other persons serving overseas in support of the persons in the hazardous duty area will be eligible for the same tax benefits that were previously only available to persons serving military duties in a combat zone. The tax benefits that are available for persons serving in the hazardous duty area or persons serving overseas in support of the persons in the hazardous duty area are described in rule 39.12(422).

This rule is intended to implement Iowa Code section 422.3 as amended by 1996 Iowa Acts, Senate File 2168.

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The taxpayer's Iowa source loss of (\$13,000) was decreased by \$200 of the federal refund since 20% of the refund was considered to be from Iowa income. The loss was decreased by \$3,000 which was the capital gain deduction of the Iowa source asset sold in 1982. The loss was increased by the federal income tax withheld of \$2,000 from Iowa wages. Because there is no Iowa source nonbusiness income nor Iowa source business deductions, the taxpayer's itemized deductions will not affect the net operating loss deduction.

Shown below is a recap of the net operating loss deduction for the nonresident taxpayer.

Iowa source net loss	(\$13,000)
Iowa portion of federal refund	200
Federal tax withheld on Iowa wages	(2,000)
Capital gain deduction	<u>3,000</u>
Total	(\$11,800)

The taxpayer's net operating loss deduction available for carryback/carryforward to another tax year is (\$11,800).

After all adjustments are made to the Iowa net operating loss to compute the net operating loss deduction available for carryback/carryforward, the NOL deduction is applied to the carryback/carryforward tax year as described in paragraph "a" and paragraph "b" below:

a. Application of net operating losses to tax years beginning prior to January 1, 1982. In cases where a net operating loss deduction for a nonresident or part-year resident for a tax year beginning on or after January 1, 1982, is applied to a tax year beginning prior to January 1, 1982, the net operating loss deduction is applied to the taxable income for the carryback/carryforward year unless the NOL deduction is greater than the taxable income. If the NOL deduction is greater than the taxable income, the taxable income is increased by any Iowa source capital loss or any Iowa source capital gain deduction before the NOL deduction is applied against the taxable income.

EXAMPLE 1. A nonresident taxpayer has an Iowa net operating loss deduction of (\$15,000) from the taxpayer's 1982 Iowa return. The taxpayer is carrying the NOL deduction back to 1979 where taxpayer's Iowa taxable income was \$14,000. The taxpayer had a net capital loss of \$3,000 in 1979. Because the taxpayer's 1979 taxable income of \$14,000 was \$1,000 less than the NOL deduction, the taxable income was increased by \$1,000 of the net capital loss so there would be no carryover of the NOL to 1980. However, since the NOL deduction erased all the taxable income for 1979, the taxpayer would be granted a refund of all the Iowa income tax paid for the carryback year of 1979, plus applicable interest.

b. Application of net operating losses to tax years beginning on or after January 1, 1982. In situations where a net operating loss of a nonresident or part-year resident for a tax year beginning on or after January 1, 1982, is carried back/carried forward for application to a tax year beginning on or after January 1, 1982, the net operating loss deduction is applied to the Iowa source income of the taxpayer for the carryback/carryforward year. The Iowa source income is the income on line 25 of Section B of Schedule IA-126 for the 1982 and 1983 Iowa returns and line 26 of Section B of Schedule IA-126 for the 1984 Iowa return and the incomes on similar corresponding lines of Section B of Schedule IA-126 for tax years after 1984. In situations where the net operating loss deductions are larger than the Iowa source incomes, the Iowa source incomes are increased by any Iowa source capital gains or capital losses that are applicable, not to exceed the NOL deduction.

The Iowa source net income after reduction by the NOL deduction is divided by the all source income for the taxpayer. The resulting percentage is the adjusted Iowa income percentage. This percentage is subtracted from 100 percent to arrive at the revised nonresident/part-year resident credit for the taxpayer. The taxpayer's overpayment as a result of the net operating loss is the amount by which the revised nonresident/part-year credit exceeds the nonresident/part-year credit prior to application of the net operating loss deduction.

EXAMPLE 1. A nonresident taxpayer had a net operating loss deduction of \$11,800 for the 1996 tax year. When the 1996 Iowa return was filed, the taxpayer elected to carry the loss forward to the 1997 tax year. The taxpayer's all source net income and Iowa source net income for 1997 were as shown below. The net operating loss carryforward from 1996 is deducted only from the Iowa source income for 1997:

Category	All Source Income	Iowa Source Income
Wages	\$ 60,000	\$ 20,000
Interest	3,000	0
Rental income	10,000	3,000
Farm income	25,000	25,000
Capital gain	2,000	2,000
Net operating loss carryforward	<u>—</u>	<u>(11,800)</u>
Iowa net income	\$100,000	\$ 38,200

The Iowa source income of \$38,200 after reduction by the NOL carryforward is divided by the all source income of \$100,000 which results in an Iowa income percentage of 38.2. This percentage is subtracted from 100 percent to arrive at the nonresident/part-year resident credit percentage of 61.8. When the tax after credit amount of \$7,364 is multiplied by the nonresident/part-year credit percentage of 61.8, this results in a credit of \$4,551. This credit is \$869 greater than the nonresident/part-year credit of \$3,682 would have been for 1997 without application of the net operating loss deduction which was carried forward from 1996.

40.18(9) Net operating loss carryback for a taxpayer engaged in the business of farming. Notwithstanding the net operating loss carryback periods described in subrule 40.18(3), a taxpayer who is engaged in the trade or business of farming as defined in Section 263A(e)(4) of the Internal Revenue Code and has a loss from farming as defined in Section 172(b)(1)(F) of the Internal Revenue Code for a tax year beginning on or after January 1, 1998, this loss from farming is a net operating loss which the taxpayer may carry back five taxable years prior to the year of the loss. Therefore, if a taxpayer has a net operating loss from the trade or business of farming for the 1998 tax year, the net operating loss from farming can be carried back to the taxpayer's 1993 Iowa return and can be applied to the income shown on that return. The farming loss is the lesser of (1) the amount that would be the net operating loss for the tax year if only income and deductions from the farming business were taken into account, or (2) the amount of the taxpayer's net operating loss for the tax year. Thus, if a taxpayer has a \$10,000 loss from a grain farming business and the taxpayer had wages in the tax year of \$7,000, the taxpayer's loss for the year is only \$3,000. Therefore, the taxpayer has a net operating loss from farming of \$3,000 that may be carried back five years.

However, if a taxpayer has a net operating loss from the trade or business of farming for a taxable year beginning in 1998 or for a taxable year after 1998 and makes a valid election for federal income tax purposes to carry back the net operating loss two years, or three years if the loss was in a presidentially declared disaster area or related to a casualty or theft loss, the net operating loss must be carried back two years or three years for Iowa income tax purposes. A copy of the federal election made under Section 172(i)(3) for the two-year or three-year carryback in lieu of the five-year carryback may be attached to the Iowa return or the amended Iowa return to show why the carryback was two years or three years instead of five years.

This rule is intended to implement Iowa Code sections 422.5 and 422.7 and Iowa Code Supplement section 422.9(3).

701—40.19(422) Casualty losses. Casualty losses may be treated in the same manner as net operating losses and may be carried back three years and forward seven years in the event said casualty losses exceed income in the loss year.

This rule is intended to implement Iowa Code section 422.7.

701—40.20(422) Adjustments to prior years. When Iowa requests for refunds are filed, they shall be allowed only if filed within three years after the tax payment upon which a refund or credit became due, or one year after the tax payment was made, whichever time is the later. For tax years ending prior to January 1, 1979, the period of time was five years. Even though a refund may be barred by the statute of limitations, a loss shall be carried back and applied against income on a previous year to determine the correct amount of loss carryforward.

This rule is intended to implement Iowa Code section 422.73.

701—40.21(422) Additional deduction for wages paid or accrued for work done in Iowa by certain individuals. For tax years beginning on or after January 1, 1984, but before January 1, 1989, a taxpayer who operates a business which is considered to be a small business as defined in subrule 40.21(2) is allowed an additional deduction for 50 percent of the first 12 months of wages paid or accrued during the tax years for work done in Iowa by employees first hired on or after January 1, 1984, or after July 1, 1984, where the taxpayer first qualifies as a small business under the expanded definition of a small business effective July 1, 1984, and meets one of the following criteria.

A handicapped individual domiciled in this state at the time of hiring.

An individual domiciled in this state at the time of hiring who meets any of the following conditions:

1. Has been convicted of a felony in this or any other state or the District of Columbia.
2. Is on parole pursuant to Iowa Code chapter 906.
3. Is on probation pursuant to Iowa Code chapter 907 for an offense other than a simple misdemeanor.
4. Is in a work release program pursuant to Iowa Code chapter 247A.

An individual, whether or not domiciled in this state at the time of the hiring, who is on parole or probation and to whom the interstate probation and parole compact under Iowa Code section 913.40 applies.

For tax years beginning on or after January 1, 1989, the additional deduction for wages paid or accrued for work done in Iowa by certain individuals is 65 percent of the wages paid for the first 12 months of employment of the individuals, not to exceed \$20,000 per individual. Individuals must meet the same criteria to qualify their employers for this deduction for tax years beginning on or after January 1, 1989, as for tax years beginning before January 1, 1989.

For tax years ending after July 1, 1990, a taxpayer who operates a business which does not qualify as a small business specified in subrule 40.21(2) may claim an additional deduction for wages paid or accrued for work done in Iowa by certain convicted felons provided the felons are described in the four numbered paragraphs above and the following unnumbered paragraph and provided the felons are first hired on or after July 1, 1990. The additional deduction is 65 percent not to exceed \$20,000 for the first 12 months of wages paid for work done in Iowa.

The qualifications mentioned in subrules 40.21(1), 40.21(4), 40.21(5) and 40.21(6) and in subrule 40.21(3), paragraphs "f" and "g," apply to the additional deduction for work done in Iowa by a convicted felon in situations where the taxpayer is not a small business as well as in situations where the taxpayer is a small business.

40.21(1) The additional deduction shall not be allowed for wages paid to an individual who was hired to replace an individual whose employment was terminated within the 12-month period preceding the date of first employment. However, if the individual being replaced left employment voluntarily without good cause attributable to the employer or if the individual was discharged for misconduct in connection with the individual's employment as determined by the department of workforce development, the additional deduction shall be allowed.

The determination of whether an individual left employment voluntarily without good cause attributable to the employer or if the individual was discharged for misconduct is a factual determination which must be made on a case-by-case basis.

40.21(2) The term "small business" means a business entity organized for profit including but not limited to an individual proprietorship, partnership, joint venture, association or cooperative. It includes the operation of a farm, but not the practice of a profession. The following conditions apply to a business entity which is a small business for purposes of the additional deduction for wages:

a. The small business shall not have had more than 20 full-time equivalent employee positions during each of the 26 consecutive weeks within the 52-week period immediately preceding the date on which an individual for whom an additional deduction for wages is taken was hired. Full-time equivalent position means any of the following:

1. An employment position requiring an average work week of 40 or more hours;
2. An employment position for which compensation is paid on a salaried full-time basis without regard to hours worked; or
3. An aggregation of any number of part-time positions which equal one full-time position. For purposes of this subrule each part-time position shall be categorized with regard to the average number of hours worked each week as a one-quarter, half, three-quarter, or full-time position, as set forth in the following table:

<u>Average Number of Weekly Hours</u>	<u>Category</u>
More than 0 but less than 15	¼
15 or more but less than 25	½
25 or more but less than 35	¾
35 or more	1 (full-time)

b. The small business shall not have more than \$1 million in annual gross revenues, or after July 1, 1984, \$3 million in annual gross revenues or as the average of the three preceding tax years. "Annual gross revenues" means total sales, before deducting returns and allowances but after deducting corrections and trade discounts, sales taxes and excise taxes based on sales, as determined in accordance with generally accepted accounting principles.

c. The small business shall not be an affiliate or subsidiary of a business which is dominant in its field of operation. "Dominant in its field of operation" means having more than 20 full-time equivalent employees and more than \$1 million of annual gross revenues, or after July 1, 1984, \$3 million of annual gross revenues or as the average of the three preceding tax years. "Affiliate or subsidiary of a business dominant in its field of operations" means a business which is at least 20 percent owned by a business dominant in its field of operation, or by partners, officers, directors, majority stockholders, or their equivalent, of a business dominant in that field of operation.

d. "Operation of a farm" means the cultivation of land for the production of agricultural crops, the raising of poultry, the production of eggs, the production of milk, the production of fruit or other horticultural crops, grazing or the production of livestock. Operation of a farm shall not include the production of timber, forest products, nursery products, or sod and operation of a farm shall not include a contract where a processor or distributor of farm products or supplies provides spraying, harvesting or other farm services.

e. "The practice of a profession" means a vocation requiring specialized knowledge and preparation including but not limited to the following: medicine and surgery, podiatry, osteopathy, osteopathic medicine and surgery, psychology, psychiatry, chiropractic, nursing, dentistry, dental hygiene, optometry, speech pathology, audiology, pharmacy, physical therapy, occupational therapy, mortuary science, law, architecture, engineering and surveying, and accounting.

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The computation of the child care credit for nonresident taxpayers is shown in the following example:

A husband and wife both have earned income during 1977 and are filing separate Iowa returns or separately on a combined Iowa return. The total income for the spouses is shown below:

	Husband	Wife
Wages		\$ 5,000 (Non-Iowa)
Self-employment income	\$20,000 (Iowa)	
Interest income	\$ 2,500 (Non-Iowa)	\$ 2,500 (Non-Iowa)
Net rental income		\$10,000 (Iowa)

The qualifying employment-related expenses shown on federal Schedule 2441 amounted to \$3,000. The amount of child care credit attributable to Iowa would be:

$$\frac{\$20,000}{\$25,000} \times \$3,000 \times 5\% = \$120$$

The \$120 child care credit is then allocated to each spouse on the following basis:

	Husband		Wife
	$\frac{\$20,000}{\$30,000} \times \$120 = \80		$\frac{\$10,000}{\$30,000} \times \$120 = \40

For tax years beginning on or after January 1, 1982, nonresidents or part-year residents of Iowa shall compute their child care credit in the same manner as residents of Iowa.

A copy of federal Schedule 2441 must be attached to all returns on which taxpayers have claimed the child care credit. In no case may the child care credit exceed the taxpayers' Iowa income tax liability.

b. For tax years beginning on or after January 1, 1977, and prior to January 1, 1983, the percentage of qualifying employment-related expenses paid for child and dependent care which is allowable as a tax credit shall be 5 percent. For tax years beginning on or after January 1, 1983, but before January 1, 1986, the percentage of qualifying employment-related expenses paid for child and dependent care which is allowable as a tax credit shall be 10 percent.

c. For tax years beginning on or after January 1, 1986, but before January 1, 1990, the child care credit is 45 percent of the federal child and dependent care credit provided in Section 21 of the Internal Revenue Code. Married taxpayers who are claiming the child care credit and who elect to file separate returns or separately on the combined return must allocate the credit to each spouse in the ratio that each spouse's net income relates to the combined net incomes of both spouses. This credit may not exceed the computed tax less the amount of exemption credits for any taxable year.

42.2(4) Political contributions credit. Effective for tax years beginning on or after January 1, 1983, but before January 1, 1986, a taxpayer is allowed a tax credit equal to 5 percent of the first \$100 donated as a political contribution as defined in Section 24c of the Internal Revenue Code. In the case of a married couple filing a joint return, a political contribution credit equal to 5 percent of the first \$200 donated shall be allowed. The credit may not exceed the computed tax less the amount of exemption credits and child care credits for any taxable year.

42.2(5) Iowa venture capital fund investment credit. A taxpayer is allowed a tax credit equal to 5 percent of the taxpayer's investment in the initial offering of securities by the Iowa venture capital fund established by the Iowa development commission. Any credit in excess of the computed tax less exemption credits, child care credits, and political contribution credits may be credited to the tax liability for the following three taxable years or until depleted in less than three years.

42.2(6) Research activities credit. Effective for tax years beginning on or after January 1, 1985, taxpayers are allowed a credit equal to 6½ percent of the state's apportioned share of qualified expenditures for increasing research activities. Effective for tax years beginning on or after January 1, 1991, the state research activities credit will be computed on the basis of the qualifying expenditures for increasing research activities as allowable under Section 41 of the Internal Revenue Code in effect on January 1, 1999. The state's apportioned share of the qualifying expenditures for increasing research activities is a percent equal to the ratio of qualified research expenditures in Iowa to the total qualified research expenditures. The Iowa research activities credit is made permanent for tax years beginning on or after January 1, 1991, even though there may no longer be a research activities credit for federal income tax purposes.

a. Qualified expenditures in Iowa are:

- (1) Wages for qualified research services performed in Iowa.
- (2) Cost of supplies used in conducting qualified research in Iowa.
- (3) Rental or lease cost of personal property used in Iowa in conducting qualified research.

Where personal property is used both within and without Iowa in conducting qualified research, the rental or lease cost must be prorated between Iowa and non-Iowa use by the ratio of days used in Iowa to total days used both within and without Iowa.

(4) Sixty-five percent of contract expenses paid by a corporation to a qualified organization for basic research performed in Iowa.

b. Total qualified expenditures are:

- (1) Wages paid for qualified research services performed everywhere.
- (2) Cost of supplies used in conducting qualified research everywhere.
- (3) Rental or lease cost of personal property used in conducting qualified research everywhere.
- (4) Sixty-five percent of contract expenses paid by a corporation to a qualified organization for basic research performed everywhere.

Qualifying expenditures for increasing research activities is the smallest of the amount by which the qualified research expenses for the taxable year exceed the base period research expenses or 50 percent of the qualified research expenses for the taxable year.

Research expenditures for tax years beginning after December 31, 1985, but before January 1, 1987, will qualify for the Iowa credit for increasing research activities to the extent that the credit would be allowable for federal income tax purposes under Section 30 of the Internal Revenue Code as in effect on January 1, 1985.

A taxpayer may claim on the taxpayer's individual income tax return the pro rata share of the credit for qualifying research expenditures incurred in Iowa by a partnership, subchapter S corporation, or estate or trust. The portion of the credit claimed by the individual must be in the same ratio as the individual's pro rata share of the earnings of the partnership, subchapter S corporation, or estate or trust.

c. *When the credit can be taken.* The taxpayer may elect to take the credit in any tax year which either begins or ends during the period beginning with the date of the agreement and ending with the date by which the project is to be completed under the agreement. However, the taxpayer may not take the credit until the base employment level has been exceeded by at least 10 percent.

EXAMPLE: A taxpayer enters into an agreement to increase employment from a base employment level of 200 employees to 225 employees. In year one of the agreement the taxpayer hires 20 new employees which is a 10 percent increase over the base employment level but elects not to take the credit. In year two of the agreement two of the new employees leave employment. The taxpayer elects to take the credit which would be 6 percent of the taxable wages of the 18 employees currently employed. In year three the taxpayer hires seven new employees and elects to take the credit. The credit would be 6 percent of the taxable wages of the seven new employees.

A taxpayer may claim on the taxpayer's individual income tax return the pro rata share of the Iowa new jobs credit from a partnership, subchapter S corporation, estate or trust. The portion of the credit claimed by the individual shall be in the same ratio as the individual's pro rata share of the earnings of the partnership, subchapter S corporation, or estate or trust. All partners in a partnership, shareholders in a subchapter S corporation and beneficiaries in an estate or trust shall elect to take the Iowa new jobs credit the same year.

Any Iowa new jobs credit in excess of the individual's tax liability less the credits authorized in Iowa Code sections 422.12 and 422.12B may be carried forward for ten years or until it is used, whichever is the earlier.

42.2(8) Tuition and textbooks credit for dependents in grades kindergarten through 12 in Iowa. For tax years beginning on or after January 1, 1987, but prior to January 1, 1996, individuals who elect the optional standard deduction may claim a tax credit of 5 percent of the qualifying expenditures. For tax years beginning on or after January 1, 1996, all taxpayers, including individuals that have net incomes of \$45,000 or more, may claim a tuition and textbook credit of 10 percent of qualifying expenditures. For tax years beginning on or after January 1, 1998, all taxpayers may claim a tuition and textbook credit of 25 percent of up to \$1,000 of qualifying expenditures for each dependent attending grades kindergarten through 12 in Iowa. Qualifying expenditures include amounts paid for tuition and textbooks described in paragraphs "a" and "b" of 701—subrule 41.5(5) as well as amounts paid for extracurricular activities described in paragraph "c" of 701—subrule 41.5(5). For purposes of this subrule, the qualifying expenditures for tax years beginning in 1996 and 1997 are the same as would have been eligible for the deduction allowed under 701—subrule 41.5(5) if the qualifying expenditures had been paid in a tax year when the deduction was applicable. All the qualifications, definitions, and criteria in 701—subrule 41.5(5) are equally applicable to the credit for amounts paid for tuition and textbooks for dependents attending grades kindergarten through 12 in Iowa. In the case of married taxpayers who are filing separate returns or separately on the combined return, the spouses can allocate the credit for tuition and textbooks between them in the same ratio as described in paragraph "g" of 701—subrule 41.5(5).

42.2(9) Earned income credit. Effective for tax years beginning on or after January 1, 1990, an individual is allowed a state earned income credit equal to a percentage of the earned income credit to which the taxpayer is entitled on the taxpayer's federal income tax return as authorized in Section 32 of the Internal Revenue Code. The state earned income credit is nonrefundable so the credit may not exceed the remaining income tax liability of the taxpayer after the personal exemption credits and the other nonrefundable credits are deducted. The percentage of the earned income credit for tax years beginning in the 1990 calendar year is 5 percent. The percentage of the earned income credit for tax years beginning on or after January 1, 1991, is 6.5 percent.

For federal income tax purposes, the earned income credit is available for a low-income worker who maintains a household in the United States that is the principal place of abode of the worker and a child or children for more than one-half of the tax year or the worker must have provided a home for the entire tax year for a dependent parent. In addition, the worker must be (1) a married person who files a joint return and is entitled to a dependency exemption for a son or daughter, adopted child or stepchild; (2) a surviving spouse; or (3) an individual who qualifies as a head of household as described in Section 2(b) of the Internal Revenue Code. The federal earned income credit for a taxpayer is determined by computing the taxpayer's earned income on a worksheet provided in the federal income tax return instructions and determining the allowable credit from a table included in the instructions for the 1040 or 1040A. For purposes of the credit, a taxpayer's earned income includes wages, salaries, tips, or other compensation plus net income from self-employment.

In the case of married taxpayers who filed a joint federal return who elect to file separate state returns or separately on the combined return form, the state earned income credit is allocated between the spouses in the ratio that each spouse's earned income relates to the earned income of both spouses.

Nonresidents and part-year residents are allowed the same earned income credits as resident taxpayers.

42.2(10) Investment tax credit. An investment tax credit of up to 10 percent of the new investment which is directly related to new jobs created by the location or expansion of an eligible business is available. The credit is available for machinery and equipment or improvements to real property placed in service after May 1, 1994. The credit is to be taken in the year the qualifying asset is placed in service. For business applications received by the Iowa department of economic development on or after July 1, 1999, purchases of real property made in conjunction with the location or expansion of an eligible business, the cost of land and any buildings and structures located on the land will be considered to be new investment which is directly related to new jobs for purposes of determining the amount of new investment upon which an investment tax credit may be taken.

If the eligible business within five years of purchase, sells, disposes of, razes, or otherwise renders unusable all or a part of the land, buildings, or other existing structures for which tax credit was claimed under this rule, the income tax liability of the eligible business for the year in which all or part of the property is sold, disposed of, razed, or otherwise rendered unusable shall be increased by one of the following amounts:

- a. One hundred percent of the investment tax credit claimed if the property ceases to be eligible for the tax credit within one full year after being placed in service.
- b. Eighty percent of the investment tax credit claimed if the property ceases to be eligible for the tax credit within two full years after being placed in service.
- c. Sixty percent of the investment tax credit claimed if the property ceases to be eligible for the tax credit within three full years after being placed in service.
- d. Forty percent of the investment tax credit claimed if the property ceases to be eligible for the tax credit within four full years after being placed in service.
- e. Twenty percent of the investment tax credit claimed if the property ceases to be eligible for the tax credit within five full years after being placed in service.

Any credit in excess of the tax liability for the tax year may be carried forward seven years or until used, whichever is the earlier.

If the business is a partnership, S corporation, limited liability company, or an estate or trust electing to have the income taxed directly to an individual, an individual may claim the credit. The amount of the credit claimed by the individual must be based on the individual's pro-rata share of the individual's earnings of the partnership, S corporation, limited liability company, or estate or trust.

This rule is intended to implement Iowa Code Supplement sections 15.333 and 422.10 and Iowa Code sections 422.11A, 422.12 and 422.12B.

701—42.3(422) Nonresident and part-year resident credit. For tax years beginning on or after January 1, 1982, an individual who is a nonresident of Iowa for the entire tax year, or an individual who is an Iowa resident for a portion of the tax year, is allowed a credit against the individual's Iowa income tax liability for the Iowa income tax on the portion of the individual's income which was earned outside Iowa while the person was a nonresident of Iowa. This credit is computed on Schedule IA 126 which is included in the Iowa individual income tax booklet. The following subrules clarify how the nonresident and part-year resident credit is computed for nonresidents of Iowa and taxpayers who are part-year residents of Iowa during the tax year.

42.3(1) Nonresident/part-year resident credit for nonresidents of Iowa. A nonresident of Iowa is to complete the Iowa individual return by reporting the individual's total net income, including incomes earned outside Iowa, on the front of the IA 1040 return form similar to the way an Iowa resident completes the return form. A nonresident individual is allowed the same deduction for federal income tax and the same itemized deductions as an Iowa resident taxpayer with identical deductions for these expenditures. Thus, a nonresident with a taxable income of \$40,000 would have the same initial Iowa income tax liability as a resident taxpayer with a taxable income of \$40,000 before the nonresident/part-year resident credit is computed.

The nonresident/part-year resident credit is computed on Schedule IA 126. The lines referred to in this subrule are from Schedule IA 126 and Form IA 1040 for the 1997 tax year. Similar lines on the schedule and form may apply for subsequent tax years. The individual's Iowa source net income from lines 1 through 25 of the schedule is totaled on line 26 of the schedule. If the nonresident's Iowa source net income is less than \$1,000, the taxpayer is not subject to Iowa income tax and is not required to file an Iowa income tax return for the tax year. However, if the Iowa source net income amount is \$1,000 or more, the Iowa source net income is then divided by the person's all source net income on line 27 of Schedule IA 126 to determine the percentage of the Iowa net income to all source net income. This Iowa income percentage is inserted on line 28 of the schedule, and this percentage is then subtracted from 100 percent to arrive at the nonresident/part-year resident credit percentage or the percentage of the individual's total income which was earned outside Iowa. The nonresident/part-year resident credit percentage is entered on line 29 of Schedule IA 126. The Iowa income tax on total income from line 43 of the IA 1040 is entered on line 30 of Schedule IA 126. The total of nonrefundable credits from line 50 of the IA 1040 is then shown on line 31 of Schedule IA 126. The amount on line 31 is subtracted from the amount on line 30 which leaves the Iowa total tax after nonrefundable credits on line 32. This Iowa tax after credits amount is multiplied by the nonresident/part-year resident credit percentage from line 29 to compute the nonresident/part-year resident credit. The amount of the credit is inserted on line 33 of Schedule IA 126 and on line 52 of the IA 1040.

EXAMPLE A. A single resident of Nebraska had Iowa source net income of \$15,000 in 1997 from wages earned from employment in Iowa. The rest of this person's income was attributable to sources outside Iowa. This nonresident of Iowa had an all source net income of \$40,000 and a taxable income of \$30,000 due to a federal tax deduction of \$7,000 and itemized deductions of \$3,000. The Iowa income percentage is computed by dividing the Iowa source net income of \$15,000 by the taxpayer's all source net income of \$40,000, which results in a percentage of 37.5. This percentage is subtracted from 100 percent which leaves a nonresident/part-year resident credit percentage of 62.5.

The Iowa tax from line 43 of the IA 1040 is \$1,789. The total nonrefundable credit from line 50 is \$20, which leaves a tax amount of \$1,769 when the credit is subtracted from \$1,789. When \$1,769 is multiplied by the nonresident/part-year resident credit percentage of 62.5 percent, a nonresident credit of \$1,106 is computed which is entered on line 33 of Schedule IA 126 as well as on line 52 of the IA 1040 for 1997.

EXAMPLE B. A California resident, who was married, had \$20,000 of Iowa source income in 1997 from an Iowa farm. This individual had an additional \$80,000 in income that was attributable to sources outside Iowa, but the individual's spouse had no income. The taxpayers had paid \$18,000 in federal income tax in 1997 and had itemized deductions of \$12,000 in 1997.

The taxpayers' taxable income on their joint Iowa return was \$70,000. The taxpayers had an Iowa income tax liability of \$5,422 after application of the personal exemption credits of \$40. The taxpayers had an Iowa source income of \$20,000 and an all source net income of \$100,000. Therefore, the Iowa income percentage was 20 percent. Subtracting the Iowa income percentage of 20 percent from 100 percent leaves a nonresident/part-year resident credit percentage of 80 percent.

When the Iowa income tax liability of \$5,422 is multiplied by 80 percent, this results in a nonresident/part-year resident credit of \$4,338. This credit amount is entered on line 33 of the Schedule IA 126 and on line 52 of Form IA 1040.

42.3(2) *Nonresident/part-year resident credit for part-year residents of Iowa.* An individual who is a resident of Iowa for part of the tax year is to complete the front of the IA 1040 income tax return form as a resident taxpayer by showing the taxpayer's total income, including income earned outside Iowa, on the front of the IA 1040 return form. A part-year resident of Iowa is allowed the same federal tax deduction and itemized deductions as a resident taxpayer who has paid the same amount of federal income tax and has paid for the same deductions that can be claimed on Schedule A in the tax year. Therefore, a part-year resident would have the same initial Iowa income tax liability as an Iowa resident with the same taxable income before computation of the nonresident/part-year resident credit.

The nonresident/part-year resident credit for a part-year resident is computed on Schedule IA 126. The lines referred to in this subrule are from the IA 1040 income tax return form and the Schedule IA 126 for 1997. Similar lines may apply for tax years after 1997. The individual's Iowa source income is totaled on line 26 of this form and includes all the individual's income received while the taxpayer was a resident of Iowa and all the Iowa source income received during the period of the tax year when the individual was a resident of a state other than Iowa. Iowa source income includes, but is not limited to, wages earned in Iowa while a resident of another state as well as incomes from Iowa farms and other Iowa businesses that were earned during the portion of the year that the taxpayer was a nonresident of Iowa. In the case of interest from a part-year resident's account at an Iowa financial institution, only interest earned during the period of the individual's Iowa residence is Iowa source income unless the account is for an Iowa business. If the part-year resident's account at a financial institution is for an Iowa business, all interest earned in the year by the part-year resident from the account is taxable to Iowa.

Income earned outside Iowa by the part-year resident during the portion of the year the individual was an Iowa resident is taxable to Iowa and is part of the individual's Iowa source income. To compute the nonresident/part-year resident credit for a part-year resident, the taxpayer's Iowa source income on Schedule IA 126 is totaled. If the Iowa source income is less than \$1,000, the taxpayer is not subject to Iowa income tax and is not required to file an Iowa return. If the Iowa source income is \$1,000 or more, it is divided by the taxpayer's all source net income on line 27 of Schedule IA 126. The percentage computed by this procedure is the Iowa income percentage and is entered on line 28 of the IA 126. The Iowa income percentage is then subtracted from 100 percent to arrive at the nonresident/part-year resident credit percentage which is entered on line 29 of Schedule IA 126. The Iowa tax from line 43 of the IA 1040 is then shown on line 30 of Schedule IA 126. The total of the Iowa nonrefundable credits from line 50 of the IA 1040 is entered on line 31 of Schedule IA 126 and is subtracted from the Iowa tax amount on line 30. The tax after credits amount on line 32 is next multiplied by the nonresident/part-year resident credit percentage from line 28. The amount calculated from this procedure is the nonresident/part-year resident credit which is shown on line 33 of Schedule IA 126 and on line 52 of Form IA 1040.

EXAMPLE A. A single individual was a resident of Nebraska for the first half of 1997 and moved to Iowa on July 1, 1997, to accept a job in Des Moines. This individual earned \$20,000 from wages, \$200 from interest, and \$4,000 from a ranch in Nebraska from January 1, 1997, through June 30, 1997. In the last half of 1997, this person had wages of \$30,000, interest income of \$300, and \$4,000 from the Nebraska ranch. This part-year resident had federal income tax paid in 1997 of \$11,000 and had itemized deductions of \$3,000.

The part-year resident's all source net income was \$58,500 and the Iowa source net income was \$34,300, which includes the Iowa wages, the Nebraska ranch income of \$4,000 earned during the individual's period of Iowa residence, as well as the interest income of \$300 earned in that time of the tax year. The Iowa taxable income for the part-year resident for 1997 was \$44,500, which considered the federal income tax deduction of \$11,000 and itemized deductions of \$3,000. The individual's Iowa income percentage was 58.6 which was determined by dividing the Iowa source income of \$34,300 by the all source income of \$58,500. Subtracting the Iowa income percentage of 58.6 from 100 percent results in a nonresident/part-year resident credit percentage of 41.4 percent. The Iowa tax on total income was \$3,023 which was reduced to \$3,003 after subtraction of the personal exemption credit of \$20.

When \$3,003 is multiplied by the nonresident/part-year resident percentage of 41.4, a nonresident/part-year resident credit of \$1,243 is computed for this part-year resident.

EXAMPLE B. A single individual moved from Minnesota to Iowa on July 1, 1997. This person had received \$5,000 in income from an Iowa farm in March of the tax year and another \$10,000 from this farm in September of 1997. This person had \$10,000 in wages from employment in Minnesota in the first half of the year and another \$15,000 in wages from employment in Iowa in the last half of 1997. This person had \$2,000 in interest from a Minnesota bank in the first half of the year and \$2,000 in interest from an Iowa bank in the last six months of 1997. This taxpayer had \$8,000 in federal income tax withheld from wages in 1997 and claimed the standard deduction on both the Iowa and federal income tax returns.

The part-year resident's all source income was \$44,000 and the Iowa source income was \$32,000 which consisted of \$15,000 in wages, \$2,000 in interest income, and \$15,000 in income from the Iowa farm. Since the farm was in Iowa, the farm income received in the first half of 1997 was taxable to Iowa as well as the farm income received while the individual was an Iowa resident. The individual's Iowa taxable income was \$34,590 which was computed after subtracting the federal income tax deduction of \$8,000 and a standard deduction of \$1,410. The taxpayer's Iowa income tax liability was \$2,132 after subtraction of a personal exemption credit of \$20.

The taxpayer's Iowa income percentage was 72.7 percent which was computed by dividing the Iowa source income of \$32,000 by the all source income of \$44,000. The nonresident/part-year resident credit percentage was 27.3 percent which was arrived at by subtracting the Iowa income percentage of 72.7 percent from 100 percent. The taxpayer's nonresident/part-year resident credit is \$582. This was determined by multiplying the Iowa income tax liability after personal exemption credit amount of \$2,132 by the nonresident/part-year resident percentage of 27.3 percent.

This rule is intended to implement Iowa Code section 422.5.

701—42.4(422) Out-of-state tax credits.

42.4(1) General rule. Iowa residents are allowed an out-of-state tax credit for taxes paid to another state or foreign country on income which is also reported on the taxpayer's Iowa return. The out-of-state tax credit is allowable only if the taxpayer files an Iowa resident income tax return.

42.4(2) Limitation of out-of-state tax credit. If an Iowa resident taxpayer pays income tax to another state or foreign country on any of the taxpayer's income, the taxpayer is entitled to a net tax credit; that is, the taxpayer may deduct from the taxpayer's Iowa net tax (not from gross income) the amount of income tax actually paid to the other state or country, provided the amount deducted as a credit does not exceed the amount of Iowa net income tax on the same income which was taxed by the other state or foreign country.

42.4(3) Computation of tax credit.

a. For tax years beginning before January 1, 1983. The limitation on the tax credit must be computed according to the following formula: Income earned in another state or country and taxed by such other state or country shall be divided by the total income of the Iowa resident taxpayer. Said quotient multiplied times the net Iowa tax as determined on the total income of the taxpayer as if entirely earned in Iowa shall be the maximum tax credit against the Iowa net tax.

The first part of the report deals with the general situation in the country. It is noted that the economy is in a state of depression and that the government is unable to meet its obligations. The report also mentions the political situation and the role of the military.

The second part of the report discusses the financial situation. It is stated that the government has a large deficit and that the money supply is increasing. The report also mentions the role of the central bank and the impact of inflation.

The third part of the report deals with the social situation. It is noted that the population is suffering from poverty and that there is a high level of unemployment. The report also mentions the role of the government in providing social services.

701—42.12(422) Franchise tax credit. For tax years beginning on or after January 1, 1997, a shareholder in a financial institution as defined in Section 581 of the Internal Revenue Code, which has elected to have its income taxed directly to the shareholders, may take a tax credit equal to the shareholder's pro-rata share of the Iowa franchise tax paid by the financial institution.

The credit must be computed by recomputing the amount of tax computed under Iowa Code section 422.5 by reducing the shareholder's taxable income by the shareholder's pro-rata share of the items of income and expenses of the financial institution and subtracting the credits allowed in Iowa Code section 422.12. The recomputed tax must be subtracted from the amount of tax computed under Iowa Code section 422.5 reduced by the credits allowed in Iowa Code section 422.12.

The resulting amount, not to exceed the shareholder's pro-rata share of the franchise tax paid by the financial institution, is the amount of tax credit allowed the shareholder.

This rule is intended to implement Iowa Code section 422.11 created by 1997 Iowa Acts, Senate File 553.

701—42.13(15E) Eligible housing business tax credit. An individual who qualifies as an eligible housing business may receive a tax credit of up to 10 percent of the new investment which is directly related to the building or rehabilitating of homes in an enterprise zone. The tax credit may be taken on the tax return for the tax year in which the home is ready for occupancy.

An eligible housing business is one which meets the criteria in 1998 Iowa Acts, chapter 1179.

New investment which is directly related to the building or rehabilitating of homes includes but is not limited to the following costs: land, surveying, architectural services, building permits, inspections, interest on a construction loan, building materials, roofing, plumbing materials, electrical materials, amounts paid to subcontractors for labor and materials provided, concrete, labor, landscaping, appliances normally provided with a new home, heating and cooling equipment, millwork, drywall and drywall materials, nails, bolts, screws, and floor coverings.

New investment does not include the machinery, equipment, hand or power tools necessary to build or rehabilitate homes.

A taxpayer may claim on the taxpayer's individual income tax return the pro-rata share of the Iowa eligible housing business tax credit from a partnership, S corporation, limited liability company, estate, or trust. The portion of the credit claimed by the individual shall be in the same ratio as the individual's pro-rata share of the earnings of the partnership, S corporation, limited liability company, or estate or trust.

Any Iowa eligible housing business tax credit in excess of the individual's tax liability, less the credits authorized in Iowa Code sections 422.12 and 422.12B, may be carried forward for seven years or until it is used, whichever is the earlier.

If the eligible housing business fails to maintain the requirements of 1998 Iowa Acts, chapter 1179, to be an eligible housing business, the taxpayer may be required to repay all or a part of the tax incentives the taxpayer received. Irrespective of the fact that the statute of limitations to assess the taxpayer for repayment of the income tax credit may have expired, the department may proceed to collect the tax incentives forfeited by failure to maintain the requirements of 1998 Iowa Acts, chapter 1179. This is because it is a recovery of an incentive, rather than an adjustment to the taxpayer's tax liability.

This rule is intended to implement 1998 Iowa Acts, chapter 1179.

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l. For purposes of this rule, "dairy cattle operations" includes those cattle operations where the primary purpose of the operations is the production of milk and milk products for human consumption. The livestock production credit refund is computed by multiplying the aggregate of the number of milking cows in lactation on December 31 of the tax year and the number of cows bred to calve within 60 days of December 31 and the number of breeding bulls in inventory on December 31 times the corn equivalent number of 350 or \$35 per cow. However, cattle that were purchased in the period between July 1 and December 31 of the calendar year may not be considered for purposes of computation of the livestock production credit for the dairy operation. In the case of a "dairy cattle operation" which started or ceased production in the tax year, the livestock production credit refund otherwise computed must be reduced by 8.33 percent for each month in the tax year in which the livestock operation was not in production. Heifers in the operation are not counted for purposes of the credit until the animals are bred to calve.

m. For purposes of this rule, "ewe flock sheep operations" are sheep operations whereby the majority of the sheep and lambs sold from the operation were born and raised in the operation. The livestock production credit refunds for these operations are computed by multiplying the number of ewes and rams in inventory on December 31 of the tax year times the corn equivalent factor of 20.5 or \$2.05 per ewe or ram. Any ewes or rams purchased within three months before December 31 of the tax year may not be considered for purposes of computing the livestock production credit for the operation. In addition, lambs sold in the tax year from the operation may be counted for the production credit refund at 4.1 corn equivalents or \$.41 for each lamb sold to the extent the lambs were in the operation for a minimum of three months prior to the date of sale.

n. For purposes of this rule, "sheep feedlot operations" are sheep production operations where lambs born and raised in the operation are sold after the lambs have been in the operation for a minimum of three months prior to the date of sale. The livestock production credit refunds are computed by multiplying the number of lambs sold in the tax year times the corn equivalent factor of 4.1 or \$.41.

o. For the purposes of this rule and for tax years beginning on or after January 1, 1998, "cow-calf operations" means those livestock cattle production operations that include bred cows, bred heifers, and breeding bulls. The livestock production credit refunds for cow-calf operations are determined only on the number of bred cows, bred heifers, and breeding bulls in inventory of the operations on December 31 of the tax year times the corn equivalent factor of 111.5 or \$11.15. However, only those bred cows, bred heifers, and breeding bulls in inventory on December 31 which were also in inventory on July 1 of the same calendar year may be counted for purposes of computing the livestock production refunds.

43.8(3) Filing claims for the livestock production credit refunds. Taxpayers who are eligible for the livestock production credit refunds must file refund requests on claim forms provided by the department that must be attached to their income tax returns for the tax year in which the livestock production occurred. The claim forms must be filed with the income tax returns within ten months after the end of the tax year of the return in order for the refund claims to be timely. Thus, in the case of a taxpayer filing a livestock production refund claim form with the 1996 Iowa income tax return for calendar year 1996, the claim forms must be filed by October 31, 1997, in order for the claims to be timely. Taxpayers may not request extensions for filing claims for the livestock production refunds.

The department will determine by February 28 of the year after the year in which the livestock production credit refund claims are to be filed if the total amount requested on the refund claims exceeds the amount appropriated for the refunds for that tax year. If a taxpayer's refund claim is not payable on February 28 because the taxpayer is a fiscal year filer, that taxpayer's claim will be considered to be a claim for the following tax year. However, in order for this claim to be considered to be a valid refund claim for the following tax year, the refund claim must have been filed within ten months after the end of the fiscal year of the taxpayer. However, in the case of livestock production credit refund claims for fiscal year periods beginning in 1996 which are not received soon enough to be considered for the refunds to be issued in February 1998, only claims for cow-calf livestock production operations will be considered with the livestock production refund claims for the 1997 tax year.

If a taxpayer files a fraudulent claim for a livestock production credit refund for a tax year, the taxpayer will be considered to have forfeited any right or interest to a livestock production refund for any subsequent tax year after the year of the fraudulent claim.

43.8(4) *Records needed to establish livestock production credit refunds.* The burden is on the taxpayer to maintain those records and documents which support the livestock production credit refund that was claimed by the taxpayer. Necessary records and documents must include, but are not limited to, the ones mentioned in this subrule. Some of the necessary records are inventory schedules showing the number of livestock or poultry in the livestock operation on certain dates in the tax year. Sales of livestock or poultry in the tax year must be supported by scale tickets, packing house invoices, sales receipts, sales barn invoices, and similar documents. Dairy herd improvement association records and similar inventory forms can be used to establish the number of animals or the number of birds on hand in the operation on a certain day in the tax year. These documents are not to be submitted with the taxpayer's income tax return with the livestock production credit refund claim form. Instead, the documents are to be retained with other tax records for at least three years in case of possible audit by the department of revenue and finance.

This rule is intended to implement Iowa Code sections 422.120 and 422.122 and Iowa Code Supplement section 422.121.

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◊Two ARCs

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

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

Withholding agents may request that they be allowed to file more frequently than the filing status selected by the department. Approval will be granted based upon justification contained in the withholding agent's request.

c. Reporting annual withholding.

(1) Any withholding agent who does not have employee withholding, but who is required to withhold state income tax from other distributions is exempted from the provisions of subparagraphs (2) and (3) of 46.3(3)"a," if these distributions are made annually in one calendar quarter. These withholding agents need only comply with the reporting requirements of the one calendar quarter in which the tax is withheld, and make the required year-end reports.

(2) Every withholding agent employing not more than two individuals and who expects to employ either or both for the full calendar year, may pay with the withholding tax return due for the first calendar quarter of the year, the full amount of income taxes which would be required to be withheld from the wages for the full calendar year. The withholding agent shall advise the withholding section of the Iowa department of revenue and finance that annual reporting is contemplated, and shall also state the number of persons employed. The withholding agent shall compute the annual withholding from wages by determining the normal withholding for one pay period and multiply this amount by the total number of pay periods within the calendar year. No lump sum of payment of withheld income tax shall be made without the written consent of all employee(s) involved. Consent may be affected by having the employee(s) complete the form "Iowa Employees Consent to Advance Annual Withholding." The withholding agent shall be entitled to recover from the employee(s) any part of such lump-sum payment that represents an advance to the employee(s). If a withholding agent pays a lump sum with the first quarterly return, the agent shall be excused from filing further quarterly returns for the calendar year involved unless the agent hires other or additional employees. Information returns and the "Verified Summary Report" shall be filed at the end of the tax year.

d. Reports for employee.

(1) *General rule.* Every employer required to deduct and withhold tax from compensation of an employee must furnish to each employee with respect to the compensation paid in Iowa by such employer during the calendar year, a statement in duplicate containing the following information: the name, address, and federal employer identification number of the employer; the name, address, and social security number of the employee; the total amount of compensation paid in Iowa; the total amount deducted and withheld as tax under 46.1(1).

(2) *Form of statement.* The information required to be furnished an employee under the preceding paragraph shall be furnished on an Internal Revenue Service combined Wage and Tax Statement, Form W-2, hereinafter referred to as "combined W-2." Any reproduction, modification or substitution for a combined W-2 by the employer must be approved by the department.

(3) *Time for furnishing statement.* Each statement required by this section to be furnished for a calendar year, and each corrected statement required for any prior year shall be furnished to the employee on or before January 31 of the year succeeding such calendar year, or if an employee's employment is terminated before the close of a calendar year, without expectation that it will resume during the same calendar year, within 30 days from the day on which the last payment of compensation is made, if requested by such employee. See 46.3(3)"e" for provisions relating to the filing of copies of combined W-2 with the Iowa department of revenue and finance.

(4) *Corrections.* An employer must furnish a corrected combined W-2 to an employee if, after the original statement has been furnished, an error is discovered in either the amount of compensation shown to have been paid in Iowa for the prior year or the amount of tax shown to have been deducted and withheld in the prior year. Such statement shall be marked "corrected by the employer." See 46.3(3)"e" for provisions relating to the filing of a corrected combined W-2 with the department.

(5) *Undelivered combined W-2.* Any employee's copy of the combined W-2 which, after reasonable effort, cannot be delivered to an employee, shall be transmitted to the department with a letter of explanation.

(6) *Lost or destroyed.* If the combined W-2 is lost or destroyed, the employer shall furnish two substitute copies to the employee and one copy to the department. All such copies shall be clearly marked "Reissued by Employer."

e. Annual verified summary of payments reports.

(1) Every withholding agent required to withhold Iowa income tax under subrules 46.1(1), 46.1(2), 46.1(3), and 46.4(1) is to furnish to the department of revenue and finance on or before the last day of February following the tax year a withholding information statement entitled Annual Verified Summary of Payments Report. With the Verified Summary of Payments Report (VSP), the withholding agent is to provide copies of wage statement W-2 form showing Iowa income tax withheld during the tax year from payments of wages for personal services and copies of 1099 form showing Iowa income tax withheld from various types of income payments made in the tax year. See subparagraph (3) below for the Verified Summary of Payments Report forms to be filed for calendar year 2000 and for those years after 2000.

(2) The W-2 forms and 1099 forms to be submitted with the Verified Summary of Payments Report can be provided on magnetic tape, computer printout, cartridge or diskette. The department of revenue and finance booklet Income Information Return Reporting Guidelines includes specifications for providing W-2 forms and 1099 form data to the department. The withholding agent completing the VSP form must enter the total Iowa income tax withheld that is shown on the W-2 forms and 1099 forms for the year, the new jobs credits, supplemental jobs credits and housing assistance credits claimed on withholding reports for the year. In addition, the withholding agent must enter on the VSP the withholding payments made for the year. If the amount of Iowa income tax withholding tax remitted to the department of revenue and finance for the year is less than the withholding tax and withholding credits claimed, the withholding agent is to remit the additional withholding tax due on a withholding amended return and mail the payment to Department of Revenue and Finance, P.O. Box 10411, Des Moines, Iowa 50306.

However, if the Iowa income tax shown as withheld on the W-2s and 1099s issued for the tax year is less than the amount of withholding tax remitted to the department of revenue and finance by the withholding agent, the agent should file a claim for refund with the department for the excess tax paid.

(3) For Verified Summary of Payments Report forms filed with the department of revenue and finance for the year 2000 and for years after 2000, the withholding agents filing the reports are not to submit W-2 forms and 1099 forms with the reports. However, the withholding agents should supply W-2 forms or 1099 forms as requested by personnel of the department of revenue and finance, if the request for the forms is made within three years from the end of the year for which the W-2 forms or 1099 forms apply. Therefore, if a request is made to a withholding agent for a W-2 form or a 1099 form for the year 2000, the request is valid if the request is postmarked, faxed or made on or before December 31, 2003.

f. *Withholding deemed to be held in trust.* Funds withheld from wages for Iowa income tax purposes are deemed to be held in trust for payment to the Iowa department of revenue and finance. The state and department shall have a lien upon all the assets of the employer and all the property used in the conduct of the employer's business to secure the payment of the tax as withheld under the provisions of this rule. An owner, conditional vendor, or mortgagee of property subject to such lien may exempt the property from the lien granted to Iowa by requiring the employer to obtain a certificate from the department, certifying that such employer has posted with the department security for the payment of the amounts withheld under this rule.

g. *Payment of tax deducted and withheld.* The amount of tax shown to be due on each return required to be filed under 46.3(3) shall be due on or before the date on which such return is required to be filed.

h. *Correction of underpayment or overpayment of taxes withheld.*

(1) *Underpayment.* If a return is filed for a return period under 46.3(422) and less than the correct amount of tax is reported on the return and paid to the department, the employer shall report and pay the additional amount due by reason of the underpayment on the next quarterly return. An explanation must be attached to the return for the period in which the underpayment is corrected, and the appropriate entry made on the quarterly withholding return.

(2) *Overpayment.* If an employer remits more than the correct amount of tax for a return period under this rule and the overpayment is discovered in a subsequent return period under this rule and within the same calendar year of the overpayment, the employer may correct the error on a subsequent return to be filed for a period within the same calendar year. An explanation must be attached to the return on which the error is corrected. If the overpayment is discovered in a subsequent calendar year, the employer may correct the error by filing a "Claim for Refund" form with the department.

46.3(4) Iowa W-4P—withholding certificate for pension or annuity payments. Effective for payments made on or after January 1, 1996, from pension plans, annuity plans, individual retirement accounts, or deferred compensation plans to residents of Iowa, payors of these retirement benefits are to use Form IA W-4P for withholding of state income tax from the benefits. Generally, state income tax is required to be withheld from payments of distributions from the retirement incomes described above when federal income tax is being withheld from the payments. However, no state income tax is required to be withheld from a payment to the extent the monthly payment amount is \$250 or less or the taxable amount is \$250 or less in cases where the payor knows the taxable amount of the payment. In addition, no state income tax is required to be withheld to the extent the payment amount is \$500 or less or the taxable amount of the payment is \$500 or less if the payee is eligible for the retirement benefits exclusion described in rule 701—40.47(422) and the payee indicates intention on the IA W-4P of filing a joint Iowa individual income tax return with a spouse for the tax year.

Form IA W-4P is available from the department for payors of retirement benefits that intend to withhold at a rate of 5 percent from the payment amount or taxable payment amount after the \$3,000 to \$6,000 exclusion is considered. Note that the \$3,000 to \$6,000 exclusion is to be allocated to all retirement benefit payments made in the year and not just the first \$3,000 to \$6,000 in payments made in the year to an individual. If an individual receives retirement benefits on or after January 1, 1996, and the individual has not completed Form IA W-4P, the payor is to withhold Iowa income tax from the retirement benefit payment after a \$3,000 exclusion is allowed on an annual basis.

Payors of retirement benefits who want to use withholding formulas or tables to withhold state income tax instead of at the 5 percent rate may design their own IA W-4P withholding certificate form without approval of the department.

The payors are not responsible for improper choices made by a payee in completion of the IA W-4P. However, payors cannot accept a request for exemption from the withholding of state income tax made by a payee if federal income tax is being withheld unless the payee is eligible for exemption from withholding.

This rule is intended to implement Iowa Code sections 422.7 and 422.12C and Iowa Code Supplement section 422.16.

701—46.4(422) Withholding on nonresidents.

46.4(1) General rules. Payers of Iowa income to nonresidents are required to withhold Iowa income tax and to remit the tax to the department on all payments of Iowa income to nonresidents except payments of wages to nonresidents engaged in film production or television production made on or after January 1, 1986, described in subrule 46.4(5), income payments for agricultural commodities or products made on or after January 1, 1985, which are described in subrule 46.4(6), and deferred compensation payments, pension, and annuity payments made on or after January 1, 1992, attributable to personal services in Iowa by the nonresidents. Withholding agents should use the following methods and rates in withholding for nonresidents:

a. *Wages or salaries.* Use the same withholding procedures, tables, formulas, and rates as are used for residents. See rule 46.2(422). Subrule 46.4(5) is an exception to the general rule.

b. *Payments other than wages or salaries for tax years beginning before January 1, 1988.* For tax years beginning before January 1, 1988, withholding on payments other than wages or salaries or other compensation for personal services shall be computed using the current withholding tables on gross receipts remitted to the nonresident if the withholding agent has no control over related expenses; or on net income if proper books and records are available to the withholding agent. Subrule 46.4(6) describes an exception to withholding on income payments made to nonresidents on or after January 1, 1985, for the sale of agricultural commodities or products.

c. *Payments other than wages, salaries, and other compensation for personal services for tax years beginning on or after January 1, 1988.* For tax years beginning on or after January 1, 1988, in lieu of using withholding tables or computer formulas to determine the amount of Iowa income tax to be withheld from payments made to nonresidents other than for salaries, wages, or other compensation for personal services, or income payments to nonresidents for agricultural commodities or products, Iowa income tax should be withheld at a rate of 5 percent of the amount of the payment. Subrule 46.4(6) describes the optional exemption from withholding of income payments made on or after January 1, 1985, to nonresidents for the sale of agricultural commodities or products.

Nonresidents who prefer to make Iowa estimate payments instead of having Iowa income tax withheld from income payments from Iowa sources should refer to subrule 46.4(3) and rule 701—49.3(422).

46.4(2) Income of nonresidents subject to withholding. Listed below are various types of income paid to nonresidents which are subject to withholding tax. The list is for illustrative purposes only and is not deemed to be all-inclusive.

1. Personal service, including salaries, wages, commissions and fees for personal service wholly performed within this state and such portions of similar income of nonresident traveling salespersons or agents as may be derived from services rendered in this state.

2. Rents and royalties from real or personal property located within this state.

3. Interest or dividends derived from securities or investments within this state, when such interests or dividends constitute income of any business, trade, profession or occupation carried on within this state and subject to taxation.

4. Income derived from any business of a temporary nature carried on within this state by a nonresident, such as contracts for construction and similar contracts.

5. The distributive share of a nonresident beneficiary of an estate or trust, limited, however, to the portion thereof subject to Iowa income tax in the hands of the nonresident.

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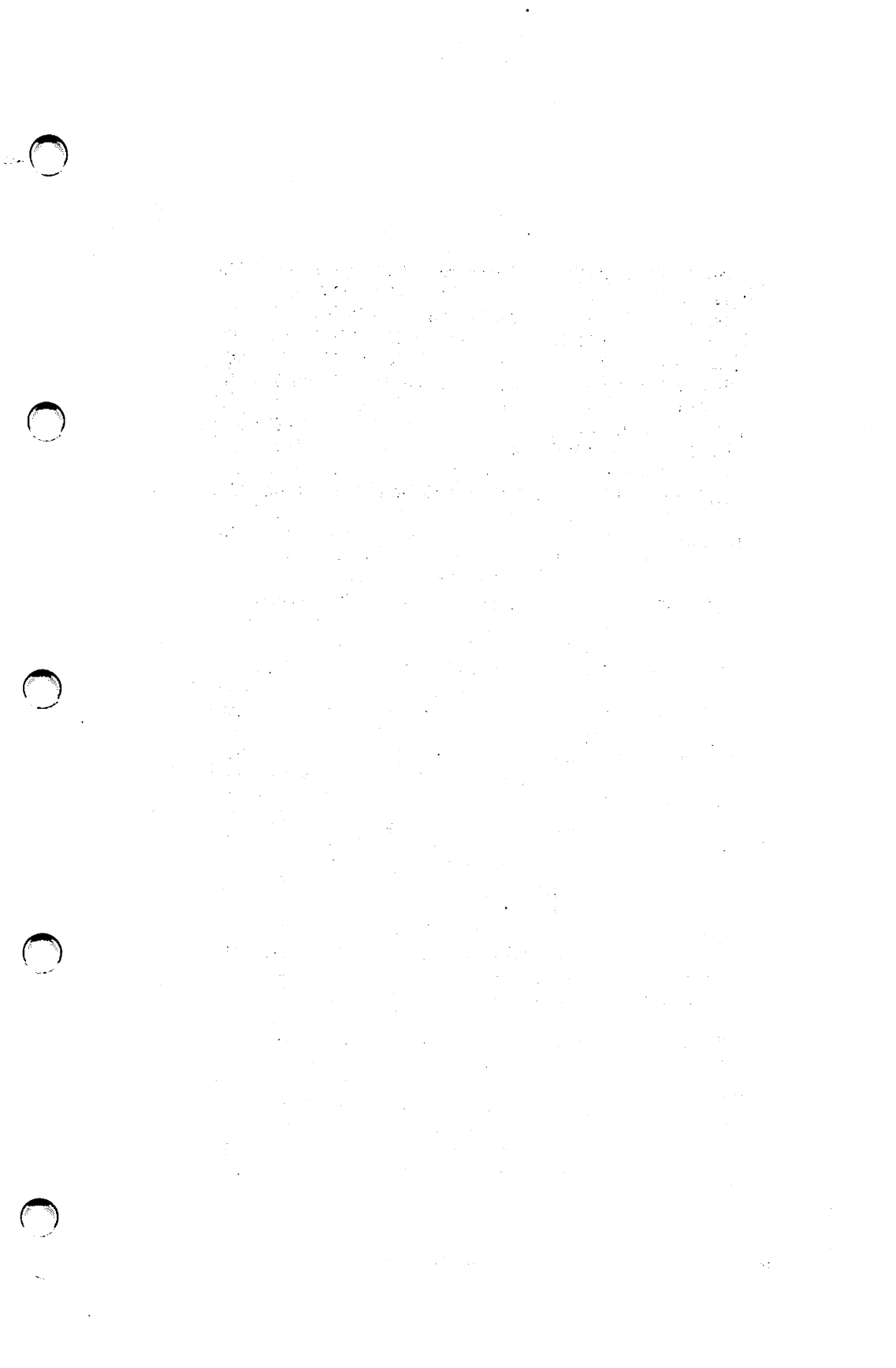
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SECRETARY OF STATE[721]

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721—21.500(277) Signature requirements for school director candidates. The number of signatures required to be filed by candidates for the office of director in the regular school election shall be calculated from the number of registered voters in the district on May 1 of the year in which the election will be held. Candidates who are seeking election in districts with election plans as specified in Iowa Code section 275.12(2) "b" and "c," where the candidate must reside in a specific director district, but is voted upon by all of the electors of the school district, shall be required to file a number of signatures calculated from the number of registered voters in the whole school district. Candidates who will be voted upon only by the electors of a director district shall be required to file a number of signatures calculated from the number of registered voters in the director district in which the candidate resides and seeks to represent.

If a special election is to be held to fill a vacancy on the school board, the number of registered voters on the first day of the month preceding the date the commissioner receives notice of the special election shall be used to calculate the number of signatures required for the special election.

This rule is intended to implement Iowa Code sections 277.4 and 279.7.

721—21.501 to 21.599 Reserved.

721—21.600(43) Primary election signatures—plan three supervisor candidates. The minimum number of signatures needed by candidates for the office of county supervisor elected under plan three, where candidates are voted upon only by the voters of the supervisor district, shall be determined by one of the two following methods.

21.600(1) If there were 5,000 or more votes cast in the supervisor district for a political party's candidate for governor or for president of the United States, the minimum number of signatures needed is 100.

21.600(2) If there were less than 5,000 votes cast in the supervisor district for a political party's candidate for governor or for president of the United States, the minimum number of signatures is determined by using one of the following formulas:

Democratic candidate's signature requirement: $([AD + S] + VD) \times .02$

Republican candidate's signature requirement: $([AR + S] + VR) \times .02$

AD = the number of absentee votes received in the entire county by the Democratic party's candidate for governor or for president of the United States in the previous general election.

AR = the number of absentee votes received in the entire county by the Republican party's candidate for governor or for president of the United States in the previous general election.

S = the number of supervisor districts in the county (3 or 5).

VD = the number of votes cast in the supervisor district for the Democratic party's candidate for governor or for president of the United States in the previous general election. (If this number is 5,000 or more, the minimum number of signatures needed is 100.)

VR = the number of votes cast in the supervisor district for the Republican party's candidate for governor or for president of the United States in the previous general election. (If this number is 5,000 or more, the minimum number of signatures needed is 100.)

This rule is intended to implement Iowa Code section 43.20(1) "d."

721—21.601(43) Plan III supervisor district candidate signatures after a change in the number of supervisors. After the number of supervisors has been increased or decreased pursuant to Iowa Code section 331.203 or 331.204, the signatures for candidates at the next primary and general elections shall be calculated as follows:

21.601(1) Primary election. Divide the total number of votes cast in the county at the previous general election for the office of president or for governor, as applicable, by the number of supervisor districts and multiply the quotient by .02. If the result of the calculation is less than 100, the result shall be the minimum number of signatures required. If the result of the calculation is greater than or equal to 100, the minimum requirement shall be 100 signatures.

21.601(2) Nominations by petition. If the effective date of the change in the number of districts was later than the date specified in Iowa Code section 45.1(6), divide the total number of registered voters in the county on the date specified in Iowa Code section 45.1(6) by the number of supervisor districts and multiply the quotient by .01. If the result of the calculation is less than 150, the result shall be the minimum number of signatures required. If the result of the calculation is greater than or equal to 150, the minimum requirement shall be 150 signatures.

721—21.602 to 21.799 Reserved.

721—21.800(422B) Local sales and services tax elections.

21.800(1) Petitions requesting imposition of local sales and services taxes shall be filed with the county board of supervisors.

a. The petition shall be signed by eligible electors equal in number to at least 5 percent of the persons in the whole county who voted at the last preceding state general election. Each petition shall include:

(1) A statement in substantially the following form: We the undersigned eligible electors of _____ County hereby request imposition of a local sales and services tax.

(2) Each person signing the petition shall add the person's address (including street number, if any) and the date that the person signed the petition.

b. Within 30 days after receipt of the petition, the supervisors shall provide written notice to the county commissioner of elections directing that an election be held to present to the voters of the entire county the question of imposition of a local sales and services tax. In the notice the supervisors shall propose a specific date for the election.

c. The proposed election date shall be at least 75 days, but not more than 90 days, after the date upon which notice is given to the commissioner. The local option tax election may be held in conjunction with a state general election, or at a special election held at any time other than the time of a city regular election. However, if the date proposed by the supervisors conflicts with another scheduled election as defined in Iowa Code section 47.6(2), the commissioner shall notify the supervisors of this fact. The supervisors shall propose another date for the special election within 7 days of receiving notice from the commissioner.

21.800(2) As an alternative to the method of initiating a local option tax election described in subrule 21.4(1), governing bodies of cities and the county may initiate a local option tax election by filing motions with the county auditor pursuant to Iowa Code section 422B.1(3) "b" requesting submission of a local option tax to the qualified electors. Within 30 days of receiving a sufficient number of motions, the county commissioner shall, in consultation with the governing bodies of the cities and with the board of supervisors, set a date for the local option tax election. The election shall be held no sooner than 105 days nor later than 120 days after the date upon which the commissioner received the motion triggering the election. If this would result in the special election being held at a time of a conflicting election as defined by Iowa Code section 47.6 or on a date upon which special elections are forbidden to be held by Iowa Code section 39.2(1), the election may be held on a date as close as possible to the required time period.

21.800(3) Notice of local sales and services tax election.

a. Not less than 60 days before the date that a local sales and services tax election will be held, the county commissioner of elections shall publish notice of the ballot proposition. The notice does not need to include sample ballots, but shall include all of the information that will appear on the ballot for each city and for the voters in the unincorporated areas of the county.

b. The city councils and the supervisors shall provide to the county commissioner the following information to be included in the notice and on the ballots:

(1) The rate of the tax.

(2) The date the tax will be imposed (which shall be the next implementation date provided in Iowa Code section 422B.9 following the date of the election and allowing for not less than 40 days' notice to be given to the director of revenue and finance, except that an election to impose a local option tax on a date immediately following the scheduled repeal date of an existing similar tax may be held at any time in the 14 months before the scheduled repeal date and allowing for not less than 40 days' notice to be given to the director of revenue and finance). The imposition date shall be uniform in all areas of the county voting on the tax at the same election.

(3) The approximate amount of local option tax revenues that will be used for property tax relief in the jurisdiction.

(4) A statement of the specific purposes other than property tax relief for which revenues will be expended in the jurisdiction.

c. The information to be included in the notice shall be provided to the commissioner by the city councils of each city in the county not later than 67 days before the date of the election. If a jurisdiction fails to provide the information in 21.4(3)"b"(3) and 21.4(3)"b"(4) above, the following information shall be substituted in the notice and on the ballot:

(1) Zero percent (0%) for property tax relief.

(2) The specific purpose for which the revenues will otherwise be expended is: Any lawful purpose of the city (or county).

d. The notice of election provided for in Iowa Code section 49.53 shall also be published at the time and in the manner specified in that section.

21.800(4) Definitions.

"*Abstract of ballot*" means abstract of votes.

This rule is intended to implement Iowa Code sections 422B.1 and 422B.9.

721—21.801(422B) Form of ballot for local option tax elections. If questions pertaining to more than one of the authorized local option taxes are submitted at a single election, all of the public measures shall be printed on the same ballot. The form of ballots to be used throughout the state of Iowa for the purpose of submitting questions pertaining to local option taxes shall be as follows:

21.801(1) Local sales and services tax propositions. Sales and services tax propositions shall be submitted to the voters of an entire county. If the election is being held for the voters to decide whether to impose the tax in a county where a local option sales and services tax has previously been approved for part of the county, the question of imposition shall be voted upon in all parts of the county where the tax has not been approved. If the election is being held for the voters to decide whether to repeal the tax in a county where a local option sales and services tax has previously been approved for part of the county, the question of repeal shall be voted upon in all parts of the county where the tax was previously imposed. If the election is being held for the voters to decide whether to change the rate or use of the tax in a county where a local option sales and services tax has previously been approved for part of the county, the question of rate or use change shall be voted upon in all parts of the county where the tax was previously imposed.

The ballot submitted to the voters of each incorporated area and the unincorporated area of the county shall show the intended uses for that jurisdiction. The ballot submitted to the voters in contiguous cities within a county shall show the intended uses for each of the contiguous cities. The ballots shall be in substantially the following form:

a. Imposition question for voters in a single city or the unincorporated area of the county:

(Insert letter to be assigned by the commissioner)

SHALL THE FOLLOWING PUBLIC MEASURE BE ADOPTED? YES
NO

Summary: To authorize imposition of a local sales and services tax in the [city of _____] [unincorporated area of the county of _____], at the rate of _____ percent (_____ %) to be effective on _____ (month and day), _____ (year).

(Insert in substantially the following form the entire text of the proposed public measure immediately below the summary on all paper ballots as provided in Iowa Code section 49.45, or place on the left-hand side inside the curtain of each voting machine as provided in Iowa Code section 52.25. Counties using special paper ballots which are read by computerized tabulating equipment may summarize the question on the ballot and post the complete text as provided in Iowa Code section 52.25.)

A local sales and services tax shall be imposed in the [city of _____] [unincorporated area of the county of _____] at the rate of _____ percent (_____ %) to be effective on _____ (month and day), _____ (year).

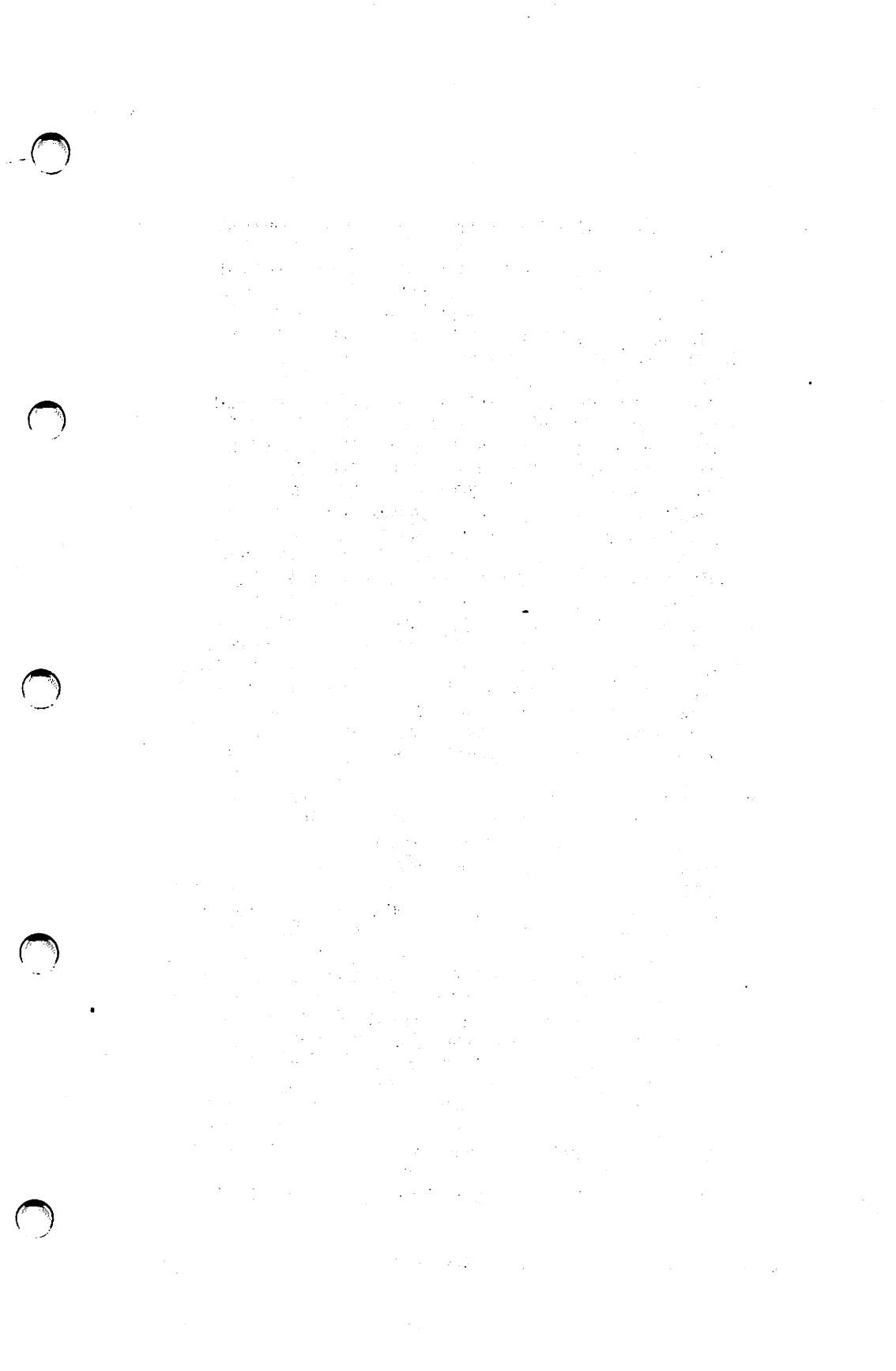
Revenues from the sales and services tax shall be allocated as follows:
(Choose one or more of the following:)

- [_____ for property tax relief (insert percentage or dollar amount)]
- [_____ for property tax relief (insert percentage or dollar amount) in the unincorporated area of the county of _____]
- [_____ for property tax relief (insert percentage or dollar amount) in the county of _____]

The specific purpose (or purposes) for which the revenues shall otherwise be expended is (are):

(List specific purpose or purposes)

- [Filed emergency 4/22/76—published 5/17/76, effective 4/22/76]
- [Filed emergency 6/2/76—published 6/28/76, effective 8/2/76]
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- [Filed emergency 5/10/89—published 5/31/89, effective 5/10/89]
- [Filed emergency 6/9/89—published 6/28/89, effective 7/1/89]
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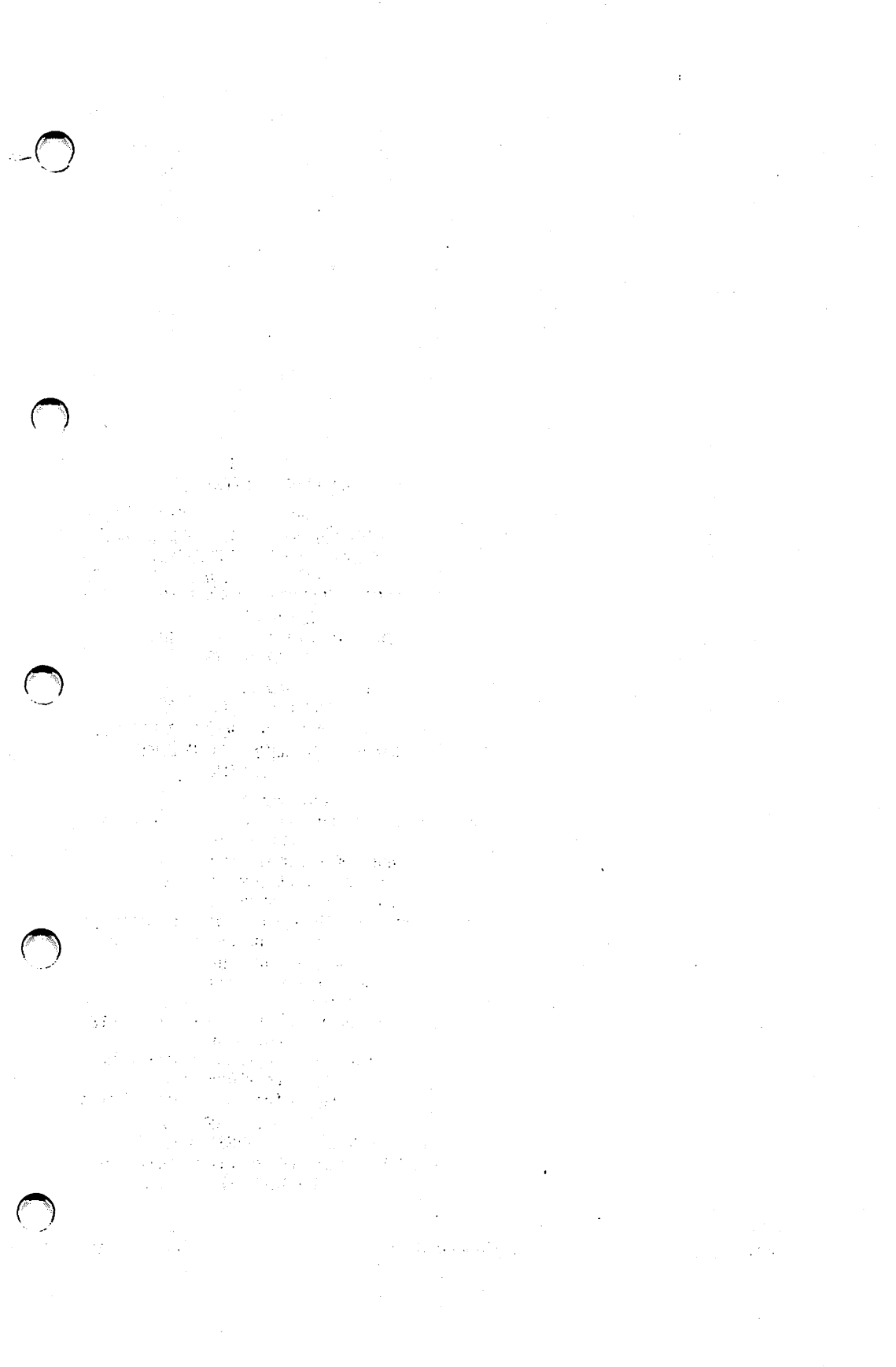
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CHAPTER 830
RAIL ASSISTANCE PROGRAM

[Prior to 6/3/87, Transportation Department [820]—(10,C)Ch 1]

761—830.1(327H) Definitions. The following terms when used in this chapter shall have the following meanings:

Branchline. A rail line that carries less than five million gross ton miles per mile per year, including its terminal and yard facilities, spurs, sidings, switches, and connections.

Economic analysis. An analysis of the present value of the project's estimated economic costs, to estimate the economic efficiency of resource utilization for a proposed project from a social perspective.

Economic development project. A project involving the restoration, improvement, conservation, or construction of a branchline or mainline and resulting in the nonspeculative creation of new jobs or income or the retention of existing jobs or income that would otherwise be lost to Iowa.

Financial analysis. An analysis of the distribution of estimated financial benefits of the project. It shall include an analysis of the financial benefits to the public resulting from the project versus the financial costs of public contributions to the project. Where feasible, it shall also include an estimate of the financial benefits to the carrier resulting from the project versus the financial costs to the carrier of its participation in the project. It may also include a cash flow analysis of the carrier's ability to perform the project and to repay any loans.

Mainline. A rail line that carries at least five million gross ton miles per mile per year, including its terminal and yard facilities, spurs, sidings, switches, and connections.

Other sources. A financial participant in a project other than the federal local rail assistance program or the Iowa rail assistance program.

Rail assistance project. A project involving the restoration, improvement, conservation or construction of a branchline or mainline used in common carrier freight service.

761—830.2(327H) General information.

830.2(1) The department shall administer state and federal funds available for projects under this chapter and shall determine the percentages of these funds to be used for each project. State funds are governed by Iowa Code chapter 327H.

830.2(2) Information regarding rail assistance projects is available from the department's office of program management; telephone (515)239-1145. Information regarding economic development projects is available from the department's office of project planning; telephone (515)239-1225. Written communications should be directed to the attention of the appropriate office at the following address: (name of office), Department of Transportation, 800 Lincoln Way, Ames, Iowa 50010.

761—830.3(327H) Rail assistance projects.

830.3(1) Eligibility. A project must meet the definition of "rail assistance project" in rule 830.1(327H) to be eligible for rail assistance project funding.

830.3(2) Application. The applicant shall submit the application for a rail assistance project to the office of program management. Applications may be submitted at any time. The department shall evaluate each rail assistance project application within a reasonable period of time.

830.3(3) Participation requirements. A rail assistance project shall require a minimum participation of 20 percent of eligible costs from other sources.

830.3(4) Evaluation and approval.

a. The department shall evaluate each rail assistance project application and shall rank the projects in priority order. Priority shall be based on immediacy of need, funding availability, economic analysis, financial participation by other sources, financial analysis and other identifiable benefits to the state. An application for completion of a phased project may be given funding preference.

b. The department and the applicant shall negotiate a contract specifying the obligations and responsibilities of each. The contract shall be submitted to the commission for approval. If appropriate, the department shall submit the contract to the federal railroad administration and shall apply for federal funds.

761—830.4(327H) Economic development projects.**830.4(1) Eligibility.**

a. A project must meet the definition of “economic development project” in rule 830.1(327H) to be eligible for economic development project funding.

b. The applicant for an economic development project must be a county or a city.

c. The location decision for a project must be contingent upon economic development funding.

d. The factors listed in Iowa Code section 315.11 shall be considered when determining project eligibility.

830.4(2) Application. The applicant city or county shall submit the application for an economic development project to the office of project planning.

830.4(3) Participation requirements. An economic development project shall require a minimum participation of 20 percent of eligible costs from other sources.

830.4(4) Evaluation and approval.

a. The department shall evaluate each economic development project application within a reasonable period of time and may consult with other agencies or organizations having economic development responsibilities.

b. If, upon completion of a project review, the application meets the eligibility criteria for an economic development project, department staff shall present the application to the commission for action at its next meeting.

c. The decision to fund an economic development project application shall be the responsibility of the commission.

(1) The commission may fund all or any part of an application and may make a conditional funding commitment. In making its decision, the commission shall consider the amount of total capital investment per dollar requested, the amount of dollars requested per job created or retained, the amount of financial participation in the project from other sources, other potential benefits of the project, and the transportation need and justification.

(2) The commission may deny funding for a project that will not result in net job creation or job retention from a statewide point of view; for instance, a project that simply involves the relocation of jobs or other economic activity within the state.

d. After commission approval, the department and the applicant shall negotiate a final contract. The contract shall specify the responsibilities for project planning, design, right of way, contracting, construction and materials inspection, documentation, ownership, maintenance and security of financing.

- e.* The commission may revoke a funding commitment, seek repayment of funds loaned or granted, or take both actions when the applicant fails to fulfill the terms of the contract.
- f.* Funds committed for a project are for a maximum dollar amount.
Cost overruns are the responsibility of the applicant.

761—830.5 Reserved.

761—830.6(327H) Implementation.

830.6(1) *Preaduit.* Prior to execution of the contract, the department may perform a preaudit evaluation of the applicant or any other source. The preaudit evaluation may include: An examination of accounting methods and procedures to determine the ability to segregate and accumulate costs to be charged against the project and to be charged for subsequent maintenance of the rail line; an examination of cost factors to ensure their propriety and allowability; and an examination of any other general information available which might be pertinent or necessary in determining auditability.

830.6(2) *Eligible costs.* Costs eligible for reimbursement shall be stated in the contract. Contract administration expenses incurred by other sources are not eligible for reimbursement.

830.6(3) *Subcontracts.* A negotiated subcontract to be billed as a reimbursable project cost by other sources is subject to departmental approval before the subcontract work is performed.

830.6(4) *Project reporting.* The applicant or other sources shall submit to the department written notice when work begins on a project, monthly progress reports, itemized billing statements pursuant to the contract, written notice of project completion, and a final billing statement of all project costs.

830.6(5) *Project monitoring.* The department shall monitor the project work through periodic on-site inspections and shall conduct a final inspection of work completed and material used. The department may conduct a final audit of all project costs.

These rules are intended to implement Iowa Code chapter 327H.

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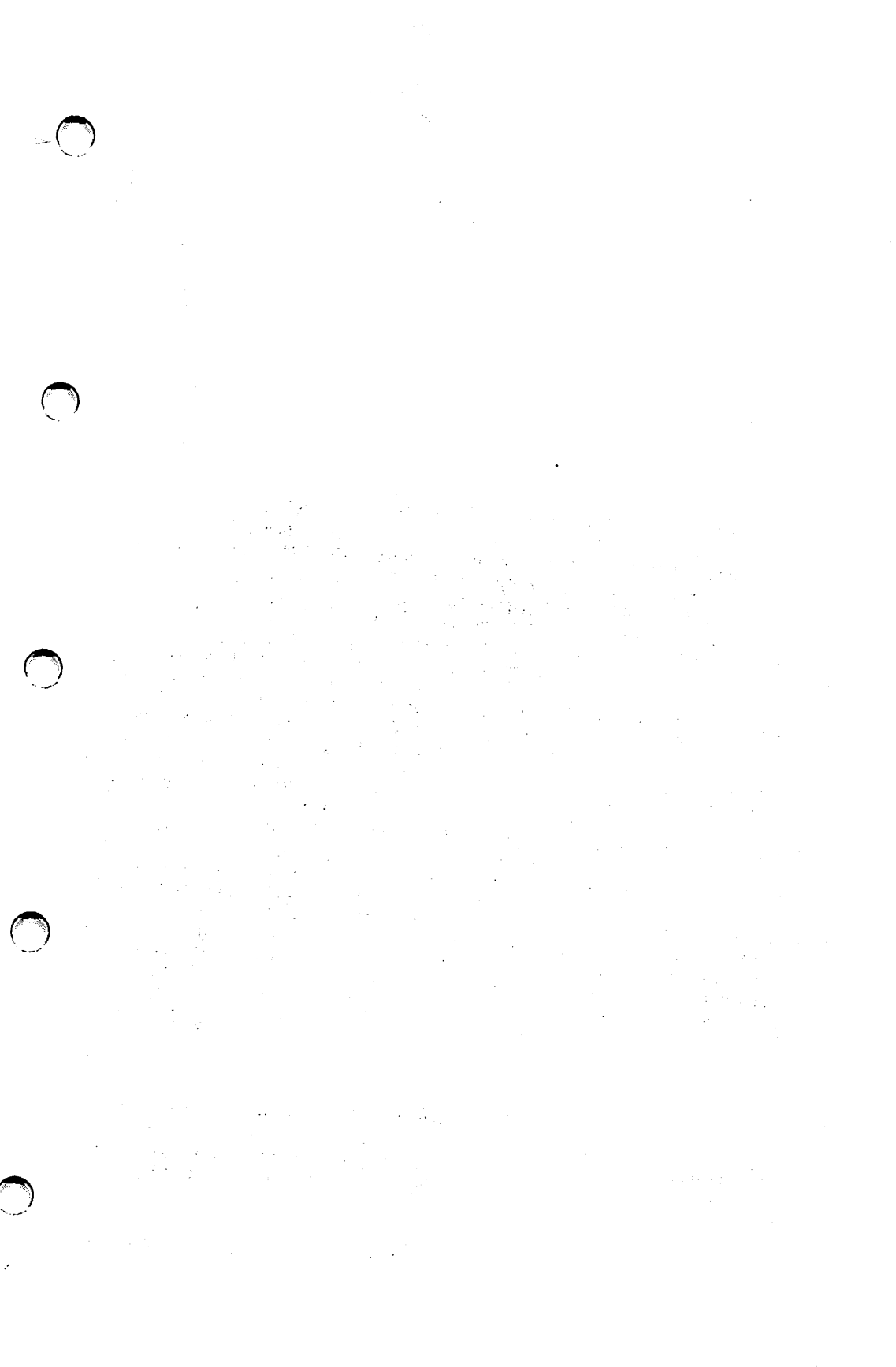
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CHAPTER 831
RAILROAD REVOLVING LOAN FUND

761—831.1(327H) Introduction. The railroad revolving loan fund program provides funding in the form of loans for railroad-related improvement projects. The railroad revolving loan fund is established in Iowa Code section 327H.20A.

761—831.2(327H) Definitions.

"Rail facilities" includes, but is not limited to, rail lines including terminals, yards, spurs, sidings, switches, and connections; railroad bridges and tunnels; rail intermodal terminals; highway bridges over rail lines; highway underpasses under rail lines; track facilities and depots to facilitate rail passenger service; and highway-railroad grade crossing surfaces and signals.

761—831.3(327H) Information and forms. Information, instructions and application forms may be obtained from the Office of Program Management, Department of Transportation, 800 Lincoln Way, Ames, Iowa 50010; telephone (515)239-1145. Completed applications shall be submitted to this address.

761—831.4(327H) Purpose of program. The purpose of the railroad revolving loan fund program is to provide loans for projects that will improve railroad capacity, efficiency, or safety in Iowa.

761—831.5(327H) Funding.

831.5(1) The commission is responsible for determining the projects to be funded. See rule 761—831.11(327H).

831.5(2) All project costs exceeding the commission's funding commitment are the responsibility of the applicant.

831.5(3) The commission need not commit all funds available during a fiscal year. Unexpended funds shall be retained for programming during future fiscal years.

831.5(4) Railroad revolving loan funds may be used as matching funds for other state or federal projects or programs that qualify under this chapter.

831.5(5) Railroad revolving loan funds may be used to refinance a completed project that would have otherwise qualified under this chapter.

761—831.6(327H) Project criteria.

831.6(1) All rail facilities, as defined in rule 761—831.2(327H), are eligible for project funding except facilities to be used solely for railroad passenger tourism.

831.6(2) The minimum loan funding for a project is \$100,000.

831.6(3) The maximum loan term for a project is 15 years from the date of project completion.

831.6(4) The maximum interest rate for a project is the interest rate earned by the state general fund in the last full state fiscal year.

831.6(5) No matching funds are required for a project, but the proposed use of matching funds is part of the project evaluation.

831.6(6) An applicant must demonstrate that its project will improve railroad capacity, efficiency, or safety in Iowa.

831.6(7) An applicant must demonstrate its ability to repay the loan through one or more of the following: positive loan repayment history, first or second mortgage, personal guarantees, pledge of public revenue by a public organization, line of credit from a bank or lending institution, or other demonstration of ability to repay acceptable to the department.

761—831.7(327H) Applicant eligibility. A railroad corporation, a county, a city, a metropolitan planning organization, a regional planning affiliation, or a railroad user is eligible to apply for funding. Joint applications are allowed, but the applicants shall designate one principal contact.

761—831.8(327H) Eligible and ineligible project costs.

831.8(1) Eligible costs. Activities or items eligible for funding include, but are not limited to, the following:

- a. Modernization, upgrading or reconstruction of existing rail facilities.
- b. Construction of new rail facilities.
- c. Railroad bridge and culvert modernization, replacement or removal.
- d. Construction or improvement of separation structures over or under a rail line.
- e. Drainage, erosion control and bank stabilization on railroad right of way or on land affecting railroad right of way.
- f. Highway-railroad grade crossing improvements including signal upgrades, signal installation, surface repairs, removal of crossings, and realignment of existing crossings.

g. Right of way acquisition costs.

h. Facilities and buildings to improve Amtrak rail passenger service in Iowa.

i. Elimination of low or close railroad clearances.

831.8(2) Ineligible costs. The following activities or items are ineligible for funding:

- a. Except for refinancing, any cost incurred prior to commission approval of funding for a project.
- b. Routine maintenance of a rail facility.
- c. Contract administration.
- d. Freight car or locomotive lease, purchase, or repair.
- e. Feasibility studies, environmental studies and major investment studies.

761—831.9 Reserved.

761—831.10(327H) Application.

831.10(1) Submission.

a. The applicant shall submit an original and three copies of a project application. The application shall be submitted to the office of program management and may be submitted at any time.

b. If an application is incomplete, the department shall return the application to the applicant to be resubmitted when it is complete.

c. An application may be withdrawn at any time.

d. The date of receipt of an application is the day a complete application is received in the office of program management.

831.10(2) Contents of application. Each application shall contain the following:

a. The applicant's name, address, telephone number, facsimile number, E-mail address, if available, and the name of a designated contact person for the project.

b. A description of the project proposed for loan funding including a map or sketch plan.

c. The justification for the project, stating how the project will improve railroad capacity, efficiency or safety in Iowa.

d. An itemized cost estimate for the project and the name and telephone number of the person responsible for its preparation.

e. A time schedule for the completion of the project.

f. The total amount of loan funds requested, the amount of matching funds to be provided for the project, and the source of the matching funds.

g. The proposed loan term and interest rate and a detailed description of the applicant's ability to repay the loan. See subrule 831.6(7).

h. Audited financial statements for the past two years plus a current balance sheet for the entity that is to repay the loan.

761—831.11(327H) Evaluation and approval.

831.11(1) The department shall review the contents of each application for verification and may visit the project site. Department staff shall develop a funding recommendation for each complete application for submission to the commission.

831.11(2) The commission shall be responsible for determining the projects to be funded and the amount to be funded for each project, subject to the availability of railroad revolving loan funds. The commission may fund all or part of a project and may make funding dependent upon adherence to a time schedule or fulfillment of specified conditions.

831.11(3) In making its decision to fund a project, the commission shall consider the project's demonstrated ability to meet the purpose of the program, the strength of the applicant's ability to repay the loan, the amount of matching funds to be provided, the proposed interest rate, and loan term if it is lower than the program maximum.

761—831.12(327H) Project agreement and administration.

831.12(1) Agreement. After the commission has approved loan funding for a project, an agreement shall be negotiated and executed between the department and the applicant.

a. The agreement shall specify the scope of the project, the approved funding level, and other conditions for project funding.

b. As applicable, the agreement shall address responsibilities for project design, right of way acquisition, contracting, construction, and materials inspection; documentation required for payment by the department; audit requirements; and maintenance of the completed project.

831.12(2) Reimbursement. The department shall reimburse the applicant for actual eligible project costs not to exceed the percentage match and the total amount approved by the commission.

831.12(3) Audits.

a. Prior to execution of the agreement, the department may perform a preaudit evaluation of the applicant or any other source. A preaudit evaluation typically includes an examination of accounting methods to determine the ability to segregate and accumulate costs to be charged against the project, and an analysis of costs factors to ensure their propriety and allowability.

b. The department may conduct a final audit of all project costs.

831.12(4) Default. The commission may revoke a funding commitment, seek repayment of funds loaned or take both actions if the applicant fails to fulfill the terms of the agreement.

These rules are intended to implement Iowa Code section 327H.20A.

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CHAPTERS 832 to 839

Reserved

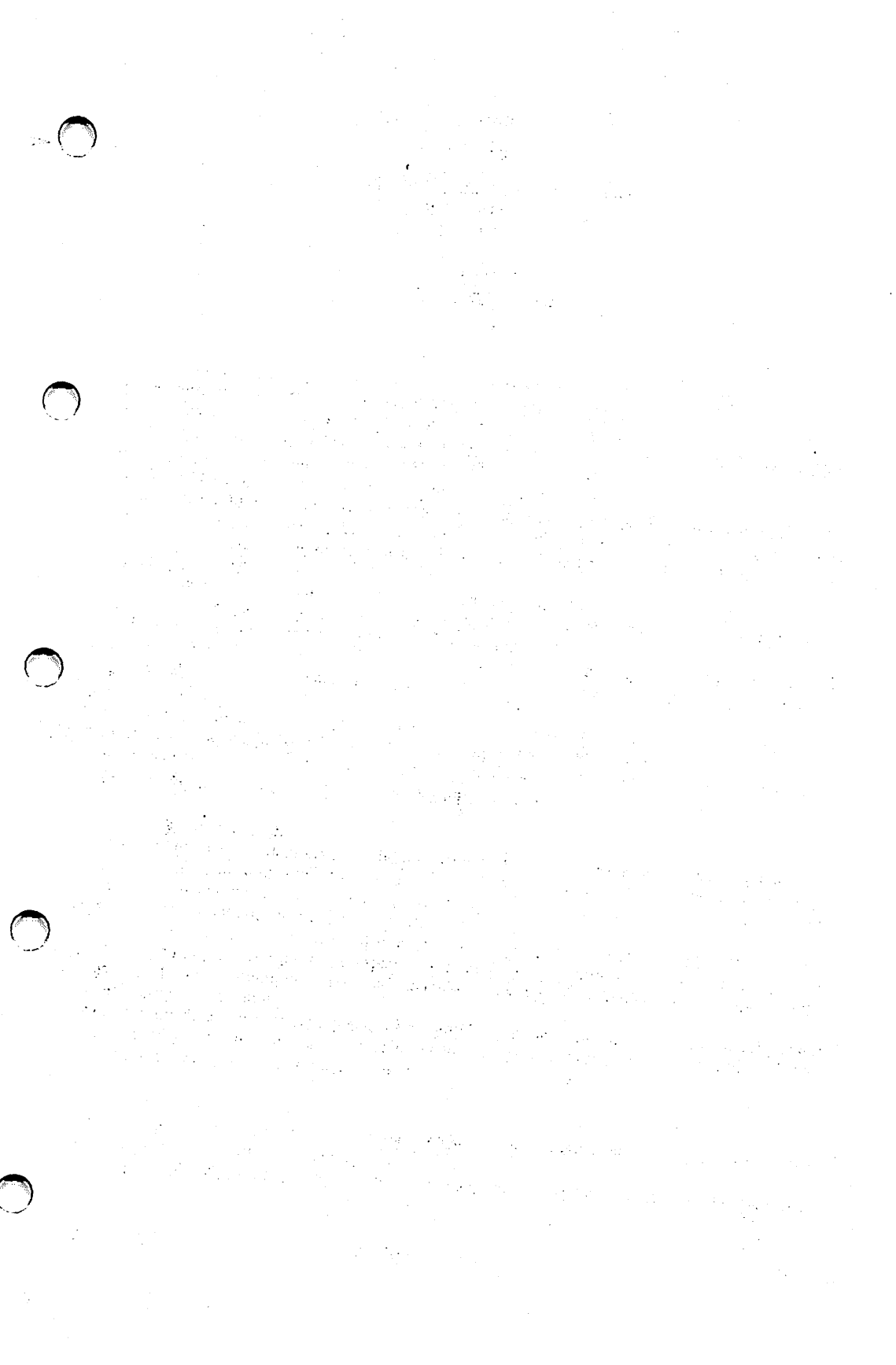
CHAPTER 840

RAIL RATE REGULATION

Rescinded IAB 5/5/99, effective 6/9/99

CHAPTERS 841 to 899

Reserved



CHAPTER 1
ORGANIZATION, PURPOSE, PROCEDURES AND DEFINITIONS

[Prior to 3/21/90, see Voter Registration Commission[845], Ch 1]

821—1.1(47) Voter registration commission composition. The commission consists of four members: the state commissioner of elections, and the chairpersons of the two state political parties whose candidates for President of the United States or for governor, as the case may be, in the most recent general election, received the greatest and the second greatest number of votes, or their designees, and a person appointed by the president of the Iowa State Association of County Auditors.

821—1.2(47) State registrar of voters. The state commissioner of elections is designated the state registrar of voters. The state registrar is responsible for the regulation of the preservation, preparation and maintenance of voter registration records and the preparation of precinct election registers for all elections administered by any county commissioner of elections. This regulation activity is in accordance with the policies of the voter registration commission.

This rule is intended to implement Iowa Code section 47.7(1).

821—1.3(47) General operating rules.

1.3(1) The chair of the commission is the state commissioner of elections or the state commissioner's designee.

1.3(2) Any member of the commission, including the chair, may make and second any motion.

1.3(3) To prevail, a motion, declaratory ruling, or ruling in a contested case must receive the votes of a majority of commissioners present and voting.

1.3(4) Rescinded IAB 10/25/95, effective 10/6/95.

1.3(5) A designee of a statutory member shall present a letter from the statutory member appointing the designee.

1.3(6) A quorum of the commission is four members. No official action may be taken in the absence of a quorum.

1.3(7) Any member of the public may petition the commission concerning any subject under the commission's authority. Any member of the public may propose new rules or modifications to existing rules of the commission. Petitions or proposed rule changes may be in letter form, filed with the registrar and addressed to the commission. Any such letter must include a discussion of the problem or issue, addressing and supporting rationale for any proposed action by the commission. In addition, any such petition must state the legal authority which petitioner believes confers jurisdiction over the subject matter to the commission. Action on petitions received shall be taken not later than the second regular commission meeting following receipt of the petition. In the event a hearing is held on an issue, the hearing shall be scheduled within 90 days of receipt of the petition.

821—1.4(47) Voter registration staff.

1.4(1) Voter registration system. Under the general direction of the state registrar of voters, the director of voter registration conducts and directs those activities necessary to implement and maintain the statewide voter registration system. The voter registration staff includes clerical and technical personnel temporarily or permanently assigned by the registrar to support the voter registration function.

1.4(2) Intergovernmental relations. The voter registration director and staff are responsible for working with and assisting county commissioners in performing their voter registration duties under the law, including acquisition of voter registration data processing services, preparation of election registers, maintaining voter registration files, processing registration applications and related activities. The director and staff are responsible for communicating with state and federal court officials to arrange for the provision of information from voter registration records to the courts for use in the jury selection process. The director and staff are also responsible for ensuring the transfer of electronic registration data from registration agencies and the department of transportation to the appropriate county commissioner.

1.4(3) Staff support to the commission. The registrar and voter registration staff provide support services to the commission as required in the performance of the commission's official duties.

821—1.5(47) Declaratory ruling by voter registration commission. Any member of the commission or the public may petition the commission for a declaratory ruling as to the applicability of any statutory provision, rule or other written statement of law or policy. The petition must be filed with the registrar at least seven days before the regular or special meeting at which the petition is to be considered. The registrar shall provide a copy of the petition to each voter registration commissioner at least four days before the meeting. Declaratory rulings shall be made in writing and placed on file with the registrar.

821—1.6(47) Contested cases.

1.6(1) Hearings. Hearings for contested cases under the authority of the voter registration commission shall be presided over by the voter registration commission. Notice shall be given, the hearing conducted and the records of the hearing kept in accordance with Iowa Code section 17A.12.

1.6(2) Rules of evidence. Rules of evidence shall be those enumerated under Iowa Code section 17A.14.

821—1.7(47) Definitions. The following terms have the meanings assigned to them by this rule whenever the terms appear in these rules, unless the context of usage clearly requires otherwise.

"Agency" means a voter registration agency and the office of driver services, department of transportation.

"Commission" or **"voter registration commission"** means the voter registration commission as defined in Iowa Code section 47.8.

"Commissioner" or **"county commissioner"** means the county commissioner of registration as defined in Iowa Code section 48.1.

"Driver license clerk" means an employee of the office of driver services, department of transportation, who has face-to-face contact with clients seeking a driver license or nonoperator identification card, or a county employee in the office of the county treasurer who performs a similar function.

"NCOA" means National Change of Address, and refers to the collection and distribution of information by the United States Postal Service or its licensed vendors; programs instituted to support that collection and distribution; or the information itself.

"Registrar" or **"state registrar"** means the state registrar of voters as defined in Iowa Code section 47.7.

"Voter registration agency" means any department, division, or bureau in state government which provides voter registration services pursuant to Iowa Code section 48A.18. A department, division, or bureau which merely makes mail-in voter registration applications available to its clients, employees, or general public is not a voter registration agency, nor is the office of driver services, department of transportation.

"Voter registration commissioner" means a member of the voter registration commission.

These rules are intended to implement Iowa Code sections 47.7 and 47.8.

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CHAPTER 2
VOTER REGISTRATION APPLICATIONS, ACCEPTABILITY,
REGISTRATION DATES, AND EFFECTIVE DATES

[Prior to 3/21/90, see Voter Registration Commission[845], Ch 2]

821—2.1(48A) Required elements. In addition to the spaces required by Iowa Code section 48A.11, every voter registration form shall include room for the county commissioner to make notations indicating such items as the date the form was received, the precinct and school district of the registrant, any other special district or note deemed necessary or appropriate by the commissioner, and the date the registration is effective. The notations may be on the reverse of the form.

821—2.2(48A) Agency code. In addition to the spaces and statements required to be included on registration forms by Iowa Code section 48A.11 and rule 2.1(48A), registration forms used by voter registration agencies shall contain a code, to be devised by the registrar, indicating the type of agency. The agency type code shall be on a perforated stub attached to the registration form.

821—2.3(48A) Federal mail-in application. Rules 2.1(48A) and 2.2(48A) do not apply to the mail voter registration form prescribed by the federal election commission, which shall be accepted in accordance with Iowa Code section 48A.12 and shall not be used by voter registration agencies.

821—2.4(48A) Paperless (electronic) registration forms. Any voter registration agency and the office of driver services, department of transportation, may devise a system of collecting registration applications without using paper forms, in accordance with the following restrictions:

2.4(1) All information required to be disclosed on a voter registration form shall be collected by the agency and captured electronically. The applicant shall also be asked to disclose the optional information solicited by the form if that information is not captured as a part of the agency's own record-making process.

2.4(2) The applicant shall be shown a list of the eligibility requirements for registering to vote and the penalties for falsely registering, printed in large, easy-to-read type, and shall be advised to read them.

2.4(3) The application to register to vote and the signature of the applicant shall be recorded in digitized form in the agency's computer system and shall be kept permanently by the agency. The system shall ensure that neither the application form nor the signature, once captured, can be edited.

2.4(4) The agency shall develop procedures so that the digitized signature can be retrieved and reproduced on paper. Within three working days of receipt of an order from a state or federal court, the agency shall provide a reproduction of the requested application and signature.

2.4(5) The agency shall transmit electronic registration records to the registrar in accordance with 821—Chapter 8.

821—2.5(48A) Acquisition of registration forms. To ensure that forms used by the various voter registration agencies contain no distinguishing characteristics that could be used to identify the agency from which the form came, all agency forms shall be ordered through the state registrar of voters. The registrar shall negotiate a contract for the procurement of the forms in accordance with all procurement laws and rules.

821—2.6(48A) Production of forms. Any person or organization, except voter registration agencies, may cause the printing and production of the mail-in voter registration application. Applications so produced shall be identical in size, shape, weight and similar in color of paper, type size, and color of ink to those available from the registrar, except that the independently produced applications may not contain an agency type code, may be preaddressed to a particular county commissioner on the reverse of the form, and may contain postage.

821—2.7(48A) Availability of forms. Mail-in registration applications shall be available for purchase, at the cost of production, from the state registrar of voters. Application forms for an individual's personal use shall be available free of charge at the office of the registrar, all voter registration agencies, and the office of driver services, department of transportation.

821—2.8(48A) Incomplete applications acceptable. No commissioner shall refuse to register or accept an application from an applicant unable to specify the correct ward, precinct, or school district for the applicant's address. The commissioner shall make a determination of the correct political subdivisions from maps, legal descriptions, and other means at the commissioner's disposal.

821—2.9(48A) Optional data not required. No commissioner shall refuse to register or accept an application from an applicant who fails or declines to reveal the applicant's social security number, telephone number or political party affiliation.

821—2.10(48A) Alternate (nonmailable) registration forms. An alternate registration form is authorized for the use of voter registration agencies and nongovernmental organizations engaging in registration programs and registration drives. The form shall contain spaces for all of the required and optional information solicited by the standard form, a list of the qualifications to register to vote, a statement to be signed by the applicant that the applicant is eligible to register to vote, and a statement of the penalty for submission of a false voter registration form. The form shall be the same size as the mail-in form available from the registrar. The face of the form shall contain spaces for all the personal information asked of the applicant, along with the attestation and warning. The reverse of the form may contain the list of qualifications, and may contain space for the county commissioner's notations. The form may be printed as a detachable part of a larger piece, or may be printed by itself. Because registration forms are frequently kept for many years, registration forms shall be printed on paper at least as thick as 20-pound xerographic paper.

The intent of this rule is to make available a mechanism for individuals, groups and organizations to conduct registration drives without requiring them to purchase the relatively expensive mail-in registration forms. To that end, the state registrar shall make available, without charge, a limited quantity of forms as determined by the voter registration commission, and camera-ready copies of a form meeting the requirements of this rule.

821—2.11(48A) Registration forms in languages other than English. Notwithstanding any other provision of these rules, any county commissioner may cause production of any approved voter registration application in a language other than English if the commissioner determines that such a form would be of value in the commissioner's county. The registrar shall assist any county commissioner with the translation of voter registration forms upon the request of the county commissioner.

821—2.12(48A) Date of registration. For the purposes of record keeping and determining timeliness of an application to register to vote, the date of registration of an application received from a source other than the United States Postal Service is the date the application is received by the commissioner, or submitted to a voter registration agency, or submitted to the office of driver services, department of transportation, whichever is earlier. The date of registration of an application delivered to the commissioner by the United States Postal Service is the postage cancellation date on the application or on the envelope containing the application. If the postage cancellation date is missing or illegible, the registration date is the date of the second day preceding the application's receipt in the commissioner's office.

821—2.13(48A) Effective date of registration. Effective dates of registration shall be determined as follows.

2.13(1) If the applicant is at least 18 years of age and registration in the applicant's precinct is not closed due to a pending election, the effective date of registration is the date of registration.

2.13(2) If the applicant is at least 18 years of age and registration is closed in the applicant's precinct due to a pending election, the effective date of registration is the date of the day after the pending election.

2.13(3) If the applicant is less than 18 years of age and registration is not closed in the applicant's precinct due to a pending election, the effective date of registration is the date of the applicant's eighteenth birthday.

2.13(4) If the applicant is less than 18 years of age and registration is closed in the applicant's precinct due to a pending election, the effective date of registration is the date of the day after the pending election, or of the applicant's eighteenth birthday, whichever is later.

These rules are intended to implement Iowa Code chapter 48A.

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