

*State of Iowa*

# Iowa Administrative Code Supplement

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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 February 9, 2000, Biweekly Supplement

[Previous Supplement dated 1/26/00]

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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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\*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.

1. The first part of the document discusses the importance of maintaining accurate records of all transactions.

2. It is essential to ensure that all entries are supported by appropriate documentation and receipts.

3. Regular audits should be conducted to verify the accuracy of the records and identify any discrepancies.

4. The second part of the document outlines the procedures for handling customer complaints and inquiries.

5. All complaints should be addressed promptly and professionally, with a focus on resolving the issue to the customer's satisfaction.

6. It is important to maintain a positive attitude and provide excellent customer service at all times.

7. The third part of the document details the process for managing inventory and stock levels.

8. Regular inventory checks should be performed to ensure that stock levels are accurate and up-to-date.

9. It is crucial to monitor stock levels closely to avoid running out of key products or services.

10. The fourth part of the document describes the methods for analyzing sales data and trends.

11. Sales data should be analyzed regularly to identify patterns, trends, and areas for improvement.

12. This analysis can help inform marketing strategies and optimize the overall performance of the business.

13. The fifth part of the document discusses the importance of maintaining accurate financial records.

14. All financial transactions should be recorded accurately and in a timely manner.

15. Regular financial reviews should be conducted to ensure the accuracy of the records and identify any potential issues.

16. The sixth part of the document outlines the procedures for handling payroll and employee benefits.

17. Payroll should be processed accurately and on time, with all necessary deductions and withholdings.

18. It is important to maintain accurate records of employee benefits and ensure that all employees are properly enrolled.

19. The seventh part of the document describes the process for managing contracts and legal agreements.

20. All contracts should be reviewed carefully and signed by the appropriate personnel.

21. It is essential to maintain accurate records of all contracts and legal agreements.

22. The eighth part of the document discusses the importance of maintaining accurate tax records.

23. All tax-related transactions should be recorded accurately and in a timely manner.

24. Regular tax reviews should be conducted to ensure the accuracy of the records and identify any potential issues.

## AGRICULTURE AND LAND STEWARDSHIP DEPARTMENT[21]

[Created by 1986 Iowa Acts, chapter 1245]

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

Rules under this Department "umbrella" also include  
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**CHAPTER 7**  
**CHILD SUPPORT COLLECTION PROCEDURES**

**21—7.1(159,252J) Licensing actions.** In addition to other reasons specified by statute or rule, the department may refuse to issue a license or permit, or may revoke, suspend, or not renew any license or permit for which it has jurisdiction if the department is in receipt of a certificate of noncompliance from the child support recovery unit, pursuant to the procedures set forth in Iowa Code Supplement chapter 252J.

An applicant, licensee, or permit holder whose application is denied or whose license or permit is denied, suspended, or revoked because of receipt by the department of a certificate of noncompliance issued by the child support recovery unit shall be subject to the provisions of rule 21—7.1(159,252J) and procedures specified in 21—Chapter 2 for contesting departmental actions shall not apply.

**21—7.2 (159,252J) Child support collection procedures.** The following procedures shall apply to actions taken by the department on a certificate of noncompliance pursuant to Iowa Code Supplement chapter 252J.

**7.2(1)** The notice required by Iowa Code Supplement section 252J.8 shall be served upon the applicant, licensee, or permit holder by restricted certified mail, return receipt requested, or personal service in accordance with Rules of Civil Procedure 56.1. Alternatively, the applicant, licensee, or permit holder may accept service personally or through authorized counsel.

**7.2(2)** The effective date of revocation or suspension of a license or permit or the denial of the issuance or renewal of a license or permit, as specified in the notice required by Iowa Code Supplement section 252J.8, shall be 60 days following service of the notice upon the licensee, permit holder, or applicant.

**7.2(3)** Applicants, licensees, and permit holders shall keep the department informed of all court actions and all child support recovery unit actions taken under or in connection with Iowa Code Supplement chapter 252J and shall provide the department copies, within seven days of filing or issuance, of all applications filed with the district court pursuant to Iowa Code Supplement section 252J.9, all court orders entered in such actions, and withdrawals of certificates of noncompliance by the child support recovery unit.

**7.2(4)** All departmental fees for applications, license renewals or reinstatements must be paid by the applicant, licensee, or permit holder before a license will be issued, renewed or reinstated after the department has denied the issuance or renewal of a license or has suspended or revoked a license or permit pursuant to Iowa Code Supplement chapter 252J.

7.2(5) If an applicant, licensee, or permit holder timely files a district court action following service of a department notice pursuant to Iowa Code Supplement sections 252J.8 and 252J.9, the department shall continue with the intended action described in the notice upon receipt of a court order lifting the stay, dismissing the action, or otherwise directing the department to proceed. For the purpose of determining the effective date of revocation or suspension, or denial of the issuance or renewal of a license or permit, the department shall count the number of days before the action was filed and the number of days after the action was disposed of by the court.

These rules are intended to implement Iowa Code Supplement chapter 252J.

[Filed 3/8/96, Notice 1/31/96—published 3/27/96, effective 5/1/96]

**CHAPTERS 8 and 9**  
Reserved

**CHAPTER 10**  
**RURAL REVITALIZATION PROGRAM**  
[Prior to 7/27/88, see 21—Ch 56]  
Rescinded IAB 2/9/00, effective 3/15/00

**CHAPTER 11**  
**APPLE GRADING**  
Rescinded IAB 2/9/00, effective 3/15/00

**CHAPTER 12**  
**RENEWABLE FUELS AND COPRODUCTS**

**21—12.1(159A) Purpose.** The purpose of these rules is to further the economic development of Iowa and to encourage production of the renewable fuel and coproduct industry of Iowa by providing specific funding for technical assistance to any person who is located in Iowa or desiring to locate in Iowa.

**21—12.2(159A) Definitions.**

*“Coordinator”* means the administrative head of the office of renewable fuels and coproducts appointed by the secretary of agriculture as provided in Iowa Code section 159A.3.

*“Coproduct”* means a product other than a renewable fuel which at least in part is derived from the processing of agricultural commodities, and which may include corn gluten feed, distillers grain or solubles, or can be used as livestock feed or a feed supplement.

*“Department”* or *“IDALS”* means the Iowa department of agriculture and land stewardship.

*“Fund”* means the renewable fuels and coproducts fund established pursuant to Iowa Code section 159A.7.

*“Innovative”* means a new or different agricultural product or a method of processing agricultural products which is an improvement over traditional methods in a new, different, or unusual way.

*“Office”* means the office of renewable fuels and coproducts created pursuant to Iowa Code section 159A.3 within the Iowa department of agriculture and land stewardship.

*“Person”* means individual, corporation, limited liability company, government or governmental subdivision or agency, business trust, estate, trust, partnership or association, or any other legal entity.

*“Renewable fuel”* means an energy source at least in part derived from an organic compound, capable of powering machinery, including an engine or power plant. A renewable fuel includes, but is not limited to, ethanol-blended or soydiesel fuel.

*“Rural economic value-added mentoring program”* or *“REVAMP”* means a program which provides assistance to develop or refine business plans for value-added businesses.

*“Value-added product”* means a product which, through a series of activities or processes, can be sold at a higher price than its original purchase price.

**21—12.3(159A) General provisions.** Financial support for planning, technical assistance, and feasibility studies for persons interested in developing renewable fuel or coproduct industries in the state of Iowa.

**12.3(1)** A person applying for assistance must satisfy the following requirements:

a. Applicant must be interested in developing a value-added industry located in Iowa by:

(1) Producing a product from an agricultural commodity which was not previously produced from an agricultural commodity; or

(2) Using a new process to produce a product derived from an agricultural process which is not commonly used to produce that product; or

(3) Establishing or expanding a renewable fuel production facility.

b. Applicant must submit a Planning and Technical Assistance Application, a Memorandum of Understanding, and cooperate in development or refinement of a business plan.

**12.3(2)** Assistance is available as follows:

a. The office will provide up to \$1,000 for a contracted consulting agency to perform an initial consultation and assessment of a business's proposed project.

b. Upon the recommendation of a consulting agency and upon concurrence of the department, additional moneys up to \$24,000 may be made available for feasibility studies, planning, and technical assistance for each project's business plan. Consultants under contract with the office shall be reimbursed directly by the office.

c. Any and all additional costs shall be paid entirely by the applicant.

12.3(3) Applications shall be processed by the coordinator on a first-come, first-served basis, based upon the receipt of documents by the office. Application materials may be obtained from Office of Renewable Fuels and Coproducts, Department of Agriculture and Land Stewardship, Wallace State Office Building, East 9th and Grand Avenue, Des Moines, Iowa 50319, (515)281-6936. Any person may resubmit an application with revisions as long as fees paid by the office remain under the maximum amount per project.

21—12.4(159A) **Renewable fuels motor vehicle fuels decals.** All motor vehicle fuel kept, offered or exposed for sale or sold at retail containing over 1 percent of a renewable fuel shall be identified with a decal located on front of the motor vehicle fuel pump and placed between 30" and 50" above the driveway level or in an alternative location approved by the department. The appearance of the decal shall conform to the following standards adopted by the renewable fuels and coproducts advisory committee:

12.4(1) The only two sizes of decals approved are the following:

- a. A design of 1.25" by 4".
- b. A design of 2" by 6".

12.4(2) All labels shall have the word "with" in letters a minimum of .1875" high, and the name of the renewable fuel in letters a minimum of .5" high.

12.4(3) The use of color, design and wording shall be approved by the renewable fuels and coproducts advisory committee. The coordinator may receive input from any party, including the weights and measures bureau of the department, in recommending the color, design, and wording. The advisory committee shall approve the color, design, and wording of the decal to promote the use of renewable fuels.

12.4(4) All black and white fuel pump stickers shall be replaced by approved colorful fuel pump decals effective July 1, 1995.

These rules are intended to implement Iowa Code section 159A.8.

[Filed 6/4/93, Notice 3/31/93—published 6/23/93, effective 7/28/93\*]

[Filed emergency 9/9/94—published 9/28/94, effective 9/9/94]

[Filed emergency 12/30/94 after Notice 9/28/94—published 1/18/95, effective 12/30/94]

CHAPTERS 13 and 14  
Reserved

CHAPTER 15  
PILOT LAMB AND WOOL MANAGEMENT EDUCATION PROJECT  
Rescinded IAB 2/9/00, effective 3/15/00

CHAPTERS 16 to 19  
Reserved

\*Effective date of 21—Chapter 12 delayed seventy days by the Administrative Rules Review Committee at its meeting held July 8, 1993; delay lifted by this Committee on 9/15/93.

CHAPTER 20  
REFERENDUM

[Prior to 7/27/88 see Agriculture Department 30—Ch 2]

**21—20.1(159) Purpose.** In order to establish uniform procedures and provide for consistent eligibility guidelines in commodity referendums, it is the policy of the Iowa department of agriculture and land stewardship to enumerate the following rules:

**21—20.2(159) Definitions.**

*“Department”* means the Iowa department of agriculture and land stewardship.

*“Election judge”* means a person or persons selected by the secretary to administer referendum procedures at county voting places.

*“Marketing year”* means the previous 365 days from the referendum date unless otherwise established by specific statutory authority.

*“Producer,”* as prescribed in the specific statutory authority for each commodity referendum, means the following:

1. *“Producer,”* in a referendum conducted under Iowa Code chapter 181, means every person who raises cattle or veal calves for slaughter or who feeds cattle or veal calves for slaughter, or both.

2. *“Producer,”* in a referendum conducted under Iowa Code chapter 185, means any individual, firm, corporation, partnership or association engaged in this state in the business of producing and marketing in their name at least 250 bushels of soybeans in the previous marketing year.

3. *“Producer,”* in a referendum conducted under Iowa Code chapter 185C, means any individual, firm, corporation, partnership or association engaged in this state in the business of producing and marketing in their name at least 250 bushels of corn in the previous marketing year.

4. *“Producer,”* in a referendum conducted under Iowa Code chapter 196A, means any person who owns, or contracts for the care of, 500 or more layer-type chickens, the eggs of which are sold in this state through commercial channels, including, but not limited to, eggs for hatching, which have been produced by the producer's own flock.

*“Secretary”* means the secretary of agriculture.

*“Statement”* means a statement, certification, affidavit or other document furnished by the department which specifies the qualifications required for producer eligibility.

**21—20.3(159) Voter eligibility.**

**20.3(1) Business organizations.** Only one vote may be cast on behalf of any business organization.

a. *Association, college, cooperative, corporation, foundation, university:* Only an officer may cast one vote for this business organization.

b. *Fiduciary:* Only the court-appointed legal representative of an estate, trust, conservatorship, guardianship or other fiduciary relationship may cast one vote for the business held in trust.

c. *Partnership/joint venture:* If the ownership of the commodity is held in the partnership name or in joint ownership, only one partner/owner may cast one vote. It is the responsibility of the partnership/joint venture to decide who will vote.

**20.3(2) Landlord and tenant.** Each may cast one vote if each meets the definition of “producer.” For corn and soybeans, a landlord may vote only if corn or soybeans were grown on a “crop share” basis; a landlord may not vote if land was rented on a “cash rent” basis.

**20.3(3) Joint owners.** If the commodity is held in legal title by joint owners, it is the responsibility of the joint owners to decide who will vote. Only one owner may cast one vote when the commodity is held in joint ownership. If each meets the “producer” definition as separate entity, then each may cast one vote.

20.3(4) *Proxy voting.* No producer may vote by proxy (on behalf of another producer). Farm managers may not vote for their clients.

20.3(5) *Multiple operations.* An individual or business organization who meets the definition of a "producer" in more than one county or on more than one tract of land, may vote once in their own name. If more than one vote is cast, only one vote, cast in the county of residence, will be counted.

20.3(6) *Producer within the previous marketing year.* An individual or business organization must have been a "producer" as defined in 20.2(159), in the previous marketing year.

21—20.4(159) **Referendum methods and procedures.** A referendum may be conducted by either of two methods: (1) Mail ballot or (2) at county voting places. These two methods of conducting referendums are mutually exclusive. The secretary shall approve that balloting procedure which shall best effectuate the policies and purposes of the referendum to be voted upon.

20.4(1) *Mail ballot procedures.*

a. The secretary may designate such person(s) as are necessary to administer the mail ballot procedure.

b. The official referendum date shall be established by the secretary, and shall be the last date on which completed balloting materials may be postmarked for receipt by the department.

c. The department shall announce referendum procedures and producer qualification information by means of publication of legal notice in at least five Iowa newspapers of general circulation at least 30 days prior to the referendum date.

d. At least 15 days prior to the referendum date, the department shall mail balloting materials to producers, using the best list reasonably available to the secretary.

e. All ballots shall be the responsibility of the secretary, who shall establish a time and place for counting of ballots.

f. To maintain vote anonymity, the department shall provide for return of the ballot in a sealed envelope, unless otherwise indicated in the notice. Producer eligibility may be certified prior to the referendum date; however, votes shall not be counted until the referendum date has passed.

g. If the referendum passes, all expenses incurred by the department in conducting the referendum shall be paid from the fund created by passage.

If the referendum fails, the producer association which petitions for an initial referendum (or for a subsequent referendum if one fails to pass) shall be liable for all costs and expenses incurred by the department in conducting the referendum.

h. All ballots, tabulation forms and producer statements shall be retained by the department for a minimum of six months following the referendum date.

20.4(2) *County voting place procedures.*

a. The secretary shall designate an official voting place(s) in each county. An eligible producer may vote in any Iowa county, when county voting places are in use, with the exception of producers voting in a referendum under Iowa Code chapters 185 and 185C. Said producers may vote only in a county in the crop reporting district in which they reside. The counties within each crop reporting district are as follows:

CROP REPORTING DISTRICT NO. 1

Buena Vista  
Cherokee  
Clay  
Dickinson

Emmett  
Lyon  
O'Brien  
Osceola

Palo Alto  
Plymouth  
Pocahontas  
Sioux



	<b>CROP REPORTING DISTRICT NO. 2</b>	
Butler	Hancock	Winnebago
Cerro Gordo	Humboldt	Worth
Floyd	Kossuth	Wright
Franklin	Mitchell	
	<b>CROP REPORTING DISTRICT NO. 3</b>	
Allamakee	Chickasaw	Fayette
Black Hawk	Clayton	Howard
Bremer	Delaware	Winneshiek
Buchanan	Dubuque	
	<b>CROP REPORTING DISTRICT NO. 4</b>	
Audubon	Greene	Monona
Calhoun	Guthrie	Sac
Carroll	Harrison	Shelby
Crawford	Ida	Woodbury
	<b>CROP REPORTING DISTRICT NO. 5</b>	
Boone	Hardin	Poweshiek
Dallas	Jasper	Story
Grundy	Marshall	Tama
Hamilton	Polk	Webster
	<b>CROP REPORTING DISTRICT NO. 6</b>	
Benton	Jackson	Linn
Cedar	Johnson	Muscatine
Clinton	Jones	Scott
Iowa		
	<b>CROP REPORTING DISTRICT NO. 7</b>	
Adair	Fremont	Page
Adams	Mills	Pottawattamie
Cass	Montgomery	Taylor
	<b>CROP REPORTING DISTRICT NO. 8</b>	
Appanoose	Madison	Union
Clarke	Marion	Warren
Decatur	Monroe	Wayne
Lucas	Ringgold	
	<b>CROP REPORTING DISTRICT NO. 9</b>	
Davis	Keokuk	Van Buren
Des Moines	Lee	Wapello
Henry	Louisa	Washington
Jefferson	Mahaska	

b. The secretary shall establish the hours for voting and a time period, up to a maximum of three days, for voting in the referendum. If voting takes place on more than one date, the official referendum date shall be the last day on which voting is allowable.

c. The department shall announce referendum procedures, producer qualification information and location of voting places by means of publication of legal notice in at least five Iowa newspapers of general circulation at least 30 days prior to the referendum date.

d. After signing a producer statement furnished by the department, each producer shall receive a ballot. Each marked ballot shall be placed in a sealed ballot box during the voting period.

e. The election judge shall have the following responsibilities in conducting the referendum:

(1) The election judge shall secure an appropriate ballot box which shall be kept sealed during the voting period.

(2) The election judge shall distribute voting materials and instructions, assist in the balloting process, observe the deposit of ballots in the sealed box, and be responsible for maintaining the integrity and security of the ballots.

(3) The election judge shall, after voting has been completed and the voting place closed, count the ballots and telephone the tentative tabulation to the office of the secretary.

(4) The election judge shall return the ballots, along with the original "producer statements" and the "Certification of Judges and Official Vote Tabulation", to the department within 24 hours following the closing of the voting place. All ballots not used shall be destroyed by the election judge.

f. The secretary shall review the tabulation of votes and producer statements received from county election judges. If the number of signed producer statements is greater than the number of ballots cast, the number of ballots shall stand as the official vote total for the county. If the number of ballots cast exceeds the number of signed producer statements, then the following reduction procedure shall be used:

<u>Excess Ballots</u>	<u>Reduce Votes On Prevailing Side</u>	<u>Reduce Votes On Losing Side</u>
1	1	0
2	1	1
3	2	1
4	2	2
5	3	2
6	3	3
7	4	3
8	4	4
9	5	4
10	5	5

If the vote is tied, each side will be reduced by 1/2 vote for each excess ballot

g. If the referendum passes, all expenses incurred by the department in conducting the referendum shall be paid from the fund created by passage.

If the referendum fails, the producer association which petitions for an initial referendum (or for a subsequent referendum if one fails to pass) shall be liable for all costs and expenses incurred by the department in conducting the referendum.

h. All ballots, tabulation forms and producer statements shall be retained by the department for a minimum of six months following the referendum date.

20.4(3) *Absentee ballot procedures.* When the referendum method is by designated county voting place, any qualified producer may receive an absentee ballot from the department upon request. The ballot and signed producer statement must be returned to the secretary postmarked no later than midnight of the official referendum date. The secretary shall maintain a list of those producers to whom absentee ballots have been provided and shall provide a list of same to all voting sites in the county of residence of the producer.

If the producer could not be at home in time to utilize an absentee ballot mailed from the secretary, and if the regular balloting materials have been received by the county extension office, the county extension director may sign a ballot and provide this to the producer, upon the producers signing a producers certification statement. The completed ballot will be placed in a separate sealed envelope. This ballot envelope and the signed producers certification statement will be placed in an envelope and returned to the office of the secretary for counting.

**21—20.5(159) Contesting referendum results.**

**20.5(1) *In mail ballot referendums.*** Written objection to the certification of any producer may be filed with the secretary within 30 days following the date of the counting of the votes. Challenges must include such affidavits or documentation as to substantiate alleged objections.

**20.5(2) *In county voting places.*** If at the time of voting, procedural or eligibility questions arise, the election judge shall have the producer sign a separate producer statement and complete balloting materials. The ballot shall be marked and placed in a sealed envelope. Both the sealed ballot envelope and producer statement shall be placed in a separate envelope and set aside and not counted. The election judge shall list all facts of the situation or documentation presented by the person making the objection on the envelope or on a separate sheet to be included in the envelope. All materials shall be returned to the secretary who shall determine whether such vote shall be counted.

**21—20.6(159) Official certification.** Within 60 days following the referendum date, the secretary shall certify referendum vote totals and officially declare the outcome.

These rules are intended to implement Iowa Code chapters 181, 179, 185, 185C and 196A.

[Filed August 2, 1974; amended September 24, 1974]

[Filed 10/21/75, Notice 9/8/75—published 11/3/75, effective 12/8/75]

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[Filed without Notice 7/23/76—published 8/9/76, effective 9/13/76]

[Filed 8/30/76, Notice 7/26/76—published 9/22/76, effective 10/27/76]

[Filed 12/17/82, Notice 10/27/82—published 1/5/83, effective 2/9/83]

[Filed 1/13/84, Notice 12/7/83—published 2/1/84, effective 3/7/84]

[Filed emergency 7/8/88 after Notice 6/1/88—published 7/27/88, effective 7/8/88]

**CHAPTER 21**

**MULTIFLORA ROSE ERADICATION PROGRAM FOR COST REIMBURSEMENT**

[Prior to 7/27/88, see Agriculture Department 30—Ch 4]

Rescinded IAB 2/9/00, effective 3/15/00

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**21—64.96(163) Reactors—removal.** All cattle which react to the tuberculin test and for which the owner desires indemnity, as provided by statute, must be removed immediately from the cattle barn, lots and pastures where other cattle are being kept.

**64.96(1)** The barn or place where reacting cattle have been housed or kept shall be thoroughly cleaned and disinfected immediately.

**64.96(2)** Feed places and floors must be cleared of all hay and manure and scraped clean.

**64.96(3)** All loose boards and decayed woodwork should be removed, and when deemed necessary, and requested by the veterinarian, must be accomplished before it will be considered that the place has been properly cleaned and disinfected.

**64.96(4)** The feeding places, troughs, floors and partitions near the floor should be washed and scoured with hot water and lye.

This rule is intended to implement Iowa Code section 163.1.

**21—64.97(163) Certificate.** Strict compliance with these methods and rules shall entitle the owner of tuberculosis-free herds to a certificate, "TUBERCULOSIS-FREE ACCREDITED HERD", to be issued by the United States Department of Agriculture, bureau of animal industry and the division of animal industry, Iowa department of agriculture and land stewardship. Said certificate shall be good for one year from date of test unless revoked at an earlier date.

This rule is intended to implement Iowa Code section 165.12.

**21—64.98(163) Violation of certificate.** Failure on the part of the owners to comply with the letter or spirit of these methods and rules shall be considered sufficient cause for immediate cancellation of the cooperative agreement with them by the state and federal officials.

This rule is intended to implement Iowa Code section 165.12.

**21—64.99(163) Tuberculin—administration.** In accordance with the provisions of Iowa Code chapter 165, the Iowa department of agriculture and land stewardship shall have control of the sale, distribution and use of all tuberculin used in the state and shall formulate regulations for its distribution and use. Only such persons as are authorized by the department, inspectors of the B.A.I. and regularly licensed practicing veterinary surgeons of the state of Iowa shall be entitled to administer tuberculin to any animal included within the meaning of this chapter.

This rule is intended to implement Iowa Code section 165.13.

**21—64.100(163) Sale of tuberculin.** No person, firm or corporation shall sell or distribute tuberculin to any person or persons in the state of Iowa except under the following conditions:

**64.100(1)** That the person or persons are legally authorized to administer tuberculin.

**64.100(2)** That all sales of tuberculin shall be reported to the secretary of agriculture on proper forms, which forms may be obtained from the chief, division of animal industry.

**64.100(3)** Reports of all sales and distribution of tuberculin in the state of Iowa shall be made in triplicate; the original copy to be delivered with the tuberculin to the person obtaining same; the duplicate to be forwarded to the Chief, Division of Animal Industry, Des Moines, Iowa 50319; and the triuplicate copy to be retained by the manufacturer or distributor. All reports shall be made within 60 days from date of sale.

This rule is intended to implement Iowa Code section 165.12.

**21—64.101(165) Fee schedule.**

**64.101(1)** *Injection.* Ten dollars per stop (herd) and one dollar twenty-five cents per head.

**64.101(2)** *Reading.* Ten dollars per stop (herd) and one dollar per head.

**64.101(3)** *Tagging and branding reactors.* Five dollars first reactor and three dollars each additional reactor.

This rule is intended to implement Iowa Code section 165.17.

21—64.102 to 64.132 Reserved.

[Filed 11/26/57, amended 7/13/65]

[Filed 9/15/78, Notice 7/26/78—published 10/4/78, effective 11/9/78]

[Filed emergency 7/8/88 after Notice 6/1/88—published 7/27/88, effective 7/8/88]

#### ERADICATION OF SWINE TUBERCULOSIS

**21—64.133(159) Indemnity.** Indemnity may be paid for losses incurred by slaughtering establishments in the event native Iowa swine purchased by the establishments for immediate slaughter are determined to have tuberculosis by the official meat inspector at the establishment, subject to laboratory confirmation at the discretion of the department by any laboratory procedure acceptable to the department. Indemnity will be paid by the county of origin of the swine provided that swine shall be identified to the farm of origin located in that county. If no identification can be established on swine no indemnity may be paid.

If the county bovine tuberculosis eradication funds are insufficient, the claim may be filed and may be paid in subsequent years.

Indemnity will be paid to the producer of swine only after proof of cleaning and disinfecting of premises has been established.

If a herd of swine is tested for tuberculosis at program expense authorization must be given by an official of the Iowa department of agriculture and land stewardship.

This rule is intended to implement Iowa Code sections 159.5 and 163.15.

**21—64.134(159) Fee schedule.**

**64.134(1) Injection.** Ten dollars per stop (herd) and one dollar per head.

**64.134(2) Reading.** Ten dollars per stop (herd) and seventy-five cents per head.

**64.134(3) Tagging.** Five dollars for first reactor and one dollar for each additional reactor.

This rule is intended to implement Iowa Code section 159.5(13).

21—64.135 to 64.146 Reserved.

[Filed 10/16/73]

[Filed 9/15/78, Notice 7/26/78—published 10/4/78, effective 11/9/78]

[Filed emergency 7/8/88 after Notice 6/1/88—published 7/27/88, effective 7/8/88]

#### PSEUDORABIES DISEASE

**21—64.147(163,166D) Definitions.** As used in these rules:

*“All-in-all-out”* means a management system whereby feeder swine are handled in groups kept “separate and apart” from other groups in a production facility. These groups are removed from the production facility with the completely vacated area being cleaned and sanitized prior to the introduction of another group.

*“Aujeszky’s disease,”* commonly known as pseudorabies, means the disease wherein an animal is infected with Aujeszky’s disease virus, irrespective of the occurrence or absence of clinical symptoms.

*“Breeding swine”* means boars, sows and gilts used, or intended for use, exclusively for reproductive purposes.

*“Department”* means the Iowa department of agriculture and land stewardship.

*“Exigent circumstances”* means an extraordinary situation that the secretary concludes will impose an unjust and undue economic hardship if coupled with the imposition of these rules.

*“Fertility center”* means a premises where breeding swine are maintained for the purposes of the collection of semen, ovum, or other germplasm and for the distribution of semen, ovum, or other germplasm to other swine herds.

*"Herd"* means any group of swine maintained for 60 days or more on common ground for any purpose, or two or more groups of swine that have been intermingled without regard to pseudorabies status and are under common ownership or possession and that have been geographically separated within the state of Iowa. Two or more groups of swine are assumed to be one herd, unless an investigation by the epidemiologist has determined that intermingling and contact between groups has not occurred.

*"Low incidence state/area"* means a state or subdivision of a state with little or no incidence of pseudorabies and which qualifies for Stage III, or higher, and has been designated Stage III, or higher, by the National Pseudorabies Control Board as defined in the State/Federal Industry Program Standards for pseudorabies eradication; or an area outside the United States with a low incidence of pseudorabies determined by at least an equivalent testing protocol as is used to establish Stage III status.

*"Native Iowa feeder pig"* means a feeder pig farrowed in Iowa, and always located in Iowa.

*"Premises"* means a parcel of land together with buildings, enclosures and facilities sufficient for swine production.

*"Vicinity"* means a distance less than one-half mile.

**21—64.148(163,166C) Pseudorabies tests and reports.** Rescinded IAB 9/6/89, effective 10/11/89.

**21—64.149(163,166C) Approval of qualified pseudorabies negative herd.** Rescinded IAB 9/6/89, effective 10/11/89.

**21—64.150(163,166C) Shipment of breeding swine and feeder pigs.** Rescinded IAB 9/6/89, effective 10/11/89.

**21—64.151(163,166D) Quarantines.**

**64.151(1)** Except for sales to slaughter or to pseudorabies-approved premises, owners of animals tested for pseudorabies shall hold the entire herd on the premises until results are determined.

**64.151(2)** Infected herds not on an approved cleanup plan. All known pseudorabies infected herds, not on an approved herd cleanup plan, are subject to restricted movement to slaughter according to 64.154(2)"c" and 64.155(8).

**21—64.152(163,166D) Nondifferentiable pseudorabies vaccine disapproved.** The only pseudorabies vaccine or pseudorabies vaccine combination used in this state shall be a differentiable vaccine.

After July 1, 1993, this vaccine must be differentiable by a licensed and approved differentiable pseudorabies test capable of determining gp1 negative swine vaccinated with a gp1 gene deleted vaccine.

**21—64.153(166D) Pseudorabies disease program areas.**

**64.153(1)** Pseudorabies disease program areas as declared by the Iowa department of agriculture and land stewardship: all counties in the state of Iowa.

**64.153(2)** All producers will permit sufficient swine in their herds to be tested at program expense to determine the health status of the herd at intervals during the course of the program as deemed necessary by the department.

The owner shall confine the swine to be tested in a suitable place and restrain them in a suitable manner so that the proper tests can be applied. If the owner refuses to confine and restrain the swine, after reasonable time the department may employ sufficient help to properly confine and restrain them and the expense of such help shall be paid by the owner.

The swine tested shall be sufficient in number, and by method of selection, to qualify for the surveillance program required to attain and maintain the program stages according to the most recent "State-Federal-Industry Program Standards" for pseudorabies eradication.

**64.153(3)** No indemnities will be paid for condemned animals.

**64.153(4)** Any person possessing swine is required to provide the name and address of the owner or the owner's agent to a representative of the department.

**64.153(5)** Beginning on October 1, 1999, all swine located within three miles of a pseudorabies-infected herd are required to be vaccinated with an approved pseudorabies vaccine within seven days of notification by a regulatory official. One dose of vaccine shall be administered to growing swine prior to 14 weeks of age or 100 pounds. Swine over six months of age or greater than 200 pounds, used or intended to be used for breeding, shall receive vaccine on a schedule designed to administer at least four doses throughout a 12-month period. The department may require a herd test to monitor both the pseudorabies status and the pseudorabies vaccine status of the herd.

A waiver for this vaccination requirement may be issued by the state veterinarian, based on epidemiological investigation and risk determination. Herd testing, at a level determined by the pseudorabies epidemiologist, will be required as a condition for issuance of a vaccination waiver.

**64.153(6)** All premises containing swine which are located in the Stage II area of Iowa must have a monitoring test for the premises conducted between January 1, 2000, and August 31, 2000.

## **21—64.154(163,166D) Identification.**

**64.154(1)** All breeding and feeder swine being exhibited or having a change of ownership must be identified by a method approved by the Iowa department of agriculture and land stewardship. The identification shall be applied by the owner, the pig dealer, or the livestock dealer at the farm of origin or by the pig dealer or the livestock dealer at the first concentration point.

### **64.154(2) Approved identification.**

#### *a. Breeding swine.*

(1) Ear tags or tattoos with an alphabetic or numeric system to provide unique identification for each animal.

(2) Ear notches or ear tattoos, if applied according to the standard breed registry system.

(3) Electronic devices, other devices, or marks which, when applied, will permanently and uniquely identify each animal.

(4) Breeding swine qualified to move intrastate without individual tests may move without unique identification of each animal, if they are all identified as a group to the herd of origin by an official premises tattoo.

#### *b. Feeder swine.*

(1) Ear tags or tattoos with an alphabetic or numeric system to provide unique identification with each herd, each lot, or each individual swine.

(2) Electronic devices, other devices, or marks which, when applied, will provide permanent identification with each herd, or each individual swine.

*c. Restricted movement slaughter swine.* When the department determines that a majority of herds within a program area have been tested, all herds not tested within 12 months and all infected herds not on an approved herd cleanup plan shall only move swine directly to slaughter. The department may, until a herd plan is approved and showing progress, require the movement of all slaughter swine by "direct movement," to slaughter only, by a Permit for Restricted Movement to Slaughter which provides a description of the animals, the owner, the consignee, the date of movement, the destination, and the identification or vehicle seal number if applicable. These "restricted movement to slaughter only swine" shall be individually identified by approved metal ear tags applied at the farm of origin. The identification requirement is waived if the consignment of swine is sealed within the transport vehicle at the farm of origin by an official seal available from the department. This seal shall be applied by an accredited veterinarian. This seal shall be removed by an accredited veterinarian, USDA official, department official, or the person purchasing the swine upon arrival of the consignment at the destination indicated on the Permit for Restricted Movement to Slaughter.



The ear tags shall have an alphabetic or numeric numbering system to provide unique identification with each herd, each lot, or each individual swine. They shall be applied prior to movement and listed on the Permit for Restricted Movement to Slaughter. This Permit for Restricted Movement to Slaughter shall be issued and distributed by an accredited veterinarian as follows:

1. Original to accompany shipment.
2. Mail a copy to the department.
3. Veterinarian issuing permit will retain a copy.

**64.154(3)** Approved ear tags available from the Iowa department of agriculture and land stewardship:

- a. Pink tags to identify pseudorabies vaccinated swine.
- b. Silver tags to identify feeder pigs from pseudorabies noninfected herds.
- c. Blue tags to identify other swine.

**64.154(4)** Farm-to-farm movement of native Iowa feeder pigs.

a. Native Iowa feeder pigs sold and moved farm-to-farm within the state are exempt from identification requirements if the owner transferring possession and the person taking possession agree in writing that the feeder pigs will not be commingled with other swine for a period of 30 days. The owner transferring possession shall provide a copy of the agreement to the person taking possession of the feeder pigs.

b. "Moved farm-to-farm" as used in this rule means feeder pigs farrowed and raised in Iowa by a farm owner or operator and sold to another farm owner or operator who agree, in writing, not to commingle these pigs for at least 30 days.

Feeder pigs purchased for resale by a pig dealer cannot be moved farm-to-farm, as described in the above paragraph. They must be accompanied by a Certificate of Veterinary Inspection and be identified.

c. Identification-exempt feeder pigs must originate from a "monitored," or other "noninfected," herd. The "monitored herd" number, or other qualifying number, and the date of expiration must also be shown on the Certificate of Inspection.

All identification-exempt feeder pigs aboard the transport vehicle must be from the same farm of origin and be the only pigs aboard. They must be kept in "isolation" and transported by "direct movement" to the farm of destination.

d. The veterinarian will certify, by signature on the Certificate of Inspection, that the above conditions have been met and that the pigs are exempt from the identification requirements and will qualify for movement according to 64.155(4).

**64.154(5)** Swine being relocated intrastate without a change of ownership are exempt from health certification, identification requirements, and transportation certification except as required by Iowa Code chapter 172B provided relocation records sufficient to determine the origin, the current pseudorabies status of the herd of origin, the number relocated, the date relocated, and destination of the relocated swine are available for inspection.

Swine relocated within a herd held on multiple premises are exempted from this health certification, identification requirement, and transportation certification, except as required by Iowa Code chapter 172B and the above record-keeping requirements.

Relocation records, if required, shall be maintained and available for inspection for a minimum of two years.

**64.154(6)** This rule should not be construed to implement or affect the identification requirements set down in Iowa Code sections 163.34, 163.35, 163.36, and 163.37. Records of identification applied to slaughter swine at concentration points shall be reported weekly to the department on forms provided by the department.

**21—64.155(163,166D,172B) Certificates of inspection.** The following certificates shall be used as outlined. All are provided by the department. All require inspection by a licensed accredited veterinarian.

**64.155(1)** Iowa origin Interstate Certificates of Veterinary Inspection shall be used for exporting breeding swine or feeder swine out of the state.

**64.155(2)** Intrastate Certificates of Veterinary Inspection shall be used for the following movements:

*a.* The intrastate movement of feeder swine, with a change of ownership, originating from noninfected herds requires approved identification and noninfected herd identification number, showing the date of last test on a Certificate of Veterinary Inspection. The feeder swine shall be quarantined for 30 days.

*b.* The intrastate movement, with a change of ownership, of breeding swine from nonquarantined herds requires approved identification and noninfected herd number, or individual test results and dates tested included on a Certificate of Veterinary Inspection only. The breeding swine shall be quarantined for 30 days.

*c.* The concentration points to farm movement of feeder swine originating from noninfected herds requires approved identification and herd identification number and date tested included on a Certificate of Veterinary Inspection. The feeder swine shall be quarantined for 30 days.

*d.* The concentration point to farm intrastate movement of noninfected breeding swine from nonquarantined herds requires approved identification and noninfected herd number or individual test results and dates tested included on a Certificate of Veterinary Inspection. The breeding swine shall be quarantined for 30 days.

*e.* The farm to an approved premises or from a concentration point to an approved premises movement of feeder swine requires approved identification and approved premises number to be included on a Certificate of Veterinary Inspection. A statement, "Quarantined until slaughter," shall be included on a Certificate of Veterinary Inspection.

*f.* Movement of exhibition swine to an exhibition when a certificate is required must be with a Certificate of Veterinary Inspection.

**64.155(3)** QLSM certificate. A QLSM certificate shall be used when moving swine under restricted movement and quarantined until moved to slaughter. The certificate shall be used for the following movements:

*a.* Movement of feeder swine from quarantined herds to approved premises. Approved identification and approved premises number shall be included on the certificate. The swine are quarantined to slaughter or can be moved to another approved premises on a certificate of inspection.

*b.* Movement of feeder swine from herds of unknown status, feeder pig cooperators herd plans, or herd cleanup plans. Approved identification shall be included on the certificate. This certificate is used for farm-to-farm or concentration point to farm movements.

**64.155(4)** A Farm-to-Farm Certificate of Veterinary Inspection or an Intrastate Certificate of Veterinary Inspection shall be used for moving identification-exempt native Iowa feeder pigs farm-to-farm according to 64.154(4) "b." Feeder swine purchased for resale by a pig dealer must be identified and accompanied by a Certificate of Inspection.

**64.155(5)** Import Interstate Certificates from out-of-state origins shall accompany shipments of breeding swine and feeder swine into Iowa.

*a.* Feeder swine: If a state of origin does not issue a monitored herd number, then the certificate shall include the statement, "These pigs are from a noninfected herd and the date of last test was \_\_\_\_\_," or "These pigs are from a monitored herd tested within the last 12 months. Date of last test was \_\_\_\_\_." The certificate shall include the following statement: "These feeder pigs are quarantined until moved to slaughter."

*b.* Breeding swine: Individual test results and date tested or noninfected herd number and date of last test shall be included on the certificate.

*c.* Feeder swine from low incidence state/area of origin. The certificate shall include the following statements, "These pigs were born and raised in the state/area of \_\_\_\_\_," (state/area name) and "These feeder pigs are quarantined until moved to slaughter."

*d.* Beginning January 1, 1998, all imported feeder swine, except those from qualified negative herds entering qualified negative herds, must be vaccinated for pseudorabies with a G1 deleted vaccine within 45 days of arrival if imported into a county with a pseudorabies prevalence greater than 3 percent. This requirement must be stated on the import interstate certificate. Imported swine consigned directly to slaughter are exempt from vaccination requirements.

**64.155(6)** Slaughter affidavits shall accompany all shipments of feeder swine or finished swine from concentration points moving direct to slaughter.

**64.155(7)** Transportation certificate. This certificate involves shipments of swine from farm or approved premises moving direct to slaughter as detailed in Iowa Code chapter 172B. Veterinary inspection not required.

**64.155(8)** Rescinded IAB 10/22/97, effective 10/1/97.

**21—64.156(166D) Noninfected herds.**

**64.156(1) *Qualified pseudorabies negative herd—recertification.***

a. Recertification of a qualified pseudorabies negative herd and a qualified differential negative herd shall be by monthly testing, as detailed in Iowa Code section 166D.7(1)“a.”

b. The status of a qualified pseudorabies negative herd will be revoked if:

- (1) A positive test is recognized and interpreted by a pseudorabies epidemiologist as infected.
- (2) Pseudorabies infection is diagnosed.
- (3) Recertification testing is not done on time.
- (4) Inadequate number of animals are tested.
- (5) Once a qualified pseudorabies negative herd is decertified, the herd must meet all requirements of Iowa Code section 166D.7, to recertify as a qualified pseudorabies negative herd.

**64.156(2) *Iowa monitored feeder pig herd.***

a. Test requirements for a monitored feeder pig herd status include a negative herd test every 12 months of randomly selected breeding animals according to the following schedule:

1-10 head	Test all
11-35 head	Test 10
36 or more	Test 30 percent or 30, whichever is less.

b. A monitored identification card will be sent by first-class mail to the herd owner shown on the test chart if test results qualify the herd as monitored. An expiration date which is 12 months from the date that the certifying tests were drawn will be printed on the card.

It is the owner's responsibility to retest the herd annually. The monitored status is voided on the date of expiration. A monitored herd status is revoked if:

- (1) A positive test is recognized and interpreted by a pseudorabies epidemiologist and interpreted as infected.
- (2) Pseudorabies infection is diagnosed.
- (3) Recertification test is not done on time.
- (4) Not enough tests, according to herd size and vaccination status, are submitted.

c. Additions of swine to a monitored herd shall be from noninfected herds, according to Iowa Code section 166D.7.

d. Feeder pigs may be sold for further feeding without additional testing while the “monitored” status is maintained.

e. Monitored, or higher, status feeder pigs sold may regain, and maintain, monitored status by a negative test of all or a random sample of 30 head of each segregated group, whichever is less, within 30 days prior to resale.

f. Nursery units located in counties with a county pseudorabies prevalence of 3 percent or greater and not in the vicinity of the breeding herd are required to maintain a monitored status on the nursery unit in order for the swine to be eligible to move to a finishing premises, irrespective of whether there is a change of ownership. These testing requirements also apply to swine eligible for relocation movement.

**64.156(3) *Qualified differentiable negative herd—recertification.***

a. Recertification of a qualified differentiable negative herd will include quarterly or monthly testing, as detailed in Iowa Code section 166D.7. A minimum of 14 breeding swine must be tested each quarter. If the total number of breeding swine in the herd is less than 14, then all breeding swine shall be tested.

b. The status of a qualified differentiable negative herd will be revoked if:

- (1) A positive test is recognized and interpreted by a pseudorabies epidemiologist as infected.

- (2) Pseudorabies infection is diagnosed.
- (3) Recertification testing is not done on time.
- (4) Inadequate number of animals are tested.
- (5) Once a qualified differentiable negative herd is decertified, the herd must meet all requirements in Iowa Code section 166D.7 to recertify as a qualified differentiable negative herd.

**64.156(4) *Maintaining qualified negative status (progeny).*** Progeny from qualified negative (unvaccinated) or from qualified negative (vaccinated) herds moved to a facility not within the vicinity of the herd of origin and unexposed to lesser status swine may maintain qualified negative status by a monthly negative test of 10 percent or 60 head, whichever is less, of swine that have been on the premises for at least 30 days.

**64.156(5) *Other qualified pseudorabies negative herds.*** Any breeding herd in a Stage IV or V State/Area or an area outside the United States with a low incidence of pseudorabies equivalent to a Stage IV or V State/Area is recognized as a qualified pseudorabies negative herd.

**64.156(6) *Fertility centers.*** Breeding swine in a fertility center shall attain a "noninfected herd" status by an initial negative test of all breeding swine in the center. This status shall be maintained by a monthly negative test of a random sample of five head or 10 percent, whichever is greater, of the swine at the center. All additions of swine to the fertility center must originate from a "noninfected" herd, must be placed in isolation for 30 days or more, and must test negative for pseudorabies 20 days or more after being isolated.

- a. Semen and germplasm must be identified to the fertility center of origin.
- b. Imported semen or germplasm must originate from a fertility center, or "noninfected" herd, with requirements at least equivalent to the above, and be identified to the fertility center.

**21—64.157(166D) Herd cleanup plan for infected herds (eradication plan).**

**64.157(1)** The herd cleanup plan shall be a written plan approved and on file with the department.

**64.157(2)** The herd cleanup plan shall contain:

- a. Owner's name, location and herd number.
- b. Type of herd plan selected, e.g., offspring segregation, test and removal, depopulation.
- c. Description of the plan, which shall include the following requirements:
  - (1) The breeding herd shall be maintained on an approved vaccination program, at least four times per year;
  - (2) The progeny shall be weaned and segregated by five weeks of age or less, and progeny group isolation shall be maintained according to the terms of the herd plan;
  - (3) The herd must be visited on a regular basis (at least quarterly) by the herd veterinarian to monitor progress of the herd cleanup plan. This will include monthly testing if applicable, overseeing management procedures which may include all-in-all-out swine movement, ventilation, sanitation, disinfection, and vaccine handling;
  - (4) Vaccine shall be administered to the progeny swine at least once, or more often if required by the herd plan;
  - (5) Feeder pig movement or relocation from the premises of origin must be detailed in writing in the herd cleanup plan. If this movement, or relocation, involves more than one district veterinarian's area, all participants must concur with the cleanup plan. Effective March 15, 2000, all movements from infected premises, except to slaughter, shall be accompanied by an Iowa Restricted Movement Permit. "Movement" in this paragraph includes movement to a premises in the production system not in the vicinity of the current location, irrespective of whether there is a change of ownership;
  - (6) Culled breeding swine must move directly to slaughter. No swine moved from infected herds may be represented as breeding swine;

**21—64.163(166D) Nondifferentiable pseudorabies vaccine disapproved.** Transferred and amended, see 21—64.152(163,166D), IAB 8/19/92.

These rules are intended to implement Iowa Code chapters 163 and 166D.

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For additional history, see individual divisions in Chapter 64.

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**CHAPTER 70**  
**CONTRACTS FOR DAIRY INSPECTION SERVICES**

[Prior to 7/27/88, see 21—Ch 32]  
Rescinded IAB 2/9/00, effective 3/15/00

**CHAPTER 71**  
**STANDARDS FOR DAIRY PRODUCTS**

[Prior to 3/9/88, see Agriculture Department, 30—Ch 34]  
[Prior to 7/27/88, see 21—Ch 34]

**21—71.1(190) Dairy products.** The general specifications and standards of U.S.D.A. for grades of dairy products as contained in 7 CFR Part 58, Subparts B and H through S, revised as of January 1, 1996, is hereby adopted in its entirety, with the exception of the following subsections: 646, 734, and 101 through 124, 155 through 158, and 505 through 530. Nothing in the foregoing is intended to require use of grades for Iowa dairy products. In addition, the following standards established and revised by FDA as of January 1, 1996, are hereby adopted in their entirety: 21 CFR Parts 101 (Food Labeling), 133 (Cheese and Related Products), 135 (Frozen Dessert), 166 (Margarine), 168 (Sweeteners) and 182 (Substances Generally Recognized Safe). All reference to “administrator” in these rules shall be deemed to mean the Iowa secretary of agriculture and “department” shall be deemed to mean Iowa department of agriculture and land stewardship.

This rule is intended to implement Iowa Code section 190.2.

**21—71.2(189,210) Requirements for packaging and labeling.** The uniform packaging and labeling regulation as adopted by the National Conference on Weights and Measures and published in the current edition “Uniform Laws and Regulations” are hereby adopted in their entirety by this reference.

This rule is intended to implement Iowa Code sections 189.9, 189.10 and 210.18.

**21—71.3(210) Requirements for the method of sale of commodities.** The requirements for the method of sale of commodities as adopted by the National Conference on Weights and Measures and published in the current edition “Uniform Laws and Regulations” are hereby adopted in their entirety by this reference.

This rule is intended to implement Iowa Code sections 210.1 and 210.18.

**21—71.4(210) Requirements for unit pricing.** The requirements for unit pricing as adopted by the National Conference on Weights and Measures and published in the current edition “Uniform Laws and Regulations” are hereby adopted in their entirety by this reference.

This rule is intended to implement Iowa Code sections 210.1 and 210.18.

**21—71.5(189,190) Flavors.** In case where a flavor is added to milk or skimmed milk drink or compound, it is not considered by the department as violating section 190.6, when the fat of said flavor does not exceed ½ of 1 percent of the whole and said compound is labeled as required by section 189.11.

This rule is intended to implement Iowa Code sections 189.11 and 190.6.

**21—71.6(190) Standard for light butter.**

“Light butter” is the food defined in Iowa Code section 190.1(1) except:

1. The milkfat content of light butter shall be 52 percent.
2. Light butter shall have vitamin A added, if needed, to provide 15,000 international units per pound, within limits of good manufacturing practices.
3. Light butter may contain the following dairy ingredients: partially skimmed milk, skim milk, buttermilk, whey or whey-derived ingredients.

4. Other optional ingredients allowed in light butter are:
- (1) Water;
  - (2) Salt or salt substitutes;
  - (3) Bacterial cultures;
  - (4) Nutritive sweeteners;
  - (5) Emulsifiers and stabilizers;
  - (6) Safe and suitable color additives;
  - (7) Natural flavors; or
  - (8) Safe and suitable ingredients that improve texture, prevent syneresis, or extend the shelf life of the product.

5. Label declaration. The principal display panel of the label must include a comparative statement expressing the reduction in calories and fat relative to butter (i.e., one-third less fat and calories than regular butter).

This rule is intended to implement Iowa Code chapter 190.

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**CHAPTERS 72 to 74**

Reserved

**CHAPTER 75**

**PRODUCTION AND SALE OF EGGS**

[Prior to 7/27/88 see Agriculture Department 30—Ch 35]

Rescinded IAB 2/9/00, effective 3/15/00



- b. Funds will be deposited into an account established by the district.
- c. Use of the funds will be limited to providing financial incentives under this chapter.
- d. Districts will notify the division when such funds are collected.

**27—10.33(161A) Appeals and reviews.** A landowner or farm operator who has been ordered to refund a financial incentive payment for a temporary practice, or a permanent practice subject to a maintenance agreement, entered between January 1, 1981, and July 1, 1982, may, as appropriate, review the order with the district commissioners or the division of soil conservation. Appeals to the state soil conservation committee may be made by the district, a landowner or a farm operator following a review by the division director or the director's designee.

**10.33(1) Review with soil and water conservation district commissioners.** When a landowner or farm operator wishes to appeal an order to repay a financial incentive payment for a temporary practice, or a permanent practice subject to a maintenance agreement, entered between January 1, 1981, and July 1, 1982, the landowner or farm operator may request a review of the order with the district commissioners. The commissioners shall schedule a meeting to review the problem with the landowner or farm operator. This proceeding shall be informal. A landowner or farm operator shall request a review with the district commissioners in writing and within 30 days following receipt of their order.

**10.33(2) Review with the division of soil conservation.** In those cases where a landowner or farm operator feels they have unjustly been ordered to refund a financial incentive payment for a temporary practice, or a permanent practice subject to a maintenance agreement, entered between January 1, 1981, and July 1, 1982, and they have been unable to resolve the problem through a meeting with the district commissioners, the landowner or farm operator may file a written request with the division for a review. The division review shall be conducted by the division director or the director's designee. This proceeding shall be informal. A landowner or farm operator shall request their review with the division in writing within 30 days following their review with the district.

**10.33(3) Appeal to the state soil conservation committee.** In those cases where the district, a landowner, or farm operator is not satisfied with the decision rendered as a conclusion of a division review concerning an order to repay a financial incentive payment for a temporary practice, or for a permanent practice covered by a performance agreement or a maintenance agreement entered between January 1, 1981, and July 1, 1982, the district, the landowner, or farm operator may appeal the division's decision to the state soil conservation committee. This proceeding shall be a formal, contested case hearing. The district, landowner, or farm operator shall make their appeal to the state committee in writing and within 30 days following completion of the division's review.

**10.33(4)** The committee will either affirm, modify, or vacate the administrative order following the completion of the contested case hearing.

**27—10.34 to 10.39** Reserved.

#### PART 4

**27—10.40** Reserved.

**27—10.41(161A) Appropriations.** The department of agriculture and land stewardship, division of soil conservation, has received appropriations for conservation cost sharing since 1973 and appropriations to fund certain incentive programs for soil erosion control since 1979. Funds are appropriated each year by the general assembly.

The division has four years to encumber or obligate these funds before they revert to the state's general fund. This rule addresses the distribution of these appropriations among the incentive programs for soil erosion control established by the division in accordance with the authorities extended in Iowa Code chapter 161A. The rule is also consistent with the restrictions imposed by language of the appropriations bills.

Except for the programs authorized in subrules 10.41(2), 10.41(4), 10.41(5), 10.41(8), and 10.41(9), these funds shall not be used alone or in combination with other public funds to provide a financial incentive payment greater than 50 percent of the approved cost for permanent soil conservation practices.

**10.41(1) Voluntary program.** Ninety percent of the appropriation is to be used for cost sharing to provide state funding of not more than 50 percent of the approved cost of permanent soil and water conservation practices or for incentive payments to encourage management practices to control soil erosion on land that is now row-cropped.

Not more than 30 percent of a district's original and supplemental allocation may be used for the establishment of management practices listed in subrules 10.82(1) and 10.82(2).

The commissioners of a district may allocate voluntary program funds for the restoration of permanent soil and water conservation practices which are damaged or destroyed because of a disaster emergency. Funds may be used for construction, reconstruction, installation, or repair of projects. The commissioners must determine that funds are necessary to restore permanent practices to prevent erosion in excess of applicable soil loss limits caused by the disaster emergency. Funds cannot be used unless a state of disaster emergency pursuant to a proclamation as provided in Iowa Code section 29C.6 has been declared. Funds can be used only if federal or state disaster emergency funds are not adequate. Funds do not have to be allocated on a cost-share basis. Districts are required to report to the division regarding restoration projects and funds allocated for projects.

**10.41(2) Publicly owned lakes.** For the approved cost of permanent soil conservation practices on watersheds above publicly owned lakes, 5 percent of the amount appropriated is to be set aside for cost sharing at a rate not to exceed 75 percent.

**10.41(3) Mandatory program.** Five percent of the appropriation is to be set aside for cost sharing with landowners or farm operators who are required to install soil erosion control practices as a result of an administrative order from the district to abate complaints filed under Iowa Code section 161A.47.

**10.41(4) Special watershed projects.** Iowa Code section 161A.7 permits cost sharing up to 60 percent of the cost of a project including five or more contiguous farm units which have at least 500 or more acres of farmland and which constitute at least 75 percent of the agricultural land lying within a watershed or subwatershed, where the owners jointly agree to a watershed conservation plan in conjunction with their respective farm unit soil conservation plan.

**10.41(5) Summer construction incentives (SCI).** Unspent funds distributed to the voluntary program in any fiscal year may be used for SCI cost-share up to 60 percent if there are not adequate requests for permanent practices to obligate the balance.

**10.41(6) Southeastern Iowa tillage research program.** Rescinded IAB 7/25/90, effective 7/6/90.

**10.41(7) Nonpoint source pollution control practices.** Rescinded IAB 8/14/96, effective 7/24/96.

**10.41(8) Funds distributed to annual programs and provided to districts may be used in combination with department of natural resources funds in accordance with the following:**

*a.* Proposals to allow an overall cost-share rate of greater than 50 percent to the landowner must be submitted by districts and approved on a project-by-project basis by the state soil conservation committee.

*b.* The maximum cost-share rate realized by the landowner shall not exceed 75 percent when state cost-share funds appropriated to the division and districts are utilized in combination with such department of natural resources funds.

*c.* Funds utilized by districts in conjunction with such special projects shall come from the district's regular allocation.

*d.* Only those permanent practices listed in subrule 10.82(3) shall be eligible for financial incentive payments.

(1) Any practices to be installed on public land must meet the requirements of subrule 10.73(3) and be installed and paid for by the adjoining private landowner.

(2) Subrule 10.81(6) on upland treatment shall also apply.

e. In accordance with subrule 10.73(4), paragraph "a," no cost-sharing with other government agencies is allowed.

**10.41(9)** Funds distributed to annual programs and provided to districts may be used in combination with other public funds on grade stabilization structures, in accordance with the following:

a. The maximum cost-share rate realized by the landowner shall not exceed 75 percent when state cost-share funds appropriated to the division and districts are utilized in combination with other public funds.

b. Funds utilized by districts in conjunction with such projects shall come from the district's regular allocation.

c. Only grade stabilization structures established in accordance with procedures pursuant to the rules shall be eligible for financial incentive programs.

d. The recipient will be required to sign an agreement as stated in subrule 10.74(5).

This rule is intended to implement Iowa Code chapter 161A; 1994 Iowa Acts, chapter 1198, section 1, subsection 4, paragraphs "b," "c," and "d"; 1995 Iowa Acts, chapter 216, section 1, subsection 4, paragraphs "b," "c," and "d"; 1996 Iowa Acts, chapter 1214, section 1, subsection 4, paragraphs "b," "c," and "d"; and 1997 Iowa Acts, House File 708, section 1, subsection 4, paragraphs "b," "c," and "d."

**27—10.42(312) Wind erosion control incentive program (WECIP).** Rescinded IAB 12/31/97, effective 2/4/98.

**27—10.43 to 10.49** Reserved.

#### PART 5

**27—10.50(161A) Allocations to soil and water conservation districts.** This division identifies those program funds that are allocated to the districts and explains how the allocations are made.

**27—10.51(161A) Voluntary program.** The division will allocate program funds to the districts in steps identified as original allocation, supplemental allocation, and reallocation.

**10.51(1) Original allocation.** Sixty percent of the fiscal year funds distributed to this program will be allocated to the districts at the beginning of the fiscal year in accordance with a formula based on the state soil survey database for Iowa. The formula is  $A = wzf$ , where:

a. A = allocation to the district.

b. w = the percentage factor for the district, determined by  $(x/y) (100)$ , where:

(1) x = district acres, determined by totaling the district's land capability class acres from the state soil survey database for Iowa using the formula:  $(\frac{1}{4})2e + 3e + 4e$ .

(2) y = state acres, determined by totaling the state's land capability class acres from the state soil survey database for Iowa using the formula:  $(\frac{1}{4})2E + 3E + 4E$ .

c. z = sixty percent of fiscal year funds distributed to the voluntary program.

d. f = an adjustment factor of 0.980 applied to each district's allocation to adjust the original allocation to compensate for establishing a minimum of four-tenths of 1 percent of "z" to ensure that each district has a workable program.

e. The following table provides the value of "w" for each district:

## Individual Soil and Water Conservation District

## Percentage Allocation Factors

<u>W(%) District</u>	<u>W(%) District</u>	<u>W(%) District</u>	<u>W(%) District</u>
1.8 Adair	1.2 Davis	1.0 Jefferson	0.2 Pocahontas*
1.2 Adams	1.3 Decatur	1.1 Johnson	0.7 Polk
1.5 Allamakee	0.8 Delaware	1.2 Jones	1.4 E. Pottawattamie
1.1 Appanoose	0.6 Des Moines	1.4 Keokuk	1.2 W. Pottawattamie
1.4 Audubon	0.4 Dickinson	0.6 Kossuth	1.5 Poweshiek
1.4 Benton	1.9 Dubuque	1.0 Lee	1.6 Ringgold
0.5 Black Hawk	0.3 Emmet*	1.1 Linn	0.7 Sac
0.5 Boone	1.1 Fayette	0.5 Louisa	0.9 Scott
0.3 Bremer*	0.3 Floyd*	1.1 Lucas	1.7 Shelby
0.4 Buchanan	0.6 Franklin	0.8 Lyon	1.0 Sioux
0.4 Buena Vista	1.0 Fremont	1.2 Madison	0.6 Story
0.6 Butler	0.4 Greene	1.2 Mahaska	1.5 Tama
0.3 Calhoun*	0.5 Grundy	1.3 Marion	1.7 Taylor
1.2 Carroll	1.5 Guthrie	1.4 Marshall	1.1 Union
1.5 Cass	0.4 Hamilton	1.0 Mills	1.2 Van Buren
1.2 Cedar	0.3 Hancock*	0.3 Mitchell*	1.0 Wapello
0.5 Cerro Gordo	0.7 Hardin	1.2 Monona	1.1 Warren
1.0 Cherokee	1.6 Harrison	1.0 Monroe	1.1 Washington
0.4 Chickasaw	0.9 Henry	1.2 Montgomery	1.4 Wayne
1.2 Clarke	0.4 Howard	0.6 Muscatine	0.3 Webster*
0.3 Clay*	0.2 Humboldt*	0.4 O'Brien	0.5 Winnebago
2.0 Clayton	1.3 Ida	0.3 Osceola*	1.8 Winneshiek
1.2 Clinton	1.4 Iowa	1.5 Page	2.3 Woodbury
2.4 Crawford	1.6 Jackson	0.4 Palo Alto	0.3 Worth*
0.8 Dallas	1.7 Jasper	2.4 Plymouth	0.4 Wright

\*The minimum value to be used in determining original allocations to districts shall be 0.4.

f. For currently funded fiscal years, district commissioners may allocate not more than 30 percent of their original allocation and supplemental allocation to be used for the establishment of management practices to control soil erosion on land that is now row-cropped. Incentive payments will be made on a per acre basis, but not exceeding \$10 per acre for no-till, ridge-till, or strip-till planting; \$6 per acre for contouring; and \$15 per acre for contour strip cropping.

c. Should the commissioners desire to amend the application (Form IP-1) to change the amount of work or the cost, prior approval of the amendment (Form IP-1A) must be obtained from the division.

**10.54(2) Redistribution of program funds.** Any unobligated program funds remaining at the end of the fiscal year will be redistributed to the voluntary cost-share program. These funds will be included with the supplemental allocation to districts.

**27—10.55(161A,312) Wind erosion control incentive program (WECIP).** Rescinded IAB 12/31/97, effective 2/4/98.

**27—10.56(161A) Special watershed projects.** District commissioners will satisfy the following conditions with regard to special watershed projects:

**10.56(1)** Prior to approving a project application for 60 percent cost-share, the district must obtain a project number from the division.

**10.56(2)** All participating landowners in a particular project will be required to show progress towards completion during the first year of the project. Progress will be evaluated by the district. Failure of all participating landowners to show progress during the first year will result in loss of authorization of the project and 60 percent cost-share funding eligibility.

**10.56(3)** Authorization for each project shall not exceed five years.

**27—10.57(161A) Reserve funds.** The division shall administer a reserve fund for each program year that shall not exceed \$50,000.

**10.57(1)** Purpose and use of the reserve fund. The reserve fund will be set aside and used only to meet contingencies that occur in the districts or within the division.

**10.57(2)** Replenishing the reserve fund. Each time a supplemental allocation or a reallocation is made to the districts an allocation will be made to the reserve fund if needed to return the balance to \$50,000.

**10.57(3)** The division may phase out the reserve fund after two years by reverting funds to the voluntary program, provided the balance for the program year is less than \$100,000.

**27—10.58(161A) Nonpoint source pollution control practices.** Rescinded IAB 12/31/97, effective 2/4/98.

**27—10.59** Reserved.

#### PART 6

**27—10.60(161A) Funding rates.** The purpose of this division is to establish the funding rates at which the state will fund or share the cost for approved soil conservation practices under the various incentive programs. In all cases, except for the mandatory program, the state's share will be computed using the percentages specified below and the estimated cost, the amended estimated cost, or the actual cost of implementing the practice, whichever is less. Payments under the mandatory program will be based on actual costs.

**10.60(1) Voluntary.**

a. The state will cost-share 50 percent of the cost certified by the certifying technician as being reasonable, proper, and incurred by the applicant in voluntarily installing approved, permanent soil conservation practices. Eligible costs include machine hire or use of the applicant's equipment, needed materials delivered to and used at the site, and labor required to install the practice.

b. For currently funded fiscal years, the division will make one-time payments of up to \$10 per acre for no-tillage, ridge-till and strip-till; \$6 per acre for contouring; and 50 percent of the cost up to \$25 per acre for strip-cropping, field borders and filter strips.

c. Funding for the restoration of permanent practices damaged or destroyed because of a disaster (see 10.41(1)) does not have to be allocated on a cost-share basis.

**10.60(2) *Summer construction incentives.*** Commissioners may enter agreements providing for cost sharing up to 60 percent of the cost of establishing approved, permanent soil and water conservation practices where the establishment of that practice involves a construction project which begins after June 1 but before September 15 of any calendar year. Commissioners shall not use state cost-sharing funds to pay such incentives when requests for cost sharing at the 50 percent level are sufficient to use all of the district's allocation for that fiscal year.

**10.60(3) *Special watershed projects.*** Commissioners may enter into agreements providing for cost sharing up to 60 percent of the cost of a project that includes five or more contiguous farm units which collectively have at least 500 or more acres of farmland and which constitute at least 75 percent of the agricultural land lying within a watershed or a subwatershed. The owners must jointly agree to a watershed conservation plan in conjunction with their respective farm unit soil conservation plans.

**10.60(4) *Mandatory.*** The rate of cost share for permanent soil and water conservation practices required as a result of an administrative order shall be 50 percent of the total cost to the landowner of installing the approved practice. The cost must be certified by the technician as being reasonable, proper and incurred by the landowner. The rate of cost share for temporary soil and water conservation practices is set by the state soil conservation committee.

**10.60(5) *Watersheds above publicly owned lakes.*** The state will cost-share 75 percent of the approved cost of permanent soil and water conservation practices on watersheds above certain publicly owned lakes. Watersheds above publicly owned lakes that qualify for 75 percent cost sharing must be identified on a priority list established by the department of natural resources.

**10.60(6) *Conservation cover.*** Cost share for certain lands is restricted by Iowa Code chapter 161A. Each tract of agricultural land which has not been plowed or used for growing at any time within 15 years prior to January 1, 1981, shall be considered classified as agricultural land under conservation cover. "Agricultural land" has the meaning assigned that term by Iowa Code section 9H.1. If any tract of land so classified is thereafter plowed or used for growing row crops, the district commissioners shall not approve use of state cost-share funds for establishing permanent or temporary soil and water conservation practices on that tract of land in an amount greater than one-half the amount of cost-share funds which would be available for that land if it were not classified as agricultural land under conservation cover. This restriction shall apply even if an administrative order or court order has been issued requiring establishment of conservation practice.

**10.60(7) *Woodland fencing program.*** Rescinded IAB 7/25/90, effective 7/6/90.

**10.60(8) *Wind erosion control incentive program (WECIP).*** Rescinded IAB 12/31/97, effective 2/4/98.

**10.60(9) *Nonpoint source pollution control practices.*** Rescinded IAB 12/31/97, effective 2/4/98.

- IP-4A Amendment to maintenance agreement. This is a one-page form used by the recipient and the district to amend the maintenance agreement. The completed amendment identifies the specific conditions of the maintenance agreement which are modified and provides that all other conditions of the agreement are retained in effect.
- IP-5 Proof of expense. This is a one-page form used to document appropriate expenses for materials and services provided by the recipient in installing permanent soil and water conservation practices.
- IP-6 Performance agreement. This is a two-page form which serves as an agreement between the recipient and the district that the recipient agrees to perform temporary soil conservation practices for which financial incentives from the division through the district have been received. The agreement provides for repayment of the incentive funds to the division if the funded practices are not suitably performed for a minimum of five years.
- IP-6A Amendment to performance agreement. This is a one-page form used by the recipient and the district to amend the performance agreement. The completed amendment identifies the specific conditions of the performance agreement which are modified and provides that all other conditions of the agreement are retained in effect.

10.95(2) Reserved.

27—10.96 to 10.99 Reserved.

Rules in Chapter 10 are intended to implement Iowa Code chapter 161A; 1994 Iowa Acts, chapter 1198, section 1, subsection 4, paragraphs "b," "c," and "d"; 1995 Iowa Acts, chapter 216, section 1, subsection 4, paragraphs "b," "c," and "d"; 1996 Iowa Acts, chapter 1214, section 1, subsection 4, paragraphs "b," "c," and "d"; and 1997 Iowa Acts, House File 708, section 1, subsection 4, paragraphs "b," "c," and "d."

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**INSURANCE AGENTS****CHAPTER 10  
LICENSING OF INSURANCE PRODUCERS****DIVISION I  
LICENSING OF INSURANCE PRODUCERS****191—10.1(522) Purpose and authority.**

**10.1(1)** The purpose of these rules is to govern the qualifications and procedures for the licensing of insurance producers and to set out the requirements, procedures and fees relating to the qualification, licensure and appointment of insurance producers.

**10.1(2)** These rules are authorized by Iowa Code section 505.8 and are intended to implement Iowa Code chapters 252J and 522.

**191—10.2(522) Definitions.**

*"Amended license"* means an insurance producer license that has had qualifications added or deleted since the issue date of the prior insurance producer license.

*"Appointment"* means a request by a licensed insurance company to register a licensed insurance producer as a representative of that company. A company filing such a request must have or intend to have a contractual relationship with the producer and must verify that the producer is licensed for the appropriate qualification(s).

*"Appointment form"* means the NAIC Midwest Zone Uniform Request for Company Appointment/Cancellation form or such other form as designated by the division.

*"CE"* means continuing education.

*"CE term"* means the three-year period ending on the December 31 prior to the producer's renewal year.

*"CSAC"* means college student aid commission.

*"Division"* means the Iowa insurance division.

*"Duplicate license"* means an insurance producer license reissued due to name change, address change or loss of license.

*"Individual"* means a private or natural person, as distinguished from a partnership, corporation or association.

*"Insurance"* means any of the lines of insurance listed in subrule 10.7(1).

*"Insurance agency"* means any partnership, corporation, or limited liability company, or other entity that has been issued a federal tax identification number for whom producers transact or do business with the public or insurance companies, but shall not mean a natural person.

*"Insurance producer license application form"* means the form prescribed by the division to be used to apply for an insurance producer license.

*"Letter of certification"* means a letter or electronic verification obtained through the National Association of Insurance Commissioners (NAIC) Producer Database system (PDB) issued by the insurance commissioner of a producer's resident state which certifies the status, current qualifications and continuing education compliance of the producer's insurance license in the resident state.

*"Letter of clearance"* means a letter or electronic verification issued by a commissioner which certifies that the named producer was formerly licensed in that state, lists the qualifications previously held by the producer and states that the producer is clear to obtain a resident producer license in the state of the producer's new residence.

*"License"* means a document issued by the division which authorizes a person to act as an insurance producer for the lines of insurance specified in the document. The license itself does not provide the producer with any authority to represent or bind an insurance carrier.

*"License information bulletin"* means a brochure issued annually which describes the insurance license application and testing process and which can be obtained from the outside testing service on contract with the division.

*"Nonresident"* means a person residing permanently in a state other than Iowa.

*"Person"* means a natural person, corporation, association, partnership or other legal entity as distinguished from an individual.

*"Producer"* means a person required to obtain an insurance license under Iowa Code section 522.1.

*"Producer renewal report"* includes:

1. The form issued by the division with which producers apply for renewal of a producer license and verify CE credits on file with the division;
2. The continuing education fee described in rule 191—11.14(272C);
3. The license fee set forth in rule 10.25(522); and
4. A letter of certification (nonresidents only).

*"Renewal year"* means the third year following the issuance or last renewal of an insurance producer license.

*"Resident"* means a person residing permanently in Iowa.

*"Resident state"* means the state or district in which a producer resides.

*"Retaliatory fee"* means a fee equal to the fee which a nonresident person would be charged by such person's state of residence if that person were a resident of Iowa making application for a license in that state.

*"Termination"* means cancellation of the relationship between the producer and the insurer or the end of the insurance producer license term.

#### **191—10.3(522) Requirement to hold a license.**

**10.3(1)** No person may solicit insurance in Iowa until that person has been issued an Iowa insurance producer license.

**10.3(2)** A person shall not, for a fee, engage in the business of offering advice, counsel, opinion or service with respect to the benefits, advantages or disadvantages under a policy of insurance that could be issued in Iowa, unless that person holds an Iowa insurance producer license.

**10.3(3)** A person shall not advise an Iowa resident to cancel, not renew, or otherwise change an existing insurance policy unless that person holds an Iowa insurance producer license regarding the line of insurance for which the advice is given.

**10.3(4)** This rule does not apply to:

- a. A licensed attorney providing surety bonds incident to the attorney's practice.
- b. A producer appointed to represent a fraternal benefit society as stipulated under Iowa Code section 512B.31.
- c. A person selling a ticket for transportation by a common carrier when the person also sells, in connection with and related to the transportation ticket, a trip accident insurance policy or an insurance policy on personal effects being carried as luggage.

**10.22(7)** Upon receipt of a withdrawal of the certificate of noncompliance from the CSAC, suspension proceedings shall halt and the named producer shall be notified that the proceedings have been halted. If the producer's insurance license has already been suspended, the license shall be reinstated if the producer is otherwise in compliance with division rules. All fees required for license renewal or license reinstatement must be paid by producers and all continuing education requirements must be met before an insurance producer license will be renewed or reinstated after the board has suspended or revoked a license pursuant to 1998 Iowa Acts, chapter 1081.

**10.22(8)** The division shall notify the producer in writing through regular first-class mail, or such other means as the division deems appropriate in the circumstances, within ten days of the effective date of the suspension or revocation of an insurance producer license, and shall similarly notify the producer when the insurance producer license is reinstated following the division's receipt of a withdrawal of the certificate of noncompliance.

**10.22(9)** Notwithstanding any statutory confidentiality provision, the division may share information with the CSAC for the sole purpose of identifying producers subject to enforcement under Iowa Code chapter 261.

**191—10.23(522) Administration of examinations.**

**10.23(1)** The division will enter into a contractual relationship with an outside testing service to provide the licensing examinations for all of the producers' qualifications where an examination is required.

**10.23(2)** The outside testing service will administer all examinations for license applicants.

**10.23(3)** Any contract to implement subrule 10.23(1) shall require the outside testing service to:

- a. Update, on a continual basis, the licensing examinations,
- b. Ensure that the examinations are job-related,
- c. Adequately inform the applicants of the procedures and requirements for taking the licensing examinations,
- d. Prepare and administer examinations for all lines listed in subrule 10.7(1), except qualifications 9, 30 and 31, and
- e. Conform to division guidelines and report to the division on at least a quarterly basis.

**191—10.24(522) Forms.** An original of each form necessary for the producer's licensure, appointment and cancellation may be requested from the division or downloaded from the division's web site and exact, readable, high-quality copies may be made therefrom. A self-addressed, stamped envelope must be submitted with each request.

**191—10.25(522) Fees.**

**10.25(1)** The fee for an examination shall be set by the outside testing service under contract to the division and approved by the division.

**10.25(2)** The express processing fee for resident producer license applications shall be set by the outside testing service under contract to the division and approved by the division.

**10.25(3)** The fee for issuance or renewal of an insurance producer license is \$50 for three years or, for a nonresident producer, the greater of \$50 or the retaliatory fee.

**10.25(4)** The fee for issuance or renewal of an insurance agency license is \$50 for three years or, for a nonresident producer, the greater of \$50 or the retaliatory fee.

**10.25(5)** The fee for reinstatement of an insurance producer license is a total of the renewal fee plus \$100.

10.25(6) The fee for issuance of an amended or duplicate license is \$10.

10.25(7) The fee for issuance of a clearance letter is \$5.

10.25(8) The fee for issuance of a certification letter is \$5.

10.25(9) The fee for an appointment or the renewal of an appointment is \$5 per producer or the retaliatory fee. There is no fee for the cancellation of an appointment.

10.25(10) The total late fee for filing appointment renewals shall be double the renewal fee. The fee to reinstate appointments that were canceled for failure to renew shall be the late fee plus \$100.

10.25(11) The fee to reactivate an inactive license and receive a new license under subrule 10.9(5) is \$10.

10.25(12) The division may charge a fee for other services.

These rules are intended to implement Iowa Code chapters 252J and 522.

191—10.26 to 10.50 Reserved.

DIVISION II  
LICENSING OF CAR RENTAL COMPANIES AND EMPLOYEES  
(Effective March 15, 2000)

191—10.51(522A) **Purpose.** The purpose of these rules is to govern the qualifications and procedures for the licensing of car rental companies and counter employees and to set out the requirements, procedures and fees relating to the qualification and licensure of car rental companies and counter employees.

191—10.52(522A) **Definitions.**

“*Counter employee*” means a person at least 18 years of age employed by a rental company that offers the products described in this chapter.

“*Counter Employee Application*” means the form used by an individual to apply for a counter employee license.

“*Division*” means the Iowa insurance division.

“*Filed*” means received at the Iowa insurance division.

“*Limited Licensee Application*” means the form used by a rental company to apply for a limited license.

“*Rental company*” means any person or entity in the business of primarily providing vehicles intended for the private transportation of passengers to the public under a rental agreement for a period not to exceed 90 days.

“*Vehicle*” means a motor vehicle under Iowa Code section 321.1 used for the private transportation of passengers, including passenger vans, minivans and sport utility vehicles or used for the transportation of cargo with a gross vehicle weight of less than 26,001 pounds and not requiring the operator to possess a commercial driver’s license, including cargo vans, pickup trucks and trucks.

191—10.53(522A) **Requirement to hold a license.**

10.53(1) A rental company that desires to offer or sell insurance in connection with the rental of a vehicle must file an application with the division and receive a license as a limited licensee.

10.53(2) A counter employee who desires to offer or sell insurance products must file an application with the division and receive a license as a counter employee.

**191—10.54(522A) Limited licensee application process.**

**10.54(1)** To obtain a limited licensee license, a person or entity must file a complete limited licensee license application with the division and pay a fee of \$50 for a three-year license.

**10.54(2)** If the application is approved, the division will issue a limited licensee license.

**191—10.55(522A) Counter employee licenses.**

**10.55(1)** A person may not obtain a counter employee license unless that person is employed by a limited licensee.

**10.55(2)** To obtain a counter employee license, a person must file with the division a completed counter employee license application.

**10.55(3)** All persons who desire to obtain a counter employee license must first successfully complete an examination.

**10.55(4)** Examinations shall be administered by the limited licensee that employs the counter employee.

**10.55(5)** If the application is approved, the division will issue a three-year counter employee license. Applications are deemed approved if not disapproved by the division within 30 days of receipt at the division.

**10.55(6)** The counter employee license will automatically terminate when the counter employee ceases employment with a limited licensee.

**191—10.56(522A) Duties of limited licensees.**

**10.56(1)** A limited licensee is responsible for the training, examination and payment of license fees for all persons who desire to obtain a counter employee license with the limited licensee.

**10.56(2)** A limited licensee must obtain and administer an examination for all counter employee candidates. The content of the examination and the manner of its administration must be approved by the division.

**10.56(3)** The limited licensee must develop a system for examination content security.

**10.56(4)** The limited licensee must administer the counter employee examination under controlled conditions, approved by the division, that ensure that each candidate completes the examination without outside assistance or interference.

**10.56(5)** The limited licensee must notify the division of the termination of employment of any of its licensed counter employees. The limited licensee must file reports of terminations semiannually on July 1 and on January 1.

**191—10.57(522A) License renewal.**

**10.57(1)** All limited licensee and counter employee licenses will be issued with an expiration date of December 31 and must be renewed triennially.

**10.57(2)** A single renewal form for use in renewing the limited licensee's license and the licenses of all of its counter employees will be mailed to the limited licensee at its last-known address as shown on division records.

**10.57(3)** The limited licensee must complete and return the renewal form to the division on or before December 31 of the renewal year or all licenses listed on the renewal form will expire.

**10.57(4)** The fee for renewal of a limited licensee license is \$50 and the fee to renew each individual counter employee license is \$50.

**191—10.58(522A) Limitation on fees.** A limited licensee will not be required to pay more than \$1,000 in license or renewal fees in any one calendar year.

**191—10.59(522A) Change in name or address.**

**10.59(1)** Limited licensees must file written notification with the division of a change in name or address within 30 days of the change. This requirement applies to any change in any locations at which the limited licensee is doing business.

**10.59(2)** Limited licensees must file written notification with the division of a change in name or address of licensed counter employees. If the change of name is by a court order, a copy of the order must be included with the request. The limited licensee must file reports of name and address changes semiannually on July 1 and on January 1.

**191—10.60(522A) Violations and penalties.**

**10.60(1)** A rental company or counter employee that sells insurance in violation of this chapter shall be deemed to be in violation of Iowa Code Supplement chapter 522A and subject to the penalties provided in Iowa Code Supplement section 522A.3.

**10.60(2)** A limited licensee or licensed counter employee who commits an unfair or deceptive trade practice in violation of Iowa Code chapter 507B, or in violation of administrative rules adopted which implement that chapter, is subject to the penalties provided for in Iowa Code chapter 507B.

Rules 10.51(522A) to 10.60(522A) are intended to implement Iowa Code Supplement chapter 522A.

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## ARCHITECTURAL EXAMINING BOARD[193B]

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## CHAPTER 2 REGISTRATION

[Prior to 7/13/88, see Architectural Examiners, Board of[80]]

**193B—2.1(544A,17A) Application for registration by reciprocity.** Applicants for registration by reciprocity are required to make application to the National Council of Architectural Registration Boards (NCARB), 1735 New York Avenue NW, Washington, DC 20006, for a council certificate. A completed state application form (available through NCARB) and a completed NCARB council certificate shall be transmitted to and filed in the board office before an application will be considered by the board.

**2.1(1)** The board, by approval of three of its members who are registered architects, may waive examination requirements for architects registered during the current year in another state or country where the qualifications prescribed at the time of original registration were substantially equivalent to those prescribed in Iowa. For the purpose of determining substantially equivalent qualifications, applicants who were originally registered in another state after July 1, 1984, shall have a NAAB-accredited professional degree and applicants registered after June 1, 1991, shall have met the Training Requirements for Intern-Architect Development Program (IDP). Applicants shall be deemed to have met the IDP requirement regardless of the date of completion of the required experience, provided the experience was completed prior to filing an application for Iowa registration. The board shall find probable cause for disciplinary action if the registrant's registration in any other state is revoked for statutory reasons or incompetence.

**2.1(2)** Rescinded IAB 2/9/00, effective 3/15/00.

**2.1(3)** Practice by business entities.

*a.* Before engaging in the practice of architecture in this state, a foreign or domestic business corporation, a foreign professional corporation, a partnership, or sole proprietorship shall acquire an "Authorization to Practice Architecture as a Business Entity" from the board as provided in Iowa Code section 544A.21.

*b.* A domestic professional corporation shall file with the board a copy of its annual report to the secretary of state.

*c.* Application for the authorization shall be made to the board on forms prescribed by the board.

The application shall include but not be limited to the following:

- (1) Name and address of the business entity;
- (2) Type of business entity;
- (3) Names, addresses, and titles of the registered agent if a corporation, and of all officers, directors, partners, beneficial owners, or other principals of the business entity, or of the sole proprietor;
- (4) Name and address of each registered architect in responsible charge of the practice of architecture on behalf of the business entity in the state of Iowa;
- (5) Signature of an officer of a corporation, a partner of a partnership, or the sole proprietor.

*d.* The "Authorization to Practice Architecture as a Business Entity" will expire on June 30 of each year. Renewal application forms will be provided by the board. The form will request information substantially similar to the information requested in subrule 2.1(3)"c."

*e.* A business entity that fails to renew the authorization by the expiration date, but does so within 30 days following its expiration date, shall be allowed to do so with the payment of a \$5 penalty.

(1) The board shall give notice by certified mail, return receipt requested, to the holder of an authorization who has failed to renew the authorization. If the holder fails to renew within 30 days of receipt of the notice, the certificate of registration shall be canceled.

(2) The authorization may be reinstated by completing all of the following:

1. Paying a reinstatement fee of \$100.
2. Paying the business entity renewal fee.
3. Submitting the application form required by the board.

(3) A business entity that loses its authorization by cancellation or other board action shall immediately cease to conduct architectural practice in the state of Iowa.

**193B—2.2(544A,17A) Application for registration by examination.** To be admitted to the examination, an applicant for registration shall have completed eligibility requirements of education and training standards for NCARB certification and attained an NCARB council record. A completed NCARB council record shall be transmitted to and filed in the board office prior to the scheduling of an examination. Applicants shall also file a state eligibility form and pay a \$100 application fee for processing of examination results.

2.2(1) All eligibility requirements shall have been verified by the council record and satisfied in accordance with the NCARB Handbook for Interns and Architects. The Handbook is available through the National Council of Architectural Registration Board (NCARB), 1735 New York Avenue, N.W., Washington, D.C. 20006, the Iowa architectural examining board or the state law library. Eligibility requirements include a professional degree from a program accredited by the National Architectural Accrediting Board (NAAB) or the Canadian Architectural Certification Board (CACB) and completion of IDP (Intern Development Program).

2.2(2) Documentation of training standards shall be submitted on "IDP report" forms, published by NCARB, verified by signatures of registered architects serving as (a) a professional sponsor who has been the intern-architect's employer or who has been an architect in the firm who has substantial responsibility and has been assigned by the firm to act in this capacity; and (b) a professional advisor who is a registered architect, usually outside the intern's firm, with whom the intern has met for guidance and evaluation of progress. The report form shall be completed to demonstrate attainment of an aggregate of the minimum number of value units in each training area. To receive credit, training units must have been earned no longer than five years prior to the date of establishing an NCARB council record.

2.2(3) To qualify for registration, all applicants shall pass all divisions of the Architectural Registration Examination (ARE) prepared and provided by the National Council of Architectural Registration Boards (NCARB). Applicants who have previously passed any portion of formerly required NCARB examinations will be granted credit for those portions passed in accordance with procedures established by NCARB. Divisions of the examination may be passed or failed separately in accordance with procedures established by NCARB.

**193B—2.3(544A,17A) Reinstatement.** An expired certificate of registration can be reinstated by completing one of the following options:

2.3(1) *Option 1.*

1. Paying a reinstatement fee of \$50 per year of expired registration, up to a maximum of \$350.
2. Paying the current renewal fee.
3. Submitting documented evidence of completion of 12 contact hours (8 hours in public protection subjects) of continuing education for each year of expired registration in compliance with requirements in 193B—Chapter 3 up to a maximum of 48 contact hours (32 hours in public protection subjects).

2.3(2) *Option 2.* File a new application for registration as prescribed in rule 193B—2.1(544A, 17A) and subrules 2.1(1) and 2.2(3).

**193B—2.4(544A,17A) Examination.** Examinations for registration as an architect shall be conducted by the board or its authorized representative.

2.4(1) *Content and grading of the examination.* The board shall make use of the "Architect Registration Examination" (ARE) prepared and graded by NCARB under a plan of cooperation with the boards of all states and territories of the United States.

2.4(2) *Testing service.* The board may make use of a testing service selected by NCARB to administer the examination, provided the examination is held in at least one location within the boundaries of this state.

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The quotient, determined on the same basis as the utility's tariff rates, shall be added to the take-or-pay factor for the prospective ten-month period beginning November 1.

b. Any overbilling determined from the reconciliation shall be refunded to the customer classification or PGA grouping from which it was generated. The overbilling shall be divided by the annual cost of purchased gas subject to recovery for the 12-month period which began the prior September 1 for each purchased gas adjustment clause and applied as follows:

(1) If the net overbilling from the purchased gas adjustment reconciliation exceeds 3 percent of the annual cost of purchased gas subject to recovery for a specific PGA grouping, the utility shall refund the overbilling by bill credit or check for the time period beginning November 1 of the current year to the date of refunding. The minimum amount to be refunded by check shall be \$10. Interest shall be calculated on amounts exceeding 3 percent from the PGA year midpoint to the date of refunding. The interest rate shall be the commercial paper rate (90-day, high-grade unsecured notes) quoted in the "Money Rates" section of the Wall Street Journal on the last working day of August of the current year.

(2) If the net overbilling from the purchased gas adjustment reconciliation does not exceed 3 percent of the annual cost of purchased gas subject to recovery for a specific PGA grouping, the utility may refund the overbilling by bill credit or check for the time period beginning November 1 of the current year to the date of refunding, or the utility may refund the overbilling through ten-month adjustments to the particular purchased gas adjustment from which they were generated. The minimum amount to be refunded by check shall be \$10. This adjustment shall be determined by dividing the overcollection by the anticipated sales volume for the prospective ten-month period beginning November 1 as determined in subrule 19.10(1) for the applicable purchased gas adjustment clause. The quotient, determined on the same basis as the utility's tariff rates, shall be a reduction to that particular purchased gas adjustment for the prospective ten-month period beginning November 1.

c. Any overbilling determined from the reconciliation of a TPA shall be refunded to the customer classification or TPA grouping from which it was generated. The 3 percent refund rule described in subparagraphs 19.10(7)"b"(1) and (2) shall also apply to the take-or-pay reconciliation. The overbilling shall be divided by the anticipated sales volumes or transport volumes for the prospective ten-month period beginning November 1 (based upon the volumes determined in subrule 19.10(5)). The quotient, determined on the same basis as the utility's tariff rates, shall be a reduction to that particular take-or-pay adjustment for the prospective ten-month period beginning November 1.

d. If the 3 percent refund rule described in subparagraph 19.10(7)"b"(1) requires an immediate refund for either the PGA or the TPA, the reconciliation results of the two adjustments may be netted. The volumes involved with the PGA and TPA must be the same. The 3 percent refund rule described in subparagraphs 19.10(7)"b"(1) and (2) shall also apply to the netted PGA and TPA reconciliation results. The quotient, determined on the same basis as the utility's tariff rates, shall be a reduction to that particular netted purchased gas adjustment and take-or-pay adjustment for the prospective ten-month period beginning November 1.

e. When a customer has reduced or terminated system supply service and is receiving transportation service, any liability for overcollections and undercollections shall be determined in accordance with the utility's gas transportation tariff.

**19.10(8) Refunds from gas suppliers.**

a. The utility shall refund to customers by bill credit or check an amount equal to any refund received from a supplier, plus accrued interest, if the refund exceeds \$5 per average residential customer under the applicable PGA clause. The utility may retain undistributed refund amounts in special refund retention accounts for each customer classification under the applicable PGA clause until such time as additional refund obligations or interest cause the average residential customer refund to exceed \$5. Any obligations remaining in the retention accounts on September 1 shall become a part of the annual PGA reconciliation.

Within 30 days of receipt of a refund from a supplier, the utility shall file with the board the following information:

- (1) A statement of reason for the refund.
- (2) The amount of the refund with support for the amount.
- (3) The balance of the appropriate refund retention accounts.
- (4) The amount due under each purchased gas adjustment clause.

b. If the supplier refund will result in a refund distribution, the utility shall also file within 30 days:

- (1) The intended period of the refund distribution.
- (2) The estimated interest accrued for each supplier refund through the proposed refund period, with complete interest calculations and supporting data as determined in 19.10(8) "e."
- (3) The total amount to be refunded, the amount to be refunded per customer classification or PGA grouping, and the refund per ccf or therm.

c. Within 30 days of receipt of a refund from a supplier which will result in a refund retention, the utility shall also file with the board for its approval a refund retention report which shall include the following information:

- (1) The estimated interest accrued for each refund received and for each amount in the refund retention accounts through the date of the filing with complete interest calculation and support as determined in 19.10(8) "e."
- (2) The total amount to be retained, the amount to be retained per customer class or PGA grouping, and the level per ccf or therm.
- (3) The calculations demonstrating the retained balance is less than \$5 per average residential customer with supporting schedules for all factors used.

d. The refund to each customer shall be determined by dividing the amount in the appropriate refund retention account, including interest, by the total ccf or therm of system gas consumed by affected customers during the period for which the refundable amounts are applicable and multiplying the quotient by the ccf or therms of system supply gas actually consumed by the customer during the appropriate period. The utility may use the last available 12-month period if the use of the actual period generating the refund is impractical. The utility shall file complete support documentation for all figures used.

e. The interest rate on refunds distributed under this subrule, compounded annually, shall be the commercial paper rate (90-day, high-grade unsecured notes) quoted in the "Money Rates" section of the Wall Street Journal on the day the refund obligation vests. Interest shall accrue from the date the rate-regulated utility receives the refund or billing from the supplier or the midpoint of the first month of overcollection to the date the refund is distributed to customers.

f. The rate-regulated utility shall make a reasonable effort to forward refunds, by check, to eligible recipients who are no longer customers.

g. The minimum amount to be refunded by check shall be \$1.

This rule is intended to implement Iowa Code section 476.6(11).

### 199—19.11(476) Periodic review of gas procurement practices [476.6(15)].

19.11(1) *Procurement plan.* The board shall periodically conduct a contested case proceeding for the purpose of evaluating the reasonableness and prudence of a rate-regulated public utility's natural gas procurement and contracting practices. The board shall provide the utilities 90 days' notice of the requirement to file a procurement plan. In the years in which the board does not conduct a contested case proceeding, the board may require the utilities to file certain information for the board's review. In years in which the board conducts a full proceeding, a rate-regulated utility shall file prepared direct testimony and exhibits in support of a detailed 12-month plan and a 3-year natural gas procurement plan. A utility's procurement plan shall be organized as follows and shall include:

a. An index of all documents and information filed in the plan and identification of the board files in which documents incorporated by reference are located.

- b. All contracts and gas supply arrangements executed or in effect for obtaining gas and all supply arrangements planned for the future 12-month and 3-year periods.
- c. An organizational description of the officer or division responsible for gas procurement and a summary of operating procedures and policies for procuring and evaluating gas contracts.
- d. A summary of the legal and regulatory actions taken to minimize purchased gas costs.
- e. All studies or investigation reports considered in gas purchase contract or arrangement decisions during the plan periods.
- f. A complete list of all contracts executed since the last procurement review.
- g. A list of other unbundled services available (for example, storage services if offered).
- h. A description of the supply options selected and an evaluation of the reasonableness and prudence of its decisions. This evaluation should show the relationship between forecast and procurement.

19.11(2) *Gas requirement forecast.* Rescinded IAB 4/3/91, effective 3/15/91.

19.11(3) *Annual review proceeding.* Rescinded IAB 2/9/00, effective 3/15/00.

19.11(4) *Evaluation of the plan.* The burden shall be on the utility to prove it is taking all reasonable actions to minimize its purchased gas costs. The board will evaluate the reasonableness and prudence of the gas procurement plan.

19.11(5) *Disallowance of costs.* The board shall disallow any purchased gas costs in excess of costs incurred under responsible and prudent policies and practices. The PGA factor shall be adjusted prospectively to reflect the disallowance.

This rule is intended to implement Iowa Code section 476.6(15).

#### **199—19.12(476) Flexible rates.**

19.12(1) *Purpose.* This subrule is intended to allow gas utility companies to offer, at their option, incentive or discount rates to their sales and transportation customers.

19.12(2) *General criteria.*

a. Natural gas utility companies may offer discounts to individual customers, to selected groups of customers, or to an entire class of customer. However, discounted rates must be offered to all directly competing customers in the same service territory. Customers are direct competitors if they make the same end product (or offer the same service) for the same general group of customers. Customers that only produce component parts of the same end product are not directly competing customers.

b. In deciding whether to offer a specific discount, the utility shall evaluate the individual customer's, group's, or class's situation and perform a cost-benefit analysis before offering the discount.

c. Any discount offered should be such as to significantly affect the customer's or customers' decision to stay on the system or to increase consumption.

d. The consequences of offering the discount should be beneficial to all customers and to the utility. Other customers should not be at risk of loss as a result of these discounts; in addition, the offering of discounts shall in no way lead to subsidization of the discounted rates by other customers in the same or different classes.

**19.12(3) *Tariff requirements.*** If a company elects to offer flexible rates, the utility shall file for review and approval tariff sheets specifying the general conditions for offering discounted rates. The tariff sheets shall include, at a minimum, the following criteria:

a. The cost-benefit analysis must demonstrate that offering the discount will be more beneficial than not offering the discount.

b. The ceiling for all discounted rates shall be the approved rate on file for the customer's rate class.

c. The floor for the discount sales rates shall be equal to the cost of gas. Therefore, the maximum discount allowed under the sales or transportation tariffs is equal to the nongas costs of serving the customer.

d. No discount shall be offered for a period longer than five years, unless the board determines upon good cause shown that a longer period is warranted.

e. Discounts should not be offered if they will encourage deterioration in the load characteristics of the customer receiving the discount.

f. Customer charges may be discounted.

**19.12(4) *Reporting requirements.*** Each natural gas utility electing to offer flexible rates shall file semiannual reports with the board within 30 days of the end of each six months. Reports shall include the following information:

a. Section 1 of the report will concern discounts initiated in the last six months. For all discounts initiated in the last six months, the report shall include:

(1) The identity of the new customers (by account number, if necessary);

(2) The value of the discount offered;

(3) The cost-benefit analysis results;

(4) The cost of alternate fuels available to the customer, if relevant;

(5) The volume of gas sold to or transported for the customer in the preceding six months; and

(6) A copy of all new or revised flexible rate contracts executed between the utility and its customers.

b. Section 2 of the report relates to overall program evaluation. For all discounts currently being offered, the report shall include:

(1) The identity of each customer (by account number, if necessary);

(2) The total volume of gas sold or transported in the last six months to each customer at discounted rates, by month;

(3) The volume of gas sold or transported to each customer in the same six months of the preceding year, by month;

(4) The dollar value of the discount in the last six months to each customer, by month;

(5) The dollar value of volumes sold or transported to each customer for each of the previous 12 months; and

(6) If customer charges are discounted, the dollar value of the discount shall be separately reported.

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CHAPTER 51  
SELF-EMPLOYMENT LOAN PROGRAM

[Prior to 7/19/95, see 261—Ch 8]  
[Former Ch 51, "Speculative Building Loans," rescinded IAB 7/19/95, effective 8/23/95]

**261—51.1(15) Purpose.** The department of economic development administers the self-employment loan program (SELP) in coordination with the job training partnership program (261—Chapter 19) and the entrepreneurship training program administered under Iowa Code section 15.108, subsection 6, paragraph "c." The purpose of the SELP is to provide loans to low-income persons and persons with a disability to establish or expand small business ventures.

**261—51.2(15) Definitions.** As used in this chapter, unless the context otherwise requires:

*"Applicant"* means an individual proprietorship, partnership, limited liability company or corporation engaged in a single business, or related businesses wherein overlapping ownership interests exceed 50 percent.

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

*"Family income (annualized)"* means all income actually received from all sources by all household members of the family during the six months immediately prior to application multiplied by two. When computing family income, income of a spouse and other family members shall be counted for the portion of the income determination period that the person was actually a part of the family unit of the applicant.

*"Fixed assets"* means those items used to manufacture a product, provide a service, or to sell, store or deliver merchandise. These items will not be sold in the normal course of business, but will be used and worn out or consumed over time, usually longer than a year, as the business is conducted.

*"Initial working capital"* means those items that are required as part of the base of the business and includes, but is not limited to, deposits for utilities, rent, down payments for insurance and lease purchases, purchase of office supplies and incidentals and petty cash.

*"Local sponsor"* means a representative from a local organization willing to offer assistance and guidance to applicants. Appropriate local sponsors will be identified in the application materials provided by the IDED and may include the SBDC, JTPA, local chamber of commerce, or other organizations approved by IDED.

*"Low income"* means an individual with an annualized household income that is equal to or less than 125 percent of the most current poverty income guidelines as published on an annual basis by the Department of Health and Human Services (DHHS).

*"Persons with a disability"* means, with respect to an individual, a physical or mental impairment that substantially limits one or more of the major life activities of the individual, a record of physical or mental impairment that substantially limits one or more of the major life activities of the individual, or being regarded as an individual with a physical or mental impairment that substantially limits one or more of the major life activities of the individual. "Disability" does not include any of the following:

1. Homosexuality or bisexuality.
2. Transvestitism, transsexualism, pedophilia, exhibitionism, voyeurism, gender identity disorders not resulting from physical impairments, or other sexual behavior disorders.
3. Compulsive gambling, kleptomania, or pyromania.
4. Psychoactive substance abuse disorders resulting from current illegal use of drugs.

"Major life activity" includes functions such as caring for one's self, performing manual tasks, walking, seeing, hearing, breathing, learning, or working.

**261—51.3(15) Eligibility requirements.**

**51.3(1) Residence.** An applicant must be a resident of Iowa to be eligible to apply for a loan.

**51.3(2) Age.** An applicant must be 18 years of age or older at the time of application.

**51.3(3) Income.** To qualify to apply for a loan, an applicant must have annualized household family income that is equal to or less than 200 percent of the most current poverty guidelines as published on an annual basis by the Department of Health and Human Services (DHHS). For purposes of calculating family income, exclusions are:

- a. Food stamps
- b. Compensation received in the form of food or housing
- c. Other noncash income
- d. Public assistance payment
- e. Federal, state, local, or private unemployment benefits
- f. Payment, other than on-the-job training wages, made to participants while enrolled in employment and training programs
- g. Capital gains and losses
- h. Scholarship and fellowship grants
- i. Accident, health, and casualty insurance proceeds
- j. Disability and death insurance payments
- k. Awards and gifts
- l. Inheritances
- m. Workers' compensation
- n. Terminal leave
- o. Pay or allowances previously received by any veteran while serving on active duty in the U.S. armed forces
- p. Educational assistance and compensation payments to veterans and other eligible persons under the following chapters of Title 38 of the U.S. Code:
  - Chapter 11—Compensation for service-connected disability or death
  - Chapter 13—Dependency and indemnity compensation for service-connected deaths
  - Chapter 31—Training and rehabilitation for veterans with service-connected disabilities
  - Chapter 32—Post-Vietnam era veterans' educational assistance
  - Chapter 34—Veterans' educational assistance
  - Chapter 35—Survivors' and dependents' educational assistance
  - Chapter 36—Administration of educational benefits
- q. Payments received under the Trade Act of 1974
- r. Payments received on behalf of foster children
- s. Child support payments
- t. Cash payments received pursuant to a state plan approved under the Social Security Act:
  - Title II—disability insurance payments
  - Title IV—aid to families with dependent children
  - Title XVI—supplemental security income for the aged, blind, and disabled
- u. Payments received under the Black Lung Benefits Reform Act of 1977 (Public Law 95-239)
- v. Assets drawn down as withdrawals from a bank
- w. Proceeds from the sale of property, a house, or car
- x. Tax refunds
- y. Other one-time and limited unearned income.



**51.3(4)** Reserved.

**51.3(5) Local sponsor.** Each applicant must secure participation from a local sponsor.

**51.3(6) Automatic eligibility.** Cash welfare recipients (AFDC, general assistance, refugee assistance, etc.), applicants who are JTPA-eligible or applicants who are certified as having a disability under the standards promulgated by the Iowa department of education, division of vocational rehabilitation, are automatically eligible to apply for a SELP loan.

**51.3(7) Experience.** Prior to applying for SELP funding, an applicant must have successfully completed a comprehensive business training program no less than four weeks in length including, but not limited to, programs such as Next Level, FasTrack, FirstStep, or other programs developed by a John Papajohn Entrepreneurial Center, Small Business Development Center, or the Institute for Social and Economic Development and agree in writing to accept and utilize ongoing technical assistance.

**51.3(8) Loan limitations.**

*a. Maximum amount.* The maximum loan amount available to any one applicant is \$10,000.

*b. Use of loan funds.* Rescinded IAB 2/10/99, effective 3/17/99.

*c. Follow-on funding.* The department may accept applications for additional funding from current or former SELP loan recipients. No applicant may receive cumulatively more than \$10,000 under the program. For example, a loan recipient who was awarded \$5,000 in prior years may request an additional \$5,000 for the business. In determining whether to fund a request for follow-on funding, the department will consider, in addition to the evaluation criteria in subrule 51.4(3), factors including, but not limited to, the applicant's credit history with the department in repayment of the prior SELP loan; the solvency of the business; and the business's need for funding. Any application for follow-on funding will be subject to the restrictions outlined in paragraph 51.3(8) "b."

*d. Drawdowns.* The department reserves the right to restrict the timing of the drawdown of funds. As a general rule, the initial drawdown of funds may not include more than \$1,500 of initial working capital.

*e. SELP—comprehensive management assistance.*

(1) *Eligibility.* Comprehensive management assistance is limited to eligible applicants or recipients of the SELP program.

(2) *Use of funds.* Assistance is available only in the form of technical or professional services provided by department-contracted providers. Assistance may include, but shall not be limited to: consulting, training, apprenticeship, and professional services; assistance in furnishing information about available financial or technical assistance; evaluating small business venture proposals; assistance in the completion of viable start-up or expansion plans; and assistance in the completion of applications for financial or technical assistance under programs administered by the department.

(3) *Disbursement.* Each eligible business may receive funding for individualized management assistance. All funds under the comprehensive management assistance program will be paid directly to the service provider. No funds will be given directly to the business.

**261—51.4(15) Application procedure.** Application materials are available from the IDED division of marketing and business development.

**51.4(1) Submittal.** Completed applications shall be submitted to: SELP, Division of Marketing and Business Development, Iowa Department of Economic Development, 200 East Grand Avenue, Des Moines, Iowa 50309.

**51.4(2) Review.** Applications will initially be reviewed by the IDED staff. IDED staff may request additional information from the applicant prior to committee review. A review committee will score each application. The scores will be averaged and the applications receiving an average score of 10 points or more out of a total of 19 will be considered by the committee for recommendation for funding. The committee's recommendation for funding will include the amount of the loan (not to exceed \$10,000), the interest rate to be charged (not to exceed 5 percent), and other terms and conditions. The IDED director will review the recommendation and make a final decision based on various factors including, but not limited to, geographical distribution and economic impact.

**51.4(3) Evaluation factors.** Applications will be reviewed and evaluated using a 19-point system, based upon the following criteria:

**a. Background of applicant 0-5 points**

Does the applicant have education or work experience that is relevant to the proposed business?  
Does the application document previous business training or management experience?

**b. Business plan—financial 0-5 points**

Does the application contain a comprehensive two-year cash flow projection? Has the applicant provided sufficient documentation to support/justify the cash flow assumptions (i.e., third-party documentation regarding market size, annual sales, and competition)?

**c. Business plan—marketing 0-5 points**

Does the application contain sufficient information to ascertain that the applicant fully understands who their customers will be and how to reach them?

**d. Need of applicant 0-3 points**

Consideration will be given to an applicant's: inability to secure a loan from conventional sources (e.g., bank, savings and loan, credit union, etc.) for the business venture; personal debt level; and lack of personal financial resources to adequately fund the business venture.

**e. Creditworthiness 0-1 point**

Does the applicant have outstanding debt to the state? Can the business, as proposed, provide enough income to meet the applicant's minimum monthly income requirement, including service for outstanding debt?

**261—51.5(15) Loan agreement.** Upon award of a loan the IDED staff will prepare a loan agreement which will include loan conditions, a repayment schedule, and default provisions.

**261—51.6(15) Monitoring and reporting.**

**51.6(1) Monitoring.** The IDED reserves the right to monitor the recipient's records to ensure compliance with the terms of the loan. IDED staff will contact the loan recipient within 90 days of the award and as frequently as conditions may warrant during the life of the loan.

**51.6(2) Reporting.** Loan recipients shall submit to the IDED reports in the format requested by the department. The department retains the authority to request information on the condition of the business on a more frequent basis at any time during the life of the loan.

**261—51.7(15) Default procedures.**

**51.7(1) Delinquency on a loan begins on the tenth day after the due date of the first missed payment not later made. A loan is in default when a borrower exceeds 90 days of delinquency.**

**51.7(2) If a payment is not made in a timely manner, the department will send written notices of delinquency or collection letters to the last-known address of the borrower. The notice will notify the borrower of the amount past due and request prompt payment of that amount.**

**51.7(3) If there is no response to written notices of delinquency or collection letters or if payment is not made, the department will send a Notice to Cure to the borrower. The Notice to Cure identifies the terms and conditions necessary to cure the delinquency and allows 20 days for the account to be resolved. The notice will notify the borrower that if the delinquency is not cured and results in default, the department may report the default to a credit reporting bureau and may bring suit against the borrower to compel repayment of the loan.**

**51.7(4)** In the event the borrower does not comply with the Notice to Cure, a Final Demand letter will be sent to the borrower and a separate Final Demand letter will be sent to the cosigner.

**51.7(5)** Once a loan is in default and an account remains unresolved after the time period stated in the Final Demand letter, the department will refer the matter to the Iowa attorney general's office for appropriate action.

These rules are intended to implement Iowa Code sections 15.102 and 15.241.

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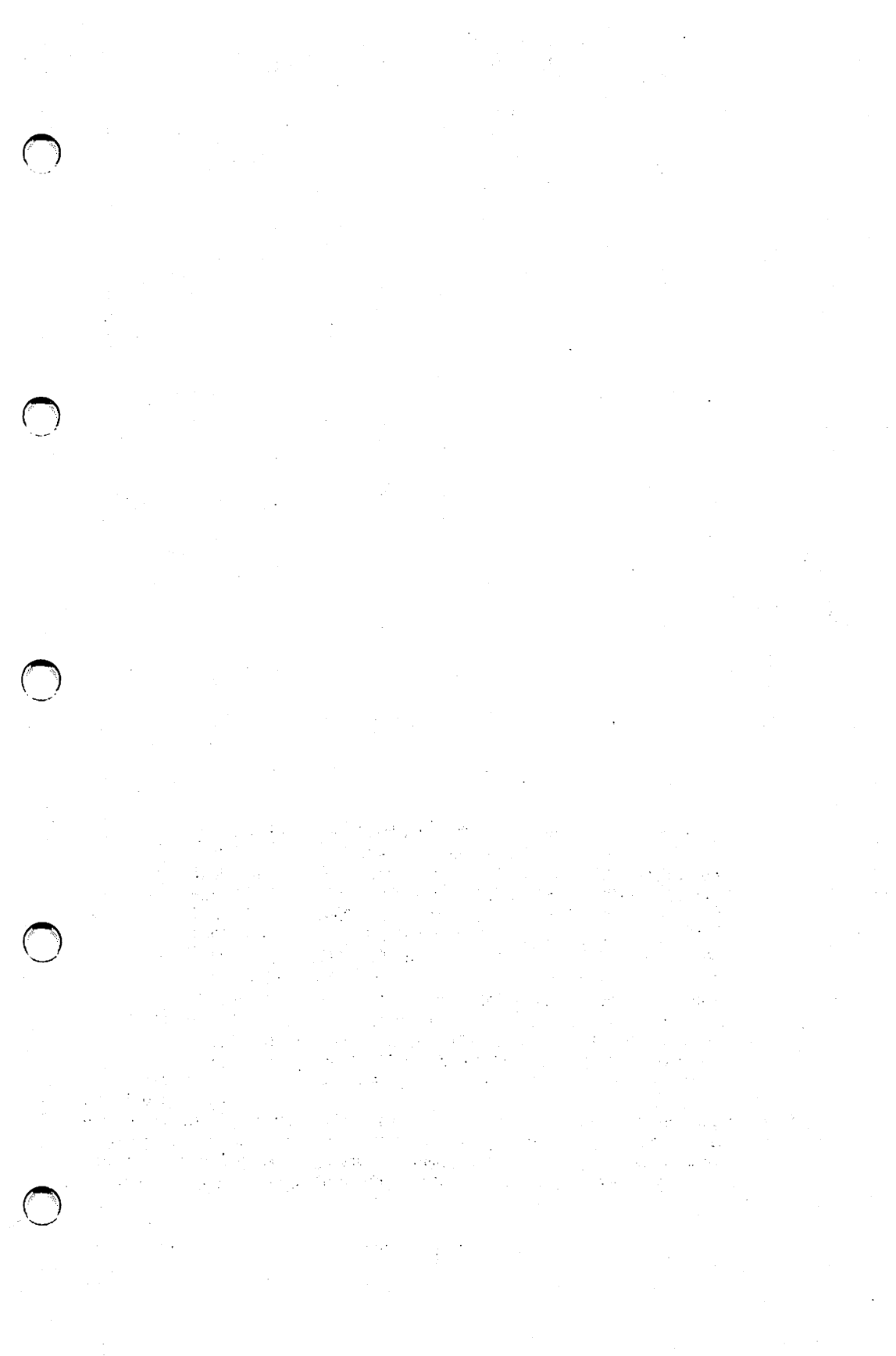
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**CHAPTER 62**  
**EDUCATIONAL IMPROVEMENT PROJECTS**  
[Prior to 9/7/88, see Public Instruction Department[670] Ch 60]

**281—62.1(260A) Scope and general principles.**

**62.1(1) Scope.** These rules apply to the provision of educational improvement projects authorized in Iowa Code chapter 260A.

**62.1(2) General principles.** Educational improvement projects may be developed by a local school district, as a cooperative effort between local school districts and through cooperative arrangements between local school districts and other agencies as defined in Iowa Code chapter 28E. Each educational improvement project should be consistent with the plans developed by the local district under Iowa Code chapter 260A. It is the responsibility of the school districts electing to implement such projects to ensure that they meet the requirements of state statute and these rules.

**281—62.2(260A) Definitions.** For the purpose of this chapter the following definitions apply.

*“Academic excellence”* is the attainment, by a targeted portion of the student population, of high levels of achievement in targeted curriculum areas and the ability to apply thinking skills such as creativity, critical thinking, problem solving and evaluation.

*“Curriculum”* refers to all pupil experiences that take place under the guidance of the school. It shall also be used to describe the school connected learning experience of any pupil and to indicate the arrangement of a group of courses to be taken by groups of students having a common objective. It is synonymous with the educational program of the school.

*“Department”* refers to the department of education.

*“Instruction”* is the putting of educational programs or curricular plans into practice.

*“Local education agency”* refers to a local school district.

*“Program budget”* is a budget consisting of a listing of the estimated direct program and object expenditures that are necessary to accomplish the goals of the project, along with a listing of the sources of revenue.

*“School”* may refer to either a school district or an attendance center within a school district.

**281—62.3(260A) Development of plan.** On or before November 1 of each year a local education agency may submit plans to the department for an educational improvement project for the school year commencing the following July 1.

**281—62.4(260A) Project plan.** The following items shall constitute a plan which must be filed with the department to qualify for additional allowable growth under provisions of Iowa Code chapter 260A.

**62.4(1) Content of the plan.** The plan shall:

- a. Describe the rationale for the project.
- b. Describe the target population, project focus and term of the project.
- c. Identify the goals and objectives of the planned project and designate the role of staff to meet these goals and objectives.
- d. Describe provisions, if any, for cooperative arrangements.
- e. Describe the design for project evaluation.
- f. Include a program budget.

**62.4(2) Reserved.**

**281—62.5(260A) Responsibilities of participating local school districts.**

**62.5(1) *Development of goals and objectives.*** Project goals and objectives shall be established for the following:

- a. Student outcomes.
- b. Curriculum and instruction.
- c. Staff utilization.

**62.5(2) *Evaluation.*** The local education agency shall give attention to the following in its evaluation design:

- a. Evaluation of educational improvement projects shall be for the purpose of measuring outcomes and providing information for improvement.
- b. Evaluation shall be conducted for each objective established.
- c. Both cognitive and affective components of student development shall be evaluated.
- d. Evaluation findings shall report results based on outcomes which are a direct result of the project.

**62.5(3) *Staff utilization plan.*** The staff utilization plan component of an educational improvement project shall include the following:

- a. A description of how personnel will be deployed in order to bring about educational improvement.
- b. Designation of a staff person who shall be responsible for overall project coordination throughout the local education agency.
- c. Designation of coordination time to be made available to the educational improvement project staff to permit carrying out duties under the plan.

**62.5(4) *Budget procedures.*** When projects are jointly provided by two or more local education agencies or by a local education agency in cooperation with another agency, each agency shall submit a separate program budget for the portion of the project costs it will provide. A combined budget for the entire project shall also be submitted specifying the contribution of each cooperating agency. Funds generated for the educational improvement project will be for expenditures directly related to the educational improvement plan activities.

**62.5(5) *Indirect cost limitations.*** In determining the minimum one-fourth to be funded from the district cost, no more than 15 percent of the total project costs may be indirect expenses.

**62.5(6) *Application forms.*** Districts shall submit applications for educational improvement projects on forms supplied by the department.

**281—62.6(260A) Responsibilities of the department.**

**62.6(1)** The department shall provide forms to local education agencies for educational improvement project proposals and reports. These materials shall be provided not fewer than 45 days before proposals are due for approval.

**62.6(2)** To the extent that resources are available, the department shall provide technical assistance to local education agencies and to area education agencies in the development of educational improvement programs.

**62.6(3)** The department shall perform educational improvement project review and approval.

**62.6(4)** The department shall develop a format for an educational improvement project annual report. This report is to be filed by local education agencies with the department on or before August 15 following the close of the school year.

**62.6(5)** The department shall determine and publish criteria for granting educational improvement incentive awards no later than August 15 of each year.

**281—62.7(260A) Assurances.** Each applicant shall assure that the project submitted has not previously been implemented in the district and that it requires funding which the district cannot provide. In addition, the department may require other assurances.

These rules are intended to implement Iowa Code chapter 260A.

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**CHAPTER 63**  
**EDUCATIONAL PROGRAMS AND SERVICES**  
**FOR PUPILS IN JUVENILE HOMES**

[Prior to 9/7/88, see Public Instruction Department[670] Ch. 42]

**281—63.1(282) Scope.** These rules apply to the provision of educational programs in juvenile shelter care homes and juvenile detention homes.

**281—63.2(282) Definitions.**

**63.2(1)** Special programs cited in 1999 Iowa Code section 282.30 shall be referred to as juvenile shelter care homes and juvenile detention homes, and shall be referred to jointly as juvenile homes.

**63.2(2)** For purposes of this chapter, “*school corporation*” shall refer to school districts, area education agencies, and community colleges.

**63.2(3)** For purposes of this chapter, “*aides*” shall refer to aides and para-educators as defined in Iowa Code section 272.12.

**281—63.3(282) Forms.** The department of education shall provide forms to area education agencies (AEAs) for submitting program and budget proposals and for submitting claims. The annual dates for filing forms with the department of education are January 1 of the prior fiscal year for AEAs to submit program and budget proposals, and August 1 of the subsequent fiscal year for AEAs to file claims. The department of education shall review and approve or modify the program and budget proposals and shall notify the AEA by February 1.

The department of education shall also provide forms to AEAs for use by the juvenile homes requesting educational services. These forms must be filed with the AEA annually by December 1 of the fiscal year prior to the school year for which services are being requested.

**281—63.4(282) Budget amendments.** An AEA shall amend the budget during the fiscal year in which actual classrooms implemented are different than budgeted or there is a significant decrease or increase in the student membership that would change the number of teachers or aides necessary to support the average daily membership. An amendment shall also be required if actual expenditures vary significantly from expenditures which were budgeted. A significant variance in actual expenditures means that the amount of funding which would be reverted to or due from the state equals or exceeds 10 percent of the advance payments in the subsequent year prior to adjustments.

**281—63.5(282) Area education agency responsibility.** An AEA shall provide or make provision for an appropriate educational program for each child living in the following types of facilities located within its boundaries:

1. An approved or licensed shelter care home, as defined in Iowa Code subsection 232.2(34).
2. An approved juvenile detention home, as defined in Iowa Code subsection 232.2(32).

The provision of the educational program shall be pursuant to a written agreement which identifies the responsibilities of the AEA, juvenile home, and any other agency with which the AEA contracts to provide the educational program.

**281—63.6(282) Educational program.**

**63.6(1) Methods of program provision.** The AEA may provide the educational program by one of the following:

- a. Enrolling the child in the child’s district of residence.
- b. Obtaining the course of study of the child’s district of residence for use in the juvenile home where the child is living.
- c. Enrolling the child in the district where the child is living.

- d. Enrolling the child in the educational program provided in the juvenile home.
- e. A delivery method not encompassed by "a" through "d" immediately preceding, with approval of the department of education.

In accordance with Iowa Code section 273.2, an AEA shall contract, whenever practicable, with other school corporations for the use of personnel, buildings, facilities, supplies, equipment, programs, and services.

**63.6(2) Final determination.** In the absence of a decision of a court regarding a child's educational placement, the AEA where the child is living shall make the final determination regarding the provision of the appropriate educational program for the child, in consultation with the district of residence of the child and with the juvenile home. In making this determination, consideration shall be given to:

- a. A preference for continuance of the child's educational program that was in place prior to the child's placement in the home.
- b. Placement into the least restrictive environment.
- c. Development of a plan for future educational programming.
- d. The provisions of the court order if the child was placed in the facility by a court.
- e. Factors including, but not limited to, the child's emotional or physical state, the child's safety and the safety of others, the child's identified or assessed academic abilities, and the projected duration of stay in the home.

**63.6(3) Cooperation with area education agency.** The AEA of the child's district of residence, the school district of residence, the school district in which the home is located, other AEAs, the juvenile home and other appropriate agencies involved with the care or placement of the child shall cooperate with the AEA where the child is living in sharing educational information, textbooks, curriculum, assignments, and materials in order to plan and to provide for the appropriate education of the child living in the home and to grant academic credit to the child for instructional time earned upon discharge from the home.

**63.6(4) Summer school programs.** Summer school programs, as distinguished from extended year programming, may be operated pursuant to Iowa Code subsection 282.31(5), and shall be considered as separate programs in each home. The fiscal year for a juvenile home program is from July 1 through June 30. Program and budget proposals submitted to the department of education prior to January 1, pursuant to Iowa Code section 282.31, may include requests for summer school programs, or portions of summer school programs, commencing July 1 of the subsequent fiscal year and summer school programs, or portions of summer school programs, ending June 30 of the subsequent fiscal year.

**281—63.7(282) Special education.** The AEA shall establish policies and procedures for screening and evaluating students living in juvenile homes who may require special education.

**63.7(1) Assignment.** A diagnostic-educational team shall be assigned by the AEA in which each program is located. This diagnostic-educational team shall include individuals who are appropriately qualified to conduct special education evaluations and to assist in planning programs for students who are provided a special education program pursuant to an individualized education program (IEP).

**63.7(2) Duties.** The duties of this diagnostic-educational team shall include the screening of all students for potential special education needs, identifying children in need of special education, providing needed special education support services and assisting in the implementation of needed special education programs.

**63.7(3) Role of director of special education.** It is the responsibility of the AEA director of special education to ensure that all procedures related to due process, protection in evaluation, least restrictive environment, development of individual educational programs and other requirements specified in 281—Chapter 41 are adhered to for students provided a special education program pursuant to an IEP who are served in juvenile homes. In addition, the director is responsible for coordinating the activities of the special education program with other programs and services provided.

**281—63.8(282) Educational services.**

**63.8(1) Assignment.** Personnel from the educational services division of the local AEA shall be made available to each program.

**63.8(2) Duties.** Personnel from the educational services division shall assist with curriculum development as well as provide all other services that are made available to local education agencies within the particular AEA.

**281—63.9(282) Media services.**

**63.9(1) Assignment.** Personnel from the media services division of the local AEA shall be made available to each program.

**63.9(2) Duties.** All services that are made available to local education agencies within the particular AEA shall be made available to these programs and students.

**281—63.10(282) Other responsibilities.** In addition to the above-mentioned responsibilities, AEA personnel shall assist with coordination of program curricula with the curricula of the local district in which the home is located and with the transition of students from these programs to subsequent program placement. This coordination shall include the establishment of procedures for ensuring that appropriate credit is available to the students while participating in the program.

**281—63.11(282) Curriculum.** Each program shall use the minimum curriculum requirements for approved or accredited schools as a guide to developing specific content for each student's educational program. The content of each student's program shall be sufficient to enable the student to earn credit while participating in the program.

**281—63.12(282) Disaster procedures.** Each home shall maintain a written plan containing emergency and disaster procedures that are clearly communicated to and periodically reviewed with staff.

**281—63.13(282) Maximum class size.**

**63.13(1) Maximum class size in shelter care homes.** The following maximum class size-to-staff ratio shall be used in shelter care homes:

<u>Average Daily Membership</u>	<u>Full-Time Teacher</u>	<u>Educational Aide(s)</u>
10 or fewer	1	1 aide
More than 10 through 20	2	1 aide with more than 10 but fewer than 15 students 2 aides with 15 through 20 students
More than 20 through 30	3	2 aides with more than 20 but fewer than 25 3 aides with 25 through 30 students

**63.13(2)** Maximum class size in detention homes. The class size-to-staff ratio used in detention homes shall be the same as that defined in subrule 63.13(1) unless the needs of the students in the class require a lesser ratio. If the needs of students in the class require a lesser ratio, it shall be no greater than the following class size-to-staff ratio:

Average Daily Membership	Full-Time Teacher	Educational Aide(s)
Fewer than 10	1	1 aide with 5 or fewer students 2 aides with more than 5 students
10 through 20	2	2 aides with fewer than 15 students 3 aides with 15 through 20 students
More than 20 through 30	3	3 aides with fewer than 25 students 4 aides with 25 through 30 students

Support for this staffing ratio must be provided with the juvenile home budget proposals and with the juvenile home claims.

**63.13(3)** When a classroom is located in an off-site facility, a full-time educational aide may be assigned for each off-site classroom in addition to the number allowed in subrule 63.13(1) or 63.13(2).

**63.13(4)** The department of education may waive subrules 63.13(1), 63.13(2), and 63.13(3) if student characteristics such as the age range of students in the home or the percentage of students in the home involved in adult criminal proceedings necessitate a different class size-to-staff ratio. Any variance from the maximum prescribed class size-to-staff ratio must be approved by the department of education on an annual basis. Support for the waiver request must be provided with the juvenile home budget proposals and with the juvenile home claims.

**63.13(5)** Average daily membership for determining class size in subrules 63.13(1) to 63.13(4) for the juvenile home budget proposals shall be based on the actual average daily membership from the year previous to the base year, average daily membership to date in the base year, and factors known at the time of the budget proposals which would impact the average daily membership in the budget year.

**63.13(6)** Class size waiver. If the number of teachers and aides as determined in subrules 63.13(1), 63.13(2), and 63.13(3) was appropriately estimated for the juvenile home budget proposal and was approved by the department of education, and the actual number of teachers or aides is determined to be in excess of maximum class sizes based on the actual average daily membership of students on the juvenile home claims, the department of education may waive subrules 63.13(1), 63.13(2), and 63.13(3).

**63.13(7)** Multiple classrooms. If the educational program at any one juvenile home is provided in more than one classroom location and using multiple classroom locations results in a different number of teachers and aides than would have been allowed if the students were in one classroom, the department of education may waive subrules 63.13(1) and 63.13(2). Support for the waiver request must be provided with the juvenile home budget proposals annually.

**63.13(8)** Monitoring class size. The AEA shall develop policies and procedures to monitor and ensure that the educational program is provided sufficient instructional staff.

## **281—63.14(282) Teacher certification and preparation.**

**63.14(1)** *Certification.* Each teacher who is assigned to these programs shall hold Iowa certification either for multicategorical special education or for behavioral disorders, or both, as appropriate to the grade level of the students served.

**63.14(2)** *In-service.* Each teacher shall be provided appropriate in-service education opportunities annually in areas defined through needs assessments.

**281—63.15(282) Aides.** Educational aides shall be provided preservice and in-service opportunities consistent with duties to be performed and shall work under the direct supervision of the teacher.

**281—63.16(282) Accounting.** Revenues, expenditures, and balances of the juvenile home programs shall be accounted for in the manner provided in Uniform Financial Accounting for Iowa LEAs and AEAs, except as otherwise noted in these rules.

**63.16(1) Fund.** Juvenile home instructional programs shall be accounted for in a special revenue fund. The fund balances shall be maintained in the special revenue fund at year end, and the continuance or disposition of positive or negative fund balances shall be determined by the department of education.

**63.16(2) Tuition.** Tuition paid or received shall be calculated as follows:

*a.* If juvenile home students not requiring special education attend a local school district, other than the district of residence, tuition shall be calculated in the manner prescribed in Iowa Code section 282.24 for determining tuition costs for any nonresident student attending a local school district. In lieu of paying tuition to the local school district for these students, the AEA may request the local school district to account for these students through the foster care facility claim process.

*b.* Tuition for students provided a special education program pursuant to an IEP shall be paid by the district of residence, in accordance with the rules of special education and pursuant to Iowa Code chapter 282, to the district in which the juvenile home is located or to the AEA, whichever is providing the special education. The district in which the juvenile home is located or the AEA, whichever is providing the special education, shall notify the district of residence if the child was being served on the third Friday in September by the district in which the home is located or by the AEA. The district in which the juvenile home is located or the AEA, whichever is providing the special education, shall also notify the district of residence if the child was being served on December 1 by the district in which the home is located or by the AEA.

**281—63.17(282) Revenues.** Revenues shall include:

1. Funding received pursuant to Iowa Code section 282.31,
2. Educational excellence funding received pursuant to Iowa Code chapter 294A for teachers in the juvenile home program,
3. Tuition revenue from the district of residence or agency in another state for educational services provided for out-of-state students,
4. Tuition revenue from the district of residence for educational services for students provided a special education program pursuant to an IEP, and
5. Other miscellaneous funding received or accrued for the purpose of operating the juvenile home instructional programs.

**281—63.18(282) Expenditures.** Expenditures may include actual instructional expenditures, student support services expenditures, instructional staff support services expenditures, administrative support services, operations and maintenance of plant services, student transportation services, and interfund transfers for indirect costs. Supplies and equipment necessary to provide the educational program shall be equivalent to those provided to a comparable number of students by the district in which the juvenile home is located. Classroom space shall be adequate for the number and needs of children in the juvenile home instructional program.

**63.18(1) Instructional expenditures.** Instructional expenditures may include:

*a.* Salaries and employee benefits of employees providing instructional services. Included are teachers, substitutes, other instructional personnel, and aides.

b. Purchased services, supplies, and equipment, which are customarily considered instructional expenditures.

c. Intrafund transfers.

d. The department of education shall annually determine the maximum amount that may be expended on instructional expenditures. Total expenditures for instructional services for each continuing classroom, other than salary and employee benefits, which are not provided pursuant to an IEP shall not exceed 10 percent of the state average expenditure on instructional salaries and employee benefits in the juvenile home program in the year prior to the base year. New classrooms in the first year of operation shall not exceed twice the maximum amount calculated.

63.18(2) *Student and instructional staff support services and student transportation services expenditures.* Among the services included in these categories are guidance services, transportation services, curriculum development, library and instructional technology. Expenditures may include salaries, employee benefits, purchased services, supplies, equipment, and intrafund transfers.

63.18(3) *Administrative support services, operation and maintenance of plant services, and inter-fund transfers.* Administrative support services, operation and maintenance of plant services and inter-fund transfer expenditures may include:

a. Intrafund transfers and actual costs of general administration services provided to the juvenile home program. Expenditures for general administrative costs shall correspond to the amount of the administrator's time assigned and provided to the juvenile home program.

b. Intrafund transfers and actual costs of division administrative services provided to the juvenile home program. Expenditures for division administrative costs shall correspond to the amount of the administrator's time assigned and provided to the juvenile home program.

c. Expenditures for the administrative services of administrative staff assigned directly to the juvenile home program.

d. Expenditures for business administration services provided to the juvenile home program. The juvenile home program may be charged for costs of providing business administration services. If the juvenile home program is charged for providing business administration services, the amount shall be either actual costs or the amount determined by using the restricted indirect cost rate applied to allowable juvenile home program expenditures.

e. The total of all expenditures for administrative services shall be no greater than the actual cost determined by the AEA's accounting records or 10 percent of the total expenditures in the juvenile home program, whichever is less.

f. Expenditures for operation and maintenance of plant services except as restricted in subrule 63.18(4).

g. The total of all expenditures for administrative services and for operation and maintenance of plant services shall be no greater than the actual cost determined by the AEA's cost accounting system or 20 percent of the total expenditures in the juvenile home program, whichever is less.

63.18(4) *Unauthorized expenditures.* Expenditures shall not include expenditures for debt services, for facilities acquisition and construction services including remodeling and facility repair, or for rental expenditures for classroom facilities when adequate space is available at the juvenile home or AEA.

63.18(5) *Charges for AEA services.* As required by rules 63.7(282), 63.8(282), and 63.9(282), juvenile home students shall have available to them special education support services, educational services, and media services comparable to those services made available to other students in the AEA; however, expenditures for these services are inherent costs to the respective AEA programs and are not to be assessed to the juvenile home educational program.

**281—63.19(282) Claims.** AEA shall submit program and budget proposals and claims consolidating all juvenile home education programs within each AEA. Certain program information may be required for each separate juvenile home.

The number of classrooms being provided by each AEA shall be reported on the budget proposals and claims. The number is to be expressed in terms of full-time equivalent (FTE) classrooms. One FTE represents a full-time teacher providing a program during the normal school year. One-tenth FTE shall be added for each month of summer school taught on a daily full-time basis. A full school year and three months of summer school is calculated as 1.3 FTE.

Pursuant to Iowa Code section 294.4, each teacher shall keep a daily register which shall include the name, age, attendance, and enrollment status of each student.

The average daily membership of students of school age living in juvenile homes who are being provided an educational program shall be reported on the budget proposals and claims. "*Average daily membership (ADM)*" shall mean the average obtained by dividing the total of the aggregate days of attendance plus the aggregate days of absence by the total number of student contact days. Student contact days are the days during which the educational program is provided and students are under the guidance and instruction of the instructional professional staff. "*Aggregate days*" means the sum of the number of days of attendance and days of absence for all pupils who are enrolled during the school year. A student shall be considered enrolled after being placed in a juvenile home and taking part in the educational program. A student is considered to be in membership from the date of enrollment until the date of leaving the juvenile home or receiving a high school diploma or its equivalent, whichever occurs first. ADM shall be calculated on the regular school year exclusive of summer session. School age is defined pursuant to Iowa Code chapter 282.

**281—63.20(282) Audits.** AEA must make the records related to providing educational services for juvenile homes available to independent auditors, state auditors and department of education staff on request.

**281—63.21(282) Waivers.** A waiver may be requested by an AEA which presents evidence of a need for a different configuration of expenditures under paragraph 63.18(1)"d," 63.18(3)"a," 63.18(3)"b," 63.18(3)"e," or 63.18(3)"g," or subrule 63.18(4) or 63.18(5). The AEA must annually request the waiver and must include the waiver request and the evidence required by this rule with the program and budget proposal or budget amendment submitted pursuant to rule 63.3(282) or rule 63.4(282). An approved waiver related to rent payment to the juvenile home does not require an annual waiver request except in any year that the rental contract terms change from the rental contract terms in the previous year.

If the department denies a waiver request, the AEA which was denied may request within ten days of notification of the denial that the director of the department of education review the denial of the waiver request.

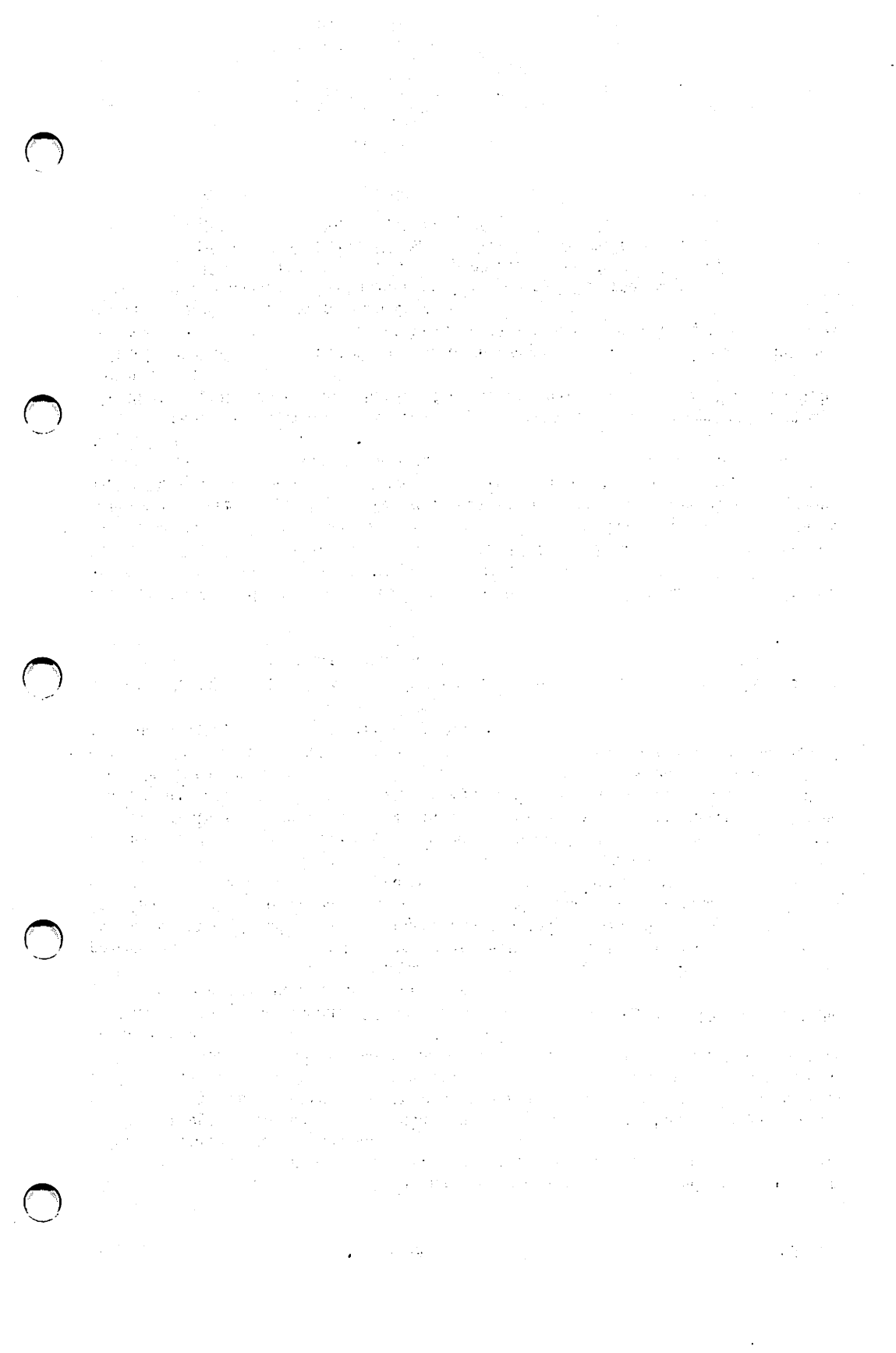
It is the intent of the department of education to waive requirements only when it is determined that they would result in unequal treatment of the AEA or cause an undue hardship to the requesting AEA and the waiver clearly is in the public interest.

These rules are intended to implement Iowa Code sections 282.30 and 282.31.

[Filed 2/11/88, Notice 12/2/87—published 3/9/88, effective 4/13/88]

[Filed 8/19/88, Notice 6/29/88—published 9/7/88, effective 10/21/88]

[Filed 1/18/00, Notice 11/17/99—published 2/9/00, effective 3/15/00]





## EDUCATIONAL EXAMINERS BOARD[282]

[Prior to 6/15/88, see Professional Teaching Practices Commission[640]]

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CHAPTER 2  
PETITIONS FOR RULE MAKING

[Prior to 5/16/90, see Professional Teaching Practices Commission[287] Ch 1]

The board of educational examiners hereby adopts the petitions for rule making segments of the Uniform Administrative Rules which are printed in the first volume of the Iowa Administrative Code, with the following amendments:

**282—2.1(17A) Petition for rule making.** In lieu of the words “(designate office)”, insert “The Board of Educational Examiners, Grimes State Office Building, third floor”. In lieu of the words “(AGENCY NAME)”, the heading on the petition form should read:

“BOARD OF EDUCATIONAL EXAMINERS”

**282—2.3(17A) Inquiries.** Inquiries concerning the status of a petition for rule making may be made to the Executive Director of the Board of Educational Examiners, Grimes State Office Building, Des Moines, Iowa 50319-0147.

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

[Filed 10/6/75, Notice 8/25/75—published 10/20/75, effective 11/24/75]

[Filed emergency 7/2/86—published 7/30/86, effective 7/2/86]

[Filed emergency 5/25/88—published 6/15/88, effective 5/25/88]

[Filed emergency 4/26/90—published 5/16/90, effective 4/27/90]



CHAPTER 3  
DECLARATORY ORDERS

[Prior to 5/16/90, see Professional Teaching Practices Commission[287] Ch 1]

The board of educational examiners hereby adopts the declaratory orders segment of the Uniform Rules on Agency Procedure printed in the first volume of the Iowa Administrative Code, with the following amendments:

**282—3.1(17A) Petition for declaratory order.** Throughout the rule, in lieu of the words “(designate agency)”, insert “the Board of Educational Examiners, Grimes State Office Building”. In lieu of the words “(AGENCY NAME)”, in the heading on the petition insert “BEFORE THE BOARD OF EDUCATIONAL EXAMINERS”.

**282—3.2(17A) Notice of petition.** In lieu of the words “ \_\_\_ days (15 or less)”, insert “15 days”.

**282—3.3(17A) Intervention.**

3.3(1) In lieu of the words “ \_\_\_ days”, insert “15 days”.

**282—3.5(17A) Inquiries.** In lieu of the words “(designate official by full title and address)”, insert “Executive Director, Board of Educational Examiners, Grimes State Office Building, Des Moines, Iowa 50319-0147”.

These rules are intended to implement Iowa Code section 17A.9 as amended by 1998 Iowa Acts, chapter 1202.

[Filed 10/6/75, Notice 8/25/75—published 10/20/75, effective 11/24/75]

[Filed emergency 7/2/86—published 7/30/86, effective 7/2/86]

[Filed emergency 5/25/88—published 6/15/88, effective 5/25/88]

[Filed emergency 4/26/90—published 5/16/90, effective 4/27/90]

[Filed 1/21/00, Notice 10/6/99—published 2/9/00, effective 3/15/00]

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**CHAPTER 4**  
**AGENCY PROCEDURE FOR RULE MAKING**  
 [Prior to 5/16/90, see Professional Teaching Practices Commission[287] Ch 1]

The board of educational examiners hereby adopts the agency procedure for rule making segment of the Uniform Rules on Agency Procedure printed in the first volume of the Iowa Administrative Code, with the following amendments:

**282—4.3(17A) Public rule-making docket.**

**4.3(2) Anticipated rule making.** In lieu of the words “(commission, board, council, director)”, insert “board of educational examiners”.

**282—4.4(17A) Notice of proposed rule making.**

**4.4(3) Copies of notices.** In lieu of the words “(specify time period)”, insert “one year”.

**282—4.5(17A) Public participation.**

**4.5(1) Written comments.** In lieu of the words “(identify office and address)”, insert “Executive Director, Board of Educational Examiners, Grimes State Office Building, Des Moines, Iowa 50319-0147”.

**4.5(5) Accessibility.** In lieu of the words “(designate office and phone number)”, insert “the executive director at (515)281-5849”.

**282—4.6(17A) Regulatory analysis.**

**4.6(2) Mailing list.** In lieu of the words “(designate office)”, insert “Board of Educational Examiners, Grimes State Office Building, Des Moines, Iowa 50319-0147”.

**282—4.11(17A) Concise statement of reasons.**

**4.11(1) General.** In lieu of the words “(specify the office and address)”, insert “Board of Educational Examiners, Grimes State Office Building, Des Moines, Iowa 50319-0147”.

**282—4.13(17A) Agency rule-making record.**

**4.13(2) Contents.** In lieu of the words “(agency head)”, insert “executive director”.

These rules are intended to implement Iowa Code chapter 17A as amended by 1998 Iowa Acts, chapter 1202.

[Filed emergency 5/25/88—published 6/15/88, effective 5/25/88]

[Filed emergency 4/26/90—published 5/16/90, effective 4/27/90]

[Filed 1/21/00, Notice 10/6/99—published 2/9/00, effective 3/15/00]



**CHAPTER 11  
COMPLAINTS, INVESTIGATIONS,  
CONTESTED CASE HEARINGS**

[Prior to 6/15/88, see Professional Teaching Practices Commission[640] Ch 2]  
[Prior to 5/16/90, see Professional Teaching Practices Commission[287] Ch 2]

**282—11.1(17A,272) Scope and applicability.** This chapter applies to contested case proceedings conducted by the board of educational examiners.

**282—11.2(17A) Definitions.** Except where otherwise specifically defined by law:

“*Board*” means the board of educational examiners.

“*Complainant*” means any qualified party who files a complaint with the board.

“*Contested case*” means a proceeding defined by Iowa Code section 17A.2(5) and includes any matter defined as a no factual dispute contested case under 1998 Iowa Acts, chapter 1202, section 14.

“*Issuance*” means the date of mailing of a decision or order or date of delivery if service is by other means unless another date is specified in the order.

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

“*Presiding officer*” means an administrative law judge from the Iowa department of inspections and appeals or the full board or a three-member panel of the board.

“*Proposed decision*” means the presiding officer’s recommended findings of fact, conclusions of law, decision, and order in a contested case in which the full board did not preside.

“*Respondent*” means any individual who is charged in a complaint with violating the criteria of professional practices or the criteria of competent performance.

**282—11.3(17A,272) Jurisdictional requirements.**

**11.3(1)** The case must relate to alleged violation of the criteria of professional practices or the criteria of competent performance.

**11.3(2)** The magnitude of the alleged violation must be adequate to warrant a hearing by the board.

**11.3(3)** There must be sufficient evidence to support the complaint.

**11.3(4)** As an additional factor, it should appear that a reasonable effort has been made to resolve the problem on the local level. However, the absence of such an effort shall not preclude investigation by the board.

**282—11.4(17A,272) Complaint.**

**11.4(1) Who may initiate.**

a. Licensed practitioners employed by a school district or their educational entity or their recognized local or state professional organization.

b. Local boards of education.

c. Parents or guardians of students involved in the alleged complaint.

**11.4(2) Form and content of the complaint.**

a. The complaint shall be in writing and signed by at least one complainant or an authorized representative if the complainant is an organization. (An official form may be used. This form may be obtained from the board upon request.)

b. The complaint shall show venue as “BEFORE THE BOARD OF EDUCATIONAL EXAMINERS” and shall be captioned “COMPLAINT”.

c. The complaint shall contain the following information:

- (1) The full name, address and telephone number of the complainant.
- (2) The full name, address and telephone number, if known, of the respondent.
- (3) A concise statement of the facts which clearly and accurately apprises the respondent of the alleged violation of the criteria of professional practices or the criteria of competent performance and shall state relief sought by the complainant.

**11.4(3) Required copies—place and time of filing.**

a. In addition to the original, a sufficient number of copies of the complaint must be filed to enable service of one copy to each of the respondents and retention of 12 copies for use by the board.

b. The complaint must be delivered personally or by mail to the office of the board. The current office address is the Grimes State Office Building, Third Floor, Des Moines, Iowa 50319.

c. Timely filing is required in order to ensure the availability of witnesses and to avoid initiation of an investigation under conditions which may have been significantly altered during the period of delay.

**11.4(4) Service of complaint.** The board or a designee of the board shall serve a copy of the complaint upon the respondent by one of the following means:

- a. Personal service as provided in the Iowa Rules of Civil Procedure; or
- b. Certified mail, return receipt requested; or
- c. First-class mail; or
- d. Publication, as provided in the Iowa Rules of Civil Procedure.

**11.4(5) Amendment or withdrawal of complaint.** A complaint or any specification thereof may be amended or withdrawn by the complainant at any time prior to notification of the respondent, and thereafter at the sole discretion of the board.

**11.4(6) Voluntary surrender of license.** When a formal complaint has been filed under Iowa Code chapter 272 and rule 11.4(17A,272), the respondent may voluntarily surrender the license by admitting the truth of the allegations of the complaint and completing a waiver of hearing form provided by the board. The surrender shall result in the permanent revocation of the respondent's license.

**11.4(7) Investigation of license reports.**

a. Reports received by the board from another state, territory or other jurisdiction concerning licenses or certificate revocation or suspension shall be reviewed and investigated by the board in the same manner as is prescribed in these rules for the review and investigation of written complaints.

b. Failure to report a license revocation, suspension or other disciplinary action taken by licensing authority of another state, territory or jurisdiction within 30 days of the final action by such licensing authority shall constitute cause for initiation of an investigation.

**282—11.5(272) Investigation of complaints.** The chairperson of the board or the chairperson's designee may assign an investigation of a complaint to a member of the board or may request an investigator to investigate the complaint or report. The investigating board member or investigator may consult an assistant attorney general concerning the investigation or evidence produced from the investigation. Upon completion of the investigation, the investigating board member or investigator shall prepare a report of the investigation for consideration by the board in determining whether probable cause exists. A board member who has personally investigated a complaint is disqualified from participating in any contested case proceeding resulting from the investigation.

**282—11.6(272) Ruling on the initial inquiry.** Upon review of the investigator's report, the board may take any of the following actions:

**11.6(1) Reject the case.** If a determination is made by the board to reject the case, the complaint shall be returned to the complainant along with a statement specifying the reasons for rejection. A letter of explanation concerning the decision of the board shall be sent to the respondent.

**11.6(2) Require further inquiry.** If determination is made by the board to order further inquiry, the complaint and recommendations by the investigator(s) shall be returned to the investigator(s) along with a statement specifying the information deemed necessary.

**11.6(3) Accept the case.** If a determination is made by the board that probable cause exists to conclude that the criteria of professional practices or the criteria of competent performance have been violated, notice shall be issued, pursuant to rule 11.7(17A,272), and a formal hearing shall be conducted in accordance with rules 11.7(17A,272) to 11.21(17A,272), unless a voluntary informal waiver of hearing has been filed by the respondent pursuant to the provisions of subrule 11.4(6).

**282—11.7(17A,272) Notice of hearing.**

**11.7(1) Delivery.** Delivery of the notice of hearing constitutes the commencement of the contested case proceeding. Delivery may be executed by:

- a. Personal service as provided in the Iowa Rules of Civil Procedure; or
- b. Certified mail, return receipt requested; or
- c. First-class mail; or
- d. Publication, as provided in the Iowa Rules of Civil Procedure.

**11.7(2) Contents.** The notice of hearing shall contain the following information:

- a. A statement of the time, date, place, and nature of the hearing;
- b. A statement of the legal authority and jurisdiction under which the hearing is to be held;
- c. A reference to the particular sections of the statutes and rules involved;
- d. A short and plain statement of the matter asserted;
- e. Identification of all parties including the name, address and telephone number of the parties' counsel where known;
- f. Reference to the procedural rules governing conduct of the contested case proceeding;
- g. Reference to the procedural rules governing informal settlement;
- h. Identification of the presiding officer, if known. If not known, a description of who will serve as presiding officer; and
- i. Notification of the time period in which a party may request, pursuant to 1998 Iowa Acts, chapter 1202, section 15(1), and rule 11.8(17A,272), that the presiding officer be an administrative law judge.

**282—11.8(17A,272) Presiding officer.**

**11.8(1)** Any party who wishes to request that the presiding officer assigned to render a proposed decision be an administrative law judge employed by the department of inspections and appeals must file a written request within 20 days after service of a notice of hearing which identifies or describes the presiding officer as the board.

**11.8(2)** The board may deny the request only upon a finding that one or more of the following apply:

- a. Neither the board nor any officer of the board under whose authority the contested case is to take place is a named party to the proceeding or a real party in interest to that proceeding.
- b. There is a compelling need to expedite issuance of a final decision in order to protect the public health, safety, or welfare.
- c. An administrative law judge with the qualifications identified in subrule 11.8(4) is unavailable to hear the case within a reasonable time.
- d. The case involves significant policy issues of first impression that are inextricably intertwined with the factual issues presented.
- e. The demeanor of the witnesses is likely to be dispositive in resolving the disputed factual issues.
- f. Funds are unavailable to pay the costs of an administrative law judge and an interagency appeal.
- g. The request was not timely filed.
- h. The request is not consistent with a specified statute.

**11.8(3)** The board shall issue a written ruling specifying the grounds for its decision within 20 days after a request for an administrative law judge is filed. If the ruling is contingent upon the availability of an administrative law judge with the qualifications identified in subrule 11.8(4), the parties shall be notified at least 10 days prior to hearing if a qualified administrative law judge will not be available.

**11.8(4)** An administrative law judge assigned to act as presiding officer in a contested case shall have the following technical expertness unless waived by the board:

- a. A J.D. degree.
- b. Additional criteria may be added by the board.

**11.8(5)** Except as provided otherwise by another provision of law, all rulings by an administrative law judge acting as presiding officer are subject to appeal to the board. A party must seek any available intra-agency appeal in order to exhaust adequate administrative remedies.

**11.8(6)** Unless otherwise provided by law, the board, when reviewing a proposed decision upon intra-agency appeal, shall have the powers of and shall comply with the provisions of this chapter which apply to presiding officers.

**282—11.9(17A,272) Waiver of procedures.** Unless otherwise precluded by law, the parties in a contested case proceeding may waive any provision of this chapter. However, the board in its discretion may refuse to give effect to such a waiver when it deems the waiver to be inconsistent with the public interest.

**282—11.10(17A,272) Telephone proceedings.** The presiding officer may resolve preliminary procedural motions by telephone conference in which all parties have an opportunity to participate. Other telephone proceedings may be held with the consent of all parties. The presiding officer will determine the location of the parties and witnesses for telephone hearings. The convenience of the witnesses or parties, as well as the nature of the case, will be considered when location is chosen.

**282—11.11(17A,272) Disqualification.**

**11.11(1)** A presiding officer or board member shall withdraw from participation in the making of any proposed or final decision in a contested case if that person:

- a. Has a personal bias or prejudice concerning a party or a representative of a party;
- b. Has personally investigated, prosecuted or advocated in connection with that case, the specific controversy underlying that case, another pending factually related contested case, or a pending factually related controversy that may culminate in a contested case involving the same parties;
- c. Is subject to the authority, direction or discretion of any person who has personally investigated, prosecuted or advocated in connection with that contested case, the specific controversy underlying that contested case, or a pending factually related contested case or controversy involving the same parties;
- d. Has acted as counsel to any person who is a private party to that proceeding within the past two years;
- e. Has a personal financial interest in the outcome of the case or any other significant personal interest that could be substantially affected by the outcome of the case;
- f. Has a spouse or relative within the third degree of relationship that: (1) is a party to the case, or an officer, director or trustee of a party; (2) is a lawyer in the case; (3) is known to have an interest that could be substantially affected by the outcome of the case; or (4) is likely to be a material witness in the case; or
- g. Has any other legally sufficient cause to withdraw from participation in the decision making in that case.

**11.11(2)** The term “personally investigated” means taking affirmative steps to interview witnesses directly or to obtain documents or other information directly. The term “personally investigated” does not include general direction and supervision of assigned investigators, unsolicited receipt of information which is relayed to assigned investigators, review of another person’s investigative work product in the course of determining whether there is probable cause to initiate a proceeding, or exposure to factual information while performing other agency functions, including fact gathering for purposes other than investigation of the matter which culminates in a contested case. Factual information relevant to the merits of a contested case received by a person who later serves as presiding officer in that case shall be disclosed if required by Iowa Code section 17A.17 as amended by 1998 Iowa Acts, chapter 1202, section 19, and subrules 11.11(3) and 11.24(9).

**11.11(3)** In a situation where a presiding officer or board member knows of information which might reasonably be deemed to be a basis for disqualification and decides voluntary withdrawal is unnecessary, that person shall submit the relevant information for the record by affidavit and shall provide for the record a statement of the reasons for the determination that withdrawal is unnecessary.

**11.11(4)** If a party asserts disqualification on any appropriate ground, including those listed in subrule 11.11(1), the party shall file a motion supported by an affidavit pursuant to 1998 Iowa Acts, chapter 1202, section 19(7). The motion must be filed as soon as practicable after the reason alleged in the motion becomes known to the party.

If the presiding officer determines that disqualification is appropriate, the presiding officer or board member shall withdraw. If the presiding officer determines that withdrawal is not required, the presiding officer shall enter an order to that effect. A party asserting disqualification may seek an interlocutory appeal under rule 11.26(17A,272) and seek a stay under rule 11.30(17A,272).

**282—11.12(17A,272) Consolidation—severance.**

**11.12(1) Consolidation.** The presiding officer may consolidate any or all matters at issue in two or more contested case proceedings where: (a) the matters at issue involve common parties or common questions of fact or law; (b) consolidation would expedite and simplify consideration of the issues involved; and (c) consolidation would not adversely affect the rights of any of the parties to those proceedings.

**11.12(2) Severance.** The presiding officer may, for good cause shown, order any contested case proceedings or portions thereof severed.

**282—11.13(17A,272) Pleadings.**

**11.13(1) Pleadings** may be required by rule, by the notice of hearing, or by order of the presiding officer.

**11.13(2) Answer.** An answer shall be filed within 20 days of service of the notice of hearing unless otherwise ordered. A party may move to dismiss or apply for a more definite and detailed statement when appropriate.

An answer shall show on whose behalf it is filed and specifically admit, deny, or otherwise answer all material allegations of the notice of hearing to which it responds. It shall state any facts deemed to show an affirmative defense and contain as many additional defenses as the pleader may claim.

An answer shall state the name, address and telephone number of the person filing the answer, the person or entity on whose behalf it is filed, and the attorney representing that person, if any.

Any allegation in the notice of hearing not denied in the answer is considered admitted. The presiding officer may refuse to consider any defense not raised in the answer which could have been raised on the basis of facts known when the answer was filed if any party would be prejudiced.

**11.13(3) Amendment.** Notices of hearing and answers may be amended with the consent of the parties or in the discretion of the presiding officer who may impose terms or grant a continuance.

**282—11.14(17A,272) Service and filing of pleadings and other papers.**

**11.14(1) Service—when required.** Except where otherwise provided by law, every document filed in a contested case proceeding shall be served upon each of the parties of record to the proceeding, simultaneously with their filing. Except for the original notice of hearing and an application for rehearing as provided in Iowa Code section 17A.16(2), the party filing a document is responsible for service on all parties.

**11.14(2) Service—how made.** Service upon a party represented by an attorney shall be made upon the attorney unless otherwise ordered. Service is made by delivery or by mailing a copy to the person's last-known address. Service by mail is complete upon mailing, except where otherwise specifically provided by statute, rule, or order.

**11.14(3) Filing—when required.** After the notice of hearing, all documents in a contested case proceeding shall be filed with the Board of Educational Examiners, Grimes State Office Building, Des Moines, Iowa 50319-0147. All documents that are required to be served upon a party shall be filed simultaneously with the board.

**11.14(4) Filing—when made.** Except where otherwise provided by law, a document is deemed filed at the time it is delivered to the board, delivered to an established courier service for immediate delivery to that office, or mailed by first-class mail or state interoffice mail to that office, so long as there is proof of mailing.

**11.14(5) Proof of mailing.** Proof of mailing includes either: a legible United States Postal Service postmark on the envelope, a certificate of service, a notarized affidavit, or a certification in substantiality the following form:

I certify under penalty of perjury and pursuant to the laws of Iowa that, on (date of mailing), I mailed copies of (describe document) addressed to the (agency office and address) and to the names and addresses of the parties listed below by depositing the same in (a United States post office mailbox with correct postage properly affixed or state interoffice mail).  
(Date) (Signature)

**282—11.15(17A,272) Discovery.**

**11.15(1) Discovery procedures applicable in civil actions are applicable in contested cases.** Unless lengthened or shortened by these rules or by order of the presiding officer, time periods for compliance with discovery shall be as provided in the Iowa Rules of Civil Procedure.

**11.15(2) Any motion relating to discovery shall allege that the moving party has previously made a good-faith attempt to resolve the discovery issues involved with the opposing party.** Motions in regard to discovery shall be ruled upon by the presiding officer. Opposing parties shall be afforded the opportunity to respond within ten days of the filing of the motion unless the time is shortened as provided in subrule 11.15(1). The presiding officer may rule on the basis of the written motion and any response, or may order argument on the motion.

**11.15(3) Evidence obtained in discovery may be used in the contested case proceeding if that evidence would otherwise be admissible under rule 11.22(17A,272).** In discovery matters, the parties shall honor the rules of privilege imposed by law.

**282—11.16(17A,272) Subpoenas.**

**11.16(1) Subpoenas.** In connection with the investigation set forth in rule 11.5(272), the board is authorized by law to subpoena books, papers, records and any other evidence to help it determine whether it should institute a contested case proceeding (hearing). After service of the hearing notification contemplated by rule 11.7(17A,272), the following procedures are available to the parties in order to obtain relevant and material evidence:

*a.* Board subpoenas for books, papers, records, and other evidence will be issued to a party upon request. Such a request must be in writing. Application should be made to the board office specifying the evidence sought. Subpoenas for witnesses may also be obtained.



b. Evidence obtained by subpoena shall be admissible at the hearing if it is otherwise admissible under rule 11.22(17A,272). In subpoena matters the parties shall honor the rules of privilege imposed by law.

c. The evidence outlined in Iowa Code section 17A.13(2) where applicable and relevant shall be made available to a party upon request.

d. Except to the extent otherwise provided by law, parties are responsible for service of their own subpoenas and payment of witness fees and mileage expenses.

**11.16(2) Motion to quash or modify.** The presiding officer may quash or modify a subpoena for any lawful reason upon motion in accordance with the Iowa Rules of Civil Procedure. A motion to quash or modify a subpoena shall be set for argument promptly.

#### **282—11.17(17A,272) Motions.**

**11.17(1)** No technical form for motions is required. However, prehearing motions must be in writing, state the grounds for relief, and state the relief sought.

**11.17(2)** Any party may file a written response to a motion within ten days after the motion is served, unless the time period is extended or shortened by rules of the agency or the presiding officer.

**11.17(3)** The presiding officer may schedule oral arguments on any motion.

**11.17(4)** Motions pertaining to the hearing, including motions for summary judgment, must be filed and served at least ten days prior to the date of hearing unless there is good cause for permitting later action or the time for such action is lengthened or shortened by rule of the agency or an order of the presiding officer.

#### **282—11.18(17A,272) Prehearing conference.**

**11.18(1)** Any party may request a prehearing conference. A written request for prehearing conference or an order for prehearing conference on the presiding officer's own motion shall be filed not less than seven days prior to the hearing date. A prehearing conference shall be conducted not less than three business days prior to the hearing date.

Written notice of the prehearing conference shall be given by the presiding officer to all parties. For good cause the presiding officer may permit variances from this rule.

**11.18(2)** Each party shall bring to the prehearing conference:

a. A final list of the witnesses who the party anticipates will testify at hearing. Witnesses not listed may be excluded from testifying unless there was good cause for the failure to include their names; and

b. A final list of exhibits which the party anticipates will be introduced at hearing. Exhibits other than rebuttal exhibits that are not listed may be excluded from admission into evidence unless there was good cause for the failure to include them.

c. Witness or exhibit lists may be amended subsequent to the prehearing conference within the time limits established by the presiding officer at the prehearing conference. Any such amendments must be served on all parties.

**11.18(3)** In addition to the requirements of subrule 11.18(2), the parties at a prehearing conference may:

a. Enter into stipulations of law or fact;

b. Enter into stipulations on the admissibility of exhibits;

c. Identify matters which the parties intend to request be officially noticed;

d. Enter into stipulations for waiver of any provision of law; and

e. Consider any additional matters which will expedite the hearing.

**11.18(4)** Prehearing conferences shall be conducted by telephone unless otherwise ordered. Parties shall exchange and receive witness and exhibit lists in advance of a telephone prehearing conference.

**282—11.19(17A,272) Continuances.** A party has no automatic right to a continuance or delay of the board's hearing procedure or schedule. However, a party may request a continuance of the presiding officer no later than seven days prior to the date set for hearing. The presiding officer shall have the power to grant continuances. Within seven days of the date set for hearing, no continuances shall be granted except for extraordinary, extenuating or emergency circumstances. In these situations, the presiding officer shall grant continuances after consultation, if needed, with the chairperson of the board, the executive director, or the attorney representing the board. A board member shall not be contacted in person, by mail or telephone by a party seeking a continuance.

**282—11.20(17A,272) Intervention.**

**11.20(1) Motion.** A motion for leave to intervene in a contested case proceeding shall state the grounds for the proposed intervention, the position and interest of the proposed intervenor, and the possible impact of intervention on the proceeding. A proposed answer or petition in intervention shall be attached to the motion. Any party may file a response within 14 days of service of the motion to intervene unless the time period is extended or shortened by the presiding officer.

**11.20(2) When filed.** Motion for leave to intervene shall be filed as early in the proceeding as possible to avoid adverse impact on existing parties or the conduct of the proceeding. Unless otherwise ordered, a motion for leave to intervene shall be filed before the prehearing conference, if any, or at least 20 days before the date scheduled for hearing. Any later motion must contain a statement of good cause for the failure to file in a timely manner. Unless inequitable or unjust, an intervenor shall be bound by any agreement, arrangement, or other matter previously raised in the case. Requests by untimely intervenors for continuances which would delay the proceeding will ordinarily be denied.

**11.20(3) Grounds for intervention.** The movant shall demonstrate that: (a) intervention would not unduly prolong the proceedings or otherwise prejudice the rights of existing parties; (b) the movant is likely to be aggrieved or adversely affected by a final order in the proceeding; and (c) the interests of the movant are not adequately represented by existing parties.

**11.20(4) Effect of intervention.** If appropriate, the presiding officer may order consolidation of the petitions and briefs of different parties whose interests are aligned with each other and limit the number of representatives allowed to participate actively in the proceedings. A person granted leave to intervene is a party to the proceeding. The order granting intervention may restrict the issues that may be raised by the intervenor or otherwise condition the intervenor's participation in the proceeding.

**282—11.21(17A,272) Hearing procedures.**

**11.21(1)** The presiding officer presides at the hearing and may rule on motions, require briefs, issue a proposed decision, and issue such orders and rulings as will ensure the orderly conduct of the proceedings. If the presiding officer is the board or a panel thereof, an administrative law judge from the Iowa department of inspections and appeals may be designated to assist the board in conducting proceedings under this chapter. An administrative law judge so designated may rule upon motions and other procedural matters and assist the board in conducting the hearing.

**11.21(2)** All objections shall be timely made and stated on the record.

**11.21(3)** Parties have the right to participate or to be represented in all hearings or prehearing conferences related to their case. Any party may be represented by an attorney or another person authorized by law.

**11.21(4)** Subject to terms and conditions prescribed by the presiding officer, parties have the right to introduce evidence on issues of material fact, cross-examine witnesses present at the hearing as necessary for a full and true disclosure of the facts, present evidence in rebuttal, and submit briefs and engage in oral argument.

**11.21(5)** The presiding officer shall maintain the decorum of the hearing and may refuse to admit or may expel anyone whose conduct is disorderly.

**11.21(6)** Witnesses may be sequestered during the hearing.

**11.21(7)** The presiding officer shall conduct the hearing in the following manner:

- a. The presiding officer shall give an opening statement briefly describing the nature of the proceedings;
- b. The parties shall be given an opportunity to present opening statements;
- c. Parties shall present their cases in the sequence determined by the presiding officer;
- d. Each witness shall be sworn or affirmed by the presiding officer or the court reporter and be subject to examination and cross-examination. The presiding officer may limit questioning in a manner consistent with law;
- e. When all parties and witnesses have been heard, parties may be given the opportunity to present final arguments.

**282—11.22(17A,272) Evidence.**

**11.22(1)** The presiding officer shall rule on admissibility of evidence and may, where appropriate, take official notice of facts in accordance with all applicable requirements of law.

**11.22(2)** Stipulation of facts is encouraged. The presiding officer may make a decision based on stipulated facts.

**11.22(3)** Evidence in the proceeding shall be confined to the issues as to which the parties received notice prior to the hearing unless the parties waive their right to such notice or the presiding officer determines that good cause justifies expansion of the issues. If the presiding officer decides to admit evidence on issues outside the scope of the notice over the objection of a party who did not have actual notice of those issues, that party, upon timely request, shall receive a continuance sufficient to amend pleadings and to prepare on the additional issue.

**11.22(4)** The party seeking admission of an exhibit must provide opposing parties with an opportunity to examine the exhibit prior to the ruling on its admissibility. Copies of documents should normally be provided to opposing parties.

All exhibits admitted into evidence shall be appropriately marked and be made part of the record.

**11.22(5)** Any party may object to specific evidence or may request limits on the scope of any examination or cross-examination. Such an objection shall be accompanied by a brief statement of the grounds upon which it is based. The objection, the ruling on the objection, and the reasons for the ruling shall be noted in the record. The presiding officer may rule on the objection at the time it is made or may reserve a ruling until the written decision.

**11.22(6)** Whenever evidence is ruled inadmissible, the party offering that evidence may submit an offer of proof on the record. The party making the offer of proof for excluded oral testimony shall briefly summarize the testimony or, with permission of the presiding officer, present the testimony. If the excluded evidence consists of a document or exhibit, it shall be marked as part of an offer of proof and inserted in the record.

**282—11.23(17A,272) Default.**

**11.23(1)** If a party fails to appear or participate in a contested case proceeding after proper service of notice, the presiding officer may, if no adjournment is granted, enter a default decision or proceed with the hearing and render a decision in the absence of the party.

**11.23(2)** Where appropriate and not contrary to law, any party may move for default against a party who has requested the contested case proceeding and has failed to file a required pleading or has failed to appear after proper service.

**11.23(3)** Default decisions or decisions rendered on the merits after a party has failed to appear or participate in a contested case proceeding become final agency action unless, within 15 days after the date of notification or mailing of the decision, a motion to vacate is filed and served on all parties or an appeal of a decision on the merits is timely initiated within the time provided by rule 11.28(17A,272). A motion to vacate must state all facts relied upon by the moving party which establish that good cause existed for that party's failure to appear or participate at the contested case proceeding. Each fact so stated must be substantiated by at least one sworn affidavit of a person with personal knowledge of each such fact, which affidavit(s) must be attached to the motion.

**11.23(4)** The time for further appeal of a decision for which a timely motion to vacate has been filed is stayed pending a decision on the motion to vacate.

**11.23(5)** Properly substantiated and timely filed motions to vacate shall be granted only for good cause shown. The burden of proof as to good cause is on the moving party. Adverse parties shall have ten days to respond to a motion to vacate. Adverse parties shall be allowed to conduct discovery as to the issue of good cause and to present evidence on the issue prior to a decision on the motion, if a request to do so is included in that party's response.

**11.23(6)** "Good cause" for purposes of this rule shall have the same meaning as "good cause" for setting aside a default judgment under Iowa Rule of Civil Procedure 236.

**11.23(7)** A decision denying a motion to vacate is subject to further appeal within the time limit allowed for further appeal of a decision on the merits in the contested case proceeding. A decision granting a motion to vacate is subject to interlocutory appeal by the adverse party pursuant to rule 11.26(17A,272).

**11.23(8)** If a motion to vacate is granted and no timely interlocutory appeal has been taken, the presiding officer shall issue another notice of hearing and the contested case shall proceed accordingly.

**11.23(9)** A default decision may award any relief consistent with the request for relief made in the petition and embraced in its issues (but, unless the defaulting party has appeared, it cannot exceed the relief demanded).

**11.23(10)** A default decision may provide either that the default decision is to be stayed pending a timely motion to vacate or that the default decision is to take effect immediately, subject to a request for stay under rule 11.30(17A,272).

**282—11.24(17A,272) Ex parte communication.**

**11.24(1)** Prohibited communications. Unless required for the disposition of ex parte matters specifically authorized by statute, following issuance of the notice of hearing, there shall be no communication, directly or indirectly, between the presiding officer and any party or representative of any party or any other person with a direct or indirect interest in such case in connection with any issue of fact or law in the case except upon notice and opportunity for all parties to participate. This does not prohibit persons jointly assigned such tasks from communicating with each other. Nothing in this provision is intended to preclude the presiding officer from communicating with members of the board or seeking the advice or help of persons other than those with a personal interest in, or those engaged in personally investigating as defined in subrule 11.11(2), prosecuting, or advocating in, either the case under consideration or a pending factually related case involving the same parties as long as those persons do not directly or indirectly communicate to the presiding officer any ex parte communications they have received of a type that the presiding officer would be prohibited from receiving or that furnish, augment, diminish, or modify the evidence in the record.

**11.24(2)** Prohibitions on ex parte communications commence with the issuance of the notice of hearing in a contested case and continue for as long as the case is pending.

**11.24(3)** Written, oral or other forms of communication are "ex parte" if made without notice and opportunity for all parties to participate.

**11.24(4)** To avoid prohibited ex parte communications, notice must be given in a manner reasonably calculated to give all parties a fair opportunity to participate. Notice of written communications shall be provided in compliance with rule 11.13(17A,272) and may be supplemented by telephone, facsimile, electronic mail or other means of notification. Where permitted, oral communications may be initiated through conference telephone call including all parties or their representatives.

**11.24(5)** Board members acting as presiding officers may communicate with each other without notice or opportunity for parties to participate.

**11.24(6)** The executive director or other persons may be present in deliberations or otherwise advise the presiding officer without notice or opportunity for parties to participate as long as they are not disqualified from participating in the making of a proposed or final decision under any provision of law and they comply with subrule 11.24(1).

**11.24(7)** Communications with the presiding officer involving uncontested scheduling or procedural matters do not require notice or opportunity for parties to participate. Parties should notify other parties prior to initiating such contact with the presiding officer when feasible, and shall notify other parties when seeking to continue hearings or other deadlines pursuant to rule 11.19(17A,272).

**11.24(8)** Disclosure of prohibited communications. A presiding officer who receives a prohibited ex parte communication during the pendency of a contested case must initially determine if the effect of the communication is so prejudicial that the presiding officer should be disqualified. If the presiding officer determines that disqualification is warranted, a copy of any prohibited written communication, all written responses to the communication, a written summary stating the substance of any prohibited oral or other communication not available in written form for disclosure, all responses made, and the identity of each person from whom the presiding officer received a prohibited ex parte communication shall be submitted for inclusion in the record under seal by protective order (or disclosed). If the presiding officer determines that disqualification is not warranted, such documents shall be submitted for inclusion in the record and served on all parties. Any party desiring to rebut the prohibited communication must be allowed the opportunity to do so upon written request filed within ten days after notice of the communication.

**11.24(9)** Promptly after being assigned to serve as presiding officer at any stage in a contested case proceeding, a presiding officer shall disclose to all parties material factual information received through ex parte communication prior to such assignment unless the factual information has already been or shortly will be disclosed pursuant to Iowa Code section 17A.13(2) or through discovery. Factual information contained in an investigative report or similar document need not be separately disclosed by the presiding officer as long as such documents have been or will shortly be provided to the parties.

**11.24(10)** The presiding officer may render a proposed or final decision imposing appropriate sanctions for violations of this rule including default, a decision against the offending party, censure, or suspension or revocation of the privilege to practice before the department. Violation of ex parte communication prohibitions by department personnel shall be reported to (agency to designate person to whom violations should be reported) for possible sanctions including censure, suspension, dismissal, or other disciplinary action.

**282—11.25(17A,272) Recording costs.** Upon request, the board shall provide a copy of the whole or any portion of the record at cost. The cost of preparing a copy of the record or of transcribing the hearing record shall be paid by the requesting party.

Parties who request that a hearing be recorded by certified shorthand reporters rather than by electronic means shall bear the cost of that recordation, unless otherwise provided by law.

**282—11.26(17A,272) Interlocutory appeals.** Upon written request of a party or on its own motion, the board may review an interlocutory order of the presiding officer. In determining whether to do so, the board shall weigh the extent to which its granting the interlocutory appeal would expedite final resolution of the case and the extent to which review of that interlocutory order by the board at the time it reviews the proposed decision of the presiding officer would provide an adequate remedy. Any request for interlocutory review must be filed within 14 days of issuance of the challenged order, but no later than the time for compliance with the order or the date of hearing, whichever is first.

**282—11.27(17A,272) Final decision.**

**11.27(1)** When the board presides over the reception of evidence at the hearing, its decision is a final decision.

**11.27(2)** When the board does not preside at the reception of evidence, the presiding officer shall make a proposed decision. The proposed decision becomes the final decision of the board without further proceedings unless there is an appeal to, or review on motion of, the board within the time provided in rule 11.28(17A,272).

**282—11.28(17A,272) Appeals and review.**

**11.28(1) Appeal by party.** Any adversely affected party may appeal a proposed decision to the board within 30 days after issuance of the proposed decision.

**11.28(2) Review.** The board may initiate review of a proposed decision on its own motion at any time within 30 days following the issuance of such a decision.

**11.28(3) Notice of appeal.** An appeal of a proposed decision is initiated by filing a timely notice of appeal with the board. The notice of appeal must be signed by the appealing party or a representative of that party and contain a certificate of service. The notice shall specify:

- a. The parties initiating the appeal;
- b. The proposed decision or order appealed from;
- c. The specific findings or conclusions to which exception is taken and any other exceptions to the decision or order;
- d. The relief sought;
- e. The grounds for relief.

**11.28(4) Requests to present additional evidence.** A party may request the taking of additional evidence only by establishing that the evidence is material, that good cause existed for the failure to present the evidence at the hearing, and that the party has not waived the right to present the evidence. A written request to present additional evidence must be filed with the notice of appeal or, by a non-appealing party, within 14 days of service of the notice of appeal. The board may remand a case to the presiding officer for further hearing or may itself preside at the taking of additional evidence.

**11.28(5) Scheduling.** The board shall issue a schedule for consideration of the appeal.

**11.28(6) Briefs and arguments.** Unless otherwise ordered, within 20 days of the notice of appeal or order for review, each appealing party may file exceptions and briefs. Within 20 days thereafter, any party may file a responsive brief. Briefs shall cite any applicable legal authority and specify relevant portions of the record in that proceeding. Written requests to present oral argument shall be filed with the briefs.

The board may resolve the appeal on the briefs or provide an opportunity for oral argument. The board may shorten or extend the briefing period as appropriate.

**282—11.29(17A,272) Applications for rehearing.**

**11.29(1) *By whom filed.*** Any party to a contested case proceeding may file an application for rehearing from a final order.

**11.29(2) *Content of application.*** The application for rehearing shall state on whose behalf it is filed, the specific grounds for rehearing, and the relief sought. In addition, the application shall state whether the applicant desires reconsideration of all or part of the board decision on the existing record and whether, on the basis of the grounds enumerated in subrule 11.28(4), the applicant requests an opportunity to submit additional evidence.

**11.29(3) *Time of filing.*** The application shall be filed with the board within 20 days after issuance of the final decision.

**11.29(4) *Notice to other parties.*** A copy of the application shall be timely mailed by the applicant to all parties of record not joining therein. If the application does not contain a certificate of service, the board shall serve copies on all parties.

**11.29(5) *Disposition.*** Any application for a rehearing shall be deemed denied unless the board grants the application within 20 days after its filing.

**282—11.30(17A,272) Stays of board actions.****11.30(1) *When available.***

**a.** Any party to a contested case proceeding may petition the board for a stay of an order issued in that proceeding or for other temporary remedies, pending review by the board. The petition shall be filed with the notice of appeal and shall state the reasons justifying a stay or other temporary remedy. The executive director may rule on the stay or authorize the presiding officer to do so.

**b.** Any party to a contested case proceeding may petition the board for a stay or other temporary remedies pending judicial review of all or part of that proceeding. The petition shall state the reasons justifying a stay or other temporary remedy.

**11.30(2) *When granted.*** In determining whether to grant a stay, the executive director or presiding officer shall consider the factors listed in 1998 Iowa Acts, chapter 1202, section 23(5c).

**11.30(3) *Vacation.*** A stay may be vacated by the issuing authority upon application of the board or any other party.

**282—11.31(17A,272) No factual dispute contested cases.** If the parties agree that no dispute of material fact exists as to a matter that would be a contested case if such a dispute of fact existed, the parties may present all relevant admissible evidence either by stipulation or otherwise as agreed by the parties, without necessity for the production of evidence at an evidentiary hearing. If such agreement is reached, a jointly submitted schedule detailing the method and timetable for submission of the record, briefs and oral argument should be submitted to the presiding officer for approval as soon as practicable. If the parties cannot agree, any party may file and serve a motion for summary judgment pursuant to the rules governing such motions.

**282—11.32(17A,272) Emergency adjudicative proceedings.**

**11.32(1) Necessary emergency action.** To the extent necessary to prevent or avoid immediate danger to the public health, safety, or welfare, and consistent with the Constitution and other provisions of law, the board may issue a written order in compliance with Iowa Code section 17A.18 to suspend a license in whole or in part, order the cessation of any continuing activity, order affirmative action, or take other action within the jurisdiction of the board by emergency adjudicative order. Before issuing an emergency adjudicative order the board shall consider factors including, but not limited to, the following:

- a. Whether there has been a sufficient factual investigation to ensure that the board is proceeding on the basis of reliable information;
- b. Whether the specific circumstances which pose immediate danger to the public health, safety or welfare have been identified and determined to be continuing;
- c. Whether the person required to comply with the emergency adjudicative order may continue to engage in other activities without posing immediate danger to the public health, safety or welfare;
- d. Whether imposition of monitoring requirements or other interim safeguards would be sufficient to protect the public health, safety or welfare; and
- e. Whether the specific action contemplated by the board is necessary to avoid the immediate danger.

**11.32(2) Issuance of order.**

a. An emergency adjudicative order shall contain findings of fact, conclusions of law, and policy reasons to justify the determination of an immediate danger in the board's decision to take immediate action.

b. The written emergency adjudicative order shall be immediately delivered to persons who are required to comply with the order by utilizing one or more of the following procedures:

- (1) Personal delivery;
- (2) Certified mail, return receipt requested, to the last address on file with the board;
- (3) Certified mail to the last address on file with the board;
- (4) First-class mail to the last address on file with the board; or
- (5) Fax. Fax may be used as the sole method of delivery if the person required to comply with the order has filed a written request that board orders be sent by fax and has provided a fax number for that purpose.

c. To the degree practicable, the board shall select the procedure for providing written notice that best ensures prompt, reliable delivery.

**11.32(3) Oral notice.** Unless the written emergency adjudicative order is provided by personal delivery on the same day that the order issues, the board shall make reasonable immediate efforts to contact by telephone the persons who are required to comply with the order.

**11.32(4) Completion of proceedings.** After the issuance of an emergency adjudicative order, the board shall proceed as quickly as feasible to complete any proceedings that would be required if the matter did not involve an immediate danger.

Issuance of a written emergency adjudicative order shall include notification of the date on which board proceedings are scheduled for completion. After issuance of an emergency adjudicative order, continuance of further board proceedings to a later date will be granted only in compelling circumstances upon application in writing.

These rules are intended to implement Iowa Code chapter 17A as amended by 1998 Iowa Acts, chapter 1202, and chapter 272.

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**CHAPTER 17**  
**RENEWAL OF LICENSES**  
[Prior to 9/7/88, see Public Instruction Department[670] Ch 71]  
[Prior to 10/3/90, see Education Department[281] Ch 74]

**282—17.1(272) Renewal information.** Rules 17.1(272) to 17.10(272) contain renewal information for those individuals desiring to renew a provisional, educational, professional teacher, professional administrator, area education agency administrator, and substitute license.

Individuals desiring to renew a license issued under some other title are referred to 281—Chapter 78.

**282—17.2(272) Renewal application forms.** Application forms for renewal may be obtained from the board of educational examiners.

**282—17.3(272) Issue date on renewed licenses.** A renewed license is valid only from and after the date of issuance.

**282—17.4(272) Recency of units for renewal.** If a license is renewed at, or before, date of expiration (a person may file for renewal as early as 12 months prior to expiration date), the units for renewal are acceptable if earned during the term of the license. Persons have until August 31 of the year in which the license expires to meet this recency requirement; however, if a person is employed at any time from July 1 to August 31 of that year, they must hold a license valid for that position. If a license is not renewed at date of expiration, the units for renewal must have been completed within the five-year period immediately preceding the date of application for the renewal.

**282—17.5(272) Renewal requirements for an educational license.** Six units are needed for renewal. These units may be earned in any combination listed below.

1. One unit may be earned for each semester hour of credit completed which leads toward the completion of a planned master's, specialist's, or doctor's degree program.
2. One unit may be earned for each semester hour of credit completed which may not lead to a degree but which adds greater depth/breadth to present endorsements held.
3. One unit may be earned for each semester hour of credit completed which may not lead to a degree but which leads to completion of requirements for an endorsement not currently held.
4. One unit may be earned upon completion of each licensure renewal course or activity approved through guidelines established by the board of educational examiners.
5. Four units may be earned for successful completion of the National Board for Professional Teaching Standards certification. This may be used one time for either the educational or the professional teacher's license.

**282—17.6(272) Renewal requirements for a professional teacher's license.** Four units are needed for renewal. These units may be earned in any combination listed below.

1. One unit may be earned for each semester hour of credit completed which leads toward the completion of a planned specialist or doctor's degree program.
2. One unit may be earned for each semester hour of credit completed which may not lead to a degree but which adds greater depth/breadth to present endorsements held.
3. One unit may be earned for each semester hour of credit completed which may not lead to a degree but which leads to completion of requirements for a teaching endorsement not currently held.
4. One unit may be earned upon completion of each staff development course or activity approved through guidelines established by the board of educational examiners.
5. Four units may be earned upon successful completion of the National Board for Professional Teaching Standards certification. If previously used to renew the educational license, this may not be used.

**282—17.7(272) Renewal requirements for a professional administrator's and area education agency administrator's license.** Four units are needed for renewal. These units may be earned in any combination listed below.

1. One unit may be earned for each semester hour of credit completed which leads toward the completion of a planned specialist's or doctor's degree program.
2. One unit may be earned for each semester hour of credit completed which may not lead to a degree but which adds greater depth/breadth to present administrative endorsements held.
3. One unit may be earned for each semester hour of credit completed which may not lead to a degree but which leads to completion of requirements for an administrative endorsement not currently held.
4. One unit may be earned upon completion of each licensure renewal course or activity approved through guidelines established by the board of educational examiners.

**282—17.8(272) Renewal requirements for the provisional license.** If a person meets all requirements for an educational license except for the teaching experience required in 282—14.12“2,” the provisional license may be renewed upon written request.

A second renewal may be granted if the holder of the provisional license has not met the teaching experience required in 282—14.12“2” and if the license holder can provide evidence of teaching employment which will be acceptable for the experience requirement.

**282—17.9(272) Renewal requirements for a substitute license.** Meet one of the requirements listed below:

1. Verification of at least 30 days of substitute teaching during the term of the license.
2. Completion of a local education agency or area education agency course approved through licensure renewal guidelines established by the board of educational examiners.
3. Completion of a community college, college, or university course.

**282—17.10(272) Appeal procedure.** Any teacher seeking a different level of license who is denied the license due to the evaluation or other requirements may appeal the decision. The appeal shall be made in writing to the executive director of the board of educational examiners who shall establish a date for the hearing within 20 days of receipt of written notice of appeal by giving five days' written notice to appellant unless a shorter time is mutually agreeable. The procedures for hearing followed by the board of educational examiners shall be applicable.

**282—17.11(272) Licensure renewal programs.**

**17.11(1) Application process.** These rules are to be followed in the preparation and submission of proposals for licensure renewal programs. The application materials must be returned to the board of educational examiners for review and approval.

Once the application has been submitted, it will be reviewed, and the applicant agency will be notified of approval or nonapproval and any deficiencies.

**17.11(2) Eligible agency/institutions.***a. Teacher renewal.*

- (1) Area education agencies, local education agencies, individually or in consortium arrangements.
- (2) Approved nonpublic districts, individually or in consortium.
- (3) Iowa educational professional organizations.
- (4) Iowa colleges and universities approved for teacher education.

*b. Administrator renewal.*

- (1) Area education agencies, local education agencies, individually or in consortium arrangements.
- (2) Approved nonpublic districts, individually or in consortium arrangements.
- (3) Iowa educational professional organizations.
- (4) Iowa colleges and universities approved for teacher education.

**17.11(3) Authority.** The acceptance of licensure renewal credit is provided in 17.5“4,” 17.6“4” and 17.7“4.”

**17.11(4) Licensure renewal courses.**

*a.* Licensure renewal courses are planned experiences, activities, and studies designed to develop skills, techniques, knowledge, and understanding of educational research and best practice, and model best practices in professional and organizational development. These courses support school improvement processes and practices and provide for the development of leadership in education. Approved courses and programs must be designed to follow the terms of the renewal requirements set forth for teacher and administrator renewal in 17.5“4,” 17.6“4” and 17.7“4.”

The following indicators of quality will be used in evaluating the approved license renewal programs.

- (1) The courses address specific student, teacher, and school needs evidenced in local school improvement plans, or
- (2) The courses assist teachers in improving student learning, or
- (3) The courses assist teachers in improving teaching evidenced through the adoption or application of practices, strategies, and information.

*b.* Approved teacher licensure renewal programs must offer and conduct a minimum of ten different courses for teachers during the calendar year, and approved administrative licensure renewal programs must conduct a minimum of five different courses for administrators during the calendar year.

*c.* Clock hours. Fifteen scheduled clock hours of contact with the instructor equal one renewal unit. Only whole units may be submitted to the board of educational examiners for license renewal.

*d.* Only renewal units offered through board of educational examiners approved licensure renewal programs will be accepted for license renewal.

**17.11(5) Licensure renewal advisory committee.** Licensure renewal programs must be developed with the assistance of a licensure renewal advisory committee.

*a. Membership of the advisory committee.* Once the advisory committee is established, matters pertaining to the term of membership shall be spelled out through established procedures. The advisory committee shall consist of no fewer than five members. The licensure renewal coordinator shall forward the current updated list of licensure renewal advisory committee members to the board of educational examiners no later than December 1 of each year.

(1) The licensure renewal advisory committee shall include the following persons for teacher/administrator renewal programs:

1. Elementary and secondary classroom teachers.
2. Local administrators: elementary or secondary principals, curriculum director or superintendent.

3. Higher education representative from a college or university offering an approved teacher education program.

4. Other categories may also be appointed: community college teaching faculty, students, area education agency staff members, school board members, members of educational professional organizations, business/industry representatives, community representatives, representatives of substitute teachers.

(2) The make-up of the membership should reflect the ratio of teachers to administrators within an agency or organization offering an approved licensure renewal program. The membership should reflect the general population by a balance of gender and race and shall be balanced between urban and rural districts.

(3) The licensure renewal coordinator shall be a nonvoting advisory committee member.

(4) Disputes about the appropriate composition of the membership of the licensure renewal advisory committee shall be resolved through local committee action.

b. *Responsibilities of licensure renewal advisory committee.*

(1) Licensure renewal advisory committee shall be involved in:

1. The ongoing area education agency, local district, or other agency staff development needs assessment.

2. The design and development of an original application for a license renewal program.

3. The development of criteria for the selection of course instructors, and these criteria shall include, but not be limited to, academic preparation, experience and certification status.

4. The annual evaluation of licensure renewal programs.

(2) The advisory committee shall meet at least twice annually and shall maintain records of each meeting. These records shall be available for review by board staff and kept on file in the licensure renewal coordinator's office.

17.11(6) *Licensure renewal coordinator.*

a. Each agency or organization offering an approved licensure renewal program shall identify a licensed (elementary or secondary) professional staff member who shall be designated as coordinator for the program. This function must be assigned; no application will be approved unless this responsibility has been assigned.

b. *Responsibility of licensure renewal coordinators.*

(1) File all reports as requested by the board of educational examiners.

(2) Submit an annual report on program offerings, participants and related information annually on or before December 1.

(3) Serve as a contact person for the board of educational examiners.

(4) Be responsible for the development of licensure renewal programs which address the professional growth concerns of the clientele.

(5) Be responsible for the approval of all courses or units offered for licensure renewal.

(6) Maintain records of approved courses as conducted and of the names of the qualifying participants.

(7) Maintain a list of all course offerings and approved instructors and forward the list to the board of educational examiners.

(8) Provide a record of credit for each participant and maintain a cumulative record of credits earned for each participant for a minimum of five years.

(9) Be responsible for informing participants of the reporting procedures for renewal credits/units earned.

**17.11(7) Organization and administration.**

a. Local school districts are encouraged to work cooperatively with their respective area education agency in assessing needs and designing and conducting courses.

b. The board of educational examiners reserves the right to evaluate any course, to require submission of evaluation data and to conduct sufficient on-site evaluation to ensure high quality of licensure renewal programs.

c. Agencies or institutions developing new programs shall submit a letter of intent prior to the submission of an application. The application must be filed at least three months prior to the initiation of any planned licensure renewal program.

d. Once a program is approved, the coordinator shall approve all course offerings for licensure renewal units.

e. Initial approval may be for one to three years. Continuing approval may be granted for five-year terms. Continuing approval may involve board of educational examiners sponsored team visits.

f. Records retention. Each approved staff development agency/institution shall retain program descriptions, course activities, documentation of the qualifications of delivery personnel, evaluation reports, and completed renewal units for a period of five years. This information shall be kept on file in the offices of the area education agency licensure renewal coordinators and shall be made available to the board of educational examiners upon request.

g. Monitoring and evaluation. Each approved licensure renewal program will be monitored by the board of educational examiners to determine the extent to which the program meets/continues to meet program standards and is moving toward the attainment of program objectives. This will include an annual report which shall include an annotated description of the courses provided, evidence of the collaborative efforts used in developing the courses, evidence of the intended results of the courses, and the data for demonstrating progress toward the intended results.

**17.11(8) Application for licensure renewal program.**

a. Application approval. The application shall contain evidence that the local board of directors (the boards of directors in consortium-based applications) has given formal approval to the development and implementation of the program and the allocation of program resources.

b. The application shall identify the criteria used in selecting faculty/instructors for the licensure renewal programs. These criteria shall include qualifications, experiences (relevant to the nature of the program), preparation and licensure status.

c. There must be evidence of a current survey of staff needs and an explanation of procedures used to derive such needs; this documentation must be furnished as a part of the application for a licensure renewal program.

d. Programs developed by eligible agencies shall be based on evidence gathered from a survey of staff needs of the personnel to be served by the licensure renewal program.

e. Program objectives must be derived from identified staff needs in the district or districts or special groups to be served; these objectives shall be developed by the eligible agency seeking approval under licensure renewal programs.

f. Each application must include procedures for program evaluation; this evaluation must include faculty/instructor as well as course/activity evaluation. Program and course/activity evaluation shall include, but not be limited to, participant perceptions.

g. Evaluation. The evaluation shall include participant perception and, whenever possible, observation data collection techniques and analyses are required for each approved licensure renewal program.

**282—17.12(272) Staff development programs for community college staff license renewal.**

**17.12(1) Application process.** These rules are to be followed in the preparation and submission of proposals for staff development programs for license renewal. The application materials must be returned to the board of educational examiners for review and approval.

Once the application has been submitted, it will be reviewed; and the applicant agency will be notified of approval or nonapproval and any deficiencies.

**17.12(2) Eligible agency/institutions.** All accredited community colleges are authorized to develop and apply to offer staff development programs for license renewal.

**17.12(3) Authority.** The acceptance of staff development programs for license renewal is provided in 282—subrule 16.3(4) and 282—subparagraph 16.5(1)“b”(4).

**17.12(4) Staff development courses.**

**a.** Staff development courses for license renewal are planned experiences, activities and studies designed to increase the licensed practitioners' knowledge and improve their skills. Approved courses and programs must be designed to follow the terms of the renewal requirements set forth in 282—subrule 16.3(3), 282—subparagraph 16.5(1)“b”(3), 17.5 “3,” 17.6 “3,” and 17.7 “3.”

The courses and programs must be based on documented need, clearly developed program objectives, and the means to evaluate the attainment of these objectives.

**b.** Clock hours. A minimum of 15 clock hours of contact equals one renewal unit. Only whole units may be submitted to the board of educational examiners for license renewal.

The local staff development committee may convert seminars, workshops, institutes, conferences, and similar educational experiences to staff development credit at or above the minimum rate of 15 hours to one renewal credit if provided for in the local plan and if preauthorized by the local staff development committee.

The local staff development committee may convert structured occupational experiences to staff development credit at or above the minimum rate of 40 hours to one renewal credit if provided for in the local plan and if preauthorized by the local staff development committee. A maximum of two credits per year may be earned for structured occupational experiences.

**c.** Only renewal units offered through board of educational examiners approved staff development programs will be accepted for license renewal.

**17.12(5) Staff development advisory committee.** Staff development programs for license renewal must be developed with the assistance of a local staff development advisory committee.

**a.** *Membership of the advisory committee shall be constituted locally.* Once the advisory committee is established, matters pertaining to maintenance of membership shall be spelled out through local procedures. Each advisory committee shall consist of no fewer than five members. The staff development coordinator shall forward the current updated list of staff development advisory committee members to the board of educational examiners no later than December 1 of each year.

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f. *Telephone expense.* In order to receive the standard telephone deduction, households using actual utility deductions shall be required to verify that it is their responsibility to pay for the basic telephone service fee at application and recertification, whenever the household has moved or a change in responsibility for the telephone expense is reported.

g. *Child support payment deduction.* Households shall be required to verify legally obligated child support and child medical support payments made to a person outside of the food stamp household only at certification and recertification and whenever the household reports a change.

65.22(2) *Failure to verify.* When the household does not verify an expense as required, no deduction for that expense will be allowed.

65.22(3) *Special verification procedures.* Persons whose applications meet the initial criteria for error-prone cases may be subject to special verification procedures, including a second face-to-face interview and additional documentation requirements in accordance with department of inspections and appeals' rules 481—Chapter 72.

Clients are required to cooperate with the food stamp investigation section of the department of inspections and appeals in establishing food stamp eligibility factors including attending requested interviews. Refusal to cooperate will result in denial or cancellation of the household's food stamp benefits. Once denied or terminated for refusal to cooperate, the household may reapply but shall not be determined eligible until cooperation occurs.

**441—65.23(234) Weekly or biweekly income and prospective budgeting.** Households receiving benefits determined by prospective budgeting shall have the actual or converted amount of income that is received on a weekly or biweekly basis considered for that benefit month.

**441—65.24(234) Inclusion of foster children in household.** Foster children living with foster parents will not be considered to be members of the food stamp household unless the household elects to include the foster children in the food stamp household. Foster care payments received for foster children not included in the household will be excluded from the income of the household receiving the payment.

**441—65.25(234) Effective date of change.** A food stamp change caused by, or related to, a public assistance grant change, will have the same effective date as the public assistance change.

**441—65.26(234) Child support rebate (pass-through) from the department.** Rescinded IAB 7/1/98, effective 7/1/98.

**441—65.27(234) Voluntary quit or reduction in hours of work.**

65.27(1) *Applicant households.* A member of an applicant household who without good cause voluntarily quits a job within 60 days prior to the date the household applies for food stamp benefits shall be disqualified from participating in the food stamp program for 90 days beginning with the date of the quit. Reduction in hours of work to less than 30 hours per week does not apply to applicant households.

65.27(2) *Participating individuals.* Participating individuals are subject to the same disqualification periods as provided under subrule 65.28(12) when the participating individuals voluntarily quit employment without good cause or voluntarily reduce hours of work to less than 30 hours per week, beginning with the month following the adverse notice period.

**441—65.28(234) Work requirements.**

**65.28(1) *Persons required to register.*** Each household member who is not exempt by subrule 65.28(2) shall be registered for employment at the time of application, and once every 12 months after initial registration, as a condition of eligibility. Registration is accomplished when the applicant signs a food stamp application form that contains a statement that all members in the household who are required to register for work are willing to register for work. This signature registers all members of that food stamp household that are required to register.

**65.28(2) *Exemptions from work registration.*** The following persons are exempt from the work registration requirement:

a. A person younger than 16 years of age or a person 60 years of age or older. A person aged 16 or 17 who is not a head of a household or who is attending school, or is enrolled in an employment training program on at least a half-time basis is exempt.

b. A person physically or mentally unfit for employment.

c. A household member subject to and complying with any work requirement under Title IV of the Social Security Act including mandatory PROMISE JOBS referral.

d. A parent or other household member who is responsible for the care of a dependent child under age six or an incapacitated person.

e. A person receiving unemployment compensation.

f. A regular participant in a drug addiction or alcohol treatment and rehabilitation program which is certified by the Iowa department of public health, division of substance abuse.

g. A person who is employed or self-employed and working a minimum of 30 hours weekly or receiving weekly earnings at least equal to the federal minimum wage multiplied by 30 hours.

h. A student enrolled at least half-time in any recognized school, recognized training program, or an institution of higher education (provided that students have met the requirements of federal regulation, Title 7, Part 273.5, as amended to December 31, 1986).

**65.28(3) *Losing exempt status.*** Persons who lose exempt status due to any change in circumstances that is subject to the reporting requirements shall register for employment when the change is reported. Persons who lose exempt status due to a change in circumstances that is not subject to the reporting requirements for that household shall register for employment no later than at the household's next recertification.

**65.28(4) *Registration process.*** Upon reaching a determination that an applicant or a member of the applicant's household is required to register, the pertinent work requirements, the rights and responsibilities of work-registered household members, and the consequences of failure to comply shall be explained to the applicant. A written statement of the above shall be provided to each registrant in the household. The written statement shall also be provided at recertification and when a previously exempt member or a new household member becomes subject to work registration.

Registration for all nonexempt household members required to work register is accomplished when the applicant or recipient signs an application, recertification, or reporting form containing an affirmative response to the question, "Do all members who are required to work register and participate in job search agree to do so?" or similarly worded statement.

**EXCEPTION:** The caretaker relative of a dependent in a family receiving FIP shall not be eligible for the dependent care reimbursement. Participation in JTPA (65.28(8), paragraph "d") does not entitle the person to a dependent care reimbursement. The reimbursement shall be authorized after the last day of each component in which the person participates upon presentation of proof of the expense incurred and hours of care for each dependent. The reimbursement shall be authorized only once per component in each federal fiscal year. Participation in educational services (65.28(8), paragraph "c") is considered participation in two consecutive four-week components.

**65.28(12) Failure to comply.** This subrule does not apply to persons electing to participate in the employment and training components of educational services and JTPA (see paragraphs 65.28(8) "c" and "d").

a. When a person has refused or failed without good cause to comply with the work registration or employment and training requirements in this rule, that person shall be ineligible to participate in the food stamp program as follows:

(1) First violation: The later of (1) the date the individual complies with the requirement; or (2) two months.

(2) Second violation: The later of (1) the date the individual complies with the requirement; or (2) three months.

(3) Third and subsequent violations: The later of (1) the date the individual complies with the requirement; or (2) six months.

b. The disqualification period shall begin with the first month following the expiration of the adverse notice period, unless a fair hearing is requested.

c. Participants shall be notified of probation status in writing. Probation shall last for the duration of the component. In addition to other work requirements in this chapter, employment and training participants are subject to the following specific requirements:

(1) Participants who are absent without good cause shall be placed on probation. A second absence without good cause shall result in disqualification.

(2) Participants who are absent without good cause at the time they are scheduled to present their job search documentation shall be disqualified.

(3) Participants who fail to make the required number of employer contacts without good cause shall be disqualified. Participants who fail to complete the required number of job contacts with good cause shall be excused from completion of the job search requirements for that component.

(4) Participants who exhibit disruptive behavior shall be placed on probation; a second offense shall result in disqualification. Disruptive behavior means the participant hinders the performance of other participants or staff, refuses to follow instructions, or uses abusive language.

(5) Participants will be allowed an additional two weeks to make up employer contacts which have been disallowed by employment services. Qualifying job contacts are defined in paragraph 65.28(8) "e." Failure to make up employer contacts will result in disqualification. Employment services will disallow employer contacts when it has been determined that the participant failed to make a face-to-face contact or the requirements of the job applied for far exceed the applicant's level of experience, education, or abilities.

(6) Participants who make physical threats to other participants or staff shall be disqualified.

**65.28(13) Noncompliance with comparable requirements.** Failure to comply with a JIB requirement that is comparable to a food stamp work registration or employment and training requirement shall be treated as a failure to comply with the corresponding food stamp requirement. Disqualification procedures in subrule 65.28(12) shall be followed.

**65.28(14) Ending disqualification.** Following the end of the disqualification periods for noncompliance and as provided in rules 441—65.27(234) and 441—65.28(234), participation may resume.

a. A disqualified individual who voluntarily quit a job within 60 days prior to applying for food stamp benefits may end the disqualification period by:

(1) Serving the 90-day disqualification period, or

(2) Obtaining employment comparable to the job that was quit prior to the end of the 90-day disqualification period, or

(3) Becoming exempt as provided in subrule 65.28(2) exclusive of paragraphs "c" and "e" prior to the end of the 90-day disqualification period.

b. A disqualified individual who is a member of a currently participating eligible household shall be added to the household after the minimum disqualification period has been served and the person has complied with the failed requirement as follows:

(1) If the member failed or refused to register for work with the department, the member complies by registering.

(2) If the member failed or refused to respond to a request from the department or its designee requiring supplemental information regarding employment status or availability for work, the member must comply with the request.

(3) If the member failed or refused to report to an employer to whom referred, the member must report to that employer if work is still available or report to another employer to whom referred.

(4) If the member failed or refused to accept a bona fide offer of suitable employment to which referred, the member must accept the employment if still available to the participant, or secure other employment which yields earnings per week equivalent to the refused job, or secure any other employment of at least 30 hours per week or secure employment of less than 30 hours per week but with weekly earnings equal to the federal minimum wage multiplied by 30 hours.

(5) If the member failed or refused to attend a scheduled employment and training interview, the member must arrange and attend a scheduled interview.

(6) If the member failed or refused to participate in instruction, training or testing activities, the member must participate in the activities.

(7) If the member failed or refused to complete assigned job search requirements, the member must complete the job search requirements.

(8) Rescinded IAB 2/9/00, effective 4/1/00.

(9) If the member voluntarily quit a job, the individual must obtain a job comparable to the one quit.

(10) If the member voluntarily reduced hours of employment to less than 30 hours per week, the individual must start working 30 or more hours per week.

c. An individual may reestablish eligibility during a disqualification period by becoming exempt from the work requirement as provided in subrule 65.28(2) exclusive of paragraphs "c" and "e."

65.28(15) *Suitable employment.* Employment shall be considered unsuitable if:

a. The wage offered is less than the highest of the applicable federal minimum wage, the applicable state minimum wage, or 80 percent of the federal minimum wage if neither the federal nor state minimum wage is applicable.

b. The employment offered is on a piece-rate basis and the average hourly yield the employee can reasonably be expected to earn is less than the applicable hourly wages specified in paragraph "a" above.

c. The household member, as a condition of employment or continuing employment, is required to join, resign from, or refrain from joining a legitimate labor organization.

d. The work offered is at a site subject to a strike or lockout at the time of the offer unless the strike has been enjoined under Section 208 of the Labor-Management Relations Act (29 U.S.C. 78A) (commonly known as the Taft-Hartley Act), or unless an injunction has been issued under Section 10 of the Railway Labor Act (45 U.S.C. 160).

e. The household member involved can demonstrate or the department otherwise becomes aware that:

(1) The degree of risk to health and safety is unreasonable.

(2) The member is physically or mentally unfit to perform the employment, as documented by medical evidence or by reliable information from other sources.

(3) The employment offered within the first 30 days of registration is not in the member's major field of experience.

(4) The distance from the member's home to the place of employment is unreasonable considering the expected wage and the time and cost of commuting. Employment shall not be considered suitable if daily commuting time exceeds two hours per day, not including the transporting of a child to and from a child care facility. Employment shall also not be considered suitable if the distance to the place of employment prohibits walking and neither public nor private transportation is available to transport the member to the job site.

(5) The working hours or nature of the employment interferes with the member's religious observances, convictions, or beliefs.

**65.28(16) Applicants for supplemental security income (SSI) and food stamps.** Household members who are jointly applying for SSI and for food stamps shall have the requirements for work registration waived until:

- a. They are determined eligible for SSI and thereby become exempt from work registration, or
- b. They are determined ineligible for SSI whereupon a determination of work registration status will be made.

**65.28(17) Determining good cause.** The department or its designee shall determine whether good cause exists for failure to comply with the work registration, employment and training, and voluntary quit requirements in 441—Chapter 65. In determining whether good cause exists, the facts and circumstances shall be considered, including information submitted by the household member involved and the employer.

Good cause shall include circumstances beyond the member's control, such as, but not limited to, illness of the registrant or of another household member requiring the presence of the registrant, a household emergency, the unavailability of transportation, or the lack of adequate child care for children who have reached age 6 but are under age 12.

**65.28(18) Work requirement for able-bodied nonexempt adults without dependents.** An individual is exempt from this requirement if the individual is under 18 or over 50 years of age; medically certified as physically or mentally unfit for employment; a parent or other member of a household with responsibility for a dependent child; pregnant; living in a county that is designated exempt under subrule 65.28(19); or otherwise exempt from work requirements under the Food Stamp Act.

a. No able-bodied nonexempt individual aged 18 to 50 shall be eligible to participate in the food stamp program if, during the preceding 36-month period but not prior to December 1996, the individual received food stamp benefits for not less than 3 months (consecutive or otherwise) during which the individual did not:

- (1) Work 20 hours or more per week (averaged monthly), or
- (2) Participate in and comply with the requirements of a program for 20 hours or more per week, as determined by the department, or
- (3) Participate in and comply with the requirements of the pilot food stamp workfare program as described under subrule 65.28(19), or
- (4) Receive benefits per paragraph "c" of this subrule.

b. The 36-month period is a consecutive period of time regardless of whether the individual is subject to paragraph "a" of this subrule for the entire 36-month period once it has begun. The 36-month period starts with the first month counted toward the 3-month limit. Periods during the 36 months in which the individual may receive benefits because of being exempt from the requirement do not reset the 36-month period. December 1, 1996, is the first month for which an individual's 36-month period can begin. When the individual's first 36-month period expires, a new 36-month period begins starting with the first month counted toward the 3-month limit.

c. During an individual's 36-month period, after the 3-month limit is used, the individual may regain eligibility if during a 30-day period the individual:

- (1) Worked 80 or more hours; or
- (2) Participated in a work program for 80 or more hours; or
- (3) Participated in the pilot workfare program as described under subrule 65.28(19).

d. An individual who loses employment after regaining eligibility under paragraph "c" of this subrule, and no longer meets the requirements of paragraph "a," subparagraphs (1), (2), and (3), shall remain eligible for a consecutive three-month period, beginning on the date the individual notifies the department that the individual no longer meets the requirements of paragraph "a" of this subrule.

**65.28(19) Pilot workfare program for able-bodied adults without dependents (ABAWDs).** The pilot workfare program is designed to allow ABAWDs who are required to work as an eligibility requirement for receipt of food stamp benefits by subrule 65.28(18) the opportunity to perform public service work in private or public nonprofit organizations in exchange for the value of their monthly food stamp benefits. The pilot workfare program is a component of the food stamp employment and training program set forth in subrule 65.28(7). Participation in the pilot workfare program is voluntary.

a. ABAWDs who participate in the pilot workfare program may meet the requirements of subrule 65.28(18) by working in a job slot for a required number of hours per month. The required number of hours of work shall be the value of the workfare participant's food stamp allotment divided by the federal minimum wage. If the workfare participant is a member of a household of two or more members, the household's monthly food stamp benefit allotment shall be prorated among the household members, and the workfare participant's pro-rata share of the household's allotment shall be divided by the federal minimum wage to determine the number of hours the individual must work.

b. New ABAWDs shall first be offered the opportunity to make a 30-day job search. Participants that complete the 30-day job search shall be offered a job slot in the pilot workfare program at the end of the 30 days. ABAWDs who choose to participate in workfare at any other time shall not be offered the opportunity to make a 30-day job search and shall be placed in a job slot.

c. Workfare job slots shall be located in private or public nonprofit organizations.

d. Workfare shall be offered in selected counties. Selection shall be based on prioritizing counties according to:

- (1) The counties with the greatest ABAWD population.
- (2) The availability of a service provider in the county.
- (3) The total number of individual exemptions the state is allocated under federal law.
- (4) The availability of federal funding.

e. Counties in which workfare is not offered are designated to be "exempt" counties.

f. This pilot shall be in effect until September 30, 2001.

#### **441—65.29(234) Income.**

**65.29(1) Uneven proration of self-employment income.** Once a household with self-employment income is determined eligible based on its monthly net self-employment income, the household has the following options for computation of the benefit level:

a. Using the same net monthly self-employment income which was used to determine eligibility, or

b. Unevenly prorating the household's annual self-employment income over the period for which the household's self-employment income was averaged to more closely approximate the time when the income is actually received. If this option is chosen, the self-employment income assigned in any month together with other income and deductions at the time of certification cannot result in the household's exceeding the maximum monthly net income eligibility standards for the household's size.

**65.29(2) Job insurance benefits.** When the department of human services uses information provided by the department of employment services to verify job insurance benefits, the benefits shall be considered received the second day after the date that the check was mailed by job service. When the second day falls on a Sunday or federal legal holiday, the time shall be extended to the next mail delivery day. When the client notifies the agency that the amount of job insurance benefits used is incorrect, the client shall be allowed to verify the discrepancy. A benefit adjustment shall be made when indicated. The client must report the discrepancy prior to the benefit month or within ten days of the date on the Notice of Decision, PA-3102-0, applicable to the benefit month, whichever is later, in order to receive corrected benefits.



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## RACING AND GAMING COMMISSION[491]

[Prior to 11/19/86, Chs 1 to 10, see Racing Commission[693]; Renamed Racing and Gaming Division [195] under the "umbrella" of Commerce, Department of [181], 11/19/86]

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1.7(2) For the purpose of this rule, “books, records and documents” shall be defined as any book, record or document pertaining to or prepared or generated by the licensee including, but not limited to, all forms, reports, accounting records, ledgers, subsidiary records, computer-generated data, internal audit records, correspondence, contracts, and personnel records.

1.7(3) All original books, records and documents may be copied and stored on microfilm, microfiche or other suitable media system approved by the administrator.

1.7(4) No original book, record or document, or suitable media copy, may be destroyed by a licensee, for three years, without the prior approval of the administrator.

**491—1.8(17A,99D,99F) Waivers or variances from rules.** This rule outlines a uniform process for the granting of waivers or variances from rules adopted by the commission.

1.8(1) *Commission authority.* A waiver or variance from rules adopted by the commission may be granted in accordance with this rule if: (1) the commission has exclusive rule-making authority to promulgate the rule from which waiver or variance is requested or has final decision-making authority over a contested case in which a waiver or variance is requested; and (2) no statute or rule otherwise controls the grant of a waiver or variance from the rule from which waiver or variance is requested.

1.8(2) *Interpretive rules.* This uniform waiver and variance rule shall not apply to rules that merely define the meaning of a statute or other provisions of law or precedent if the commission does not possess delegated authority to bind the courts to any extent with its definition.

1.8(3) *Compliance with statute.* No waiver or variance may be granted from a requirement that is imposed by statute. Any waiver or variance must be consistent with statute.

1.8(4) *Criteria for waiver or variance.* The commission may issue an order, in response to a completed petition or on its own motion, granting a waiver or variance from a rule adopted by the commission, in whole or in part, as applied to the circumstances of a specified person if the commission finds that:

1. Application of the rule to the person at issue would result in hardship or injustice to that person; and
2. Waiver or variance on the basis of the particular circumstances relative to that specified person would be consistent with the public interest; and
3. Waiver or variance in the specific case would not prejudice the substantial legal rights of any person.

In determining whether waiver or variance would be consistent with the public interest under “2,” the commission shall consider whether, if the waiver or variance is granted, the public health and safety will be protected by other means that are substantially equivalent to full compliance with the rule.

a. *Commission discretion.* The decision on whether the circumstances justify the granting of a waiver or variance shall be made at the discretion of the commission, upon consideration of all relevant factors.

b. *Mandatory waivers or variances.* In response to the timely filing of a completed petition requesting a waiver or variance, the commission shall grant a waiver or variance from a rule, in whole or in part, as applied to the particular circumstances of a specified person, if the commission finds that the application of all or a portion thereof to the circumstances of that specified person would not, to any extent, advance or serve any of the purposes of the rule.

c. *Burden of persuasion.* The petitioner shall assume the burden of persuasion when a petition is filed for a waiver or variance from a commission rule.

d. *Special waiver or variance rules not precluded.* This uniform waiver and variance rule shall not preclude the commission from granting waivers or variances in other contexts or on the basis of other standards if a statute or other commission rule authorizes the commission to do so, and the board deems it appropriate to do so.

e. *Administrative deadlines.* When the rule from which a waiver or variance is sought establishes administrative deadlines, the commission shall balance the special individual circumstances of the petitioner with the overall goal of uniform treatment of all licensees.

**1.8(5) Filing of petition.** A petition for a waiver or variance must be submitted in writing to the commission as follows:

*a. License application.* If the petition relates to a license application, the petition shall be made in accordance with the filing requirements for the license in question.

*b. Contested cases.* If the petition relates to a pending contested case, the petition shall be filed in the contested case proceeding.

*c. Other.* If the petition does not relate to a license application or a pending contested case, the petition may be submitted to the commission's administrator.

**1.8(6) Content of petition.** A petition for waiver or variance shall include the following information where applicable and known to the requester:

*a.* The name, address, and telephone number of the person or entity for whom a waiver or variance is being requested, and the case number of any related contested case.

*b.* A description and citation of the specific rule from which a waiver or variance is requested.

*c.* The specific waiver or variance requested, including the precise scope and operative period that the waiver or variance will extend.

*d.* The relevant facts that the petitioner believes would justify a waiver or variance. This statement shall include a signed statement from the petitioner attesting to the accuracy of the facts provided in the petition, and a statement of reasons that the petitioner believes will justify a waiver or variance.

*e.* A history of any prior contacts between the commission and the petitioner relating to the regulated activity or license affected by the proposed waiver or variance, including a description of each affected license held by the requester, any notices of violation, contested case hearings, or investigative reports relating to the regulated activity or license within the last five years.

*f.* Any information known to the requester regarding the commission's treatment of similar cases.

*g.* The name, address, and telephone number of any public agency or political subdivision which also regulates the activity in question, or which might be affected by the grant of a waiver or variance.

*h.* The name, address, and telephone number of any person or entity that would be adversely affected by the grant of a petition.

*i.* The name, address, and telephone number of any person with knowledge of the relevant facts relating to the proposed waiver or variance.

*j.* Signed releases of information authorizing persons with knowledge regarding the request to furnish the board with information relevant to the waiver or variance.

**1.8(7) Additional information.** Prior to issuing an order granting or denying a waiver or variance, the commission may request additional information from the petitioner relative to the petition and surrounding circumstances. If the petition was not filed in a contested case, the commission may, on its own motion or at the petitioner's request, schedule a telephonic or in-person meeting between the petitioner and the commission's administrator, a committee of the commission, or a quorum of the commission.

**1.8(8) Notice.** The commission shall acknowledge a petition upon receipt. The commission shall ensure that notice of the pendency of the petition and a concise summary of its contents have been provided to all persons to whom notice is required by any provision of law, within 30 days of the receipt of the petition. In addition, the commission may give notice to other persons. To accomplish this notice provision, the commission may require the petitioner to serve the notice on all persons to whom notice is required by any provision of law, and provide a written statement to the commission attesting that notice has been provided.

**1.8(9) Hearing procedures.** The provisions of Iowa Code sections 17A.10 to 17A.18A regarding contested case hearings shall apply to any petition for a waiver or variance of rule filed within a contested case, and shall otherwise apply to commission proceedings for a waiver or variance only when the commission so provides by rule or order or is required to do so by statute.



**1.8(10) Ruling.** An order granting or denying a waiver or variance shall be in writing and shall contain a reference to the particular person and rule or portion thereof to which the order pertains, a statement of the relevant facts and reasons upon which the action is based, and a description of the precise scope and operative period of the waiver if one is issued.

*a. Conditions.* The commission may condition the grant of the waiver or variance on such reasonable conditions as appropriate to achieve the objectives of the particular rule in question through alternative means.

*b. Time for ruling.* The commission shall grant or deny a petition for a waiver or variance as soon as practicable but, in any event, shall do so within 120 days of its receipt, unless the petitioner agrees to a later date. However, if a petition is filed in a contested case, the commission shall grant or deny the petition no later than the time at which the final decision in that contested case is issued.

*c. When deemed denied.* Failure of the commission to grant or deny a petition within the required time period shall be deemed a denial of that petition by the commission.

*d. Service of order.* Within seven days of its issuance, any order issued under this uniform rule shall be transmitted to the petitioner or the person to whom the order pertains, and to any other person entitled to such notice by any provision of law.

**1.8(11) Public availability.** Subject to the provisions of Iowa Code section 17A.3(1)“e,” the commission shall maintain a record of all orders granting and denying waivers and variances under this uniform rule. All final rulings in response to requests for waivers or variances shall be indexed and available to members of the public at the commission office.

**1.8(12) Voiding or cancellation.** A waiver or variance is void if the material facts upon which the request is based are not true or if material facts have been withheld. The commission may at any time cancel a waiver or variance upon appropriate notice and hearing if the commission finds that the facts as stated in the request are not true, material facts have been withheld, the alternative means of compliance provided in the waiver or variance have failed to achieve the objectives of the statute, or the requester has failed to comply with the conditions of the order.

**1.8(13) Violations.** Violation of conditions in the waiver or variance approval is the equivalent of violation of the particular rule for which the waiver or variance is granted and is subject to the same remedies or penalties.

**1.8(14) Defense.** After the commission issues an order granting a waiver or variance, the order is a defense within its terms and the specific facts indicated therein for the person to whom the order pertains in any proceeding in which the rule in question is sought to be invoked.

**1.8(15) Appeals.** Any request for an appeal from a decision granting or denying a waiver or variance shall be in accordance with the procedures provided in Iowa Code chapter 17A and commission rules. An appeal shall be taken within 30 days of the issuance of the ruling in response to the request unless a contrary time is provided by rule or statute.

These rules are intended to implement Iowa Code sections 99D.5 and 99D.6 and chapter 99F.

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**5.15(8) Security plan.** Security plans are subject to commission approval and shall be updated annually. Under a separate cover marked confidential, provide detailed security plan with the following information:

- a. Location of central security office.
- b. Describe security coverage of restricted areas including, but not limited to, money room, stable/kennel area, paddock, testing barn, mutuel lines and all entrances (during racing and during off hours). Describe the size and stationing of security staff.
- c. Describe arrangement made for transporting cash through public areas.
- d. Describe arrangements for liaison with local law enforcement agencies, expected response time and provisions for on-site police officers with arrest powers.
- e. Provide after hour telephone numbers for key personnel.
- f. Describe security procedures for transporting start-up cash to the track, transporting deposits to financial institutions and storage of cash at the track.
- g. Describe fencing and gates around the stable/kennel area.

**5.15(9) Certification.** A certification will be provided by both the president of the association and the general manager that all contracts and financial documents described in rule 491—1.6(99D,99F) have been submitted to the commission for approval.

**5.15(10) Gambling treatment program.**

a. The holder of a license to operate gambling games within a racetrack enclosure shall adopt and implement policies and procedures designed to:

- (1) Identify problem gamblers; and
- (2) Prevent previously identified problem gamblers from gambling at the licensee's facility or other facilities licensed by the state of Iowa.

b. The policies and procedures shall be developed in cooperation with the gambling treatment program and shall include without limitation the following:

- (1) Training of key employees to identify and report suspected problem gamblers;
- (2) Procedures for recording and tracking identified problem gamblers;
- (3) Policies designed to prevent serving alcohol to intoxicated casino patrons;
- (4) Steps for removing problem gamblers from the casino; and
- (5) Procedures for preventing reentry of problem gamblers.

c. A licensee shall include in its racing program and a substantial number of its advertisements information on the availability of the gambling treatment program.

**5.15(11) Other information.** The association shall submit all other information specifically requested in writing by the commission or administrator.

**5.15(12) Confidential license.** The commission may approve a license renewal request based upon specific performance or condition that the commission may deem appropriate and falls within the authority granted to the commission under Iowa Code chapter 99D.

**5.15(13) Changes in approval requests.** Once a license has been renewed, any changes to the items approved by the commission shall be requested in writing and subject to the written approval of the administrator.

**491—5.16(99D) Track licensee's and general manager's responsibilities.**

**5.16(1) Maintenance of grounds, facilities and uniform track.** Each licensee shall at all times maintain its grounds and facilities so as to be neat and clean, well-landscaped, painted and in good repair, handicap accessible, with special consideration for the comfort and safety of patrons, employees, and other persons whose business requires their attendance; with special consideration for the health and safety of the racing animals.

a. **Insect and rodent control.** The association shall provide systematic and effective insect and rodent control, including control of flies, mosquitoes, fleas and mice, to all areas of association premises at all times during a race meeting.

*b. Stalls.* In horse racing only, the association shall ensure that racing animals are stabled in individual box stalls; that the stables and immediate surrounding area are maintained in approved sanitary condition at all times; that satisfactory drainage is provided; and that manure and other refuse are kept in separate boxes or containers at locations distant from living quarters and promptly and properly removed.

*c. Paddocks and equipment.* In horse racing only, management shall be responsible that paddocks, starting gates and other equipment subjected to contact by different animals be kept in a clean condition and free of dangerous surfaces.

*d. Receiving barn and stalls.* Each association shall provide a conveniently located receiving barn or stalls for the use of arriving horses during the meeting. The barn shall have adequate stable room and facilities, hot and cold water, and stall bedding. The association shall employ attendants to operate and maintain in clean and healthy condition the receiving barn or stalls.

**5.16(2) Racetrack.**

*a.* Each horse racing licensee shall provide:

(1) The surface of a racetrack, including the cushion, subsurface and base, must be designed, constructed and maintained to provide for the safety of the jockeys and racing animals.

(2) Distances to be run shall be measured from the starting line at a distance three feet out from the inside rail.

(3) An association shall provide an adequate drainage system for the racetrack.

(4) An association shall provide adequate equipment and personnel to maintain the track surface in a safe training and racing condition. The association shall provide backup equipment for maintaining the track surface. An association that conducts races on a turf track shall:

1. Maintain an adequate stockpile of growing medium; and

2. Provide a system capable of adequately watering the entire turf course evenly.

(5) Rails.

1. Racetracks, including turf tracks, shall have inside and outside rails including gap rails, designed, constructed and maintained to provide for the safety of jockeys and horses. The design and construction of rails must be approved by the commission prior to the first race meeting at the track.

2. The top of the rail must be at least 38 inches but not more than 44 inches above the top of the cushion. The inside rail shall have no less than a 24-inch overhang with a continuous smooth cover.

3. All rails must be constructed of materials designed to withstand the impact of a horse running at a gallop.

*b.* Each greyhound racing licensee shall provide a race course which:

(1) Is constructed and elevated in a manner that is safe and humane for greyhounds.

(2) Has a surface, including the cushion subsurface and base, that is constructed of materials and to a depth that adequately provides for the safety of the greyhounds.

(3) Has a drainage system that is approved by the commission.

(4) Must be approved by the commission and be subject to periodic inspections by the commission.

**5.16(3) Horsemen's bookkeeper.**

*a.* General authority. The horsemen's bookkeeper shall maintain the records and accounts and perform the duties described herein and maintain such other records and accounts and perform such other duties as the association and commission may prescribe.

*b.* Records.

(1) The records shall include the name, mailing address, social security number or federal tax identification number, and the state or country of residence of each horse owner, trainer or jockey participating at the race meeting who has funds due or on deposit in the horsemen's account.

(2) The records shall include a file of all required statements of partnerships, syndicates, corporations, assignments of interest, lease agreements and registrations of authorized agents.

These rules are intended to implement Iowa Code chapter 99D.

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◇ Two ARCs

\*Effective date of 5.1(5)“c” delayed until the end of the 1999 Session of the General Assembly by the Administrative Rules Review Committee at its meeting held December 8, 1998.



e. Any grievance or complaint against a track official, or employee, or a licensee shall be made in writing within seven days of the alleged objectionable act or behavior. The grievance or complaint shall be made to the stewards, who shall consider the matter, take whatever action is deemed to be appropriate, and make a full report to the commission.

f. Any grievance or complaint against an official or employee of the commission shall be reported in writing within seven days of the alleged objectionable act or behavior. The grievance or complaint shall be made to the administrator of the commission, who shall refer the matter to the commission.

**7.9(2) Duties of chart writer.**

a. The chart writer shall compile the information necessary for a program which shall be printed for each racing day and shall contain the names of the greyhounds that are to run in each of the races for that day. These names shall appear in the order of their post positions to be designated by numerals placed at the left and in lines with the names of the greyhounds in each race, which numerals shall also be prominently displayed on each greyhound.

b. The program or form sheet must carry at least two past performances of each greyhound scheduled to race. The program or form sheet must also contain name, color, sex, date of whelping, breeding, established racing weight, number of starts in official races, and number of times finishing first, second and third, name of owner, lessee, (if applicable) name of trainer, distance of race, track record, and other information to enable the public to properly judge the greyhound's ability.

c. In case the name of a greyhound is changed, the new name, together with the former name, shall be published in the official entries and program until after the greyhound has started six times.

**7.9(3) Duties of clerk of scales.**

a. The duties of the clerk of the scales shall include:

- (1) Weighing all greyhounds in and out.
- (2) Posting of scale sheet of weights promptly after weighing.
- (3) Preventing any greyhound from passing the scales or running with an overweight or an underweight of more than one and one-half pounds. The clerk of scales shall promptly notify the paddock judge, who will report to the stewards any infraction of the rules as to weight or weighing.
- (4) Reporting all late scratches and weights for display on the tote board or on a bulletin board located in a place conspicuous to the wagering public.

b. The clerk of the scales shall report to the stewards any violations of weight rules or any attempt to alter specified weights.

c. All greyhounds must be weighed in and weighed out with the muzzle, collar, and lead strap.

d. The clerk of the scales shall keep a list of all greyhounds known as "weight losers" and shall notify the stewards as to the weight loss before each race.

**7.9(4) Duties of stewards.**

a. There shall be three stewards for each racing meet, two of whom shall be appointed by the commission and one of whom shall be nominated by the association for approval by the commission.

*b.* The laws of Iowa and the rules of racing apply equally during periods of racing and simulcasting. They supersede the conditions of a race and the regulations of a racing meet; and, in matters pertaining to racing, the orders of the stewards supersede the orders of the officers of the association.

*c.* The stewards shall have the power to interpret the rules and to decide all questions not specifically covered by them.

*d.* All questions pertaining to which their authority extends shall be determined by a majority of the stewards.

*e.* The stewards shall have the authority to regulate owners, trainers, kennel helpers, all other persons attendant to greyhounds, officials, and licensed personnel of the racing meet and those persons addressed by 491—paragraph 4.6(5)“e.”

*f.* The stewards shall have control over and free access to all stands, weighing rooms, and all other places within the racetrack enclosure.

*g.* The stewards shall have the power to determine all questions arising with reference to entries and racing.

*h.* Persons entering greyhounds to run on licensed Iowa tracks agree in so doing to accept the decision of the stewards on any questions relating to a race or racing.

*i.* The stewards shall have the power to punish for violation of the rules any person subject to their control and in their discretion to impose fines or suspensions or both for infractions.

*j.* The stewards shall have the power to order the exclusion or ejection from all premises and enclosures of the association any person who is disqualified for corrupt practices on any race course in any country.

*k.* The stewards shall have the power to call for proof that a greyhound is neither itself disqualified in any respect, nor nominated by, nor the property, wholly or in part, of a disqualified person, and in default of proof being given to their satisfaction, they may declare the greyhound disqualified.

*l.* The stewards shall have the power at any time to order an examination of any greyhound entered for a race or which has run in a race.

*m.* The stewards shall take notice of any questionable conduct with or without complaint and shall investigate promptly and render a decision on every objection and on every complaint made to them.

*n.* The stewards shall report all objections and complaints to the commission as soon as received by them and shall make prompt report of their investigation and decision to the commission office.

*o.* The stewards, in order to maintain necessary safety and health conditions and to protect the public confidence in greyhound racing as a sport, shall have the right to authorize a person or persons in their behalf to enter into or upon the buildings, kennels, rooms, motor vehicles, trailers, or other places within the grounds of a licensed racetrack, to examine same, and to inspect and examine the person, personal property, and effects of any person within such place, and to seize any illegal articles or any items as evidence found.



d. As each greyhound is weighed in there shall be an identification tag attached to its collar indicating the number of the race in which the greyhound is entered and its post position. This tag shall not be removed until the greyhound has been weighed out and blanketed.

e. The paddock judge shall not allow anyone to weigh in a greyhound for racing unless the person has a valid kennel owner's, trainer's, or assistant trainer's license issued by the commission.

f. The paddock judge shall carefully compare the identification card with the greyhound while in the paddock before post time.

g. Before leaving the paddock for the starting box, every greyhound must be equipped with a regulation muzzle and blanket. The muzzles and blankets used shall be approved by the paddock judge, who shall carefully examine them in the paddock before the greyhound leaves for the post.

h. The paddock judge shall keep on hand, ready for use, extra muzzles of all sizes, lead straps, and collars.

i. The paddock judge shall report all infractions of the rules and any irregularities to the board of stewards.

j. The paddock judge shall report all delays to the stewards.

**7.9(7) Duties of racing secretary.**

a. The racing secretary shall discharge all duties whether expressed or required by the rules of greyhound racing; report to the stewards as the case may demand, all violations of these rules and shall keep a complete record of all races.

b. The racing secretary is responsible for maintaining a file of all National Greyhound Association lease (or appropriate substitute) and ownership papers on greyhounds racing at the meeting. The racing secretary shall inspect all papers and documents dealing with owners and trainers, partnership agreements, appointments of authorized agents, and adoption of kennel names to be sure they are accurate, complete, and up to date. The racing secretary has the authority to demand the production of any documents or other evidence in order to be satisfied as to their validity and authenticity to ensure compliance with the rules.

c. The racing secretary shall receive all entries and declarations. Conditions of races shall not conflict with these rules and the racing secretary shall each day as soon as the entries have closed, have been compiled, and the declarations have been made, post in a conspicuous place an overnight listing of the greyhounds in each race. The racing secretary shall make every effort to ensure fairness and equal opportunity for all greyhound owners and kennel owners in the forming of all races.

d. The racing secretary shall not allow any greyhound to start in a race unless the greyhound is entered in the name of the legal owner and unless the owner's name appears on the registration papers or on a legal lease or bill of sale attached to the registration papers.

e. Assistant racing secretary. The association may employ an assistant racing secretary, who shall assist the racing secretary in the performance of duties and serve under the supervision of the racing secretary.

**7.9(8) Duties of starter.**

a. The starter shall give orders and take measures, not in conflict with the rules of greyhound racing, necessary to secure a fair start.

b. The greyhounds shall be started from a type of starting box approved by the commission and there shall be no start until, and no recall after, the doors of the starting box have opened.

- c. The starter shall report causes of delay, if any should occur, to the stewards.
- d. A false start, due to any faulty action of the starting box, break in the machinery, or other cause, is void, and the greyhounds may be started again as soon as practicable, or the race may be canceled at the discretion of the stewards.

**7.9(9) Duties of photo finish operator/timer.**

- a. The photo finish operator/timer shall maintain the photo finish and timing equipment in proper working order and shall photograph each race.
- b. The photo finish operator/timer shall be responsible for and declare the official time of each race. The time of the race shall be taken from the opening of the doors of the starting box.
- c. Each association shall be required to install an automatic timing device approved by the commission. The timer shall use the time shown on the timing device as the official time of the race if the timer is satisfied that the timing device is functioning properly; otherwise, the timer shall use the time shown on the stopwatch.

**7.9(10) Commission veterinarian.**

- a. The commission shall employ a graduate veterinarian licensed to practice in the state of Iowa at each race meeting as provided in Iowa Code section 99D.23. This veterinarian shall advise the commission and the stewards on all veterinary matters.
- b. The commission veterinarian shall be on the grounds of the association at weigh-in time and during all racing hours. The veterinarian shall make an examination of the physical condition of each greyhound at weighing-in time.
- c. The commission veterinarian shall observe each greyhound as it enters the lock-out kennel, examine it when it enters the paddock prior to the race, and recommend to the board of stewards that any greyhound deemed unsafe to race or physically unfit to produce a satisfactory effort in a race be scratched.
- d. The commission veterinarian shall place any greyhound determined to be sick or have a communicable disease, or any greyhound deemed unsafe, unsound or unfit on a veterinarian's list which shall be posted in a conspicuous place available to all owners, trainers and officials.
- e. Once a greyhound has been placed on the veterinarian's list it may be allowed to race only after it has been removed from the list by the commission veterinarian. The entry of any greyhound on the veterinarian's list may be accepted only after three calendar days from the placing of the greyhound on the veterinarian's list have elapsed.
- f. The commission veterinarian shall have full access to each and every kennel where greyhounds are kenneled on the licensee's premises. The commission veterinarian shall inspect the general physical condition of the greyhounds, sanitary conditions of the kennels, segregation of female greyhounds in season, segregation of sick greyhounds, the types of medicine found in use, cruel and inhumane treatment, and any other matters or conditions which are brought to the attention of the commission veterinarian.
- g. The commission veterinarian shall have supervision and control of the detention area for collection of samples for the testing of greyhounds for prohibited medication as also provided in Iowa Code section 99D.23. The commission may employ persons to assist the commission veterinarian in maintaining the detention area and collecting specimens.

*h.* The commission veterinarian shall not buy or sell any greyhound under the veterinarian's supervision; nor shall the commission veterinarian wager on a race under the veterinarian's supervision, nor be licensed to participate in racing in any other capacity. Except in the case of an emergency, a commission veterinarian may not prescribe any medication for or treat any greyhound owned by a person licensed by the commission, on or away from any racecourse in Iowa, with or without compensation. This provision does not apply to a relief veterinarian appointed by the administrator to cover the absence of the commission veterinarian. When emergency treatment is given, a commission veterinarian shall make a complete written report to the stewards. Euthanasia and disposition of greyhounds shall not be considered treatment.

**7.9(11) Duties of lure operator.**

*a.* The lure operator shall:

(1) Operate the lure in a smooth, uniform and consistent manner so as not to impede or otherwise disrupt the running of the race;

(2) Ensure the distance between the lure and lead greyhound is consistent with the distance prescribed by the stewards; and

(3) Be held accountable by the stewards for the lure's operation.

*b.* The location on the course and the prevailing weather conditions shall be taken into consideration by the lure operator when calculating the appropriate distance of the lure from the lead greyhound.

*c.* The lure operator shall determine that the lure is in good operating condition and shall immediately report any circumstance that may prevent the normal, consistent operation of the lure to the stewards.

**7.9(12) Duties of patrol judge.**

*a.* The patrol judge must be fully trained in the duties and procedures of the position.

*b.* The patrol judge shall:

(1) Supervise the lead-outs and greyhounds from paddock to post.

(2) Inspect the muzzles and blankets of greyhounds after they have left the paddock in view of the stewards and the public.

(3) Assist the starter in their duties upon the arrival of the lead-outs and greyhounds at the starting box.

**7.9(13) Duties of kennel master.**

*a.* Under the supervision of the paddock judge, the kennel master shall unlock the prerace lock-out kennels immediately before weigh-in time to inspect that the kennels are in proper working order and that nothing has been deposited in any of the kennels for the greyhounds' consumption.

*b.* The kennel master or designee must receive the greyhounds from the trainer, one at a time, and ensure that each greyhound is placed in its lock-out crate and continue to ensure the security of the lock-out area from weigh-in time until the time when greyhounds are removed for the last race of a performance.

*c.* The kennel master shall ensure that the lock-out kennels are sprayed, disinfected and maintained in proper sanitary condition on a daily basis.

**7.9(14) Duties of the brakeman.**

- a. Prior to the running of each race, the brakeman shall:
- (1) Ensure the brake system is in good operating condition, which entails properly “unlocking” the brake;
  - (2) Inspect the lure motor for any noticeable malfunctions, such as leaks, cracks, or slipping and missing brake shoes; and
  - (3) Ensure the lure is secured and the arm is fully extended into a stable, locked position.
  - (4) Inspect the rail to ensure it is in perfect repair and free of debris.
- b. The brakeman shall ensure the arm has retracted and stop the lure, after the race is finished, in a safe and consistent manner.

**491—7.10(99D) Medication and administration, sample collection, chemists, and practicing veterinarians.****7.10(1) Medication and administration.**

- a. No greyhound, while participating in a race, shall carry in its body any medication, or drug, or foreign substance, or metabolic derivative thereof.
- b. Also prohibited are any drugs or foreign substances which might mask or screen the presence of the prohibited drugs, or prevent or delay testing procedures.
- c. Proof of detection by the commission chemist of the presence of a medication, or drug, or foreign substance, or metabolic derivative thereof, prohibited by 7.10(1) “a” or “b” in a saliva, urine, or blood specimen duly taken under the supervision of the commission veterinarian from a greyhound immediately prior to or promptly after running in a race, shall be prima facie evidence that the greyhound was administered with the intent that it would carry or that it did carry prohibited medication, drug, or foreign substance, in its body while running in a race in violation of this rule.
- d. No person other than a licensed veterinarian shall administer, or cause to be administered, or participate, or attempt to participate, in any way in the administration to a greyhound registered for racing, of any medication, drug, or foreign substance on the day of the race for which a greyhound is entered prior to a race.
- e. Any such person found to have administered a medication, drug, or foreign substance which caused or could have caused a violation of this rule, or caused or participated or attempted to participate in any way in the administration, shall be subject to disciplinary action.
- f. The owner, trainer, kennel helper, or any other person having charge, custody or care of the greyhound is obligated to protect the greyhound properly and guard it against the administration or attempted administration, and if the stewards shall find that any person has failed to show proper protection and guarding of the greyhound, or if the stewards find that any owner, lessee, or trainer is guilty of negligence, they shall impose punishment and take other action they deem proper under any of the rules including reference to the commission.

**7.10(2) Sample collection.**

- a. Urine, blood, and other specimens shall be taken and tested from any greyhounds the stewards of the meeting, commission veterinarian, or the commission’s representatives may designate. Tests are to be under the supervision of the commission. The specimens shall be collected by the commission veterinarian or other person or persons the commission may designate.

c. Every practicing veterinarian licensed by the commission shall keep a written record of practice on the premises of a licensee relating to greyhounds participating in racing.

(1) This record shall include the name of the greyhound treated, the nature of the greyhound's ailment, the type of treatment prescribed and performed for the greyhound, and the date and time of treatment.

(2) This record shall be kept for practice engaged at all licensed racetracks in the state of Iowa and shall be produced without delay upon the request of the board of stewards or the commission veterinarian.

d. Report of illness. Each veterinarian shall report immediately to the commission veterinarian any illness presenting unusual or unknown symptoms in a racing animal entrusted into the veterinarian's care.

e. Employees. Practicing veterinarians may have employees working under their direct supervision licensed as "veterinary assistants" or "veterinary technicians." Activities of these employees shall not include direct treatment or diagnosis of any racing animal. A practicing veterinarian must be present if an employee is to have access to injection devices or injectables.

#### **491—7.11(99D) Schooling.**

7.11(1) Greyhounds must be properly schooled in the presence of the stewards, or must, in the opinion of the stewards, be sufficiently experienced before they can be entered or started.

7.11(2) All schooling races shall be at a distance not less than 3/16 mile.

7.11(3) Any greyhound that has not raced on site for a period of 10 racing days or 15 calendar days, whichever is less, or has been placed on the veterinarian's list shall be officially schooled at least once at its racing weight before being eligible for entry.

7.11(4) Each official schooling race must consist of at least six greyhounds. However, if this condition creates a hardship, less than six may be schooled with the permission of the state steward.

7.11(5) No hand schooling will be considered official.

7.11(6) All greyhounds in official schooling races must be raced at their established racing weight and started from the box wearing blankets.

7.11(7) Any greyhound may be ordered on the schooling list by the stewards at any time for good cause and must be schooled officially and satisfactorily before being allowed to enter a race.

7.11(8) Each association shall provide a photo-finish camera approved by the commission, to be in operation at all official schooling races.

7.11(9) Rescinded IAB 8/17/94, effective 9/21/94.

#### **491—7.12(99D) Qualifying time.**

7.12(1) Each association licensed by the commission shall establish qualifying time.

7.12(2) Each association shall notify the state steward at least three days before the first day of official racing of the qualifying times established, and such time, while in effect, shall be continuously posted on the notice board at the track. Any change in the qualifying time established, during the course of the meeting, shall be made only with the approval of the board of stewards.

7.12(3) Any greyhound that fails to meet the qualifying time as established shall not be permitted to start other than in futurity or stakes races.

**491—7.13(99D) Weights and weighing.**

7.13(1) All greyhounds must be weighed not less than one hour before the time of the first race of the day, unless prior permission is granted by the state steward.

7.13(2) Before a greyhound is allowed to school or race at any track, the owner or trainer must establish the racing weight of each greyhound entered with the clerk of scales.

7.13(3) At weighing-in time, should there be a variation of more than one and one-half pounds either way from its established weight, the stewards shall order the greyhound scratched.

7.13(4) At weighing-out time, if a greyhound loses weight in excess of two pounds from its weighing-in weight while in the lock-out kennels, the stewards shall order the greyhound scratched. However, if, in the opinion of the veterinarian, the loss of weight while in the lock-out kennels does not impair the racing condition of the greyhound, the stewards may allow the greyhound to race.

7.13(5) The weight regulations provided in subrules 7.13(1) to 7.13(4) shall be printed in the daily program.

7.13(6) If at weighing-in time, there should be more than two pounds' variation between the weight of its present race and the weight at weighing-in time of its last race, the stewards shall order the greyhound scratched.

7.13(7) The established racing weight may be changed upon written request of the kennel owner or trainer and written consent of the stewards, providing the change is made four calendar days before the greyhound is allowed to race at the new weight.

a. All greyhounds having an established weight change of more than one pound must be schooled at least once, or more at the discretion of the stewards, at the new established weight before being eligible for starting.

b. Greyhounds that have not raced or schooled officially for a period of three weeks will be allowed to establish a new racing weight with the consent of the stewards.

7.13(8) The stewards shall have the privilege of weighing a greyhound entered in a race at any period from the time it enters the lock-out kennel until post time.

7.13(9) Immediately after being weighed in, the greyhounds shall be placed in lock-out kennels under the supervision of the paddock judge and no owner or other person excepting the paddock judge, veterinarian, kennel master, clerk of scales, lead-out, stewards, or commission representatives shall be allowed in or near the lock-out kennels.

**491—7.14(99D) Rules of the race.**

7.14(1) When two greyhounds run a dead heat for first place, all prizes and moneys to which the first and second greyhounds would have been entitled shall be divided equally between them; this applies in dividing prizes and moneys whatever the number of greyhounds running a dead heat and whatever places for which the dead heat is run.

7.14(2) If a greyhound bolts the course, runs in the opposite direction, or does not run the entire prescribed distance for the race, it shall forfeit all rights in the race and, no matter where it finished, the stewards shall declare the finish of the race the same as if it were not a contender. However, for the purpose of the rule, the greyhound shall be considered a "starter."

7.14(3) If a greyhound bolts the course, or runs in the opposite direction during the running of the race, and in so doing, in the opinion of the stewards, interfered with any other greyhound in the race, the stewards shall declare it "No Race" and all moneys wagered shall be refunded; except when, in the opinion of the stewards, the interference clearly did not interfere with the outcome of the race.

7.14(4) If it appears that a greyhound may interfere with the running of the race because of failure to leave the box, because of an accident or for any other reason, any person under the supervision of the stewards stationed around the track may remove the greyhound from the track. However, for the purpose of the rule, that greyhound shall be considered a "starter."

7.14(5) All greyhounds must wear the regulation association muzzle and blanket while racing.

7.14(6) Muzzles and blankets must be carefully examined in the paddock by the paddock judge before the greyhounds leave for the starting box and again be examined by the patrol judge in view of the stewards and the public.

7.14(7) All greyhounds must be exhibited in the show paddock before post time of the race in which they are entered.

7.14(8) No race shall be called official unless the lure is in advance of the greyhounds at all times during the race and if at any time during the race, any greyhound or greyhounds catch or pass the lure, the stewards shall declare it "No Race" and all moneys shall be refunded.

7.14(9) The stewards shall closely observe the operation of the lure and hold the lure operator to strict accountability for any inconsistency of operation.

7.14(10) If a greyhound is left in the box when the doors of the starting box open at the start, there shall be no refund.

7.14(11) If a race is marred by jams, spills or racing circumstances other than accident to the machinery while a race is being run, and three or more greyhounds finish, the stewards shall declare the race finished; but if less than three greyhounds finish, the stewards shall declare it "No Race" and all moneys shall be refunded.

7.14(12) In the event the lure arm is not fully extended or fails to remain fully extended during the running of the race, the stewards may declare a "No Race" if, in their opinion, the position of the lure arm affected the outcome of the race. In the event the lure arm collapses to the rail during the running of the race, the stewards shall declare a "No Race" and all moneys wagered shall be refunded.

7.14(13) Any act of the owner, trainer or handler of a greyhound which would tend to prevent the greyhound from running its best and winning, if possible, shall mean suspension of all persons found guilty of complicity.

#### **491—7.15(99D) Objections.**

7.15(1) Every objection must be made by an owner or the authorized agent of the owner, by a trainer of some other greyhound engaged in the same race, or by an official. Objection must be made to the stewards, who may require that the objection be made in writing with a copy sent immediately to the commission.

7.15(2) The stewards may require a cash deposit of \$200 to cover costs and expenses in determining an objection. The deposit posted herein may be forfeited if the objection should prove to be without foundation.

7.15(3) Any objection, unless otherwise provided, must be made within 72 hours after the race is run, and shall be determined by the stewards.

7.15(4) Rescinded IAB 8/17/94, effective 9/21/94.

7.15(5) The stewards must decide every objection pertaining to the race. From every decision an appeal in writing may be made to the commission within 48 hours of the time the objector has been officially informed of the decision.

7.15(6) Objection to any decision of the clerk of scales shall be made before the greyhounds leave the paddock for the start of the race.

7.15(7) Pending a decision on an objection, any money or prize to which the greyhound against which the objection is lodged would be entitled shall be withheld until the objection is determined.

**491—7.16(99D) Simulcast.** Rescinded IAB 3/6/91, effective 4/10/91.

These rules are intended to implement Iowa Code section 99D.7.

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∅Two ARCs



“*Optional claiming race*” means a contest restricted to horses entered to be claimed for a stated claiming price and to those which have started previously for that claiming price or less, in the case of horses to be claimed in such a race. The race shall be considered, for the purpose of these rules, a claiming race; in the case of horses not entered to be claimed in such a race, the race shall be considered a condition race.

“*Overnight race*” means a race for which declarations close not more than three days (omitting Sundays) or less than one day before such race is to be contested. In the absence of conditions or notice to contrary, all entries in overnight events must close not later than 12 noon the day preceding the race.

“*Owner*” means a person who holds any title, right or interest, whole or partial, in a horse including the lessee and lessor of a horse.

“*Paddock*” means an enclosure in which horses scheduled to compete in a contest are confined prior to racing.

“*Post position*” means the position assigned to, drawn by, or earned by a horse behind the starting gate.

“*Post time*” means the scheduled starting time for a contest.

“*Prima facie evidence*” means evidence that, until its effect is overcome by other evidence, will suffice as proof of fact in issue.

“*Program*” means the published listings of all contests and contestants for a specific performance.

“*Protest*” means an objection, properly sworn to, charging that a horse is ineligible to race, or alleging improper entry or declaration or citing any act of an owner, driver or official prohibited by the rules, and that, if true, should under these rules exclude the horse or driver from the race.

“*Race*” means a contest between horses for a purse, prize, or other reward contested at a licensed association in the presence of the stewards of the meeting. Every heat or dash shall be deemed a race for pari-mutuel betting purposes.

“*Restricted area*” means an enclosed portion of the association grounds to which access is limited to licensees whose occupation or participation requires access.

“*Rules*” means the rules promulgated by the commission or United States Trotting Association (U.S.T.A.) to regulate the conduct of harness racing. Where a conflict exists between the commission and the U.S.T.A. rules, the commission’s rule shall govern.

“*Sample*” means any bodily substance including but not limited to blood or urine taken from a horse under the supervision of the commission veterinarian and in the manner prescribed by the commission for the purpose of analysis.

“*Scratch*” means the act of withdrawing an entered horse from a contest after the closing of entries.

“*Scratch time*” means the deadline set by the commission for withdrawal of entries from a scheduled performance.

“*Stable name*” means a name used other than the actual legal name of an owner or lessee and registered with the U.S.T.A. and the commission.

“*Stake*” means a race that will be contested in a year subsequent to its closing in that the money given to the track conducting the same is added to the money contributed by the nominators, all of which except deductions for the cost of promotion, breeders of nominators awards belong to the winner or winners.

“*Starter*” means a horse that becomes an actual contestant in a race by virtue of the starting gate opening in front of it upon dispatch by the official starter.

“*Stewards*” means the duly appointed racing officials or their deputies serving at a licensed harness racing meeting, with the powers and duties specified by rules.

“*Subscription*” means moneys paid for nomination, entry, eligibility or starting of a horse in a stakes race.

“*Sulky*” means a dual wheel racing vehicle with dual shafts not exceeding the height of the horse’s withers. Shafts must be hooded separately on each side.

“*Two-year-olds*” means no two-year-old shall be permitted to start in a dash or heat exceeding one mile in distance, and no two-year-old shall be permitted to race in more than two heats or dashes in any single day.

“*U.S.T.A.*” means the United States Trotting Association.

“*Veterinarian*” means a veterinarian licensed by the appropriate state regulatory authority and the commission.

“*Year*” means a calendar year.

#### **491—9.2(99D) Racing officials.**

**9.2(1) *General description.*** Every association conducting a race meeting shall appoint at least the following officials, who shall all have U.S.T.A. certification:

- a. One associate steward, one of the members of a three-member board of stewards;
- b. The racing secretary;
- c. The paddock judge;
- d. The horse identifier;
- e. The clerk of the course;
- f. Official starter;
- g. Rescinded IAB 2/9/00, effective 3/15/00.
- h. Rescinded IAB 2/9/00, effective 3/15/00.
- i. Official charter;
- j. Program director;
- k. Rescinded IAB 2/9/00, effective 3/15/00.
- l. Patrol judge.

**9.2(2) *Eligibility for officials.*** To qualify as a racing official, the appointee must be licensed by the commission after a determination that the appointee:

- a. Is of good moral character and reputation;
- b. Is experienced in and knowledgeable of harness racing;
- c. Is familiar with the duties to which appointed and for which responsible and with the commission’s rules of harness racing;
- d. Possesses the mental and physical capacity to perform the required duties;
- e. Possesses natural or correctable eyesight sufficient to perform the duties; and
- f. Is not under suspension or ejection by the U.S.T.A. or any other racing jurisdiction.

**9.2(3) *Official’s prohibited activities.*** No racing official or the racing official’s assistant(s) listed in 9.2(1) while serving during any meeting may engage in any of the following:

- a. A business or employment which would be a conflict of interest or interfere or conflict with the proper discharge of duties including:
  - (1) A business which does business with an association.
  - (2) A business issued a concession operator’s license.
- b. Participate in the sale or purchase or ownership of any horse racing at the meeting.
- c. Sell or solicit horse insurance on any horse racing at the meeting; or engage in any other business sales or solicitation not a part of the official’s duties;
- d. Wager on the outcome of any live or simulcast race;
- e. Accept or receive money or anything of value for assistance in connection with the official’s duties; or
- f. Refuse to take a breath analyzer test or submit to a blood or urine sample when directed by the commission or its designee.

**9.2(4) *Report of violations.*** Every racing official and assistant(s) is responsible to report immediately to the stewards of the meeting every observed violation of these rules and of the laws of this state which occur within the official’s jurisdiction.

*d.* Report of illness. Each veterinarian shall report immediately to the stewards and the commission veterinarian any illness in a horse entrusted to the veterinarian's care presenting unusual or unknown symptoms.

*e.* Employees. Practicing veterinarians may have employees working under their direct supervision licensed as "veterinary assistants" or "veterinary technicians." Activities of these employees shall not include direct treatment or diagnosis of any racing animal. A practicing veterinarian must be present if an employee is to have access to injection devices or injectables.

*f.* Equine dentistry. Equine dentistry is considered a function of veterinary practice by the Iowa veterinary practice Act. Any dental procedures performed at the racetrack must be performed by a licensed veterinarian or a licensed veterinary assistant.

These rules are intended to implement Iowa Code chapter 99D.

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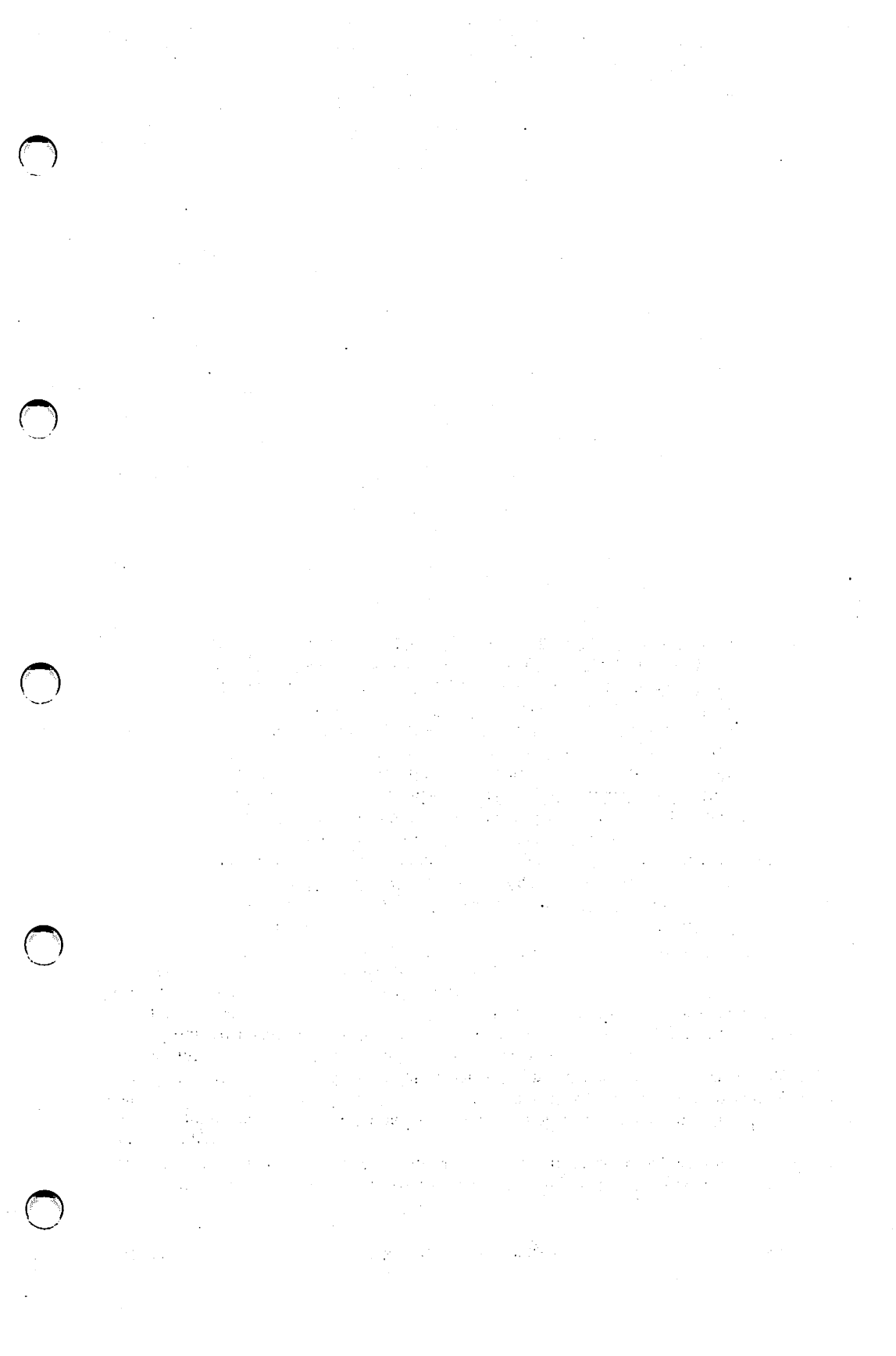
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*"Objection"* means:

1. A written complaint made to the stewards concerning a horse entered in a race and filed not later than two hours prior to the scheduled post time of the first race on the day in which the questioned horse is entered; or

2. A verbal claim of foul in a race lodged by the horse's jockey, trainer, owner or the owner's authorized agent before the race is declared official.

*"Official starter"* means the official responsible for dispatching the horses for a race.

*"Official time"* means the elapsed time from the moment the first horse crosses the starting point until the first horse crosses the finish line.

*"Outrider"* means an official with duties specified by administrative rules.

*"Overnight race"* means a race for which entries close 96 hours, or less, before the time set for the first race of the day on which the race is to be run.

*"Owner"* means a person who holds any title, right or interest, whole or partial in a horse, including the lessee and lessor of a horse.

*"Paddock"* means an enclosure in which horses scheduled to compete in a contest are saddled prior to racing.

*"Performance"* means a schedule of 9 to 11 races per day unless otherwise authorized by the commission.

*"Post position"* means the preassigned position from which a horse will leave the starting gate.

*"Post time"* is the scheduled starting time for a contest.

*"Prize"* means the combined total of any cash, premium, trophy and object of value awarded to the owners of horses according to order of finish in a race.

*"Purse"* means the total cash amount for which a race is contested.

*"Purse race"* means a race for money or other prize to which the owners of horses entered do not contribute money toward its purse and for which entries close less than 96 hours prior to its running.

*"Race"* means a running contest between thoroughbred horses ridden by jockeys for a purse, prize, or other reward run at a licensed association in the presence of the stewards of the meeting. This includes purse races, overnight races and stakes races.

*"Recognized meeting"* means any meeting with regularly scheduled races for thoroughbred horses on the flat in a jurisdiction having reciprocal relations with this state and the commission for the mutual enforcement of rulings relating to thoroughbred racing.

*"Rules"* means the rules promulgated by the commission to regulate the conduct of horse racing and simulcasting.

*"Scratch"* means the act of withdrawing an entered horse from a contest after the closing of entries.

*"Scratch time"* means the deadline set by the association for withdrawal of entries from a scheduled performance.

*"Simulcasting"* means the live audio and visual transmission of a contest to another location for pari-mutuel wagering purposes.

*"Simulcasting meet"* means the specified period and dates during which an association is authorized by the commission to conduct pari-mutuel wagering on contests received by television signal.

*"Stakes race"* means a contest in which nomination, entry and starting fees contribute to the purse.

*"Starter"* means a horse which becomes an actual contestant in a race by virtue of the starting gate opening in front of it upon dispatch by the official starter.

*"Steward"* means a duly appointed racing official with powers and duties specified by rules.

*"Subscription"* means moneys paid for nomination, entry, eligibility or starting of a horse in a stakes race.

*"Test level"* means the concentration of a foreign substance found in the test sample.

*"Test sample"* means any bodily substance including but not limited to blood or urine taken from a horse under the supervision of the commission veterinarian and as prescribed by the commission for the purpose of analysis.

*"Totalizator"* means the system used for recording, calculating, and dissemination of information about ticket sales, wagers, odds and payoff prices to patrons at a pari-mutuel wagering facility.

*"Track license"* means an authorization by the commission to an association to conduct pari-mutuel wagering on horse racing and simulcasting, at a specified place.

*"Track licensee"*—see "Association."

*"Veterinarian"* means a veterinarian licensed by the appropriate state regulatory authority and the commission.

*"Winner"* means the horse whose nose reaches the finish line first or is placed first through disqualification by the stewards.

*"Year"* means a calendar year.

#### **491—10.2(99D) Racing officials.**

**10.2(1) *General description.*** Every association conducting a race meeting shall appoint at least the following officials:

- a. One of the members of a three-member board of stewards;
- b. The racing secretary;
- c. The paddock judge;
- d. The horse identifier;
- e. The clerk of the course;
- f. The starter;
- g. The clocker/timer;
- h. Three placing judges;
- i. Jockey room custodian;
- j. Chartwriter;
- k. Assistant race secretary;
- l. Mutuel manager;
- m. Clerk of scales;
- n. Minimum of two outriders.

**10.2(2) *Eligibility for officials.*** Rescinded IAB 8/17/94, effective 9/21/94.

**10.2(3) *Official's prohibited activities.*** No racing official or the racing official's assistant(s) listed in 10.2(1) while serving during any meeting in that capacity may engage in any of the following:

a. A business or employment which would be a conflict of interest or interfere or conflict with the proper discharge of duties including:

1. A business which does business with an association;
2. A business issued a concession operator's license.

b. Participate in the sale or purchase, or ownership of any horse racing at the meeting;

c. Be involved in any way in the purchase or sale of any contract on any jockey racing at the meeting;

d. Sell or solicit horse insurance on any horse racing at the meeting; or any other business sales or solicitation not a part of the official's duties;

- e. Wager on the outcome of any race under the jurisdiction of the commission;
- f. Accept or receive money or anything of value for the official's assistance in connection with the official's duties;
- g. Be licensed in any other capacity without permission of the commission, or in case of an emergency, the permission of the stewards;
- h. Consume or be under the influence of alcohol or any prohibited substance while performing official duties.

**10.2(4) Report of violations.** Every racing official and assistant(s) is responsible to report immediately to the stewards of the meeting every observed violation of these rules and of the laws of this state which occur within the official's jurisdiction.

**10.2(5) Single official appointment.** No official appointed to any meeting, except placing judges, may hold more than one official position listed in 10.2(1) unless in the determination of the stewards or commission, the holding of more than one appointment would not subject the official to a conflict of interests and duties in the two appointments.

**10.2(6) Stewards.** (For practice and procedure before the stewards and the racing commission, see Chapter 4.)

*a. General authority.*

(1) **General.** The board of stewards for each racing meet shall be responsible to the commission for the conduct of the racing meet in accordance with the laws of this state and the rules adopted by the commission. The stewards shall have authority to resolve conflicts or disputes between all other racing officials, licensees, and those persons addressed by 491—paragraph 4.6(5) "e," where the disputes are reasonably related to the conduct of a race, or races, and to punish violators of these rules in accordance with provisions of these rules.

(2) **Appointment of substitute.** Should any steward be absent at race time, the other two stewards shall agree on the appointment of a deputy for the absent steward or if they are unable to agree on a deputy, then the racing secretary shall appoint a deputy for that race. If any deputy steward is appointed, the commission shall be notified immediately by the stewards.

(3) **Attendance.** All three stewards shall be present in the stand during the running of each race, except during simulcasting when one commission steward or commission representative shall be on the premises.

(4) **Period of authority.** The period of authority shall commence 30 days prior to the beginning of each racing or simulcasting meet and shall terminate 30 days after the end of each racing or simulcasting meet or with the completion of their business pertaining to the meeting.

(5) **Initiate action.** Stewards may, from their own observations, take notice of alleged misconduct or rule violations and initiate investigations and compliance of possible rule violations.

(6) **General enforcement provisions.** Stewards shall enforce the laws of Iowa and the rules of racing during racing and simulcasting. They shall have authority to charge any licensee for a violation of these rules, to conduct hearings and to impose fines or suspensions within the limits and procedures of the Iowa racing commission. The decision of the stewards as to the extent of a disqualification of any horse in any race shall be final for purposes of distribution of the pari-mutuel pool.

(7) **Racetrack policies.** It shall be the affirmative responsibility and continuing duty of each occupational licensee to follow and comply with the racetrack policies as published in literature distributed by the racetrack or posted in a conspicuous location.

*b. Duties of stewards.*

(1) The laws of Iowa and the rules of racing supersede the conditions of a race and the regulations of a racing meet and, in matters pertaining to racing, the orders of the stewards supersede the orders of the officers of the association.

(2) The stewards shall have the authority to interpret the rules and to decide all questions not specifically covered by them.

(3) All questions pertaining to which their authority extends shall be determined by a majority of the stewards.

(4) The stewards shall have the authority to regulate owners, trainers, grooms and other persons attendant to horses, officials, licensed personnel of the meeting, and those persons addressed by 491—paragraph 4.6(5)“e.”

(5) The stewards shall have control over and access to all areas of the racetrack grounds.

(6) The stewards shall have the authority to determine all questions arising with reference to entries and racing.

(7) Persons entering horses to run on licensed Iowa tracks agree in so doing to accept the decision of the stewards on any questions relating to a race or racing.

(8) The stewards shall have the authority to punish for violation of the rules any person subject to their control and in their discretion to impose fines or suspensions or both for infractions.

(9) The stewards shall have the authority to order the exclusion or ejection from all premises and enclosures of the association any person who is disqualified for corrupt practices on any race course in any country.

(10) The stewards shall have the authority to call for proof that a horse is neither itself disqualified in any respect, nor nominated by, nor the property, wholly or in part, of a disqualified person, and in default of proof being given to their satisfaction, they may declare the horse disqualified.

(11) The stewards shall have the authority at any time to order an examination, by person or persons they think fit, of any horse entered for a race or which has run in a race.

(12) The stewards shall take notice of any questionable conduct with or without complaint and shall investigate promptly and render a decision on every objection and on every complaint made to them.

(13) The stewards, in order to maintain necessary safety and health conditions and to protect the public confidence in horse racing as a sport, shall have the right to authorize a person or persons in their behalf to enter into or upon the buildings, barns, motor vehicles, trailers or other places within the grounds of a licensed racetrack, to examine same, and to inspect and examine the person, personal property, and effects of any person within such place, and to seize any illegal articles or any items as evidence found.

(14) Upon the finding of a violation of these rules, or an attempted violation, on the grounds of a licensed facility, the stewards may suspend the license of any person for one calendar year or racing season, whichever is greater, or they may impose a fine not to exceed \$1000 or both. In addition, the stewards may redistribute the purse. They may also suspend the license of any person currently under suspension or in bad standing in any other state or jurisdiction by the state racing commission or a board of stewards of any recognized meeting. They may also order the redistribution of purse payments where appropriate. All suspensions and fines must be reported to the commission. If the punishment so imposed is not, in the opinion of the stewards, sufficient, they shall so report to the commission. All fines and suspensions imposed by the stewards shall be promptly reported to the racing secretary and racing commission.

(15) The stewards shall maintain a log of all infractions of the rules and of all rulings of the stewards upon matters coming before them during the race meet.

(16) No persons other than the commissioners or authorized commission staff shall be allowed in the stewards' stand unless prior approval has been obtained from the state stewards.

*c. Emergency authority.*

(1) Substitute officials. When in an emergency any official is unable to discharge duties, the stewards may approve the appointment of a substitute and shall report it immediately to the commission.



*f. Naming/engaging of riders.* Riders must be named at the time of entry or no later than scratch time. Before naming any rider, the trainer, owner or other person authorized must first engage the services of the rider and state on the entry or to the clerk of scales whether it is a first or second call. Riders properly engaged must fulfill their requirements as provided in 10.4(2) "h."

*g. Handicapping.* The secretary, or a handicapper assigned by the secretary, shall assign the weight to be carried by each horse in a handicap when weights are not stated in the condition of the race:

- (1) Scale of weights for age,
- (2) Sex allowances. In all races except handicaps and races where the conditions expressly state to the contrary, two-year-old fillies are allowed three pounds; mares three years old and upward are allowed five pounds before September 1 and three pounds thereafter.

*h. Penalties not cumulative.* Penalties and weight allowances are not cumulative unless so declared in the conditions of a race by the secretary.

*i. Winnings.*

- (1) All inclusive. For the purpose of the setting of conditions by the secretary, winnings shall be considered to include all moneys and prizes won up to the time of the start of a race, including those races outside the United States. Foreign winnings shall be determined on the basis of the normal rate of exchange prevailing on the day of the win.

- (2) Winnings considered from January 1. Winnings during the year shall be reckoned by the secretary from the preceding January 1.

- (3) Winner of a certain sum. Winner of a certain sum means the winner of a single race of that sum, unless otherwise expressed in the condition book by the secretary. In determining the net value to the winner of any race, the sums contributed by its owner or nominator shall be deducted from the amount won. In all stakes races, the winnings shall be computed on the value of the gross earnings.

- (4) Winner's award. Unless the conditions of a race provide otherwise, the entrance money, starting and subscription fees and other contributions shall go to the winner of the race. If for any reason a race is not run, those entrance, starting and subscription fees shall be returned to the nominators.

*j. Cancellation of a race.* The secretary has the authority to withdraw, cancel or change any race which has not been closed. In the event the canceled race is a stakes race, all subscriptions and fees paid in connection with the race shall be refunded.

*k. Coggins test.* The racing secretary shall ensure that all horses have a current negative Coggins test. The racing secretary shall report all expired certificates to the board of stewards.

**10.2(8) Paddock judge.**

*a. General authority.* The paddock judge shall:

- (1) Supervise the assembly of horses in the paddock no later than 15 minutes before the scheduled post time for each race;

- (2) Maintain a written record of all equipment, inspect all equipment of each horse saddled and report any change thereof to the stewards;

- (3) Prohibit any change of equipment without the approval of the stewards;

- (4) Ensure that the saddling of all horses is orderly, open to public view, free from public interference, and that horses are mounted at the same time, and leave the paddock for the post in proper sequence;

- (5) Supervise paddock schooling of all horses approved for such by the stewards;

- (6) Report to the stewards any observed cruelty to a horse;

- (7) Ensure that only properly authorized persons are permitted in the paddock; and

- (8) Report to the stewards any unusual or illegal activities.

*b. Paddock judge's list.*

(1) The paddock judge shall maintain a list of horses which shall not be entered in a race because of poor or inconsistent behavior in the paddock that endangers the health or safety of other participants in racing.

(2) At the end of each day, the paddock judge shall provide a copy of the list to the stewards.

(3) To be removed from the paddock judge's list, a horse must be schooled in the paddock and demonstrate to the satisfaction of the paddock judge and the stewards that the horse is capable of performing safely in the paddock.

**10.2(9) Horse identifier.**

*a. General authority.* The horse identifier shall:

(1) When required, ensure the safekeeping of registration certificates and racing permits for horses stabled or racing on association grounds;

(2) Inspect documents of ownership, eligibility, registration or breeding necessary to ensure the proper identification of each horse scheduled to compete at a race meeting;

(3) Examine every starter in the paddock for sex, color, markings and lip tattoo, for comparison with its registration certificate to verify the horse's identity; and

(4) Supervise the tattooing or branding for identification of any horse located on association grounds.

*b. Report violations.* The horse identifier shall report to the stewards any horse not properly identified or whose registration certificate is not in conformity with these rules.

**10.2(10) Clerk of scales.** The clerk of scales shall:

*a.* Verify the presence of all jockeys in the jockey's room at the appointed time;

*b.* Verify that all such jockeys have a current jockey's license issued by the commission;

*c.* Verify the correct weight of each jockey at the time of weighing out and weighing in and report any discrepancies to the stewards immediately;

*d.* Oversee the security of the jockey's room including the conduct of the jockeys and their attendants;

*e.* Promptly report to the stewards any infraction of the rules with respect to weight, weighing, riding equipment or conduct;

*f.* Record all required data on the scale sheet and submit that data to the horsemen's bookkeeper at the end of each race day;

*g.* Maintain the record of applicable winning races on all apprentice certificates at the meeting;

*h.* Release apprentice jockey certificates, upon the jockey's departure or upon the conclusion of the race meet; and

*i.* Assume the duties of the jockey room custodian in the absence of such employee.

**10.2(11) Starter.**

*a. General authority.* The starter shall:

(1) Have complete jurisdiction over the starting gate, the starting of horses and the authority to give orders not in conflict with the rules as may be required to ensure all participants an equal opportunity to a fair start;

(2) Appoint and supervise assistant starters who have demonstrated they are adequately trained to safely handle horses in the starting gate. In emergency situations, the starter may appoint qualified individuals to act as substitute assistant starters;

(3) Assign the starting gates stall positions to assistant starters and notify the assistant starters of their respective stall positions more than ten minutes before post time for the race;

(4) Assess the ability of each person applying for a jockey's license in breaking from the starting gate and working a horse in the company of other horses, and shall make said assessment known to the stewards; and

(5) Load horses into the gate in any order deemed necessary to ensure a safe and fair start.

*b. Assistant starters.* With respect to an official race, the assistant starters shall not:

(1) Handle or take charge of any horse in the starting gate without the expressed permission of the starter;

(2) Impede the start of a race;

(3) Apply a whip or other device, with the exception of steward-approved twitches, to assist in loading a horse into the starting gate;

(4) Slap, boot or otherwise dispatch a horse from the starting gate;

(5) Strike or use abusive language to a jockey; or

(6) Accept or solicit any gratuity or payment other than their regular salary, directly or indirectly, for services in starting a race.

*c. Starter's list.* No horse shall be permitted to start in a race unless approval is given by the starter. The starter shall maintain a starter's list of all horses which are ineligible to be entered in any race because of poor or inconsistent behavior or performance in the starting gate. Such horse shall be refused entry until it has demonstrated to the starter that it has been satisfactorily schooled in the gate and can be removed from the starter's list. Schooling shall be under the direct supervision of the starter.

*d. Report violations.* The starter and assistant starter shall report all unauthorized activities to the stewards.

#### 10.2(12) *Timer/clocker.*

*a. General authority—timer.*

(1) The timer shall accurately record the time elapsed between the start and finish of each race.

(2) The time shall be recorded from the instant that the first horse leaves the point from which the distance is measured until the first horse reaches the finish line.

(3) At the end of a race, the timer shall post the official running time on the infield totalizer board on instruction by the stewards.

(4) At a racetrack equipped with an appropriate infield totalizer board, the timer shall post the quarter times (splits) for thoroughbred races in fractions as a race is being run. For quarter horse races, the timer shall post the official times in hundredths of a second.

(5) For backup purposes, the timer shall also use a stopwatch to time all races. In time trials, the timer shall ensure that at least two stopwatches are used by the stewards or their designees.

(6) The timer shall maintain a written record of fractional and finish times of each race and have same available for inspection by the stewards or the commission on request.

*b. General authority—clocker.*

(1) The clocker shall be present during training hours at each track on association grounds, which is open for training, to identify each horse working out and to accurately record the distances and times of each horse's workout.

(2) Each day, the clocker shall prepare a list of workouts that describes the name of each horse which worked along with the distance and time of each horse's workout.

(3) At the conclusion of training hours, the clocker shall deliver a copy of the list of workouts to the stewards and the racing secretary.

#### 10.2(13) *Patrol judges.*

*a. General authority.* An association may employ patrol judges who shall observe the running of the race and report information concerning the running of the race to the stewards.

*b. Duty stations.* Each patrol judge shall have a duty station assigned by the stewards.

**10.2(14) Placing judges.**

*a. General authority.* The placing judges shall determine the order of finish in a race as the horses pass the finish line, and with the approval of the stewards, may display the results on the totalizator board.

*b. Photo finish.*

(1) In the event the placing judges or the stewards request a photo of the finish, the photo finish sign shall be posted on the totalizator board.

(2) Following their review of the photo finish film strip, the placing judges shall, with the approval of the stewards, determine the exact order of finish for all horses participating in the race, and shall immediately post the numbers of the first four finishers on the totalizator board.

(3) In the event a photo was requested, the placing judges shall cause a photographic print of said finish to be produced. The finish photograph shall, when needed, be used by the placing judges as an aid in determining the correct order of finish.

(4) Upon determination of the correct order of finish of a race in which the placing judges have utilized a photographic print to determine the first four finishers, the placing judges shall cause prints of said photograph to be displayed publicly in the grandstand and clubhouse areas of the racetrack.

*c. Dead heats.*

(1) In the event the placing judges determine that two or more horses finish the race simultaneously and cannot be separated as to their order of finish, a dead heat shall, with the approval of the stewards, be declared.

(2) In the event one or more of the first four finishers of a race are involved in a dead heat, the placing judges shall post the dead heat sign on the totalizator board and cause the numbers of the horse or horses involved to blink on the totalizator board.

**10.2(15) Commission veterinarians.**

*a.* The commission shall employ graduate veterinarians licensed to practice in the state of Iowa at each race meeting as provided in Iowa Code section 99D.23. The veterinarians shall advise the commission and the stewards on all veterinary matters.

*b.* The commission veterinarians shall have supervision and control of the detention barn for the collection of test samples for the testing of horses for prohibited medication as provided in Iowa Code sections 99D.23 and 99D.25. The commission may employ persons to assist the commission veterinarians in maintaining the detention barn area and collecting test samples.

*c.* The commission veterinarians shall not buy or sell any horse under their supervision; shall not wager on a race under their supervision; and shall not be licensed to participate in racing in any other capacity.

*d. Prerace examination.* The stewards or commission veterinarians may request any horse entered in a race to undergo an examination on the day of the race to determine the general fitness of the horse for racing. During the examination all bandages shall be removed by the groom upon request and the horse may be exercised outside the stall to permit the examiner to determine the condition of the horse's legs and feet. The examining veterinarian shall report any unsoundness in a horse to the stewards.

*e.* Inspection prior to and following a race. A commission veterinarian shall inspect all of the horses in a race at the starting gate and after the finish of a race shall observe the horses upon their leaving the track.

*f.* The commission veterinarian shall place any horse determined to be sick or too unsafe, unsound or unfit to race on a veterinarian's list which shall be posted in a conspicuous place available to all owners, trainers, and officials.

*g.* A horse placed on the veterinarian's list may be allowed to enter only after it has been removed from the list by the commission veterinarian. Requests for the removal of any horse from the veterinarian's list will be accepted only after three calendar days from the placing of the horse on the veterinarian's list have elapsed. Removal from the list will be at the discretion of the commission veterinarian who may require satisfactory workouts or examinations to adequately demonstrate that the problem that caused the horse to be placed on the list has been rectified.

*h.* The commission veterinarians shall perform the duties and responsibilities regarding:

(1) The administration of Lasix and phenylbutazone;

(2) Postmortem examination on all horses which have expired or been euthanized on racetrack grounds; and

(3) Receipt of veterinary reports as required by Iowa Code section 99D.25.

**10.2(16) Jockey room custodian.** The jockey room custodian shall:

*a.* Supervise the conduct of the jockeys and their attendants while they are in the jockey room;

*b.* Keep the jockey room clean and safe for all jockeys;

*c.* Ensure all jockeys are in the correct colors before leaving the jockey room to prepare for mounting their horses;

*d.* Keep a daily film list as dictated by the stewards and have it displayed in plain view for all jockeys;

*e.* Keep a daily program displayed in plain view for the jockeys so they may have ready access to mounts that may become available;

*f.* Keep unauthorized persons out of the jockey room;

*g.* Report to the stewards any unusual occurrences in the jockey room;

*h.* Assist the clerk of scales as required;

*i.* Supervise the care and storage of racing colors; and

*j.* Assign to each jockey a locker capable of being locked for the use of the jockey in storing clothing, equipment and personal effects.

**10.2(17) Outrider.**

*a.* The licensee shall appoint a minimum of two outriders on the main track for each race of a performance and during workouts. The licensee shall appoint one outrider on the training track during all workouts. Outriders must be neat in appearance and must wear approved helmets with chin straps securely fastened and approved safety vests while on the main track or training track.

*b.* The outriders shall:

(1) Accompany the field of horses from the paddock to the post.

(2) Ensure the post parade is conducted in an orderly manner, with all jockeys and pony riders conducting themselves in a manner in conformity with the best interests of racing as determined by the board of stewards.

(3) Assist jockeys with unruly horses.

(4) Render assistance when requested by a jockey.

(5) Be present during morning workouts to assist exercise riders as required by regulations.

(6) Promptly report to the stewards any unusual conduct which occurs while performing the duties of an outrider.

(7) Ensure individuals using the track(s) are appropriately licensed.

**491—10.3(99D) Track licensees' and general manager's responsibilities.** Rescinded IAB 8/17/94, effective 9/21/94.

**491—10.4(99D) Trainer, jockey, and jockey agent responsibilities.**

**10.4(1) Trainer.**

*a. Responsibility.*

(1) The trainer is responsible for the condition of horses entered in an official workout or race and is responsible for the presence of any prohibited drug, medication or other substance, including permitted medication in excess of the maximum allowable level, in such horses, regardless of the acts of third parties. A positive test for a prohibited drug, medication or substance, including permitted medication in excess of the maximum allowable level, as reported by a commission-approved laboratory, is prima facie evidence of a violation of this rule or Iowa Code chapter 99D. In the absence of substantial evidence to the contrary, the trainer shall be responsible.

(2) A trainer shall prevent the administration of any drug or medication or other prohibited substance that may cause a violation of these rules.

(3) A trainer whose horse has been claimed remains responsible for the race in which the horse is claimed.

*b. Other responsibilities.* A trainer is responsible for:

(1) The condition and contents of stalls, tack rooms, feed rooms, sleeping rooms and other areas which have been assigned by the association;

(2) Maintaining the assigned stable area in a clean, neat and sanitary condition at all times;

(3) Ensuring that fire prevention rules are strictly observed in the assigned stable area;

(4) Providing a list to the commission of the trainer's employees on association grounds and any other area under the jurisdiction of the commission. The list shall include each employee's name, occupation, social security number and occupational license number. The commission shall be notified by the trainer, in writing, within 24 hours of any change. No trainer shall employ any person under the age of 16;

(5) The proper identity, custody, care, health, condition and safety of horses in their charge;

(6) Disclosure of the true and entire ownership of each horse in their care, custody or control. Any change in ownership shall be reported immediately to, and approved by, the administrator's designee and recorded by the racing secretary;

(7) Training all horses owned wholly or in part by them which are participating at the race meeting;

(8) Registering with the racing secretary each horse in their charge within 24 hours of the horse's arrival on association grounds;

(9) Ensuring that, at the time of arrival at a licensed racetrack, each horse in their care is accompanied by a valid health certificate which shall be filed with the racing secretary;

(10) Having each horse in their care that is racing, or is stabled on association grounds, tested for Equine Infectious Anemia (EIA) in accordance with state law and for filing evidence of such negative test results with the racing secretary. The test must have been conducted within the previous 12 months and must be repeated upon expiration. Certificate must be attached to foal certificate;

(11) Using the services of those veterinarians licensed by the commission to attend horses that are on association grounds;

(12) Immediately reporting the alteration of the sex of a horse in their care to the horse identifier and the racing secretary, whose office shall note such alteration on the certificate of registration;

(13) Promptly reporting to the racing secretary and the commission veterinarian any horse on which a posterior digital neurectomy (heel nerving) has been performed and ensuring that such fact is designated on its certificate of registration. See Iowa Code subsections 99D.25(1) to 99D.25(3);

(14) Promptly reporting to the stewards and the commission veterinarian the serious illness of any horse in their charge;

(15) Promptly reporting the death of any horse in their care on association grounds to the stewards, owner and the commission veterinarian and compliance with the rules in Chapter 10 governing post-mortem examination;

(16) Maintaining a knowledge of the medication record and status of all horses in their care;

(17) Immediately reporting to the stewards and the commission veterinarian if they know, or have cause to believe, that a horse in their custody, care or control has received any prohibited drugs or medication;

*f. Conduct.*

(1) Clothing and appearance. A jockey shall wear the colors furnished by the owner or association, and the number on the saddlecloth corresponding to the number given in the racing program. A jockey shall maintain a neat and clean appearance while engaged in duties on association premises and shall wear a clean jockey costume, cap, helmet (approved by commission), a jacket of silk or water-proof fabric, breeches, and top boots.

(2) Competing against contractor. No jockey may ride in any race against a starting horse belonging to the jockey's contract employer unless the jockey's mount and the contract employer's horse are both trained by the same trainer.

(3) Confined to jockey room. Jockeys engaged to ride a race shall report to the scale room on the day of the race at the time designated by association officials. They shall then report their engagements and any overweight to the clerk of scales. Thereafter, they shall not leave the jockey room except by permission of the stewards, until all of their riding engagements of the day have been fulfilled. Once riders have fulfilled their riding engagements for the day and have left the jockeys' quarters, they shall not be readmitted to the jockeys' quarters until after the entire racing program for that day has been completed, except upon permission of the stewards. Jockeys are not allowed to communicate with anyone but the trainer or agent while in the room during the performance except with approval of stewards. On these occasions, they should be accompanied by a security guard.

(4) Whip prohibited. Jockeys may not use a whip on a two-year-old horse before April 1 of each year, nor shall a jockey or other person engage in excessive or indiscriminate whipping of any horse at any time.

(5) Spurs prohibited. Jockeys shall not use spurs.

(6) Possessing drugs or devices. Jockeys shall not have in their care, control or custody any drugs or prohibited substances or any electrical or mechanical device that could affect a horse's racing performance.

*g. Jockey effort.* A jockey shall exert every effort to ride the horse to the finish in the best and fastest run of which the horse is capable. No jockey shall ease up or coast to a finish, without adequate cause, even if the horse has no apparent chance to win prize money.

*h. Duty to fulfill engagements.* Jockeys shall fulfill their duly scheduled riding engagements, unless excused by the stewards. Jockeys shall not be forced to ride a horse they believe to be unsound, nor over a racing strip they believe to be unsafe, but if the stewards find a jockey's refusal to fulfill a riding engagement is based on personal belief unwarranted by the facts and circumstances, the jockey may be subject to disciplinary action. Jockeys shall be responsible to their agent for any engagements previously secured by the agent.

*i. Riding interference.*

(1) Interference. When the way is clear in a race, a horse may be ridden to any part of the course, but may not weave nor cross in front of other contenders so as to interfere with their course or threaten their safety.

(2) Jostling. Jockeys shall not jostle another horse or jockey. Jockeys shall not strike another horse or jockey or ride so carelessly as to cause injury or possible injury to another horse in the race.

(3) Partial fault/third-party interference. If a horse or jockey interferes with or jostles another horse, the aggressor may be disqualified, unless the interfered or jostled horse or jockey was partly at fault or the infraction was wholly caused by the fault of some other horse or jockey.

(4) Careless riding. A jockey shall not ride carelessly or willfully permit the mount to interfere with, intimidate or impede any other horse in the race. A jockey shall not strike at another horse or jockey so as to impede, interfere with or injure the other horse or jockey. If a jockey rides in a manner contrary to this rule, the horse may be disqualified; or the jockey may be fined, suspended, or otherwise disciplined; or other penalties may apply.

*j. Jockey weighed out.*

(1) Jockeys must be weighed for their assigned horse not more than 30 minutes before the time fixed for the race.

(2) A jockey's weight shall include the jockey's clothing, boots, saddle and its attachments. A safety vest shall be mandatory, shall weigh no more than two pounds and shall be designed to provide shock-absorbing protection to the upper body of at least a rating of five, as defined by the British Equestrian Trade Association.

(3) All other equipment shall be excluded from the weight.

*k. Overweight limited.* No jockey may weigh more than two pounds, or in the case of inclement weather, four pounds over the weight the horse is assigned to carry unless with consent of the owner or trainer and unless the jockey has declared the amount of overweight to the clerk of the scales at least 45 minutes before the time of the race. However, a horse shall not carry more than seven pounds overweight, except in inclement weather when nine pounds shall be allowed. The overweight shall be publicly announced and posted in a conspicuous place both prior to the first race of the day and before the running of the race.

(1) Weigh in. Upon completion of a race, jockeys shall ride promptly to the winner's circle and dismount. They shall then present themselves to the clerk of scales to be weighed in. If a jockey is prevented from riding the mount to the winner's circle because of accident or illness either to the jockey or the horse, the jockey may walk or be carried to the scales unless excused by the stewards.

(2) Unsaddling. Jockeys, upon completion of a race, must return to the winner's circle and must unsaddle their own horse, unless excused by the stewards.

(3) Removing horse's equipment. No person except the valet-attendant for each mount is permitted to assist the jockey in removing the horse's equipment that is included in the jockey's weight, unless the stewards permit otherwise. To weigh in, jockeys shall carry to the scales all pieces of equipment with which they weighed out. Thereafter they may hand the equipment to the valet-attendant.

(4) Underweight. When any horse places first, second or third in a race, or is coupled in any form of multiple exotic wagering, and thereafter the horse's jockey is weighed in short by more than two pounds of the weight of which the jockey was weighed out, the mount may be disqualified and all purse moneys forfeited.

(5) Overweight. Jockeys may not be weighed in more than two pounds over the declared weight but consideration shall be given for excess weight caused by rain or mud. If the jockey is overweight the mount may be disqualified and all purse moneys forfeited.

*l. Contracts.*

(1) Jockey contracts. A jockey may contract with an owner or trainer to furnish jockey services whenever the owner shall require, and in that event a jockey shall not ride or agree to ride in any race for any other person without the consent of the owner or trainer to whom the jockey is under contract.

(2) Apprentice contracts and transfers.

1. Owners or trainers and apprentices who are parties to contracts for apprentice jockey services shall file a copy of the contract with the commission, upon forms approved by the commission, and shall upon any transfer, assignment, or amendment of the contract, immediately furnish a copy to the commission.



- j. A horse has no current negative Coggins test, or current negative equine infectious anemia test certificate attached to the registration certificate, or
- k. The stakes or entrance money for the horse has not been paid, or
- l. A horse appears on the starter's list, stewards' list, paddock list or veterinarian's list, or
- m. A horse is a first time starter not approved by the starter (see also workouts), or not having two published workouts, or
- n. A horse is owned in whole or in part by an undisclosed person or interest, or
- o. A horse which has started in a race within the past calendar year which race has not been reported in a nationally published monthly chartbook, unless at least 48 hours prior to entry, the owner of the horse provides to the racing secretary under oath performance records which show the place and date of the race, the distance, the weight carried, the amount carried, and the horse's finishing position and time, or
- p. In a stakes race, a horse has been transferred with its engagements, unless prior to the start, the fact of transfer of the horse and its engagements has been filed with the racing secretary, or
- q. A horse is subject to a lien which has not been approved by the stewards and filed with the horsemen's bookkeeper, or
- r. A horse is subject to a lease not filed with the stewards, or
- s. A horse is not in sound racing condition, or
- t. A horse has been nerved by surgical neurectomy, or
- u. A horse has been trachea-tubed to artificially assist breathing, or
- v. A horse has been blocked with alcohol or injected with any other foreign substance or drug to desensitize the nerves of the leg, or
- w. A horse has impaired eyesight in both eyes.
- x. A horse is ineligible to enter a race when a horse appears on the starter's list, steward's list or veterinarian's list and is barred from racing in any racing jurisdiction.
- y. Rescinded IAB 5/8/96, effective 6/12/96.

**10.5(2) Entries.**

- a. *Filing.* The association shall provide forms for making entries and declarations with the racing secretary. Entries and declarations shall be in writing, or by telephone or telegraph subsequently confirmed in writing by the owner, trainer, or authorized agent. When any entrant or nominator claims failure or error in the receipt by an association of any entry or declaration, the entrant or nominator may be required to submit evidence within a reasonable time of the filing of the entry or the declaration.
- b. *Posting.* Upon the closing of entries the racing secretary shall promptly compile a list of entries and cause it to be conspicuously posted.
- c. *Coupling.*

(1) *Entry coupling.* When one owner or lessee enters more than one horse in the same race, the horses shall be coupled as an entry. Horses shall be regarded as having a common owner where an owner of one horse, either as an individual or as a licensed member of a partnership or as a licensed shareholder of a corporation, shall have an aggregate commonality of ownership of 10 percent interest in another horse, either as an individual or as a licensed member of a partnership or as a licensed shareholder of a corporation.

(2) *Coupled entry limitations on owner.* No more than two horses coupled by a common ownership or trainer shall be entered in an overnight race.

(3) **Coupling of entries by stewards.** The stewards shall couple as a single entry any horses which, in the determination of the stewards, are connected by common ownership or by common lessee or when the stewards determine that coupling is necessary in the interest of the regulation of the pari-mutuel wagering industry or is necessary to ensure the public's confidence in racing.

(4) **Exclusion of single interest.** Horses having the same owner, lessee or trainer shall not be permitted to enter or start if the effect would deprive a single interest from starting in overnight races.

*d. Splitting of a race.* If a race is canceled and declared off for insufficient entries, the association may split the list of entries for any other overnight race to provide an additional race to replace the one canceled. The racing secretary shall by lot divide the entries of the race so split into two different races.

*e. Entry weight.* Owners, trainers or any other person duly authorized by either who enter a horse for a race shall ensure that the entry is correct and accurate as to the weight allowances available and claimed for the horse under the conditions set for the race. After a horse is entered and has been assigned a weight to carry in the race, the assignment of weight shall not be changed except in the case of error.

*f. Horses run once daily.* No horse shall be entered for more than one race on the same day on which pari-mutuel wagering is conducted.

*g. Foreign entries.* For the purposes of determining eligibility, weight assignments or allowances for horses imported from a foreign nation, the racing secretary shall take into account the "Pattern Race Book" published jointly by the Irish Turf Club, The Jockey Club of Great Britain and the Societe d'Encouragement.

*h. Weight conversions.* For the purpose of determining eligibility, weight assignments or allowances for horses imported from a foreign nation, the racing secretary shall convert metric distances to English measures by reference to the following scale:

1 sixteenth	=	100 meters
1 furlong	=	200 meters
1 mile	=	1600 meters

*i. Name.* The "name" of a horse means the name reflected on the certificate of registration or racing permit or temporary racing permit issued by The Jockey Club. Imported horses shall have a suffix, enclosed by brackets, added to their registered names showing the country of foaling. This suffix is derived from the international code of suffixes and constitutes part of the horse's registered name. The registered names and suffixes, where applicable, shall be printed in the official program.

*j. Bona fide entry.* No person shall enter or attempt to enter a horse for a race unless that entry is a bona fide entry, made with the intention that the horse is to compete in the race for which the horse was entered.

*k. Registration certificate to reflect correct ownership.* Every Jockey Club foal certificate or American Quarter Horse Association registration certificate filed with the association and its racing secretary to establish the eligibility of a horse to be entered for any race shall accurately reflect the correct and true ownership of the horse. The name of the owner which is printed on the official program for the horse shall conform to the ownership as declared on the certificate of registration or eligibility certificate unless a stable name has been registered for the owner or ownership with the commission.

### 10.5(3) Sweepstakes entries.

*a. Entry and withdrawal.* The entry of a horse in a sweepstakes is a subscription to the sweepstakes. Before the time of closing, any entry or subscription may be altered or withdrawn.

b. *Entrance money.* Entrance money shall be paid by the nominator to a race. In the event of the death of the horse or a mistake made in the entry of an otherwise eligible horse, the nominator subscriber shall continue to be obligated for any stakes, and the entrance money shall not be returned.

**10.5(4) Closing of entries.**

a. *Overnight entries.* Entries for overnight racing shall be closed at 10 a.m. by the racing secretary, unless a later closing is established by the racing secretary or unless approved by the stewards.

b. *Sweepstake entries.* If an hour for closing is designated, entries and declarations for sweepstakes cannot be received thereafter. However, if a time for closing is not designated, entries and declarations may be mailed or telegraphed until midnight of the day of closing, if they are received in time to comply with all other conditions of the race. In the absence of notice to the contrary, entries and declarations for sweepstakes which close during or on the day preceding a race meeting shall close at the office of the racing secretary in accordance with any requirements the secretary shall make. Closing for sweepstakes not during race meetings shall be at the office of the association.

c. *Exception.* Nominations for stakes races shall not close nor shall any eligibility payment be due on a day in which the United States Postal Service is not operating.

**10.5(5) Prohibited entries.**

a. *Entry by disqualified person.* An entry made by a disqualified person or the entry of a disqualified horse shall be void. Any money paid for the entry shall be returned if the disqualification is disclosed at least 45 minutes before post time for the race. Otherwise, the entry money shall be paid to the winner.

b. *Limited partner entry prohibited.* No person other than a managing partner of a limited partnership or a person authorized by the managing partner may enter a horse owned by that partnership.

c. *Altering entries prohibited.* No alteration shall be made in any entry after the closing of entries, but the stewards may permit the correction of an error in an entry.

d. *Limitation on overnight entries.* If the number of entries to any purse or overnight race is in excess of the number of horses that may be accommodated due to the size of the track, the starters for the race and their post positions shall be determined by lot conducted in public by the racing secretary.

e. *Stake race entry limit.* In a stake race, the number of horses which may compete shall be limited only by the number of horses nominated and entered. In any case, the association's lawful race conditions shall govern.

f. *Stewards' denial of entry.* The stewards may, after notice to the entrant, subscriber, or nominator, deny entry of any horse to a race if the stewards determine the entry to be in violation of these rules or the laws of this state or to be contrary to the interests of the commission in the regulation of pari-mutuel wagering or to public confidence in racing.

**10.5(6) Preferences and eligibles.**

a. *"Also eligible."* A list of not more than eight names may be drawn from entries filed in excess of positions available in the race. These names shall be listed as "also eligible" if originally entered horses are withdrawn. Any owner, trainer or authorized agent who has entered a horse listed as an "also eligible" and who does not wish to start shall file a scratch card with the secretary not later than the scratch time designated for that race.

b. *Preference system.* A system using dates or stars shall be used to determine preference for horses being entered in races. The system being used will be at the option of the racing secretary and approved by the stewards. A preference list will be kept current by the racing secretary and posted in a place readily available to horsemen.

*c. Disputed decision.* When the decision of a race is in dispute, all horses involved in the dispute, with respect to the winner's credit or earnings, shall be liable to all weights or conditions attached to the winning of that race until a winner has been finally adjudged.

**10.5(7) Post positions.** Post positions shall be determined by the racing secretary publicly and by lot. Post positions shall be drawn from also-eligible entries at scratch time. In all races, horses drawn into the race from the also-eligible list shall take the outside post positions.

**10.5(8) Scratch; declaring out.**

*a. Notification to the secretary.* No horse shall be considered scratched, declared out, or withdrawn from a race until the owner, agent, or other authorized person has given notice in writing to the racing secretary before the time set by the association as scratch time. All scratches must be approved by the stewards.

*b. Declaration irrevocable.* Scratching, or the declaration of a horse out of an engagement for a race, is irrevocable.

*c. Limitation on scratches.* No horse shall be permitted to be scratched from a race if the horses remaining in the race number less than ten, unless the stewards permit a lesser number. Where there are more requests to scratch that, if granted, would leave a field less than ten, the stewards shall determine by lot which entrants may be scratched and permitted to withdraw from the race.

*d. Scratch time.* Unless otherwise set by the racing secretary, scratch time shall be:

- (1) Stakes races. Scratch time shall be at least 45 minutes before post time.
- (2) Other races. Scratch time shall be no later than 9 a.m. of the day of the race.

**10.5(9) Workouts.**

*a. When required.* No horse shall be allowed to start unless the horse has raced in an official race or has an approved official timed workout satisfactory to the stewards. A horse which has not started for a period of 60 days or more shall be ineligible to race until it has completed a published workout satisfactory to the stewards prior to the date of the race in which entered. The workout must have occurred within the previous 30 days. First-time starters must have at least two published workouts and be approved from the gate by the starter.

*b. Identification.* The timer or the stewards may require licensees to identify a horse in their care being worked. The owner, trainer or jockey may be required to identify the distance the horse is to be worked and the point on the track where the workout will start.

*c. Information dissemination.* If the stewards approve the timed workout so as to permit the horse to run in a race, they shall make it mandatory that this information is furnished to the public in advance of the race including but not limited to the following means:

- (1) Announcement over the track's public address system;
- (2) Transmission on the track's message board;
- (3) Posting in designated conspicuous places in the racing enclosure; and
- (4) Exhibit on track TV monitors at certain intervals if the track has closed circuit TV. If the workout is published prior to the race in either the Daily Racing Form or the track program, then it shall not be necessary to make the announcements set forth above.

*d. Restrictions.* No horse shall be taken onto the track for training or a workout except during hours designated by the association.

**10.5(10) Equipment.**

*a. Whip and bridle limitations.* Unless permitted by the stewards, no whip or substitute for whip shall exceed one pound or 30 inches and no bridle shall exceed two pounds.

*b. Equipment change.* No licensee may change the equipment used on a horse from that used in the horse's last race, unless with permission of the stewards. No licensee may add blinkers to a horse's equipment or discontinue their use without the prior approval of the starter and the stewards. In the paddock prior to a race, a horse's tongue may be tied down with clean bandages, clean gauze or with a tongue strap.

**10.5(11) Racing numbers.**

*a. Number display.* Each horse in a race shall carry a conspicuous saddlecloth number corresponding to the official number given that horse on the official program.

*b. Coupled entries.* In the case of a coupled or other entry that includes more than one horse, each horse in the entry shall carry the same number, with a different distinguishing letter following the number. As an example, two horses in the same entry shall be entered as 1 and 1-A.

*c. Field horses.* In a combined field of horses, each horse in the field shall carry a separate number.

**10.5(12) Valuation of purse money.** The amount of purse money earned is credited in United States currency and there shall be no appeal for any loss on the exchange rate at the time of transfer from the United States currency to that of another country.

**10.5(13) Dead heats.**

*a.* In the event of a dead heat, the prize money will be distributed in equal shares to the owners of the horses so finishing. In a dead-heat finish for first place, each horse shall be considered a winner of the amount of the purse or prize.

*b.* If a prize includes a cup, plate or other indivisible prize, owners shall draw lots for the prize in the presence of at least two stewards.

*c.* In the event of a dead-heat finish for second place and thereafter, an objection to the winner of the race is sustained, the horses in the dead heat shall be considered to have run a dead heat for first place.

**10.5(14) Purse money presumption.** The fact that purse money has been distributed prior to the issuance of a laboratory report shall not be deemed a finding that no chemical substance has been administered, in violation of these rules, to the horse earning the purse money.

**10.5(15) Equine Infectious Anemia (EIA) test.**

*a. Certificate required.* No horse shall be allowed to start or be stabled on the grounds of the racing establishment unless a valid negative Coggins test or other laboratory-approved negative EIA test certificate is on file with the racing secretary.

*b. Trainer responsibility.* In the event of claims, sales or transfers, it shall be the responsibility of the new trainer to ascertain the validity of the certificate for the horse within 24 hours. If the certificate is either unavailable or invalid, the previous trainer shall be responsible for any reasonable cost associated with obtaining a negative EIA laboratory certificate.

*c. Positive test reports.* Whenever any owner or trainer is furnished a Coggins test positive or positive EIA test result that the horse has equine infectious anemia, the horse shall be removed by the owner or trainer from association premises or approved farms within 24 hours of actual notice to the owner or trainer of the infection.

**10.5(16) Race procedures.**

a. *Full weight.* Each horse shall carry the full weight assigned for that race from the paddock to the starting point, and shall parade past the stewards' stand, unless excused by the stewards.

b. *Touching and dismounting prohibited.* After the horses enter the track, jockeys may not dismount or entrust their horse to the care of an attendant unless because of an accident occurring to the jockey, the horse, or the equipment, and then only with the prior consent of the starter. During any delay during which a jockey is permitted to dismount, all other jockeys may dismount and their horses may be attended by others. After the horses enter the track, only the hands of the jockey or the assistant starter or an outrider on a lead pony may touch the horse before the start of the race.

c. *Jockey injury.* If a jockey is seriously injured on the way to the post, the horse shall be returned to the paddock, a replacement jockey obtained and both the injured jockey and the replacement jockey will be paid by the owner.

d. *Twelve minute parade limit.* After entering the track, all horses shall proceed to the starting post in not more than 12 minutes unless approved by the stewards. After passing the stewards' stand in parade, the horses may break formation and proceed to the post in any manner. Once at the post, the horses shall be started without unnecessary delay. All horses must participate in the parade carrying their weight and equipment from the paddock to the starting post and any horse failing to do so may be disqualified by the stewards. No lead pony leading a horse in the parade shall obstruct the public's view of the horse being led except with permission of the stewards.

e. *Striking a horse prohibited.* In assisting the start of a race, no person other than the jockey, the starter, the assistant starter or the veterinarian shall strike a horse or use any other means to assist the start.

f. *Loading of horses.* Horses will be loaded into the starting gate in numerical order or in any other fair and consistent manner determined by the starter and approved by the stewards.

g. *Delays prohibited.* No person shall obstruct or delay the movement of a horse to the starting post.

**10.5(17) Claiming races.****a. Eligibility.**

- (1) Registered to race or open claim. No person may file a claim for any horse unless the person:
1. Is a licensed owner at the meeting who either has foal paper(s) registered with the racing secretary's office or has started a horse at the meeting; or
  2. Is a licensed authorized agent, authorized to claim for an owner eligible to claim; or
  3. Has a valid open claim certificate. The following may request an open claim certificate from the commission:
    - Any person not licensed as an owner, or a licensed authorized agent for the account of same; or
    - A licensed owner not having foal paper(s) registered with the racing secretary's office or who has not started a horse at the meeting.

The person must submit a completed application for a prospective owner's license to the commission. The applicant must have the name of the trainer licensed or eligible to be licensed by the commission who will be responsible for the claim tours. A nonrefundable fee must accompany the application along with any financial information requested by the commission.

The names of the prospective owners shall be prominently displayed in the offices of the commission and the racing secretary. The application will be processed by the commission and when the open claim certificate is exercised, an owner's license will be issued.

(2) One stable claim. No stable which consists of horses owned by more than one person and which has a single trainer may submit more than one claim in any race and an authorized agent may submit only one claim in any race regardless of the number of owners represented.

*d.* Administration or possession of drugs.

(1) No person shall administer, cause to be administered, participate or attempt to participate in any way in the administration to a horse registered for racing of any medication, drug, foreign substance, or treatment by any route, on the day of the race for which the horse is entered prior to the race.

(2) No person except a veterinarian shall have in their possession any prescription drug. However, a person may possess a noninjectable prescription drug for animal use if:

1. The person actually possesses, within the racetrack enclosure, documentary evidence that a prescription has been issued to said person for such a prescription drug.

2. The prescription contains a specific dosage for the particular horse or horses to be treated by the prescription drug.

3. The horse or horses named in the prescription are then in said person's care within the racetrack enclosure.

(3) No veterinarian or any other person shall have in their possession or administer to any horse within any racetrack enclosure any chemical substance which:

1. Has not been approved for use on equines by the Food and Drug Administration pursuant to the Federal Food, Drug and Cosmetic Act, 21 U.S.C. Section 301 et seq., and implementing regulations, without the prior written approval from a commission veterinarian, after consulting with the board of stewards.

2. Is on any of the schedules of controlled substances as prepared by the Attorney General of the United States pursuant to 21 U.S.C. Sections 811 and 812, without the prior written approval from a commission veterinarian, after consultation with the board of stewards.

The commission veterinarian shall not give such approval unless the person seeking such approval can produce evidence in recognized veterinary journals or by recognized equine experts that such chemical substance has a beneficial, therapeutic use in horses.

(4) No veterinarian or any other person shall dispense, sell or furnish any feed supplement, tonic, veterinary preparation, medication, or any substance that can be administered or applied to a horse by any route to any person within the grounds of the association unless there is a label specifying the name of the substance dispensed, the name of the dispensing person, the name of the horse or horses for which the substance is dispensed, the purpose for which said substance is dispensed, the dispensing veterinarian's recommendations for withdrawal before racing (if applicable), and the name of the person to which dispensed, or is otherwise labeled as required by law.

(5) No person shall have in their possession or in areas under said person's responsibility on association grounds, any feed supplement, tonic, veterinary preparation, medication, or any substance that can be administered or applied to a horse by any route unless it complies with the labeling requirements in 10.6(1)"d"(4).

*e.* Any person found to have administered a medication, drug, or foreign substance which caused or could have caused a violation of this rule, or caused or participated or attempted to participate in any way in the administration, shall be subject to disciplinary action.

*f.* The owner, trainer, groom or any other person having charge, custody or care of the horse is obligated to protect the horse properly and guard it against the administration or attempted administration, and if the stewards shall find that any person has failed to show proper protection and guarding of the horse, or if the stewards find that any owner, lessee or trainer is guilty of negligence, they shall impose punishment and take other action they deem proper under any of the rules including reference to the commission.

g. In order for a horse to be placed on the bleeder list in Iowa through reciprocity, that horse must be certified as a bleeder in another state or jurisdiction. A certified bleeder is a horse that has raced with lasix in another state or jurisdiction in compliance with the laws governing lasix in that state or jurisdiction.

**10.6(2) Sample collection.**

a. Urine, blood and other specimens shall be taken and tested from any horse that the stewards of the meeting, commission veterinarian, or the commission's representatives may designate. Tests are to be under the supervision of the commission. The samples shall be collected by the commission veterinarian or other person or persons the commission may designate.

b. A track shall have a detention barn under the supervision of the commission veterinarian for the purpose of collecting body fluid samples for any tests required by the commission. The building, location, arrangement, furnishings and facilities, including refrigeration and hot and cold running water, must be approved by the commission.

c. No unauthorized person shall be admitted at any time to the building or the area utilized for the purpose of collecting the required body fluid samples or the area designated for the retention of horses pending the obtaining of body fluid samples.

d. During the taking of samples from a horse, the owner or responsible trainer, or a representative designated by the owner or trainer, may be present and witness the taking of the sample and so signify in writing. Failure to be present and witness the collection of the samples constitutes a waiver by the trainer or representative of any objections to the source and documentation of the sample.

e. A security guard, approved by the commission, must be in attendance during the hours designated by the commission.

f. The commission veterinarian, the board of stewards, agents of the division of criminal investigation, or the authorized representative of the commission may take samples of any medicine or other materials suspected of containing improper medication, drugs, or other substance which could affect the racing condition of a horse in a race which may be found in barns or elsewhere on racetracks or in the possession of any person connected with racing, and the same shall be delivered to the official chemist for analysis.

g. Nothing in these rules shall be construed to prevent:

(1) Any horse in any race from being subjected by the order of a steward or the commission veterinarian to tests of body fluid samples for the purpose of determining the presence of any foreign substance.

(2) The state steward or the commission veterinarian from authorizing the splitting of any sample.

(3) The commission veterinarian from requiring body fluid samples to be stored in a frozen state for future analysis.

Administration of Lasix and phenylbutazone shall be allowed only as permitted under Iowa Code section 99D.25; however, the tolerance level for phenylbutazone shall not exceed two point two micrograms per milliliter of blood.

h. Before leaving the racing surface, the trainer shall ascertain the testing status of the horse under the trainer's care from the commission veterinarian or designated test barn representative.

i. The administration of Lasix shall occur in the horse's stall, unless the commission provides that a horse must be brought to the detention barn for treatment.

**10.6(3) Chemists.**

a. The commission shall employ one or more chemists or contract with one or more qualified chemical laboratories to determine by chemical testing and analysis of body fluid samples whether a foreign substance, medication, drug or metabolic derivative thereof is present.



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**CHAPTER 11**  
**APPLICATION FOR TAX CREDIT BY**  
**HORSE RACING LICENSEES**  
Rescinded IAB 8/17/94, effective 9/21/94

b. In horse racing only.

- (1) A person licensed as a jockey, veterinarian, or farrier may not be licensed in another capacity.
- (2) A person may not be licensed as an owner and a jockey agent.
- (3) No racing official may serve or act in another capacity at a race meeting at which that person is licensed as an official except if there is no conflict of interest or duties as determined by the administrator's designee.

13.2(4) Applications endorsed by associations and operators. The commission may not issue any license to any association or boat operator employee or to any vendor or vendor employee unless the application includes the prior endorsement of an authorized representative of the employer, from a list submitted to the commission office.

13.2(5) Temporary license.

a. A temporary license may be issued at the discretion of the administrator.

b. Temporary horse owner emergency license certificates.

(1) A temporary owner's license certificate may be issued at the discretion of the administrator's designee.

(2) Upon submission of reasons why a temporary license certificate should be issued, the administrator's designee may use discretion in granting the certificate. Any certificate issued will be valid only for a maximum of 15 calendar days from the date of notice sent by the commission.

(3) Failure to obtain a permanent license within the designated time may result in the automatic revocation for the license eligibility and may result in a fine or suspension for the licensee that has failed to comply.

(4) Purses shall not be paid to the owner of any racing animal holding a temporary emergency license certificate pursuant to the provisions of this subrule. Payments shall be permitted only after the individual has obtained a permanent license.

(5) The owner and trainer of a horse must be licensed at least one hour before post time of the race in which the horse is entered. In the case of absentee owners, the trainer must submit a properly executed temporary application on behalf of the absentee owner(s) at least one hour before post time of the race in which the horse is entered. Failure on the part of owners to fully comply with the 15-day requirement will result in fine, suspension, or both.

13.2(6) Workers' compensation. Every kennel owner, horse owner or trainer, who hires anybody as an employee, must carry workers' compensation insurance covering all employees in accordance with Iowa law.

**491—13.3(99D,99F) Waiver of privilege.** An applicant may claim a privilege afforded by the Constitution of the United States or of the state of Iowa in refusing to answer questions of the commission. However, a claim of privilege with respect to any testimony or evidence pertaining to an application may constitute sufficient grounds for denial.

**491—13.4(99D) Disclosure of ownership of racing animals.** All entities of ownership, i.e., individual, lessee, lessor, general partnership, limited partnership or corporation, and all trainers are responsible for making full and accurate disclosure of the ownership of all racing animals registered or entered for racing. Disclosure shall identify in writing all individuals or entities who, directly or indirectly, through a contract, lien, lease, partnership, stockholding, syndication, joint venture, understanding, relationship (including family relationship), present or reversionary right, title or interest, or otherwise hold any interest in and to the racing animal, and those individuals or entities who by virtue of any form of interest might exercise control over the racing animal or can benefit from the racing of the animal. The degree and type of ownership held by each individual person shall be designated. Disclosure shall be made when registering each racing animal with the racing secretary upon arrival on association grounds, or at time of license application or entry, whichever event occurs first, and shall be revised immediately upon any subsequent change in ownership. The disclosure, together with all written agreements and affidavits setting out oral agreements pertaining to the ownership for or rights in and to a racing animal, shall be attached to the registration certificate for the racing animal and filed with the racing secretary, who shall be responsible for the care and security of the papers while the racing animals are located on association grounds. Disclosure is made for the benefit of the public, and all documents pertaining to the ownership or lease of a racing animal filed with the racing secretary shall be available for public inspection.

**491—13.5(99D,99F) License acceptance.** Acceptance of a license from the commission by any licensee is deemed a consent to search and inspect by the commission or DCI representative pursuant to this rule and to the seizure of any prohibited medication, drugs, paraphernalia or devices.

**13.5(1) Misuse of license.** No person shall exercise or attempt to exercise any of the powers, privileges, or prerogatives of a license unless and until the appropriate licensing form has been executed and filed with the commission. The commission shall exercise the power to regulate the conduct of all persons holding licenses or who are participating in racing or gaming by the use or exercise of any rights, powers, privileges, or prerogatives of a license.

**13.5(2) Knowledge of rules.** Every licensee, in order to maintain qualifications for any license held, shall be held responsible for knowledge of the rules of the commission and Iowa statutes pertaining to racing and gaming. A viewing copy of the aforementioned rules and statutes is available in the commission offices at racetrack and riverboat locations.

**13.5(3) Occupational license.**

a. Employees are required to wear their occupational licenses at all times while on duty, or in a restricted area, unless it is determined by the administrator's designee to be impractical.

b. A licensee is prohibited from defacing, altering, or modifying an occupational license.

**491—13.6(99D,99F) Denials.** The administrator's designee shall deny an applicant a license or, if already issued, a license shall be subject to fine, suspension, revocation, or other disciplinary measures if the applicant:

**13.6(1)** Owns, operates or has an interest in any bookmaking or other illegal enterprise, or who is connected with or associated with any illegal enterprise within the past five years. If the association with the illegal enterprise was more than five years prior to the application, a license may be issued only if the administrator's designee determines that sufficient evidence of rehabilitation exists.

**13.6(2)** Is not 18 years of age except that persons under 18 years of age may be employed on licensed premises in stable, kennel or paddock areas, parking lots, kitchens and in maintenance and administrative offices, but never be employed near areas where alcohol is served or gaming or wagering is conducted.

**491—13.15(99D,99F) Vendor's license.** A vendor's license is required of any entity not licensed as a manufacturer or distributor which conducts operations on site providing goods or services at a licensed track or excursion boat.

**491—13.16(99D,99F) Probationary license.** The administrator's designee may grant a probationary license. Any licensee who by an overt act of commission or omission violates any of the rules of the commission while holding a probationary license shall be subject to fine, suspension or denial.

**491—13.17(99D) Owners and trainers of racing animals.**

**13.17(1)** Each owner must obtain a current owner's license from the commission to enter an animal in a purse race at an Iowa racetrack.

**13.17(2)** All owners and trainers of racing animals and their employees are subject to the laws of Iowa and the rules promulgated by the commission immediately upon acceptance and occupancy of accommodations from or approved by an association or upon making entry to run on its track. Owners, trainers, and their employees shall abide by laws and rules and accept the decision of the administrator's designee on any and all questions subject to their right of appeal to the commission.

**13.17(3) Minor.** An owner who is under the age of 18 must have a parent or guardian cosign any contractual agreements.

**13.17(4)** No person or entity may be licensed as an owner who is not the owner of record of a properly registered racing animal which is in the care of a licensed trainer.

**13.17(5) Licensing of horse trainers.** An applicant for a license as trainer or assistant trainer shall:

a. Be at least 18 years of age.

b. Be qualified, as determined by the administrator's designee, by reason of experience, background and knowledge of racing. A trainer's license from another jurisdiction, having been issued within a prior period as determined by the commission or administrator's designee, may be accepted as evidence of experience and qualifications. Evidence of qualifications may require passing one or more of the following:

(1) A written examination;

(2) An interview or oral examination; and

(3) A demonstration of practical skills in a "barn test."

(4) Has complied with the provisions of the workers' compensation law and has secured compensation for employees in accordance with that law.

(5) Has a horse eligible to race and registered to race at the current race meeting.

c. Applicants not previously licensed as a trainer shall be required to pass a written/oral examination, demonstrate practical skills and submit at least two written statements as to the character and qualifications of the applicant.

**13.17(6) Licensing of greyhound trainers.** An applicant for a license as trainer or assistant trainer shall:

a. Be at least 18 years of age.

b. Be qualified, as determined by the administrator's designee, by reason of experience, background and knowledge of racing. A trainer's license from another jurisdiction, having been issued within a prior period as determined by the commission or administrator's designee, may be accepted as evidence of experience and qualifications. Evidence of qualifications may require passing one or more of the following:

(1) A written examination;

(2) An interview or oral examination; and

(3) Has a greyhound eligible to race and registered to race at the current race meeting.

**491—13.18(99D) Kennel name.**

**13.18(1)** Contract kennels must obtain a license in the name appearing in the official program as “kennel,” which shall also be the name of the kennel booking contract entered into between contract kennel and track management.

**13.18(2)** A licensed owner wishing to race under a kennel name may do so by registering for the racing season with the commission and by paying the prescribed fee.

**13.18(3)** In applying to race under a kennel name the applicant must disclose the identities behind a kennel name and comply with partnership and corporation rules, if applicable.

**13.18(4)** Changes in identities involved in a kennel name must be reported immediately to and require approval from the commission.

**13.18(5)** A licensed kennel owner cannot be a party to more than one kennel name at the same facility.

**13.18(6)** A licensed owner who has registered under a kennel name may at any time abandon it, after having given written notice to the commission.

**13.18(7)** A kennel name may be changed at any time by registering a new kennel name and by paying the prescribed fee.

**13.18(8)** A licensed owner may not register as a kennel name one which the commission determines to be either misleading to the public or unbecoming to the sport.

**13.18(9)** All persons represented by a kennel name must be noted on the application form which appoints one person to act as the agent for the kennel name.

**13.18(10)** If a corporation is involved in the identity behind a kennel name, the applicant must comply with the licensing rules covering corporation.

**491—13.19(99D) Stable names.**

**13.19(1)** Authorization. Licensed owners and lessees may adopt stable farm, racing or corporation names, if registered with the commission.

**13.19(2)** Applications for a stable name. Applications must include the identity or identities of all persons interested in the ownership of the name. After registration by the commission, changes in identities of owners of the stable name must be reported immediately to and approved by the commission.

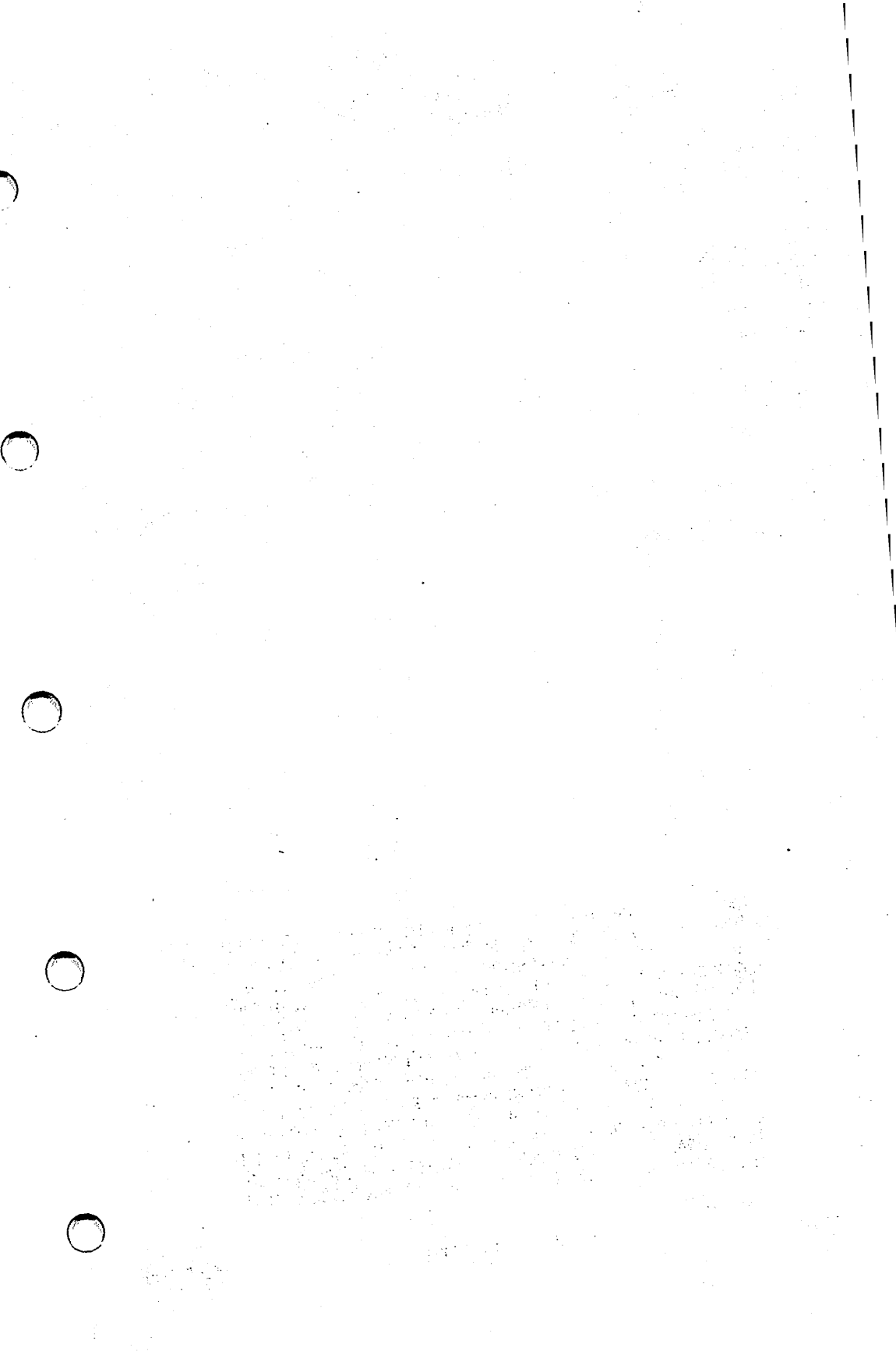
**13.19(3)** Trainer’s legal name only. A trainer who is a licensed owner or a part owner may use a stable name in the capacity of owner or part owner but a trainer may be licensed as a trainer only in the trainer’s legal name.

**13.19(4)** Canceling a stable name. Any person registered under a stable name may cancel the stable name by giving written notice to the commission. A stable name may be changed by registering the new name with the commission.

**13.19(5)** Prohibited names. No person may register a stable name which has already been registered by another person with any other racing authority, or which is the real name of another owner of race horses or which is the real or stable name of any prominent person who does not own race horses, or which is not plainly distinguishable from that of another registered stable name.

**13.19(6)** Neither sole owners nor partners, after adopting use of a stable name, may use their real names to reflect ownership that is reflected in the stable name.

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b. The duplicate jackpot payout slip shall be forwarded directly to the accounting department for recording on the slot win sheet and for agreement with the meter reading stored on the slot meter sheet and agreement with the triplicate or stored data.

**24.29(11)** Prior to payment of a jackpot in excess of \$100,000, a commission representative shall conduct an investigation, including a verification check of game-related storage media, on the slot machine or video game of chance where the jackpot occurred and has the authority to withhold or require the award of any jackpot, in writing, when conditions indicate that action is warranted.

**491—24.30(99F) Procedure for filling payout reserve containers of slot machines.**

**24.30(1)** Whenever a slot supervisor, attendant or mechanic requests to fill a payout reserve container (“hopper”) of a slot machine, a cashier shall prepare a hopper fill slip (“hopper fills”).

**24.30(2)** Hopper fills shall be serially prenumbered forms, each series of hopper fills shall be used in sequential order and the series numbers of all hopper fills received by a casino shall be accounted for by employees independent of the cashier’s cage and the slot department. All originals and duplicate void hopper fills shall be marked “void” and shall require the signature of the preparer. A serially prenumbered combined jackpot payout/hopper fill form may be utilized as approved by the commission provided that the combined form shall be used in a manner which otherwise complies with the procedures and requirements established by this rule.

**24.30(3)** For establishments in which hopper fills are manually prepared, the following procedures and requirements shall be observed:

a. Each series of hopper fills shall be a three-part form and shall be inserted in a locked dispenser that will permit an individual slip in the series and its copies to be written upon simultaneously while still locked in the dispenser and that will discharge the original and duplicate while the triplicate remains in a continuous unbroken form in the dispenser.

b. Access to the triplicates shall be maintained and controlled at all times by employees responsible for controlling and accounting for the unused supply of hopper fills, placing hopper fills in the dispensers and removing from the dispensers the triplicates remaining therein. These employees shall have no incompatible functions.

**24.30(4)** For establishments in which hopper fills are computer-prepared, each series of hopper fills shall be a two-part form and shall be inserted in a printer that will simultaneously print an original and a duplicate and store in a machine-readable form all information printed on the original and duplicate and discharge the original and duplicate. The stored data shall not be susceptible to change or removal by any personnel after the preparation of a hopper fill.

**24.30(5)** On originals, duplicates and triplicates or in stored data the preparer shall record the following information:

- a. The casino number of the slot machine to which the tokens are to be distributed.
- b. The date and shift during which the tokens are distributed.
- c. The denomination of tokens to be distributed.
- d. The amount of tokens to be distributed.
- e. The signature or, if computer-prepared, identification code of the preparer.

**24.30(6)** The time of preparation of the hopper fill shall be recorded on the original and duplicate upon preparation.

**24.30(7)** All tokens distributed to a slot machine shall be transported directly to the slot machine by a security department member or supervisor who shall at the same time transport the duplicate hopper fill for signature. The security department member or supervisor shall observe the deposit of the tokens in the slot machine and the closing and locking of the slot machine by the slot mechanic or slot attendant before obtaining the signature of the slot mechanic or slot attendant on the duplicate copy of the hopper fill.

**24.30(8)** A slot mechanic who participates in hopper fill transactions shall inspect the slot machine and determine if the empty hopper resulted from a machine malfunction. If the empty hopper is a result of machine malfunction, the slot mechanic will repair the machine before play of the machine is resumed.

**24.30(9)** Signatures attesting to the accuracy of the information contained on the hopper fill shall be of the following personnel at the following times:

*a.* The original:

(1) The cashier upon preparation.

(2) The security department member transporting the tokens to the slot machine upon receipt from the cashier of the tokens to be transported.

*b.* The duplicate:

(1) The cashier upon preparation.

(2) The security department member transporting the tokens to the slot machine upon receipt from the cashier of tokens to be transported.

(3) The slot mechanic or attendant after depositing the tokens in the slot machine and closing and locking the slot machine.

**24.30(10)** Upon meeting the signature requirements as described in 24.30(9)“*a*” and “*b*,” the security department member shall maintain and control the duplicate and the cashier shall maintain and control the original.

**24.30(11)** At the end of the gaming activity each day, the original and duplicate hopper fill slip shall be forwarded as follows:

*a.* The original hopper fill slip shall be forwarded to the cage. Once per day they will be forwarded to the accounting department for agreement with the triplicate or stored data.

*b.* The duplicate hopper fill slip shall be forwarded directly to the accounting department for recording on the slot win sheet for agreement with the meter readings recorded on the slot meter sheet and agreement with the triplicate or stored data.

**491—24.31(99F) Slot count—procedure for counting and recording contents of drop buckets.**

**24.31(1)** Each licensee shall file with the commission the specific times and procedures for removing and counting the contents of slot drop buckets.

**24.31(2)** The counting and recording of the contents of slot drop buckets shall be performed in the presence of a gaming official or videotaped by employees with no incompatible function (“count team”). To gain entrance to a count room, gaming officials shall present an official identification card containing a photograph issued by the commission.

**24.31(3)** All persons present in the count room during the counting process, unless expressly exempted by the administrator, shall wear as outer garments only a full-length, one-piece, pocketless garment with openings only for the arms, feet and neck.

**24.31(4)** No persons present shall carry a pocketbook or other container into the count room unless it is transparent.

**24.31(5)** Immediately prior to counting the contents of the drop buckets, the doors to the count room shall be locked and no person shall be permitted to enter or leave the count room except during an emergency or breaks as scheduled until the entire counting, recording and verification process is completed.

24.31(6) Immediately prior to the commencement of the count, one count team member shall notify the person assigned to the surveillance room that the count is about to begin, after which such person shall make a video recording with the time and date inserted thereon of the entire counting process.

24.31(7) Coin shall not be removed from the slot count room after commencement of the count until the coin has been recounted and accepted by a cashier.

24.31(8) Procedures and requirements at the conclusion of the count shall be the following:

a. The wrapped tokens removed from the drop bucket shall be counted in the count room in the presence of a count team member by a cashier prior to the recording of information on the slot drop sheet. The cashier shall attest by signature on the slot drop sheet to the accuracy of the amount of tokens received from the slot machines; after which a count team member shall sign the slot drop sheet evidencing the fact that both the cashier and count team have agreed on the total amount of tokens counted. The tokens thereafter shall remain in the custody of cashiers.

b. The slot drop sheet and supporting documents shall be transported directly to the accounting department or to locked storage until accounting representatives are available and shall not be available except for signing to any cashier's cage or slot personnel.

c. The preparation of the slot drop sheet shall be completed by accounting department employees as follows:

(1) Compare for agreement for each slot machine the dollar value of tokens counted to the drop meter reading.

(2) Record for each machine the hopper fills to each slot machine.

(3) Record for each slot machine the payouts and compare for agreement payouts to the manual jackpot meter reading recorded on the slot meter sheet.

(4) Calculate and record the win or loss for each slot machine.

(5) Explain and report for corrections of apparent meter malfunctions to the slot department all significant differences between meter readings and amounts recorded.

(6) Calculate statistics by slot machine.

d. The slot drop sheet, the slot meter sheet, payouts and hopper fills shall be:

(1) Compared for agreement with each other and to triplicates or stored data on a test basis.

(2) Reviewed for the appropriate number and propriety of signatures on a test basis.

(3) Accounted for by series numbers.

(4) Tested for proper calculation, summarization and recording.

(5) Subsequently recorded.

(6) Maintained and controlled by accounting department employees.

**491—24.32(99F) Computer recording requirements and monitoring of slot machines.**

24.32(1) A licensee will have a computer connected to slot machines in the casino to record and monitor the activities of such machine.

24.32(2) The computer required by 24.32(1) shall be designed and operated to automatically perform the function relating to slot machine meters in the casino as follows:

a. Record the number and total value of tokens placed in the slot machine for the purpose of activating play.

b. Record the number and total value of tokens in the drop bucket of the slot machines.

c. Record the number and total value of slot tokens, cash or chips to be paid manually as the result of a jackpot.

**24.32(3)** The computer shall store in machine-readable form all information required by 24.32(2) and such stored data shall not be susceptible to change or removal by any personnel prior to submission to the central commission office.

These rules are intended to implement Iowa Code chapter 99D and chapter 99F as amended by 1994 Iowa Acts, House File 2179.

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**CHAPTER 25  
RIVERBOAT OPERATION**

[491—Chapters 20 to 25, relating to Games of Skill, Chance, Raffles and Bingo, transferred to 481—Chapters 100 to 105, 6/14/89 IAB]

**491—25.1 to 25.9** Reserved.

**491—25.10(99F) Licensing.**

**25.10(1) *Who may apply.*** A qualified sponsoring organization may apply for a license for more than one boat with identical or different operators. Each request for a boat will be considered a separate application for purposes of these rules.

**25.10(2) *License period.*** Licenses will be issued for not more than an original three-year period and subject to annual renewals thereafter.

**491—25.11(99F) Casino.**

**25.11(1) *Area utilized for the casino.*** Rescinded IAB 6/8/94, effective 5/20/94.

**25.11(2) *Gambling games authorized.***

*a.* Dice, roulette, twenty-one, big-six (roulette), red dog, baccarat, and poker are authorized as table games.

*b.* Slot machines, progressive slot machines, video poker and all other video games of chance will be allowed as machine games, subject to the approval of individual game prototypes. For race-track enclosures, video machine as used in Iowa Code section 99F.1(9) shall mean video keno and any video machine game version of a table or card game including but not limited to those listed in 491—paragraph 25.11(2)“*a.*” A weighted average of the theoretical payout percentage, as defined in 491—subrule 26.15(6), on all machine games shall be posted at the point of ticket sales, main casino entrance, cashier cages, and slot booths.

**25.11(3) *Checks and credit cards.***

*a.* A licensee shall not accept a credit card as defined in Iowa Code section 537.1301, subsection 16, to purchase coins, tokens, or other forms of credit to be wagered on gambling games.

*b.* The acceptance of personal checks will be allowed; however, “counter” checks will not be allowed, and all checks accepted must be deposited in a bank by the close of the banking day following acceptance.

**491—25.12(99F) Riverboat uniform requirements.**

**25.12(1)** A boat utilized for gaming purposes must meet or exceed uniform requirements for passenger vessels as specified in Title 46, Code of Federal Regulations. All such boats shall conduct and log all drills and actions required to be logged under subchapter “h” as of April 1, 1992. The minimum capacity necessary for an excursion gambling boat is 250 persons with tickets for admission pursuant to Iowa Code subsection 99F.5(1).

**25.12(2)** Boats must be self-propelled. A boat may contain more than one “vessel” as defined by the U.S. Coast Guard. In order to be utilized for gaming purposes, the vessel containing the casino must either contain a permanent means of propulsion or have its means of propulsion contained in an attached vessel. In the event that the vessel containing the casino is propelled by a second vessel, the boat will be considered self-propelled only when the vessels are designed, constructed and operated as a single unit. In addition, all vessels must comply with all operating conditions as stated on the certificate of inspection as issued by the U.S. Coast Guard and vessels containing passengers must comply with U.S. Coast Guard passenger vessel standards for fire systems. The boat must comply with U.S. Coast Guard standards for lifesaving, steering, main propulsion and bilge systems.

**491—25.13(99F) Excursions.**

**25.13(1) Length.** The excursion season shall be from April 1 through October 31 of each calendar year. An excursion gambling boat must operate at least one excursion each day for 100 days during the excursion season to operate during the off-season, although a waiver may be granted by the commission in the first year of a boat’s operation, if construction of the boat was not completed in time for the boat to qualify. Excursions shall consist of a minimum of two hours in transit during the excursion season. The number of excursions per day is not limited. During the excursion season and the off-season, while the excursion gambling boat is docked, passengers may embark or disembark at any time during its business hours pursuant to Iowa Code subsection 99F.4(17).

**25.13(2) Completion of excursions.** Rescinded IAB 6/8/94, effective 5/20/94.

**25.13(3) Dockside completion of excursions.** If, during the excursion season, the captain determines that it would be unsafe to complete any portion of an excursion, or if mechanical problems prevent the completion of any portion of an excursion, the boat may be allowed to remain at the dock or, if the excursion is underway, return to the dock and conduct the gaming portion of the excursion while dockside, unless the captain would determine that passenger safety is threatened.

**25.13(4) Notification.** If an excursion is not completed due to reasons specified in 25.13(3), an Iowa racing and gaming commission official shall be notified as soon as is practical.

**491—25.14(99F) Security force.**

**25.14(1) Employ adequate security.** Each licensee will employ sufficient security to remove a person violating a provision of Iowa Code chapter 99F, commission rules, orders, final orders, any person deemed to be undesirable by Iowa racing and gaming commission officials, or any person engaging in a fraudulent practice from the licensed premises.

**25.14(2) Peace officer.** Each licensee will ensure that a person who is a certified peace officer is present during all gaming hours, unless permission is otherwise granted by the administrator.

**25.14(3) Incident reports.** The licensee is required to file a written report, within 72 hours, detailing any incident in which an employee or patron is detected violating a provision of Iowa Code chapter 99F; a commission rule, order or final order; internal control; or is removed for reasons specified under 25.14(1). In addition to the written report, the licensee will provide immediate notification to the commission and DCI representatives on duty or on each office’s messaging system, if the incident involved employee theft, criminal activity, Iowa Code chapter 99F violations, or gaming receipts.

**25.14(4) Report received.** Rescinded IAB 12/25/91, effective 1/29/92.

**491—25.15(99F) Firearms—possession within casino.**

**25.15(1)** No patron or employee of the licensee, including the security department members, shall possess or be permitted to possess any pistol or firearm within a casino without the express written approval of the administrator unless:

- a. The person is a peace officer, on duty, acting in the peace officer’s official capacity; or
- b. The person is a peace officer possessing a valid peace officer permit to carry weapons who is employed by the licensee and who is authorized by the administrator to possess such pistol or firearm while acting on behalf of the licensee within that casino.

**491—25.21(99F) Taxes and admission fees.**

**25.21(1) Annual taxes and fees.** All taxes and fees, whose collection by the state is authorized under Iowa Code chapter 99F, shall be accounted for on a fiscal-year basis, each fiscal year beginning on July 1 and ending on June 30.

**25.21(2) Admission fees.** Admission fees whose collection by the state is authorized under Iowa Code section 99F.10(2) shall be set for the following fiscal year by the commission on or before the June meeting of the commission. The total amount payable to the commission shall be determined on a per boat basis with each responsible licensee paying a proportionate amount of the total amount appropriated to the commission, less any prior year surplus from license fees collected by the commission. The admission fee will be assessed upon each person embarking upon an excursion gambling boat in the manner prescribed in paragraph "a" or "b" below. The responsible licensee may elect either of the two methods of payments prescribed in paragraphs "a" and "b" below. Such election must be made two weeks prior to the beginning of excursion boat gambling in each fiscal year and remain unchanged until the following fiscal year.

a. A prospective admission fee for each person embarking upon the excursion gambling boat will be established. The fee will be determined by the commission by dividing the proportionate amount allocable to the boat by 80 percent of the anticipated passenger count for that boat during the fiscal year. Any excess collected or deficit incurred different from the allowable amount shall be forwarded to the following fiscal year in determining the admission fee for that year.

b. A retrospective admission fee for each person embarking upon the excursion gambling boat will be established. The fee will be paid weekly during the fiscal year and determined by the commission by dividing the amount allocable to the boat by 52. The per passenger amount will be determined at the close of the fiscal year.

**25.21(3) Submission of taxes and admission fees.** All moneys collected for and owed to the commission or state of Iowa under Iowa Code chapter 99F shall be accounted for and itemized on a weekly basis on a form provided by the commission. A week shall begin on Monday and end on Sunday. The reporting form and the moneys owed must be received in the commission office by the close of business on the Thursday following the week's end.

**25.21(4) Racetrack enclosure.** Admission fees as required by Iowa Code subsection 99D.14(2) shall be collected in lieu of any fees imposed by Iowa Code section 99F.10.

**25.21(5) Turnstile requirement.** All gates used for admission of patrons must have turnstiles of a type approved by the commission, equipped with meters. Turnstiles must be numbered consecutively or have other means of individual identification.

**491—25.22(99F) Slot machines and video games of chance movement.** Reports must be filed with the commission on movements of slot machines and video games of chance into and out of the state of Iowa. Reports must be on forms provided by the commission and must be received in the commission office no later than 15 calendar days after the movement.

These rules are intended to implement Iowa Code chapters 99D and 99F.

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k. In calculating adjusted gross receipts, a licensee may deduct its pro-rata share of the present value of any system jackpots awarded during the month. Such deduction amount shall be listed on the detailed accounting records provided by the person authorized to provide the multilink system. A licensee's pro-rata share is based on the number of coins-in from that licensee's machines on the multilink system, compared to the total amount of coins-in on the whole system for the time period(s) between jackpot(s) awarded.

l. In the event an excursion gambling boat or racetrack enclosure licensee ceases operations and a progressive jackpot is awarded subsequent to the last day of the final month of operation, the excursion gambling boat or racetrack enclosure licensee may not file an amended wagering tax submission or make a claim for a wagering tax refund based on its contributions to that particular progressive prize pool.

m. An excursion gambling boat or racetrack enclosure licensee, or an entity that is licensed as a manufacturer or distributor, shall provide the multilink system in accordance with a written agreement which shall be reviewed and approved by the commission prior to offering the jackpots, provided, however, a trust comprised of the participating excursion gambling boat and racetrack enclosure licensees shall be established to control the system jackpot fund (trust fund) provided for in paragraph "n," subparagraph "3."

n. The payment of any system jackpot offered on a multilink system shall be administered by a trust, in accordance with a written trust agreement which shall be reviewed and approved by the commission prior to the offering of the jackpot. The trust may contract with a licensed manufacturer or distributor to administer the trust fund. The trust agreement shall require the following:

(1) Any excursion gambling boat or racetrack enclosure licensee participating in offering the multilink system jackpot shall serve as trustee for the trust fund.

(2) Any excursion gambling boat or racetrack enclosure licensee shall be jointly and severally liable for the payment of system jackpots won on a multilink system in which the licensee is or was a participant at the time the jackpot was won.

(3) The moneys in the trust fund shall consist of the sum of funds invoiced to and received by the trust from the excursion gambling boat or racetrack enclosure licensees with respect to each particular system, which invoices shall be based on a designated percentage of the handle generated by all machines linked to the particular system; any income earned by the trust; and sums borrowed by the trust and any other property received by the trust. Prior to the payment of any other expenses, the trust funds shall be used to purchase Iowa state issued debt instruments or United States Treasury debt instruments in sufficient amounts to ensure that the trust will have adequate moneys available in each year to make all multilink system jackpot payments which are required under the terms of the multilink system jackpots which are won.

(4) A reserve shall be established and maintained within the trust fund sufficient to purchase any United States Treasury or Iowa state debt instruments required as multilink system jackpots are won (systems reserves). For purposes of this rule, the multilink system reserves shall mean an amount equal to the sum of the present value of the aggregate remaining balances owed on all jackpots previously won by patrons on the multilink systems; the present value of the amount currently reflected on the system jackpot meters of the multilink systems; and the present value of one additional reset (start amount) on such systems.

(5) The trust shall continue to be maintained until all payments owed to winners of the multilink system jackpots have been made.

(6) For multilink system jackpots disbursed in periodic payments, any United States Treasury or Iowa state debt instruments shall be purchased within 90 days following notice of the win of the multilink system jackpot, and a copy of such debt instruments will be provided to the commission office within 30 days of purchase. Any United States Treasury or Iowa state debt instrument shall have a surrender value at maturity, excluding any interest paid before the maturity date, equal to or greater than the value of the corresponding periodic jackpot payment, and shall have a maturity date prior to the date the periodic jackpot payment is required to be made.

(7) The trust shall not be permitted to sell, trade, or otherwise dispose of any United States Treasury or Iowa state debt instruments prior to maturity unless approval to do so is first obtained from the commission.

(8) Upon becoming aware of an event of noncompliance with the terms of the approved trust agreement or reserve requirement mandated by paragraph "n," subparagraph (4) above, the trust must immediately notify the commission of such event. An event of noncompliance includes a nonpayment of a jackpot periodic payment or a circumstance which may cause the trust to be unable to fulfill, or otherwise impair, its ability to satisfy its jackpot payment obligations.

(9) With the exception of the transfer to the estate or heir(s) of a deceased system jackpot winner or to the estate or heir(s) of such transferee upon death or the granting of a first priority lien to the trust to secure repayment of a tax loan to the winner should a tax liability on the full amount of the jackpot be assessed by the Internal Revenue Service against the winner, no interest in income or principal shall be alienated, encumbered or otherwise transferred or disposed of in any way by any person while in the possession and control of the trust.

(10) On a quarterly basis, the trust must deliver to the commission office a calculation of system reserves required under paragraph "n," subparagraph (4), above.

(11) The trust must be audited, in accordance with generally accepted auditing standards, on the fiscal year of the trust by an independent certified public accountant. Two copies of the report must be submitted to the commission office within 90 days after the conclusion of the trust's fiscal year.

*o.* For multilink system jackpots disbursed in periodic payments, subsequent to the date of the win, a winner may be offered the option to receive, in lieu of periodic payments, a discounted single cash payment in the form of a "qualified prize option," as that term is defined in Section 451(h) of the Internal Revenue Code. For purposes of calculating the single cash payment, the trust administrator shall obtain quotes for the purchase of U.S. Government Treasury Securities at least three times per month. The quote selected by the trust administrator shall be used to calculate the single cash payment for all qualified prizes that occur subsequent to the date of the selected quote, until a new quote becomes effective.

#### **491—26.18(99F) Other gambling games approved by the commission.**

**26.18(1)** The commission must approve the conducting of any gambling game on a licensed river-boat.

**26.18(2)** Requests to conduct gambling games must be accompanied by a complete set of rules, which must be approved by the administrator prior to commencement of the game.

**26.18(3)** Trial period. Prior to commission approval and after completing a review of a proposed gambling game, the administrator is authorized to allow a trial period of up to 180 days to test the gambling game in a licensed gaming establishment. During the trial period, minor changes in the operation or design of the gambling game may be made with prior approval of the administrator. During the trial period, a gambling game distributor shall not be entitled to receive revenue of any kind whatsoever from the operation of that gambling game.

**491—26.19(99F) Poker.**

**26.19(1) Rules and limits—poker.** Proposals for rules for each poker game, minimum buy-in and table limits, table rake and rental charges must be submitted in writing and approved by the administrator prior to the operator's conducting any poker games. Rules must be clear and legible and placed at each poker table or in a conspicuous location so that a player may easily read the rules.

**26.19(2) Imprest dealer banks.** When the operator conducts poker with a dealer chip bank at an imprest amount, the administrative rules in 491—Chapter 24 for closing and distributing/removing gaming chips to/from gaming tables are not required. The entire amount of the table rake is subject to the wagering tax pursuant to Iowa Code section 99F.11. Proposals for imprest dealer chip banks must be submitted in writing and approved by the administrator prior to conducting poker under this rule.

**26.19(3) Table stakes.** All games shall be played according to table stakes rules as follows:

a. All bets must be made with coins or chips issued by the operator.

b. Only chips on the table at the start of a deal shall be in play for that pot.

c. Concealed chips do not play.

d. A player with chips may add additional chips between deals, provided that the player complies with the minimum buy-in requirement.

e. A player is never obliged to drop out of contention because of insufficient chips to call the full amount of a bet, but may call for the amount of chips the player has on the table. The excess part of the bet made by other players is either returned to the players or used to form a side pot.

**26.19(4) Collusion.** Each player in a poker game is required to act only in their own best interest. The operator has the responsibility to ensure that any behavior designed to assist one player over another is prohibited and may prohibit any two players from playing in the same game.

**26.19(5) Operator funded payouts.** Poker games where winning wagers are paid according to specific payout odds or pay tables are permitted. Proposals for rules, permissible wagers, shuffling and cutting procedures, payout odds, and pay tables must be submitted in writing and approved by the administrator prior to the operator's conducting any game. Changes in rules, wagers, payout odds, or pay tables must be submitted in writing and approved by the administrator prior to implementation.

**491—26.20(99F) Red dog.**

**26.20(1) Rules, permissible wagers, shuffling, dealing and cutting procedures, and payout odds.** Proposals for rules, permissible wagers, shuffling and cutting procedures, and payout odds must be submitted in writing and approved by the administrator prior to the operator conducting any games of red dog. Changes in rules, permissible wagers, shuffling, dealing and cutting procedures, and payout odds must be submitted in writing and approved by the administrator prior to implementation.

**26.20(2) Placement of wagers.** Prior to the first card being dealt from each round of play, each player at the game of red dog shall make a wager against the dealer by placing gaming chips on the appropriate areas of the layout. Once the first card of any hand has been dealt by the dealer, no player shall handle, remove, or alter any wagers that have been made until a decision has been rendered and implemented with respect to that wager. Once a wager to double down has been made and confirmed by the dealer, no player shall handle, remove or alter such wagers until a decision has been rendered and implemented with respect to that wager except as explicitly permitted by these rules. No dealer or other casino employee or casino key employee shall permit any player to engage in conduct violative of this rule.

**26.20(3) Wagers—amount—red dog.** Rescinded IAB 6/8/94, effective 5/20/94.

**491—26.21(99F) Tournaments and contests.**

**26.21(1) Rules.** Proposals for rules, entry fee and prize accounting and procedures must be submitted in writing and approved by the administrator prior to the operator's conducting any tournament or contest. Rules, fees, and a schedule of prizes must be made available to the player prior to entry.

**26.21(2) Limits.** Tournaments and contests must be based on gambling games authorized by the commission. Entry fees, less the operator's cash equivalent cost of prizes paid out not to exceed total entry fees, are subject to the wagering tax pursuant to Iowa Code section 99F.11.

**491—26.22(99F) Keno.****26.22(1) Requirements.**

- a. Keno shall be conducted using an automated ticket writing and redemption system where a game's winning numbers are selected by a random number generator.
- b. Each game shall consist of the selection of 20 numbers out of 80 possible numbers, 1 through 80.
- c. For any type of wager offered, the payout must be at least 80 percent.
- d. Multigame tickets shall be limited to 20 games.
- e. Writing or voiding tickets for a game after that game has closed is prohibited.
- f. All winning tickets shall be valid up to a maximum of one year. The dollar amount of all expired and unclaimed winning tickets shall be added to existing keno jackpots in a manner approved by the administrator.

**26.22(2) Rules, procedures, permissible wagers and payout odds.** Proposals for permissible rules, wagers, procedures, payout odds, ticket contents, and progressive jackpots must be submitted in writing and approved by the administrator prior to the operator's conducting any keno games. Changes in conduct or operation of keno games must be submitted in writing and approved by the administrator prior to implementation.

**26.22(3) Equipment.** The administrator shall determine minimum hardware and software requirements to ensure the integrity of play. An automated keno system must be proven to accurately account for adjusted gross receipts to the satisfaction of the administrator.

**26.22(4) Wagering tax.** Adjusted gross receipts from keno games shall be the difference between dollar amount of tickets written and dollar amount of winning tickets as determined from the automated keno system. The wagering tax pursuant to Iowa Code section 99F.11 shall apply to adjusted gross receipts of keno games.

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# PETROLEUM UNDERGROUND STORAGE TANK FUND BOARD, IOWA COMPREHENSIVE[591]

[Created by Iowa Code chapter 455G]

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CHAPTER 10  
RESTRUCTURING OF INSURANCE BOARD AND TRANSFER  
OF ASSETS AND LIABILITIES OF INSURANCE FUND

**591—10.1(455G) Restructuring of insurance board.** Effective March 15, 2000, or as soon thereafter as the board determines is reasonably practicable, the underground storage tank insurance board shall be restructured as Petroleum Marketers Mutual Insurance Company, a mutual insurance company, privately owned and operated by its insureds, organized to provide an allowable mechanism to demonstrate financial responsibility as required in 40 CFR Parts 280 and 281.

**591—10.2(455G) Transfer of insurance fund assets and liabilities.** Effective March 15, 2000, or as soon thereafter as the board determines is reasonably practicable, the comprehensive petroleum underground storage tank fund board shall transfer all assets and liabilities of the underground storage tank insurance fund to Petroleum Marketers Mutual Insurance Company (PMMIC). The method of transfer shall be pursuant to a memorandum of understanding by and between the board and Petroleum Marketers Mutual Insurance Company. Said memorandum of understanding shall be prepared by and executed no later than January 31, 2000, or as soon thereafter as a memorandum of understanding acceptable to both PMMIC and the board can be drafted and approved.

**591—10.3(455G) Approval of new insurance fund.** The transfer of all assets and liabilities of the insurance fund to be made pursuant to this chapter is contingent upon Petroleum Marketers Mutual Insurance Company receiving certification from the commissioner of insurance.

These rules are intended to implement Iowa Code section 455G.11.

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CHAPTER 11  
REMEDIAL CLAIMS

**591—11.1(455G) Reserving and payment of claims.**

**11.1(1) *Reserving for remedial and retroactive claims under Iowa Code section 455G.9.***

a. All remedial and retroactive claims shall be reserved for their estimated exposure to the fund on the specific site. The reserve shall reflect the estimated exposure less copayment or deductible obligations. A separate reserve for upgrade benefits as provided for under 591—11.4(455G) shall be established.

b. Reserves shall reflect estimated total cost to the program, regardless of actual funding provided.

c. Prioritization pursuant to Iowa Code section 455G.12 shall be accomplished with rules if required and as determined by the board.

d. An incurred but not reported estimated reserve shall be developed for remedial claims anticipated, but not reported to the board.

e. Reserves may be changed to reflect changing knowledge on eligible claims.

**11.1(2) *Reserving for financial responsibility claims under Iowa Code section 455G.11.*** Rescinded IAB 2/9/00, effective 3/15/00.

**11.1(3) *Payment of benefits under Iowa Code section 455G.9.***

a. The following underground storage tanks are not eligible for remedial account benefits:

(1) Tanks that were taken out of use prior to January 1, 1974. For purposes of this rule tanks taken out of use are tanks which have not actually been used by either depositing petroleum in the tank or by pumping petroleum from the tanks.

(2) Underground storage tanks which were removed from the ground prior to July 1, 1985.

(3) Underground storage tanks which were closed prior to July 1, 1985.

(4) Underground storage tanks which do not contain petroleum. For the purposes of this subrule petroleum means petroleum, including crude oil or any fraction of crude oil which is liquid at standard conditions of temperature and pressure (60°F and 14.7 pounds per square inch absolute). The following two categories of substances are not petroleum:

1. Substances which are regulated as hazardous waste under 42 U.S.C. 6921 et seq.

2. Substances which would be regulated under 42 U.S.C. 9601 et seq. if the substance were to leak from a tank, related piping, other part of the system or from spills or releases into the environment, including lands, waters and air.

b. To be eligible for benefits under Iowa Code sections 455G.9 and 455G.21, any owner or operator applying for such benefits shall demonstrate financial responsibility coverage using a method provided for under 567—Chapter 136 no later than October 26, 1990. If an owner or operator is unable to demonstrate financial responsibility coverage, or there is a lapse in the financial responsibility coverage for any period after October 26, 1990, the owner/operator will no longer be eligible for benefits if the site for which benefits are being requested has active tanks during the time the owner/operator was unable to demonstrate financial responsibility or if there is a lapse of financial responsibility coverage subject to the following limitations:

(1) The financial responsibility coverage requirement shall not be required on tanks which are temporarily closed consistent with 11.1(3)"o."

(2) A lapse of financial responsibility coverage shall not cause loss of remedial benefits if the owner or operator can demonstrate:

1. Good-faith attempts were made to maintain the financial responsibility coverage;
2. Communications were ongoing between the owner or operator and the board in an attempt to maintain financial responsibility coverage at the time of the lapse;
3. The lapse in coverage was due to failure to timely submit proper documentation, failure to timely pay full payment of required premium, or both;
4. If the lapse was due to a failure to timely submit proper documentation:
  - The owner or operator is able to demonstrate that documentation was submitted in a good-faith attempt to comply with the financial responsibility criteria.
  - The owner or operator can provide factual support that the documentation submitted was sufficient to maintain financial responsibility coverage.
  - The owner or operator submits a signed affidavit certifying that the owner or operator believed the documentation submitted was sufficient to maintain financial responsibility coverage.
5. If the lapse was due to a failure to timely submit full payment of required premium:
  - The owner or operator is able to demonstrate that the payment was submitted in a good-faith attempt to comply with the financial responsibility criteria.
  - The owner or operator can provide factual support that the payment submitted was sufficient to maintain financial responsibility coverage.
  - The owner or operator submits a signed affidavit certifying that the owner or operator believed the payment submitted was sufficient to maintain financial responsibility coverage.
6. The owner or operator submits an amount equal to the full premium and any applicable surcharges that would have been required if financial responsibility coverage had been maintained.

The board will determine if the action taken by the owner or operator qualifies as good faith based upon the financial responsibility coverage requirements and the owner or operator's knowledge of an experience with financial responsibility coverage requirements and general business principles. When determining good faith, the board may consider the owner or operator's past history of maintaining financial responsibility coverage, the extent of the owner or operator's business knowledge taking into consideration business size and the number of UST sites owned or operated, compliance with other environmental programs, and other events occurring at the time of the financial responsibility coverage lapse which may have impacted the owner or operator's actions when attempting to maintain the financial responsibility coverage.

(7) The owner/operator certifies the upgraded tanks and replacement tanks will not be used until the owner/operator demonstrates proof of financial responsibility for the tanks using a method provided for under 567—Chapter 136; and

(8) The owner/operator meets all other applicable requirements pertaining to remedial benefits.

An owner/operator receiving remedial account benefits pursuant to this paragraph "o" will be subject to cost recovery pursuant to Iowa Code section 455G.13 in the event the owner/operator does not comply with all of the conditions of this paragraph "o," the provisions of the certifications required by this paragraph "o," and applicable statutes and rules of the environmental protection commission and the board.

*p.* The board may reimburse expenses associated with tank systems identified in 11.1(3)"a"(1) to (3) when all of the following conditions have been documented:

(1) The release for which benefits are being requested is from tanks operated on a site which is otherwise eligible for benefits under Iowa Code section 455G.9(1);

(2) The release for which benefits are being requested is commingled with an on-site release which is eligible for benefits under Iowa Code chapter 455G;

(3) The site has had active underground storage tanks continuously from the date of the release for which benefits are being requested until the date at which a release for which the site is currently eligible for benefits was reported to the department;

(4) The claimant certifies that the tanks for which benefits are being requested will be permanently closed within 90 days of notification of the eligibility and does permanently close the tanks in compliance with rule 567—135.9(455B) within the 90 days;

(5) All other eligibility requirements have been met.

*q.* An owner/operator of a site which is eligible for benefits under section 455G.9 who discovered a tank on the site after October 26, 1990, shall maintain eligibility for benefits even if that tank does not meet the financial responsibility requirements continuous since October 26, 1990, if all of the following conditions have been met:

(1) The tank was discovered after October 26, 1990;

(2) The tank has not been operated since the discovery and has never been operated by the claimant;

(3) The tank has been empty of all product since it was discovered;

(4) The tank was properly registered with the department when discovered;

(5) The tank is a regulated tank which previously contained only petroleum products as defined in this chapter;

(6) The tank is permanently closed within 90 days of discovery, or by July 1, 1995, whichever date is later.

*r.* Compliance with report submittal deadlines. To be eligible for remedial benefits, claimants must comply with all department deadlines for submittal of Tier 1, Tier 2 and corrective action design report (CADR) requirements and must submit a Tier 1, and Tier 2 if required, by June 30, 2000, or 180 days after confirmation of a release from the site, whichever is later.

**11.1(4) *Payments of financial responsibility claims.*** Rescinded IAB 2/9/00, effective 3/15/00.

**11.1(5) *Payment of benefits under Iowa Code section 455G.21(2) "a."*** Consistent with Iowa Code chapter 455G, the board may reimburse an owner of petroleum-contaminated property who is not otherwise eligible to receive benefits under Iowa Code section 455G.9 for eligible expenses not to exceed the benefits they would otherwise receive based upon the date the release was reported if they were eligible under Iowa Code section 455G.9(1) "a" (1) to (3), subject to the copayment requirements of Iowa Code section 455G.9(4), the requirement of 11.1(3), and subject to the available funding and limitations of the innocent landowner fund created by Iowa Code section 455G.21(2) "a," for corrective action subject to the following priority:

*a. Late-filed retroactive claims.* For releases reported to the department on or after January 1, 1984, but prior to May 5, 1989:

(1) Claims must be filed with the board by February 26, 1994.

(2) All costs incurred on or after July 10, 1996, must be preapproved by the board to be eligible for reimbursement.

*b. Preregulation claims.* For releases from petroleum USTs which are not eligible for remedial account benefits under 455G.9(1) "a" (1) to (3) only because the USTs were taken out of use prior to January 1, 1974, or permanently closed or removed before July 1, 1985.

(1) Claims must be filed with the board by December 1, 1997.

(2) USTs have not been operated on the site since the time the tanks were taken out of use or permanently closed.

(3) All costs incurred after July 10, 1996, must be preapproved by the board to be eligible for reimbursement.

(4) The owner cannot have claimed bankruptcy on or after the date of the reported release.

*c. Innocent landowner claims.* For releases reported by owners of petroleum-contaminated property as defined under 455G.9(9) who did not comply with the reporting or filing deadlines identified in this chapter with priority to those owners who did not have knowledge of the USTs or did not have control over the property.

(1) Claims must be filed with the board by December 1, 1997.

(2) The owner or operator must have reported a known release to the department consistent with the department requirements.

(3) The owner did not have knowledge of the UST or of a release impacting the property prior to acquisition of the property if the property was acquired on or after October 26, 1990, or if the owner did have such knowledge, the acquisition was necessary to protect a security interest.

(4) All costs incurred on or after July 10, 1996, must be approved by the board to be eligible for reimbursement.

(5) The owner cannot have claimed bankruptcy on or after the date of the reported release.

*d. Acquired properties.* For releases reported by owners of petroleum-contaminated property as defined under 455G.9(9) who acquired the petroleum-contaminated property after October 26, 1990, and who did not comply with the reporting or filing deadlines identified in this chapter.

(1) Claims must be filed with the board by December 1, 1997.

(2) The owner or operator must have reported a known release to the department consistent with the department requirements.

(3) The owner could not have been the owner or operator of the UST system which caused the release prior to acquiring the property after October 26, 1990.

(4) All costs incurred on or after December 1, 1996, must be preapproved by the board to be eligible for reimbursement.

(5) For claims submitted under this paragraph, the precorrective action value shall be the purchase price paid by the owner after October 26, 1990.

(6) For claims submitted under this paragraph, the purchase must have been an arm's-length transaction.

(7) The owner cannot have claimed bankruptcy on or after the date of the reported release.

*e. Other innocent landowner claims.* Claims for releases submitted to the board after December 1, 1997, which would have been eligible for benefits pursuant to paragraphs "a" through "d" of this subrule if filed by December 1, 1997, will be eligible for reimbursement subject to a first-in, first-out priority and the funding limitations of the innocent landowner fund. The owner must demonstrate that the owner has met all other requirements of this subrule in order to receive benefits.

*f. Compliance with report submittal deadlines.* To be eligible for remedial benefits, claimants must comply with all department deadlines for submittal of Tier 1, Tier 2 and corrective action design report (CADR) requirements and must submit a Tier 1, and Tier 2 if required, by June 30, 2000, or 180 days after confirmation of a release from the site, whichever is later.

*g.* Costs incurred by a governmental subdivision for treating, handling or disposing of, as required by DNR, petroleum-contaminated soil and groundwater encountered in a public right-of-way during installation, maintenance or repair of a public improvement.

#### **591—11.2(455G) Investigation of claims—remedial and retroactive.**

11.2(1) All remedial and retroactive claims shall be investigated and overall fund liability estimated.

11.2(2) Costs which are not reasonable, necessary or eligible shall not be paid. The budget for the work shall be submitted prior to the initiation of the work for approval by the board or its designee. Failure to obtain prior approval shall invalidate the board's and the owner's or operator's obligations as provided for under Iowa Code section 455G.12A.

11.2(3) Owner or operator compliance with regulatory and program requirements shall be evaluated as part of the investigation. The failure to meet regulatory and program standards shall not bar recovery hereunder. However, failure to meet regulatory and program requirements which exist at the time of payment may result in cost recovery claims as provided under Iowa Code section 455G.13.

11.2(4) Cause of loss and determination of responsible parties shall be ascertained as a part of the investigation process. Independent environmental consultants may be retained to assist in the determination of the cause of the release and for the application of coverage.

11.2(5) Subrogation and cost recovery opportunities shall be pursued against any responsible party, as deemed appropriate by the board to do so.

#### **591—11.3(455G) Other terms and conditions.** Rescinded IAB 2/9/00, effective 3/15/00.

**591—11.4(455B,455G) Tank and piping upgrades and replacements.****11.4(1) Definitions.**

*“Administrator”* means the Iowa comprehensive petroleum underground storage tank fund board administrator as provided in Iowa Code section 455G.5.

*“Automatic in-tank gauging”* means a device used for leak detection and inventory control in tanks that meet the department’s standards as set out in 567—paragraph 135.5(4)“d.”

*“Board or UST board”* means the Iowa comprehensive petroleum underground storage tank fund board as provided for in Iowa Code section 455G.4.

*“Department”* means the Iowa department of natural resources.

*“Environmentally sensitive site”* means, as classified under the Unified Soil Classification System as published by the American Geologic Institute or ASTM designation: D 2487-85, any site where the native soils outside or under the tank zone are materials where more than half of the material is larger than no. 200 sieve size. As used herein, tank zone means the native soils immediately outside the excavation area or nearest native soil under the tank.

The following classifications of soil descriptions are considered environmentally sensitive:

1. Well-graded gravels, gravel-sand mixtures, little or no fines, classified using the group symbol of “GW”;
2. Poorly graded gravels, gravel-sand mixtures, little or no fines, classified using the symbol of “GP”;
3. Silty gravels, gravel-sand-clay mixtures, classified using the symbol of “GM”;
4. Clayey gravels, gravel-sand-clay mixtures, classified using the symbol of “GC”;
5. Well-graded sands, gravelly sands, little or no fines, classified using the symbol “SW”;
6. Poorly graded sands, gravelly sands, little or no fines, classified using the symbol “SP”;
7. Silty sands, sand-silt mixtures, classified using the symbol “SM”;

In addition, environmentally sensitive sites include any site which is within 100 feet of a public or private well, other than a monitoring well on a site, and any site where the tank is installed in fractured bedrock or “Karst” formations. Any one of the above-specified conditions shall constitute an environmentally sensitive site under this rule.

A site shall be classified as environmentally sensitive when:

- Fifty percent or more of the soils from a boring or a monitoring well are logged and classified as one or more of the areas noted in paragraphs “1” through “7” and 50 percent of the total wells located on or immediately next to the property show the same or similar conditions. If no testing of the site has occurred and the soil condition as classified under the unified soil classification system in or under the tank zone is one of the conditions as classified, the site shall be considered to be environmentally sensitive. Reports previously prepared on the site and available from DNR may be used to make the soil classification. At least three borings/wells must have been completed. If fewer than three have been completed, an additional well which triangulates the tank zone shall be completed to determine the types of soils present.

b. On sites where monitoring-in-place has not been approved by the department, overexcavation may be approved to a maximum of the actual tank zone, plus six lineal feet out from the tank zone, and two feet below the tank itself, unless normal groundwater heights are above that level, and may be approved to a maximum of two feet deep below the line and three feet total width along the tank line.

11.6(4) If overexcavation occurs prior to completion of the site cleanup report (SCR), the SCR shall no longer be eligible for 100 percent reimbursement up to \$20,000 if approval of costs associated with the overexcavation and the scope of the work is not first approved by the board or the administrator. In such situations, the cost of the SCR will be paid as a remediation expense and subject to deductibles and copayments should approval not be obtained prior to proceeding.

11.6(5) Preapproval is required for overexcavation of any site, whether as a part of a remediation project or a tank upgrade or replacement, if the distances exceed board-authorized ranges set forth in subrule 11.6(3).

11.6(6) Rescinded IAB 3/26/97, effective 4/30/97.

**591—11.7(455G) Prioritization of remedial account benefits and expenses.** Rescinded IAB 1/17/96, effective 12/29/95.

**591—11.8(455G) Payments for conducting RBCA analysis on “monitor only” sites.**

11.8(1) When reviewing applications for benefits for the cost of completing an RBCA analysis on a site which has an approved SCR requiring “monitoring only,” or on a site with an SCR submitted between August 15, 1996, and January 31, 1997, the criteria in this rule shall apply when determining payment eligibility.

11.8(2) Tier 1, Tier 2, and Tier 3 risk-based corrective action analysis must have budgets preapproved by the board or its administrator prior to any costs being incurred.

11.8(3) Benefits shall be limited to those costs associated with activities which are required to be completed in order for a Tier 1, Tier 2, or Tier 3 to be accepted by the department and which will determine the risk associated with the site.

11.8(4) Only sites which are currently eligible for benefits under this chapter are eligible for reimbursement of costs associated with activities under this rule.

11.8(5) One hundred percent of the costs may be preapproved not to exceed \$10,000 for all activities associated with the completion of the Tier 1, Tier 2, or Tier 3 analysis. Costs which exceed \$10,000 will be subject to the limitations of Iowa Code section 455G.9(1) “f.”

These rules are intended to implement Iowa Code section 455B.474 and chapter 455G.

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CHAPTER 131  
EMERGENCY MEDICAL SERVICES  
PROVIDER EDUCATION/TRAINING/CERTIFICATION

**641—131.1(147A) Definitions.** For the purpose of these rules, the following definitions shall apply:  
“*ACLS*” or “*advanced cardiac life support*” means training and successful course completion in advanced cardiac life support according to American Heart Association standards.

“*AED*” means automated external defibrillator.

“*Automated defibrillator*” means any external semiautomated device that determines whether defibrillation is required.

“*Basic care*” means treatment interventions, appropriate to certification level, that provide minimum care to the patient including, but not limited to, CPR, bandaging, splinting, oxygen administration, spinal immobilization, oral airway insertion and suctioning, antishock garment, vital sign assessment and administration of over-the-counter drugs.

“*CEH*” means “continuing education hour” which is based upon a minimum of 50 minutes of training per hour.

“*Certification period*” means the length of time an EMS provider certificate is valid. The certification period shall be for two years from initial issuance, or renewal, unless specified otherwise on the certificate or unless sooner suspended or revoked.

“*Certification status*” means a condition placed on an individual certificate for identification as active, deceased, denied, dropped, endorsement, expired, failed, hold, idle, inactive, incomplete, pending, probation, retired, revoked, surrendered, suspended, or temporary.

“*Continuing education*” means training approved by the department which is obtained by a certified emergency medical care provider to maintain, improve, or expand relevant skills and knowledge and to satisfy renewal of certification requirements.

“*Course completion date*” means the date of the final classroom session of an emergency medical care provider course.

“*Course coordinator*” means an individual who has been assigned by the training program to coordinate the activities of an emergency medical care provider course.

“*CPR*” means training and successful course completion in cardiopulmonary resuscitation and obstructed airway procedures according to recognized national standards. This includes one rescuer, two rescuer, and child/infant cardiopulmonary resuscitation and adult and child/infant obstructed airway procedures.

“*Critical care paramedic*” means a currently certified paramedic specialist who has successfully completed a critical care course of instruction approved by the department and has received endorsement from the department as a critical care paramedic.

“*Current course completion card*” means written recognition given for training and successful course completion of CPR or ACLS with an expiration date or a recommended renewal date that exceeds the current date.

“*Department*” means the Iowa department of public health.

“*Director*” means the director of the Iowa department of public health.

“*DOT*” means the United States Department of Transportation.

“*Emergency medical care*” means such medical procedures as:

1. Administration of intravenous solutions.
2. Intubation.
3. Performance of cardiac defibrillation and synchronized cardioversion.
4. Administration of emergency drugs as provided by rule by the department.
5. Any other medical procedure approved by the department, by rule, as appropriate to be performed by emergency medical care providers who have been trained in that procedure.

*“Emergency medical care personnel”* or *“provider”* means an individual who has been trained to provide emergency and nonemergency medical care at the first-responder, EMT-basic, EMT-intermediate, EMT-paramedic level or other certification levels adopted by rule by the department and who has been issued a certificate by the department.

*“Emergency medical technician-ambulance (EMT-A)”* means an individual who has successfully completed, as a minimum, the 1984 United States Department of Transportation’s Emergency Medical Technician-Ambulance curriculum, passed the department’s approved written and practical examinations, and is currently certified by the department as an EMT-A.

*“Emergency medical technician-basic (EMT-B)”* means an individual who has successfully completed the current United States Department of Transportation’s Emergency Medical Technician-Basic curriculum and department enhancements, passed the department’s approved written and practical examinations, and is currently certified by the department as an EMT-B.

*“Emergency medical technician-defibrillation (EMT-D)”* means an individual who has successfully completed an approved program which specifically addresses manual or automated defibrillation, passed the department’s approved written and practical examinations, and is currently certified by the department as an EMT-D.

*“Emergency medical technician-intermediate (EMT-I)”* means an individual who has successfully completed an EMT-intermediate curriculum approved by the department, passed the department’s approved written and practical examinations, and is currently certified by the department as an EMT-I.

*“Emergency medical technician-paramedic (EMT-P)”* means an individual who has successfully completed the current United States Department of Transportation’s EMT-Intermediate curriculum or the 1984 DOT EMT-P curriculum, passed the department’s approved written and practical examinations, and is currently certified by the department as an EMT-P.

*“Emergency rescue technician (ERT)”* means an individual trained in various rescue techniques including, but not limited to, extrication from vehicles and agricultural rescue, and who has successfully completed a curriculum approved by the department in cooperation with the Iowa Fire Service Institute.

*“EMS”* means emergency medical services.

*“EMS advisory council”* means a council appointed by the director, pursuant to Iowa Code chapter 147A, to advise the director and develop policy recommendations concerning regulation, administration, and coordination of emergency medical services in the state.

*“EMS instructor (EMS-I)”* means an individual who has successfully completed an EMS instructor curriculum approved by the department and is currently certified by the department as an EMS-I.

*“First responder (FR)”* means an individual who has successfully completed the current United States Department of Transportation’s first responder curriculum and department enhancements, passed the department’s approved written and practical examinations, and is currently certified by the department as an FR.

*“First responder-defibrillation (FR-D)”* means an individual who has successfully completed an approved program that specifically addresses defibrillation, passed the department’s approved written and practical examinations, and is currently certified by the department as an FR-D.

*“Hospital”* means any hospital licensed under the provisions of Iowa Code chapter 135B.

*“ILEECP”* means Iowa law enforcement emergency care provider.

*“Intermediate”* means an emergency medical technician-intermediate.

*“NCA”* means North Central Association of Colleges and Schools.

*“Outreach course coordinator”* means an individual who has been assigned by the training program to coordinate the activities of an emergency medical care provider course held outside the training program facilities.

*“PAD provider”* means an individual who has successfully completed the department’s PAD provider curriculum, passed the department’s approved written and practical examinations, and is currently certified by the department as a PAD provider.

*"Paramedic (EMT-P)"* means an emergency medical technician-paramedic.

*"Paramedic specialist (PS)"* means an individual who has successfully completed the current United States Department of Transportation's EMT-Paramedic curriculum or equivalent, passed the department's approved written and practical examinations, and is currently certified by the department as a paramedic specialist.

*"Patient"* means an individual who is sick, injured, or otherwise incapacitated.

*"Physician"* means an individual licensed under Iowa Code chapter 148, 150, or 150A.

*"Physician assistant (PA)"* means an individual licensed pursuant to Iowa Code chapter 148C.

*"Physician designee"* means a registered nurse licensed under Iowa Code chapter 152, or a physician's assistant licensed under Iowa Code chapter 148C and approved by the board of physician's assistant examiners, who holds a current course completion card in ACLS. The physician designee may act as an intermediary for a supervising physician in directing the actions of emergency medical care personnel in accordance with written policies and protocols.

*"Preceptor"* means an individual who has been assigned by the training program, clinical facility or service program to supervise students while the students are completing their clinical or field experience. A preceptor must be an emergency medical care provider certified at the level at which the preceptor is providing supervision or higher, or must be licensed as a registered nurse, physician's assistant or physician.

*"Primary instructor"* means an individual who is responsible for teaching the majority of an emergency medical care provider course.

*"Protocols"* means written directions and orders established and approved by the service program's medical director that address the procedures to be followed by emergency medical care providers in emergency and nonemergency situations.

*"Public access defibrillation (PAD)"* means the operation of an automated external defibrillator by a nontraditional provider of emergency medical care.

*"Registered nurse (RN)"* means an individual licensed pursuant to Iowa Code chapter 152.

*"Service program"* or *"service"* means any emergency medical care ambulance service, or non-transport service that has received authorization by the department.

*"Service program area"* means the geographic area of responsibility served by any given ambulance or nontransport service program.

*"Specialty certification"* means a nonmedical certification in an area related to emergency medical care including, but not limited to, emergency rescue technician and emergency medical services-instructor.

*"Student"* means any individual enrolled in a training program and participating in the didactic, clinical, or field experience portions.

*"Training program"* means an NCA-approved Iowa college, the Iowa law enforcement academy or an Iowa hospital approved by the department to conduct emergency medical care training.

*"Training program director"* means an appropriate health care professional (full-time educator or practitioner of emergency or critical care) assigned by the training program to direct the operation of the training program.

*"Training program medical director"* means a physician licensed under Iowa Code chapter 148, 150, or 150A who is responsible for directing an emergency medical care training program.

**641—131.2(147A) Emergency medical care providers—requirements for enrollment in training programs.** To be enrolled in an EMS training program course leading to certification by the department, an applicant shall:

1. Be at least 17 years of age at the time of enrollment.
2. Have a high school diploma or its equivalent if enrolling in an EMT-I, EMT-P, or paramedic specialist course.
3. Be able to speak, write and read English.
4. Hold a current course completion card in CPR if enrolling in an EMT-B, EMT-I, EMT-P, or paramedic specialist course.
5. Be currently certified, as a minimum, as an EMT-B, if enrolling in an EMT-I, EMT-P, or paramedic specialist course.
6. Be a current EMS provider, RN, PA, or physician and submit a recommendation in writing from an approved EMS training program if enrolling in an EMS instructor course.

**641—131.3(147A) Emergency medical care providers—certification, renewal standards, procedures, continuing education, and fees.**

**131.3(1) Application and examination.**

a. Applicants shall complete an EMS Student Registration form at the beginning of the course. EMS Student Registration forms are provided by the department.

b. EMS Student Registration forms shall be forwarded to the department by the training program no later than two weeks after the beginning of the course. Courses that are completed within two weeks are exempt from this requirement.

c. Upon satisfactory completion of the course and all training program requirements, including payment of appropriate fees, the student shall be recommended by the training program to take the state-approved certification examinations. Candidates recommended for state certification are not eligible to continue functioning as a student in the clinical and field setting. State certification must be obtained to perform appropriate skills.

d. The practical examination shall be administered using the standards and forms provided by the department. The training program shall notify the department at least four weeks prior to the administration of a practical examination.

e. To be eligible to take the written examination, the student shall first pass the practical examination.

f. Students eligible to take the state written examination shall submit an EMS Certification Application form to the department. EMS Certification Application forms are provided by the department.

g. When a student's EMS Student Registration or EMS Certification Application is referred to the department for investigation, the student shall not be eligible for clinical or field experience, or certification testing until approved by the department.

h. The certifying written examinations shall be administered at times and places determined by the department.

i. No oral certification examinations shall be permitted; however, candidates may be eligible for appropriate accommodations. Contact the Iowa Department of Public Health, Bureau of Emergency Medical Services, Lucas State Office Building, Des Moines, Iowa 50319-0075.

j. Practical examination fees shall be determined by the training program.

k. The fee for processing each FR, EMT-B, EMT-I, EMT-P, and paramedic specialist written examination is \$20, payable to the Iowa Department of Public Health.

*l.* A student who fails the practical certification examination shall be required to repeat only those stations that were failed and shall have two additional opportunities to attain a passing score. The student may repeat the failed examination stations on the same day as determined by the training program. If a student fails the written examination, the practical examination remains valid for a 12-month period from the date it was successfully completed. Required passing practical scores for FR, EMT-B, EMT-I, EMT-P, or paramedic specialist shall be based on criteria established by the department.

*m.* A student who fails to attain the appropriate overall score on the written certification examination shall have two additional opportunities to complete the entire examination and attain a passing score. Required passing written scores for FR, EMT-B, EMT-I, EMT-P, or paramedic specialist shall be based on criteria established by the department.

*n.* A student who fails to pass the written certification examination on the third attempt and who wishes to pursue certification must submit, at a minimum, written verification from an approved training program of successful completion of an appropriate refresher course or equivalent. Students failing the examination on six attempts must repeat the entire EMT training program to be eligible for certification.

*o.* All examination attempts shall be completed within one year of the initial course completion date. If an individual is unable to complete the testing within one year due to medical reasons, an extension may be granted upon submission of a signed statement from a physician and approval by the department.

*p.* Examination scores shall be confidential except that they may be released to the training program that provided the training or other appropriate state agencies, or released in a manner which does not permit the identification of an individual.

*q.* To be eligible to take the practical examination, FR candidates shall have a current course completion card in CPR.

*r.* Applicants for EMS-I certification shall successfully complete an EMS-Instructor curriculum approved by the department.

*s.* Applicants for ERT certification shall successfully complete an ERT curriculum approved by the department in cooperation with the Iowa Fire Service Institute.

*t.* Individuals seeking certification as a public access defibrillation provider shall:

(1) Be an employee or associate of the public or private business agency applying for PAD service program authorization.

(2) Obtain appropriate training approved by the department. PAD provider training shall include as a minimum:

1. Successful course completion in adult CPR, including one rescuer CPR, foreign body airway obstruction, rescue breathing, recovery position, and activating the EMS system.

2. Successful completion of an AED course curriculum approved by the department.

*u.* Law enforcement personnel seeking certification as a public access defibrillation provider shall meet criteria established in 641—139.6(147A).

*v.* Payment of all appropriate certification/examination fees shall be made prior to receiving certification.

**131.3(2) Multiple certificates and renewal.**

a. With the exception of specialty certifications, the department shall consider the highest level of certification attained to be active. Any lower levels of certification shall be considered idle.

b. A lower level certificate may be issued if the individual fails to renew the higher level of certification or voluntarily chooses to move from a higher level to a lower level. To be issued a certificate in these instances, an individual shall:

(1) Complete all applicable continuing education requirements for the lower level during the certification period and submit a written request for the lower level.

(2) Complete and submit to the department an EMS Affirmative Renewal of Certification Application and the applicable fee.

(3) Complete the reinstatement process in 131.3(3) "e" if renewal of the higher level is later requested.

c. A citation and warning, denial, probation, suspension or revocation imposed upon an individual certificate holder by the department shall be considered applicable to all certificates issued to that individual by the department.

**131.3(3) Renewal of certification.**

a. A certificate shall be valid for two years from issuance unless specified otherwise on the certificate or unless sooner suspended or revoked.

b. All continuing education requirements shall be completed during the certification period prior to the certificate's expiration date. Failure to complete the continuing education requirements prior to the expiration date shall result in an expired certification.

c. The EMS Affirmative Renewal of Certification Application shall be submitted to the department within 90 days prior to the expiration date. Failure to submit a renewal application to the department within 90 days prior to the expiration date (based upon the postmark date) shall cause the current certification to expire. Emergency medical care providers shall not provide emergency medical services on an expired certification.

d. An individual who completes the required continuing education during the certification period, but fails to submit the EMS Affirmative Renewal of Certification Application within 90 days prior to the expiration date, shall be required to submit a late fee of \$30 (in addition to the renewal fee) and complete the audit process pursuant to 131.3(4) "j" to obtain renewal of certification.

e. An individual who has not completed the required continuing education during the certification period or who is seeking to reinstate an expired, inactive, or retired certificate shall:

(1) Complete a refresher course or equivalent approved by the department.

(2) Meet all applicable eligibility requirements.

(3) Submit an EMS Reinstatement Application and the applicable fees to the department.

(4) Pass the appropriate practical and written certification examinations.

f. If an individual is unable to complete the required continuing education during the certification period due to an illness or injury, an extension of certification may be issued upon submission of a signed statement from a physician and approval by the department.

g. An individual may request an inactive or retired status for a certificate. The request must be made to the department in writing. A certification card may be issued to the individual reflecting the inactive or retired status for a fee of \$30. Reinstatement of an inactive or retired certificate shall be made pursuant to 131.3(3) "e." A request for inactive or retired status, when accepted in connection with a disciplinary investigation or proceeding, has the same effect as an order of revocation.



*h.* Upon verification of a previously active EMS provider certification by the department, a portion of the reinstatement requirements pursuant to 131.3(3)“e” may be waived by the department for individuals previously certified who have let their certifications expire. This amnesty reinstatement paragraph shall expire December 31, 2000. The following guidelines for amnesty reinstatement shall apply:

(1) Applications for reinstatement, available from the department, shall be received by the department on or before December 31, 2000.

(2) Reinstatement requirements shall be completed within one year of an approved reinstatement application.

(3) Approved applicants shall successfully complete one of the following appropriate refreshers, approved by the department, including psychomotor and cognitive evaluation:

1. First responder—14 hours.
2. EMT-B—24 hours.
3. EMT-I—48 hours.
4. EMT-P—60 hours.

(4) Pay a reinstatement fee of \$30.

(5) A current course completion card in CPR, prior to refresher enrollment, is required of all applicants, and EMT-P candidates shall obtain a current course completion card in ACLS prior to certification.

(6) Upon successful completion of the appropriate refresher and requirements, candidates are eligible to apply for state certification without complying with 131.3(3)“e”(4).

**131.3(4) Continuing education renewal standards.** To be eligible for renewal through continuing education, the following standards shall apply:

*a.* The applicant shall sign and submit an Affirmative Renewal of Certification Application provided by the department, and submit the applicable fee within 90 days prior to the certificate’s expiration date.

*b.* The applicant shall complete the continuing education requirements, including current course completion in CPR, during the certification period for the following EMS provider levels:

- (1) FR, FR-D—12 hours of approved continuing education.
- (2) EMT-A, EMT-B, EMT-D—24 hours of approved continuing education.
- (3) EMT-I—36 hours of approved continuing education.
- (4) EMT-P—48 hours of approved continuing education.
- (5) Paramedic specialist—60 hours of approved continuing education.
- (6) EMS-I—Attend at least one EMS-I workshop sponsored by the department.
- (7) ERT—It is recommended that at least one hour in each of the following topic areas be completed:

1. Agricultural/industrial rescue.
2. Rescue equipment/techniques.
3. Special hazards.
4. Vehicle rescue.

*c.* At least 50 percent of the required hours for renewal shall be formal continuing education including, but not limited to, refresher programs, seminars, lecture programs, and conferences. The content shall be based upon the appropriate department curricula for EMS providers and shall include, as a minimum, topics within three or more of the following core curriculum areas:

- (1) Airway.
- (2) Patient assessment.
- (3) Trauma/medical/behavioral emergencies.
- (4) Obstetrics/gynecology.
- (5) Infants and children.
- (6) Patient care record documentation.

d. All EMS providers seeking renewal shall complete, as a minimum, the trauma continuing education requirements pursuant to Iowa Administrative Code 641—Chapter 137.

e. Up to 50 percent of the required continuing education hours may be made up of any of the following:

- (1) Nationally recognized courses, e.g., ACLS;
- (2) EMS self-study courses;
- (3) Medical director or designee case reviews;
- (4) Clinical rounds with medical team (grand rounds);
- (5) Teaching EMS courses, initial or continuing education;
- (6) Working with students as an EMS field preceptor;
- (7) Hospital or nursing home clinical performance;
- (8) Skills workshops/maintenance (scenario based);
- (9) Community public information education projects;
- (10) Emergency driver training;
- (11) EMS course audits;
- (12) Injury prevention initiatives;
- (13) EMS service operations, e.g., management programs, continuous quality improvement;
- (14) EMS system development meetings to include county, regional and state;
- (15) Emergency runs/responses as a volunteer member of an authorized EMS service program (primary attendant).

f. Additional hours may be allowed for any of the following (maximum):

- (1) CPR—2 hours;
- (2) Disaster drill—4 hours;
- (3) Rescue—4 hours;
- (4) Hazardous materials—8 hours;
- (5) Practical exam evaluator—4 hours;
- (6) Topics outside the provider's core curriculum—8 hours.

g. With training program approval, persons who are not enrolled in an emergency medical care provider course may audit those courses for CEHs.

h. Certificate holders must notify the department of a change in address.

i. The certificate holder shall maintain a file containing documentation of continuing education hours accrued during each certification period for four years from the end of each certification period.

j. A group of individual certificate holders will be audited for each certification period and will be required to submit verification of continuing education compliance within 45 days of the request. If audited, the following information must be provided: date of program, program sponsor number, title of program, number of hours approved, and appropriate supervisor signatures if clinical or practical evaluator hours are claimed. Certificate holders audited will be chosen in a random manner or at the discretion of the bureau of EMS. Falsifying reports or failure to comply with the audit request may result in formal disciplinary action.

**131.3(5) *Renewal by testing.*** To be eligible for renewal by testing, candidates shall meet the following standards:

a. Submit a request to renew by testing to the department six months prior to the certificate's expiration date. Any testing fees will be in addition to renewal fees.

b. Complete a Renewal by Testing Application provided by the department and schedule a test date with an EMS training program.

c. Successfully complete the practical and written examinations.

d. Candidates who are unsuccessful by testing may renew under the continuing education standards in subrule 131.3(4); however, renewal must be completed prior to the certificate's expiration date.

e. Candidates who are unsuccessful by testing or who do not complete the continuing education requirements prior to the expiration date shall reinstate an expired certificate pursuant to 131.3(3) "e" if active certification is sought.

**131.3(6) Continuing education approval.** The following standards shall be applied when approving continuing education:

a. Required CEHs identified in 131.3(4) "c" and 131.3(4) "d" shall be approved by an authorized EMS training program or the department using a sponsor number assignment system approved by the department.

b. Optional CEHs identified in 131.3(4) "e" and 131.3(4) "f" require no formal sponsor number; however, CEHs awarded shall be verified by an authorized EMS training program, a national EMS continuing education accreditation entity, service program medical director, appropriate community sponsor, or the department. Documentation of CEHs awarded shall include program or event, date and title, number of hours approved, and applicable signatures.

**131.3(7) Out-of-state continuing education.** Out-of-state continuing education courses will be accepted for CEHs if they meet the criteria in subrule 131.3(4) and have been approved for emergency medical care personnel in the state in which the courses were held. A copy of course completion certificates (or other verifying documentation) shall, upon request, be submitted to the department with the EMS Affirmative Renewal of Certification Application.

**131.3(8) Fees.** The following fees shall be collected by the department and shall be nonrefundable:

a. FR, EMT-B, EMT-I, EMT-P, and paramedic specialist written examination/certification fee—\$20.

b. Renewal of EMT-I, EMT-P, and paramedic specialist certification(s) fee—\$10.

c. Endorsement certification fee—\$30.

d. Reinstatement fee—\$30.

e. Late fee—\$30.

f. Inactive or retired certificate—\$30.

g. Duplicate/replacement card—\$10.

h. Returned check—\$20.

**131.3(9) Certification through endorsement.** An individual currently certified by another state or registrant of the National Registry of EMTs must also possess a current Iowa certificate to be considered certified in this state. The department shall contact the state of certification or the National Registry of EMTs to verify certification or registry and good standing. To receive Iowa certification, the individual shall:

a. Complete and submit the EMS Endorsement Application available from the department.

b. Provide verification of current certification in another state or registration with the National Registry of EMTs.

c. Provide verification of current course completion in CPR. Applicants for EMT-P or paramedic specialist endorsement shall also provide verification of current course completion in ACLS.

d. Pass the appropriate Iowa practical and written certification examinations in accordance with subrule 131.3(1) within one year of the department's approval of the endorsement candidate's application. Current National Registry endorsement candidates are exempt from testing.

e. Meet all other applicable eligibility requirements necessary for Iowa certification pursuant to these rules.

f. Submit all applicable fees to the department.

g. An individual certified through endorsement shall satisfy the renewal and continuing education requirements set forth in subrule 131.3(3) to renew Iowa certification.

**131.3(10) Temporary certification through endorsement.** Upon written request, the endorsement applicant may be issued a temporary FR or EMT-B certification by the department. Justification for issuance of the temporary certification must accompany the request. Temporary certification shall not exceed six months per application.

**641—131.4(147A) Training programs—standards, application, inspection and approval.**

**131.4(1) Curricula.**

a. The training program shall use the following course curricula approved by the department for certification. The department shall determine course length.

- (1) EMS provider curricula:
  1. PAD—Iowa curriculum.
  2. ILEECP—Iowa curriculum.
  3. First responder—DOT FR curriculum plus department enhancements.
  4. EMT-B—DOT EMT-B curriculum plus department enhancements.
  5. EMT-I—Iowa curriculum.
  6. EMT-P—DOT EMT-I curriculum.
  7. Paramedic specialist—DOT EMT-P curriculum.

(2) Specialty curricula:

1. EMS-I—DOT curriculum plus department enhancements.
2. ERT—Iowa curriculum.

Curriculum enhancements are available from the Iowa Department of Public Health, Bureau of EMS, Lucas State Office Building, Des Moines, Iowa 50319-0075.

b. The training program may waive portions of the required EMS provider training for individuals certified or licensed in other health care professions, including, but not limited to, nursing, physician assistant, respiratory therapist, dentistry, and military. The training program shall document equivalent training and what portions of the course have been waived for equivalency.

**131.4(2) Clinical or field experience resources.** If clinical or field experience resources are located outside the framework of the training program, written agreements for such resources shall be obtained by the training program.

**131.4(3) Facilities.**

a. There shall be adequate classroom, laboratory, and practice space to conduct the training program. A library with reference materials on emergency and critical care shall also be available.

b. Opportunities for the student to accomplish the appropriate skill competencies in the clinical environment shall be ensured. The following hospital units shall be available for clinical experience for each training program as required in approved curricula pursuant to subrule 131.4(1):

- (1) Emergency department;
- (2) Intensive care unit or coronary care unit or both;
- (3) Operating room and recovery room;
- (4) Intravenous or phlebotomy team, or other method to obtain IV experience;
- (5) Pediatric unit;
- (6) Labor and delivery suite, and newborn nursery; and
- (7) Psychiatric unit.

c. Opportunities for the student to accomplish the appropriate skill competencies in the field environment shall be ensured. The training program shall use an appropriate emergency medical care service program to provide field experience as required in approved curricula pursuant to subrule 131.4(1).

d. The training program shall have liability insurance and shall offer liability insurance to students while they are enrolled in a training program.

**131.4(4) Staff.**

a. The training program medical director shall be a physician licensed under Iowa Code chapter 148, 150, or 150A. It is recommended that the training program medical director complete a medical director workshop sponsored by the department.

b. A training program director shall be appointed who is an appropriate health care professional. This individual shall be a full-time educator or a practitioner in emergency or critical care. Current EMS instructor certification is also recommended, but not mandatory.

c. Course coordinators, outreach course coordinators, and primary instructor(s) used by the training program shall be currently certified as EMS instructors.

d. The instructional staff shall be comprised of physicians, nurses, pharmacists, emergency medical care personnel, or other health care professionals who have appropriate education and experience in emergency and critical care. Current EMS instructor certification is also recommended, but not mandatory.

e. Preceptors shall be assigned in each of the clinical units in which emergency medical care students are obtaining clinical experience and field experience. The preceptors shall supervise student activities to ensure the quality and relevance of the experience. Student activity records shall be kept and reviewed by the immediate supervisor(s) and by the program director and course coordinator.

f. If a training program's medical director resigns, the training program director shall report this to the department and provide a curriculum vitae for the medical director's replacement. A new course shall not be started until a qualified medical director has been appointed.

g. The training program shall maintain records for each instructor used which include, as a minimum, the instructor's qualifications.

h. The training program is responsible for ensuring that each course instructor is experienced in the area being taught and adheres to the course curricula.

i. The training program shall ensure that each practical examination evaluator and mock patient is familiar with the practical examination requirements and procedures. Practical examination evaluators shall attend a workshop sponsored by the department.

**131.4(5) Advisory committee.** There shall be an advisory committee, which includes training program representatives, and other groups such as affiliated medical facilities, local medical establishments, and ambulance, rescue and first response service programs.

**131.4(6) Student records.** The training program shall maintain an individual record for each student. Training program policy and department requirements will determine contents. These requirements may include:

a. Application;

b. Current certifications;

c. Student record or transcript of hours and performance (including examinations) in classroom, clinical, and field experience settings.

**131.4(7) Selection of students.** There may be a selection committee to select students using, as a minimum, the prerequisites outlined in rule 131.2(147A).

**131.4(8) Students.**

a. Students may perform any procedures and skills at the emergency medical care provider level trained, if they are under the direct supervision of a physician or physician designee, or under the remote supervision of a physician or physician designee, with direct field supervision by an appropriately certified emergency medical care provider.

b. Students shall not be substituted for personnel of any affiliated medical facility or service program, but may be employed while enrolled in the training program.

**131.4(9) *Financing and administration.***

- a. There shall be sufficient funding available to the training program to ensure that each class started can be completed.
- b. Tuition charged to students shall be accurately stated.
- c. Advertising for training programs shall be appropriate.
- d. The training program shall provide to each student, within two weeks of the course starting date, a guide that outlines as a minimum:
  - (1) Course objectives.
  - (2) Required hours for completion.
  - (3) Minimum acceptable scores on interim testing.
  - (4) Attendance requirements.
  - (5) Grievance procedure.
  - (6) Disciplinary actions that may be invoked, the grounds for such action, and the process provided.

**131.4(10) *Training program application, inspection and approval.***

- a. An applicant seeking initial or renewal training program approval shall use the EMS Training Program Application provided by the department. The application shall include, as a minimum:
  - (1) Appropriate officials of the applicant;
  - (2) Evidence of availability of clinical resources;
  - (3) Evidence of availability of physical facilities;
  - (4) Evidence of qualified faculty;
  - (5) Qualifications and major responsibilities of each faculty member;
  - (6) Policies used for selection, promotion, and graduation of trainees;
  - (7) Practices followed in safeguarding the health and well-being of trainees, and patients receiving emergency medical care within the scope of the training program; and
  - (8) Level(s) of EMS certification to be offered.
- b. New training programs shall submit a needs assessment which justifies the need for the training program.
- c. Applications shall be reviewed in accordance with the current Essentials and Guidelines of an Accredited Educational Program for the Emergency Medical Technician-Paramedic, published by the Commission on Accreditation and Allied Health Education Programs.
- d. An on-site inspection of the applicant's facilities and clinical resources will be performed. The purpose of the inspection is to examine educational objectives, patient care practices, and facilities and administrative practices, and to prepare a written report for review and action by the department.
- e. No person shall interfere with the inspection activities of the department or its agents. Interference with or failure to allow an inspection may be cause for disciplinary action regarding training program approval.
- f. Representatives of the applicant may be required by the department to meet with the department at the time the application and inspection report are discussed.
- g. A written report of department action accompanied by the department inspection reports shall be sent to the applicant.
- h. Training program approval shall not exceed five years.
- i. The training program shall notify the department, in writing, of any change in ownership or control within 30 days.
- j. Out-of-state training entities wishing to conduct initial EMS training courses in Iowa shall apply for training program approval pursuant to 641—131.4(147A).

**641—131.5(147A) Continuing education providers—approval, record keeping and inspection.**

**131.5(1)** Continuing education courses for emergency medical care personnel may be approved by the department, EMS training program or a national EMS continuing education accreditation entity.

**131.5(2)** A training program may conduct continuing education courses (utilizing appropriate instructors) pursuant to subrule 131.3(4).

*a.* Each training program shall assign a sponsor number to each appropriate continuing education course using an assignment system approved by the department.

*b.* Course approval shall be made prior to the course's being offered.

*c.* Each training program shall maintain a participant record that includes, as a minimum:

Name	Address
Certification number	Social security number
Course sponsor number	Course instructor
Date of course	CEHs awarded

*d.* Each training program shall submit to the department a completed Approved EMS Continuing Education form on a quarterly basis.

**131.5(3)** Record keeping and record inspection.

*a.* The department may request additional information or inspect the records of any continuing education provider who is currently approved or who is seeking approval to ensure compliance or to verify the validity of any training program application.

*b.* No person shall interfere with the inspection activities of the department or its agents. Interference with or failure to allow an inspection may be cause for disciplinary action regarding training program approval.

**641—131.6(147A) Complaints and investigations—denial, citation and warning, probation, suspension, or revocation of emergency medical care personnel certificates or renewal.**

**131.6(1)** This rule is not subject to waiver or variance pursuant to 641—Chapter 178 or any other provision of law.

**131.6(2)** The department may deny an application for issuance or renewal of an emergency medical care provider certificate, including specialty certifications, or place on probation, or issue a citation and warning, or suspend or revoke the certificate when it finds that the applicant or certificate holder has committed any of the following acts or offenses:

*a.* Negligence in performing emergency medical care.

*b.* Failure to follow the directions of supervising physicians or their designees.

*c.* Rendering treatment not authorized under Iowa Code chapter 147A.

*d.* Fraud in procuring certification or renewal.

*e.* Professional incompetency.

*f.* Knowingly making misleading, deceptive, untrue or fraudulent representations in the practice of a profession or engaging in unethical conduct or practice harmful or detrimental to the public. Proof of actual injury need not be established.

*g.* Habitual intoxication or addiction to drugs.

*h.* Falsification of medical records.

*i.* Fraud in representation as to skill, ability or certification.

*j.* Willful or repeated violations of Iowa Code chapter 147A or these rules.

*k.* Violating a statute of this state, another state, or the United States, without regard to its designation as either a felony or misdemeanor, which relates to the provision of emergency medical care. A certified copy of the record of conviction or plea of guilty is conclusive evidence of the violation.

*l.* Having certification to practice emergency medical care suspended or revoked, or having other disciplinary action taken by a licensing or certifying authority of another state, territory or country. A certified copy of the record or order of suspension, revocation or disciplinary action is conclusive or prima facie evidence.

*m.* Practicing the profession while certification is suspended.

*n.* Violating the disciplinary order or settlement agreement.

*o.* Falsifying certification renewal reports or failure to comply with the renewal audit request.

**641—131.7(147A) Complaints and investigations—denial, citation and warning, probation, suspension, or revocation of training program or continuing education provider approval or renewal.**

**131.7(1)** This rule is not subject to waiver or variance pursuant to 641—Chapter 178 or any other provision of law.

**131.7(2)** The department may deny an application for approval or renewal, or issue a citation and warning, or place on probation, or suspend or revoke the approval or renewal when it finds that the applicant has failed to meet the applicable provisions of these rules or has committed any of the following acts or offenses:

*a.* Fraud in procuring approval or renewal.

*b.* Falsification of training or continuing education records.

*c.* Suspension or revocation of approval to provide emergency medical care training or other disciplinary action taken pursuant to Iowa Code chapter 147A. A certified copy of the record or order of suspension, revocation or disciplinary action is conclusive or prima facie evidence.

**641—131.8(147A) Complaints, investigations and appeals.**

**131.8(1)** This rule is not subject to waiver or variance pursuant to 641—Chapter 178 or any other provision of law.

**131.8(2)** All complaints regarding emergency medical care personnel, training programs or continuing education providers, or those purporting to be or operating as the same, shall be reported to the department in writing. The address is Iowa Department of Public Health, Bureau of Emergency Medical Services, Lucas State Office Building, Des Moines, Iowa 50319-0075.

**131.8(3)** An emergency medical care provider who has knowledge of an emergency medical care provider or service program that has violated Iowa Code chapter 147A, 641—Chapter 132 or these rules shall report such information to the department.

**131.8(4)** Complaint investigations may result in the department's issuance of a notice of denial, citation and warning, probation, suspension or revocation.

**131.8(5)** A determination of mental incompetence by a court of competent jurisdiction automatically suspends a certificate for the duration of the certificate unless the department orders otherwise.

**131.8(6)** Notice of denial, issuance of a citation and warning, probation, suspension or revocation shall be effected in accordance with the requirements of Iowa Code section 17A.12. Notice to the alleged violator of denial, probation, suspension or revocation shall be served by certified mail, return receipt requested, or by personal service.

**131.8(7)** Any request for a hearing concerning the denial, citation and warning, probation, suspension or revocation shall be submitted by the aggrieved party in writing to the department by certified mail, return receipt requested, within 20 days of the receipt of the department's notice to take action. The address is Iowa Department of Public Health, Bureau of Emergency Medical Services, Lucas State Office Building, Des Moines, Iowa 50319-0075. If the request is made within the 20-day time period, the notice to take action shall be deemed to be suspended pending the hearing. Prior to or at the hearing, the department may rescind the notice upon satisfaction that the reason for the denial, citation and warning, probation, suspension or revocation has been or will be removed. If no request for a hearing is received within the 20-day time period, the department's notice of denial, citation and warning, probation, suspension or revocation shall become the department's final agency action.



**131.8(8)** Upon receipt of a request for hearing, the request shall be forwarded within five working days to the department of inspections and appeals pursuant to the rules adopted by that agency regarding the transmission of contested cases. The information upon which the adverse action is based and any additional information which may be provided by the aggrieved party shall also be provided to the department of inspections and appeals.

**131.8(9)** The hearing shall be conducted according to the procedural rules of the department of inspections and appeals found in 481—Chapter 10.

**131.8(10)** When the administrative law judge makes a proposed decision and order, it shall be served by certified mail, return receipt requested, or delivered by personal service. That proposed decision and order then becomes the department's final agency action without further proceedings ten days after it is received by the aggrieved party unless an appeal to the director is taken as provided in subrule 131.8(11).

**131.8(11)** Any appeal to the director for review of the proposed decision and order of the administrative law judge shall be filed in writing and mailed to the director by certified mail, return receipt requested, or delivered by personal service within ten days after the receipt of the administrative law judge's proposed decision and order by the aggrieved party. A copy of the appeal shall also be mailed to the administrative law judge. Any request for an appeal shall state the reason for appeal.

**131.8(12)** Upon receipt of an appeal request, the administrative law judge shall prepare the record of the hearing for submission to the director. The record shall include the following:

- a. All pleadings, motions, and rules.
- b. All evidence received or considered and all other submissions by recording or transcript.
- c. A statement of all matters officially noticed.
- d. All questions and offers of proof, objections and rulings on them.
- e. All proposed findings and exceptions.
- f. The proposed decision and order of the administrative law judge.

**131.8(13)** The decision and order of the director becomes the department's final agency action upon receipt by the aggrieved party and shall be delivered by certified mail, return receipt requested, or by personal service.

**131.8(14)** It is not necessary to file an application for a rehearing to exhaust administrative remedies when appealing to the director or the district court as provided in Iowa Code section 17A.19. The aggrieved party to the final agency action of the department who has exhausted all administrative remedies may petition for judicial review of that action pursuant to Iowa Code chapter 17A.

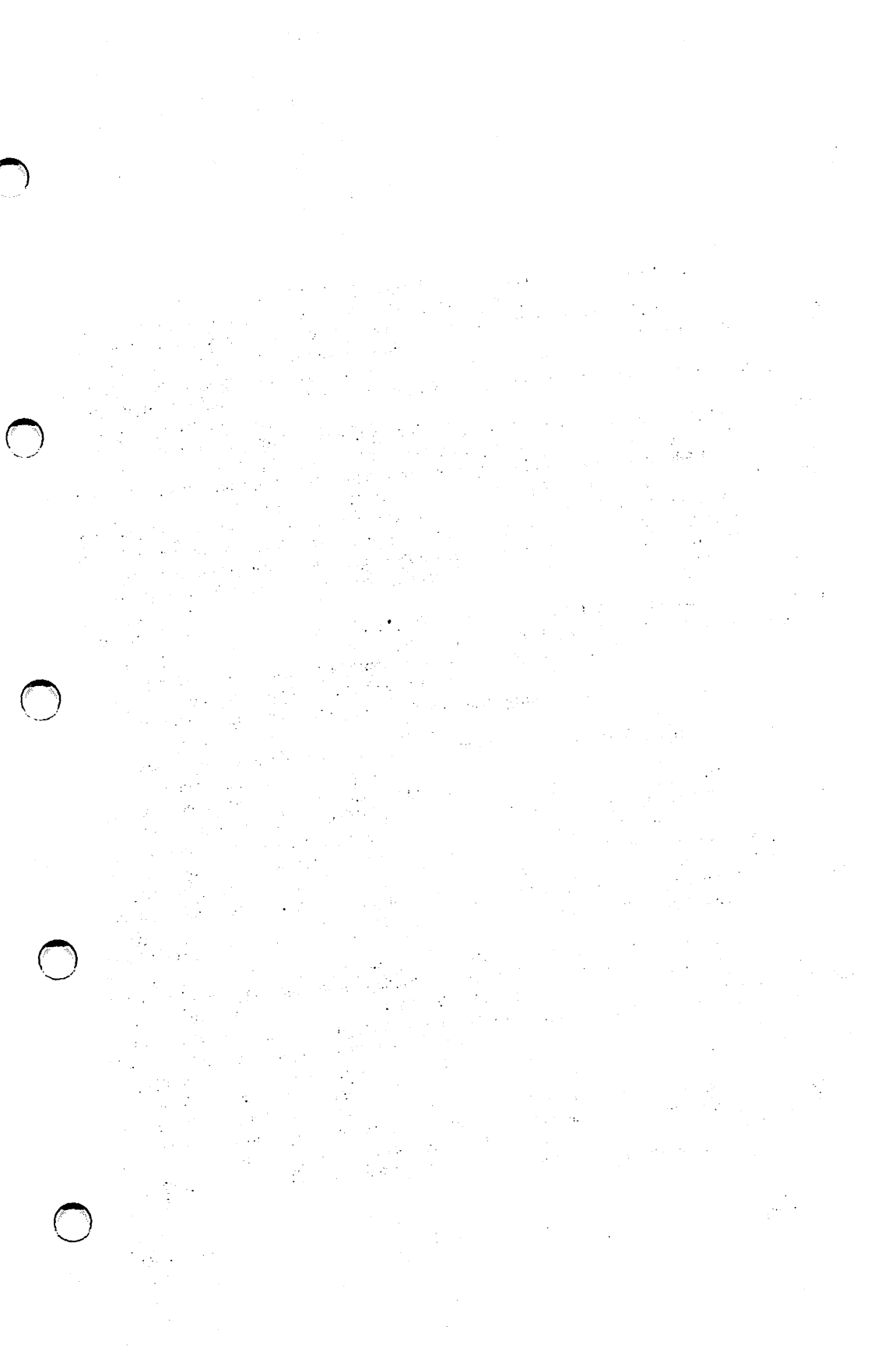
**131.8(15)** Any petition for judicial review of a decision and order shall be filed in the district court within 30 days after the decision and order becomes final. A copy of the notice of appeal shall be sent to the department by certified mail, return receipt requested, or by personal service. The address is Iowa Department of Public Health, Bureau of Emergency Medical Services, Lucas State Office Building, Des Moines, Iowa 50319-0075.

**131.8(16)** The party who appeals a final agency action to the district court shall pay the cost of the preparation of a transcript of the contested case hearing for the district court.

**131.8(17)** Final decisions of the department relating to disciplinary proceedings may be transmitted to the appropriate professional associations, the news media or employer.

These rules are intended to implement Iowa Code chapter 147A.

[Filed 1/20/00, Notice 12/1/99—published 2/9/00, effective 3/15/00]



CHAPTER 132  
EMERGENCY MEDICAL SERVICES—SERVICE PROGRAM AUTHORIZATION

[Joint Rules pursuant to 147A.4]  
[Prior to 7/29/87, Health Department[470] Ch 132]

**641—132.1(147A) Definitions.** For the purpose of these rules, the following definitions shall apply:  
“*ACLS*” or “*advanced cardiac life support*” means training and successful course completion in advanced cardiac life support according to American Heart Association standards.

“*AED*” means automated external defibrillator.

“*Air carrier*” or “*air taxi*” means any privately or publicly owned fixed-wing aircraft which may be specifically designed, modified, constructed, equipped, staffed and used regularly to transport the sick, injured or otherwise incapacitated who are in need of out-of-hospital emergency medical care or whose condition requires treatment or continuous observation while being transported.

“*Ambulance*” means any privately or publicly owned rotorcraft or ground vehicle specifically designed, modified, constructed, equipped, staffed and used regularly to transport the sick, injured or otherwise incapacitated who are in need of out-of-hospital emergency medical care or whose condition requires treatment or continuous observation while being transported.

“*Ambulance service*” means any privately or publicly owned service program which utilizes ambulances in order to provide patient transportation and emergency medical care at the scene of an emergency or while en route to a hospital or during transfer from one medical care facility to another or to a private home. An ambulance service may use first response or rescue vehicles (nontransport) to supplement ambulance vehicles.

“*Automated defibrillator*” means any external semiautomatic device that determines whether defibrillation is required.

“*Basic ambulance service*” means an ambulance service that provides patient treatment at the basic care level.

“*Basic care*” means treatment interventions, appropriate to certification level, that provide minimum care to the patient including, but not limited to, CPR, bandaging, splinting, oxygen administration, spinal immobilization, oral airway insertion and suctioning, antishock garment, vital sign assessment and administration of over-the-counter drugs.

“*CPR*” means training and successful course completion in cardiopulmonary resuscitation and obstructed airway procedures according to recognized national standards. This includes one rescuer, two rescuer, and child/infant cardiopulmonary resuscitation and adult and child/infant obstructed airway procedures.

“*Critical care paramedic*” means a currently certified paramedic specialist who has successfully completed a critical care course of instruction approved by the department and has received endorsement from the department as a critical care paramedic.

“*Current course completion card*” means written recognition given for training and successful course completion of CPR or ACLS with an expiration date or a recommended renewal date that exceeds the current date.

“*Department*” means the Iowa department of public health.

“*Director*” means the director of the Iowa department of public health.

“*Emergency medical care*” means such medical procedures as:

1. Administration of intravenous solutions.
2. Intubation.
3. Performance of cardiac defibrillation and synchronized cardioversion.
4. Administration of emergency drugs as provided by rule by the department.
5. Any other medical procedure approved by the department, by rule, as appropriate to be performed by emergency medical care providers who have been trained in that procedure.

*“Emergency medical care personnel”* or *“provider”* means an individual who has been trained to provide emergency and nonemergency medical care at the first-responder, EMT-basic, EMT-intermediate, EMT-paramedic level or other certification levels adopted by rule by the department and who has been issued a certificate by the department.

*“Emergency medical technician-ambulance (EMT-A)”* means an individual who has successfully completed, as a minimum, the 1984 United States Department of Transportation’s Emergency Medical Technician-Ambulance curriculum, passed the department’s approved written and practical examinations, and is currently certified by the department as an EMT-A.

*“Emergency medical technician-basic (EMT-B)”* means an individual who has successfully completed the current United States Department of Transportation’s Emergency Medical Technician-Basic curriculum and department enhancements, passed the department’s approved written and practical examinations, and is currently certified by the department as an EMT-B.

*“Emergency medical technician-defibrillation (EMT-D)”* means an individual who has successfully completed an approved program which specifically addresses manual or automated defibrillation, passed the department’s approved written and practical examinations, and is currently certified by the department as an EMT-D.

*“Emergency medical technician-intermediate (EMT-I)”* means an individual who has successfully completed an EMT-intermediate curriculum approved by the department, passed the department’s approved written and practical examinations, and is currently certified by the department as an EMT-I.

*“Emergency medical technician-paramedic (EMT-P)”* means an individual who has successfully completed the current United States Department of Transportation’s EMT-intermediate curriculum or the 1984 DOT EMT-P curriculum, passed the department’s approved written and practical examinations, and is currently certified by the department as an EMT-P.

*“Emergency medical transportation”* means the transportation, by ambulance, of sick, injured or otherwise incapacitated persons who require emergency medical care.

*“Emergency rescue technician (ERT)”* means an individual trained in various rescue techniques including, but not limited to, extrication from vehicles and agricultural rescue, and who has successfully completed a curriculum approved by the department in cooperation with the Iowa Fire Service Institute.

*“EMS”* means emergency medical services.

*“EMS advisory council”* means a council appointed by the director to advise the director and develop policy recommendations concerning regulation, administration, and coordination of emergency medical services in the state.

*“First responder (FR)”* means an individual who has successfully completed the current United States Department of Transportation’s First Responder curriculum and department enhancements, passed the department’s approved written and practical examinations, and is currently certified by the department as an FR.

*“First responder-defibrillation (FR-D)”* means an individual who has successfully completed an approved program which specifically addresses defibrillation, passed the department’s approved written and practical examinations, and is currently certified by the department as an FR-D.

*“First response vehicle”* means any privately or publicly owned vehicle which is used solely for the transportation of emergency medical care personnel and equipment to and from the scene of a medical or nonmedical emergency.

*“Hospital”* means any hospital licensed under the provisions of Iowa Code chapter 135B.

*“ILEECP”* means Iowa law enforcement emergency care provider.

*“Inclusion criteria”* means criteria determined by the department and adopted by reference to determine which patients are to be included in the Iowa EMS service program registry or the trauma registry.

*"Intermediate"* means an emergency medical technician-intermediate.

*"Medical direction"* means direction, advice, or orders provided by a medical director, supervising physician, or physician designee (in accordance with written parameters and protocols) to emergency medical care personnel.

*"Medical director"* means any physician licensed under Iowa Code chapter 148, 150, or 150A who shall be responsible for overall medical direction of the service program and who has completed a medical director workshop, sponsored by the department, within one year of assuming duties.

*"Mutual aid"* means an agreement, preferably in writing, between two or more services that addresses how and under what circumstances each service will respond to a request for assistance.

*"Nonemergency transportation"* means transportation that may be provided for those persons determined to need transportation only.

*"Nontransport service"* means any privately or publicly owned rescue or first response service program which does not provide patient transportation (except when no ambulance is available or in a disaster situation) and utilizes only rescue or first response vehicles to provide emergency medical care at the scene of an emergency.

*"Off-line medical direction"* means the monitoring of EMS providers through retroactive field assessments and treatment documentation review, critiques of selected cases with the EMS personnel, and statistical review of the system.

*"On-line medical direction"* means immediate medical advice via radio or phone communications between the EMS provider and the medical director, supervising physician or physician designee.

*"PAD service program"* means a nonemergency response business agency, public or private, that has trained its employees or associates in the use of an automatic external defibrillator and is authorized by the department as a PAD service program.

*"Paramedic"* means an emergency medical technician-paramedic.

*"Paramedic specialist (PS)"* means an individual who has successfully completed the current United States Department of Transportation's EMT-Paramedic curriculum or equivalent, passed the department's approved written and practical examinations, and is currently certified by the department as a paramedic specialist.

*"Patient"* means any individual who is sick, injured, or otherwise incapacitated.

*"Physician"* means any individual licensed under Iowa Code chapter 148, 150, or 150A.

*"Physician assistant (PA)"* means an individual licensed pursuant to Iowa Code chapter 148C.

*"Physician designee"* means any registered nurse licensed under Iowa Code chapter 152, or any physician assistant licensed under Iowa Code chapter 148C and approved by the board of physician assistant examiners, who holds a current course completion card in ACLS. The physician designee may act as an intermediary for a supervising physician in directing the actions of emergency medical care personnel in accordance with written policies and protocols.

*"Preceptor"* means an individual who has been assigned by the training program, clinical facility or service program to supervise students while the students are completing their clinical or field experience. A preceptor must be an emergency medical care provider certified at the level being supervised or higher, or must be licensed as a registered nurse, physician's assistant or physician.

*"Primary response vehicle"* means any ambulance, rescue vehicle or first response vehicle which is utilized by a service program and is normally dispatched as the initial vehicle to respond to an emergency call.

*"Protocols"* means written directions and guidelines established and approved by the service program's medical director that address the procedures to be followed by emergency medical care providers in emergency and nonemergency situations.

*“Public access defibrillation (PAD)”* means the operation of an automated external defibrillator by a nontraditional provider of emergency medical care.

*“Public access defibrillation provider”* means someone who has completed the public access provider AED course approved by the department and who is currently certified by the department as a PAD provider.

*“Registered nurse (RN)”* means an individual licensed pursuant to Iowa Code chapter 152.

*“Reportable patient data”* means data elements and definitions determined by the department and adopted by reference to be reported to the Iowa EMS service program registry or the trauma registry or a trauma care facility on patients meeting the inclusion criteria.

*“Rescue vehicle”* means any privately or publicly owned vehicle which is specifically designed, modified, constructed, equipped, staffed and used regularly for rescue or extrication purposes at the scene of a medical or nonmedical emergency.

*“Rotorcraft ambulance”* means any privately or publicly owned rotorcraft specifically designed, modified, constructed, equipped, staffed and used regularly to transport the sick, injured or otherwise incapacitated who are in need of out-of-hospital emergency medical care or whose condition requires treatment or continuous observation while being transported.

*“Secondary response vehicle”* means any ambulance, rescue vehicle or first response vehicle which is utilized by a service program when dispatched for routine or convalescent transfers, when the service program’s primary response vehicle would have a longer response time, is already in service or is otherwise unavailable or when a mutual aid request requires a different type of response vehicle. Secondary response vehicles may be staffed and equipped at any level up to and including the service program’s level of authorization.

*“Service program”* or *“service”* means any 24-hour emergency medical care ambulance service or nontransport service that has received authorization by the department.

*“Service program area”* means the geographic area of responsibility served by any given ambulance or nontransport service program.

*“Student”* means any individual enrolled in a training program and participating in the didactic, clinical, or field experience portions.

*“Supervising physician”* means any physician licensed under Iowa Code chapter 148, 150, or 150A. The supervising physician is responsible for medical direction of emergency medical care personnel when such personnel are providing emergency medical care.

#### **641—132.2(147A) Authority of emergency medical care personnel.**

**132.2(1)** Emergency medical care personnel shall perform under the supervision of a physician in accordance with Iowa Code chapter 147A and these rules.

**132.2(2)** An emergency medical care provider may:

a. Render emergency and nonemergency medical care in those areas for which the emergency medical care provider is certified, as part of an authorized service program:

- (1) At the scene of an emergency;
- (2) During transportation to a hospital;
- (3) While in the hospital emergency department;
- (4) Until patient care is directly assumed by a physician or by authorized hospital personnel; and
- (5) During transfer from one medical care facility to another or to a private home.

*b.* Function in any hospital when:

(1) Enrolled as a student or participating as a preceptor in a training program approved by the department;

(2) Fulfilling continuing education requirements;

(3) Employed by or assigned to a hospital as a member of an authorized service program, by rendering lifesaving services in the facility in which employed or assigned pursuant to the emergency medical care provider's certification and under direct supervision of a physician or registered nurse. An emergency medical care provider shall not routinely function without the direct supervision of a physician or registered nurse. However, when the physician or registered nurse cannot directly assume emergency care of the patient, the emergency medical care personnel may perform, without direct supervision, emergency medical care procedures for which certified, if the life of the patient is in immediate danger and such care is required to preserve the patient's life;

(4) Employed by or assigned to a hospital as a member of an authorized service program to perform nonlifesaving procedures for which trained and designated in a written job description. Such procedures may be performed after the patient is observed by and when the emergency medical care provider is under the supervision of the physician or registered nurse and where the procedure may be immediately abandoned without risk to the patient.

**132.2(3)** When emergency medical care personnel are functioning in a capacity identified in sub-rule 132.2(2), paragraph "a," they may perform emergency and nonemergency medical care without contacting a supervising physician or physician designee if written protocols have been approved by the service program medical director which clearly identify when the protocols may be used in lieu of voice contact.

**132.2(4)** Adoption by reference.

*a.* Scope of Practice for Iowa EMS Providers (October 1999) is incorporated and adopted by reference for EMS providers. For any differences that may occur between the adopted references and these administrative rules, the administrative rules shall prevail.

*b.* The Scope of Practice for Iowa EMS Providers is available through the Iowa Department of Public Health, Bureau of EMS, Lucas State Office Building, Des Moines, Iowa 50319-0075.

**132.2(5)** The department may approve other emergency medical care skills on a limited pilot project basis. Requests for pilot projects shall be submitted in writing to the department.

**132.2(6)** An emergency medical care provider who has knowledge of an emergency medical care provider, service program or training program that has violated Iowa Code chapter 147A or these rules shall report such information to the department.

**641—132.3(147A) Emergency medical care providers—requirements for enrollment in training programs.** Rescinded IAB 2/9/00, effective 3/15/00.

**641—132.4(147A) Emergency medical care providers—certification, renewal standards and procedures, and fees.** Rescinded IAB 2/9/00, effective 3/15/00.

**641—132.5(147A) Training programs—standards, application, inspection and approval.** Rescinded IAB 2/9/00, effective 3/15/00.

**641—132.6(147A) Continuing education providers—approval, record keeping and inspection.** Rescinded IAB 2/9/00, effective 3/15/00.

**641—132.7(147A) Service program—authorization and renewal procedures, inspections and transfer or assignment of certificates of authorization.**

**132.7(1) General requirements for authorization and renewal of authorization.**

a. An ambulance or nontransport service in this state that desires to provide emergency medical care, in the out-of-hospital setting, shall apply to the department for authorization to establish a program utilizing certified emergency medical care providers for delivery of care at the scene of an emergency or nonemergency, during transportation to a hospital, during transfer from one medical care facility to another or to a private home, or while in the hospital emergency department and until care is directly assumed by a physician or by authorized hospital personnel. Application for authorization shall be made on forms provided by the department. Applicants shall complete and submit the forms to the department at least 30 days prior to the anticipated date of authorization.

b. To renew service program authorization, the service program shall continue to meet the requirements of Iowa Code chapter 147A and these rules. The renewal application shall be completed and submitted to the department at least 30 days before the current authorization expires.

c. Applications for authorization and renewal of authorization may be obtained upon request to: Iowa Department of Public Health, Bureau of Emergency Medical Services, Lucas State Office Building, Des Moines, Iowa 50319-0075.

d. The department shall approve an application when the department is satisfied that the program proposed by the application will be operated in compliance with Iowa Code chapter 147A and these administrative rules.

e. Service program authorization is valid for a period of three years from its effective date unless otherwise specified on the certificate of authorization or unless sooner suspended or revoked.

f. Service programs shall be fully operational upon the effective date and at the level specified on the certificate of authorization and shall meet all applicable requirements of Iowa Code chapter 147A and these rules.

g. The certificate of authorization shall be issued only to the service program based in the city named in the application and shall not be inclusive of any other base of operation when that base of operation is located in a different city. Any ambulance service or nontransport service that is based in and operates from more than one city shall apply for and, if approved, shall receive a separate authorization for each base of operation that desires to provide emergency medical care.

h. Any service program owner in possession of a certificate of authorization as a result of transfer or assignment shall continue to meet all applicable requirements of Iowa Code chapter 147A and these rules. In addition, the new owner shall apply to the department for a new certificate of authorization within 30 days following the effective date of the transfer or assignment.

i. Nontransporting service programs that only provide basic care need only complete the application process of these rules for authorization.

**132.7(2) Out-of-state service programs.**

a. Service programs located in other states which wish to provide emergency medical care in Iowa must meet all requirements of Iowa Code chapter 147A and these rules and must be authorized by the department except when:

- (1) Transporting patients from locations within Iowa to destinations outside of Iowa;
- (2) Transporting patients from locations outside of Iowa to destinations within Iowa;
- (3) Transporting patients to or from locations outside of Iowa that requires travel through Iowa;
- (4) Responding to a request for mutual aid in this state; or
- (5) Making an occasional EMS response to locations within Iowa and then transporting the patients to destinations within Iowa.

b. An out-of-state service program that meets any of the exception criteria established in 132.7(2) shall be authorized to provide emergency medical care by the state in which the program resides and shall provide the department with verification of current state authorization upon request.



**132.7(3) Rotorcraft ambulances and air taxis or air carriers.**

a. Rotorcraft ambulances shall meet all applicable requirements of Iowa Code chapter 147A and these rules except for subrule 132.7(2), paragraphs 132.8(1) "b" and "c," and subrules 132.8(8) and 132.8(9).

b. Air taxis or air carriers shall not be subject to the requirements of Iowa Code chapter 147A and these rules except when utilizing emergency medical care personnel to provide emergency medical care. In such instances, emergency medical care personnel shall be members of an authorized service program (assigned by that service program) and shall be provided with the appropriate equipment and medical direction deemed necessary by that service program's medical director.

**132.7(4) Service program inspections.**

a. The department shall inspect each service program at least once every three years. The department without prior notification may make additional inspections at times, places and under such circumstances as it deems necessary to ensure compliance with Iowa Code chapter 147A and these rules.

b. The department may request additional information from or may inspect the records of any service program which is currently authorized or which is seeking authorization to ensure continued compliance or to verify the validity of any information presented on the application for service program authorization.

c. The department may inspect the patient care records of a service program to verify compliance with Iowa Code chapter 147A and these rules.

d. No person shall interfere with the inspection activities of the department or its agents pursuant to Iowa Code section 135.36.

e. Interference with or failure to allow an inspection by the department or its agents may be cause for disciplinary action in reference to service program authorization.

**132.7(5) Temporary service program authorization.**

a. A temporary service program authorization may be issued to services that wish to operate during special events that may need emergency medical care coverage at a level other than basic care. Temporary authorization is valid for a period of 30 days unless otherwise specified on the certificate of authorization or unless sooner suspended or revoked. Temporary authorization shall apply to those requirements and standards for which the department is responsible. Applicants shall complete and submit the necessary forms to the department at least 30 days prior to the anticipated date of need.

b. The service shall meet applicable requirement of these rules, but may apply for a variance using the criteria outlined in rule 132.14(147A).

c. The service shall submit a justification which demonstrates the need for the temporary service program authorization.

d. The service shall submit a report, to the department, within 30 days after the expiration of the temporary authorization which includes as a minimum:

- (1) Number of patients treated;
- (2) Types of treatment rendered;
- (3) Any operational or medical problems.

**132.7(6) Conditional service program authorization.** Any service that is unable to meet the staffing requirement to receive full authorization that wishes to provide emergency medical care shall apply to the department. The service shall:

a. Justify why the service is unable to meet the staffing requirements of subrule 132.8(1), paragraphs "a" and "b."

b. Rescinded IAB 2/3/93, effective 3/10/93.

c. If approved, receive a conditional certificate of authorization from the department, but the service shall not advertise or otherwise imply or hold itself out to the public as a fully authorized service program.

d. If approved, utilize emergency medical care providers as appropriate to their level of certification up to and including the level of conditional authorization.

e. Meet all applicable requirements of these rules with the exception of subrule 132.8(1), paragraphs "a" and "b."

f. If an ambulance service, provide, as a minimum, one EMT-B and one licensed driver, who holds a current course completion card in CPR, on each primary response vehicle call (see Table 1). The service shall document each driver's training in emergency driving techniques and in the use of the service's communications equipment.

g. If a nontransporting service, have, as a minimum, a written mutual aid agreement with at least one ground ambulance service to ensure coverage when no certified personnel are available (see Table 2). Simultaneous dispatching may be used in lieu of a written mutual aid agreement.

**641—132.8(147A) Service program—operational requirements, record keeping, equipment and supply standards.**

**132.8(1) Service programs shall:**

a. Maintain an adequate number of primary response vehicles and personnel to provide 24-hour-per-day, 7-day-per-week service at their authorized level. The adequate number of primary response vehicles and personnel to be maintained shall be determined by the department, and shall be based upon, but not limited to, the following:

- (1) Number of calls;
- (2) Service area and population; and
- (3) Availability of other services in the area.

b. Provide on each primary response vehicle call, as appropriate to the service program's level of authorization, the following:

(1) Fully authorized basic care and EMT-B ground ambulance service programs shall provide, as a minimum, one EMT-B and a licensed driver (see Table 1). The service shall document each driver's training in emergency driving techniques and in the use of the service's communications equipment. Fully authorized EMT-I ambulance services shall provide, as a minimum, one EMT-I and one EMT-B. Fully authorized EMT-P ambulance services shall provide, as a minimum, one EMT-P and one EMT-B (see Table 1).

(2) Fully authorized nontransporting service programs shall provide, as a minimum, one appropriately certified emergency medical care provider at the level of service authorization (see Table 2).

(3) Nontransporting service programs that may also want to transport patients shall:

1. Apply to the department for authorization to transport patients on an occasional basis.
2. Use a vehicle that complies with subrule 132.8(4).
3. Provide staffing in accordance with 132.7(6)"f."

**TABLE 1: AMBULANCE SERVICE STAFFING**

Level of Authorization				
	<i>Basic Care</i>	<i>EMT-B</i>	<i>EMT-I</i>	<i>EMT-P</i>
Full authorization Minimum staffing	1-EMT-B 1-Licensed Driver	1-EMT-B 1-Licensed Driver	1-EMT-I 1-EMT-B	1-EMT-P 1-EMT-B
Conditional authorization Minimum staffing	Not Applicable	Not Applicable	1-EMT-B 1-Licensed Driver	1-EMT-B 1-Licensed Driver

**TABLE 2: NONTRANSPORTING SERVICE STAFFING**

Level of Authorization					
	<i>Basic Care</i>	<i>First Responder</i>	<i>EMT-B</i>	<i>EMT-I</i>	<i>EMT-P</i>
Full authorization Minimum staffing	Not Applicable	1-FR	1-EMT-B	1-EMT-I	1-EMT-P
Conditional authorization Minimum staffing	Not Applicable	Mutual aid agreement with a transporting service	Mutual aid agreement with a transporting service	Mutual aid agreement with a transporting service	Mutual aid agreement with a transporting service

(4) Nothing in these rules shall prevent a nontransporting service program from transporting patients in an emergency situation when lack of transporting resources would cause an unnecessary delay in patient care.

(5) Unless otherwise established by protocol approved by the medical director, the emergency medical care provider with the highest level of certification (on the transporting service) shall attend the patient.

c. Ensure that personnel duties are consistent with their level of certification and the service program's level of authorization.

d. Maintain current personnel rosters and personnel files. The files shall include the names and addresses of all personnel and documentation that verifies the following qualifications:

- (1) Current provider level certification.
- (2) Current course completion card in CPR.
- (3) If a paramedic, and working for an EMT-P service, current course completion card in ACLS.
- (4) Other current certifications/endorsements as may be required by the medical director.
- (5) Documentation of emergency driving and use of the service's communications equipment.

e. If requested by the department, notify the department in writing of any changes in their personnel rosters.

f. Have a medical director and on-line medical direction available on a 24-hour-per-day, 7-day-per-week basis.

g. Utilize a dispatching and scheduling system which ensures that the appropriate service program personnel respond as required in this rule, and that they respond in a reasonable amount of time.

*h.* Notify the department in writing within seven days of any change in ownership or control or of any reduction or discontinuance of operations.

*i.* Select a new or temporary medical director if for any reason the incumbent medical director cannot or no longer wishes to serve in that capacity. Selection shall be made before the incumbent relinquishes the duties and responsibilities of that position.

*j.* Within seven days of any change in medical directors, notify the department in writing of the selection of the new or temporary medical director who must have indicated in writing a willingness to serve in that capacity.

*k.* Rescinded IAB 2/2/94, effective 3/9/94.

*l.* Secondary response vehicles are not required to meet the vehicle standards, staffing and equipment requirements of primary response vehicles. When emergency medical care is to be provided, however, appropriate staff, equipment and supplies shall also be provided to ensure continuity of care. If an appropriate emergency medical care provider is not available to staff and to provide emergency medical care on a secondary response vehicle, a registered nurse, physician or physician's assistant may provide that care pursuant to their license.

*m.* Nothing in these rules shall prevent a registered nurse, physician or physician's assistant from supplementing the staff of a primary or secondary response vehicle.

*n.* Nothing in these rules shall prevent an authorized ambulance service program from utilizing a rescue or first response vehicle as a secondary response vehicle.

*o.* The service program shall maintain a skills maintenance log (or a similar form or system containing comparable data) available upon request from: Iowa Department of Public Health, Bureau of Emergency Medical Services, Lucas State Office Building, Des Moines, Iowa 50319-0075. The medical director shall designate, in writing, the minimum number and type of monthly or quarterly mandatory skills to be performed. Individuals who are certified as an FR, FR-D, EMT-B, EMT-D or EMT-I shall complete defibrillation practice sessions (monthly for individuals who utilize manual defibrillators and quarterly for individuals who utilize automated defibrillators).

*p.* No initial authorization shall be issued to EMT-D, EMT-B or EMT-I services wishing to utilize a manual defibrillator. This provision does not apply to EMT-D or EMT-I services authorized prior to January 1, 1990.

*q.* Rescinded IAB 2/9/00, effective 3/15/00.

**132.8(2)** Iowa EMS Service Program Registry Data Dictionary is adopted and incorporated by reference for inclusion criteria and reportable patient data. For any differences which may occur between the adopted reference and this chapter, the administrative rules shall prevail.

*a.* The Iowa EMS Service Program Registry Data Dictionary is available through the Iowa Department of Public Health, Bureau of Emergency Medical Services, Lucas State Office Building, Des Moines, Iowa 50319-0075.

*b.* An EMS service program shall:

(1) Submit reportable patient data identified in this subrule via electronic transfer or in writing. Data shall be submitted in a format approved by the department.

(2) Submit reportable patient data identified in this subrule to the department for each calendar quarter. Reportable patient data shall be submitted no later than 90 days after the end of the quarter.

(3) Submit minimum reportable patient data to the hospital upon delivery of the patient or within 24 hours if an immediate emergency response occurs and delays submission. The data shall be submitted in a format approved by the department.

c. The department shall prepare compilations for release or dissemination on all reportable patient data entered into the EMS service program registry during the reporting period. The compilations shall include, but not be limited to, trends and patient care outcomes for local, regional, and statewide evaluations. The compilations shall be made available to all service programs submitting reportable patient data to the registry.

d. Access and release of reportable patient data and information.

(1) The data collected by and furnished to the department pursuant to this subrule are confidential records of the condition, diagnosis, care, or treatment of patients or former patients, including outpatients, pursuant to Iowa Code section 22.7. The compilations prepared for release or dissemination from the data collected are not confidential under Iowa Code section 22.7, subsection 2. However, information which individually identifies patients shall not be disclosed, and state and federal law regarding patient confidentiality shall apply.

(2) The department may approve requests for reportable patient data for special studies and analysis provided the request has been reviewed and approved by the deputy director of the department with respect to the scientific merit and confidentiality safeguards, and the department has given administrative approval for the proposal. The confidentiality of patients and the EMS service program shall be protected.

(3) The department may require those requesting the data to pay any or all of the reasonable costs associated with furnishing the reportable patient data.

e. To the extent possible, activities under this subrule shall be coordinated with other health data collection methods.

f. Quality assurance.

(1) For the purpose of ensuring the completeness and quality of reportable patient data, the department or authorized representative may examine all or part of the patient's medical records as necessary to verify or clarify all reportable patient data submitted by a service program.

(2) Review of a patient's medical records by the department shall be scheduled in advance with the service program and completed in a timely manner.

g. All EMS service programs shall comply with these rules prior to January 1, 2001. The director, pursuant to Iowa Code section 147A.4, may grant a variance from the requirements of these rules for any service program, provided that the variance is related to undue hardships in complying with this chapter.

**132.8(3)** The patient care report is a confidential document and shall be exempt from disclosure pursuant to Iowa Code subsection 22.7(2) and shall not be accessible to the general public. Information contained in those reports, however, may be utilized by any of the indicated distribution recipients and may appear in any document or public health record in a manner which prevents the identification of any patient or person named in those reports.

**132.8(4)** Required equipment and vehicle standards.

a. Ground ambulance service programs shall, as a minimum, use primary response vehicles that meet the Iowa ambulance standards listed in subrule 132.8(8). These vehicles shall be equipped, as a minimum, with the Iowa essential EMS equipment listed in subrule 132.8(10). In addition to the Iowa EMS essential equipment listed in subrule 132.8(10), ambulance services shall carry equipment and supplies in quantities as determined by the medical director, and appropriate to the service program's level of care as established in the service program's approved protocols.

b. Rotorcraft ambulances shall be equipped, as a minimum, with the Iowa essential EMS equipment (excluding lower extremity traction splints and long spine boards) listed in subrule 132.8(10).

c. Rescinded IAB 2/2/94, effective 3/9/94.

d. Nontransport service programs shall be equipped, as a minimum, with the Iowa essential EMS equipment listed in subrule 132.8(10). In addition to the Iowa essential EMS equipment listed in subrule 132.8(10), nontransport service programs shall carry equipment and supplies in quantities as determined by the medical director, and appropriate to the service program's level of care as established in the service program's approved protocols.

e. Primary and secondary response ambulances shall be maintained in a safe operating condition or shall be removed from service.

f. to i. Rescinded IAB 2/2/94, effective 3/9/94.

j. Over-the-counter drugs may be administered by FR, FR-D, EMT-A, EMT-D, EMT-B, EMT-I or EMT-P service programs upon completion of training and establishment of a written protocol approved by the medical director.

k. All drugs shall be maintained in accordance with the rules of the state board of pharmacy examiners. The rules are available upon request to: Iowa State Board of Pharmacy Examiners, Executive Hills West, Des Moines, Iowa 50319.

l. Accountability for drug exchange, distribution, storage, ownership, and security shall be subject to applicable state and federal requirements. The method of accountability shall be described in the written pharmacy agreement. A copy of the written pharmacy agreement shall be submitted to the department.

m. Ambulance service programs shall maintain a telecommunications system between the emergency medical care provider and the source of their medical direction and other appropriate entities. Nontransport service programs shall maintain a telecommunications system between the emergency medical care provider and the responding ambulance service and other appropriate entities.

n. All communications equipment shall be capable of transmitting and receiving clear and understandable voice communications to and from the service program's communications base and all points within the service program's primary service area.

o. All communications shall be conducted in an appropriate manner and on a frequency approved by the Federal Communications Commission and the department.

**132.8(5)** Each service program shall establish periodic maintenance and checklist procedures to ensure that:

a. Vehicles are fully equipped and maintained in a safe operating condition. In addition:

(1) All primary response vehicles (ground only) shall be housed in a garage or other facility that prevents engine, equipment and supply freezeup and windshield icing. An unobstructed exit to the street shall also be maintained;

(2) The garage or other facility shall be adequately heated or each primary response vehicle shall have permanently installed auxiliary heating units to sufficiently heat the engine and patient compartment; and

(3) The garage or other facility shall be maintained in a clean, safe condition free of debris or other hazards.

b. The exterior and interior of the vehicles are kept clean. The interior and equipment shall be cleaned after each use as necessary. When a patient with a communicable disease has been transported or treated, the interior and any equipment or nondisposable supplies coming in contact with the patient shall be thoroughly disinfected.

c. All equipment stored in a patient compartment is secured so that, in the event of a sudden stop or movement of the vehicle, the patient and service program personnel are not injured by moving equipment.

d. All airway, electrical and mechanical equipment is kept clean and in proper operating condition.

e. Compartments provided within the vehicles and the medical and other supplies stored therein are kept in a clean and sanitary condition.

f. All linens, airway and oxygen equipment or any other supplies or equipment coming in direct patient contact is of a single-use disposable type or cleaned, laundered or disinfected prior to reuse.

g. Freshly laundered blankets and linen, or disposable linens are used on cots and pillows, and are changed after each use.

h. Proper storage is provided for clean linen.

i. A closed container is provided for soiled supplies.

#### 132.8(6) Service program—incident and accident reports.

a. Incidents of fire or other destructive or damaging occurrences affecting the service program or theft of a service program vehicle, equipment, or drugs shall be reported to the department within seven days following the occurrence of the incident.

b. A copy of the motor vehicle accident report required under Iowa Code subsection 321.266(2), relating to the reporting of an accident resulting in personal injury, death or property damage, shall be submitted to the department within seven days following an accident involving a service program vehicle.

#### 132.8(7) Mutual aid agreements.

a. The department may require a service program to have a written mutual aid agreement in place with at least one neighboring transport service for backup purposes in the event the service program's vehicle is not available in its primary service area. The agreements shall specify the duties and responsibilities of the agreeing parties, and a copy of the written agreement shall be submitted to the department.

b. Nontransport services (operating in conjunction with basic care transport services) shall provide assurances that the ambulance service will have adequate equipment and trained staff to ensure continuity of care. This shall include, if necessary, ensuring that an emergency medical care provider is present with the patient while en route to a hospital.

#### 132.8(8) Iowa ambulance standards.

a. The vehicle shall be capable of a sustained speed of not less than 55 mph over dry, hard-surfaced, level roads and shall be capable of providing a stable ride during all weather conditions.

b. The vehicle shall be capable of being driven for at least 150 miles before refueling.

c. The electrical system shall be equipped to include, but shall not be limited to:

(1) Dual 12-volt batteries with equal ampere rating;

(2) A 130-ampere alternator system;

(3) Starting, lighting, ignition, visual and audible warning systems and an ampere meter or volt-meter;

(4) Owner-specified electronics equipment;

(5) Devices that include master consoles located in the cab and patient compartments; and

(6) Other owner-specified accessory wiring.

d. All wiring devices, switches, outlets, etc., (except circuit breakers) shall be rated to carry at least 100 percent of the maximum ampere load for which the circuit is protected. All electrical wiring connectors and controls shall be easily identifiable and readily accessible for checking and servicing without having to move equipment or supplies from their usual location within the vehicle.

*e.* The electrical generating system shall be reliable at outside temperatures ranging from minus 30 degrees Fahrenheit to plus 120 degrees Fahrenheit to permit prompt starting of all systems on board the vehicle while driving to the scene, while idling at the scene for variable periods of time, and while driving from the scene to the hospital with all systems at maximum capacity. The alternator shall be capable of producing a minimum of 130 amperes at 50 percent of the engine's rated net horsepower RPM rating. An alternator producing more than 130 amperes at 50 percent of the furnished engine's rated net horsepower RPM rating shall be used when the ampere load of all electrical equipment and accessories requires it. An auxiliary throttle shall be included to control the RPMs of an idling engine.

*f.* A dual 12-volt battery system with a labeled "battery selector device" shall be furnished. The batteries shall not be rated less than 375 cold cranking amperes at zero degrees Fahrenheit with 115 minutes reserve capacity.

*g.* The engine cooling system shall be a closed, air free liquid state type with an overflow recovery tank and a coolant compensating system. The cooling system shall maintain the engine at safe operating temperatures at all drivable altitudes and grades that may be encountered during vehicle use.

*h.* All normal vehicle controls, switches and instruments shall be clearly identified, within normal reach of the driver and visible by day or night.

*i.* The specified patient compartment controls, switches, and instruments shall be panel mounted and located within normal reach of a seated attendant facing the rear of the patient compartment forward of the primary patient's head. All patient compartment controls shall be clearly identified and visible by day or night.

*j.* There shall be emergency lights that provide 360 degrees of visibility and a siren capable of producing at least 100 decibels at 10 feet. A public address system shall be included.

*k.* There shall be an exterior light over the rear loading door which shall be activated automatically when the door is opened and by a manual switch inside the vehicle. There shall be at least one clear white floodlight on each side of the vehicle.

*l.* There shall be two mounted spotlights or one hand-held spotlight.

*m.* The patient compartment size (including interior cabinet space) shall be a minimum of:

- (1) Head room, 60 inches;
- (2) Length, 116 inches; and
- (3) Width, 60 inches.

*n.* There shall be an in-line oxygen system that includes, as a minimum, an oxygen cylinder with a storage capacity of at least 2000 liters located in a compartment which is vented to the outside. The pressure gauge, regulator and control valve shall be readily accessible. In addition, there shall be at least one oxygen outlet accessible to the head of the patient stretcher.

*o.* An engine vacuum with a reservoir or electrically powered suction aspirator system with an air flow of at least 30 liters per minute and a vacuum of at least 300 millimeters of mercury shall be securely mounted yet readily accessible. The unit shall be equipped with large bore, nonkinking suction tubing and semirigid, oropharyngeal suction tips (nonmetallic) and shall be located in the patient compartment.

*p.* All vehicles shall be equipped with a complete climate control system(s) to supply and maintain clean air conditions with a comfortable level of inside temperature in both driver and patient compartments. The various systems for heating, ventilation, and air conditioning may be a separate or a combination system which shall permit independent control of the environment within each compartment.

*q.* An inflated spare tire and wheel assembly, identical to those on the vehicle, together with the necessary tools for tire changing may be carried, and if carried, preferably located outside the patient compartment.



r. All external storage compartments shall be readily accessible and weatherproofed.

s. The type I modular unit, the type II van unit, and the type III integral cab-modular unit shall be of prime commercial quality metal or other material with strength at least equivalent to all-steel. Wood shall not be used for structural framing. The exterior of the body shall have a smooth finish, except for rub rails, and shall include provisions for doors and windows as specified. The ambulance body as a unit shall be designed and built to provide impact and penetration resistance, and shall be of sufficient strength to support the entire weight of the fully loaded vehicle on its top or side if overturned, without crushing, separation of joints, or permanently deforming roof bow or reinforcements, body posts, doors, strainers, stringers, floor, inner linings, outer panels and other reinforcements.

t. Crash-stable quick-release devices (i.e., seat belts, fasteners, etc.) shall be available for the following:

- (1) One driver and one passenger in the front seat(s);
- (2) One attendant at the head of the primary patient stretcher;
- (3) Two patients on stretchers, one patient on the primary stretcher and one on a backup stretcher (i.e., stair chair, hanging stretcher, etc.); and
- (4) Additional equipment and supplies as appropriate for the level of service (medical care) provided.

u. There shall be adequate space to mount radios and allow easy access for maintenance. The radio system shall allow for radio communications to all appropriate entities from the driver's compartment as well as the patient's compartment.

v. Safety equipment shall include, but need not be limited to, flares (or the equivalent) and a readily accessible 5-pound ABC fire extinguisher.

**132.8(9)** Iowa rescue and first response vehicle standards. Rescinded IAB 2/2/94, effective 3/9/94.

**132.8(10)** Iowa essential EMS equipment for ambulance and nontransport services.

- a. Portable suction apparatus with wide-bore tubing and rigid pharyngeal suction tip.
- b. Hand-operated bag-valve-mask unit with adult, child and infant size masks or separate units for each size (an oxygen demand valve may be used in lieu of the adult size unit).
- c. Oropharyngeal airways in adult, child and infant sizes.
- d. Portable oxygen equipment with pressure and liter flow gauges.
- e. Oxygen nasal cannulas.
- f. Oxygen masks in adult, child and infant sizes (including a partial or nonrebreather adult size mask).
- g. Bite stick.
- h. Pocket mask or equivalent.
- i. Large and small sterile dressings.
- j. Soft roller bandages.
- k. Tape of various sizes.
- l. Clean burn sheets (need not be sterile).
- m. Occlusive dressing (occlusive gauze, plastic wrap or defibrillator pads).
- n. Lower extremity traction splint (optional for EMT-A, EMT-D, EMT-B, EMT-I, and EMT-P nontransport services).
- o. Extremity immobilizing device (board, ladder or formable splint).
- p. Short spine board (or equivalent extrication device) and long spine board (optional for EMT-A, EMT-D, EMT-B, EMT-I, and EMT-P nontransport services).
- q. Triangular bandages or slings.
- r. Shears and scissors.

- s. Sterile obstetrical kit.
- t. Aluminum foil or silver swaddler (or equivalent) to maintain infant body temperature.
- u. Stethoscope and blood pressure cuff (adult size required with pediatric size recommended).
- v. Penlight or equivalent and flashlight.
- w. Rigid extrication collars (Philadelphia, stiff-neck or equivalent) in at least three basic sizes.
- x. Defibrillator (required, except for basic level services).
  1. Automated, portable, battery-operated. (FR-D).
  2. Manual or automated, portable, battery-operated. (EMT-D, EMT-B, EMT-I, EMT-P).
- y. Esophageal/tracheal double-lumen airway device (required, except for basic level services).

**132.8(11) Implementation.** The director may grant exceptions and variances from the requirements of this chapter for any ambulance or nontransporting service. Exceptions or variations shall be reasonably related to undue hardships which existing services experience in complying with this chapter. No exception or variance may be granted unless the service has adopted a plan, approved by the department prior to July 1, 1996, to achieve compliance during a period not to exceed seven years. Services requesting exceptions and variances shall be subject to other applicable rules adopted pursuant to 147A. Nothing in this chapter shall be construed to require any ambulance or nontransporting service to provide a level of care beyond minimum basic care standards.

**641—132.9(147A) Service program—off-line medical direction.**

**132.9(1)** The medical director shall be responsible for providing appropriate medical direction and overall supervision of the medical aspects of the service program and shall ensure that those duties and responsibilities are not relinquished before a new or temporary replacement is functioning in that capacity.

**132.9(2)** The medical director's duties include, but need not be limited to:

- a. Developing, approving and updating protocols to be used by service program personnel.
- b. Developing and maintaining liaisons between the service, other physicians, physician designees, and hospitals.
- c. Monitoring and evaluating the activities of the service program and individual personnel performance.
- d. Assessing the continuing education needs of the service and individual service program personnel and assisting them in obtaining the appropriate continuing education programs.
- e. Being available for individual evaluation and consultation to service program personnel.
- f. Performing or appointing a designee to complete the medical audits required in subrule 132.9(4).

g. Ensuring maintenance of skills by service program personnel including:

(1) Documenting training on specific equipment used by the service program. Such training may be performed by an approved training program or other qualified individual approved by the medical director.

(2) Documenting the monthly or quarterly defibrillation practice sessions required in subrule 132.8(1), paragraph "o."

(3) The medical director may remove an individual from service program participation and require remedial education including, but not limited to: classroom instruction, clinical experience and field experience.

*h.* Informing the medical community of the emergency medical care being provided according to approved protocols in the service program area.

*i.* Helping to resolve service operational problems.

**132.9(3)** Supervising physicians and physician designees may assist the medical director by:

*a.* Providing medical direction.

*b.* Reviewing the emergency medical care provided.

*c.* Reviewing and updating protocols.

*d.* Providing and assessing continuing education needs for service program personnel.

*e.* Helping to resolve operational problems.

**132.9(4)** The medical director, supervising physicians, physician designees or other qualified designees shall randomly audit (at least quarterly) documentation of calls where emergency medical care was provided. The medical director shall randomly review audits performed by the supervising physician, physician designee or other designee. The audit shall be in writing and shall include, but need not be limited to:

*a.* Reviewing the patient care provided by service program personnel and remedying any deficiencies or potential deficiencies that may be identified regarding medical knowledge or skill performance.

*b.* Time spent at the scene.

*c.* Tiered response.

**132.9(5)** The medical director shall approve written protocols for each drug carried by the service program which describe when and how each drug may be administered.

**132.9(6)** On-line medical direction when provided through a hospital.

*a.* The medical director shall designate in writing at least one hospital which has established a written on-line medical direction agreement with the department. It shall be the medical director's responsibility to notify the department in writing of changes regarding this designation.

*b.* Hospitals signing an on-line medical direction agreement shall:

(1) Ensure that the supervising physicians or physician designees will be available to provide on-line medical direction via radio communications on a 24-hour-per-day basis.

(2) Identify the service programs for which on-line medical direction will be provided.

(3) Establish written protocols for use by supervising physicians and physician designees who provide on-line medical direction.

(4) Administer a quality assurance program to review orders given. The program shall include a mechanism for the hospital and service program medical directors to discuss and resolve any identified problems.

*c.* A hospital which has a written medical direction agreement with the department may provide medical direction for any or all service program authorization levels and may also agree to provide backup on-line medical direction for any other service program when that service program is unable to contact its primary source of on-line medical direction.

*d.* Only supervising physicians or physician designees shall provide on-line medical direction via radio communications. However, a physician, registered nurse or EMT (of equal or higher level) may relay orders to emergency medical care personnel, without modification, from a supervising physician or physician designee.

*e.* On an annual basis, the hospital shall notify the department in writing of any changes in the supervising physicians and physicians providing on-line medical direction.

*f.* Supervising physicians and physician designees shall be trained in the proper use of radio protocols and equipment.

g. The department may verify a hospital's communications system to ensure compliance with the on-line medical direction agreement.

h. A supervising physician or physician designee who gives orders (directly or via communications equipment from some other point) to an emergency medical care provider is not subject to criminal liability by reason of having issued the orders and is not liable for civil damages for acts or omissions relating to the issuance of the orders unless the acts or omissions constitute recklessness.

i. Nothing in these rules requires or obligates a hospital, supervising physician or physician designee to approve requests for orders received from emergency medical care personnel.

NOTE: Hospitals in other states may participate provided the applicable requirements of this subrule are met.

**641—132.10(147A) Complaints and investigations—denial, citation and warning, probation, suspension or revocation of service program authorization or renewal.**

**132.10(1)** All complaints regarding the operation of authorized emergency medical care service programs, or those purporting to be or operating as the same, shall be reported to the department. The address is: Iowa Department of Public Health, Bureau of Emergency Medical Services, Lucas State Office Building, Des Moines, Iowa 50319-0075.

**132.10(2)** Complaints and the investigative process will be treated as confidential in accordance with Iowa Code chapter 22.

**132.10(3)** Service program authorization may be denied, issued a citation and warning, placed on probation, suspended or revoked by the department in accordance with Iowa Code subsection 147A.5(3) for any of the following reasons:

a. Failure or repeated failure of the applicant or alleged violator to meet the requirements or standards established pursuant to Iowa Code chapter 147A or the rules adopted pursuant to that chapter.

b. Obtaining or attempting to obtain or renew or retain service program authorization by fraudulent means, misrepresentation or by submitting false information.

c. Engaging in conduct detrimental to the well-being or safety of the patients receiving or who may be receiving emergency medical care.

**132.10(4)** The department shall notify the applicant of the granting or denial of authorization or renewal, or shall notify the alleged violator of action to issue a citation and warning, place on probation or suspend or revoke authorization or renewal pursuant to Iowa Code sections 17A.12 and 17A.18. Notice of issuance of a denial, citation and warning, probation, suspension or revocation shall be served by restricted certified mail, return receipt requested, or by personal service.

**132.10(5)** Any requests for appeal concerning the denial, citation and warning, probation, suspension or revocation of service program authorization or renewal shall be submitted by the aggrieved party in writing to the department by certified mail, return receipt requested, within 30 days of the receipt of the department's notice. The address is: Iowa Department of Public Health, Bureau of Emergency Medical Services, Lucas State Office Building, Des Moines, Iowa 50319-0075. If such a request is made within the 30-day time period, the notice shall be deemed to be suspended. Prior to or at the hearing, the department may rescind the notice upon satisfaction that the reason for the denial, citation and warning, probation, suspension or revocation has been or will be removed. After the hearing, or upon default of the applicant or alleged violator, the administrative law judge shall affirm, modify or set aside the denial, citation and warning, probation, suspension or revocation. If no request for appeal is received within the 30-day time period, the department's notice of denial, probation, suspension or revocation shall become the department's final agency action.

**132.10(6)** Upon receipt of an appeal that meets contested case status, the appeal shall be forwarded within five working days to the department of inspections and appeals pursuant to the rules adopted by that agency regarding the transmission of contested cases. The information upon which the adverse action is based and any additional information which may be provided by the aggrieved party shall also be provided to the department of inspections and appeals.

**132.10(7)** The hearing shall be conducted according to the procedural rules of the department of inspections and appeals found in 481—Chapter 10.

**132.10(8)** When the administrative law judge makes a proposed decision and order, it shall be served by restricted certified mail, return receipt requested, or delivered by personal service. That proposed decision and order then becomes the department's final agency action without further proceedings ten days after it is received by the aggrieved party unless an appeal to the director is taken as provided in subrule 132.10(9).

**132.10(9)** Any appeal to the director for review of the proposed decision and order of the administrative law judge shall be filed in writing and mailed to the director by certified mail, return receipt requested, or delivered by personal service within ten days after the receipt of the administrative law judge's proposed decision and order by the aggrieved party. A copy of the appeal shall also be mailed to the administrative law judge. Any request for an appeal shall state the reason for appeal.

**132.10(10)** Upon receipt of an appeal request, the administrative law judge shall prepare the record of the hearing for submission to the director. The record shall include the following:

- a. All pleadings, motions, and rules.
- b. All evidence received or considered and all other submissions by recording or transcript.
- c. A statement of all matters officially noticed.
- d. All questions and offers of proof, objections, and rulings thereon.
- e. All proposed findings and exceptions.
- f. The proposed decision and order of the administrative law judge.

**132.10(11)** The decision and order of the director becomes the department's final agency action upon receipt by the aggrieved party and shall be delivered by restricted certified mail, return receipt requested, or by personal service.

**132.10(12)** It is not necessary to file an application for a rehearing to exhaust administrative remedies when appealing to the director or the district court as provided in Iowa Code section 17A.19. The aggrieved party to the final agency action of the department who has exhausted all administrative remedies may petition for judicial review of that action pursuant to Iowa Code chapter 17A.

**132.10(13)** Any petition for judicial review of a decision and order shall be filed in the district court within 30 days after the decision and order becomes final. A copy of the notice of appeal shall be sent to the department by certified mail, return receipt requested, or by personal service. The address is: Bureau of Emergency Medical Services, Iowa Department of Public Health, Lucas State Office Building, Des Moines, Iowa 50319-0075.

**132.10(14)** The party who appeals a final agency action to the district court shall pay the cost of the preparation of a transcript of the contested case hearing for the district court.

**132.10(15)** Final decisions of the department relating to disciplinary proceedings may be transmitted to the appropriate professional associations, the news media or employer.

**132.10(16)** This rule is not subject to waiver or variance pursuant to 641—Chapter 178 or any other provision of law.

**641—132.11(147A) Complaints and investigations—denial, citation and warning, probation, suspension, or revocation of emergency medical care personnel certificates or renewal.** Rescinded IAB 2/9/00, effective 3/15/00.

**641—132.12(147A) Complaints and investigations—denial, citation and warning, probation, suspension, or revocation of training program or continuing education provider approval or renewal.** Rescinded IAB 2/9/00, effective 3/15/00.

**641—132.13(147A) Complaints, investigations and appeals.** Rescinded IAB 2/9/00, effective 3/15/00.

**641—132.14(147A) Temporary variances.**

**132.14(1)** If during a period of authorization there is some occurrence that temporarily causes a service program to be in noncompliance with these rules, the department may grant a temporary variance. Temporary variances to these rules (not to exceed six months in length per any approved request) may be granted by the department to a currently authorized service program. Requests for temporary variances shall comply only to the service program requesting the variance and shall apply only to those requirements and standards for which the department is responsible.

**132.14(2)** To request a variance, the service program shall:

- a. Notify the department verbally (as soon as possible) of the need to request a temporary variance.
- b. Cite the rule from which the variance is requested.
- c. State why compliance with the rule cannot be maintained.
- d. Explain the alternative arrangements that have been or will be made regarding the variance request.

e. Estimate the period of time for which the variance will be needed.

f. Submit to the department, within ten days after having given verbal notification to the department, a written explanation for the temporary variance request that addresses each of the above paragraphs. The address and telephone number are: Iowa Department of Public Health, Bureau of Emergency Medical Services, Lucas State Office Building, Des Moines, Iowa 50319-0075, (515)281-3741.

**132.14(3)** Upon notification of a request for variance, the department shall take into consideration, but shall not be limited to:

- a. Examining the rule from which the temporary variance is requested to determine if the request is appropriate and reasonable.
- b. Evaluating the alternative arrangements that have been or will be made regarding the variance request.
- c. Examining the effect of the requested variance upon the level of care provided to the general populace served.

d. Requesting additional information if necessary.

**132.14(4)** Preliminary approval or denial shall be provided verbally within 24 hours. Final approval or denial shall be issued in writing within ten days after having received the written explanation for the temporary variance request and shall include the reason for approval or denial. If approval is granted, the effective date and the duration of the temporary variance shall be clearly stated.

**132.14(5)** Rescinded, effective July 10, 1987.

**132.14(6)** Any request for appeal concerning the denial of a request for temporary variance shall be in accordance with the procedures outlined in rule 132.10(147A).

**132.14(7)** Rescinded IAB 2/3/93, effective 3/10/93.

**641—132.15(147A) Transport options for fully authorized paramedic service programs.**

**132.15(1)** Upon responding to an emergency call, ambulance, or nontransport paramedic level services may make a determination at the scene as to whether emergency medical transportation or nonemergency transportation is needed. The determination shall be made by a paramedic and shall be based upon the nonemergency transportation protocol approved by the service program's medical director. When applying this protocol, the following criteria, as a minimum, shall be used to determine the appropriate transport option:

- a. Primary assessment,
- b. Secondary assessment (including vital signs and history),
- c. Chief complaint,
- d. Name, address and age, and
- e. Nature of the call for assistance.

Emergency medical transportation shall be provided whenever any of the above criteria indicate that treatment should be initiated.

**132.15(2)** If treatment is not indicated, the service program may make arrangements for nonemergency transportation. If arrangements are made, the service program shall remain at the scene until nonemergency transportation arrives. During the wait for nonemergency transportation, however, the ambulance or nontransport service may respond to an emergency.

**641—132.16(147A) Public access defibrillation.** The purpose of this rule is to allow nonemergency response agencies, public or private, to train their employees or associates in the use of the automatic external defibrillator and to provide AED coverage when appropriately trained personnel are available. This rule is intended to enhance and supplement the local EMS system with nontraditional early defibrillation groups/agencies.

**132.16(1) Authority of public access defibrillation provider.** Public access defibrillation providers may perform those skills identified in the public access defibrillation provider curriculum approved by the department, as part of an authorized PAD service program.

**132.16(2) Public access defibrillation provider—training requirements.** Individuals seeking certification as a public access defibrillation provider shall:

- a. Be an employee or associate of the public or private business agency applying for PAD service program authorization.
- b. Obtain appropriate training approved by the department. PAD provider training shall include as a minimum:

(1) Successful course completion in adult CPR, including one rescuer CPR, foreign body airway obstruction, rescue breathing, recovery position, and activating the EMS system.

(2) Successful completion of an AED curriculum approved by the department.

**132.16(3) PAD service program—application, guidelines, and standards.** A public or private nonemergency response business agency may establish an affiliation with an EMS service program if wishing to provide AED coverage in an EMS service program's service area or may apply for authorization as an independent PAD service program. An application is required and may be obtained by contacting the Iowa Department of Public Health, Bureau of EMS, Lucas State Office Building, Des Moines, Iowa 50319-0075. PAD service programs shall:

- a. Provide a medical director licensed under Iowa Code chapter 148, 150, or 150A, who shall be responsible for the overall medical direction of the PAD service program.
- b. Use an AED approved by the department.
- c. Use the defibrillation protocol approved by the department.
- d. Rescinded IAB 12/2/98, effective 1/6/99.
- e. Rescinded IAB 12/2/98, effective 1/6/99.

- f. Implement a policy for periodic maintenance of the AED.
- g. Ensure PAD providers complete quarterly practice sessions in the use of the AED.
- h. Identify which authorized Iowa ambulance service program(s) will provide patient transportation.
- i. Ensure continuity of care, which may include, if necessary, that the PAD provider accompany the patient to a hospital.
- j. Complete a renewal application every three years.
- k. Ensure PAD providers maintain current course completion in CPR.

**132.16(4) Complaints and investigations.** Complaints and investigations shall be conducted as with any complaint received against an EMS service program, applying rule 641 IAC 132.10(147A).

These rules are intended to implement Iowa Code chapter 147A.

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\*See IAB, Inspections and Appeals Department.



TITLE I  
GENERAL PROVISIONS

CHAPTER 1  
DEFINITIONS

[Prior to 5/18/88, Dental Examiners, Board of [320]]

**650—1.1(153) Definitions.** As used in this chapter:

*"Board"* means the board of dental examiners.

*"Chapter"* means Iowa Code chapter 153.

*"Dental hygiene committee,"* as defined in Iowa Code section 153.33A, means the dental hygiene committee of the board of dental examiners.

*"Department"* means the department of public health.

*"Inactive status"* means the status of a practitioner licensed in the state of Iowa to practice dentistry or dental hygiene who is not currently engaged in the practice of dentistry or dental hygiene in the state of Iowa and who has obtained a certificate of exemption from compliance with the requirements for continuing dental education.

*"Peer review"* as defined in Iowa Code section 272C.1(7) means evaluation of professional services rendered by a licensee.

*"Peer review committee"* as defined in Iowa Code section 272C.1(8) means one or more persons acting in a peer review capacity pursuant to these rules.

*"Practice of dental hygiene"* as defined in Iowa Code section 153.15 means the performance of the following educational, therapeutic, preventive and diagnostic dental hygiene procedures which are delegated by and under the supervision of a dentist licensed pursuant to Iowa Code chapter 153.

1. Educational: Assessing the need for, planning, implementing, and evaluating oral health education programs for individual patients and community groups; conducting workshops and in-service training sessions on dental health for nurses, school personnel, institutional staff, community groups and other agencies providing consultation and technical assistance for promotional, preventive and educational services.

2. Therapeutic: Identifying and evaluating factors which indicate the need for and performing (a) oral prophylaxis, which includes supragingival and subgingival debridement of plaque, and detection and removal of calculus with instruments or any other devices; (b) periodontal scaling and root planing; (c) removing and polishing hardened excess restorative material; (d) administering local anesthesia with the proper permit; (e) applying or administering medicaments prescribed by a dentist, including chemotherapeutic agents and medicaments or therapies for the treatment of periodontal disease and caries.

3. Preventive: Applying pit and fissure sealants and other medications or methods for caries and periodontal disease control; organizing and administering fluoride rinse or sealant programs.

4. Diagnostic: Reviewing medical and dental health histories; performing oral inspection; indexing dental and periodontal disease; making occlusal registrations for mounting study casts; testing pulp vitality; analyzing dietary surveys.

The following services may only be delegated by a dentist to a dental hygienist: administration of local anesthesia, placement of sealants, and the removal of any plaque, stain, calculus, or hard natural or synthetic material except by toothbrush, floss, or rubber cup coronal polish.

*"Practice of dentistry"* as defined in Iowa Code section 153.13 includes the rendering of professional services in this state as an employee or independent contractor.

This rule is intended to implement Iowa Code sections 147.1(2), 147.13, 147.30, 147.76, 147.80, 153.13 and 153.15, and chapter 272C.

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CHAPTERS 2 to 4

Reserved

TITLE II  
*ADMINISTRATION*

CHAPTER 5  
ORGANIZATION

[Ch 5, IAC 7/1/75 renumbered as Ch 50, IAC 9/20/78]  
[Prior to 5/18/88, Dental Examiners, Board of[320]]

**650—5.1(153) Board and dental hygiene committee.**

5.1(1) The board shall be composed of five members licensed to practice dentistry, two members licensed to practice dental hygiene and two members not licensed to practice dentistry or dental hygiene and who shall represent the general public. All members shall be appointed by the governor subject to confirmation by the senate.

5.1(2) Five members of the board shall constitute a quorum for the purpose of conducting business.

5.1(3) The dental hygiene committee of the board shall be composed of the two dental hygiene members of the board and one dentist member of the board. The dentist member will be elected annually to serve on the committee by a majority vote of the board. The dentist member of the committee must have supervised and worked in collaboration with a dental hygienist for a period of at least three years immediately preceding election to the committee. Beginning January 1, 2000, persons appointed to the board as dental hygienist members shall not be employed by or receive any form of remuneration from a dental or dental hygiene educational institution.

5.1(4) Two members of the dental hygiene committee shall constitute a quorum for the purpose of conducting business.

This rule is intended to implement Iowa Code section 147.14(4).

**650—5.2(153) Meetings.**

5.2(1) The board shall hold an annual meeting each year in Des Moines to elect officers and conduct such other business as may properly come before the board. Officers of the board shall consist of a chairperson, vice chairperson, and secretary. Officers shall assume their duties immediately following their election at the annual meeting.

5.2(2) The board may hold additional meetings as the chairperson or vice chairperson or majority of the board deems necessary. Written notice stating the time and place of the meeting shall be provided consistent with the open meetings law.

5.2(3) All meetings of the board shall be governed by Sturgis Standard Code of Parliamentary Procedure.

5.2(4) The board may conduct ministerial business matters by mail. The chairperson or vice chairperson may direct the executive director to send such correspondence by ordinary mail. Members who shall make appropriate response shall do so to the executive director within ten days of the original mailing.

5.2(5) The dental hygiene committee shall hold an annual meeting each year in Des Moines, Iowa, to elect officers and conduct such other business as may properly come before the committee. Officers of the committee shall consist of a chairperson, vice chairperson, and secretary. Officers shall assume their duties immediately following their election at the annual meeting.

5.2(6) The dental hygiene committee may hold additional meetings as the chairperson or vice chairperson or majority of the committee deems necessary.

This rule is intended to implement Iowa Code section 147.22.

**650—5.3(153) Budget.** The chairperson and executive director shall prepare and submit the budget to the board.

This rule is intended to implement Iowa Code section 17A.3(1).

**650—5.4(153) Compensation.** Each board member shall receive the statutory per diem in addition to necessary travel and other expenses incurred in the discharge of duties.

This rule is intended to implement Iowa Code section 147.24.

**650—5.5(153) Office.** The address of the board is the Iowa Board of Dental Examiners, 400 S.W. 8th Street, Suite D, Des Moines, Iowa 50309-4687.

This rule is intended to implement Iowa Code section 17A.3(1).

**650—5.6(153) Dental hygiene committee.**

**5.6(1)** All matters regarding the practice, discipline, education, examination, and licensure of dental hygienists will be initially directed to the dental hygiene committee. The committee shall have the authority to adopt recommendations regarding the practice, discipline, education, examination, and licensure of dental hygienists and shall carry out duties as assigned by the board. Recommendations by the committee shall include a statement and documentation supporting its recommendation to the board. The board shall review all committee recommendations. The recommendations shall be ratified by the board unless the board makes a specific written finding that the recommendation exceeds the jurisdiction or expands the scope of the committee beyond the authority granted in subrule 5.6(2), creates an undue financial impact on the board, or is not supported by the record. The board may not amend a committee recommendation without the concurrence of the majority of the members of the dental hygiene committee.

**5.6(2)** This subrule shall not be construed as impacting or changing the scope of practice of the profession of dental hygiene or authorizing the independent practice of dental hygiene.

**5.6(3)** The committee shall not have regulatory or disciplinary authority with regard to dentists, dental assistants, dental lab technicians, or other auxiliary dental personnel.

This rule is intended to implement Iowa Code section 153.33A.

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CHAPTER 6  
PUBLIC RECORDS AND FAIR INFORMATION PRACTICES

The Iowa board of dental examiners hereby adopts, with the following exceptions and amendments, rules of the Governor's Task Force on Uniform Rules of Agency Procedure relating to public records and fair information practices which are printed in the first volume of the Iowa Administrative Code.

**650—6.1(153,147,22) Definitions.** As used in this chapter:

"Agency." In lieu of the words "agency issuing these rules", insert "Iowa Board of Dental Examiners".

**650—6.3(153,147,22) Requests for access to records.**

**6.3(1) Location of record.** In lieu of the words "Insert agency name and address", insert "Iowa Board of Dental Examiners, 400 S.W. 8th Street, Suite D, Des Moines, Iowa 50309-4687".

**6.3(2) Office hours.** In lieu of the words "Insert customary office hours and, if agency does not have customary office hours of at least thirty hours per week, insert hours specified in Iowa Code section 22.4", insert "8 a.m. to 4:30 p.m. daily excluding Saturdays, Sundays, and legal holidays".

**6.3(7) Fees.**

c. *Supervisory fee.* In lieu of the words "(specify time period)", insert "one-half hour".

**650—6.6(153,147,22) Procedure by which additions, dissents, or objections may be entered into certain records.** In lieu of the words "designate office", insert "the executive director".

**650—6.9(153,147,22) Disclosures without the consent of the subject.**

**6.9(1)** Open records are routinely disclosed without the consent of the subject.

**6.9(2)** To the extent allowed by law, disclosure of confidential records may occur without the consent of the subject. Following are instances where disclosure, if lawful, will generally occur without notice to the subject:

a. For a routine use as defined in rule 6.10(153,147,22) or in any notice for a particular record system.

b. To a recipient who has provided the agency with advance written assurance that the record will be used solely as a statistical research or reporting record; provided, that, the record is transferred in a form that does not identify the subject.

c. To another government agency or to an instrumentality of any governmental jurisdiction within or under the control of the United States for a civil or criminal law enforcement activity if the activity is authorized by law, and if an authorized representative of such government agency or instrumentality has submitted a written request to the agency specifying the record desired and the law enforcement activity for which the record is sought.

d. To an individual pursuant to a showing of compelling circumstances affecting the health or safety of any individual if a notice of the disclosure is transmitted to the last-known address of the subject.

e. To the legislative fiscal bureau under Iowa Code section 2.52.

f. Disclosures in the course of employee disciplinary proceedings.

g. In response to a court order or subpoena.

*h.* Notwithstanding any statutory confidentiality provision, the board may share information with the child support recovery unit through manual or automated means for the sole purpose of identifying licensees or applicants subject to enforcement under Iowa Code chapter 252J or 598.

*i.* Notwithstanding any statutory confidentiality provision, the board may share information with the college student aid commission for the sole purpose of identifying applicants or licensees subject to enforcement under Iowa Code sections 261.121 to 261.127.

**650—6.10(153,147,22) Routine use.**

**6.10(1)** Defined. "Routine use" means the disclosure of a record without the consent of the subject or subjects, for a purpose which is compatible with the purpose for which the record was collected. It includes disclosures required to be made by statute other than the public records law, Iowa Code chapter 22.

**6.10(2)** To the extent allowed by law, the following uses are considered routine uses of all agency records:

*a.* Disclosure to those officers, employees, investigators, members or agents of the agency who have a need for the record in the performance of their duties. The custodian of the record may upon request of any officer or employee, investigator, or member, or on the custodian's own initiative, determine what constitutes legitimate need to use confidential records.

*b.* Disclosure of information indicating an apparent violation of the law to appropriate law enforcement authorities for investigation and possible criminal prosecution, civil court action, or regulatory order.

*c.* Disclosure to the department of inspections and appeals for matters in which it is performing services or functions on behalf of the agency.

*d.* Transfers of information within the agency and among board members; to other state agencies, boards and departments; federal agencies; to agencies in other states; national associations; or to local units of government as appropriate to administer the agency's statutory authority.

*e.* Information released to staff of federal and state entities for audit purposes or for purposes of determining whether the agency is operating a program lawfully.

*f.* Any disclosure specifically authorized by the statute under which the record was collected or maintained.

*g.* Disclosure to the attorney general's office for use in performing its official functions.

*h.* Disclosure to the public and news media of pleadings, motions, orders, final decisions, and informal settlements filed in licensee disciplinary proceedings.

*i.* Transmittal to the district court of the record in a disciplinary hearing, pursuant to Iowa Code section 17A.19(6), regardless of whether the hearing was opened or closed.

**650—6.11(153,147,22) Consensual disclosure of confidential records.**

**6.11(1)** *Consent to disclosure by a subject individual.* To the extent permitted by law, the subject may consent in writing to agency disclosure of confidential records as provided in rule 6.7(153,147,22).

**6.11(2)** *Complaints to public officials.* A letter from the subject of a confidential record to a public official which seeks the official's intervention on behalf of the subject in a matter that involves the agency may to the extent permitted by law be treated as an authorization to release sufficient information about the subject to the official to resolve the matter.

**6.15(4)** Administrative records. This includes documents concerning budget, property inventory, purchasing, yearly reports, office policies for employees, time sheets, printing and supply requisitions.

**6.15(5)** Office manuals. Information in office manuals such as the procedures manual may be confidential under Iowa Code section 17A.2(7) "f" or other applicable provision of law.

**650—6.16(153,147,22)** **Data processing system.** The board does not currently have a data processing system which matches, collates, or permits the comparison of personally identifiable information in one record system with personally identifiable information on another record system.

**650—6.17(153,147,22)** **Purpose and scope.** This chapter implements Iowa Code section 22.11 by establishing board policies and procedures for the maintenance of records.

This chapter does not:

1. Require the board to index or retrieve records which contain information about individuals by that person's name or other personal identifier.
2. Make available to the general public records which would otherwise not be available under the public records law, Iowa Code chapter 22.
3. Govern the maintenance or disclosure of, notification of or access to, records in the possession of the board which are governed by rules of another board or agency.
4. Apply to grantees, including local governments or subdivisions, administering state-funded programs, unless otherwise provided by law or agreement.
5. Make available records compiled by the board in reasonable anticipation of court litigation or formal administrative proceedings. The availability of the records to the general public or to any subject individual or party to litigation or proceedings shall be governed by applicable legal and constitutional principles, statutes, rules of discovery, evidentiary privileges, and applicable rules of the board.

These rules are intended to implement Iowa Code section 22.11 and chapters 147, 153, and 272C and Iowa Code chapter 252J.

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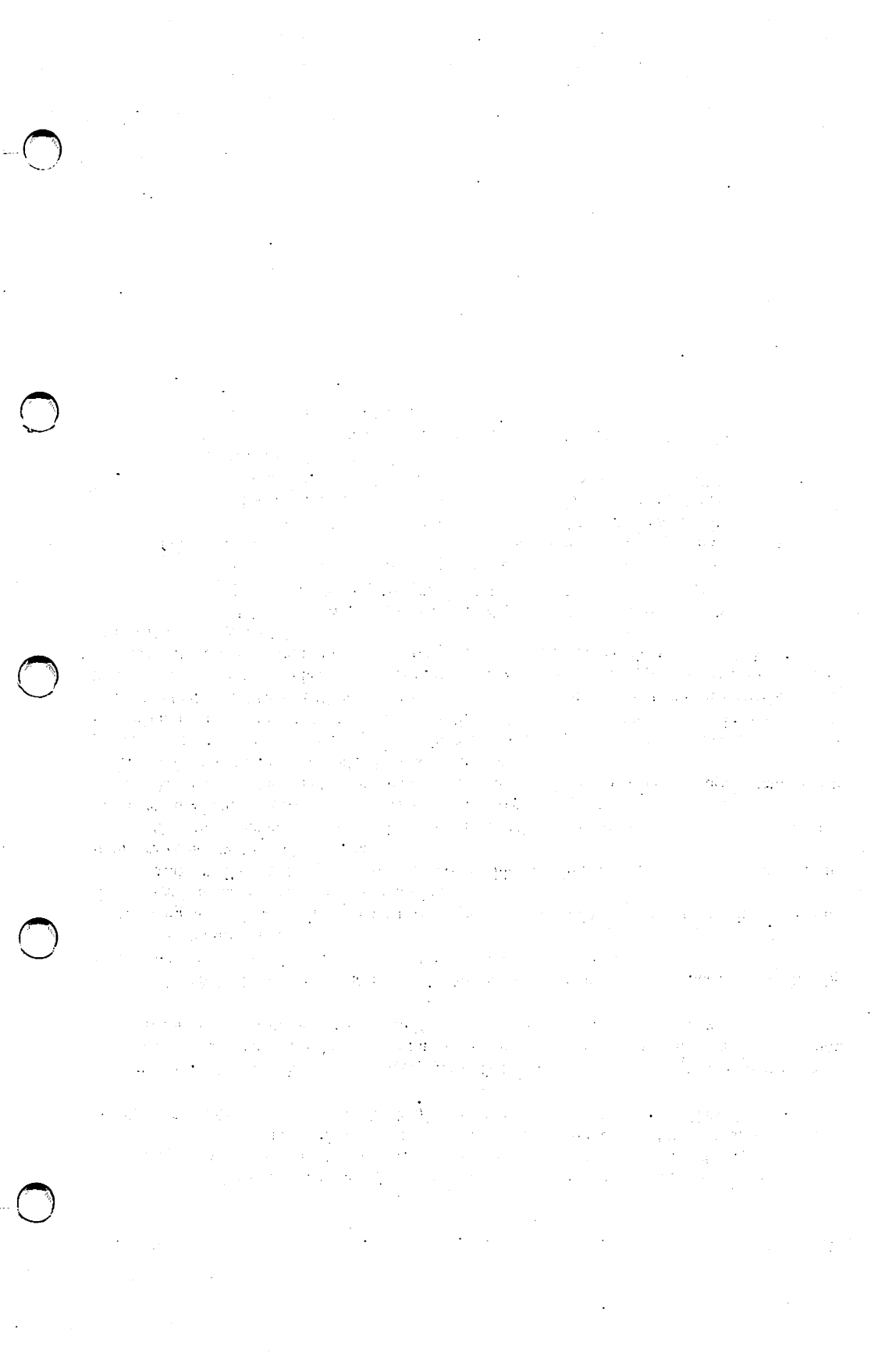
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CHAPTER 9  
DECLARATORY ORDERS

**650—9.1(17A) Petition for declaratory order.** Any person may file a petition with the board (which for purposes of this chapter means the board of dental examiners or as to matters exclusively involving dental hygiene or dental hygienists means the dental hygiene committee of the board of dental examiners) for a declaratory order as to the applicability to specified circumstances of a statute, rule, or order within the primary jurisdiction of the Board of Dental Examiners, 400 S.W. 8th Street, Suite D, Des Moines, Iowa 50309-4687. A petition is deemed filed when it is received by that office. The board of dental examiners shall provide the petitioner with a file-stamped copy of the petition if the petitioner provides the board an extra copy for this purpose. The petition must be typewritten or legibly handwritten in ink and must substantially conform to the following form:

BOARD OF DENTAL EXAMINERS

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Petition by (Name of Petitioner)  
for a Declaratory Order on  
(Cite provisions of law involved).



PETITION FOR  
DECLARATORY ORDER

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The petition must provide the following information:

1. A clear and concise statement of all relevant facts on which the order is requested.
2. A citation and the relevant language of the specific statutes, rules, policies, decisions, or orders, whose applicability is questioned, and any other relevant law.
3. The questions petitioner wants answered, stated clearly and concisely.
4. The answers to the questions desired by the petitioner and a summary of the reasons urged by the petitioner in support of those answers.
5. The reasons for requesting the declaratory order and disclosure of the petitioner's interest in the outcome.
6. A statement indicating whether the petitioner is currently a party to another proceeding involving the questions at issue and whether, to the petitioner's knowledge, those questions have been decided by, are pending determination by, or are under investigation by, any governmental entity.
7. The names and addresses of other persons, or a description of any class of persons, known by petitioner to be affected by, or interested in, the questions presented in the petition.
8. Any request by petitioner for a meeting provided for by 650—9.7(17A).

The petition must be dated and signed by the petitioner or the petitioner's representative. It must also include the name, mailing address, and telephone number of the petitioner and petitioner's representative, and a statement indicating the person to whom communications concerning the petition should be directed.

**650—9.2(17A) Notice of petition.** Within 15 days after receipt of a petition for a declaratory order, the board of dental examiners shall give notice of the petition to all persons not served by the petitioner pursuant to 650—9.6(17A) to whom notice is required by any provision of law. The board of dental examiners may also give notice to any other persons.

**650—9.3(17A) Intervention.**

**9.3(1)** Persons who qualify under any applicable provision of law as an intervenor and who file a petition for intervention within 15 days of the filing of a petition for declaratory order shall be allowed to intervene in a proceeding for a declaratory order.

**9.3(2)** Any person who files a petition for intervention at any time prior to the issuance of an order may be allowed to intervene in a proceeding for a declaratory order at the discretion of the board of dental examiners.

**9.3(3)** A petition for intervention shall be filed with the board at 400 S.W. 8th Street, Suite D, Des Moines, Iowa 50309-4687. Such a petition is deemed filed when it is received by that office. The board of dental examiners will provide the petitioner with a file-stamped copy of the petition for intervention if the petitioner provides an extra copy for this purpose. A petition for intervention must be typewritten or legibly handwritten in ink and must substantially conform to the following form:

**BOARD OF DENTAL EXAMINERS**

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Petition by (Name of Original Petitioner)  
for a Declaratory Order on (Cite provisions  
of law cited in original petition).



**PETITION FOR  
INTERVENTION**

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The petition for intervention must provide the following information:

1. Facts supporting the intervenor's standing and qualifications for intervention.
2. The answers urged by the intervenor to the question or questions presented and a summary of the reasons urged in support of those answers.
3. Reasons for requesting intervention and disclosure of the intervenor's interest in the outcome.
4. A statement indicating whether the intervenor is currently a party to any proceeding involving the questions at issue and whether, to the intervenor's knowledge, those questions have been decided by, are pending determination by, or are under investigation by, any governmental entity.
5. The names and addresses of any additional persons, or a description of any additional class of persons, known by the intervenor to be affected by, or interested in, the questions presented.
6. Whether the intervenor consents to be bound by the determination of the matters presented in the declaratory order proceeding.

The petition must be dated and signed by the intervenor or the intervenor's representative. It must also include the name, mailing address, and telephone number of the intervenor and intervenor's representative, and a statement indicating the person to whom communications should be directed.

**650—9.4(17A) Briefs.** The petitioner or any intervenor may file a brief in support of the position urged. The board of dental examiners may request a brief from the petitioner, any intervenor, or any other person concerning the questions raised.

**650—9.5(17A) Inquiries.** Inquiries concerning the status of a declaratory order proceeding may be made to the Executive Director, Board of Dental Examiners, 400 S.W. 8th Street, Suite D, Des Moines, Iowa 50309-4687.

**650—9.6(17A) Service and filing of petitions and other papers.**

**9.6(1) When service required.** Except where otherwise provided by law, every petition for declaratory order, petition for intervention, brief, or other paper filed in a proceeding for a declaratory order shall be served upon each of the parties of record to the proceeding, and on all other persons identified in the petition for declaratory order or petition for intervention as affected by or interested in the questions presented, simultaneously with their filing. The party filing a document is responsible for service on all parties and other affected or interested persons.

**9.6(2) Filing—when required.** All petitions for declaratory orders, petitions for intervention, briefs, or other papers in a proceeding for a declaratory order shall be filed with the Board of Dental Examiners, 400 S.W. 8th Street, Suite D, Des Moines, Iowa 50309-4687. All petitions, briefs, or other papers that are required to be served upon a party shall be filed simultaneously with the board of dental examiners.

**9.6(3) Method of service, time of filing, and proof of mailing.** Method of service, time of filing, and proof of mailing shall be as provided by 650—Chapter 51.

**650—9.7(17A) Consideration.** Upon request by petitioner, the board of dental examiners must schedule a brief and informal meeting between the original petitioner, all intervenors, and the board of dental examiners, a member of the board of dental examiners, or a member of the staff of the board of dental examiners, to discuss the questions raised. The board of dental examiners may solicit comments from any person on the questions raised. Also, comments on the questions raised may be submitted to the board of dental examiners by any person.

**650—9.8(17A) Action on petition.**

**9.8(1)** Within the time allowed by 1998 Iowa Acts, chapter 1202, section 13(5), after receipt of a petition for a declaratory order, the board of dental examiners or designee shall take action on the petition as required by 1998 Iowa Acts, chapter 1202, section 13(5).

**9.8(2)** The date of issuance of an order or of a refusal to issue an order is as defined in 650—Chapter 51.

**650—9.9(17A) Refusal to issue order.**

**9.9(1)** The board of dental examiners shall not issue a declaratory order where prohibited by 1998 Iowa Acts, chapter 1202, section 13(1), and may refuse to issue a declaratory order on some or all questions raised for the following reasons:

1. The petition does not substantially comply with the required form.
2. The petition does not contain facts sufficient to demonstrate that the petitioner will be aggrieved or adversely affected by the failure of the board of dental examiners to issue an order.
3. The board of dental examiners does not have jurisdiction over the questions presented in the petition.
4. The questions presented by the petition are also presented in a current rule making, contested case, or other agency or judicial proceeding, that may definitively resolve them.
5. The questions presented by the petition would more properly be resolved in a different type of proceeding or by another body with jurisdiction over the matter.

6. The facts or questions presented in the petition are unclear, overbroad, insufficient, or otherwise inappropriate as a basis upon which to issue an order.

7. There is no need to issue an order because the questions raised in the petition have been settled due to a change in circumstances.

8. The petition is not based upon facts calculated to aid in the planning of future conduct but is, instead, based solely upon prior conduct in an effort to establish the effect of that conduct or to challenge an agency decision already made.

9. The petition requests a declaratory order that would necessarily determine the legal rights, duties, or responsibilities of other persons who have not joined in the petition, intervened separately, or filed a similar petition and whose position on the questions presented may fairly be presumed to be adverse to that of petitioner.

10. The petitioner requests the board of dental examiners to determine whether a statute is unconstitutional on its face.

**9.9(2)** A refusal to issue a declaratory order must indicate the specific grounds for the refusal and constitutes final agency action on the petition.

**9.9(3)** Refusal to issue a declaratory order pursuant to this provision does not preclude the filing of a new petition that seeks to eliminate the grounds for the refusal to issue an order.

**650—9.10(17A) Contents of declaratory order—effective date.** In addition to the order itself, a declaratory order must contain the date of its issuance, the name of petitioner and all intervenors, the specific statutes, rules, policies, decisions, or orders involved, the particular facts upon which it is based, and the reasons for its conclusion.

A declaratory order is effective on the date of issuance.

**650—9.11(17A) Copies of orders.** A copy of all orders issued in response to a petition for a declaratory order shall be mailed promptly to the original petitioner and all intervenors.

**650—9.12(17A) Effect of a declaratory order.** A declaratory order has the same status and binding effect as a final order issued in a contested case proceeding. It is binding on the board of dental examiners, the petitioner, and any intervenors (who consent to be bound) and is applicable only in circumstances where the relevant facts and the law involved are indistinguishable from those on which the order was based. As to all other persons, a declaratory order serves only as precedent and is not binding on the board of dental examiners. The issuance of a declaratory order constitutes final agency action on the petition.

These rules are intended to implement Iowa Code chapter 17A as amended by 1998 Iowa Acts, chapter 1202.

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TITLE III  
*LICENSING*

CHAPTER 10  
GENERAL

[Prior to 5/18/88, Dental Examiners, Board of[320]]

**650—10.1(153) Licensed personnel.** Persons engaged in the practice of dentistry in Iowa must be licensed by the board as a dentist and persons performing services under Iowa Code section 153.15, must be licensed by the board as a dental hygienist.

This rule is intended to implement Iowa Code sections 147.2 and 153.17.

**650—10.2(153) Display of license and license renewal.** The license to practice dentistry or dental hygiene and the current license renewal must be prominently displayed by the licensee at the principal office of employment.

**10.2(1)** Additional license certificates shall be obtained from the board whenever a licensee practices at more than one address. If more than two additional certificates are requested, explanation must be made in writing to the board.

**10.2(2)** Duplicate licenses shall be issued by the board upon satisfactory proof of loss or destruction of original license.

This rule is intended to implement Iowa Code sections 147.7, 147.10 and 147.80(17).

**650—10.3(153) Supervision of dental hygienist.**

**10.3(1)** The administration of local anesthesia shall only be provided under the direct supervision of a dentist. Direct supervision of the dental hygienist requires that the supervising dentist be present in the treatment facility, but it is not required that the dentist be physically present in the treatment room.

**10.3(2)** All other authorized services provided by a dental hygienist shall be performed under the general supervision of a dentist currently licensed in the state of Iowa. General supervision shall mean that a dentist has examined the patient and has prescribed authorized services to be provided by a dental hygienist. The dentist need not be present in the facility while these services are being provided. If a dentist will not be present, the following requirements shall be met:

1. Patients or their legal guardian must be informed prior to the appointment that no dentist will be present and therefore no examination will be conducted at that appointment.

2. The hygienist must consent to the arrangement.

3. Basic emergency procedures must be established and in place and the hygienist must be capable of implementing these procedures.

4. The treatment to be provided must be prior prescribed by a licensed dentist and must be entered in writing in the patient record.

Subsequent examination and monitoring of the patient, including definitive diagnosis and treatment planning, is the responsibility of the dentist and shall be carried out in a reasonable period of time in accordance with the professional judgment of the dentist based upon the individual needs of the patient.

General supervision shall not preclude the use of direct supervision when in the professional judgment of the dentist such supervision is necessary to meet the individual needs of the patient.

Nothing in these rules shall be interpreted so as to prevent a licensed dental hygienist from providing educational services, assessment, screening, or data collection for the preparation of preliminary written records for evaluation by a licensed dentist.

**10.3(3)** A dental hygienist shall not practice independent from the supervision of a dentist nor shall a dental hygienist establish or maintain an office or other workplace separate or independent from the office or other workplace in which the supervision of a dentist is provided.

This rule is intended to implement Iowa Code section 153.15.

**650—10.4(153) Unauthorized practice.** A dental hygienist who assists a dentist in practicing dentistry in any capacity other than as an employee or independent contractor supervised by a licensed dentist or who directly or indirectly procures a licensed dentist to act as nominal owner, proprietor, director, or supervisor of a practice as a guise or subterfuge to enable such dental hygienist to engage in the practice of dentistry or dental hygiene, or who renders dental service(s) directly or indirectly on or for members of the public other than as an employee or independent contractor supervised by a licensed dentist shall be deemed to be practicing illegally. The unauthorized practice of dental hygiene means allowing a person not licensed in dentistry or dental hygiene to perform dental hygiene services authorized in Iowa Code section 153.15 and rule 650—1.1(153). The unauthorized practice of dental hygiene also means the performance of services by a dental hygienist which exceeds the scope of practice granted in Iowa Code section 153.15.

This rule is intended to implement Iowa Code sections 147.10, 147.57 and 153.15.

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\*Effective date of 10.3(1) delayed until the end of the 2000 Session of the General Assembly by the Administrative Rules Review Committee at its meeting held September 15, 1999.

- b. Postgraduate study relating to health sciences shall receive 15 credits per semester hour.
- c. Successful completion of Part II of the National Board Examination for dentists, or the National Board Examination for dental hygienists, if taken five or more years after graduation will result in 15 hours credit.
- d. Computer CD-ROM programs that are interactive and require branching, navigation, participation and decision making on the part of the viewer are allowed a maximum of 12 hours per biennium.
- e. Credit may be given for other continuing education activities upon request and approval by the Iowa board of dental examiners.

**25.3(5)** Prior approval of activities. An organization or person other than an approved sponsor, which desires prior approval of a course, program or other continuing education activity or who desires to establish approval of the activity prior to attendance, shall apply for approval to the board at least 90 days in advance of the commencement of the activity on a form provided by the board. The board shall approve or deny the application. The application shall state the dates, subjects offered, total hours of instruction, names and qualifications of speakers and other pertinent information. Applications may include the following:

- a. Original presentation of continuing dental education courses shall result in credit double that which the participant receives. Credit will not be granted for repeating presentations within the biennium. Credit is not given for teaching which represents part of the licensee's normal academic duties as a full-time or part-time faculty member or consultant.
- b. Publications of scientific articles in professional dental and dental hygiene related journals shall result in a maximum of 5 hours per article; maximum of 20 hours per biennium.
- c. Home study activities shall result in a maximum of 6 hours credit per biennium; licensee must submit a written report of activity. Activity may include television viewing, video programs, correspondence work or research.

**25.3(6)** Postapproval of activities. A licensee seeking credit for attendance and participation in an educational activity which was not conducted by an approved sponsor nor otherwise approved may submit to the board, within 60 days after completion of such activity, its dates, subjects, instructors, and their qualifications, the number of credit hours and proof of attendance therefor. Within 90 days after receipt of such application the board shall advise the licensee in writing by ordinary mail whether the activity is approved and the number of hours allowed therefor. All requests may be reviewed by the advisory committee on continuing education prior to final approval or denial by the board. A licensee not complying with the requirements of this paragraph may be denied credit for such activity.

**25.3(7)** Subject matter acceptable for continuing dental education credit:

a. In order for specific course subject material to be acceptable for credit, the stated course objectives, overall curriculum design or course outlines shall clearly establish conformance with the following criteria:

- (1) The subject matter is of value to dentistry and directly applicable to oral health care.
- (2) The information presented enables the dental professional to enhance the dental health of the public.
- (3) The dental professional is able to apply the knowledge gained within the professional capacity of the individual.
- (4) The dental science courses include, but are not limited to, those within the eight recognized dental specialty areas and topics such as geriatric dentistry, hospital dentistry, oral diagnosis, oral rehabilitation and preventative dentistry.

b. Nonacceptable subject matter includes personal development, business aspects of practice, personnel management, government regulations, insurance, collective bargaining, and community service presentations. While desirable, those subjects are not applicable to the dental and dental hygiene skills, knowledge, and competence as expressed in the legislation. Therefore, such courses will receive no credit toward relicensure. The board may deny credit for any course. Courses in patient treatment record keeping, risk management, and OSHA regulations are acceptable subject matter.

**650—25.4(153) Approval of sponsors.**

**25.4(1)** An organization or person not previously approved by the board, which desires approval as a sponsor of courses, programs, or other continuing education activities, shall apply for approval to the board stating its education history for the preceding two years, including approximate dates, subjects offered, total hours of instruction presented, and names and qualifications of instructors. All applications shall be reviewed by the advisory committee on continuing education prior to final approval or denial by the board.

**25.4(2)** Prospective sponsors must apply to the board of dental examiners using a "Sponsor Approval Form" in order to obtain approved sponsor status. Board-approved sponsors must file a sponsor recertification record report biennially.

**25.4(3)** The person or organization sponsoring continuing education activities shall make a written record of the Iowa licensees in attendance and send a signed copy of such attendance record to the board office upon completion of the activity, but in no case later than July 1 of even-numbered years. The report shall be sent to the Iowa Board of Dental Examiners, 400 S.W. 8th Street, Suite D, Des Moines, Iowa 50309-4687.

**25.4(4)** Sponsors must be formally organized and adhere to board rules for planning and providing continuing dental education activities. Programs sponsored by individuals or institutions for commercial or proprietary purposes, especially programs in which the speaker advertises or urges the use of any particular dental product or appliance, may be recognized for credit on a prior approval basis only. When courses are promoted as approved continuing education courses which do not meet the requirements as defined by the board, the sponsor will be required to refund the registration fee to the participants. Approved sponsors may offer noncredit courses provided the participants have been informed that no credit will be given. Failure to meet this requirement may result in loss of approved sponsor status.

**650—25.5(153) Review of programs.** The board on its own motion or at the recommendation of the advisory committee on continuing education may monitor or review any continuing education program already approved by the board and upon evidence of significant variation in the program presented from the program approved may disapprove all or any part of the approved hours granted to the program.

**650—25.6(153) Hearings.** In the event of denial, in whole or in part, of any application for approval of a continuing education program or credit for continuing education activity, the applicant or licensee shall have the right, within 20 days after the sending of the notification of the denial by ordinary mail, to request a hearing which shall be held within 60 days after receipt of the request for hearing. The hearing shall be conducted by the board or a qualified hearing officer designated by the board. If the hearing is conducted by a hearing officer, the hearing officer shall submit a transcript of the hearing with the proposed decision of the hearing officer. The decision of the board or decision of the hearing officer after adoption by the board shall be final.



**650—25.7(153) Waivers, extensions and exemptions.** The board may, in individual cases involving physical 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. No waiver or extension of time shall be granted unless written application shall be made on forms provided by the board and signed by the licensee and a physician licensed by the board of medical examiners. Waivers of the minimum educational requirements may be granted by the board for any period of time not to exceed one calendar year. In the event that the physical disability or illness upon which a waiver has been granted continues beyond the period of the waiver, the licensee must reapply for an extension of the waiver. The board may, as a condition of the waiver granted, require the applicant to make up a certain portion or all of the minimum educational requirements waived by methods prescribed by the board.

Extensions or exemptions of continuing education requirements will be considered by the board on an individual basis.

A dentist or dental hygienist licensed to practice in this state shall be deemed to have complied with the continuing education requirements of this state during periods that the person serves honorably on active duty in the military services, or for periods that the person practices dentistry or dental hygiene in another state or district having a continuing education requirement for dentistry or dental hygiene and meets all requirements of that state or district for practice therein, or for periods that the dentist or dental hygienist is a government employee working in the person's licensed specialty and assigned to duty outside the United States, or for other periods of active practice and absence from the state approved by the board.

**650—25.8(153) Exemptions for inactive practitioners.** A licensee who is not engaged in the practice in the state of Iowa, residing in or out of the state of Iowa, may be granted a waiver of compliance and obtain a certificate of exemption upon written application to the board. The application shall contain a statement that the applicant will not engage in the practice of dentistry or dental hygiene in Iowa without first complying with all regulations governing reinstatement after exemption. The application for a certificate of exemption shall be submitted upon the form provided by the board.

**650—25.9(153) Reinstatement of inactive practitioners.** Inactive practitioners who have been granted a waiver of compliance with these regulations and obtained a certificate of exemption shall, prior to engaging in the practice of dentistry or dental hygiene in the state of Iowa, satisfy the following requirements for reinstatement:

**25.9(1)** Submit written application for reinstatement to the board upon forms provided by the board; and

**25.9(2)** Furnish in the application evidence of one of the following:

*a.* The full-time practice of dentistry or dental hygiene in another state of the United States or the 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 the rules; or

*b.* Completion of a total number of hours of accredited continuing education computed by multiplying 15 by the number of years a certificate of exemption shall have been in effect for such applicant; or

*c.* Successful completion of CRDTS or other Iowa state license examination conducted within one year immediately prior to the submission of such application for reinstatement; or

*d.* The licensee may petition the board to determine the continuing education credit hours required for reinstatement of their Iowa license.

**25.9(3)** Applications must be filed with the board along with the following:

- a. Certification by the state board of dentistry or equivalent authority in which applicant has engaged in the practice of dentistry or dental hygiene that the applicant has not been the subject of final or pending disciplinary action.
- b. Statement as to any claims, complaints, judgments or settlements made with respect to the applicant arising out of the alleged negligence or malpractice in rendering professional services as a dentist or dental hygienist.

**650—25.10(153) Noncompliance with continuing dental education requirements.** It is the licensee's personal responsibility to comply with these rules. The license of individuals not complying with the continuing dental education rules may be subject to disciplinary action by the board.

Inquiries relating to acceptability of continuing dental education activities, approval of sponsors, or exemptions should be directed to: Advisory Committee on Continuing Dental Education, Iowa Board of Dental Examiners, 400 S.W. 8th Street, Suite D, Des Moines, Iowa 50309-4687.

**650—25.11(153) Dental hygiene continuing education.** The dental hygiene committee, in its discretion, shall make recommendations to the board for approval or denial of requests pertaining to dental hygiene education. The dental hygiene committee may utilize the continuing education advisory committee as needed. The board's review of the dental hygiene committee recommendation is subject to 650—Chapter 5. The following items pertaining to dental hygiene shall be forwarded to the dental hygiene committee for review.

1. Dental hygiene continuing education requirements and requests for approval of programs, activities and sponsors.
2. Requests by dental hygienists for waivers, extensions and exemptions of the continuing education requirements.
3. Requests for exemptions from inactive dental hygiene practitioners.
4. Requests for reinstatement from inactive dental hygiene practitioners.
5. Appeals of denial of dental hygiene continuing education and conduct hearings as necessary.

These rules are intended to implement Iowa Code section 147.10.

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c. Has submitted evidence of successful completion of conscious sedation experience at the graduate level, which is approved by the board. The applicant shall document this experience by specifying the type of experience; the number of hours; the length of training; and the number of patient contact hours including documentation of the number of supervised conscious sedation cases; or

d. Has successfully completed a formal training program, approved by the board, which included physical evaluation, IV sedation, airway management, monitoring, basic life support and emergency management.

29.4(2) When an applicant has not met the above requirements, the applicant must complete a remedial training program in conscious sedation and related academic subjects beyond the undergraduate dental school level. The remedial training program shall be prior approved by the board. The applicant may be subject to professional evaluation as part of the application process. The professional evaluation shall be conducted by the anesthesia credentials committee and include at a minimum the evaluation of the applicant's knowledge of case management and airway management.

29.4(3) A dentist utilizing conscious sedation shall maintain a properly equipped facility. The facility shall maintain and the dentist shall be trained on the following equipment: anesthesia or analgesia machine, EKG monitor, positive pressure oxygen, suction, laryngoscope and blades, endotracheal tubes, magill forceps, oral airways, stethoscope, blood pressure monitoring device, pulse oximeter, emergency drugs, defibrillator. The facility shall be staffed with trained auxiliary personnel capable of reasonably handling procedures, problems, and emergencies incident to the administration of conscious sedation. A licensee may submit a request to the board for waiver of any of the provisions of this subrule. Waiver requests will be considered by the board on an individual basis and shall be granted only if the board determines that there is a reasonable basis for the waiver.

29.4(4) A dentist administering conscious sedation must document and maintain current, successful completion of an Advanced Cardiac Life Support (ACLS) course, and the auxiliary personnel shall maintain certification in basic life support and be capable of administering basic life support.

29.4(5) A dentist who is performing a procedure for which conscious sedation is being employed shall not administer the pharmacologic agents and monitor the patient without the presence and assistance of at least one qualified auxiliary personnel in the room who is qualified under subrule 29.4(4).

29.4(6) A licensed dentist who has been utilizing conscious sedation on an outpatient basis in a competent manner for five years preceding July 9, 1986, but has not had the benefit of formal training as outlined in this rule, may apply for a permit provided the dentist fulfills the provisions set forth in subrules 29.4(3), 29.4(4) and 29.4(5).

29.4(7) Dentists qualified to administer conscious sedation may administer nitrous oxide inhalation analgesia provided they meet the requirement of 29.6(153).

29.4(8) If conscious sedation results in a general anesthetic state, the rules for deep sedation/general anesthesia apply.

#### **650—29.5(153) Application for permit.**

29.5(1) No dentist shall use or permit the use of deep sedation/general anesthesia or conscious sedation in a dental office for dental patients, unless the dentist possesses a current permit issued by the Iowa board of dental examiners. A dentist holding a permit shall be subject to review and facility inspection as deemed appropriate by the board.

29.5(2) An application for a deep sedation/general anesthesia permit must include the appropriate fee as specified in 650—Chapter 15, as well as evidence indicating compliance with rule 29.3(153).

29.5(3) An application for a conscious sedation permit must include the appropriate fee as specified in 650—Chapter 15, as well as evidence indicating compliance with rule 29.4(153).

**29.5(4)** A provisional permit may be granted the new applicant based solely on credentials until all processing and investigation have been completed. A provisional permit may be issued only if the applicant will be practicing at a facility that has been previously inspected and approved by the board.

**29.5(5)** Permits shall be renewed biennially following submission of proper application and may involve board reevaluation of credentials, facilities, equipment, personnel, and procedures of a previously qualified dentist to determine if the dentist is still qualified. The appropriate fee for renewal as specified in 650—Chapter 15 of these rules must accompany the application.

**29.5(6)** Based on the evaluation of credentials, facilities, equipment, personnel and procedures of a dentist, the board may determine that restrictions may be placed on a permit.

**29.5(7)** The actual costs associated with the on-site evaluation of the facility shall be the primary responsibility of the licensee. The cost to the licensee shall not exceed \$150 per facility.

**650—29.6(153) Nitrous oxide inhalation analgesia.**

**29.6(1)** A dentist may use nitrous oxide inhalation analgesia sedation on an outpatient basis for dental patients provided the dentist:

- a. Has completed a board approved course of training; or
- b. Has training equivalent to that required in 29.6(1) "a" while a student in an accredited school of dentistry, and
- c. Has adequate equipment with fail-safe features and minimum oxygen flow which meets FDA standards.
- d. Performs routine maintenance on equipment every two years and maintains documentation of such maintenance, and provides such documentation to the board upon request.

**29.6(2)** A dentist utilizing nitrous oxide inhalation analgesia and auxiliary personnel shall be trained and capable of administering basic life support.

**29.6(3)** A licensed dentist who has been utilizing nitrous oxide inhalation analgesia in a dental office in a competent manner for the 12-month period preceding July 9, 1986, but has not had the benefit of formal training outlined in paragraph 29.6(1) "a" or 29.6(1) "b," may continue the use provided the dentist fulfills the requirements of paragraphs 29.6(1) "c" and "d" and subrule 29.6(2).

**29.6(4)** Rescinded IAB 2/9/00, effective 3/15/00.

**29.6(5)** Rescinded IAB 2/9/00, effective 3/15/00.

**29.6(6)** If the dentist intends to achieve a state of conscious sedation from the administration of nitrous oxide inhalation analgesia, the rules for conscious sedation apply.

**650—29.7(153) Antianxiety premedication.**

29.7(1) Antianxiety premedication is the prescription or administration of pharmacologic substances for the relief of anxiety and apprehension.

29.7(2) The regulation and monitoring of this modality of treatment are the responsibility of the ordering dentist.

29.7(3) If a dentist intends to achieve a state of conscious sedation from the administration of an antianxiety premedication, the rules for conscious sedation shall apply.

29.7(4) A dentist utilizing antianxiety premedication and auxiliary personnel shall be trained in and capable of administering basic life support.

**650—29.8(153) Noncompliance.** Violations of the provisions of this chapter may result in revocation or suspension of the dentist's permit or other disciplinary measures as deemed appropriate by the board.

**650—29.9(153) Reporting of adverse occurrences related to deep sedation/general anesthesia, conscious sedation, nitrous oxide inhalation analgesia, and antianxiety premedication.**

29.9(1) *Reporting.* All licensed dentists in the practice of dentistry in this state must submit a report within a period of 30 days to the board of any mortality or other incident which results in temporary or permanent physical or mental injury requiring hospitalization of the patient during, or as a result of, antianxiety premedication, nitrous oxide inhalation analgesia, conscious sedation or deep sedation/general anesthesia related thereto. The report shall include responses to at least the following:

- a. Description of dental procedure.
- b. Description of preoperative physical condition of patient.
- c. List of drugs and dosage administered.
- d. Description, in detail, of techniques utilized in administering the drugs utilized.
- e. Description of adverse occurrence:
  1. Description, in detail, of symptoms of any complications, to include but not be limited to onset, and type of symptoms in patient.
  2. Treatment instituted on the patient.
  3. Response of the patient to the treatment.
- f. Description of the patient's condition on termination of any procedures undertaken.

29.9(2) *Failure to report.* Failure to comply with subrule 29.9(1), when the occurrence is related to the use of deep sedation/general anesthesia, conscious sedation, nitrous oxide inhalation analgesia, or antianxiety premedication, may result in the dentist's loss of authorization to administer deep sedation/general anesthesia, conscious sedation, nitrous oxide inhalation analgesia, or antianxiety premedication or in other sanctions provided by law.

**650—29.10(153) Anesthesia credentials committee.**

29.10(1) The anesthesia credentials committee is a peer review committee appointed by the board to assist the board in the administration of this chapter. This committee shall be chaired by a member of the board and shall include at least six additional members who are licensed to practice dentistry in Iowa. At least four members of the committee shall hold deep sedation/general anesthesia or conscious sedation permits issued under this chapter.

29.10(2) The anesthesia credentials committee shall perform the following duties at the request of the board:

- a. Review all permit applications and make recommendations to the board regarding those applications.
- b. Conduct site visits at facilities under subrule 29.5(1) and report the results of those site visits to the board. The anesthesia credentials committee may submit recommendations to the board regarding the appropriate nature and frequency of site visits.

c. Perform professional evaluations under subrules 29.3(2) and 29.4(2) and report the results of those evaluations to the board.

**650—29.11(153) Renewal.** Beginning 12 months from December 10, 1997, and for each renewal thereafter, permit holders are required to maintain evidence of renewal of ACLS certification.

Beginning 12 months from December 10, 1997, and for each renewal thereafter, permit holders are required to submit a minimum of six hours of continuing education in the area of sedation. These hours may also be submitted as part of license renewal requirements.

**650—29.12(153) Rules for denial or nonrenewal.** A dentist who has been denied a deep sedation/general anesthesia or conscious sedation permit or renewal may appeal the denial and request a hearing on the issues related to the permit or renewal denial by serving a notice of appeal and request for hearing upon the executive director not more than 30 days following the date of the mailing of the notification of the permit or renewal denial, or not more than 30 days following the date upon which the dentist was served notice if notification was made in the manner of service of an original notice. The hearing shall be considered a contested case proceeding and shall be governed by the procedures set forth in 650 IAC 51.

**650—29.13(153) Record keeping.** The patient chart must include preoperative and postoperative vital signs, drugs administered, dosage administered, anesthesia time in minutes, and monitors used. Intermittent vital signs shall be taken and recorded in patient chart during procedures and until the patient is fully ambulatory. The chart should contain the name of the person to whom the patient was discharged.

These rules are intended to implement Iowa Code sections 153.33 and 153.34.

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\*Effective date of 29.6(4) to 29.6(6) delayed 70 days by the Administrative Rules Review Committee at its meeting held June 9, 1998.

\*\*Effective date of 29.6(4) to 29.6(6) delayed until the end of the 2000 Session of the General Assembly by the Administrative Rules Review Committee at its meeting held September 15, 1999. Subrules 29.6(4) and 29.6(5) were rescinded IAB 2/9/00, effective 3/15/00; delay on subrule 29.6(6) lifted by the Administrative Rules Review Committee at its meeting held January 4, 2000, effective January 5, 2000.

**CHAPTER 31**  
**COMPLAINTS AND INVESTIGATIONS**

[Prior to 5/18/88, Dental Examiners, Board of [320]]

**650—31.1(272C) Complaint review.** The board shall, upon receipt of a complaint, or may upon its own motion, pursuant to other evidence received by the board, review and investigate alleged acts or omissions which the board reasonably believes constitute cause under applicable law or administrative rule for licensee discipline. All complaints regarding the practice of dental hygiene will be initially directed to the dental hygiene committee. The committee shall review the complaint and make a recommendation to the board.

**650—31.2(153) Form and content.** A written complaint should include the following facts:

1. The full name, address, and telephone number of the complainant.
2. The full name, address, and telephone number of the licensee.
3. A statement of the facts concerning the alleged acts or omissions.

**650—31.3(153) Address.** The written complaint may be delivered personally or by mail to the executive director of the board. The current office address is 400 S.W. 8th Street, Suite D, Des Moines, Iowa 50309-4687.

**650—31.4(153) Investigation.** In order for the board to determine if probable cause exists for a hearing on the complaint, the executive director or authorized designee shall cause an investigation to be made into the allegations of the complaint.

**650—31.5(153) Issuance of investigatory subpoenas.**

**31.5(1)** The executive director or designee may, upon the written request of a board investigator or on the director's own initiative, subpoena books, papers, records, and other real evidence which is necessary for the board to decide whether to institute a contested case proceeding. In the case of a subpoena for mental health records, each of the following conditions shall be satisfied prior to the issuance of the subpoena:

- a. The nature of the complaint reasonably justifies the issuance of a subpoena;
- b. Adequate safeguards have been established to prevent unauthorized disclosure;
- c. An express statutory mandate, articulated public policy, or other recognizable public interest favors access; and
- d. An attempt was made to notify the patient and to secure an authorization from the patient for release of the records at issue.

**31.5(2)** A written request for a subpoena or the director's written memorandum in support of the issuance of a subpoena shall contain the following:

- a. The name and address of the person to whom the subpoena will be directed;
- b. A specific description of the books, papers, records or other real evidence requested;
- c. An explanation of why the documents sought to be subpoenaed are necessary for the board to determine whether it should institute a contested case proceeding; and
- d. In the case of a subpoena request for mental health records, confirmation that the conditions described in 31.5(1) have been satisfied.

**31.5(3)** Each subpoena shall contain:

- a. The name and address of the person to whom the subpoena is directed;
- b. A description of the books, papers, records or other real evidence requested;
- c. The date, time and location for production or inspection and copying;
- d. The time within which a motion to quash or modify the subpoena must be filed;

- e. The signature, address and telephone number of the executive director or designee;
- f. The date of issuance; and
- g. A return of service attached to the subpoena.

**31.5(4)** Any person who is aggrieved or adversely affected by compliance with the subpoena must, within 14 days after service of the subpoena, or before the time specified for compliance if such time is less than 14 days, file with the board a motion to quash or modify the subpoena. The motion shall describe the legal reasons why the subpoena should be quashed or modified, and may be accompanied by legal briefs or factual affidavits.

**31.5(5)** Upon receipt of a timely motion to quash or modify a subpoena, the board may request an administrative law judge to hold a hearing and issue a decision, or the board may conduct a hearing and issue a decision. Oral argument may be scheduled at the discretion of the board or the administrative law judge. The administrative law judge or the board may quash or modify the subpoena, deny the motion, or issue an appropriate protective order.

**31.5(6)** A person aggrieved by a ruling of an administrative law judge who desires to challenge that ruling must appeal the ruling to the board by serving on the executive director, either in person or by certified mail, a notice of appeal within ten days after service of the decision of the administrative law judge.

**31.5(7)** If the person contesting the subpoena is not the person under investigation, the board's decision is final for purposes of judicial review. If the person contesting the subpoena is the person under investigation, the board's decision is not final for purposes of judicial review until either the person is notified the investigation has been concluded with no formal action, or there is a final decision in the contested case.

**650—31.6(153) Board appearances.** The board may request a licensee to appear before the board to discuss a pending investigation. By electing to participate in the board appearance, the licensee waives any objection to a board member's both participating in the appearance and later participating as a decision maker in a contested case proceeding on the grounds of a personal investigation and a combination of investigative and adjudicative functions. If the executive director participates in the appearance, the licensee further waives any objection to having the executive director assist the board in the contested case proceeding.

**650—31.7(153) Peer review.** A complaint may be assigned to a peer review committee for review, investigation and report.

**31.7(1)** The board shall determine which peer review committee will review a case involving a dentist and what complaints or other matters shall be referred to a peer review committee for investigation, review, and report to the board. The board may use the peer review committee system organized under the dental care programs council of the Iowa dental association or a specifically constituted peer review committee designated by the board for matters involving dentists.

**31.7(2)** The dental hygiene committee shall determine which peer review committee will review a case involving a dental hygienist and what complaints or other matters shall be referred to a peer review committee for investigation, review, and report to the dental hygiene committee. The dental hygiene committee may use the peer review system organized under the ethics committee of the Iowa dental hygienists' association or a specifically constituted peer review committee designated by the dental hygiene committee for matters involving dental hygienists.

**31.7(3)** The Iowa dental association and the Iowa dental hygienists' association shall register yearly and keep current their peer review systems with the board. Board- or dental hygiene committee-appointed peer review committee members shall be registered with the board when appointed.

**31.7(4)** Members of the peer review committees shall not be liable for acts, omissions or decisions made in connection with service on the peer review committee. However, immunity from civil liability shall not apply if the act is done with malice.



**650—31.8(272C) Duties of peer review committees.**

**31.8(1)** The peer review committees shall observe the requirements of confidentiality imposed by Iowa Code section 272C.6.

**31.8(2)** The board may provide investigatory and related services to peer review committees.

**31.8(3)** A peer review committee shall thoroughly investigate a complaint as assigned and make written recommendations to the board in accordance with the board's direction.

**31.8(4)** Written recommendations shall contain a statement of facts, the recommendation for disposition and the rationale supporting the recommendation. The peer review should consider relevant statutes, board rules, ethical standards and standards of care in making its recommendations.

**31.8(5)** Written recommendations shall be signed by the members of the peer review committee concurring in the report.

**31.8(6)** Upon completion all investigative reports prepared by peer review committees or staff together with any recommendations shall be submitted to the board.

**650—31.9(272C) Board review.** The board shall review all investigative reports and proceed pursuant to 650—Chapter 51.

**650—31.10(272C) Confidentiality of investigative files.** Complaint files, investigation files, all other investigation reports, and other investigative information in the possession of the board or peer review committee acting under the authority of the board or its employees or agents which relate to licensee discipline shall be privileged and confidential, and shall not be subject to discovery, subpoena, or other means of legal compulsion for their release to any person other than the licensee and the board, its employees and agents involved in licensee discipline, or be admissible in evidence in any judicial or administrative proceeding other than the proceeding involving licensee discipline. However, a final written decision and finding of fact of the board in a disciplinary proceeding shall be public record.

**650—31.11(272C) Reporting of judgments or settlements.** Each licensee shall report to the board every adverse judgment in a malpractice action to which the licensee is a party and every settlement of a claim against the licensee alleging malpractice. The report together with a copy of the judgment or settlement must be filed with the board within 30 days from the date of said judgment or settlement.

**650—31.12(272C) Investigation of reports of judgments and settlements.** Reports received by the board from the commissioner of insurance, insurance carriers and licensees involving adverse judgments in a professional malpractice action, and settlement of claims alleging malpractice, shall be reviewed and investigated by the board in the same manner as is prescribed in these rules for the review and investigation of complaints.

**650—31.13(272C) Reporting acts or omissions.** Each licensee having knowledge of acts or omissions set forth in rule 650—30.4(153) shall report to the board those acts or omissions when committed by another person licensed by the board. The report shall include the name and address of the licensee and the date, time and place of the incident.

**650—31.14(272C) Failure to report licensee.** Upon obtaining information that a licensee failed to file a report required by rule 31.13(272C) within 30 days from the date the licensee acquired the information, the board may initiate a disciplinary proceeding against the licensee who failed to make the required report.

**650—31.15(272C) Immunities.** A person shall not be civilly liable as a result of filing a report or complaint with the board, or for the disclosure to the board or its agents or employees, whether or not pursuant to a subpoena of records, documents, testimony or other forms of information which constitute privileged matter concerning a recipient of health care services or some other person, in connection with proceedings of a peer review committee, or in connection with duties of the board. However, immunity from civil liability shall not apply if the act is done with malice.

These rules are intended to implement Iowa Code chapter 17A as amended by 1998 Iowa Acts, chapter 1202, and Iowa Code sections 153.33, 272C.3, and 272C.4.

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**650—51.10(17A) Disqualification.**

**51.10(1)** A presiding officer or other person shall withdraw from participation in the making of any proposed or final decision in a contested case if that person:

- a. Has a personal bias or prejudice concerning a party or a representative of a party;
- b. Has personally investigated, prosecuted or advocated, in connection with that case, the specific controversy underlying that case, another pending factually related contested case, or a pending factually related controversy that may culminate in a contested case involving the same parties;
- c. Is subject to the authority, direction or discretion of any person who has personally investigated, prosecuted or advocated in connection with that contested case, the specific controversy underlying that contested case, or a pending factually related contested case or controversy involving the same parties;
- d. Has acted as counsel to any person who is a private party to that proceeding within the past two years;
- e. Has a personal financial interest in the outcome of the case or any other significant personal interest that could be substantially affected by the outcome of the case;
- f. Has a spouse or relative within the third degree of relationship that (1) is a party to the case, or an officer, director or trustee of a party; (2) is a lawyer in the case; (3) is known to have an interest that could be substantially affected by the outcome of the case; or (4) is likely to be a material witness in the case; or
- g. Has any other legally sufficient cause to withdraw from participation in the decision making in that case.

**51.10(2)** The term “personally investigated” means taking affirmative steps to interview witnesses directly or to obtain documents or other information directly. The term “personally investigated” does not include:

- a. General direction and supervision of assigned investigators;
- b. Unsolicited receipt of information which is relayed to assigned investigators;
- c. Review of another person’s investigative work product in the course of determining whether there is probable cause to initiate a proceeding; or
- d. Exposure to factual information while performing other board functions, including fact gathering for purposes other than investigation of the matter which culminates in a contested case.

Factual information relevant to the merits of a contested case received by a person who later serves as presiding officer in that case shall be disclosed if required by Iowa Code section 17A.17 as amended by 1998 Iowa Acts, chapter 1202, section 19, and subrules 51.10(3) and 51.23(9).

**51.10(3)** In a situation where a presiding officer or other person knows of information which might reasonably be deemed to be a basis for disqualification and decides voluntary withdrawal is unnecessary, that person shall submit the relevant information for the record by affidavit and shall provide for the record a statement of the reasons for the determination that withdrawal is unnecessary.

**51.10(4)** If a party asserts disqualification on any appropriate ground, including those listed in subrule 51.10(1), the party shall file a motion supported by an affidavit pursuant to 1998 Iowa Acts, chapter 1202, section 19(7). The motion must be filed as soon as practicable after the reason alleged in the motion becomes known to the party. The board shall determine the matter as part of the record in this case.

**650—51.11(17A) Consolidation—severance.**

**51.11(1) Consolidation.** The presiding officer may consolidate any or all matters at issue in two or more contested case proceedings where:

- a. The matters at issue involve common parties or common questions of fact or law;
- b. Consolidation would expedite and simplify consideration of the issues involved; and
- c. Consolidation would not adversely affect the rights of any of the parties to those proceedings.

**51.11(2) Severance.** The presiding officer may, for good cause shown, order any contested case proceedings or portions thereof severed.

**650—51.12(17A) Pleadings.**

**51.12(1) Pleadings.** Pleadings may be required by rule, by the notice of hearing, or by order of the presiding officer.

**51.12(2) Answer.** An answer shall be filed within 20 days of service of the statement of charges and notice of hearing.

a. An answer shall show on whose behalf it is filed and specifically admit, deny, or otherwise answer all material allegations of the statement of charges. It shall state any facts deemed to show an affirmative defense and contain as many additional defenses as the pleader may claim.

b. An answer shall state the name, address and telephone number of the person filing the answer, the person or entity on whose behalf it is filed, and the attorney representing that person, if any.

c. Any allegation in the statement of charges not denied in the answer is considered admitted.

**51.12(3) Amendment.** Amendments to the statement of charges and to an answer may be allowed with the consent of the parties or in the discretion of the presiding officer who may impose terms or grant a continuance.

**650—51.13(17A) Service and filing.**

**51.13(1) Service—when required.** Except where otherwise provided by law, every document filed in a contested case proceeding shall be served upon each of the parties of record to the proceeding, including the assistant attorney general designated as prosecutor for the state or the board, simultaneously with their filing. Except for the original notice of hearing and an application for rehearing as provided in Iowa Code section 17A.16(2), the party filing a document is responsible for service on all parties.

**51.13(2) Service—how made.** Service upon a party represented by an attorney shall be made upon the attorney unless otherwise ordered. Service is made by delivery or by mailing a copy to the person’s last-known address. Service by mail is complete upon mailing, except where otherwise specifically provided by statute, rule, or order.

**51.13(3) Filing—when required.** After the notice of hearing, all documents in a contested case proceeding shall be filed with the board. All documents that are required to be served upon a party shall be filed simultaneously with the board.

**51.13(4) Filing—when made.** Except where otherwise provided by law, a document is deemed filed at the time it is delivered to the Board of Dental Examiners, 400 S.W. 8th Street, Suite D, Des Moines, Iowa 50309-4687, delivered to an established courier service for immediate delivery to that office, or mailed by first-class mail or state interoffice mail to that office, so long as there is proof of mailing.

**51.13(5) Proof of mailing.** Proof of mailing includes either: a legible United States Postal Service postmark on the envelope, a certificate of service, a notarized affidavit, or a certification in substantially the following form:

I certify under penalty of perjury and pursuant to the laws of Iowa that, on (date of mailing), I mailed copies of (describe document) addressed to the Board of Dental Examiners, 400 S.W. 8th Street, Suite D, Des Moines, Iowa 50309-4687, and to the names and addresses of the parties listed below by depositing the same in (a United States post office mailbox with correct postage properly affixed or state interoffice mail).

(Date) (Signature)

**650—51.34(153) Reinstatement.**

**51.34(1)** Any person whose license has been revoked or suspended by the board may apply to the board for reinstatement in accordance with the terms of the order of revocation or suspension.

**51.34(2)** If the order of revocation or suspension did not establish terms upon which reinstatement might occur, or if the license was voluntarily surrendered pursuant to disciplinary action, an initial application for reinstatement may not be made until one year has elapsed from the date of the final order.

**51.34(3)** All proceedings for reinstatement shall be initiated by the respondent, who shall file with the board an application for the reinstatement of the license. All proceedings upon the petition for reinstatement shall be subject to the same rules of procedure as other disciplinary matters before the board.

**51.34(4)** An application for reinstatement shall allege facts which, if established, will be sufficient to enable the board to determine that the basis for the revocation or suspension no longer exists and that it will be in the public interest for the license to be reinstated. The burden of proof to establish such facts shall be on the respondent.

**51.34(5)** An application for reinstatement may include a request for a hearing on the issues raised on the application or any other information furnished to the board. The hearing on an application for reinstatement shall be a contested case proceeding within the meaning of Iowa Code section 17A.2(2).

**51.34(6)** The order to grant or deny reinstatement shall include findings of fact and conclusions of law. If reinstatement is granted, terms and conditions of licensure may be imposed. Such terms and conditions may include restrictions on the licensee's practice. This order will be published as provided for in rule 51.33(153).

**51.34(7)** A person whose license to practice dentistry or dental hygiene was revoked or suspended must successfully complete the examination required at the time of reinstatement for dental or dental hygiene licensure. The board may in its discretion require remedial training in addition to or in lieu of the examination requirements.

**650—51.35(272C) Disciplinary hearings—fees and costs.**

**51.35(1) Definitions.** As used in this chapter in relation to a formal disciplinary action filed by the board against a licensee:

*"Deposition"* means the testimony of a person pursuant to subpoena or at the request of the state of Iowa taken in a setting other than a hearing.

*"Expenses"* means costs incurred by persons appearing pursuant to subpoena or at the request of the state of Iowa for purposes of providing testimony on the part of the state of Iowa in a hearing or other official proceeding and shall include mileage reimbursement at the rate specified in Iowa Code section 70A.9 or, if commercial air or ground transportation is used, the actual cost of transportation to and from the proceeding. Also included are actual costs incurred for meals and necessary lodging.

*"Medical examination fees"* means actual costs incurred by the board in a physical, mental, chemical abuse, or other impairment-related examination or evaluation of a licensee when the examination or evaluation is conducted pursuant to an order of the board.

*"Transcript"* means a printed verbatim reproduction of everything said on the record during a hearing or other official proceeding.

*"Witness fees"* means compensation paid by the board to persons appearing pursuant to subpoena or at the request of the state of Iowa for purposes of providing testimony on the part of the state of Iowa. For the purposes of this rule, compensation shall be the same as outlined in Iowa Code section 622.69 or 622.72 as the case may be.

**51.35(2)** The board may charge a fee not to exceed \$75 for conducting a disciplinary hearing which results in disciplinary action taken against the licensee by the board. In addition to the fee, the board may recover from the licensee costs for the following procedures and personnel:

- a. Transcript.
- b. Witness fees and expenses.
- c. Depositions.
- d. Medical examination fees incurred relating to a person licensed under Iowa Code chapter 147.

**51.35(3)** Fees and costs assessed by the board pursuant to subrule 51.35(2) shall be calculated by the board's executive director and shall be entered as part of the board's final disciplinary order. The board's final disciplinary order shall specify the time period in which the fees and costs shall be paid by the licensee.

**51.35(4)** Fees and costs collected by the board pursuant to subrule 51.35(2) shall be allocated to the expenditure category of the board in which the hearing costs were incurred. The fees and costs shall be considered repayment receipts as defined in Iowa Code section 8.2.

**51.35(5)** Failure of a licensee to pay the fees and costs assessed herein in the time specified in the board's final disciplinary order shall constitute a violation of a lawful order of the board.

These rules are intended to implement Iowa Code chapter 17A as amended by 1998 Iowa Acts, chapter 1202, and Iowa Code sections 272C.5 and 272C.6.

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**CHAPTER 716**  
**COMMERCIAL AIR SERVICE AIRPORT INFRASTRUCTURE PROGRAM**

**761—716.1(328) Purpose.** The purpose of the commercial air service airport infrastructure program is to provide funding for improvements to the vertical infrastructure at Iowa's ten commercial air service airports. The source of funds is an appropriation in 1998 Iowa Acts, chapter 1219, section 14, from the rebuild Iowa infrastructure fund.

**761—716.2(328) Definitions.** The definitions in Iowa Code section 328.1 and rule 761—700.1(328) apply to these rules. Also, "Vertical infrastructure" is defined in Iowa Code section 8.57, subsection 5.

**761—716.3(328) Information.** Program information, instructions, and forms may be obtained from the Office of Program Management, Iowa Department of Transportation, 800 Lincoln Way, Ames, Iowa 50010; telephone (515)239-1145.

**761—716.4(328) Eligible airports.** Eligible airports are those Iowa airports currently receiving scheduled commercial air service.

**761—716.5(328) Eligible project activities.** Activities that are eligible for reimbursement include, but are not limited to, the following:

**716.5(1)** Terminal building construction or renovation including associated design, land acquisition, grading, foundation work, floor slabs and utilities.

**716.5(2)** Hangar construction or renovation including associated design, land acquisition, grading, foundation work, floor slabs and utilities.

**761—716.6(328) Ineligible project activities.** Activities that are not eligible for reimbursement include, but are not limited to, the following:

**716.6(1)** Runway, taxiway, or apron paving. This includes any apron paving directly adjacent to terminal buildings or hangars.

**716.6(2)** Automobile parking lot grading, paving, or lighting.

**716.6(3)** Routine maintenance of pavements or buildings.

**761—716.7(328) Work plan.**

**716.7(1)** Each airport shall develop a work plan of projects it intends to accomplish under the program. A work plan shall contain:

*a.* General information, including the airport sponsor's name, contact person, mailing address and telephone number.

*b.* A brief description of each project, including its purpose.

*c.* Cost information for each project, including total project cost and an itemized breakdown of project components.

*d.* A resolution from the airport sponsor endorsing the work plan.

**716.7(2)** Completed work plans shall be submitted to the office of program management.

**716.7(3)** The transportation commission shall determine the eligibility of projects contained in work plans.

**761—716.8(328) Project administration.**

**716.8(1) Agreement.** After the eligibility of projects in a work plan has been determined, the department shall enter into an agreement with the airport sponsor.

**716.8(2) Payments.** Payments to the airport sponsor for eligible project costs shall be made on a cost reimbursement basis.

**716.8(3) Cost overruns.** Costs in excess of the funds allocated to an airport are the responsibility of the airport sponsor.

These rules are intended to implement Iowa Code sections 8.57 and 328.12 and 1998 Iowa Acts, chapter 1219, section 14.

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CHAPTER 717  
GENERAL AVIATION AIRPORT INFRASTRUCTURE PROGRAM

**761—717.1(328) Purpose.** The purpose of the general aviation airport infrastructure program is to provide funding for improvements to the vertical infrastructure at Iowa's 103 general aviation airports. The source of funds is an appropriation in 1999 Iowa Acts, chapter 204, section 11, subsection 2, from the rebuild Iowa infrastructure fund.

**761—717.2(328) Definitions.** The definitions in Iowa Code section 328.1 and rule 761—700.1(328) apply to these rules. In addition:

*"General aviation airport"* means a public airport that is owned by a governmental subdivision of the state of Iowa and that does not have scheduled commercial air service.

*"Primary general aviation airport"* is an airport identified as such in the 1999 Iowa Aviation System Plan.

*"Vertical infrastructure"* is defined in Iowa Code section 8.57, subsection 5.

**761—717.3(328) Information.** Program information, instructions, and forms may be obtained from the Office of Program Management, Iowa Department of Transportation, 800 Lincoln Way, Ames, Iowa 50010; telephone (515)239-1190.

**761—717.4(328) Eligible airports.** Eligible airports are those general aviation airports that are listed in the 1999 Iowa Aviation System Plan and that have a current airport layout plan.

**761—717.5(328) Eligible project activities.** Activities that are eligible for reimbursement include, but are not limited to, the following:

**717.5(1)** Hangar renovation or construction including associated design, land acquisition, grading, foundation work, floor slabs and utilities.

**717.5(2)** Fuel facilities including associated design, land acquisition, grading, foundation work, floor slabs and utilities.

**717.5(3)** Terminal building renovation or construction including associated design, land acquisition, grading, foundation work, floor slabs and utilities.

**761—717.6(328) Ineligible project activities.** Activities that are not eligible for reimbursement include, but are not limited to, the following:

**717.6(1)** Runway, taxiway, or apron paving. This includes any apron paving directly adjacent to terminal buildings or hangars.

**717.6(2)** Automobile parking lot grading, paving, or lighting.

**717.6(3)** Routine maintenance of pavements or buildings.

**761—717.7(328) Funding.**

**717.7(1)** The funding ratio for all projects is 70/30 (70 percent state funds, 30 percent local funds).

**717.7(2)** Maximum state participation. Using the appropriated funds, the maximum state participation is \$50,000 per airport per year.

**761—717.8(328) Project priorities.** Priority shall be given to projects which produce revenue for the airport such as hangars and fuel facilities. Rehabilitation of existing infrastructure where feasible shall have priority over new construction. Primary general aviation airports shall have priority over other general aviation airports. The department shall rank projects as shown in the following table, with number 1 having the highest priority:

<u>Project Type</u>	<u>Primary General Aviation Airport</u>	<u>Other General Aviation Airport</u>
Rehabilitation of aircraft storage or maintenance hangars	1	2
New or expanded aircraft storage or maintenance hangars	3	4
New or expanded fuel facilities	5	6
Rehabilitation of office, terminal, vehicle or service facilities	7	8
New or expanded office, terminal, vehicle or service facilities	9	10

**761—717.9(328) Project applications.**

717.9(1) Project applications shall be submitted through the local transportation center planners to the office of program management.

717.9(2) Each application shall contain:

- a. General information, including the airport sponsor’s name, contact person, mailing address and telephone number.
- b. A capital improvement program (CIP) data sheet. The CIP data sheet shall include a sketch of the project, a brief description of the project and its purpose, and cost information including total project cost and an itemized breakdown of project components.
- c. A resolution from the airport sponsor endorsing the project and authorizing the necessary local match funding.

**761—717.10(328) Review and approval.** Department staff shall review and rate project applications and submit its recommendations to the transportation commission. The transportation commission shall be responsible for determining the projects to be funded and the amount to be funded for each project. If two or more projects have the same priority ranking, but not all of those projects can be funded, priority may be given to those projects at airports that have the larger numbers of based aircraft.

**761—717.11(328) Project administration.**

**717.11(1)** After a project has been approved by the commission, the department shall enter into an agreement with the airport sponsor.

**717.11(2)** Payments. Payments to the airport sponsor for eligible project costs shall be made on a cost reimbursement basis.

**717.11(3)** Cost overruns. Costs in excess of the percentage match and the total amount approved by the commission are the responsibility of the airport sponsor.

These rules are intended to implement Iowa Code sections 8.57 and 328.12 and 1999 Iowa Acts, chapter 204, section 11, subsection 2.

[Filed 1/20/00, Notice 12/15/99—published 2/9/00, effective 3/15/00]

CHAPTERS 718 and 719  
Reserved



The following information was obtained from the records of the  
 Department of the Interior, Bureau of Land Management, on  
 the subject of the above-captioned matter.  
 The Bureau of Land Management has advised that the  
 land described in the above-captioned matter is  
 owned by the United States of America and is  
 located in the State of California.  
 The Bureau of Land Management has advised that the  
 land described in the above-captioned matter is  
 subject to a certain right of way.  
 The Bureau of Land Management has advised that the  
 land described in the above-captioned matter is  
 subject to a certain right of way.  
 The Bureau of Land Management has advised that the  
 land described in the above-captioned matter is  
 subject to a certain right of way.

4.8(2) Lenders shall renew LIFT targeted small business loans at the LIFT loan interest rate set and communicated monthly by the treasurer of state.

**781—4.9(12) LIFT—rural small business transfer program.**

4.9(1) Eligibility for this program is limited to borrowers who purchase an existing rural small business with annual sales of less than \$2 million. The small business must be located in a community with a population of 5000 or less, for which local competition does not exist, and the loss of which will work a hardship on the rural community.

4.9(2) Combined net worth, as defined by this program, shall equal assets less liabilities for each owner of the business and persons borrowing for the business combined. Lenders shall not include the equity an owner or borrower may have in a personal residence for purposes of determining combined net worth.

4.9(3) Proceeds of these loans may be used for a portion of the business which is essential to its continued viability, including real estate where the business is located, fixtures attached to the real estate, equipment relied upon by the business, and the inventory for sale by the business.

4.9(4) The maximum amount that a borrower or business may borrow from this program is \$50,000.

4.9(5) Proceeds may not be used to speculate in real estate or for real estate held for investment purposes. Proceeds may not be used to buy real estate for the purposes of renting or leasing.

4.9(6) Home-based businesses qualify as a LIFT rural small business transfer only if the person qualifies for a tax deduction for that portion of a home used for business pursuant to regulations of the Internal Revenue Service. Applicants who wish to borrow from the LIFT rural small business transfer program, who otherwise qualify, and who have home-based businesses or wish to begin a home-based business must establish to the satisfaction of the lender that they qualify for a tax deduction for that portion of their home they use or intend to use for their business pursuant to regulations of the Internal Revenue Service.

**781—4.10(12) LIFT—traditional livestock producer's linked investment loan program.**

4.10(1) A "qualified linked investment" means a linked investment in which a certificate of deposit is placed by the treasurer of state with an eligible lending institution under the traditional livestock producers linked investment program established under 1999 Iowa Acts, House File 779, section 4.

4.10(2) "Livestock operation" means an animal feeding operation as defined in Iowa Code section 455B.161 which states that an "animal feeding operation" means a lot, yard, corral, building, or other area in which animals are confined and fed and maintained for 45 days or more in any 12-month period, and all structures used for the storage of manure from animals in the operation. Two or more animal feeding operations under common ownership or management are deemed to be a single animal feeding operation if they are adjacent or utilize a common system for manure storage. An animal feeding operation does not include a livestock market.

4.10(3) A borrower who qualifies for a qualified linked investment may use the loan proceeds for new or existing debt directly related to a livestock operation including but not limited to hogs, cattle, feed, supplies, veterinary services, equipment and machinery. For purposes of a qualified linked investment, cattle includes dairy cattle.

4.10(4) A borrower who qualifies for a qualified linked investment may not use the loan proceeds for new or existing debt for land, buildings, or vehicles. A borrower or lender may use land, buildings, or vehicles as collateral for a loan under this program.

4.10(5) The maximum amount that a borrower may borrow from this program is \$100,000.

4.10(6) For a qualified linked investment, the initial certificate of deposit for a given borrower shall have a maturity of one year. The certificate of deposit may be renewed on an annual basis for a total term not to exceed three years.

**4.10(7)** A borrower is not qualified for a qualified linked investment if the borrower is receiving interest assistance from the Farm Service Agency of the United States Department of Agriculture.

**4.10(8)** A lender shall use Form 655-0216 to determine and verify the borrower meets the gross income requirements of a qualified linked investment.

**781—4.11(12) LIFT—value-added agriculture linked investment loan program.**

**4.11(1) Definitions.**

*“Agricultural commodities”* means corn, soybeans, oats, hay, hogs, cattle, dairy cattle, milk, sheep, chicken, turkey and eggs.

*“Economic development officials”* means value-added agriculture experts from the Iowa department of economic development, the department of agriculture and land stewardship and any other governmental, academic and industry groups involved in promoting value-added agriculture.

*“Value-added agriculture”* means processing agricultural commodities raised in Iowa into a more highly valued state by the addition of capital and labor inputs in which the form of the original agricultural commodity is changed or the agricultural commodity is produced for a new market.

*“Value-added project”* means specific company or business operation that qualifies for the value-added linked investment program.

**4.11(2) Eligibility.**

a. The value-added project, business or farming operation, borrower, and lender must be located in Iowa.

b. The borrower must be at least 18 years of age.

c. A borrower that is currently participating in any LIFT program or that has previously participated in any LIFT program in the state treasurer’s office, other than traditional livestock, is not eligible.

**4.11(3) Terms and conditions.**

a. A borrower who qualifies for a value-added linked investment loan may use the loan proceeds for new debt directly related to a value-added agriculture project approved by the state treasurer’s office. The borrower may not refinance debt under this program.

b. A borrower who qualifies for a value-added linked investment loan may not use the loan proceeds for financing of vehicles.

c. The maximum any value-added project can receive from all borrowers shall be \$1,000,000. The treasurer may increase this amount for a specific project, in consultation with economic development officials, when unique or compelling circumstances merit such an action.

d. The maximum amount that a borrower may borrow from this program is \$250,000.

e. For a value-added linked investment, the initial certificate of deposit for a given borrower shall have a maturity of one year. The certificate of deposit may be renewed on an annual basis for a total term not to exceed five years.

**4.11(4) Application process and evaluation.**

a. A lender shall use Form 655-0217 to apply for the program and verify that the borrower qualifies for the program.

b. The treasurer of state recognizes this program is part of a state effort to develop and promote value-added agriculture. Economic development officials will make recommendations to the treasurer’s office on the type of projects that they believe would best suit the LIFT value-added program. The treasurer will give stronger consideration to these types of projects.



c. Applications will be reviewed by the treasurer's office to determine that they meet the requirements under the Iowa Code and administrative rules.

d. Prospective projects that are not part of the economic development officials' recommendations will be forwarded to one or more economic development officials for review and comment.

e. The recommendations of the economic development officials will be given full and fair consideration but they are not conclusive.

This rule is intended to implement Iowa Code Supplement section 12.43B.

These rules are intended to implement Iowa Code sections 12.32 to 12.37 and Iowa Code Supplement sections 12.34, 12.34A, and 12.34B.

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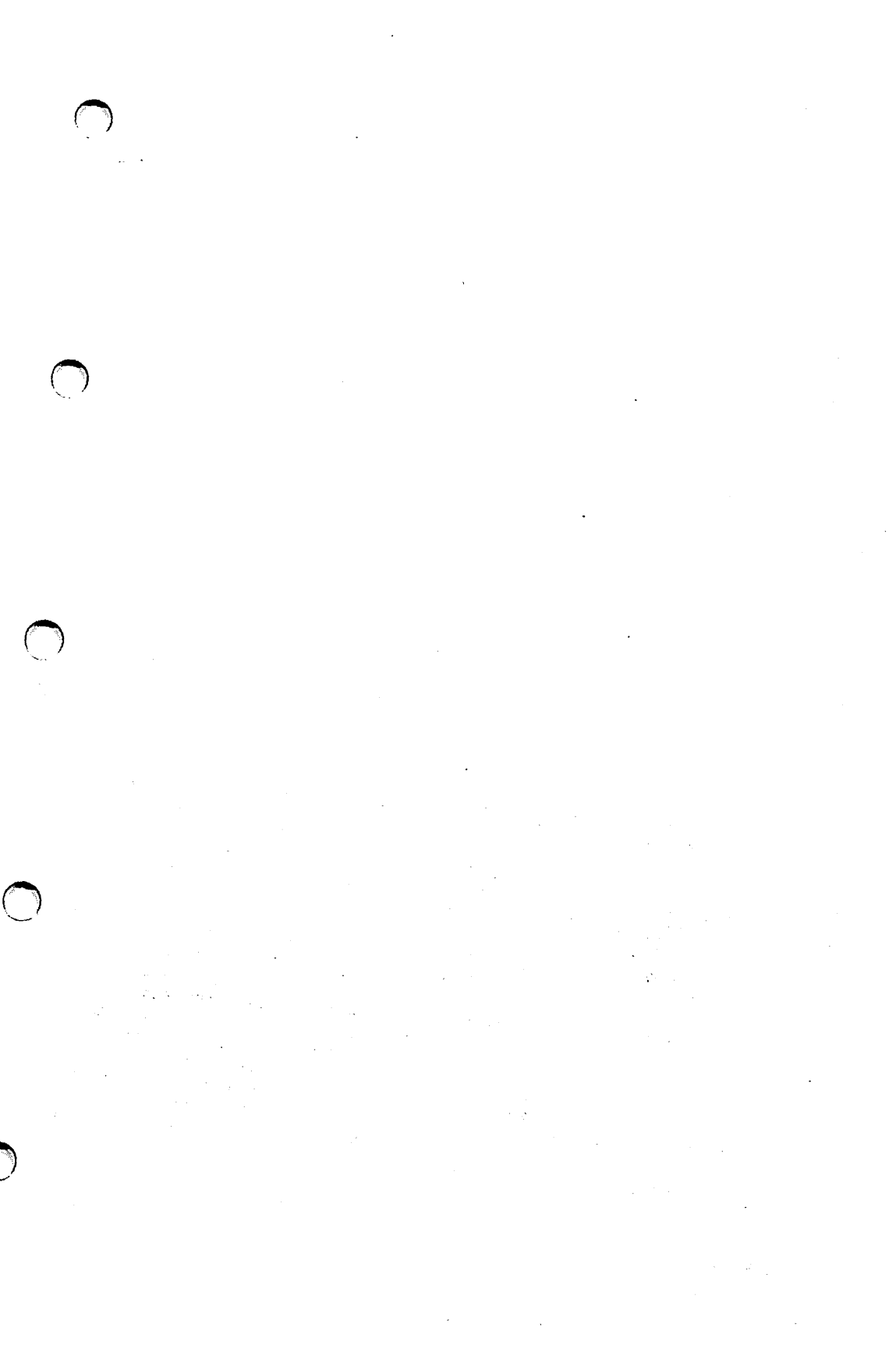
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[Prior to 9/24/86, Labor, Bureau of [530]]  
[Prior to 10/7/98, see 347—Ch 4]

**875—4.1(88) Purpose and scope.** These rules provide for record keeping and reporting by employers covered under Iowa Code chapter 88 as necessary or appropriate for enforcement of the Act, for developing information regarding the causes and prevention of occupational accidents and illnesses, and for maintaining a program of collection, compilation and analysis of occupational safety and health statistics.

**875—4.2(88) Log and summary of occupational injuries and illnesses.**

**4.2(1)** Each employer shall, except as provided in 4.2(2): (1) Maintain in each establishment a log and summary of all recordable occupational injuries and illnesses for that establishment; and (2) enter each recordable injury and illness on the log and summary as early as practicable but no later than six working days after receiving information that a recordable injury or illness has occurred. For this purpose, Form OSHA No. 200 or an equivalent which is as readable and comprehensible to a person not familiar with it shall be used. The log and summary shall be completed in the detail provided in the form and instructions on Form OSHA No. 200.

**4.2(2)** Any employer may maintain the log and summary of occupational injuries and illnesses at a place other than the establishment or by means of data-processing equipment, or both, under the following circumstances:

*a.* There is available at the place where the log and summary is maintained sufficient information to complete the log and summary to a date within six working days after receiving information that a recordable case has occurred, as required by 4.2(1).

*b.* At each of the employer's establishments, there is available a copy of the log and summary which reflects separately the injury and illness experience of that establishment complete and current to a date within 45 calendar days.

**875—4.3(88) Records.** Records shall be established on a calendar-year basis.

**875—4.4(88) Supplementary record.**

**4.4(1)** In addition to the log and summary of occupational injuries and illnesses provided for under rule 4.2(88), each employer shall have available for inspection at each establishment within six working days after receiving information that a recordable case has occurred, a supplementary record for each occupational injury or illness for that establishment. The record shall be completed in the detail prescribed in the instructions accompanying Occupational Safety and Health Administration OSHA Form No. 101. Workers' compensation, insurance or other reports are acceptable alternative records if they contain the information required by OSHA Form No. 101. The state of Iowa Form L-1/WC-1 meets the above requirements. If no acceptable alternative record is maintained for other purposes, OSHA Form No. 101 shall be used or the necessary information shall be otherwise maintained.

4.4(2) All employers shall report to the Iowa division of workers' compensation any occupational injury or illness which temporarily disables an employee for more than three days or which results in permanent total disability, permanent partial disability or death. This report shall be made within four days from such event when such injury or illness is alleged by the employee to have been sustained in the course of the employee's employment. First reports of injury are to be filed in the form and manner required by the division of workers' compensation. A report to the division of workers' compensation is considered to be a report to the division of labor services. The division of workers' compensation shall forward all reports to the division of labor services. This rule does not excuse employers from notifying the division of labor services of fatality or multiple hospitalization accidents as required by rule 875—4.8(88).

**875—4.5(88) Annual summary.**

4.5(1) Each employer shall post an annual summary of occupational injuries and illnesses for each establishment. This summary shall consist of a copy of the year's totals from the Form OSHA No. 200 and the following information from that form: calendar year covered, company name, establishment name, establishment address, certification signature, title, and date. A Form OSHA No. 200 shall be used in presenting the summary. If no injuries or illnesses occurred in the year, zeros must be entered on the totals line, and the form must be posted.

4.5(2) The summary shall be completed by February 1 of each year.

4.5(3) Each employer, or the officer or employee of the employer who supervises the preparation of the log and summary of occupational injuries and illnesses, shall certify that the annual summary of occupational injuries and illnesses is true and complete. The certification shall be accomplished by affixing the signature of the employer, or the officer or employee who supervises the preparation of the annual summary of occupational injuries and illnesses, at the bottom of the last page of the log and summary or by appending a separate statement to the log and summary certifying that the summary is true and complete.

4.5(4) Each employer shall post a copy of the establishment's summary in each establishment in the same manner that notices are required to be posted in 875—3.1(88). The summary covering the previous calendar year shall be posted no later than February 1, and shall remain in place until March 1. For employees who do not primarily report for work at a single establishment, or who do not report to any fixed establishment on a regular basis, employers shall satisfy this posting requirement by presenting or mailing a copy of the summary portion of the log and summary during the month of February of the following year to each such employee who receives pay during that month. For multiestablishment employers where operations have closed down in some establishments during the calendar year, it will not be necessary to post summaries for those establishments.

A failure to comply with the requirements of this rule may result in the issuance of citations and assessment of penalties pursuant to Iowa Code sections 88.7 and 88.14.

**875—4.6(88) Retention of records.** Records provided for in rules 4.2(88), 4.4(88), and 4.5(88) shall be retained in each establishment for five years following the end of the year to which they relate.

**875—4.7(88) Access to records.**

4.7(1) Each employer shall provide, upon request, records provided for in rules 4.2(88), 4.4(88), and 4.5(88) for inspection and copying by any representative of the labor commissioner for the purpose of carrying out the provisions of the Act, and by authorized representatives of the Secretary of Labor or of the Secretary of Health and Human Services.

4.16(2) Subrule 4.16(1) shall not apply when an employer has been notified in writing by the United States Bureau of Labor Statistics that the employer has been selected to participate in a statistical survey of occupational injuries and illnesses. If selected, an employer will be required to maintain the log and summary of occupational injuries and illnesses (OSHA Form No. 200) in accordance with rule 4.2(88) and to make reports in accordance with rule 4.14(88) for the period of time which is specified in the notice.

This rule is intended to implement Iowa Code section 88.6(3).

**875—4.17(88) Bureau of inspections and reporting, research and statistical section forms.** The forms are being omitted from this publication. Copies are available from the division.

4.17(1) OSHA No. 200—Log and summary of occupational injuries and illnesses.

4.17(2) OSHA No. L-1/WC-1(309-5012): Employers work injury report and employers first report of injury.

**875—4.18(88) Definitions.** The definitions and interpretations contained in Iowa Code section 88.3 shall be applicable to the terms when used in this chapter. As used in this chapter unless the context clearly requires otherwise:

“Act” means the Iowa Occupational Safety and Health Act, Iowa Code chapter 88.

“Establishment” means:

a. A single physical location where business is conducted or where services or industrial operations are performed. (For example: a factory, mill, store, hotel, restaurant, movie theatre, farm, ranch, bank, sales office, warehouse, central administrative office, or governmental agency or subdivision thereof.) Where distinctly separate activities are performed at a single physical location (such as contract construction activities operated from the same physical location as a lumber yard), each activity shall be treated as a separate establishment.

b. For firms engaged in activities such as agriculture, construction, transportation, communications and electric, gas and sanitary services which may be physically dispersed, records may be maintained at a place to which employees report each day.

c. Records for personnel who do not primarily report or work at a single establishment, and who are generally not supervised in their daily work, such as traveling salespersons, technicians, and engineers, shall be maintained at the location from which they are paid or the base from which personnel operate to carry out their activities.

“Establishments classified in Standard Industrial Classification Codes (SIC) 52-89” means and is applied to:

a. Establishments whose primary activity constitutes retail trade, finance, insurance, real estate and services are classified in SICs 52-89.

b. Retail trades are classified as SICs 52-59 and for the most part include establishments engaged in selling merchandise to the general public for personal or household consumption. Some of the retail trades are: automotive dealers, apparel and accessory stores, furniture and home furnishing stores, and eating and drinking places.

c. Finance, insurance and real estate are classified as SICs 60-67 and include establishments which are engaged in banking, credit other than banking, security dealings, insurance, and real estate.

d. Services are classified as SICs 70-89 and include establishments which provide a variety of services for individuals, businesses, government agencies, and other organizations. Some of the service industries are: personal and business services, in addition to legal, education, social and cultural; and membership organizations.

e. The primary activity of an establishment is determined as follows: For finance, insurance, real estate, and service establishments, the value of receipts or revenue for services rendered by an establishment determines its primary activity. In establishments with diversified activities, the activities determined to account for the largest share of production, sales or revenue will identify the primary activity. In some instances these criteria will not adequately represent the relative economic importance of each of the varied activities. In such cases, employment or payroll should be used in place of the normal basis for determining the primary activity.

*"First aid"* is any one-time treatment and any follow-up visit for the purpose of observation of minor scratches, cuts, burns, splinters, and so forth, which do not ordinarily require medical care. One-time treatment and follow-up visit for the purpose of observation are considered first aid even though provided for by a physician or registered professional personnel.

*"Lost workdays"* is the number of days (consecutive or not) after, but not including, the day of injury or illness during which the employee would have worked but could not do so; that is, could not perform all or any part of the employee's normal assignment during all or any part of the workday or shift, because of the occupational injury or illness.

*"Medical treatment"* includes treatment administered by a physician or by registered professional personnel under the standing orders of a physician. Medical treatment does not include first-aid treatment even though provided by a physician or registered professional personnel.

*"Recordable occupational injuries or illnesses"* are any occupational injuries or illnesses which result in:

- a. Fatalities, regardless of the time between the injury and death, or the length of the illness; or
- b. Lost workday cases, other than fatalities, which result in lost workdays; or
- c. Nonfatal cases without lost workdays which result in transfer to another job or termination of employment, or require medical treatment (other than first aid) or involve loss of consciousness or restriction of work or motion. This category also includes any diagnosed occupational illnesses which are reported to the employer but are not classified as fatalities or lost workday cases.

**875—4.19(88) Establishments classified in Standard Industrial Classification Codes (SIC) 52-89 (except 52-54, 70, 75, 76, 79 and 80).** An employer whose establishment is classified in SICs 52-89 (excluding 52-54, 70, 75, 76, 79 and 80) need not comply, for such establishments, with any of the requirements of this part except the following:

1. Obligation to report under 875—4.8(88) concerning fatalities or multiple hospitalization accidents;
2. Obligation to maintain a log of occupational injuries and illnesses under 875—4.14(88), upon being notified in writing by the United States Bureau of Labor Statistics that the employer has been selected to participate in a statistical survey of occupational injuries and illnesses; and
3. Obligation to report to the Iowa division of workers' compensation under subrule 4.4(2) any occupational injury or illness which temporarily disables an employee for more than three days or which results in permanent total disability, permanent partial disability, or death.

These rules are intended to implement Iowa Code sections 17A.3, 84A.1, 84A.2, 88.2, 88.6(3), and 88.18.



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**CHAPTER 9**  
**DISCRIMINATION AGAINST EMPLOYEES**

[Previously Ch 8 IAC renumbered 12/24/80]  
[Prior to 9/24/86, Labor, Bureau of [530]]  
[Prior to 10/7/98, see 347—Ch 9]

**875—9.1(88) Introductory statement.**

**9.1(1)** The Occupational Safety and Health Act, Iowa Code chapter 88, hereinafter referred to as the Act, is designed to regulate employment conditions relating to occupational safety and health and to achieve safer and healthier workplaces throughout the state. By the terms of the Act, every person engaged in a business, the state of Iowa and its various departments and agencies and any political subdivision of the state, who have employees is required to furnish each of its employees employment and a place of employment free from recognized hazards that are causing or likely to cause death or serious physical harm, and, further, to comply with occupational safety and health standards promulgated under the Act.

**9.1(2)** Employees and representatives of employees are afforded a wide range of substantive and procedural rights under the Act. Moreover, effective implementation of the Act and achievement of its goals depend in large part upon the active but orderly participation of employees, individually and through their representatives, at every level of safety and health activity.

**9.1(3)** This chapter deals essentially with the rights of employees afforded under Iowa Code section 88.9(3). Iowa Code section 88.9(3) prohibits reprisals, in any form, against employees who exercise rights under the Act.

**875—9.2(88) Purpose of this chapter.** The purpose of this chapter is to make available in one place interpretations of the various provisions of Iowa Code section 88.9(3), which will guide the commissioner of labor in the performance of duties.

**875—9.3(88) General requirements of Iowa Code section 88.9(3).** Section 88.9(3) provides in general that no person shall discharge or in any manner discriminate against any employee because the employee has:

1. Filed any complaint under or related to the Act;
2. Instituted or caused to be instituted any proceeding under or related to the Act;
3. Testified or is about to testify in any proceeding under the Act or related to the Act; or
4. Exercised on the employee's own behalf or on behalf of others any right afforded by the Act.

Any employee who believes that the employee has been discriminated against in violation of section 88.9(3) may, within 30 days after such violation occurs, lodge a complaint with the commissioner of labor alleging the violation. The commissioner shall then cause an appropriate investigation to be made. If, as a result of the investigation, the commissioner determines that the provisions of section 88.9(3) have been violated, civil action may be instituted in any appropriate district court, to restrain violations of section 88.9(3) and to obtain other appropriate relief, including rehiring or reinstatement of the employee to the former position with backpay. Section 88.9(3) further provides for notification of complainants by the commissioner of determinations made pursuant to their complaints.

**875—9.4(88) Persons prohibited from discriminating.** Iowa Code section 88.9(3) provides that a person shall not discharge or in any manner discriminate against an employee because the employee has exercised rights under the Act. Section 88.3(9) defines "person" as "one or more individuals, partnerships, associations, corporations, business trusts, legal representatives, or any organized group of persons." Consequently, the prohibitions of section 88.9(3) are not limited to actions taken by employers against their own employees. A person may be chargeable with discriminatory action against an employee of another person. Section 88.9(3) would extend to such entities as organizations representing employees for collective bargaining purposes, employment agencies, or any other person in a position to discriminate against an employee.

**875—9.5(88)† Persons protected by Iowa Code section 88.9(3).**

**9.5(1)** All employees are afforded the full protection of section 88.9(3). For purposes of the Act, an employee is defined as “an employee of an employer who is employed in a business of his employer.”

**9.5(2)** Reserved.

This rule is intended to implement Iowa Code section 88.9(3).

**875—9.6(88) Unprotected activities distinguished.**

**9.6(1)** Actions taken by an employer, or others, which adversely affect an employee may be predicated upon nondiscriminatory grounds. The proscriptions of Iowa Code section 88.9(3) apply when the adverse action occurs because the employee has engaged in protected activities. An employee’s engagement in activities protected by the Act does not automatically render the employee immune from discharge or discipline for legitimate reasons, or from adverse action dictated by nonprohibited considerations.

**9.6(2)** At the same time, to establish a violation of section 88.9(3), the employee’s engagement in protected activity need not be the sole consideration behind discharge or other adverse action. If protected activity was a substantial reason for the action, or if the discharge or other adverse action would not have taken place “but for” engagement in protected activity, section 88.9(3) has been violated. Ultimately, the issue as to whether a discharge was because of protected activity will have to be determined on the basis of the facts in the particular case.

**875—9.7 and 9.8** Reserved.

**875—9.9(88) Complaints under or related to the Act.**

**9.9(1)** Discharge of, or discrimination against, an employee because the employee has filed “any complaint . . . under or related to this Act . . .” is prohibited by Iowa Code section 88.9(3). An example of a complaint made “under” the Act would be an employee request for inspection pursuant to Iowa Code section 88.6(5). However, this would not be the only type of complaint protected by Iowa Code section 88.9(3). The range of complaints “related to” the Act is commensurate with the broad remedial purposes of this legislation and the sweeping scope of its application.

**9.9(2)** Complaints registered with other governmental agencies which have the authority to regulate or investigate occupational safety and health conditions are complaints “related to” this Act. These types of complaints, however, must relate to conditions at the workplace, as distinguished from complaints touching only upon general public safety and health.

**9.9(3)** Further, the salutary principles of the Act would be seriously undermined if employees were discouraged from lodging complaints about occupational safety and health matters with their employers. Such complaints to employers, if made in good faith, therefore would be related to the Act, and an employee would be protected against discharge or discrimination caused by a complaint to the employer.

**875—9.10(88) Proceedings under or related to the Act.**

**9.10(1)** Discharge of, or discrimination against, any employee because the employee has “instituted or caused to be instituted any proceeding under or related to this Act” is also prohibited by Iowa Code section 88.9(3). Examples of proceedings which could arise specifically under the Act would be inspections of workplaces under Iowa Code section 88.6, an employee contest of an abatement date under Iowa Code section 88.8(3), an employee application for modification or revocation of a variance under Iowa Code section 88.5 and an employee appeal of an order of the employment appeal board under Iowa Code section 88.9(1). In determining whether a “proceeding” is “related to” the Act, the considerations discussed in rule 875—8.9(88) would also be applicable.

†Objection was filed 6/5/79 to rule as appeared 5/16/79, see IAB 6/27/79 for text of objection as well as amended language intended to overcome objection.

**9.18(3)** A determination to defer to the outcome of other proceedings initiated by a complainant must necessarily be made on a case-to-case basis, after careful scrutiny of all available information. Before deferring to the results of other proceedings, it must be clear that those proceedings dealt adequately with all factual issues, that the proceedings were fair, regular, and free of procedural infirmities, and that the outcome of the proceedings was not repugnant to the purpose and policy of the Act. In this regard, if such other actions initiated by a complainant are dismissed without adjudicatory hearing thereof, the dismissal will not ordinarily be regarded as determinative of the section 88.9(3) complaint.

**875—9.19 and 9.20** Reserved.

**875—9.21(88) Walkaround pay disputes.** An employer's failure to pay employees for time during which they are engaged in walkaround inspections, or in other inspection-related activities, such as responding to questions of compliance officers, or participating in the opening and closing conferences, is discriminatory under section Iowa Code section 88.9(3) so long as neither the number of employees participating nor the time required to express employee concerns is excessive. An authorized employee representative shall be given the opportunity to accompany on the physical inspection pursuant to Iowa Code section 88.6(4) and 875—3.6(88).

This rule is intended to implement Iowa Code section 88.9(3).

**875—9.22(88) Employee refusal to comply with safety rules.** Employees who refuse to comply with occupational safety and health standards or valid safety rules implemented by the employer in furtherance of the Act are not exercising any rights afforded by the Act. Disciplinary measures taken by employers solely in response to employee refusal to comply with appropriate safety rules and regulations will not ordinarily be regarded as discriminatory action prohibited by Iowa Code section 88.9(3). This situation should be distinguished from refusals to work, as discussed in rule 875—8.12(88).

These rules are intended to implement Iowa Code sections 84A.1, 84A.2, 88.2, and 88.9(3).

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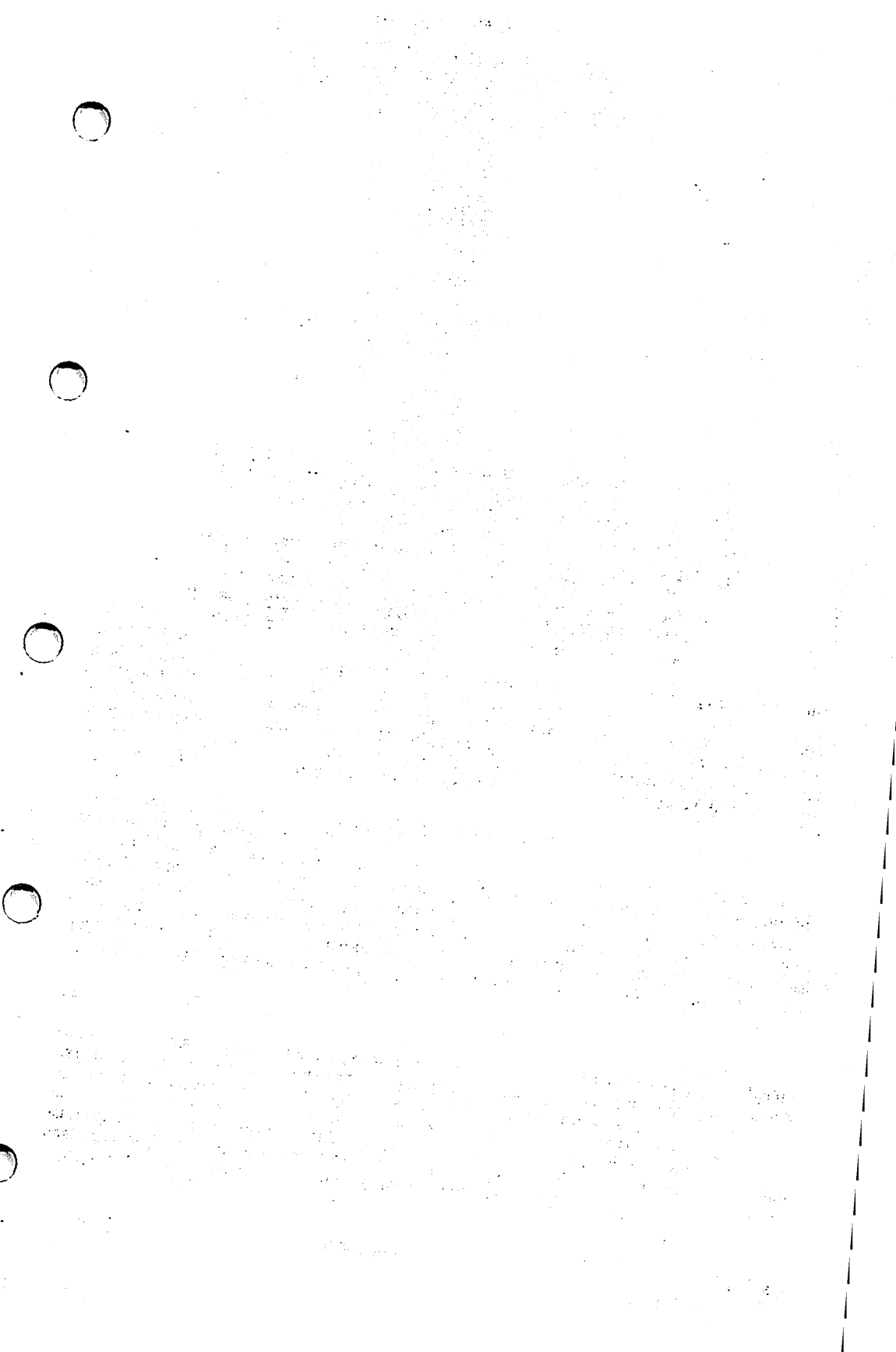
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**CHAPTER 38**  
**EMPLOYMENT AGENCY LICENSING**

[Prior to 9/24/86, Employment Agency Licensing Commissioner[350] Chs 1 to 10]  
[Prior to 10/21/98, see 347—Ch 38]

**875—38.1(94A) Definitions.**

“Agency” means employment agency.

“Commissioner” means the labor commissioner of the division of labor services of the department of workforce development or the commissioner’s designee.

“Employee” means a person who seeks employment or who obtains employment through an employment agency.

“Employment agency” means a person who brings together those desiring to employ and those desiring employment and who receives a fee, privilege, or other consideration directly or indirectly from an employee for the service. “Employment agency” does not include a person who furnishes or procures theatrical, stage, or platform attractions or amusement enterprises.

**875—38.2(94A) Application and license.**

**38.2(1) Application.** An application for a license must be made in writing to the commissioner upon Form PEA-1(309-6164). The application form shall be accompanied by two copies of the employee-paid fee schedule Form PEA-2(309-6164); \$75 nonrefundable fee; and all contract forms to be signed by an employee. The application shall also be accompanied by a surety company bond in the sum of \$30,000, to be approved by the commissioner and conditioned to pay any damages that may accrue to any person due to a wrongful act or violation of law on the part of the applicant in the conduct of business.

**38.2(2) Name.** No agency shall use any name, symbol or abbreviation deceptively similar to or reasonably likely to be confused with the name used by an existing agency, any governmental unit, or nonprofit organization.

**38.2(3) Change in officers.** A change in the name of any person required to be reported on the application under Iowa Code Supplement chapter 94A shall be forwarded to the commissioner within ten days of the change.

**38.2(4) Change in address.** The agency shall notify the commissioner of any change of address prior to the change.

**38.2(5) Multiple locations.** A separate license shall be required for each separate office location operated by an agency.

**38.2(6) Nontransferable.** A license is nontransferable.

**38.2(7) Nonissuance of license.** Rescinded IAB 2/9/00, effective 2/9/00.

**875—38.3(94A) Non-employment agency activity.** The following activities do not require an employment agency license:

1. Appraisal of an employee’s qualifications.
2. Development of career goals and marketing plans.
3. Preparation and printing of résumés.
4. Instruction on interview techniques and networking.
5. Counseling on negotiating pay and fringe benefits.
6. Assistance in obtaining employment when provided by schools, colleges, trade unions, and similar organizations for their students or members if any fees paid are for tuition, training, or dues and would be charged even if the student or member did not attempt to utilize the organization’s employment search services.
7. Furnishing or procuring theatrical, stage, or platform attractions or amusement enterprises.
8. Any activity by a governmental unit.

**875—38.4(94A) Complaints.** Written complaints by an aggrieved party will be investigated. The commissioner will notify the aggrieved party in writing of the outcome of the investigation. The commissioner may take any appropriate action including denial, revocation, reprimand, and suspension.

**875—38.5(17A,94A,252.J) Denials, revocations, reprimands and suspensions.**

**38.5(1)** The commissioner may deny, revoke, or suspend a license or issue a reprimand when the commissioner finds that any of the following conditions exist:

- a. The license applicant has violated any of the provisions of Iowa Code Supplement chapter 94A or the rules of this chapter; or
- b. The child support recovery unit of the department of human services has issued a certificate of noncompliance to an employment agency; or
- c. The license application or its required attachments are inaccurate, incomplete or otherwise insufficient.

**38.5(2)** Contested cases shall be governed by Iowa Code chapter 17A and Iowa Administrative Code 875—Chapter 1, Division V.

**875—38.6(94A) Permissible fees charged by agency.**

**38.6(1)** The total amount charged to any employee in any form by an agency shall not exceed 15 percent of the employee's gross earnings from that employer for which the agency procured the job in any pay period for a period of time not to exceed the first 12 months from the date of employment.

**38.6(2)** Fees due the agency are payable as earned, however, the employee may knowingly agree to pay the fee in advance, with the full understanding that the employee is not required to do so, and the agency guarantees to refund any amounts in excess of 15 percent of actual gross earnings, when ascertained.

**38.6(3)** No agency or any person connected therewith shall require any employee to execute any negotiable instrument, assignment of earnings, or note except for that amount of fee which is past due to the agency.

**38.6(4)** Each agency shall keep conspicuously posted at its place of business a copy of the agency's schedule of fees on file with the commissioner. The schedules shall be printed in not less than 8-point type.

**38.6(5)** Employees who have paid the fee in advance must be notified at their last-known address by the agency at the time they make the final payment on the fee that they may have a refund due if they have paid more than 15 percent of the gross earnings of their first year of employment.

**38.6(6)** Rescinded IAB 2/9/00, effective 2/9/00.

**875—38.7(94) Agency placement procedures.** Rescinded IAB 2/9/00, effective 2/9/00.

**875—38.8(94A) Contracts and fee schedules.**

**38.8(1) Schedules furnished.** Any schedule of fees to be charged by an agency to employees shall be furnished to all employees at the time of making an application with the agency.

**38.8(2) Required content of all contracts.**

- a. Contracts and fee schedules shall not contain smaller than 8-point type.
- b. Contracts and fee schedules shall contain no ambiguous, false or misleading information.
- c. All contracts and fee schedules must clearly state that the agency is licensed by the labor commissioner and that inquiries may be submitted to the Division of Labor Services, 1000 East Grand Avenue, Des Moines, Iowa 50319, telephone (515)281-8493.

**38.8(3) Additional required content for employee-paid fee contracts.**

- a. Each employee-paid fee contract shall contain a provision limiting to one year from the date of referral the period for which a agency may assess a placement fee for referral of that employee to that employer.



b. Where the agency provides the option for advance payment, the contract and employee-paid fee schedule must clearly state that the employee knowingly agrees to pay the fee in advance with the full understanding that the employee is not required to do so, and that the agency guarantees to refund any amount in excess of 15 percent of the employee's gross earnings from that employer for which the agency procured the job for a period of time not to exceed the first 12 months from the date of employment, when ascertained.

c. All employee-paid fee contracts and fee schedules must state the fee in dollar amounts as well as percentages.

**38.8(4)** *Additional required content for entertainment enterprises.* Rescinded IAB 2/9/00, effective 2/9/00.

**875—38.9(94)** **Required records and report.** Rescinded IAB 2/9/00, effective 2/9/00.

**875—38.10(95)** **Forms.** Rescinded IAB 2/9/00, effective 2/9/00.

These rules are intended to implement Iowa Code Supplement chapter 94A.

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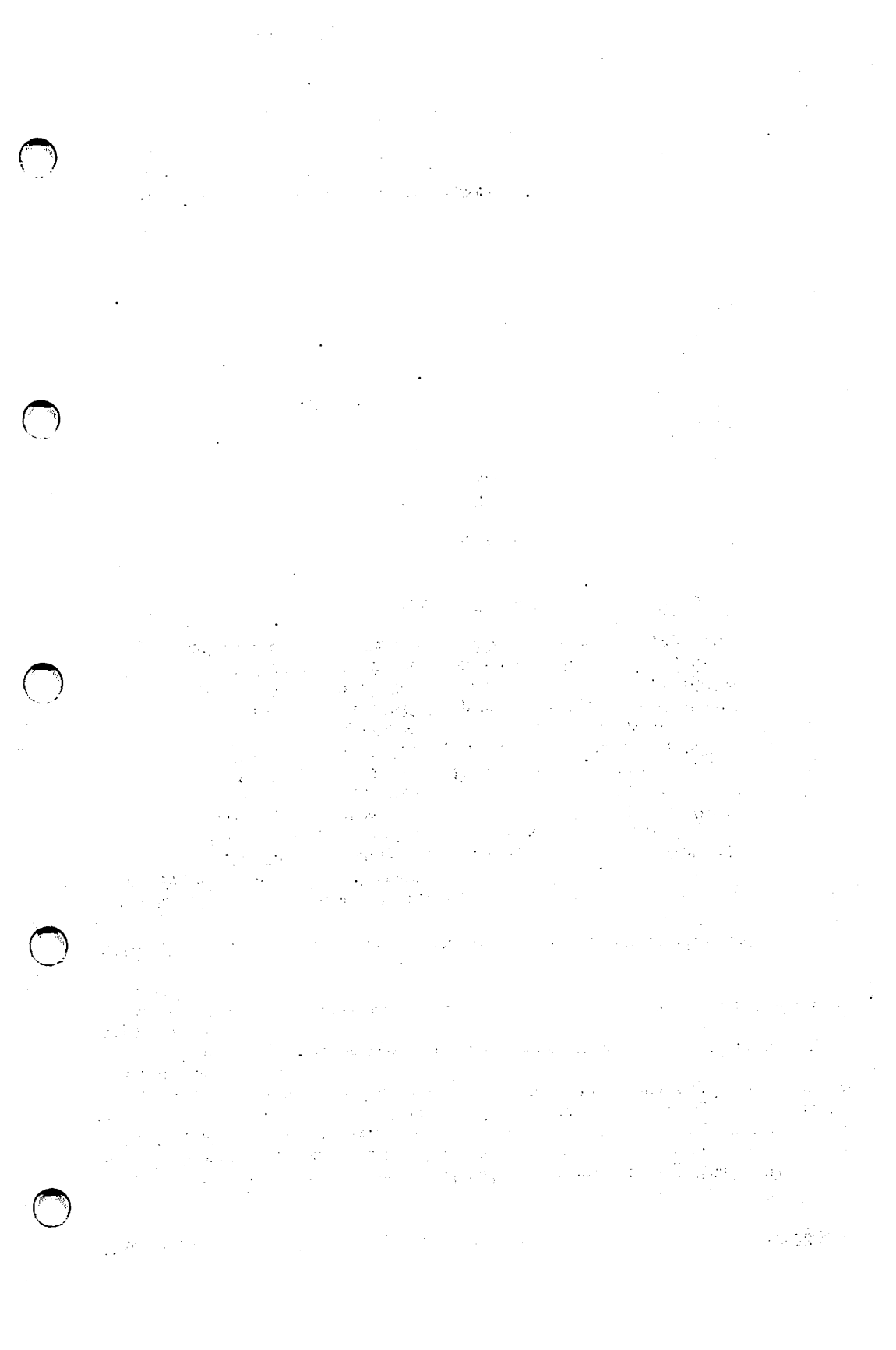
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CHAPTERS 39 to 50  
Reserved

RAILROADS

CHAPTERS 51 to 60  
Reserved



# WORKFORCE DEVELOPMENT BOARD AND WORKFORCE DEVELOPMENT CENTER ADMINISTRATION DIVISION[877]

[Prior to 9/24/86, see Employment Security[370], renamed Job Service Division[345]  
under the "umbrella" of Department of Employment Services by 1986 Iowa Acts, chapter 1245]  
[Prior to 3/12/97, see Job Service Division[345]]

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## CHAPTER 2 MISSION AND STRUCTURE

**877—2.1(84A) Mission.** The division of workforce development center administration was established by the director as authorized under Iowa Code section 84A.1(3). The mission of the division is to develop and administer employment, placement, and training services in all 99 counties of Iowa.

**877—2.2(84A) Overall organization.**

**2.2(1) Organization.** The division of workforce development center administration is under the direction of the division administrator and divided into three bureaus: administrative service bureau, service delivery bureau, and the enterprise development, implementation and evaluation bureau.

**2.2(2) Administrative service bureau.** The administrative service bureau is under the direction of a bureau chief who assists the division administrator in planning, directing and coordinating activities for the division. The chief directs the administrative support functions of the bureau. The bureau is responsible for the administration of the following programs: work opportunity tax credit, alien labor certification, child labor, testing, bonding certification, and the migrant seasonal farm worker program, as well as other duties assigned by the division administrator.

**2.2(3) Service delivery bureau.** The service delivery bureau is under the direction of a bureau chief who assists the division administrator in planning, directing and coordinating activities for the division. The chief directs the monitoring and technical assistance functions of the bureau. The bureau is responsible for the administration of the following programs: Iowa conservation corps, Job Training Partnership Act, state labor management cooperation, mentor advisory board, nontraditional employment, workforce investment, quality jobs, PROMISE JOBS, dislocated workers, and rapid response, as well as other duties assigned by the division administrator.

**2.2(4) Enterprise development, implementation, and evaluation bureau.** The enterprise development, implementation and evaluation bureau is under the direction of a bureau chief who assists the division administrator in planning, directing and coordinating activities for the division. The chief directs the administrative support and technical functions of the bureau. The bureau is responsible for the administration of the consolidation of the employment and training services delivered through a competitive regional service delivery model in consultation with the regional advisory board, as well as other duties assigned by the division administrator.

**877—2.3(17A,84A) Criticism of agency rule.** The division administrator of the Division of Workforce Development Center Administration, Workforce Development Department, 150 Des Moines Street, Des Moines, Iowa 50309, is designated as the office where interested persons may submit by mail criticism regarding an administrative rule of the workforce development board/services division. A criticism of a specific rule must be more than a mere lack of understanding of a rule or a dislike regarding the rule. To constitute a criticism of a rule, the criticism must be in writing, indicate it is a criticism of a specific rule, be signed by the complainant, not be part of any other filing with the department of workforce development, and have a valid or legal basis for support. All requests for criticism received on any rule will be kept in a separate record for a period of five years by the division of workforce development center administration and be a public record open for public inspection. All requests for criticism must be in the following format:

DEPARTMENT OF WORKFORCE DEVELOPMENT  
DIVISION OF WORKFORCE DEVELOPMENT CENTER ADMINISTRATION

(NAME OF PERSON SUBMITTING CRITICISM).	}	CRITICISM OF (SPECIFY RULE THAT IS UNDER CRITICISM).
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Reasons for criticism:

Name, address, telephone number and signature of person submitting the criticism.

The administrative rules committee of the workforce development board will periodically review criticisms received for potential rule changes.

This rule is intended to implement Iowa Code chapter 17A as amended by 1998 Iowa Acts, chapter 1202, and chapter 84A.

**877—2.4(17A,ExecOrd11) Requests for waiver of rules.** Requests for waiver of a rule in the Workforce Development Board/Services Division[877] of the Iowa Administrative Code shall be made to the Division Administrator, Division of Workforce Development Center Administration, 150 Des Moines Street, Des Moines, Iowa 50309.

**2.4(1)** Waivers from division rules shall not be granted unless the following circumstances are met:

a. The department has exclusive rule-making authority to promulgate the rule from which waiver is requested; and

b. No statute or rule otherwise controls the grant of a waiver from the rule from which waiver is requested.

**2.4(2)** The person that requests waiver of the rule must provide clear and convincing evidence that:

a. Compliance with the rule will create an undue hardship on the person requesting the waiver.

b. Substantially equal protection of health and safety will be afforded by a means other than that prescribed in the particular rule for which the waiver is requested.

c. The waiver will not harm other persons and will not adversely affect the public interest.

**2.4(3)** The director shall grant or deny the waiver within 60 days of the date the request is filed with the department after review and recommendation of the division administrator. A denial of a request for a waiver is absolutely final and is not appealable. The director shall deny the request for waiver of a state or federal statute. If the request for waiver relates to a time requirement of a rule, the request must be received before the time specified in the rule has expired. The director may deny the request if the request does not comply with the provisions of this rule.

**2.4(4)** Waivers are granted at the complete discretion of the director after consideration of all relevant factors including, but not limited to, the following:

a. The need of the person or entity directly affected by the exception. Exceptions will be granted only in cases of extreme need.

b. Whether there are exceptional circumstances justifying an exception to the general rule applicable in otherwise similar circumstances.

c. Whether granting the exception would result in a net savings to the state or promote efficiency in the administration of programs or service delivery. Net savings or efficiency will make an exception more likely.

d. In the case of services, assistance, or grants, whether other possible sources have been exhausted. Exceptions will not generally be granted if other sources are available.

e. The cost of the exception to the state and availability of funds in the department's budget.

2.4(5) All requests for waiver must substantially conform to the following form:

(NAME OF PERSON REQUESTING WAIVER).



REQUEST FOR WAIVER OF (SPECIFY RULE FOR WHICH WAIVER IS REQUESTED).

Reasons for requesting waiver:

Name, address, telephone number and signature of person submitting waiver request.

The specific rule to which an exception is requested or the substance thereof.

The specific waiver requested.

The nature of the waiver requested, including any alternative means or other proposed condition or modification proposed to achieve the purpose of the rule.

2.4(6) The director may condition the grant of a waiver on such reasonable conditions as appropriate to achieve the objectives of the particular rule in question through alternative means.

2.4(7) A waiver is void if the material facts upon which the request is based are not true or if material facts have been withheld. The director may, at any time, cancel a waiver upon appropriate notice if the director finds the facts as stated in the request appear not true, material facts have been withheld, the alternative means of compliance provided in the waiver has failed to achieve the objectives of the statute, or the person requesting the waiver has failed to comply with conditions set forth in the waiver approval.

2.4(8) All grants of waivers shall be indexed and available to members of the public in the Division of Workforce Development Center Administration, 150 Des Moines Street, Des Moines, Iowa 50309. In addition, the director shall notify the workforce development board of any ruling to grant a waiver at its next regularly scheduled meeting following the ruling.

This rule is intended to implement Iowa Code chapter 17A and Executive Order Number Eleven.

These rules are intended to implement Iowa Code chapter 17A as amended by 1998 Iowa Acts, chapter 1202, Iowa Code section 84A.1 and Iowa Code chapter 96.

[Filed 4/28/97, Notice 2/26/97—published 5/21/97, effective 6/25/97]

[Filed 4/29/99, Notice 3/10/99—published 5/19/99, effective 6/23/99]

[Filed 1/21/00, Notice 12/15/99—published 2/9/00, effective 3/15/00]

CHAPTER 3

Reserved



The following information was obtained from the records of the  
 Department of the Interior, Bureau of Land Management, on  
 the subject of the land parcels described in the  
 accompanying list. The information is being furnished  
 to you for your information and use.

The land parcels described in the accompanying list  
 are located in the State of California, and are  
 owned by the United States of America. The parcels  
 are situated in the County of [County Name], State  
 of California. The parcels are described as follows:

Parcel 1: [Parcel Description]  
 Parcel 2: [Parcel Description]  
 Parcel 3: [Parcel Description]  
 Parcel 4: [Parcel Description]  
 Parcel 5: [Parcel Description]  
 Parcel 6: [Parcel Description]  
 Parcel 7: [Parcel Description]  
 Parcel 8: [Parcel Description]  
 Parcel 9: [Parcel Description]  
 Parcel 10: [Parcel Description]

The parcels are situated in the [Area Name] area,  
 and are adjacent to the [Area Name] area. The parcels  
 are situated in the [Area Name] area, and are  
 adjacent to the [Area Name] area. The parcels  
 are situated in the [Area Name] area, and are  
 adjacent to the [Area Name] area. The parcels  
 are situated in the [Area Name] area, and are  
 adjacent to the [Area Name] area. The parcels  
 are situated in the [Area Name] area, and are  
 adjacent to the [Area Name] area. The parcels  
 are situated in the [Area Name] area, and are  
 adjacent to the [Area Name] area.



**VACATIONS**

See *PERSONNEL DEPARTMENT*

**VACCINES AND VACCINATIONS**

See *IMMUNIZATION; LIVESTOCK: Disease*

**VEHICLES**

See *MOTOR VEHICLES*

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**VEND**

*VENDORS (cont'd)*

*Purchases, state agencies*

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