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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 THE
IOWA ADMINISTRATIVE CODE

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UPDATING INSTRUCTIONS
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[Previous Supplement dated 5/3/00]

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*These pages may be archived for tracing the history of a rule.

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*These pages may be archived for tracing the history of a rule.

CHAPTER 85
WEIGHTS AND MEASURES

[Appeared as Ch 14, 1973 IDR]
[Certain rules renumbered 5/3/78]

All tolerances and specifications for the weights and measures division were adopted from the U.S. Bureau of Standards Handbook II, 44 published September 1949.

[Prior to 7/27/88 see Agriculture Department 30—Ch 55]

WEIGHTS

21—85.1(215) "Sensibility reciprocal" defined. The term *"sensibility reciprocal"* is defined as to the weight required to move the position of equilibrium of the beam, pan, pointer or other indicating device of a scale, a definite amount.

This rule is intended to implement Iowa Code section 215.18.

21—85.2(215) "Platform scale" defined. A *"platform scale"* is a scale having a load receiving platform carried on multiplying levers which transmit the load to the beam or other reading element, such platform having four or more lines of support comprised of bearings which rest directly upon knife edges in the multiplying levers. The tolerances to be allowed in excess or deficiency on all platform scales shall not be greater than the values shown in the following table:

MAINTENANCE TOLERANCES FOR LARGE-CAPACITY SCALES, EXCEPT LIVESTOCK, COAL-MINE, VEHICLE, AND FREIGHT SCALES, WHEEL-LOAD WEIGHERS, AND RAILWAY TRACK SCALES

Known Test Load Pounds	Tolerance on Ratio Test Ounces	Tolerance on Weighbeam Reading-face and Unit-Weight Indications Ounces
99 or less	½	1
100 to 199	2	2
200 to 299	3	4
300 to 399	4	6
400 to 499	5	8
500 to 599	7	10
600 to 799	8	12
		Pounds
800 to 999	11	1
1000 and over	¾ lb. per 1000 lbs.	1 lb. per 1000 lbs.

This rule is intended to implement Iowa Code section 215.18.

21—85.3(215) For vehicle, axle-load, livestock, animal, crane and railway track scales. The basic maintenance tolerance on vehicle, axle-load, livestock, animal, crane and railway track scales shall be two pounds per 1,000 pounds of test load (0.2 percent); the acceptance tolerance shall be one-half the basic maintenance tolerance.

This rule is intended to implement Iowa Code sections 215.8 and 215.18.

21—85.4 Reserved.

21—85.5(215) "Counter scale" defined. A *"counter scale"* is a scale of any type which is especially adopted on account of its compactness, light weight, moderate capacity and arrangements of parts for use upon a counter or table. The tolerance on all counter scales shall be as follows:

Nominal capacity Pounds	Minimum tolerance value Ounce
3 or less	1/16
4 to 7	1/8
8 to 14	1/4
15 to 23	3/8
24 to 39	1/2
40 to 50	5/8

This rule is intended to implement Iowa Code section 215.18.

21—85.6(215) "Spring and computing scales" defined. A *"spring scale"* is a scale in which the weight indications depend upon the change of shape or dimensions of an elastic body or system of such bodies.

85.6(1) A *"computing scale"* is a scale which, in addition to indicating the weight, indicates the total price of the amount of commodity weighed for a series of unit prices and must be correct in both its weight and value indications.

85.6(2) All computing scales shall be equipped with weight indicators and charts on both the dealer's and customer's sides.

85.6(3) Tolerances for both the spring scale and the computing scale shall not be greater than that for counter scales.

This rule is intended to implement Iowa Code section 215.18.

21—85.7(215) "Automatic grain scale" defined. The *"automatic grain scale"* is one so constructed with a mechanical device that a stream of grain flowing into its hopper can be checked at any given weight, long enough to register said weight and dump the load. The garner above the scale should have at least three times the capacity of the scale to ensure a steady flow at all times.

On automatic-indicating scales. On a particular scale, the maintenance tolerances applied shall be not smaller than one-fourth the value of the minimum reading-face graduation; the acceptance tolerances applied shall be not smaller than one-eighth the value of the minimum reading-face graduation.

However, on a prepacking scale (see D.11, D.12) having graduated intervals of less than one-half ounce, the maintenance tolerances applied shall not be smaller than one-eighth ounce and the acceptance tolerances applied shall be not smaller than one-sixteenth ounce.

This rule is intended to implement Iowa Code section 215.18.

21—85.8(215) "Motor truck scales" defined. *"Motor truck scales"* are scales built by the manufacturer for the use of weighing commodities transported by motor truck.

This rule is intended to implement Iowa Code section 215.18.

21—85.9(215) "Livestock scales" defined. *"Livestock scales"* are scales which are constructed with stock racks, or scales which are being used to weigh livestock.

This rule is intended to implement Iowa Code section 215.18.

21—85.10(215) "Grain dump scales" defined. *"Grain dump scales"* are scales so constructed that the truck may be unloaded without being moved from the scale platform.

The above-mentioned scales must be approved by the department. This approval being based upon blueprints and specifications submitted for this purpose.

This rule is intended to implement Iowa Code section 215.18.

21—85.11(215) Scale pit.

85.11(1) In the construction of a scale pit, walls must be of reinforced concrete. A slab floor must be installed in the pit. The floor must be at least 12 inches thick with a minimum of grade 40 reinforcement rod running into all piers and sidewalls, installed according to the manufacturer's specifications. There shall be an approach at each end of the scale of not less than ten feet, and said approach shall be of reinforced concrete 12 inches thick on a level with the scale deck.

85.11(2) Electronic scales shall have a vertical clearance of not less than four feet from the floor line to the bottom of the I-beam of the scale bridge, thus providing adequate access for inspection and maintenance. The load-bearing supports of all scales installed in a fixed location shall be constructed to ensure the strength, rigidity and permanence required for proper scale performance.

This rule is intended to implement Iowa Code section 215.15.

21—85.12(215) Pitless scales for sand, limestone and coal. The state of Iowa, department of agriculture and land stewardship, weights and measures division, will allow the installation of pitless electronic, self-contained and vehicle scales in a permanent location provided the following conditions for the construction are incorporated, and usage is limited to nine months per year:

85.12(1) Scale installation applications and permits must be submitted to the department of agriculture and land stewardship the same as the pit scale installation, with specifications being furnished by the manufacturer, for approval.

85.12(2) Piers shall extend below the frost line or be set on solid bed rock; and they shall be of reinforced concrete.

85.12(3) A reinforced concrete slab the width of the scale, at least six inches thick, shall run full length under the scale. Slab and piers shall be tied together with reinforcement rod, with a minimum clearance of eight inches between floor and weighbridge.

85.12(4) Reinforced portland cement approaches at least 12 inches thick, ten feet long and as wide as the scale, shall be provided on each end in a level plane with the scale platform.

85.12(5) Scale shall be installed at an elevation to ensure adequate drainage away from scale.

85.12(6) Scale platform and indicator shall be protected from wind and other elements which could cause inaccurate operation of the scale.

This rule is intended to implement Iowa Code section 215.18.

21—85.13(215) Master weights. Master scale test weights used for checking scales after being overhauled must be sealed by the department of agriculture and land stewardship, division of weights and measures, as to their accuracy once each year. Said weights after being sealed are to be used only as master test weights.

This rule is intended to implement Iowa Code section 215.17.

21—85.14(215) Scale design. A scale shall be of such materials and construction that (1) it will support a load of its full nominal capacity without developing undue stresses or deflections, (2) it may reasonably be expected to withstand normal usage without undue impairment of accuracy or the correct functioning of parts, and (3) it will be reasonably permanent in adjustment.

85.14(1) *Stability of indications.* A scale shall be capable of repeating with reasonable precision its indications and recorded representations. This requirement shall be met irrespective of repeated manipulation of any scale element in a manner duplicating normal usage, including *(a)* displacement of the indicating elements to the full extent allowed by the construction of the scale, *(b)* repeated operation of a locking device, and *(c)* repeated application or removal of unit weights.

85.14(2) *Interchange or reversal of parts.* Parts which may readily be interchanged or reversed in the course of normal usage shall be so constructed that their interchange or reversal will not materially affect the zero-load balance or the performance of the scale. Parts which may be interchanged or reversed in normal field assembly shall be *(a)* so constructed that their interchange or reversal will not affect the performance of the scale or *(b)* so marked as to show their proper positions.

85.14(3) *Pivots.* Pivots shall be made of hardened steel, except that agate may be used in prescription scales, and shall be firmly secured in position. Pivot knife-edges shall be sharp and straight and cone-pivot points shall be sharp.

85.14(4) *Position of equipment, primary or recording indicating elements (electronic weighing elements).* A device equipped with a primary or recording element shall be so positioned that its indications may be accurately read and the weighing operations may be observed from some reasonable "customer" position; the permissible distance between the equipment and a reasonable customer position shall be determined in each case upon the basis of individual circumstances, particularly the size and character of the indicating element; a window large enough should be placed in the building, and the installation should be so arranged as to afford an unobstructed view of the platform.

This rule is intended to implement Iowa Code section 215.18.

21—85.15(215) Weighbeams. All weighbeams, dials, or other mechanical weight-indicating elements must be placed on reinforced concrete footings or metal structural members. Concrete and metal must be of sufficient strength to keep mechanical weight-indicating elements in positive alignment with the lever system.

This rule is intended to implement Iowa Code section 215.18.

21—85.16(215) Beam box. Whenever a scale is equipped with a beam box, the beam uprights, shelf and cap must be made of channel irons or I-beams. The box covering the weighbeam may be constructed of wood or other material.

This rule is intended to implement Iowa Code section 215.18.

21—85.17(215) Beam rod. The steelyard, or beam rod, must be connected directly to the nose iron on the transverse lever on all motor truck and livestock scales.

This rule is intended to implement Iowa Code section 215.18.

21—85.18(215) Weight capacity. The amount of weight indicated on the beam, dial or other auxiliary weighing attachments shall not exceed the factory-rated capacity of the scale, and said capacity shall be stamped on the butt of the beam (fractional bar is not included).

85.18(1) *Auxiliary attachment.* If auxiliary attachment is used, the amount of the auxiliary attachment must be blocked from the beam.

85.18(2) *Normal position.* The normal balance position of the weighbeam of a beam scale shall be horizontal.

85.18(3) *Travel.* The weighbeam of a beam scale shall have equal travel above and below the horizontal. The total travel of the weighbeam of a beam scale in a trig loop or between other limiting stops near the weighbeam tip shall be not less than the minimum travel shown in table 2; when such limiting stops are not provided, the total travel at the weighbeam tip shall be not less than eight percent of the distance from the weighbeam fulcrum to the weighbeam tip.

85.18(4) *Weighbeam.*

TABLE 2. MINIMUM TRAVEL OF WEIGHBEAM OF BEAM SCALE BETWEEN LIMITING STOPS

Distance from weighbeam fulcrum to limiting stops Inches	Minimum travel between limiting stops Inch
12 or less	0.4
13 to 20	.5
21 to 40	.7
Over 40	.9

85.18(5) *Poise stop.* Except on a steelyard with no zero graduation, a shoulder or stop shall be provided on each weighbeam bar to prevent a poise from traveling and remaining back of the zero graduation.

85.18(6) *Pawl.* A poise on a notched weighbeam bar shall have a pawl with a rounded tip which will seat the poise in a definite and correct position at any notch, wherever in the notch the pawl is placed, and hold it there firmly and without appreciable movement. That dimension of the top of the pawl which is transverse to the longitudinal axis of the weighbeam shall be equal to the corresponding dimension of the notches.

85.18(7) *Nominal capacity, marking.* The nominal capacity shall be conspicuously marked *"a"* on any scale equipped with unit weights, *"b"* on any scale with which counterpoise or equal-arm weights are intended to be used, and *"c"* on any automatic-indicating or recording scale so constructed that the capacities of the several individual indicating and recording elements are not immediately apparent.

A small capacity uncompensated spring scale shall be conspicuously marked to show that the scale is illegal for use in the retail sale of foodstuffs other than fruits and vegetables.

This rule is intended to implement Iowa Code section 215.16.

21—85.19(215) Provision for sealing coin slot. Provision shall be made on a coin-operated scale for applying a lead and wire seal in such a way that insertion of a coin in the coin slot will be prevented.

This rule is intended to implement Iowa Code section 215.18.

21—85.20(215) Stock racks. A livestock scale shall be equipped with a suitable enclosure, fitted with gates as required, within which livestock may be held on a scale platform; this rack shall be securely mounted on the scale platform and adequate clearances shall be maintained around the outside of the rack.

This rule is intended to implement Iowa Code section 215.18.

21—85.21(215) Lengthening of platforms. The length of the platform of a vehicle scale shall not be increased beyond the manufacturer's designed dimension except when the modification has been approved by competent scale-engineering authority, preferably that of the engineering department of the manufacturer of the scale, and by the weights and measures authority having jurisdiction over the scale.

This rule is intended to implement Iowa Code section 215.18.

21—85.22(215) Accessibility for testing purposes. A large capacity scale shall be so located, or such facilities for normal access thereto shall be provided that the test weights of the weights and measures official, in the denominations customarily provided, and in the amount deemed necessary by the weights and measures official for the proper testing of the scale, may readily be brought to the scale by the customary means; otherwise it shall be the responsibility of the scale owner or operator to supply such special facilities, including necessary labor, as may be required to transport the test weights to and from the scale, for testing purposes, as required by the weights and measures official.

This rule is intended to implement Iowa Code section 215.10.

21—85.23(215) Assistance in testing operations. If the design, construction or location of a large-capacity scale is such as to require a testing procedure involving special accessories or an abnormal amount of handling of test weights, such accessories or needed assistance in the form of labor shall be supplied by the owner or operator of the scale, as required by the weights and measures official.

This rule is intended to implement Iowa Code section 215.1.

21—85.24(215) Beam scale. One on which the weights of loads of various magnitude are indicated solely by means of one or more weighbeam bars either alone or in combination with counterpoise weights.

This rule is intended to implement Iowa Code section 215.18.

21—85.25(215) Spring scale. An automatic-indicating scale in which the counterforce is supplied by an elastic body or system of such bodies, the shape or dimensions of which are changed by applied loads. A "compensated" spring scale is one equipped with a device intended to compensate for changes in the elasticity of the spring or springs resulting from changes in temperature, or one so constructed as to be substantially independent of such changes; an "uncompensated" spring scale is one not so equipped or constructed. A "straight-face" spring scale is one in which the indicator is affixed to the spring without intervening mechanism and which indicates weight values on a straight graduated reading-face. (The use in a scale of metal bands or strips in lieu of pivots and bearings does not constitute the scale a "spring" scale.)

This rule is intended to implement Iowa Code section 215.18.

21—85.26(215) Weighbeam or beam. An element comprising one or more bars equipped with movable poises or means for applying counterpoise weights or both.

This rule is intended to implement Iowa Code section 215.18.

21—85.27(215) Livestock scale. For purposes of the application of requirements for SR tolerances and minimum graduations, a scale having a nominal capacity of 6,000 pounds or more and used primarily for weighing livestock standing on the scale platform. (An "animal scale" is a scale adapted to weighing single heads of livestock.)

This rule is intended to implement Iowa Code section 215.18.

SCALES

21—85.28(215)◊ Wheel-load weighers and axle-load scales. The requirements for wheel-load weighers and axle-load scales apply only to such scales in official use for the enforcement of traffic in highway laws or for the collection of statistical information by government agencies.

This rule is intended to implement Iowa Code 215A.3.

◊ Prior to 12/4/85, appeared as rules 30—55.55 and 55.56

21—85.29(215)*◊ Highway vehicle. A highway vehicle or a coupled highway-vehicle combination shall be commercially weighed on a vehicle scale only as a single draft, that is the total weight of such a vehicle or combination shall not be determined by adding together the results obtained by separately and not simultaneously weighing each end of such vehicle or individual elements of such coupled combination.

This rule is intended to implement Iowa Code section 215A.3.

21—85.30 to **85.32** Reserved.

MEASURES

21—85.33(214A,208A) Motor vehicle fuel and antifreeze tests and standards. In the interest of uniformity, the tests and standards for motor vehicle fuel, oxygenate octane enhancers, raffinate natural gasoline and motor vehicle antifreeze shall be those established by the American Society for Testing and Materials (A.S.T.M.) in effect on January 1, 2000, except that the standards for E-Grade denatured fuel ethanol shall be the American Petroleum Institute's (API) specification in use at the Iowa terminals. In addition, a retail dealer of motor vehicle fuel shall not sell or offer for sale in Iowa a motor vehicle fuel that contains more than 2 percent of methyl tertiary butyl ether (MTBE) by volume.

This rule is intended to implement Iowa Code sections 208A.5, 208A.6 and 215.18 and 1999 Iowa Acts, chapter 204.

21—85.34(215) Tolerances on petroleum products measuring devices. All pumps or meters at filling stations may have a tolerance of not over five cubic inches per five gallons, minus or plus. All pumps or measuring devices of a large capacity shall have a maintenance tolerance of 50 cubic inches, minus or plus, on a 50-gallon test. Add additional one-half cubic inch tolerance per gallon over and above a 50-gallon test. Acceptance tolerances on large capacity pumps and measuring devices shall be one-half the maintenance tolerances.

This rule is intended to implement Iowa Code sections 214.2 and 215.20.

21—85.35(215) Meter adjustment. If a meter is found to be incorrect and also capable of further adjustment, said meter shall be adjusted, rechecked and sealed. If a seal is broken for any cause other than by a state inspector, the department of agriculture and land stewardship shall be promptly notified of same.

85.35(1) Companies specializing in testing and repairing gasoline and fuel oil dispensing pumps or meters, shall be registered with the division of weights and measures, upon meeting requirements set forth by the department of agriculture and land stewardship.

85.35(2) In accordance with the contemplated revision of National Bureau of Standards Handbook 44-4th Edition, G-UR4.4 (Replacement of Security Seal), accredited repair and testing companies shall be authorized to affix a security seal, properly marked with the identification of such company.

85.35(3) If a meter is found to be inaccurate, "Repair and Placing in Service" card shall be left by the inspector.

85.35(4) After meter has been repaired and placed in service, the "Repair and Placing in Service" card must be returned to the Iowa Department of Agriculture and Land Stewardship, Weights and Measures Division.

This rule is intended to implement Iowa Code section 215.20.

* Objection, see filed rule published in IAC Supp. 5/3/76 (Prior to 5/3/78, rule 30—55.46)
◊ Prior to 12/4/85, appeared as rules 30—55.55 and 55.56

21—85.36(215) Recording elements. All weighing or measuring devices shall be provided with appropriate recording or indicating elements, which shall be definite, accurate and easily read under any conditions of normal operation of the device. Graduations and a suitable indicator shall be provided in connection with indications and recorded representations designed to advance continuously. Graduations shall not be required in connection with indications or recorded representations designed to advance intermittently or with indications or recorded representations of the selector type.

This rule is intended to implement Iowa Code section 215.18.

21—85.37(215) Air eliminator. All gasoline or oil metering devices shall be equipped with an effective air eliminator to prevent passage of air or vapor through the meter. The vent from such eliminator shall not be closed or obstructed.

This rule is intended to implement Iowa Code section 215.18.

21—85.38(215) Delivery outlets. No means shall be provided by which any measured liquid can be diverted from the measuring chamber of the meter or the discharge line therefrom. However, two or more delivery outlets may be installed, if automatic means is provided to ensure that liquid can flow from only one such outlet at one time, and the direction of flow for which the mechanism may be set at any time is definitely and conspicuously indicated.

This rule is intended to implement Iowa Code section 215.18.

21—85.39(189,215) Weights and measures. The specifications, tolerances and regulations for commercial weighing and measuring devices, together with amendments thereto, as recommended by the National Institute of Standards and Technology and published in National Institute of Standards and Technology Handbook 44 amended or revised as of January 1, 1995, shall be the specifications, tolerances and regulations for commercial weighing and measuring devices in the state of Iowa, except as modified by state statutes, or by rules adopted and published by the Iowa department of agriculture and land stewardship and not rescinded.

The National Institute of Standards and Technology (NIST) Handbooks 130 and 133: Weights and Measures Law, Packaging and Labeling, Method of Sale, Type Evaluation and Checking the Net Contents of Packaged Goods, and all supplements, as promulgated by the National Institute of Standards and Technology amended or revised as of January 1, 1995, are adopted in their entirety by this reference.

This rule is intended to implement Iowa Code sections 189.9, 189.13, 189.17, 215.14, 215.18 and 215.23.

21—85.40(215) Inspection tag or mark. If a meter is found to be inaccurate, an appropriate "inaccurate" card and a "repair and placing in service" card shall be left with the meter.

85.40(1) The "inaccurate" card is to be retained by the LP-gas dealer after repair.

85.40(2) The "repair and placing in service" card is to be forwarded to weights and measures division of the Iowa department of agriculture and land stewardship.

This rule is intended to implement Iowa Code section 215.5.

21—85.41(215) Meter repair. If the meter has not been repaired within 30 days the meter will be condemned and a red condemned tag will be attached to the meter.

This rule is intended to implement Iowa Code section 215.5.

21—85.42(215) Security seal. In accordance with the contemplated revision of National Bureau of Standards Handbook 44, Gur. 4.4 (Replacement of Security Seal), accredited repair and testing companies shall be authorized to affix a security seal, properly marked with the identification of such company.

This rule is intended to implement Iowa Code section 215.12.

21—85.43(215) LP-gas meter repairs. Companies specializing in testing and repairing LP-gas meters shall be registered with the division of weights and measures as accredited repair and testing agencies upon meeting the requirements set forth by the department of agriculture and land stewardship.

This rule is intended to implement Iowa Code section 215.20.

21—85.44(215) LP-gas delivery. In the delivery of LP-gas by commercial bulk trucks (bobtail) across state lines, it shall be mandatory for all trucks delivering products to be equipped with a meter that has been either tested by the state of Iowa or that carries the seal of an accredited meter service and proving company.

This rule is intended to implement Iowa Code section 215.20.

21—85.45(215) LP-gas meter registration. The location of all LP-gas liquid meters in retail trade shall be listed, by the owner, with the department of agriculture and land stewardship.

This rule is intended to implement Iowa Code section 215.20.

21—85.46(215) Reporting new LP-gas meters. Upon putting a new or used meter into service in the state of Iowa, the user shall report to the weights and measures division.

This rule is intended to implement Iowa Code section 215.20.

21—85.47 Rescinded, effective 11/27/85.

21—85.48(214A,215) Advertisement of the price of liquid petroleum products for retail use.

85.48(1) Nothing in this rule shall be deemed to require that the price per gallon or liter or any grade or kind of liquid petroleum product sold on the station premises be displayed or advertised except on the liquid petroleum metering distribution pumps.

85.48(2) Petroleum product retailers, if they elect to advertise the unit price of their petroleum products at or near the curb, storefront or billboard, shall display the price per gallon or liter. The advertised price shall equal the computer price settings shown on the metering pump.

85.48(3) Notwithstanding the provisions of subrule 85.48(2), cash only prices may be posted by the petroleum marketer on the following basis:

a. Cash only prices must be disclosed on the posted sign as "cash only" or similar unequivocal wording in lettering 3" high and ¼" in stroke when the whole number price being shown is 36" or less in height; or in lettering at least 6" high and ½" in stroke when the whole number price is more than 36" in height.

b. Cash prices posted or advertised must be available to all customers, regardless of type of service (e.g., full service or self-service); or grade of product (e.g., regular, unleaded, gasohol and diesel).

c. Cash and credit prices or discounts must be prominently displayed on the dispenser.

d. A chart showing applicable cash discounts expressed in terms of both the computed and posted price shall be available to the customer on the service station premises.

85.48(4) On all outside display signs, the whole number shall not be less than 6" in height and not less than 3/8" in stroke, and any fraction shall be at least one-third of the size of the whole number in both height and width.

85.48(5) The price must be complete, including taxes without any missing numerals or fractions in the price.

85.48(6) Price advertising signs shall identify the type of product (e.g., regular, unleaded, gasohol and diesel), in lettering at least 3" high and ¼" in stroke when the whole number price being shown is 36" or less in height, or in lettering at least 6" high and ½" in stroke when the whole number price is more than 36" in height.

85.48(7) A price advertising sign shall display, if in liters and may display if in gallons, the unit measure at least in letters of 3" minimum.

85.48(8) Directional or informational signs for customer location of the type of service or product advertised shall be clearly and prominently displayed on the station premises in a manner not misleading to the public.

85.48(9) The advertising of other commodities or services offered for sale by petroleum retailers in such a way as to mislead the public with regard to petroleum product pricing shall be prohibited.

85.48(10) Weights and measures 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:

a. The only two sizes of decals approved are the following:

(1) A design of 1.25" by 4".

(2) A design of 2" by 6".

b. 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.

c. 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 to promote the use of renewable fuels.

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

85.48(11) All motor vehicle fuel kept, offered or exposed for sale at retail containing over 1 percent methyl tertiary butyl ether shall be identified as "Contains MTBE" or "MTBE blend" in black lettering no less than ½" in height, 1/8" in stroke, with directly below "METHYL TERTIARY BUTYL ETHER" in black lettering no less than 20-point type size to be placed 30" to 40" above driveway level on the front of the pumps.

Additional wording or statements may be allowed upon submission to and approval by the department. Approval shall be based upon factual information or scientific data provided by the applicant and a determination that the wording is not misleading to consumers.

85.48(12) Any wholesale dealer, retail dealer, pipeline, refinery, barge or bulk plant in this state that sells or holds for sale natural gasoline raffinate below the minimum 87 octane (R + M)/2 requirement of Iowa Code section 214A.2 that is intended or is to be blended with an oxygenate octane enhancer or higher gasoline components shall register with the department.

85.48(13) All retail shipments of blended natural gasoline/raffinate must be accompanied by a certificate showing the true standards and tests of such blended motor fuel that was obtained by the methods referred to in Iowa Code section 214A.2. The certificate must accompany the shipping document or bill of lading before such blended fuel can be received or unloaded.

85.48(14) Octane rating of fuel offered for sale shall be posted on the pump in a conspicuous place.

85.48(15) Any gasoline labeled as "leaded" shall be produced with the use of any lead additive or contain more than 0.05 grams of lead per gallon or more than 0.005 grams of phosphorus per gallon. As used in this subrule, "lead additive" means any substance containing lead or lead compounds.

This rule is intended to implement Iowa Code sections 214A.3, 214A.16 and 215.18.

4. Plan for annual certification of tenant eligibility and compliance with Section 8 Housing Quality Standards.
5. Previous CDBG- and HOME-funded housing projects and current status.
6. Applicant's other rental housing projects and addresses.

25.7(4) As applicable, the review criteria for tenant-based rental assistance applications shall include the following:

a. General criteria.
1. Project objectives.
2. Rationale for amount of assistance per recipient.
3. Selection criteria for participants.
4. Form of assistance (grants, loans).
5. Use of assistance (rental and security deposits, rent assistance).
6. Length of time of assistance.
7. Portability of rental assistance.
8. Rent calculation.

b. Need, impact and feasibility criteria.
1. Number and percentage of low- and moderate-income persons in the applicant community.
2. Percentage of income potential recipients are currently paying for rent.
3. Area housing costs.
4. Availability of affordable housing.
5. Public housing authority waiting list.
6. Documentation of other indicators of need for Tenant-based Rental Assistance (TBRA).
7. Percentage of need to be met through this project.
8. Alternatives to the proposed project that were considered.
9. Coordination of this project with other housing assistance.
10. Other providers of TBRA in the community.
11. Description of efforts to obtain additional funding from other sources for TBRA.
12. Evidence of community support.
13. Opposition to project and method to address it.
14. Economic indicators in community (unemployment rate, increase/decrease opportunity).
15. Project time line.
16. Property values compared to 1990 in project location (percent change).
17. Number of households compared to 1990 in project location (percent change).
18. Population compared to 1990 in project location (percent change).
19. Overall vacancy rate of rental units in the community (percent change).

c. Administrative criteria.
1. Plans for administering the project.
2. Description of previous administrative experience.
3. Budget for administration.
4. Plan for annual certification of tenant eligibility and compliance with Section 8 HQS.
5. Prior CDBG and HOME housing grants.
6. Prior projects funded with performance targets completed.

25.7(5) IDED staff may conduct site evaluations of proposed activities.

261—25.8(15) Allocation of funds.

25.8(1) IDED may retain a portion of the amount provided for at rule 261—23.4(15) of the state's annual CDBG allocation from HUD and up to 10 percent of the state's annual HOME allocation from HUD for administrative costs associated with program implementation and operation.

25.8(2) Not less than 15 percent of the state's annual HOME allocation shall be reserved for eligible housing activities proposed by CHDOs.

25.8(3) Up to a maximum of 60 percent of the state's annual HOME allocation may be reserved for rental housing activities jointly funded with HOME and low-income housing tax credits. In the event IDED has not satisfied the HUD required 15 percent ratio of HOME funding for CHDO projects at the time low-income housing tax credit projects are considered for joint funding, IDED may elect to first fund those projects meeting the 15 percent CHDO projects even though these projects may not be approved by IFA for low-income housing tax credit reservations.

25.8(4) IDED reserves the right to allocate up to 5 percent of CDBG funds allocated to the housing fund for the emergency repair of homeless shelters. Recipients funded for this purpose shall not be required to follow the application procedure set forth in rule 261—25.5(15).

25.8(5) IDED reserves the right to allocate up to 5 percent of the HOME funds allocated to the housing fund for a contingency fund dedicated to addressing threats to public health and safety and exceptional opportunities that would otherwise be foregone without immediate assistance.

25.8(6) IDED will determine the appropriate source of funding, either CDBG or HOME, for each housing fund award based on the availability of funds, the nature of the housing activity and the recipient type.

25.8(7) IDED reserves the right to limit the amount of funds that shall be awarded for any single activity type.

25.8(8) Awards shall be limited to no more than $700,000.

25.8(9) The maximum per unit housing fund subsidy for all project types is $24,999.

25.8(10) Recipients shall justify administrative costs in the housing fund application. IDED reserves the right to negotiate the amount of funds provided for administration, but in no case shall the amount exceed 15 percent of a total housing fund award.

25.8(11) IDED reserves the right to negotiate the amount and terms of a housing fund award.

25.8(12) IDED reserves the right to make award decisions such that the state maintains the required level of local match to HOME funds.

25.8(13) IDED reserves the right to allocate a portion of funds to comprehensive areawide housing programs. Potential recipients shall be identified through a request for qualifications of entities interested in and capable of operating an areawide program. Areawide program proposals shall be evaluated on and awards negotiated on the targeted number of beneficiaries to be assisted across income levels, household types and unmet housing needs, rather than on specific activities.

25.8(14) A preaudit survey will be required of all for-profit and nonprofit direct recipients.

261—25.9(15) Administration of awards. Applications selected to receive housing fund awards shall be notified by letter from the IDED director.

25.9(1) Source of funds. If the source of funding for a housing fund award is HOME, the recipient shall administer the activity and manage funds in compliance with the regulations set forth in the HOME final rule, 24 CFR Part 92 (April 1, 1997). If the source of funding for a housing fund award is CDBG, the recipient shall administer the activity and manage funds in compliance with federal regulations set forth in 24 CFR Part 570 (April 1, 1997).

25.9(2) A contract shall be executed between the recipient and IDED. These rules, the housing fund application, the housing management guide and all applicable federal and state laws and regulations shall be part of the contract.

a. The recipient shall execute and return the contract to IDED within 45 days of transmittal of the final contract from IDED. Failure to do so may be cause for IDED to terminate the award.

b. Certain activities may require that permits or clearances be obtained from other state or local agencies before the activity may proceed. Awards may be conditioned upon the timely completion of these requirements.

c. Awards shall be conditioned upon commitment of other sources of funds necessary to complete the housing activity.

d. Awards shall be conditioned upon IDED receipt and approval of an administrative plan for the funded activity.

25.9(3) Requests for funds. Recipients shall submit requests for funds in the manner and on forms prescribed by IDED. Individual requests for funds shall be made in whole dollar amounts equal to or greater than $500 per request, except for the final draw of funds.

25.9(4) Record keeping and retention. The recipient shall retain all financial records, supporting documents and all other records pertinent to the housing fund activity for five years after contract expiration. Representatives of IDED, HUD, the Inspector General, the General Accounting Office and the state auditor's office shall have access to all records belonging to or in use by recipients and subrecipients pertaining to a housing fund award.

25.9(5) Performance reports and reviews. Recipients shall submit performance reports to IDED in the manner and on forms prescribed by IDED. Reports shall assess the use of funds and progress of activities. IDED may perform reviews or field inspections necessary to ensure recipient performance.

25.9(6) Amendments to contracts. Any substantive change to a contract shall be considered an amendment. Changes include time extensions, budget revisions and significant alterations of the funded activities affecting the scope, location, objectives or scale of the approved activity. Amendments shall be requested in writing by the recipient and are not considered valid until approved in writing by IDED following the procedure specified in the contract between the recipient and IDED.

25.9(7) Contract closeout. Upon the contract expiration date or work completion date, as applicable, IDED shall initiate contract closeout procedures. Recipients shall comply with applicable audit requirements described in the housing fund application and management guide.

25.9(8) Compliance with federal, state and local laws and regulations. Recipients shall comply with these rules, with any provisions of the Iowa Code governing activities performed under this program and with applicable federal, state and local regulations.

25.9(9) Remedies for noncompliance. At any time, IDED may, for cause, find that a recipient is not in compliance with the requirements of this program. At IDED's discretion, remedies for noncompliance may include penalties up to and including the return of program funds to IDED. Reasons for a finding of noncompliance include the recipient's use of funds for activities not described in the contract, the recipient's failure to complete funded activities in a timely manner, the recipient's failure to comply with applicable state or local rules or regulations or the lack of a continuing capacity of the recipient to carry out the approved activities in a timely manner.

25.9(10) Appeals process for findings of noncompliance. Appeals will be entertained in instances where it is alleged that IDED staff participated in a decision which was unreasonable, arbitrary, capricious or otherwise beyond the authority delegated to IDED. Appeals should be addressed to the division administrator of the division of community and rural development. Appeals shall be in writing and submitted to IDED within 15 days of receipt of the finding of noncompliance. The appeal shall include reasons why the decision should be reconsidered. The director will make the final decision on all appeals.

261—25.10(15) Requirements for the contingency fund. The contingency fund is reserved for (1) communities experiencing a threat to public health, safety, or welfare that necessitates immediate corrective action sooner than could be accomplished though normal housing fund procedures; or (2) communities and other entities responding to an immediate development opportunity that necessitates action sooner than can be accomplished through normal housing fund procedures. Up to 5 percent of the HOME funds may be used for this purpose.

25.10(1) Application procedure. Those applying for contingency funds shall submit a written request to IDED, Division of Community and Rural Development, 200 East Grand Avenue, Des Moines, Iowa 50309. The request shall include a description of the situation, the project budget including the amount requested from IDED, projected use of funds and an explanation of the reasons that the situation cannot be remedied though normal housing fund procedures. If the project meets threshold criteria, a full application may be requested by the department.

25.10(2) Application review. Upon receipt of a request for contingency funding, IDED shall make a determination of whether the project is eligible for funding and notify the applicant of its determination. A project shall be considered eligible if it meets the following criteria:

a. Projects to address a threat to health and safety.

(1) An immediate threat to health, safety or community welfare that requires immediate action must exist.

(2) The threat must be the result of unforeseeable and unavoidable circumstances or events.

(3) No known alternative project or action would be more feasible than the proposed project.

(4) Sufficient other local, state or federal funds either are not available or cannot be obtained in the time frame required.

b. Projects to address an exceptional opportunity.

(1) A significant opportunity exists for the state that otherwise would be forgone if not addressed immediately.

(2) The opportunity is such that it is not possible to apply to the housing fund in a normal application time frame.

(3) The project would have merit, with respect to review criteria, comparable to funded projects in the most recent competition.

25.10(3) IDED reserves the right to request additional information on forms prescribed by IDED prior to making a final funding decision. IDED reserves the right to negotiate final project award and design components.

These rules are intended to implement Iowa Code section 15.108(1)*"a."*

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CHAPTER 53
COMMUNITY ECONOMIC BETTERMENT PROGRAM

[Prior to 1/14/87, Iowa Development Commission[520] Ch 8]
[Prior to 7/19/95, see 261—Ch 22]
[Former Ch 53, "Economic and Research and Development Grants," rescinded IAB 7/19/95, effective 8/23/95]

261—53.1(15) Purpose. The purpose of the community economic betterment program is to assist communities and rural areas of the state with their economic development efforts and to increase employment opportunities for Iowans by increasing the level of economic activity and development within the state. The program structure provides financial assistance to businesses and industries which require assistance in order to create new job opportunities or retain existing jobs which are in jeopardy. Also, the program may provide comprehensive management assistance to businesses involved with the CEBA program. Assistance may be provided to encourage:

1. New business start-ups in Iowa;
2. Expansion of existing businesses in Iowa; or
3. The recruitment of out-of-state businesses into Iowa.

261—53.2(15) Definitions.

"Agreement expiration date" means the date the CEBA agreement expires.

"Applicant" means a city, county, or merged area school which requests state financial assistance on behalf of a business or a local development organization.

"Average county wage" means the average the department calculates annually using the most current four quarters of wage and employment information as provided in the Quarterly Covered Wage and Employment Data report as provided by the Iowa workforce development department, audit and analysis section. Agricultural/mining and governmental employment categories are deleted in compiling the wage information.

"Average regional wage" means the wage calculated annually by the department using a methodology in which each particular county is considered to be a geographic center of a larger economic region. The wage threshold for the central county is calculated using the average wage of that county, plus each adjoining Iowa county, so that the resulting figure reflects a regional average that is representative of the true labor market area. In performing the calculation, the greatest importance is given to the central county by "weighting" it by a factor of four, compared to a weighting of one for each of the other adjoining counties. The central county is given the greatest importance in the calculation because most of the employees in that central county will come from that same county, as compared to commuters from other adjoining counties.

"Base economic activities" means those business activities which result in a net increase in the production of goods or services within the state. This would occur if a majority of the company's products or services were new, were sold outside the state, or were sold within the state in place of items previously purchased outside the state.

"Board" means the department of economic development board established under Iowa Code section 15.103.

"Business" means a sole proprietorship, partnership or corporation organized for profit or not-for-profit under the laws of the state of Iowa or another state, under federal statutes, or under the laws of another country.

"Business start-up" means a business which has not been in operation for more than two years prior to the date of the CEBA application.

"Buydown" means participation by the state in a conventional loan to an assisted business by lowering either the effective principal or interest of the loan.

"CEBA" refers to the community economic betterment account funded by Iowa Code section 15.32(2).

"Committee" means the community economic betterment review committee described in rule 53.3(15).

"Community base employment" means the total number of full-time equivalent jobs the business employs at the time of application for CEBA funds less any jobs retained as a direct result of the CEBA project.

"Comprehensive community and economic development plan" means a plan that meets the requirements of 261—Chapter 80.

"Comprehensive management assistance" means provision of technical business assistance through the use of department staff or professional business services provided by a public or private organization.

"Department" means the Iowa department of economic development created by Iowa Code section 15.105.

"Direct job" means a job created or retained by the business receiving CEBA funds and reflected on its employment payroll records.

"Director" means the director of the Iowa department of economic development.

"Entrepreneurial development" means the promotion of small business ownership through the provision of technical management expertise.

"Equity-like investment" means the provision of assistance in such a manner that the potential return on investment to the provider varies according to the profitability of the company assisted. This includes but is not limited to: royalty arrangements; warrant arrangements; or other similar forms of investments.

"Float loan" means a short-term loan (maximum of 30 months) from obligated but unexpended CEBA funds.

"Full-time equivalent job" means the equivalent of employment of one person for 8 hours per day for a 5-day, 40-hour workweek for 52 weeks per year.

"Grant" means an award of assistance with the expectation that, with the fulfillment of the conditions of the award, repayment of funds is not required.

"Job attainment goal" means the total number of jobs created and job retention pledged by the recipient in addition to the business's community base employment.

"Job creation" means new permanent full-time equivalent (FTE) positions added to a business's normal operations, over and above the number of FTE positions the business had at the time of application for CEBA funds.

"Job retention" means existing full-time equivalent permanent positions, at the time of application, kept in continuous employment by the business as a direct result of CEBA assistance.

"Loan" means an award of assistance with the requirement that the award be repaid with term, interest rate, and other conditions specified as part of the award. A deferred loan is one for which the payment for principal, interest, or both, is not required for some specified period. A forgivable loan is one for which repayment is eliminated in part or entirely if the borrower satisfies specified conditions.

"Loan guarantee" means a guarantee of all or part of a loan made by a commercial lender. Payment of all or a portion of the loan guarantee would occur if the business defaults on its repayment of the loan, provided the lender has exhausted standard legal remedies in an attempt to secure repayment from the borrower.

"New business opportunity" means an economic activity performed by a start-up or recruited business that meets the definition of subrule 53.9(1).

"New product development" means an economic activity performed by an existing Iowa business through expansion or diversification and meets the definition of subrule 53.9(1).

"Project" means the activity, or set of activities proposed by the recipient, resulting in accomplishing the goals of the CEBA program, and which will require state assistance to accomplish.

"Project expiration date" means the date when the recipient must complete all project expenditures and have fulfilled the job attainment goal. In the case of small business gap financing projects, it is three years from the date of award. In the case of venture projects, new business opportunities or new product development projects, it could be up to five years.

"Recipient" means a business which receives assistance through the CEBA program and in return agrees to provide a specified number of new direct jobs, or retain a specified number of direct jobs within the state, or receives assistance through CEBA's comprehensive management assistance.

"Retail business" means a business whose operation consists predominantly of the purchase of a product for sale to the final user or consumer who would not be purchasing for resale.

"Service business" means a business which produces and sells a thing of value which is not a tangible product.

"Small business" refers to a business which meets the size criteria for a small business as defined by the U.S. Small Business Administration and as published from time to time in the Federal Register.

"Twenty-eight E (28E) agreement" means an intergovernmental agreement formed according to Iowa Code chapter 28E.

"Venture project" means an economic activity performed by a start-up company, early-stage company, or existing company developing a new product or new technology.

261—53.3(15) Board and committee. The chairperson of the board shall appoint a five-member project review committee to review applications requesting CEBA funding. The committee shall be composed of five board members, one of whom shall be either the board chairperson or the vice chairperson. The director shall be a nonvoting ex officio member of an active committee. A quorum of three committee members is necessary for taking action and at least three members shall concur before making recommendations to the board.

261—53.4(15) Eligible applicants. Only cities, counties, and merged area schools are eligible to apply to the department for funding under this program. Applicants which are awarded funds will pass those funds on to the recipient or approved recipient's vendor.

261—53.5(15) Provision of assistance.

53.5(1) *Eligible projects.* Projects eligible for CEBA funding include, but are not limited to, the following:

1. Building construction or reconstruction;
2. Acquisition of land;
3. Equipment purchases;
4. Operating and maintenance expenses;
5. Clearance, demolition and removal of buildings to develop sites;
6. Infrastructure improvements directly related to new employment;
7. Road construction projects directly supporting and assisting economic development;
8. Funds for guaranteeing business loans made by commercial lenders; and
9. Technical management assistance for businesses that are applying for or have received CEBA funding.

53.5(2) *Forms of assistance.* Assistance for projects may be provided in any of the following forms:

1. Principal buydowns to reduce the principal of a business loan;
2. Interest buydowns to reduce the interest on a business loan;
3. Forgivable loans;
4. Loans and loan guarantees, including short-term (float) loans. Float loans may only be made for projects where the department obtains an irrevocable letter of credit from an acceptable financial institution on behalf of the company in an amount equal to or greater than the principal amount of the loan;
5. Equity-like investments;
6. Cost reimbursement for technical/professional management services.

261—53.6(15) Application for assistance. The requirements outlined in this rule are applicable to all CEBA program components, except applications under the venture project component. Refer to rule 261—53.10(15) for application requirements for venture projects.

53.6(1) *General policies.*

a. An applicant may submit as many different applications as it wishes at any time. However, if the department is reviewing two or more applications from the same applicant at the same time, it may ask the applicant to rank them in the order preferred by the applicant;

b. Only one applicant may apply for any given project;

c. No single project may be awarded more than $1 million unless at least two-thirds of the members of the board approve the award. However, this restriction will not apply after the first $10 million has been credited to the CEBA program in any given year. This restriction does not apply to the float loan described in 53.5(2)"4."

d. No single project may be awarded a forgivable loan of more than $500,000.

e. No single project may be awarded more than $500,000 unless all other applicable CEBA requirements and each of the following criteria is met:

(1) The business has not closed or substantially reduced its operation in one area of the state and relocated substantially the same operation in the community. This requirement does not prohibit a business from expanding its operation in the community if existing operations of a similar nature in the state are not closed or substantially reduced.

(2) The business must provide and pay at least 80 percent of the cost of a standard medical and dental insurance plan or its equivalent for all full-time employees working at the facility in which the new investment occurred.

(3) The business shall agree to pay a median wage for new full-time jobs of at least 130 percent of the average wage in the county in which the community is located. This requirement may be waived by the department in the case of a float loan described in 53.5(2)"4" if the net value of the award is determined by the department to be less than $500,000.

f. No more than $100,000 may be awarded to a business start-up unless the project jobs have a starting wage equal to or exceeding 90 percent of the average county wage, 90 percent of the average regional wage, or the annual wage cap, whichever is lowest, and over 50 percent of the business's employees' wages are at or above the 90 percent level or the annual wage cap, whichever is lower.

g. To be eligible for assistance the business shall provide for a preference for hiring residents of the state or the economic development area, except for out-of-state employees offered a transfer to Iowa or the economic development area.

h. All applicants for financial assistance shall comply with the requirements of 261—Chapter 80.

i. To be eligible for assistance, applicants shall meet the following wage threshold requirements:

(1) Project positions shall have a starting wage of at least 90 percent of the average county wage, 90 percent of the average regional wage, or the annual wage cap, whichever is lowest.

(2) Fifty percent or more of the jobs to be created or retained shall have a starting wage of at least 90 percent of the average county wage, 90 percent of the average regional wage, or the annual wage cap, whichever is lowest.

(3) If the applicant is a business start-up, project positions shall have a starting wage of at least 80 percent of the average county wage, 80 percent of the average regional wage, or the annual wage cap, whichever is lowest, and over 50 percent of the business's employees' wages shall be at or above the 80 percent level or the annual wage cap, whichever is lower.

(4) The annual wage cap referenced in this rule shall be adjusted annually by calculating the percent increase or decrease in average Iowa hourly earnings level for all production and nonproduction workers in the private sector from the month of June of the previous year to June of the current year. This report is compiled by the Iowa workforce development department.

(5) Where the community can document to the department's satisfaction that a significant differential exists between the actual local county wage (as determined by a local employer survey) and the average county wage or average regional wage, the department may substitute the community survey results for the average county wage or average regional wage for consideration in a specific project. Qualification of a project would not be anticipated unless the starting project wage was clearly above the survey wage.

(6) The department may approve a project where the starting project wage is less than the average county wage or average regional wage under the following conditions:

1. The starting wage is associated with a training period which is of relatively short duration as documented by the business; and

2. The wages will exceed 90 percent of the average county wage, 90 percent of the average regional wage, or the annual wage cap at the conclusion of the training period as documented by the business; and

3. CEBA funds will be released only at the conclusion of the training period when the average county or average regional wage is achieved.

j. A business receiving moneys from the department for the purpose of job creation shall make available 10 percent of the new jobs created for PROMISE JOBS program participants.

53.6(2) *Ineligible applications.* The department will not rate and rank ineligible applications. An application may be ruled ineligible if:

a. It is submitted by an ineligible applicant, or

b. The project consists of a business relocation from within the state unless unusual circumstances exist which make the relocation necessary for the business's viability, or

c. CEBA funds comprise more than 50 percent of the project's financing, or

d. The CEBA application is not properly signed by the applicant and the business, or

e. The project fails to meet the wage threshold requirements under subrule 53.6(1), or

f. The business has a record of violations of the law over a period of time that tends to show a consistent pattern. The business shall provide the department with a report detailing violations of law within the most recent consecutive three-year period prior to application. Consistent with Iowa Code section 15A.1(3), violations of environmental protection statutes, regulations or rules shall be reported for the most recent consecutive five-year period prior to application. If the department finds that a business has a record of violations of the law that tends to show a consistent pattern, the business shall not be eligible under this program. Violations of law include, but are not limited to, environmental and worker safety statutes, rules and regulations. A business shall not be ineligible if the department finds that the violations did not seriously affect the public health or safety, or the environment, or if they did, that there were mitigating circumstances.

53.6(3) *Procedures.*

a. Applications may be submitted at any time.

b. Applications should be submitted to: Division of Business Development, Department of Economic Development, CEBA Program, 200 East Grand Avenue, Des Moines, Iowa 50309. Application forms and instructions are available at this address or by calling (515)242-4819.

c. Application contents. Required contents of application will be described within the application package itself.

d. Each eligible application will be reviewed by the department. The department may request additional information from the applicant or the proposed recipient, or perform other activities to obtain needed information.

e. The department will rate and rank applications according to the criteria in rule 53.7(15). Additionally, for small business gap financing applications, the department will use rule 53.8(15). For new business opportunities and new product development applications, the department will use rule 53.9(15). The department will present its recommendations on rating and ranking to the committee. The committee will present its recommendations to the board. The board will have final authority in the rating and ranking of applications. The board will also make the final decision to approve, reject, table, defer, or refer an application to another funding program. The department may negotiate with the applicant or proposed recipient concerning dollar amounts, terms, or any other elements of the application package. The board may offer an award in a lesser amount or structured in a manner different than requested.

53.6(4) *Emergency applications.* Applications are sometimes made for projects which require an immediate decision on CEBA assistance in order to be successful. In the event evidence is presented to the department that this situation exists, the board may hold a telephonic meeting or otherwise process the application in an accelerated manner. If approved, the project must commence within 45 days of the date of approval; failure to begin within 45 days may be grounds for the termination of the award.

261—53.7(15) Selection criteria. In ranking applications for funding submitted under the small business gap financing component, the new business opportunities component, and the new product development component, at least the following criteria shall be considered:

53.7(1) *Relating to local/business involvement:*

a. The proportion of local match to be provided as compared to the local resources.

b. The proportion of private contribution to be provided, including the involvement of financial institutions.

c. The need of the business for financial assistance from governmental sources. More points shall be awarded to a business for which the department determines that governmental assistance is most necessary to the success of the project.

d. The level of need of the political subdivision.

e. The impact of the proposed project on the economy of the political subdivision and the state.

f. The certification of a community builder program for the community.

g. The expected recapture of these funds.

53.7(2) *Relating to job creation/retention:*

a. *The total number of jobs to be created or retained.* When rating a project, the department shall only consider those positions which meet the wage threshold requirements defined in subrule 53.6(1).

b. *The quality of jobs to be created.* In rating the quality of the jobs, the department shall award more points to those jobs that have a higher wage scale, a lower turnover rate, are full-time, career-type positions, or have other related factors. Those applications that have average starting wage scales which are 10 percent or more below that of the average county wage or average regional wage shall be given an overall score of zero. Business start-ups shall be given a score of zero only if their wage scales are 20 percent or more below that of the average county wage or average regional wage.

53.16(5) *Extensions based on actual performance.* If the recipient achieves the job attainment goal within 90 days after the project expiration date, the department may consider providing up to a 90-day extension to the project expiration date without committee approval.

53.16(6) *Forms.* The following forms will be used by the department in the administration of the CEBA program:

1. Application for business financial assistance;
2. Application for comprehensive management assistance;
3. Loan agreement;
4. Loan subsidy (buydown) agreement;
5. Loan guarantee agreement;
6. Equity-like agreement;
7. Forgivable loan agreement;
8. Comprehensive management assistance agreement;
9. Applicant program budget and schedule;
10. Applicant semiannual performance report;
11. Applicant request for release of funds; and
12. Applicant final expenditure report.

These rules are intended to implement Iowa Code sections 15.315 to 15.320.

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◊ Two ARCs

CHAPTER 68
IOWA EXPORT TRADE ASSISTANCE PROGRAM

[Prior to 11/15/89, see 261—Chapter 56]
[Prior to 7/19/95, see 261—Ch 61]

261—68.1(78GA,ch197) Purpose. The purpose of the Iowa export trade assistance program is to promote the development of international trade activities and opportunities for exporters in the state of Iowa through encouraging increased participation in overseas trade shows and trade missions by providing financial assistance to successful applicants.

261—68.2(78GA,ch197) Definitions.

"Department" means Iowa department of economic development.

"Division" means the international division of the department.

"Exporter" means a person or business that sells one of the following outside of the United States:

- A manufactured product.
- A value-added product.
- An agricultural product.
- A service.

"Sales representative" means a contracted representative of an Iowa firm with the authority to consummate a sales transaction.

"Trade mission" means a mission event led by the department of economic development, U.S. Department of Commerce, or the U.S. Department of Agriculture. Qualified trade missions must include each of the following:

- Advanced operational and logistical planning.
- Advanced scheduling of individualized appointments with prequalified prospects interested in participants' product or service being offered.
- Background information on individual prospects prior to appointments.

Trade missions may also include:

- In-depth briefings on market requirements and business practices for targeted country.
- Interpreter services.
- Development of a trade mission directory prior to the event containing individual company data regarding the Iowa company and the products being offered.
- Technical seminars delivered by the mission participants.

261—68.3(78GA,ch197) Eligible applicants. The export trade assistance program is available to Iowa firms either producing or adding value to products, or both, or providing services in the state of Iowa. To be eligible to receive trade assistance, applicants must meet all four of the following criteria:

*1. Be an entity employing fewer than 500 individuals, 75 percent or more of whom are employed within the state of Iowa,

2. Exhibit products or services or samples of Iowa manufactured, processed or value-added products or agricultural commodities in conjunction with a foreign trade show or trade mission (catalog exhibits are permitted if they are used in conjunction with the exhibit of a product or service or in association with the firm's participation in a trade mission),

3. Have at least one full-time employee or sales representative attend the trade show or participate in the trade mission, and

4. Provide proof of deposit or payment of the trade show or trade mission participation fee.

*See Objection at end of this Chapter.

261—68.4(78GA,ch197) Eligible reimbursements. The department's reimbursement to approved applicants for assistance shall not exceed 75 percent of eligible expenses. Total reimbursement shall not exceed $4000 per event. Payments will be made by the department on a reimbursement basis upon submission of proper documentation and approval by the department of paid receipts received by the division. Reimbursement is limited to the following types of expenses:

68.4(1) Trade shows.

a. Space rental.

b. Booth construction at show site.

c. Booth equipment or furniture rental.

d. Freight costs associated with shipment of equipment or exhibit materials to the participant's booth and return.

e. Booth utility costs.

f. Interpreter fees for the duration of the trade show.

g. Per diem (lodging and meals) for the day immediately before the opening day of the trade show through the day immediately after the closing day of the trade show; per diem is calculated at 50 percent of the rate schedules provided by the U.S. Department of State for travel in foreign areas; and per diem will be paid for only one sales representative.

68.4(2) Trade mission.

a. Mission participation fee.

b. Per diem (lodging and meals) for each day identified in the official mission itinerary. Per diem is calculated at 50 percent of the rate schedules provided by the U.S. Department of State for travel in foreign areas and will be paid for only one sales representative.

c. Freight costs associated with shipment of equipment or exhibit materials to the participant's meeting site and return.

d. Presentation equipment at the meeting site.

e. Interpreter fees, if not included in the participation fee, and as needed during the trade mission.

261—68.5(78GA,ch197) Applications for assistance. To access the export trade assistance program, the applicant shall:

68.5(1) Complete the export trade assistance program's application form and return it to the division prior to trade event participation. Successful applicants will be required to enter into a contract for reimbursement with the department prior to trade event participation.

68.5(2) Exhibit products or services or samples of Iowa products in conjunction with a foreign trade show or trade mission (catalog exhibits are permitted if they are used in conjunction with the exhibit of a product or service or in association with the firm's participation in a trade mission).

68.5(3) Have in attendance at the trade show or trade mission at least one full-time employee or sales representative of the applicant.

68.5(4) Pay all expenses related to participation in the trade event and submit for reimbursement from the department for eligible, documented expenses.

68.5(5) Complete the final report form and return it to the division before final reimbursement can be made.

261—68.6(78GA,ch197) Selection process. Applications will be reviewed in the order received by the division. Successful applicants will be funded on a first-come, first-served basis to the extent funds are available. When all funds have been committed, applications shall be held in the order they are received. In the event that committed funds are subsequently available, the applications shall be processed in the order they were received for events that have not yet occurred.

261—68.7(78GA,ch197) Limitations. A participant in the export trade assistance program shall not utilize the program's benefits more than three times during the state's fiscal year. Participants shall not utilize export trade assistance program funds for participation in the same trade show during two consecutive state fiscal years, or for participation in the same trade show more than two times. Participants shall not utilize export trade assistance program funds for participation in multiple trade shows in the same country during the same state fiscal year.

261—68.8(78GA,ch197) Forms. The following forms are available from the department and will be used by the department in the administration of the export trade assistance program:

1. ETAP application form,
2. ETAP final report form,
3. Reimbursement agreement.

These rules are intended to implement 1999 Iowa Acts, chapter 197, section 1, subsection 4.

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CHAPTER 69
RURAL ACTION TRAINING PROGRAM

Renumbered as 261—Ch 48, IAB 7/19/95

CHAPTER 70
Reserved

CHAPTER 204*
SUBSIDIZED GUARDIANSHIP PROGRAM

PREAMBLE

This chapter implements a subsidized guardianship program to provide financial assistance to guardians of eligible children who are not able to be adopted and who are not able to return home. This program will allow children a more permanent placement than they have in foster care.

441—204.1(234) Definitions.

"Child" means a person who has not attained the age of 18.

"Department" means the Iowa department of human services.

"Guardianship subsidy" means a monthly payment to assist in covering the cost of room, board, clothing, and spending money for the child.

441—204.2(234) Eligibility.

204.2(1) *General conditions of eligibility.* The guardian named in a permanency order under Iowa Code section 232.104(2)*"d"*(1) for a child who was previously in the custody of the department is eligible for subsidy when all of the following conditions exist:

a. The department has determined the option of reunification has been eliminated and termination of parental rights is not appropriate.

b. The child is in foster care subsidized by the department at the time of application and has lived in foster care for at least 12 months of the last 18 months.

c. The child is either 14 years of age or older or, if under 14 years of age, is part of a sibling group with a child aged 14 or older and cannot be made available for adoption.

d. The placement does not require departmental supervision.

e. The guardian is a person, not an agency.

204.2(2) *Residency.* The subsidized guardianship applicant or recipient need not reside in Iowa.

204.2(3) *Unearned income.* Unearned income of the child from sources such as social security, veterans administration, railroad compensation, trust funds, and the family's insurance shall also be used before subsidy funds are expended. The guardian shall provide to the department worker documentation from any source of the child's unearned income.

204.2(4) *Other services.* Other services available to the guardian free of charge to meet the needs of the child, such as other federal, state, and local governmental and private assistance programs, shall be explored and used prior to the expenditure of subsidy funds.

441—204.3(234) Application. Applications for the subsidized guardianship program may be made at any county office of the department.

204.3(1) *Application forms.* Application for guardianship subsidy shall be made on Form 470-3632, Application for Guardianship Subsidy.

204.3(2) *Eligibility determination.* The determination of whether a child meets eligibility requirements is made by the department. The person shall be notified in writing of the decision of the county office regarding the person's eligibility for the program and the amount of the subsidy to be made.

204.3(3) *Effective date.* The effective date of the subsidy payment shall be the date the guardianship order is signed if all other conditions of eligibility are met.

204.3(4) *Redetermination.* The department worker shall review the child's eligibility, the needs of the child, and the child's unearned income every 12 months. Reviews may be done more often if needed because of the child's need for a special service, revision of the subsidy amount because of the child's age, or a request for review by the guardian. The amount of subsidy may be renegotiated at the time of review.

*Pursuant to 2000 Iowa Acts, Senate File 2435, section 40, implementation of Chapter 204 is delayed until such time as funding is appropriated by the General Assembly.

441—204.4(234) Negotiation of amount of subsidy.

204.4(1) *Subsidy agreement.* The amount of subsidy shall be negotiated between the department and the guardian, and shall be based upon the needs of the child, and the circumstances of the family. Each time negotiations are completed, the Guardianship Subsidy Agreement, Form 470-3631, shall be completed and signed by the guardian and the department worker.

204.4(2) *Amount of subsidy.* The department shall enter into the agreement based upon available funds. A guardianship subsidy shall be no less than $10 per month. The maximum monthly payment for a child in subsidized guardianship shall be made equal to the foster family care maintenance rate according to the age and special needs of the child as found at 441—subrule 156.6(1) and 441—paragraphs 156.6(4)*"a"* and *"b."*

204.4(3) *Placement outside of home.* If a child needs to be placed out of the guardian's home for treatment and the plan is for the child to return to the family, a partial subsidy amount may be negotiated.

441—204.5(234) Parental residual rights and responsibilities. Parental residual rights and responsibilities are not affected by the subsidy. These may be set out or limited in the guardianship order and may include visitation, consent to adoption, support and lines of inheritance.

These payments are considered foster care payments for purposes of child support recovery and as such create a support debt for the parents.

441—204.6(234) Termination of subsidy. The subsidy shall terminate when any of the following occur, and a notice shall be sent which states the reason for the termination:

1. The child no longer meets the definition of "child."
2. The child marries.
3. The guardian is no longer using the maintenance payments to support the child.
4. Upon the death of the child, or the death of the guardian of the child (one in a single-parent family and both in a two-parent family).
5. Upon conclusion of the terms of the agreement.
6. Upon request of the guardian.
7. The guardian is no longer legally responsible for the child.
8. The family fails to participate in the renewal process.
9. The juvenile court closes its guardianship case.
10. The department funds for subsidized guardianship are no longer available.

441—204.7(234) Reinstatement of subsidy. Reinstatement of the subsidy shall be made when the subsidy was terminated because of a reason in rule 441—204.6(234), numbered paragraph "3," "6," or "8," and the reason for termination no longer exists.

441—204.8(234) Appeals. The guardian may appeal adverse determination pursuant to 441—Chapter 7.

441—204.9(234) Medical assistance. Children eligible for subsidy are entitled to medical assistance as defined in 441—Chapter 75. When an Iowa child receives medical assistance from another state, Iowa shall discontinue paying any medical costs the month following the move unless additional time is necessary for a timely notice of decision to be provided to the guardian.

The funding source for medical assistance is based on the following criteria:

1. Children from Iowa residing in Iowa shall be covered by Iowa's medical assistance.

CHAPTER 8
MUTUEL DEPARTMENT

[Prior to 11/19/86, Racing Commission[693]]
[Prior to 11/18/87, Racing and Gaming Division[195]]

491—8.1(99D) Definitions.

"Administrator" means the administrator or administrator's designee of the Iowa racing and gaming commission.

"Association" means anyone conducting a licensed meet in Iowa.

"Betting interest" means a number assigned to a single runner, an entry or a field for wagering purposes.

"Board" means the board of judges or the board of stewards.

"Breakage" means the odd cents by which the amount payable on each dollar wagered in a pari-mutuel pool exceeds a multiple of ten cents. "Breakage" is the net pool minus payoff.

"Commission" means the Iowa racing and gaming commission.

"Commission representative" means an employee of the commission designated to represent them in matters pertaining to the operation of the mutuel department. In the absence of a specifically appointed representative, a commission steward will perform the functions and duties of the commission representative.

"Contest" means a race on which wagers are placed.

"Dead heat" means that two or more runners have tied at the finish line for the same position in the order of finish.

"Double" means a wager to select the winners of two consecutive races and is not a parlay and has no connection with or relation to any other pool conducted by the association and shall not be construed as a "quinella double."

"Entry" means two or more runners are coupled in a contest because of common ties and a wager on one of them shall be a wager on all of them.

"Exacta" (may also be known as "perfecta" or "correcta") means a wager selecting the exact order of finish for first and second in that contest and is not a parlay and has no connection with or relation to any other pool conducted by the association.

"Field" is when the individual runners competing in a contest exceed the numbering capacity of the totalizator and all runners of the higher number shall be grouped together. A wager on one in the field shall be a wager on all. (No "fields" shall be allowed in greyhound racing.)

"Law" or *"laws"* means the Iowa Code.

"Minus pool" is when the total amount of money to be returned to the public exceeds what is in the pool because of commission being deducted and the rule stipulation that no mutuel tickets shall be paid at less than $1.10 for each $1.00 wagered.

"Mutuel department" means that area of a racetrack where wagers are made and winning tickets are cashed; where the totalizator is installed and any area used directly in the operation of pari-mutuel wagering.

"Mutuel manager" means an employee of the association who manages the mutuel department.

"Net pool" means the amount remaining in each separate pari-mutuel pool after the takeout percentage, as provided for by Iowa Code section 99D.11, has been deducted.

"No contest" means that a specific race has been declared "no contest" by the stewards in accordance with the pari-mutuel rules and rules of racing for that breed and that certain pools shall be refunded.

"Odds" means the approximate payoffs per dollar based on win pool wagering only on each betting interest for finishing first without a dead heat with another betting interest.

"Official" means that the order of finish for the race is "official" and that payoff prices based upon the "official" order of finish shall be posted.

"Order of finish" means the finishing order of each runner from first place to last place in each race. For horse racing only, the order of finish may be changed by the stewards for a rule infraction prior to posting the "official order of finish."

"Overpayment" is when the payoff to the public resulting from errors in calculating pools and errors occurring in the communication of payoffs results in more money returned to the public than is actually due.

"Pari-mutuel pool" means the total amount wagered on each separate pari-mutuel pool for payoff purposes.

"Payoff" means the amount distributed to holders of valid winning pari-mutuel tickets in each pool as determined by the official order of finish and includes the amount wagered and profit.

"Pick (n)" means a betting transaction in which a purchaser selects winner(s) of (x) number of contests designated by the association during one racing card.

"Pick three" means a wager to select the winners of three consecutive races and is not a parlay and has no connection with or relation to any other pool conducted by the association.

"Place" means a runner finishing second.

"Place pick (n) pools" means a wager to select the first- or second-place finisher in each of a designated number of contests.

"Place pool" means the total amount of money wagered on all betting interests in each race to finish first or second.

"Post time" is the scheduled starting time for a contest.

"Profit split" is a division of profit among separate winning betting interests or winning betting combinations resulting in two or more payoff prices.

"Quinella" means a wager selecting two runners to finish first and second, regardless of the order of finish, and is not a parlay and has no connection with or relation to any other pool conducted by the association.

"Quinella double" means a wager which consists of selecting the quinella in each of two designated contests and is an entirely separate pool from all other pools and has no connection with or relation to any other pool conducted by the association.

"Runner" means each entrant in a contest, designated by a number as a betting interest.

"Show" means a runner finishing third.

"Show pool" is the total amount of money wagered on all betting interests in each contest to finish either first, second or third.

"State" means the state of Iowa.

"Stewards" means the board of stewards or board of judges.

"Superfecta" means a wager selecting the exact order of finish for first, second, third, and fourth in that contest and is not a parlay and has no connection with or relation to any other pool conducted by the association.

"Takeout percentage" means the amount authorized by Iowa Code section 99D.11 to be deducted from each separate pari-mutuel pool.

"Totalizator" is a machine for registering wagers, computing odds and payoffs based upon data supplied by each pari-mutuel ticket-issuing machine.

"Tote board" means the board that is used to display to the public the winning approximate odds or approximate payoffs on runner, payoffs, and other pertinent information directly related to a contest.

"Trifecta" means a wager selecting the exact order of finish for first, second, and third in that race and is not a parlay and has no connection with or relation to any other pool conducted by the association.

"Tri-superfecta" means a wager selecting the exact order of finish for first, second and third in the first designated tri-super contest combined with selecting the exact order of finish for first, second, third and fourth in the second designated tri-super contest.

"Twin quinella" means a wager in which the bettor selects the first two finishers, regardless of order, in each of two designated contests. Each winning ticket for the twin quinella must be exchanged for a free ticket on the second twin quinella contest in order to remain eligible for the second-half twin quinella pool.

"Twin superfecta" means a wager in which the bettor selects the first four finishers, in their exact order, in each of two designated contests. Each winning ticket for the first twin superfecta contest must be exchanged for a free ticket on the second twin superfecta contest in order to remain eligible for the second-half twin superfecta pool.

"Twin trifecta" means a wager in which the bettor selects the three runners that will finish first, second, and third in the exact order as officially posted in each of the two designated twin trifecta races.

"Underpayment" is when the payoff to the public resulting from errors in calculating pools and errors occurring in the communication in payoffs results in less money returned to the public than is actually due.

"Win" means a runner finishing first.

"Win pool" means the total amount wagered on all betting interests in each contest to finish first.

491—8.2(99D) General.

8.2(1) *Wagering.* Each association shall conduct wagering in accordance with applicable laws and these rules. Such wagering shall employ a pari-mutuel system approved by the commission. The totalizator shall be tested prior to and during the meeting as required by the commission. All systems of wagering other than pari-mutuel, such as bookmaking and auction-pool selling, are prohibited and any person attempting to participate in prohibited wagering shall be ejected or excluded from association grounds.

8.2(2) *Records.* The association shall maintain records of all wagering so the commission may review such records for any contest including the opening line, subsequent odds fluctuation, the amount and at which window wagers were placed on any betting interest and such other information as may be required. Such wagering records shall be retained by each association and safeguarded for a period of time specified by the commission. The commission may require that certain of these records be made available to the wagering public at the completion of each contest.

The association shall provide the commission with a list of the licensed individuals afforded access to pari-mutuel records and equipment at the wagering facility.

8.2(3) *Pari-mutuel tickets.* A pari-mutuel ticket is evidence of a contribution to the pari-mutuel pool operated by the association and is evidence of the obligation of the association to pay to the holder thereof such portion of the distributable amount of the pari-mutuel pool as is represented by such valid pari-mutuel ticket. The association shall cash all valid winning tickets when such are presented for payment during the course of the meeting where sold, and for a specified period after the last day of the meeting.

a. To be deemed a valid pari-mutuel ticket, such ticket shall have been issued by a pari-mutuel ticket machine operated by the association and recorded as a ticket entitled to a share of the pari-mutuel pool, and contain imprinted information as to:

(1) The name of the association operating the meeting.
(2) A unique identifying number or code.
(3) Identification of the terminal at which the ticket was issued.
(4) A designation of the performance for which the wagering transaction was issued.
(5) The contest number for which the pool is conducted.
(6) The type(s) of wagers represented.
(7) The number(s) representing the betting interests for which the wager is recorded.
(8) The amount(s) of the contributions to the pari-mutuel pool or pools for which the ticket is evidence.

b. No pari-mutuel ticket recorded or reported as previously paid, canceled, or nonexistent shall be deemed a valid pari-mutuel ticket by the association. The association may withhold payment and refuse to cash any pari-mutuel ticket deemed not valid, except as provided in paragraph 8.2(4)*"e."*

8.2(4) *Pari-mutuel ticket sales.*

a. Pari-mutuel tickets shall not be sold by anyone other than an association licensed to conduct pari-mutuel wagering.

b. No pari-mutuel ticket may be sold on a contest for which wagering has already been closed and no association shall be responsible for ticket sales entered into but not completed by issuance of a ticket before the totalizator is closed for wagering on such contest.

c. Claims pertaining to a mistake on an issued or unissued ticket must be made by the bettor prior to leaving the seller's window.

d. Payment on winning pari-mutuel wagers shall be made on the basis of the order of finish as purposely posted and declared "official." Any subsequent change in the order of finish or award of purse money(s) as may result from a subsequent ruling by the stewards or administrator shall in no way affect the pari-mutuel payoff. If an error in the posted order of finish or payoff figures is discovered, the official order of finish or payoff prices may be corrected and an announcement concerning the change shall be made to the public.

e. The association shall not satisfy claims on lost, mutilated, or altered pari-mutuel tickets without authorization from the administrator.

f. The association shall have no obligation to enter a wager into a betting pool if unable to do so due to equipment failure.

g. Payment on valid pari-mutuel tickets shall be made only upon presentation and surrender to the association where the wager was made within 60 days following the close of the meet during which the wager was made. Failure to present any such ticket within 60 days shall constitute a waiver of the right to receive payment.

8.2(5) *Advance performance wagering.* No association shall permit wagering to begin more than one hour before scheduled post time of the first contest of a performance unless it has first obtained the authorization of the administrator.

8.2(6) *Claims for payment from pari-mutuel pool.* At a designated location, a written, verified claim for payment from a pari-mutuel pool shall be accepted by the association in any case where the association has withheld payment or has refused to cash a pari-mutuel wager. The claim shall be made on such form as approved by the administrator, and the claimant shall make such claim under penalty of perjury. The original of such claim shall be forwarded to the administrator within 48 hours.

a. In the case of a claim made for payment of a mutilated pari-mutuel ticket which does not contain the total imprinted elements required in paragraph 8.2(3)*"a"* of these general provisions, the association shall make a recommendation to accompany the claim forwarded to the administrator as to whether or not the mutilated ticket has sufficient elements to be positively identified as a winning ticket.

b. In the case of a claim made for payment on a pari-mutuel wager, the administrator shall adjudicate the claim and may order payment thereon from the pari-mutuel pool or by the association, or may deny the claim, or may make such other order as the administrator may deem proper.

8.2(7) *Payment for errors.* If an error occurs in the payment amounts for pari-mutuel wagers which are cashed or entitled to be cashed; and as a result of such error the pari-mutuel pool involved in the error is not correctly distributed among winning ticket holders, the following shall apply:

a. Verification is required to show that the amount of the commission, the amount in breakage, and the amount in payoffs are equal to the total gross pool. If the amount of the pool is more than the amount used to calculate the payoff, the underpayment shall be added to the corresponding pool of the next contest. If an underpayment is discovered after the close of the meeting, the underpayment shall be held in an interest-bearing account approved by the administrator until being added, together with accrued interest, to the corresponding pool of the next meet.

b. Any claim not filed with the association within 30 days, inclusive of the date on which the underpayment was publicly announced, shall be deemed waived; and the association shall have no further liability therefor.

c. In the event the error results in an overpayment to winning wagers, the association shall be responsible for such payment.

8.2(8) *Betting explanation.* A summary explanation of pari-mutuel wagering and each type of betting pool offered shall be published in the program for every wagering performance. The rules of racing relative to each type of pari-mutuel pool offered must be prominently displayed on association grounds and available upon request through association representatives.

8.2(9) *Display of betting information.*

a. Approximate odds for win pool betting shall be posted on display devices within view of the wagering public and updated at intervals of not more than 90 seconds.

b. The probable payoff or amounts wagered, in total and on each betting interest, for other pools may be displayed to the wagering public at intervals and in a manner approved by the administrator.

c. Official results and payoffs must be displayed upon each contest being declared official.

8.2(10) *Canceled contests.* If a contest is canceled or declared "no contest," refunds shall be granted on valid wagers in accordance with these rules.

8.2(11) *Refunds.*

a. Notwithstanding other provisions of these rules, refunds of the entire pool shall be made on:

(1) Win pools, exacta pools, and first-half double pools offered in contests in which the number of betting interests has been reduced to fewer than two.

(2) Place pools, quinella pools, trifecta pools, first-half quinella double pools, first-half twin quinella pools, first-half twin trifecta pools, and first-half tri-superfecta pools offered in contests in which the number of betting interests has been reduced to fewer than three.

(3) Show pools, superfecta pools, and first-half twin superfecta pools offered in contests in which the number of betting interests has been reduced to fewer than four.

b. Authorized refunds shall be paid upon presentation and surrender of the affected pari-mutuel ticket.

8.2(12) *Coupled entries and mutuel fields.*

a. Contestants coupled in wagering as a coupled entry or mutuel field shall be considered part of a single betting interest for the purpose of price calculations and distribution of pools. Should any contestant in a coupled entry or mutuel field be officially withdrawn or scratched, the remaining contestants in that coupled entry or mutuel field shall remain valid betting interests and no refunds will be granted. If all contestants within a coupled entry or mutuel field are scratched, then tickets on such betting interests shall be refunded, notwithstanding other provisions of these rules.

b. For the purpose of price calculations only, coupled entries and mutuel fields shall be calculated as a single finisher, using the finishing position of the leading contestant in that coupled entry or mutuel field to determine order of placing. This rule shall apply to all circumstances, including situations involving a dead heat, except as otherwise provided by these rules.

8.2(13) *Pools dependent upon betting interests.* Unless the administrator otherwise provides, at the time the pools are opened for wagering, the association:

a. May offer win, place, and show wagering on all contests with six or more betting interests.

b. May be allowed to prohibit show wagering on any contest with five or fewer betting interests scheduled to start.

c. May be allowed to prohibit place wagering on any contest with four or fewer betting interests scheduled to start.

d. May be allowed to prohibit quinella wagering on any contest with three or fewer betting interests scheduled to start.

e. May be allowed to prohibit quinella double wagering on any contests with three or fewer betting interests scheduled to start.

f. May be allowed to prohibit exacta wagering on any contest with three or fewer betting interests scheduled to start.

g. Shall prohibit trifecta wagering on any contest with six or fewer betting interests scheduled to start, except in greyhound racing, or as provided in (1) below:

(1) Cancel trifecta. The stewards have the authority to cancel trifecta wagering at any time they determine an irregular pattern of wagering or determine that the conduct of the race would not be in the interest of the regulation of the pari-mutuel wagering industry or in the public confidence in racing. The stewards may approve smaller fields for trifecta wagering if extraneous circumstances are shown by the licensee.

(2) Reserved.

h. May prohibit superfecta wagering on any contest with seven or fewer betting interests scheduled to start.

i. May be allowed to prohibit twin quinella wagering on any contests with three or fewer betting interests scheduled to start.

j. May prohibit twin trifecta wagering on any contests with seven or fewer betting interests scheduled to start, except as provided in 8.2(13)*"g"*(1).

k. May prohibit tri-superfecta wagering on any contests with seven or fewer betting interests scheduled to start.

l. May prohibit twin superfecta wagering on any contests with seven or fewer betting interests scheduled to start.

8.2(14) *Prior approval required for betting pools.*

a. An association that desires to offer new forms of wagering must apply in writing to the administrator and receive written approval prior to implementing the new betting pool.

b. The association may suspend previously approved forms of wagering with the prior approval of the administrator. Any carryover shall be held until the suspended form of wagering is reinstated. An association may request approval of a form of wagering or separate wagering pool for specific requirements.

8.2(15) *Closing of wagering in a contest.*

a. A commission representative shall close wagering for each contest after which time no pari-mutuel tickets shall be sold for that contest. All wagering shall stop and all pari-mutuel machines shall be locked at post time or at the actual start of the races, whichever first occurs. Machines shall be automatically locked by the stewards, unless unusual circumstances dictate the stewards to act differently.

b. The association shall maintain, in good order, a system approved by the administrator for closing wagering.

8.2(16) *Complaints pertaining to pari-mutuel operations.*

a. When a patron makes a complaint regarding the pari-mutuel department to an association, the association shall immediately issue a complaint report, setting out:

(1) The name of the complainant;

(2) The nature of the complaint;

(3) The name of the persons, if any, against whom the complaint was made;

(4) The date of the complaint;

(5) The action taken or proposed to be taken, if any, by the association.

b. The association shall submit every complaint report to the commission within five days after the complaint was made.

8.2(17) *Licensed employees.* All licensees shall report any known irregularities or wrongdoings by any person involving pari-mutuel wagering immediately to the administrator and cooperate in subsequent investigations.

8.2(18) *Unrestricted access.* The association shall permit the commission unrestricted access at all times to its facilities and equipment and to all books, ledgers, accounts, documents and records of the association that relate to pari-mutuel wagering.

8.2(19) *Totalizator breakdown.* In the event of irreparable breakdown of the totalizator during the wagering on a race, the wagering on that race shall be declared closed and the payoff shall be computed on the sums wagered in each pool up to the time of the breakdown.

8.2(20) *Minimum wager and payoff.* The minimum wager to be accepted by any licensed association for win, place and show wagering shall be $2. The minimum payoff on a $2 wager shall be $2.20. For all other wagers, the minimum wager to be accepted by any licensed association shall be $1. The minimum payoff for a $1 wager shall be $1.10. Any deviation from this must be approved by the administrator. In cases where a minus pool occurs, the association is responsible for the payment of the minimum payoff and no breakage shall be incurred from that pari-mutuel pool.

8.2(21) *Minors prohibited from wagering.* No minor shall be permitted by any licensed association to purchase or cash a pari-mutuel ticket.

8.2(22) *Emergency situations.* In the event of an emergency in connection with the pari-mutuel department not covered in these rules, the pari-mutuel manager representing the association shall report the problem to the stewards and the association and the stewards shall render a full report to the administrator within 48 hours.

8.2(23) *Commission mutuel supervisor.* The commission may employ a mutuel supervisor with accounting experience to serve as the commission's designated representative at each race meeting as provided in Iowa Code section 99D.19. In the absence of a specifically appointed commission mutuel supervisor, the board of stewards or simulcast steward will perform the functions and duties of the commission.

491—8.3(99D) Calculation of payoffs and distribution of pools.

8.3(1) *Pools permitted.* All permitted pari-mutuel wagering pools shall be separately and independently calculated and distributed. The pari-mutuel wagering pools permitted in this state shall be for win, place, show, double, exacta, trifecta, tri-super, twin-trifecta, superfecta, quinella, quinella double, twin quinella, pick (3), and pick (n), place pick (n), each with separate and independent calculation and distribution. Takeout shall be deducted from each gross pool as stipulated by Iowa Code section 99D.11. The remainder of the moneys in the pool shall constitute the net pool for distribution as payoff on winning wagers.

a. For each wagering pool, the amount wagered on the winning betting interest or betting combinations is deducted from the net pool to determine the profit; the profit is then divided by the amount wagered on the winning betting interest or combinations, such quotient being the profit per dollar.

b. Either the standard or net price calculation procedure may be used to calculate single commission pools, while the net price calculation procedure must be used to calculate multicommission pools.

(1) Standard price calculation procedure.

SINGLE PRICE POOL (WIN POOL)

Gross pool	=	sum of wagers on all betting interests – refunds
Takeout	=	gross pool × percent takeout
Net pool	=	gross pool – takeout
Profit	=	net pool – gross amount bet on winner
Profit per dollar	=	profit/gross amount bet on winner

$1 unbroken price	=	profit per dollar + $1
$1 broken price	=	$1 unbroken price rounded down to the break point
Total payout	=	$1 broken price × gross amount bet on winner
Total breakage	=	net pool – total payout

PROFIT SPLIT (PLACE POOL)

Profit is net pool less gross amount bet on all place finishers. Finishers split profit ½ and ½ (place profit), then divide by gross amount bet on each place finisher for two unique prices.

PROFIT SPLIT (SHOW POOL)

Profit is net pool less gross amount bet on all show finishers. Finishers split profit 1/3 and 1/3 and 1/3 (show profit), then divide by gross amount bet on each show finisher for three unique prices.

(2) Net price calculation procedure.

SINGLE PRICE POOL (WIN POOL)

Gross pool	=	sum of wagers on all betting interests – refunds
Takeout	=	gross pool × percent takeout
For each source:		
Net pool	=	gross pool – takeout
Net bet on winner	=	gross amount bet on winner × (1 percent takeout)
Total net pool	=	sum of all sources net pools
Total net bet on winner	=	sum of all sources net bet on winner
Total profit	=	total net pool – total net bet on winner
Profit per dollar	=	total profit/total net bet on winner
$1 unbroken base price	=	profit per dollar + $1
For each source:		
$1 unbroken price	=	$1 unbroken base price × (1 percent takeout)
$1 broken price	=	$1 unbroken price rounded down to the break point
Total payout	=	$1 broken price × gross amount bet on winner
Total breakage	=	net pool – total payout

PROFIT SPLIT (PLACE POOL)

Total profit is the total net pool less the total net amount bet on all place finishers. Finishers split total profit ½ and ½ (place profit), then divide by total net amount bet on each place finisher for two unique unbroken base prices.

PROFIT SPLIT (SHOW POOL)

Total profit is the total net pool less the total net amount bet on all show finishers. Finishers split total profit 1/3 and 1/3 and 1/3 (show profit), then divide by total net amount bet on each show finisher for three unique unbroken base prices.

c. If a profit split results in only one covered winning betting interest or combination, it shall be calculated the same as a single-price pool.

d. Minimum payoffs and the method used for calculating breakage shall be established by the administrator.

e. The individual pools outlined in these rules may be given alternative names by each association, provided prior approval is obtained from the administrator.

8.3(2) *Win pools.*

a. The amount wagered on the betting interest which finishes first is deducted from the net pool, the balance remaining being the profit; the profit is divided by the amount wagered on the betting interest finishing first, such quotient being the profit-per-dollar wagered to win on that betting interest.

b. The net win pool shall be distributed as a single-price pool to winning wagers in the following precedence, based upon the official order of finish:

(1) To those whose selection finished first; but if there are no such wagers, then

(2) To those whose selection finished second; but if there are no such wagers, then

(3) To those whose selection finished third; but if there are no such wagers, then

(4) The entire pool shall be refunded on win wagers for that contest.

c. If there is a dead heat for first involving:

(1) Contestants representing the same betting interest, the win pool shall be distributed as if no dead heat occurred.

(2) Contestants representing two or more betting interests, the win pool shall be distributed as a profit split.

Table 1: WIN POOL
(Standard Price Calculation)

Sum of wagers on all betting interests =	$194,230.00
Refunds =	$1,317.00
Gross pool:	
Sum of wagers on all betting interests – refunds = ($194,230.00 – $1,317.00)	$192,913.00
Percent takeout =	18%
Takeout: Gross pool × percent takeout = ($192,913.00 × 18%)	$34,724.34
Net pool:	
Gross pool – takeout = ($192,913.00 – $34,724.34)	$158,188.66
Gross amount bet on winner =	$23,872.00
Profit:	
Net pool – gross amount bet on winner = ($158,188.66 – $23,872.00)	$134,316.66
Profit per dollar:	
Profit/gross amount bet on winner = ($134,316.66/$23,872.00)	$5.6265357
$1 unbroken price:	
Profit per dollar + $1 = ($5.6265357 + $1)	$6.6265357
Round off to nearest $0.05 =	$0.0265357
$1 broken price:	
$1 unbroken price – round off to nearest $1.10 =	$6.60
Total payout:	
$1 broken price × gross amount bet on winner = ($6.60 × $23,872.00)	$157,555.20

Total breakage:

Net pool – total payout = ($158,188.66 – $157,555.20)	$633.46

$2 broken price:

$1 broken price × 2 = ($6.60 × 2)	$13.20

8.3(3) *Place pools.*

a. The amounts wagered to place on the first two betting interests to finish are deducted from the net pool, the balance remaining being the profit; the profit is divided into two equal portions, one being assigned to each winning betting interest and divided by the amount wagered to place on that betting interest, the resulting quotient being profit per dollar wagered to place on that betting interest.

b. The net place pool shall be distributed to winning wagers in the following precedence, based upon the official order of finish:

(1) If contestants of a coupled entry or mutuel field finished in the first two places, as a single-price pool to those who selected the coupled entry or mutuel field; otherwise

(2) As a profit split to those whose selection is included within the first two finishers; but if there are no such wagers on one of those two finishers, then

(3) As a single-price pool to those who selected the one covered betting interest included within the first two finishers; but if there are no such wagers, then

(4) As a single-price pool to those who selected the third-place finisher; but if there are no such wagers, then

(5) The entire pool shall be refunded on place wagers for that contest.

c. If there is a dead heat for first involving:

(1) Contestants representing the same betting interest, the place pool shall be distributed as a single-price pool.

(2) Contestants representing two or more betting interests, the place pool shall be distributed as a profit split.

d. If there is a dead heat for second involving:

(1) Contestants representing the same betting interest, the place pool shall be distributed as if no dead heat occurred.

(2) Contestants representing two or more betting interests, the place pool is divided with one-half of the profit distributed to place wagers on the betting interest finishing first and the remainder is distributed equally among place wagers on those betting interests involved in the dead heat for second.

Table 2: PLACE POOL
(Standard Price Calculation)

Sum of wagers on all betting interests =	$194,230.00
Refunds =	$1,317.00
Gross pool:	
Sum of wagers on all betting interests – refunds =	$192,913.00
Percent takeout =	18%
Takeout: Gross pool × percent takeout =	$34,724.34
Net pool:	
Gross pool – takeout =	$158,188.66
Gross amount bet on 1st place finisher =	$23,872.00
Gross amount bet on 2nd place finisher =	$12,500.00

Profit:
Net pool – gross amount bet on 1st place finisher
– gross amount bet on 2nd place finisher = $121,816.66
Place profit:
Profit/2 = $60,908.33
Profit per dollar for 1st place:
Place profit/gross amount bet on 1st place finisher = $2.5514548
$1 unbroken price for 1st place:
Profit per dollar for 1st place + $1 = $3.5514548
Profit per dollar for 2nd place:
Place profit/gross amount bet on 2nd place finisher = $4.8726664
$1 unbroken price for 2nd place:
Profit per dollar for 2nd place + $1 = $5.8726664

8.3(4) *Show pools.*

a. The amounts wagered to show on the first three betting interests to finish are deducted from the net pool, the balance remaining being the profit; the profit is divided into three equal portions, one being assigned to each winning betting interest and divided by the amount wagered to show on that betting interest, the resulting quotient being the profit per dollar wagered to show on that betting interest.

b. The net show pool shall be distributed to winning wagers in the following precedence, based upon the official order of finish:

(1) If contestants of a coupled entry or mutuel field finished in the first three places, as a single price pool to those who selected the coupled entry or mutuel field; otherwise

(2) If contestants of a coupled entry or mutuel field finished as two of the first three finishers, the profit is divided with two-thirds distributed to those who selected the coupled entry or mutuel field and one-third distributed to those who selected the other betting interest included within the first three finishers; otherwise

(3) As a profit split to those whose selection is included within the first three finishers; but if there are no such wagers on one of those finishers, then

(4) As a profit split to those who selected one of the two covered betting interests included within the first three finishers; but if there are no such wagers on two of those three finishers, then

(5) As a single-price pool to those who selected the one covered betting interest included within the first three finishers; but if there are no such wagers, then

(6) As a single-price pool to those who selected the fourth-place finisher; but if there are no such wagers, then

(7) The entire pool shall be refunded on show wagers for that contest.

c. If there is a dead heat for first involving:

(1) Two contestants representing the same betting interest, the profit is divided with two-thirds distributed to those who selected the first-place finishers and one-third distributed to those who selected the betting interest finishing third.

(2) Three contestants representing a single betting interest, the show pool shall be distributed as a single-price pool.

(3) Contestants representing two or more betting interests, the show pool shall be distributed as a profit split.

d. If there is a dead heat for second involving:

(1) Contestants representing the same betting interest, the profit is divided with one-third distributed to those who selected the betting interest finishing first and two-thirds distributed to those who selected the second-place finishers.

(2) Contestants representing two betting interests, the show pool shall be distributed as a profit split.

(3) Contestants representing three betting interests, the show pool is divided with one-third of the profit distributed to show wagers on the betting interest finishing first and the remainder is distributed equally among show wagers on those betting interests involved in the dead heat for second.

e. If there is a dead heat for third involving:

(1) Contestants representing the same betting interest, the show pool shall be distributed as if no dead heat occurred.

(2) Contestants representing two or more betting interests, the show pool is divided with two-thirds of the profit distributed to show wagers on the betting interests finishing first and second and the remainder is distributed equally among show wagers on those betting interests involved in the dead heat for third.

Table 3: SHOW POOL
(Standard Price Calculation)

Sum of wagers on all betting interests =	$194,230.00
Refunds =	$1,317.00
Gross pool:	
Sum of wagers on all betting interests – refunds =	$192,913.00
Percent takeout =	18%
Takeout:	
Gross pool × percent takeout =	$34,724.34
Net pool:	
Gross pool – takeout =	$158,188.66
Gross amount bet on 1st place finisher =	$23,872.00
Gross amount bet on 2nd place finisher =	$12,500.00
Gross amount bet on 3rd place finisher =	$4,408.00
Profit:	
Net pool – gross amount bet on 1st place finisher – gross amount bet on 2nd place finisher – gross amount bet on 3rd place finisher =	$117,408.66
Show profit:	
Profit/3 =	$39,136.22
Profit per dollar for 1st place:	
Show profit/gross amount bet on 1st place finisher =	$1.6394194
$1 unbroken price for 1st place:	
Profit per dollar for 1st place + $1 =	$2.6394194
Profit per dollar for 2nd place:	
Show profit/gross amount bet on 2nd place finisher =	$3.1308976
$1 unbroken price for 2nd place:	
Profit per dollar for 2nd place + $1 =	$4.1308976
Profit per dollar for 3rd place:	
Show profit/gross amount bet on 3rd place finisher =	$8.8784528
$1 unbroken price for 3rd place:	
Profit per dollar for 3rd place + $1 =	$9.8784528

Table 4: SHOW POOL
Single Takeout Rate & Single Betting Source
(Single Price Calculation)

Sum of wagers on all betting interests =	$194,230.00
Refunds =	$1,317.00
Gross pool:	
Sum of wagers on all betting interests – refunds =	$192,913.00
Takeout:	
Gross pool × percent takeout =	$34,724.34
Percent takeout =	18%
Total net pool:	
Gross pool – takeout =	$158,188.66
Gross amount bet on 1st place finisher =	$23,872.00
Net amount bet on 1st place finisher =	$19,575.04
Gross amount bet on 2nd place finisher =	$12,500.00
Net amount bet on 2nd place finisher =	$10,250.00
Gross amount bet on 3rd place finisher =	$4,408.00
Net amount bet on 3rd place finisher =	$3,614.56
Total net bet on winners:	
Net amount bet on 1st place finisher +	
Net amount bet on 2nd place finisher +	
Net amount bet on 3rd place finisher =	$33,439.60
Total profit:	
Total net pool – total net bet on winners =	$124,749.06
Show profit:	
Total profit/3 =	$41,583.02
Profit per dollar for 1st place:	
Show profit/net amount bet on 1st place finisher =	$2.1242879
$1 unbroken base price for 1st place:	
Profit per dollar for 1st place + $1 =	$3.1242879
$1 unbroken price for 1st place:	
$1 unbroken base price for 1st place ×	
(1 percent takeout) =	$2.5619161
Profit per dollar for 2nd place:	
Show profit/net amount bet on 2nd place finisher =	$.0568800
$1 unbroken base price for 2nd place:	
Profit per dollar for 2nd place + $1 =	$5.0568800
$1 unbroken price for 2nd place:	
$1 unbroken base price for 2nd place ×	
(1 percent takeout) =	$4.1466416
Profit per dollar for 3rd place:	
Show profit/net amount bet on 3rd place finisher =	$11.504310
$1 unbroken base price for 3rd place:	
Profit per dollar for 3rd place + $1 =	$12.504310
$1 unbroken price for 3rd place:	
$1 unbroken base price for 3rd place ×	
(1 percent takeout) =	$10.253534

8.3(5) *Double pools.*

a. The double requires selection of the first-place finisher in each of two specified contests.

b. The net double pool shall be distributed to winning wagers in the following precedence, based upon the official order of finish:

(1) As a single-price pool to those whose selection finished first in each of the two contests; but if there are no such wagers, then

(2) As a profit split to those who selected the first-place finisher in either of the two contests; but if there are no such wagers, then

(3) As a single-price pool to those who selected the one covered first-place finisher in either contest; but if there are no such wagers, then

(4) As a single-price pool to those whose selection finished second in each of the two contests; but if there are no such wagers, then

(5) The entire pool shall be refunded on double wagers for those contests.

c. If there is a dead heat for first in either of the two contests involving:

(1) Contestants representing the same betting interest, the double pool shall be distributed as if no dead heat occurred.

(2) Contestants representing two or more betting interests, the double pool shall be distributed as a profit split if there is more than one covered winning combination.

d. Should a betting interest in the first half of the double be scratched prior to the first double contest being declared official, all money wagered on combinations including the scratched betting interest shall be deducted from the double pool and refunded.

e. Should a betting interest in the second half of the double be scratched prior to the close of wagering on the first double contest, all money wagered on combinations including the scratched betting interest shall be deducted from the double pool and refunded.

f. Should a betting interest in the second half of the double be scratched after the close of wagering on the first double contest, all wagers combining the winner of the first contest with the scratched betting interest in the second contest shall be allocated a consolation payoff. In calculating the consolation payoff the net double pool shall be divided by the total amount wagered on the winner of the first contest and an unbroken consolation price obtained. The broken consolation price is multiplied by the dollar value of wagers on the winner of the first contest combined with the scratched betting interest to obtain the consolation payoff. Breakage is not declared in this calculation. The consolation payoff is deducted from the net double pool before calculation and distribution of the winning double payoff. Dead heats including separate betting interests in the first contest shall result in a consolation payoff calculated as a profit split.

g. If either of the double contests is canceled prior to the first double contest, or the first double contest is declared "no contest," the entire double pool shall be refunded on double wagers for those contests.

h. If the second double contest is canceled or declared "no contest," after the conclusion of the first double contest, the net double pool shall be distributed as a single-price pool to wagers selecting the winner of the first double contest. In the event of a dead heat involving separate betting interests, the net double pool shall be distributed as a profit split.

Table 5: DOUBLE POOL
(Standard Price Calculation)

Sum of wagers on all betting interests =	$194,230.00
Refunds =	$1,317.00
Gross pool:	
Sum of wagers on all betting interests – refunds =	$192,913.00
Percent takeout =	18%

Takeout: Gross pool × percent takeout =	$34,724.34
Net pool: Gross pool – takeout =	$158,188.66
Gross amount bet on winning combination =	$23,872.00
Profit: Net pool – gross amount bet on winning combination =	$134,316.66
Profit per dollar: Profit/gross amount bet on winning combination =	$5.6265357
$1 unbroken price: Profit per dollar + $1 =	$6.6265357

Table 6: DOUBLE POOL CONSOLATION PRICING

Sum of wagers on all betting interests =	$194,230.00
Refunds =	$1,317.00
Gross pool: Sum of wagers on all betting interests – refunds =	$192,913.00
Percent takeout =	18%
Takeout: Gross pool × percent takeout =	$34,724.34
Net pool: Gross pool – takeout =	$158,188.66
Consolation pool: Sum total amount bet on winner of the first contest with all second contest betting interests =	$43,321.00
$1 consolation unbroken consolation price: Net pool/consolation pool =	$3.6515468
$1 consolation broken price =	$3.65
Amount bet on winner of the first contest with scratched betting interests:	$1,234.00
Consolation liability: $1 consolation broken price × (amount bet on the winner of the first contest with scratched betting interests) =	$4,504.10
Adjusted net pool: Net pool – consolation liability =	$153,684.56
Gross amount bet on the winning combination =	$23,872.00
Profit: Adjusted net pool – gross amount bet on the winning combination =	$129,812.56
Profit per dollar: Profit/gross amount bet on the winning combination =	$5.4378586
$1 unbroken price: Profit per dollar + $1 =	$6.4378586

8.3(6) *Pick three pools.*

a. The pick three requires selection of the first-place finisher in each of three specified contests.

b. The net pick three pool shall be distributed to winning wagers in the following precedence, based upon the official order of finish:

(1) As a single-price pool to those whose selection finished first in each of the three contests; but if there are no such wagers, then

(2) As a single-price pool to those who selected the first-place finisher in any two of the three contests; but if there are no such wagers, then

(3) As a single-price pool to those who selected the first-place finisher in any one of the three contests; but if there are no such wagers, then

(4) The entire pool shall be refunded on pick three wagers for those contests.

c. If there is a dead heat for first in any of the three contests involving:

(1) Contestants representing the same betting interest, the pick three pool shall be distributed as if no dead heat occurred.

(2) Contestants representing two or more betting interests, the pick three pool shall be distributed as a single-price pool with each winning wager receiving an equal share of the profit.

d. Should a betting interest in any of the three pick three contests be scratched, the actual favorite, as evidenced by total amounts wagered in the win pool at the close of wagering on that contest, shall be substituted for the scratched betting interest for all purposes, including pool calculations. In the event that the win-pool total for two or more favorites is identical, the substitute selection shall be the betting interest with the lowest program number. The totalizator shall produce reports showing each of the wagering combinations with substituted betting interests which became winners as a result of the substitution, in addition to the normal winning combination.

e. If all three pick three contests are canceled or declared "no contest," the entire pool shall be refunded on pick three wagers for those contests.

f. If one or two of the pick three contests are canceled or declared "no contest," the pick three pool will remain valid and shall be distributed in accordance with 8.3(6)*"b."*

8.3(7) *Pick (n) pool.*

a. The pick (n) requires selection of the first-place finisher in each of a designated number of contests. The association must obtain written approval from the administrator concerning the scheduling of pick (n) contests, the designation of one of the methods prescribed in 8.3(7)*"b,"* and the amount of any cap to be set on the carryover. Any changes to the approved pick (n) format require prior approval from the administrator.

b. The pick (n) pool shall be apportioned under one of the following methods:

(1) Method 1, pick (n) with carryover. The net pick (n) pool and carryover, if any, shall be distributed as a single-price pool to those who selected the first-place finisher in each of the pick (n) contests, based upon the official order of finish. If there are no such wagers, then a designated percentage of the net pool shall be distributed as a single-price pool of those who selected the first-place finisher in the greatest number of pick (n) contests; and the remainder shall be added to the carryover.

(2) Method 2, pick (n) with minor pool and carryover. The major share of the net pick (n) pool and the carryover, if any, shall be distributed to those who selected the first-place finisher in each of the pick (n) contests, based upon the official order of finish. The minor share of the net pick (n) pool shall be distributed to those who selected the first-place finisher in the second greatest number of pick (n) contests, based upon the official order of finish. If there are no wagers selecting the first-place finisher of all pick (n) contests, the minor share of the net pick (n) pool shall be distributed as a single-price pool to those who selected the first-place finisher in the greatest number of pick (n) contests; and the major share shall be added to the carryover.

(3) Method 3, pick (n) with no minor pool and no carryover. The net pick (n) pool shall be distributed as a single-price pool to those who selected the first-place finisher in the greatest number of pick (n) contests, based upon the official order of finish. If there are no winning wagers, the pool is refunded.

(4) Method 4, pick (n) with minor pool and no carryover. The major share of the net pick (n) pool shall be distributed to those who selected the first-place finisher in the greatest number of pick (n) contests, based upon the official order of finish. The minor share of the net pick (n) pool shall be distributed to those who selected the first-place finisher in the second greatest number of pick (n) contests, based upon the official order of finish. If there are no wagers selecting the first-place finisher in a second greatest number of pick (n) contests, the minor share of the net pick (n) pool shall be combined with the major share for distribution as a single-price pool to those who selected the first-place finisher in the greatest number of pick (n) contests. If the greatest number of first-place finishers selected is one, the major and minor shares are combined for distribution as a single-price pool. If there are no winning wagers, the pool is refunded.

(5) Method 5, pick (n) with minor pool and no carryover. The major share of net pick (n) pool shall be distributed to those who selected the first-place finisher in each of the pick (n) contests, based upon the official order of finish. The minor share of the net pick (n) pool shall be distributed to those who selected the first-place finisher in the second greatest number of pick (n) contests, based upon the official order of finish. If there are no wagers selecting the first-place finisher in all pick (n) contests, the entire net pick (n) pool shall be distributed as a single-price pool to those who selected the first-place finisher in the greatest number of pick (n) contests. If there are no wagers selecting the first-place finisher in a second greatest number of pick (n) contests, the minor share of the net pick (n) pool shall be combined with the major share for distribution as a single-price pool to those who selected the first-place finisher in each of the pick (n) contests. If there are no winning wagers, the pool is refunded.

c. If there is a dead heat for first in any of the pick (n) contests involving:

(1) Contestants representing the same betting interest, the pick (n) pool shall be distributed as if no dead heat occurred.

(2) Contestants representing two or more betting interests, the pick (n) pool shall be distributed as a single-price pool with each winning wager receiving an equal share of the profit.

d. Should a betting interest in any of the pick (n) contests be scratched, the actual favorite, as evidenced by total amounts wagered in the win pool at the host association for the contest at the close of wagering on that contest, shall be substituted for the scratched betting interest for all purposes, including pool calculations. In the event that the win pool total for two or more favorites is identical, the substitute selection shall be the betting interest with the lowest program number. The totalizator shall produce reports showing each of the wagering combinations with substituted betting interests which became winners as a result of the substitution, in addition to the normal winning combination.

e. The pick (n) pool shall be canceled and all pick (n) wagers for the individual performance shall be refunded if:

(1) At least two contests included as part of the pick three are canceled or declared "no contest."

(2) At least three contests included as part of a pick four, pick five, or pick six are canceled or declared "no contest."

(3) At least four contests included as part of a pick seven, pick eight, or pick nine are canceled or declared "no contest."

(4) At least five contests included as part of a pick ten are canceled or declared "no contest."

f. If at least one contest included as part of a pick (n) is canceled or declared "no contest," but not more than the number specified in 8.3(7)"*e*," the net pool shall be distributed as a single-price pool to those whose selection finished first in the greatest number of pick (n) contests for that performance. Such distribution shall include the portion ordinarily retained for the pick (n) carryover but not the carryover from previous performances.

g. The pick (n) carryover may be capped at a designated level approved by the administrator so that if, at the close of any performance, the amount in the pick (n) carryover equals or exceeds the designated cap, the pick (n) carryover will be frozen until it is won or distributed under other provisions of this rule. After the pick (n) carryover is frozen, 100 percent of the net pool, part of which ordinarily would be added to the pick (n) carryover, shall be distributed to those whose selection finished first in the greatest number of pick (n) contests for that performance.

h. A written request for permission to distribute the pick (n) carryover on a specific performance may be submitted to the administrator. The request must contain justification for the distribution, an explanation of the benefit to be derived, and the intended date and performance for the distribution.

i. Should the pick (n) carryover be designated for distribution on a specified date and performance in which there are no wagers selecting the first-place finisher in each of the pick (n) contests, the entire pool shall be distributed as a single-price pool to those whose selection finished first in the greatest number of pick (n) contests. The pick (n) carryover shall be designated for distribution on a specified date and performance only under the following circumstances:

(1) Upon written approval from the administrator as provided in 8.3(7)*"h."*

(2) Upon written approval from the administrator when there is a change in the carryover cap, a change from one type of pick (n) wagering to another, or when the pick (n) is discontinued.

(3) On the closing performance of the meet or split meet.

j. If, for any reason, the pick (n) carryover must be carried over to the corresponding pick (n) pool of a subsequent meet, the carryover shall be deposited in an interest-bearing account approved by the administrator. The pick (n) carryover plus accrued interest shall then be added to the net pick (n) pool of the following meet on a date and performance so designated by the administrator.

k. With the written approval of the administrator, the association may contribute to the pick (n) carryover a sum of money up to the amount of any designated cap.

l. Providing information to any person regarding covered combinations, amounts wagered on specific combinations, number of tickets sold, or number of live tickets remaining is strictly prohibited, unless permission has been granted by the administrator. This shall not prohibit necessary communication between totalizator and pari-mutuel department employees for processing of pool data.

m. The association may suspend previously approved pick (n) wagering with the prior approval of the administrator. Any carryover shall be held until the suspended pick (n) wagering is reinstated. An association may request approval of a pick (n) wager or separate wagering pool for specific performances.

Table 7: PICK SEVEN POOL
Multiple Takeout Rates & Multiple Betting Sources
(Net Price Calculation)

	Percent Takeout	Gross Pool	Gross Amt. Bet on Win.	Net Pool	Net Amt. Bet on Win.
Source 1:	16%	$190,000.00	$ 44.00	$159,600.00	$ 36.96
Source 2:	18.5%	$ 10,000.00	$ 18.00	$ 8,150.00	$ 14.67
Source 3:	21%	$525,730.00	$124.00	$415,326.70	$ 97.96
TOTALS:		$725,730.00	$186.00	$583,076.70	$149.59

Total profit:
Total net pool – total net bet on the winning combination = $ 582,927.11

Profit per dollar:
Total profit/total net bet on the winning combination = $ 3,896.8321

$1 unbroken base price: Profit per dollar + $1 =	$ 3,897.8321
$1 unbroken price for source 1: $1 unbroken base price × (1 – percent takeout) =	$ 3,274.1789
$1 unbroken price for source 2: $1 unbroken base price × (1 – percent takeout) =	$ 3,176.7331
$1 unbroken price for source 3: $1 unbroken base price × (1 – percent takeout) =	$ 3,079.2873

8.3(8) *Place pick (n) pools.*

a. The place pick (n) requires selection of the first- or second-place finisher in each of a designated number of contests. The association must obtain written approval from the administrator concerning the scheduling of place pick (n) contests, the designation of one of the methods prescribed in 8.3(8)*"b,"* the distinctive name identifying the pool and the amount of any cap to be set on the carryover. Any changes to the approved place pick (n) format require prior approval from the administrator.

b. The place pick (n) pool shall be apportioned under one of the following methods:

(1) Method 1, pick (n) with carryover. The net place pick (n) pool and carryover, if any, shall be distributed as a single-price pool to those who selected the first- or second-place finisher in each of the place pick (n) contests, based upon the official order of finish. If there are no such wagers, then a designated percentage of the net pool shall be distributed as a single-price pool of those who selected the first- or second-place finisher in the greatest number of place pick (n) contests; and the remainder shall be added to the carryover.

(2) Method 2, place pick (n) with minor pool and carryover. The major share of the net place pick (n) pool and the carryover, if any, shall be distributed to those who selected the first- or second-place finisher in each of the place pick (n) contests, based upon the official order of finish. The minor share of the net place pick (n) pool shall be distributed to those who selected the first- or second-place finisher in the second greatest number of place pick (n) contests, based upon the official order of finish. If there are no wagers selecting the first- or second-place finisher of all place pick (n) contests, the minor share of the net place pick (n) pool shall be distributed as a single-price pool to those who selected the first- or second-place finisher in the greatest number of place pick (n) contests; and the major share shall be added to the carryover.

(3) Method 3, place pick (n) with no minor pool and no carryover. The net place pick (n) pool shall be distributed as a single-price pool to those who selected the first- or second-place finisher in the greatest number of place pick (n) contests, based upon the official order of finish. If there are no winning wagers, the pool is refunded.

(4) Method 4, place pick (n) with minor pool and no carryover. The major share of the net place pick (n) pool shall be distributed to those who selected the first- or second-place finisher in the greatest number of place pick (n) contests, based upon the official order of finish. The minor share of the net place pick (n) pool shall be distributed to those who selected the first- or second-place finisher in the second greatest number of place pick (n) contests, based upon the official order of finish. If there are no wagers selecting the first- or second-place finisher in a second greatest number of place pick (n) contests, the minor share of the net place pick (n) pool shall be combined with the major share for distribution as a single-price pool to those who selected the first- or second-place finisher in the greatest number of place pick (n) contests. If the greatest number of first- or second-place finishers selected is one, the major and minor shares are combined for distribution as a single-price pool. If there are no winning wagers, the pool is refunded.

(5) Method 5, place pick (n) with minor pool and no carryover. The major share of net place pick (n) pool shall be distributed to those who selected the first- or second-place finisher in each of the place pick (n) contests, based upon the official order of finish. The minor share of the net place pick (n) pool shall be distributed to those who selected the first- or second-place finisher in the second greatest number of place pick (n) contests, based upon the official order of finish. If there are no wagers selecting the first- or second-place finisher in all place pick (n) contests, the entire net place pick (n) pool shall be distributed as a single-price pool to those who selected the first- or second-place finisher in the greatest number of place pick (n) contests. If there are no wagers selecting the first- or second-place finisher in a second greatest number of place pick (n) contests, the minor share of the net place pick (n) pool shall be combined with the major share for distribution as a single-price pool to those who selected the first-place finisher in each of the place pick (n) contests. If there are no winning wagers, the pool is refunded.

c. If there is a dead heat for first in any of the place pick (n) contests involving:

(1) Contestants representing the same betting interest, the place pick (n) pool shall be distributed as if no dead heat occurred.

(2) Contestants representing two or more betting interests, the place pick (n) pool shall be distributed as a single-price pool with each winning wager including each betting interest participating in the dead heat.

d. If there is a dead heat for second in any of the place pick (n) contests involving:

(1) Contestants representing the same betting interest, the place pick (n) pool shall be distributed as if no dead heat occurred.

(2) Contestants representing two or more betting interests, the place pick (n) pool shall be distributed as a single-price pool with a winning wager including the betting interest which finished first or any betting interest involved in the dead heat for second.

e. Should a betting interest in any of the place pick (n) contests be scratched, the actual favorite, as evidenced by total amounts wagered in the win pool at the host association for the contest at the close of wagering on that contest, shall be substituted for the scratched betting interest for all purposes, including pool calculations. In the event that the win pool total for two or more favorites is identical, the substitute selection shall be the betting interest with the lowest program number. The totalizator shall produce reports showing each of the wagering combinations with substituted betting interests which became winners as a result of the substitution, in addition to the normal winning combination.

f. The place pick (n) pool shall be canceled and all place pick (n) wagers for the individual performance shall be refunded if:

(1) At least two contests included as part of a pick three are canceled or declared "no contest."

(2) At least three contests included as part of a pick four, pick five, or pick six are canceled or declared "no contest."

(3) At least four contests included as part of a pick seven, pick eight, or pick nine are canceled or declared "no contest."

(4) At least five contests included as part of a pick ten are canceled or declared "no contest."

g. If at least one contest included as part of a place pick (n) is canceled or declared "no contest," but not more than the number specified in 8.3(8)*"f,"* the net pool shall be distributed as a single-price pool to those whose selection finished first or second in the greatest number of place pick (n) contests for that performance. Such distribution shall include the portion ordinarily retained for the place pick (n) carryover but not the carryover from previous performances.

h. The place pick (n) carryover may be capped at a designated level approved by the administrator so that if, at the close of any performance, the amount in the place pick (n) carryover equals or exceeds the designated cap, the place pick (n) carryover will be frozen until it is won or distributed under other provisions of this subrule. After the place pick (n) carryover is frozen, 100 percent of the net pool, part of which ordinarily would be added to the place pick (n) carryover, shall be distributed to those whose selection finished first or second in the greatest number of place pick (n) contests for that performance.

i. A written request for permission to distribute the place pick (n) carryover on a specific performance may be submitted to the administrator. The request must contain justification for the distribution, an explanation of the benefit to be derived, and the intended date and performance for the distribution.

j. Should the place pick (n) carryover be designated for distribution on a specified date and performance in which there are no wagers selecting the first- or second-place finisher in each of the place pick (n) contests, the entire pool shall be distributed as a single-price pool to those whose selection finished first or second in the greatest number of place pick (n) contests. The place pick (n) carryover shall be designated for distribution on a specified date and performance only under the following circumstances:

(1) Upon written approval from the administrator as provided in 8.3(8)*"i."*

(2) Upon written approval from the administrator when there is a change in the carryover cap, a change from one type of place pick (n) wagering to another, or when the place pick (n) is discontinued.

(3) On the closing performance of the meet or split meet.

k. If, for any reason, the place pick (n) carryover must be carried over to the corresponding place pick (n) pool of a subsequent meet, the carryover shall be deposited in an interest-bearing account approved by the administrator. The place pick (n) carryover plus accrued interest shall then be added to the net place pick (n) pool of the following meet on a date and performance so designated by the administrator.

l. With the written approval of the administrator, the association may contribute to the place pick (n) carryover a sum of money up to the amount of any designated cap.

m. Providing information to any person regarding covered combinations, amounts wagered on specific combinations, number of tickets sold, or number of live tickets remaining is strictly prohibited, unless permission has been granted by the administrator. This shall not prohibit necessary communication between totalizator and pari-mutuel department employees for processing of pool data.

n. The association may suspend previously approved place pick (n) wagering with the prior approval of the administrator. Any carryover shall be held until the suspended place pick (n) wagering is reinstated. An association may request approval of a place pick (n) wager or separate wagering pool for specific performances.

8.3(9) *Quinella pools.*

a. The quinella requires selection of the first two finishers, irrespective of order, for a single contest.

b. The net quinella pool shall be distributed to winning wagers in the following precedence, based upon the official order of finish:

(1) If contestants of a coupled entry or mutuel field finish as the first two finishers, as a single-price pool to those selecting the coupled entry or mutuel field combined with the next separate betting interest in the official order of finish; otherwise

(2) As a single-price pool to those whose combination finished as the first two betting interests; but if there are no such wagers, then

(3) As a profit split to those whose combination included either the first- or second-place finisher; but if there are no such wagers on one of those two finishers, then

(4) As a single-price pool to those whose combination included the one covered betting interest included within the first two finishers; but if there are no such wagers, then

(5) The entire pool shall be refunded on quinella wagers for that contest.

c. If there is a dead heat for first involving:

(1) Contestants representing the same betting interest, the quinella pool shall be distributed to those selecting the coupled entry or mutuel field combined with the next separate betting interest in the official order of finish.

(2) Contestants representing two betting interests, the quinella pool shall be distributed as if no dead heat occurred.

(3) Contestants representing three or more betting interests, the quinella pool shall be distributed as a profit split.

d. If there is a dead heat for second involving contestants representing the same betting interest, the quinella pool shall be distributed as if no dead heat occurred.

e. If there is a dead heat for second involving contestants representing two or more betting interests, the quinella pool shall be distributed to wagers in the following precedence, based upon the official order of finish:

(1) As a profit split to those combining the winner with any of the betting interests involved in the dead heat for second; but if there is only one combination covered, then

(2) As a single-price pool to those combining the winner with the one covered betting interest involved in the dead heat for second; but if there are no such wagers, then

(3) As a profit split to those combining the betting interests involved in the dead heat for second; but if there are no such wagers, then

(4) As a profit split to those whose combination included the winner and any other betting interest and wagers selecting any of the betting interests involved in the dead heat for second; but if there are no such wagers, then

(5) The entire pool shall be refunded on quinella wagers for that contest.

8.3(10) *Quinella double pools.*

a. The quinella double requires selection of the first two finishers, irrespective of order, in each of two specified contests.

b. The net quinella double pool shall be distributed to winning wagers in the following precedence, based upon the official order of finish:

(1) If a coupled entry or mutuel field finishes as the first two contestants in either contest, as a single-price pool to those selecting the coupled entry or mutuel field combined with the next separate betting interest in the official order of finish for that contest, as well as the first two finishers in the alternate quinella double contest; otherwise

(2) As a single-price pool to those who selected the first two finishers in each of the two quinella double contests; but if there are no such wagers, then

(3) As a profit split to those who selected the first two finishers in either of the two quinella double contests; but if there are no such wagers on one of the contests, then

(4) As a single-price pool to those who selected the first two finishers in the one covered quinella double contest; but if there are no such wagers, then

(5) The entire pool shall be refunded on quinella double wagers for those contests.

c. If there is a dead heat for first in either of the two quinella double contests involving:

(1) Contestants representing the same betting interest, the quinella double pool shall be distributed to those selecting the coupled entry or mutuel field combined with the next separate betting interest in the official order of finish for that contest.

(2) Contestants representing two betting interests, the quinella double pool shall be distributed as if no dead heat occurred.

(3) Contestants representing three or more betting interests, the quinella double pool shall be distributed as a profit split.

d. If there is a dead heat for second in either of the quinella double contests involving contestants representing the same betting interest, the quinella double pool shall be distributed as if no dead heat occurred.

e. If there is a dead heat for second in either of the quinella double contests involving contestants representing two or more betting interests, the quinella double pool shall be distributed as profit split.

f. Should a betting interest in the first half of the quinella double be scratched prior to the first quinella double contest being declared official, all money wagered on combinations including the scratched betting interest shall be deducted from the quinella double pool and refunded.

g. Should a betting interest in the second half of the quinella double be scratched prior to the close of wagering on the first quinella double contest, all money wagered on combinations including the scratched betting interest shall be deducted from the quinella double pool and refunded.

h. Should a betting interest in the second half of the quinella double be scratched after the close of wagering on the first quinella double contest, all wagers combining the winning combination in the first contest with a combination including the scratched betting interest in the second contest shall be allocated a consolation payoff. In calculating the consolation payoff, the net quinella double pool shall be divided by the total amount wagered on the winning combination in the first contest and an unbroken consolation price obtained. The unbroken consolation price is multiplied by the dollar value of wagers on the winning combination in the first contest combined with a combination including the scratched betting interest in the second contest to obtain the consolation payoff. Breakage is not declared in this calculation. The consolation payoff is deducted from the net quinella double pool before calculation and distribution of the winning quinella double payoff. In the event of a dead heat involving separate betting interests, the net quinella double pool shall be distributed as a profit split.

i. If either of the quinella double contests is canceled prior to the first quinella double contest, or the first quinella double contest is declared "no contest," the entire quinella double pool shall be refunded on quinella double wagers for those contests.

j. If the second quinella double contest is canceled or declared "no contest" after the conclusion of the first quinella double contest, the net quinella double pool shall be distributed as a single-price pool to wagers selecting the winning combination in the first quinella double contest. If there are no wagers selecting the winning combination in the first quinella double contest, the entire quinella double pool shall be refunded on quinella double wagers for those contests.

8.3(11) *Exacta pools.*

a. The exacta requires selection of the first two finishers, in their exact order, for a single contest.

b. The net exacta pool shall be distributed to winning wagers in the following precedence, based upon the official order of finish:

(1) If contestants of a coupled entry or mutuel field finish as the first two finishers, as a single-price pool to those selecting the coupled entry or mutuel field combined with the next separate betting interest in the official order of finish; otherwise

(2) As a single-price pool to those whose combination finished in correct sequence as the first two betting interests; but if there are no such wagers, then

(3) As a profit split to those whose combination included either the first-place betting interest to finish first or the second-place betting interest to finish second; but if there are no such wagers on one of those two finishers, then

(4) As a single-price pool to those whose combination included the one covered betting interest to finish first or second in the correct sequence; but if there are no such wagers, then

(5) The entire pool shall be refunded on exacta wagers for that contest.

c. If there is a dead heat for first involving:

(1) Contestants representing the same betting interest, the exacta pool shall be distributed as a single-price pool to those selecting the coupled entry or mutuel field combined with the next separate betting interest in the official order of finish.

(2) Contestants representing two or more betting interests, the exacta pool shall be distributed as a profit split.

d. If there is a dead heat for second involving contestants representing the same betting interest, the exacta pool shall be distributed as if no dead heat occurred.

e. If there is a dead heat for second involving contestants representing two or more betting interests, the exacta pool shall be distributed to ticket holders in the following precedence, based upon the official order of finish:

(1) As a profit split to those combining the first-place betting interest with any of the betting interests involved in the dead heat for second; but if there is only one covered combination, then

(2) As a single-price pool to those combining the first-place betting interest with the one covered betting interest involved in the dead heat for second; but if there are no such wagers, then

(3) As a profit split to those wagers correctly selecting the winner for first place and those wagers selecting any of the dead-heated betting interests for second place; but if there are no such wagers, then

(4) The entire pool shall be refunded on exacta wagers for that contest.

8.3(12) *Trifecta pools.*

a. The trifecta requires selection of the first three finishers, in their exact order, for a single contest.

b. The net trifecta pool shall be distributed to winning wagers in the following precedence, based upon the official order of finish:

(1) As a single-price pool to those whose combination finished in correct sequence as the first three betting interests; but if there are no such wagers, then

(2) As a single-price pool to those whose combination included, in correct sequence, the first two betting interests; but if there are no such wagers, then

(3) As a single-price pool to those whose combination correctly selected the first-place betting interest only; but if there are no such wagers, then

(4) The entire pool shall be refunded on trifecta wagers for that contest.

c. If less than three betting interests finish and the contest is declared official, payoffs will be made based upon the order of finish of those betting interests completing the contest. The balance of any selection beyond the number of betting interests completing the contest shall be ignored.

d. If there is a dead heat for first involving:

(1) Contestants representing three or more betting interests, all of the wagering combinations selecting three or more betting interests which correspond with any of the betting interests involved in the dead heat shall share in a profit split.

(2) Contestants representing two betting interests, both of the wagering combinations selecting the two dead-heated betting interests, irrespective of order, along with the third-place betting interest shall share in a profit split.

e. If there is a dead heat for second, all of the combinations correctly selecting the winner combined with any of the betting interests involved in the dead heat for second shall share in a profit split.

f. If there is a dead heat for third, all wagering combinations correctly selecting the first two finishers, in correct sequence, along with any of the betting interests involved in the dead heat for third shall share in a profit split.

g. Coupled entries and mutuel fields shall be allowed in trifecta contests.

h. The stewards shall have the authority to cancel trifecta wagering anytime there are fewer than seven betting interests at post time, except in greyhound racing. The administrator may approve smaller fields for trifecta wagering if extraneous circumstances are shown by the licensee.

8.3(13) *Superfecta pools.*

a. The superfecta requires selection of the first four finishers, in their exact order, for a single contest.

b. The net superfecta pool shall be distributed to winning wagers in the following precedence, based upon the official order of finish:

(1) As a single-price pool to those whose combination finished in correct sequence as the first four betting interests; but if there are no such wagers, then

(2) As a single-price pool to those whose combination included, in correct sequence, the first three betting interests; but if there are no such wagers, then

(3) As a single-price pool to those whose combination included, in correct sequence, the first two betting interests; but if there are no such wagers, then

(4) As a single-price pool to those whose combination correctly selected the first-place betting interest only; but if there are no such wagers, then

(5) The entire pool shall be refunded on superfecta wagers for that contest.

c. If less than four betting interests finish and the contest is declared official, payoffs will be made based upon the order of finish of those betting interests completing the contest. The balance of any selection beyond the number of betting interests completing the contest shall be ignored.

d. If there is a dead heat for first involving:

(1) Contestants representing four or more betting interests, all of the wagering combinations selecting four betting interests which correspond with any of the betting interests involved in the dead heat shall share in a profit split.

(2) Contestants representing three betting interests, all of the wagering combinations selecting the three dead-heated betting interests, irrespective of order, along with the fourth-place betting interest shall share in a profit split.

(3) Contestants representing two betting interests, both of the wagering combinations selecting the two dead-heated betting interests, irrespective of order, along with the third-place and fourth-place betting interests shall share in a profit split.

e. If there is a dead heat for second involving:

(1) Contestants representing three or more betting interests, all of the wagering combinations correctly selecting the winner combined with any of the three betting interests involved in the dead heat for second shall share in a profit split.

(2) Contestants representing two betting interests, all of the wagering combinations correctly selecting the winner, the two dead-heated betting interests, irrespective of order, and the fourth-place betting interests shall share in a profit split.

f. If there is a dead heat for third, all wagering combinations correctly selecting the first two finishers, in correct sequence, along with any two of the betting interests involved in the dead heat for third shall share in a profit split.

g. If there is a dead heat for fourth, all wagering combinations correctly selecting the first three finishers, in correct sequence, along with any of the betting interests involved in the dead heat for fourth shall share in a profit split.

h. Rescinded IAB 6/8/94, effective 7/13/94.

8.3(14) *Twin quinella pools.*

a. The twin quinella requires selection of the first two finishers, irrespective of order, in each of two designated contests. Each winning ticket for the first twin quinella contest must be exchanged for a free ticket on the second twin quinella contest in order to remain eligible for the second-half twin quinella pool. Such tickets may be exchanged only at attended ticket windows prior to the second twin quinella contest. There will be no monetary reward for winning the first twin quinella contest. Both of the designated twin quinella contests shall be included in only one twin quinella pool.

b. In the first twin quinella contest only, winning wagers shall be determined using the following precedence, based upon the official order of finish for the first twin quinella contest:

(1) If a coupled entry or mutuel field finishes as the first two finishers, those who selected the coupled entry or mutuel field combined with the next separate betting interest in the official order of finish shall be winners; otherwise

(2) Those whose combination finished as the first two betting interests shall be winners; but if there are no such wagers, then

(3) Those whose combination included either the first- or second-place finisher shall be winners; but if there are no such wagers on one of those two finishers, then

(4) Those whose combination included the one covered betting interest included within the first two finishers shall be winners; but if there are no such wagers, then

(5) The entire pool shall be refunded on twin quinella wagers for that contest.

c. In the first twin quinella contest only, if there is a dead heat for first involving:

(1) Contestants representing the same betting interest, those who selected the coupled entry or mutuel field combined with the next separate betting interest in the official order of finish shall be winners.

(2) Contestants representing two betting interests, the winning twin quinella wagers shall be determined as if no dead heat occurred.

(3) Contestants representing three or more betting interests, those whose combination included any two of the betting interests finishing in the dead heat shall be winners.

d. In the first twin quinella contest only, if there is a dead heat for second involving contestants representing two or more betting interests, the twin quinella pool shall be distributed to wagers in the following precedence, based upon the official order of finish:

(1) As a profit split to those combining the winner with any of the betting interests involved in the dead heat for second; but if there is only one covered combination, then

(2) As a single-price pool to those combining the winner with the one covered betting interest involved in the dead heat for second; but if there are no such wagers, then

(3) As a profit split to those combining the betting interests involved in the dead heat for second; but if there are no such wagers, then

(4) As a profit split to those whose combination included the winner and any other betting interest and wagers selecting any of the betting interests involved in the dead heat for second; but if there are no such wagers, then

(5) The entire pool shall be refunded on twin quinella wagers for that contest.

e. In the second twin quinella contest only, the entire net twin quinella pool shall be distributed to winning wagers in the following precedence, based upon the official order of finish for the second twin quinella contest:

(1) If a coupled entry or mutuel field finishes as the first two finishers, as a single-price pool to those who selected the coupled entry or mutuel field combined with the next separate betting interest in the official order of finish; otherwise

(2) As a single-price pool to those whose combination finished as the first two betting interests; but if there are no such wagers, then

(3) As a profit split to those whose combination included either the first- or second-place finisher; but if there are no such wagers on one of those two finishers, then

(4) As a single-price pool to those whose combination included the one covered betting interest included within the first two finishers; but if there are no such wagers, then

(5) As a single-price pool to all the exchange ticket holders for that contest; but if there are no such tickets, then

(6) In accordance with 8.3(10)*"b"* of the quinella double rules.

f. In the second twin quinella contest only, if there is a dead heat for first involving:

(1) Contestants representing the same betting interest, the net twin quinella pool shall be distributed to those selecting the coupled entry or mutuel field combined with the next separate betting interest in the official order of finish.

(2) Contestants representing two betting interests, the net twin quinella pool shall be distributed as if no dead heat occurred.

(3) Contestants representing three or more betting interests, the net twin quinella pool shall be distributed as a profit split to those whose combination included any two of the betting interests finishing in the dead heat.

g. In the second twin quinella contest only, if there is a dead heat for second involving contestants representing two or more betting interests, the twin quinella pool shall be distributed to wagers in the following precedence, based upon the official order of finish:

(1) As a split to those combining the winner with any of the betting interests involved in the dead heat for second; but if there is only one covered combination, then

(2) As a single-price pool to those combining the winner with the one covered betting interest involved in the dead heat for second; but if there are no such wagers, then

(3) As a profit split to those combining the betting interests involved in the dead heat for second; but if there are no such wagers, then

(4) As a profit split to those whose combination included the winner and any other betting interest and wagers selecting any of the betting interests involved in the dead heat for second, then

(5) As a single-price pool to all the exchange ticket holders for that contest; but if there are no such tickets, then

(6) In accordance with 8.3(14)*"b"* of the twin quinella rules.

h. If a winning ticket for the first half of the twin quinella is not presented for exchange prior to the close of betting on the second-half twin quinella contest, the ticket holder forfeits all rights to any distribution of the twin quinella pool resulting from the outcome of the second contest.

i. Contestants representing the same betting interest, the net twin quinella pool shall be distributed as if no dead heat occurred.

j. Should a betting interest in the first half of the twin quinella be scratched, those twin quinella wagers including the scratched betting interest shall be refunded.

k. Should a betting interest in the second half of the twin quinella be scratched, an announcement concerning the scratch shall be made and a reasonable amount of time shall be provided for exchange of tickets that include the scratched betting interest. If tickets have not been exchanged prior to the close of betting for the second twin quinella contest, the ticket holder forfeits all rights to the twin quinella pool.

l. If either of the twin quinella contests is canceled prior to the first twin quinella contest, or the first twin quinella contest is declared "no contest," the entire twin quinella pool shall be refunded on twin quinella wagers for that contest.

m. If the second-half twin quinella contest is canceled or declared "no contest" after the conclusion of the first twin quinella contest, the net twin quinella pool shall be distributed as a single-price pool to wagers selecting the winning combination in the first twin quinella contest and all valid exchange tickets. If there are no such wagers, the net twin quinella pool shall be distributed as described in 8.3(14)*"b"* of the twin quinella rules.

8.3(15) *Twin trifecta pools.*

a. The twin trifecta requires selection of the first three finishers, in their exact order, in each of two designated contests. Each winning ticket for the first twin trifecta contest must be exchanged for a free ticket on the second twin trifecta contest in order to remain eligible for the second-half twin trifecta pool. Such tickets may be exchanged only at attended ticket windows prior to the second twin trifecta contest. Winning first-half twin trifecta wagers will receive both an exchange and a monetary payoff. Both of the designated twin trifecta contests shall be included in only one twin trifecta pool.

b. After wagering closes for the first half of the twin trifecta and commissions have been deducted from the pool, the net pool shall then be divided into separate pools: the first-half twin trifecta pool and the second-half twin trifecta pool.

c. In the first twin trifecta contest only, winning wagers shall be determined using the following precedence, based upon the official order of finish for the first twin trifecta contest:

(1) As a single-price pool to those whose combination finished in correct sequence as the first three betting interests; but if there are no such wagers, then

(2) As a single-price pool to those whose combination included, in correct sequence, the first two betting interests; but if there are no such wagers, then

(3) As a single-price pool to those whose combination correctly selected the first-place betting interest only; but if there are no such wagers, then

(4) The entire twin trifecta pool shall be refunded on twin trifecta wagers for that contest and the second half shall be canceled.

d. If no first-half twin trifecta ticket selects the first three finishers of that contest in exact order, winning ticket holders shall not receive any exchange tickets for the second half of the twin trifecta pool. In such case, the second-half twin trifecta pool shall be retained and added to any existing twin trifecta carryover pool.

e. Winning tickets from the first half of the twin trifecta shall be exchanged for tickets selecting the first three finishers of the second half of the twin trifecta. The second-half twin trifecta pool shall be distributed to winning wagers in the following precedence, based upon the official order for the second twin trifecta contest:

(1) As a single-price pool, including any existing carryover moneys, to those whose combination finished in correct sequence as the first three betting interests; but if there are no such tickets, then

(2) The entire second-half twin trifecta pool for that contest shall be added to any existing carryover moneys and retained for the corresponding second-half twin trifecta pool of the next consecutive performance.

f. If a winning first-half twin trifecta ticket is not presented for cashing and exchange prior to the second-half twin trifecta contest, the ticket holder may still collect the monetary value associated with the first-half twin trifecta pool but forfeits all rights to any distribution of the second-half twin trifecta pool.

g. Coupled entries and mutuel fields shall be allowed in twin trifecta contests.

h. Should a betting interest in the first half of the twin trifecta be scratched, those twin trifecta wagers including the scratched betting interest shall be refunded.

i. Should a betting interest in the second half of the twin trifecta be scratched, an announcement concerning the scratch shall be made and a reasonable amount of time shall be provided for exchange of tickets that include the scratched betting interest. If tickets have not been exchanged prior to the close of betting for the second twin trifecta contest, the ticket holder forfeits all rights to the second-half twin trifecta pool.

j. If, due to a late scratch, the number of betting interests in the second half of the twin trifecta is reduced to fewer than the minimum, all exchange tickets and outstanding first-half winning tickets shall be entitled to the second-half twin trifecta pool for that contest as a single-price pool, but not the twin trifecta carryover.

k. If there is a dead heat or multiple dead heats in either the first or second half of the twin trifecta, all twin trifecta wagers selecting the correct order of finish, counting a betting interest involved in a dead heat as finishing in any dead-heated position, shall be a winner. In the case of a dead heat occurring in:

(1) The first half of the twin trifecta, the payoff shall be calculated as a profit split.

(2) The second half of the twin trifecta, the payoff shall be calculated as a single-price pool.

l. If either of the twin trifecta contests is canceled prior to the first twin trifecta contest, or the first twin trifecta contest is declared "no contest," the entire twin trifecta pool shall be refunded on twin trifecta wagers for that contest and the second half shall be canceled.

m. If the second-half twin trifecta contest is canceled or declared "no contest," all exchange tickets and outstanding first-half winning twin trifecta tickets shall be entitled to the net twin trifecta pool for that contest as a single-price pool, but not twin trifecta carryover. If there are no such tickets, the net twin trifecta pool shall be distributed as described in 8.3(14)"*c*" of the twin trifecta rules.

n. The twin trifecta carryover may be capped at a designated level approved by the administrator so that if, at the close of any performance, the amount in the twin trifecta carryover equals or exceeds the designated cap, the twin trifecta carryover will be frozen until it is won or distributed under other provisions of this subrule. After the twin trifecta carryover is frozen, 100 percent of the net twin trifecta pool for each individual contest shall be distributed to winners of the first half of the twin trifecta pool.

o. A written request for permission to distribute the twin trifecta carryover on a specific performance may be submitted to the administrator. The request must contain justification for the distribution, an explanation of the benefit to be derived, and the intended date and performance for the distribution.

p. Should the twin trifecta carryover be designated for distribution on a specified date and performance, the following precedence will be followed in determining winning tickets for the second half of the twin trifecta after completion of the first half of the twin trifecta:

(1) As a single-price pool to those whose combination finished in correct sequence as the first three betting interests; but if there are no such wagers, then

(2) As a single-price pool to those whose combination included, in correct sequence, the first two betting interests; but if there are no such wagers, then

(3) As a single-price pool to those whose combination correctly selected the first-place betting interest only; but if there are no such wagers, then

(4) As a single-price pool to holders of valid exchange tickets.

(5) As a single-price pool to holders of outstanding first-half winning tickets.

q. Contrary to 8.3(14)*"d"* of the twin trifecta rules, during a performance designated to distribute the twin trifecta carryover, exchange tickets will be issued for those combinations selecting the greatest number of betting interests in their correct order of finish for the first half of the twin trifecta. If there are no wagers correctly selecting the first-, second-, and third-place finishers, in their exact order, then exchange tickets shall be issued for combinations correctly selecting the first- and second-place finishers, in their exact order, then exchange tickets shall be issued for combinations correctly selecting the first-place betting interest only. If there are no wagers selecting the first-place betting interest only in the first half of the twin trifecta, all first-half tickets will become winners and will receive 100 percent of that day's net twin trifecta pool and any existing twin trifecta carryover as a single-price pool.

r. The twin trifecta carryover shall be designated for distribution on a specified date and performance only under the following circumstances:

(1) Upon written approval from the administrator as provided in 8.3(14)*"o"* of the twin trifecta rules.

(2) Upon written approval from the administrator when there is a change in the carryover cap or when the twin trifecta is discontinued.

(3) On the closing performance of the meet or split meet.

s. If, for any reason, the twin trifecta carryover must be carried over to the corresponding twin trifecta pool of a subsequent meet, the carryover shall be deposited in an interest-bearing account approved by the administrator. The twin trifecta carryover plus accrued interest shall then be added to the second-half twin trifecta pool of the following meet on a date and performance so designated by the administrator.

t. Providing information to any person regarding covered combinations, amounts wagered on specific combinations, number of tickets sold, or number of valid exchange tickets is prohibited, unless permission is granted by the administrator. This shall not prohibit necessary communication between totalizator and pari-mutuel department employees' processing of pool data.

u. The association must obtain written approval from the administrator concerning the scheduling of twin trifecta contests, the percentages of the net pool added to the first-half pool and second-half pool, and the designated amount of any cap to be set on the carryover. Any subsequent changes to the twin trifecta rules require prior approval from the administrator.

8.3(16) *Tri-superfecta pools.*

a. The tri-superfecta requires selection of the first three finishers, in their exact order, in the first of two designated contests and the first four finishers, in exact order, in the second of the two designated contests. Each winning ticket for the first tri-superfecta contest must be exchanged for a free ticket on the second tri-superfecta contest in order to remain eligible for the second-half tri-superfecta pool. Such tickets may be exchanged only at attended ticket windows prior to the second tri-superfecta contest. Winning first-half tri-superfecta tickets will receive both an exchange and a monetary payoff. Both of the designated tri-superfecta contests shall be included in only one tri-superfecta pool.

b. After wagering closes for the first half of the tri-superfecta and commissions have been deducted from the pool, the net pool shall then be divided into two separate pools: the first-half tri-superfecta pool and the second-half tri-superfecta pool.

c. In the first tri-superfecta contest only, winning tickets shall be determined using the following precedence, based upon the official order of finish for the first tri-superfecta contest:

(1) As a single-price pool to those whose combination finished in correct sequence as the first three betting interests; but if there are no such wagers, then

(2) As a single-price pool to those whose combination included, in correct sequence, the first two betting interests; but if there are no such wagers, then

(3) As a single-price pool to those whose combination correctly selected the first-place betting interest only; but if there are no such wagers, then

(4) The entire tri-superfecta pool shall be refunded on tri-superfecta wagers for that contest and the second half shall be canceled.

d. If no first-half tri-superfecta ticket selects the first three finishers of that contest in exact order, winning ticket holders shall not receive any exchange tickets for the second-half tri-superfecta pool. In such case, the second-half tri-superfecta pool shall be retained and added to any existing tri-superfecta carryover pool.

e. Winning tickets from the first half of the tri-superfecta shall be exchanged for tickets selecting the first four finishers of the second half of the tri-superfecta. The second-half tri-superfecta pool shall be distributed to winning wagers in the following precedence, based upon the official order of finish for the second tri-superfecta contest:

(1) As a single-price pool, including any existing carryover moneys, to those whose combination finished in correct sequence as the first four betting interests; but if there are no such tickets, then

(2) The entire second-half tri-superfecta pool for that contest shall be added to any existing carryover moneys and retained for the corresponding second-half tri-superfecta pool of the next performance.

f. If a winning first-half tri-superfecta ticket is not presented for cashing and exchange prior to the second-half tri-superfecta contest, the ticket holder may still collect the monetary value associated with the first-half tri-superfecta pool but forfeits all rights to any distribution of the second-half tri-superfecta pool.

g. Coupled entries and mutuel fields shall be prohibited in tri-superfecta contests.

h. Should a betting interest in the first half of the tri-superfecta be scratched, those tri-superfecta tickets including the scratched betting interest shall be refunded.

i. Should a betting interest in the second half of the tri-superfecta be scratched, an announcement concerning the scratch shall be made and a reasonable amount of time shall be provided for exchange of tickets that include the scratched betting interest. If tickets have not been exchanged prior to the close of betting for the second tri-superfecta contest, the ticket holder forfeits all rights to the second-half tri-superfecta pool.

j. If, due to a late scratch, the number of betting interests in the second half of the tri-superfecta is reduced to fewer than the minimum, all exchange tickets and outstanding first-half winning tickets shall be entitled to the second-half tri-superfecta pool for that contest as a single-price pool, but not the tri-superfecta carryover.

k. If there is a dead heat or multiple dead heats in either the first or second half of the tri-superfecta, all tri-superfecta tickets selecting the correct order of finish, counting a betting interest involved in a dead heat as finishing in any dead-heated position, shall be a winner. In the case of a dead heat occurring in:

(1) The first half of the tri-superfecta, the payoff shall be calculated as a profit split.

(2) The second half of the tri-superfecta, the payoff shall be calculated as a single-price pool.

l. If either of the tri-superfecta contests is canceled prior to the first tri-superfecta contest, or the first tri-superfecta contest is declared "no contest," the entire tri-superfecta pool shall be refunded on tri-superfecta wagers for that contest and the second half shall be canceled.

m. If the second-half tri-superfecta contest is canceled or declared "no contest," all exchange tickets and outstanding first-half winning tri-superfecta tickets shall be entitled to the net tri-superfecta pool for that contest as a single-price pool, but not the tri-superfecta carryover. If there are no such tickets, the net tri-superfecta pool shall be distributed as described in 8.3(16)*"c"* of the tri-superfecta rules.

n. The tri-superfecta carryover may be capped at a designated level approved by the administrator so that if, at the close of any performance, the amount in the tri-superfecta carryover equals or exceeds the designated cap, the tri-superfecta carryover will be frozen until it is won or distributed under other provisions of this subrule. After the second-half tri-superfecta carryover is frozen, 100 percent of the tri-superfecta pool for each individual contest shall be distributed to winners of the first half of the tri-superfecta pool.

o. A written request for permission to distribute the tri-superfecta carryover on a specific performance may be submitted to the administrator. The request must contain justification for the distribution, an explanation of the benefit to be derived, and the intended date and performance for the distribution.

p. Should the tri-superfecta carryover be designated for distribution on a specified date and performance, the following precedence will be followed in determining winning tickets for the second half of the tri-superfecta after completion of the first half of the tri-superfecta:

(1) As a single-price pool to those whose combination finished in correct sequence as the first four betting interests; but if there are no such wagers, then

(2) As a single-price pool to those whose combination included, in correct sequence, the first three betting interests; but if there are no such wagers, then

(3) As a single-price pool to those whose combination included, in correct sequence, the first two betting interests; but if there are no such wagers, then

(4) As a single-price pool to those whose combination included, in correct sequence, the first-place betting interests only; but if there are no such wagers, then

(5) As a single-price pool to holders of valid exchange tickets.

(6) As a single-price pool to holders of outstanding first-half winning tickets.

q. Contrary to 8.3(16)*"d"* of the tri-superfecta rules, during a performance designated to distribute the tri-superfecta carryover, exchange tickets will be issued for those combinations selecting the greatest number of betting interests in their correct order of finish for the first half of the tri-superfecta. If there are no wagers correctly selecting the first-, second-, and third-place finishers, in their exact order, then exchange tickets shall be issued for combinations correctly selecting the first- and second-place betting interests. If there are no wagers correctly selecting the first- and second-place finishers, in their exact order, then exchange tickets shall be issued for combinations correctly selecting the first-place betting interest only. If there are no wagers selecting the first-place betting interest only in the first half of the tri-superfecta, all first-half tickets will become winners and will receive 100 percent of the day's net tri-superfecta pool and any existing tri-superfecta carryover as a single-price pool.

r. The tri-superfecta carryover shall be designated for distribution on a specified date and performance only under the following circumstances:

(1) Upon written approval from the administrator as provided in 8.3(16)*"o"* of the tri-superfecta rules.

(2) Upon written approval from the administrator when there is a change in the carryover cap or when the tri-superfecta is discontinued.

(3) On the closing performance of the meet or split meet.

s. If, for any reason, the tri-superfecta carryover must be carried over to the corresponding tri-superfecta pool of a subsequent meet, the carryover shall be deposited in an interest-bearing account approved by the administrator. The tri-superfecta carryover plus accrued interest shall then be added to the second-half tri-superfecta pool of the following meet on a date and performance so designated by the administrator.

t. Providing information to any person regarding covered combinations, amounts wagered on specific combinations, number of tickets sold, or number of valid exchange tickets is prohibited, unless permission has been granted by the administrator. This shall not prohibit necessary communication between totalizator and pari-mutuel department employees for processing of pool data.

u. The association must obtain written approval from the administrator concerning the scheduling of tri-superfecta contests, the percentages of the net pool added to the first-half pool and second-half pool, and the designated amount of any cap to be set on the carryover. Any subsequent changes to the tri-superfecta rules require prior approval from the administrator.

8.3(17) *Twin superfecta pools.*

a. The twin superfecta requires selection of the first four finishers, in their exact order, in each of two designated contests. Each winning ticket for the first twin superfecta contest must be exchanged for a free ticket on the second twin superfecta contest in order to remain eligible for the second-half twin superfecta pool. Such tickets may be exchanged only at attended ticket windows prior to the second twin superfecta contest. Winning first-half twin superfecta tickets will receive both an exchange and a monetary payoff. Both of the designated twin superfecta contests shall be included in only one twin superfecta pool.

b. After wagering closes for the first half of the twin superfecta and commissions have been deducted from the pool, the net pool shall then be divided into two separate pools: the first-half twin superfecta pool and the second-half twin superfecta pool.

c. In the first twin superfecta contest only, winning wagers shall be determined using the following precedence, based upon the official order of finish for the first twin superfecta contest:

(1) As a single-price pool to those whose combination finished in correct sequence as the first four betting interests; but if there are no such wagers, then

(2) As a single-price pool to those whose combination included, in correct sequence, the first three betting interests; but if there are no such wagers, then

(3) As a single-price pool to those whose combination included, in correct sequence, the first two betting interests; but if there are no such wagers, then

(4) As a single-price pool to those whose combination correctly selected the first-place betting interest only; but if there are no such wagers, then

(5) The entire twin superfecta pool shall be refunded on twin superfecta wagers for that contest and the second half shall be canceled.

d. If no first-half twin superfecta ticket selects the first four finishers of that contest in exact order, winning ticket holders shall not receive any exchange tickets for the second-half twin superfecta pool. In such case, the second-half twin superfecta pool shall be retained and added to any existing twin superfecta carryover pool.

e. Winning tickets from the first half of the twin superfecta shall be exchanged for tickets selecting the first four finishers of the second half of the twin superfecta. The second-half twin superfecta pool shall be distributed to winning wagers in the following precedence, based upon the official order of finish for the second twin superfecta contest:

(1) As a single-price pool, including any existing carryover moneys, to those whose combination finished in correct sequence as the first four betting interests; but if there are no such tickets, then

(2) The entire second-half twin trifecta pool for that contest shall be added to any existing carryover moneys and retained for the corresponding second-half twin superfecta pool of the next performance. The additional second-half twin superfecta moneys resulting from such a carryover shall be termed the "twin superfecta carryover."

f. If a winning first-half twin superfecta ticket is not presented for cashing and exchange prior to the second-half twin superfecta contest, the ticket holder may still collect the monetary value associated with the first-half twin superfecta pool but forfeits all rights to any distribution of the second-half twin trifecta pool.

g. Coupled entries and mutuel fields shall be prohibited in twin superfecta contests.

h. Should a betting interest in the first half of the twin superfecta be scratched, those twin superfecta tickets including the scratched betting interest shall be refunded.

i. Should a betting interest in the second half of the twin superfecta be scratched, an announcement concerning the scratch shall be made and a reasonable amount of time shall be provided for exchange of tickets that include the scratched betting interest. If tickets have not been exchanged prior to the close of betting for the second twin superfecta contest, the ticket holder forfeits all rights to the second-half twin superfecta pool.

j. If, due to a late scratch, the number of betting interests in the second half of the twin superfecta is reduced to fewer than the minimum, all exchange tickets and outstanding first-half winning tickets shall be entitled to the second-half twin superfecta pool for that contest as a single-price pool, but not the twin superfecta carryover.

k. If there is a dead heat or multiple dead heats in either the first or second half of the twin superfecta, all twin superfecta tickets selecting the correct order of finish, counting a betting interest involved in a dead heat as finishing in any dead-heated position, shall be a winner. In the case of a dead heat occurring in:

(1) The first half of the twin superfecta, the payoff shall be calculated as a profit split.

(2) The second half of the twin superfecta, the payoff shall be calculated as a single-price pool.

l. If either of the twin superfecta contests are canceled prior to the first twin superfecta contest, or the first twin superfecta contest is declared "no contest," the entire twin superfecta pool shall be refunded on twin superfecta wagers for that contest and the second half shall be canceled.

m. If the second-half twin superfecta contest is canceled or declared "no contest," all exchange tickets and outstanding first-half winning twin superfecta tickets shall be entitled to the net twin superfecta pool for that contest as a single-price pool, but not the twin superfecta carryover. If there are no such tickets, the net twin superfecta pool shall be distributed as described in 8.3(17)"*c*" of the twin superfecta rules.

n. The twin superfecta carryover may be capped at a designated level approved by the administrator so that if, at the close of any performance, the amount in the twin superfecta carryover equals or exceeds the designated cap, the twin superfecta carryover will be frozen until it is won or distributed under other provisions of this subrule. After the second-half twin superfecta carryover is frozen, 100 percent of the net twin superfecta pool for each individual contest shall be distributed to winners of the first half of the twin superfecta pool.

o. A written request for permission to distribute the twin superfecta carryover on a specific performance may be submitted to the administrator. The request must contain justification for the distribution, an explanation of the benefit to be derived, and the intended date and performance for the distribution.

p. Should the twin superfecta carryover be designated for distribution of a specified date and performance, the following precedence will be followed in determining winning tickets for the second half of the twin superfecta after completion of the first half of the twin superfecta:

(1) As a single-price pool to those whose combination finished in correct sequence as the first four betting interests; but if there are no such wagers, then

(2) As a single-price pool to those whose combination included, in correct sequence, the first three betting interests; but if there are no such wagers, then

(3) As a single-price pool to those whose combination included, in correct sequence, the first two betting interests; but if there are no such wagers, then

(4) As a single-price pool to those whose combination correctly selected the first-place betting interest only; but if there are no such wagers, then

(5) As a single-price pool to holders of valid exchange tickets.

(6) As a single-price pool to holders of outstanding first-half winning tickets.

q. Contrary to 8.3(17)*"d"* of the twin superfecta rules, during a performance designated to distribute the twin superfecta carryover, exchange tickets will be issued for those combinations selecting the greatest number of betting interests in their correct order of finish for the first half of the twin superfecta. If there are no wagers correctly selecting the first-, second-, third-, and fourth-place finishers, in their exact order, then exchange tickets shall be issued for combinations correctly selecting the first-, second-, and third-place betting interests. If there are no wagers correctly selecting the first-, second-, and third-place finishers, in their exact order, then exchange tickets shall be issued for combinations correctly selecting the first- and second-place betting interests. If there are no wagers correctly selecting the first- and second-place finishers, in their exact order, then exchange tickets shall be issued for combinations correctly selecting the first-place betting interest only. If there are no wagers selecting the first-place betting interest only in the first half of the twin superfecta, all first-half tickets will become winners and will receive 100 percent of that day's net twin superfecta pool and any existing twin superfecta carryover as a single-price pool.

r. The twin superfecta carryover shall be designated for distribution on a specified date and performance only under the following circumstances:

(1) Upon written approval from the administrator as provided in 8.3(17)*"o"* of the twin superfecta rules.

(2) Upon written approval from the administrator when there is a change in the carryover cap or when the twin superfecta is discontinued.

(3) On the closing performance of the meet or split meet.

s. If, for any reason, the twin superfecta carryover must be carried over to the corresponding twin superfecta pool of a subsequent meet, the carryover shall be deposited in an interest-bearing account approved by the administrator. The twin superfecta carryover plus accrued interest shall then be added to the second-half twin superfecta pool of the following meet on a date and performance so designated by the administrator.

t. Providing information to any person regarding covered combinations, amount wagered on specific combinations, number of tickets sold, or number of valid exchange tickets is prohibited, unless permission has been granted by the administrator. This shall not prohibit necessary communication between totalizator and pari-mutuel department employees for processing of pool data.

u. The association must obtain written approval from the administrator concerning the scheduling of twin superfecta contests, the percentages of the net pool added to the first-half pool and second-half pool, and the designated amount of any cap to be set on the carryover. Any subsequent changes to the twin superfecta rules require prior approval from the administrator.

These rules are intended to implement Iowa Code chapter 99D.

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491—13.10(99D,99F) Fraudulent and corrupt practices—grounds for denial, suspension, or revocation of a license. In addition to the criteria in rule 491—13.6(99D,99F), a licensee shall be subject to denial, fine, suspension, revocation or other disciplinary measures on any of the following grounds:

13.10(1) Offering, promising, giving, accepting, or soliciting a bribe in any form, directly or indirectly, to or by a person licensed by the commission to violate these rules or the laws of the state related to racing or gaming.

13.10(2) Failing as a licensee to report any bribe or solicitation as in 13.10(1) above.

13.10(3) Soliciting by any licensee, except the association, of bets by the public.

13.10(4) Improperly influencing or attempting to improperly influence the results of a race or combining with any person or conspiring to combine with any person to improperly influence or attempt to improperly influence the results of a race, or failure to report knowledge of same immediately to the commission designee.

13.10(5) The giving under oath of any false statement or the refusing to testify after proper notice to the commission about any matter regulated by the commission, except in the exercise of a lawful legal privilege.

13.10(6) Failure to comply with any order or ruling of the commission, stewards, or a racing or gaming official pertaining to a racing or gaming matter.

13.10(7) Use of profane, abusive, or insulting language to, or interference with, commissioners, the commission staff or racing or gaming officials, while they are discharging their duties.

13.10(8) Illegal sale, possession, receipt or use of a controlled substance; intoxication; use of profanity; fighting; making threatening or intimidating statements or engaging in threatening or intimidating behavior; or any conduct of a disorderly nature on association grounds.

13.10(9) Employment or harboring of unlicensed persons required by these rules to be licensed.

13.10(10) Discontinuance of or ineligibility for activity for which the license was issued.

13.10(11) Failure to disclose the true ownership or interest in any racing animal or entering or starting a racing animal known or believed to be ineligible or disqualified.

13.10(12) Possession, on association grounds without written permission from the commission or stewards, of:

a. Firearms.

b. An electrical device ("buzzer," "battery," or "machine"), or other appliance which could be used to alter the speed of a racing animal in a race or a workout. See also Iowa Code subsection 99D.24(6).

13.10(13) Possessing any equipment for hypodermic injection, any substance for hypodermic administration, or any container designed to hold an injectable substance, and any narcotics or medications, or drugs, or substances which could be used to alter the speed of racing animals, by anyone other than a veterinarian licensed by the commission. Notwithstanding the provisions of this subrule, any person may have in possession within a racetrack enclosure any chemical or biological substance for the person's own treatment, provided that, if the chemical substance is prohibited from being dispensed by any federal law or law of this state without a prescription, the person is in possession of documentary evidence that a valid prescription has been issued to the person. Notwithstanding the provisions of this subrule, any person may have in possession within any racetrack enclosure any hypodermic syringe or needle for the purpose of self-administering to the person a chemical or biological substance, provided that the person has notified the state stewards of the following:

a. The possession of the device,

b. The size of the device, and

c. The chemical substance to be administered, and has obtained written permission for possession and use from the steward.

13.10(14) Subjecting a racing animal to cruel and inhumane treatment by failing to supply it with adequate food, water, medical treatment, exercise, bedding, sanitation, or shelter, or by neglect or intentional act cause a racing animal to suffer unnecessary pain.

13.10(15) Conviction of a crime in any state or jurisdiction. Consideration shall be given to the seriousness of the crime (felony, serious misdemeanor, misdemeanor, etc.), the date of the conviction and the nature of the crime.

13.10(16) The license of the applicant has been suspended or revoked in another state or racing or gaming jurisdiction whose regulatory agency is recognized by and reciprocates in the actions of this state.

13.10(17) Violation of any rule of the commission, or aiding or abetting any person in the violation of any such rule.

13.10(18) Offering or receiving money or other benefit for withdrawing a racing animal from a race.

13.10(19) Making a wager for a jockey by any person except the owner or trainer of the horse ridden by the jockey.

13.10(20) An owner or trainer making a wager for a jockey on a horse other than that ridden by the jockey. This shall not be construed to include bets on another horse in combination with the horse ridden by the jockey in multiple wagering bets.

13.10(21) Offering or giving a jockey money or other benefit concerning a race, except by the owner or trainer of the horse to be ridden.

13.10(22) Possessing any electrical or mechanical device designed to increase or decrease the speed of a horse during a race, other than an ordinary riding whip.

13.10(23) Disorderly or offensive conduct that breaches the public peace or use of profane, obscene or indecent language so as to be heard by another or other prohibited conduct to any representative of the commission, or interference with commissioners, the commission staff or racing or gaming officials, while they are discharging their duties.

13.10(24) Theft of any nature on the grounds of a licensed racetrack enclosure or excursion boat facility.

491—13.11(99D,99F) Alcohol and drug testing rule.

13.11(1) *Alcohol prohibition/preliminary breath test.* Licensees, including track officials, whose duties require them to be in a restricted area and employees, while on duty, of any entity associated with the conduct of racing or gaming shall not have present within their systems an amount of alcohol of .05 percent or more. A restricted area is a designated area for sample collection, or a paddock, racetrack, or other area where officials carry out the duties of their positions.

Acting with reasonable cause, an administrator's designee may direct the above licensees to submit to a preliminary breath test. A licensee shall, when so directed, submit to examination.

If the results show a reading of .05 percent alcohol content or more, the licensee shall not be permitted to continue duties for that day. For a second violation, the licensee shall not be permitted to continue duties for that day and then be subject to fine or suspension by the board or commission. For a subsequent violation the licensee may be subject to procedures following positive chemical analysis (below).

If the results show a reading of .10 percent alcohol content or more, the licensee is subject to fine or suspension by the board. For a subsequent violation the licensee may be subject to procedures following positive chemical analysis (below).

13.11(2) *Drug prohibition/body fluid test.* Licensees, including track officials, whose duties require them to be in a restricted area as defined in subrule 13.11(1) or employees, while on duty, of any entity associated with the conduct of racing or gaming shall not have present within their systems any controlled substance as listed in Schedules I to V of the U.S. Code Title 21 (Food and Drug Section 812), Iowa Code chapter 124 or any prescription drug unless it was obtained directly or pursuant to valid prescription or order from a duly licensed physician who is acting in the course of professional practice. Acting with reasonable cause, an administrator's designee may direct the above licensees to deliver a specimen of urine or subject themselves to the taking of a blood sample or other body fluids at a collection site approved by the commission. In these cases the administrator's designee may prohibit the licensee from participating in racing or gaming until the licensee evidences a negative test result. Sufficient sample should be collected to ensure a quantity for a split sample when possible. A licensee who refuses to provide the samples herein described shall be in violation of these rules and shall be subject to disciplinary action by the board or commission. All confirmed positive test costs and any related expenses shall be paid for by the licensee. Negative tests shall be at the expense of the commission.

13.11(3) *Procedures following positive chemical analysis.*

a. After professional evaluation, if the licensee's condition proves nonaddictive and not detrimental to the best interest of racing or gaming, and the licensee can produce a negative test result and agrees to further testing at the discretion of the administrator's designee to ensure unimpairment, the licensee may be allowed to participate in racing or gaming.

b. After professional evaluation, should the licensee's condition prove addictive or detrimental to the best interest of racing or gaming, the licensee shall not be allowed to participate in racing or gaming until the licensee can produce a negative test result and show documented proof of successful completion of a certified alcohol/drug rehabilitation program approved by the administrator. The licensee must also agree to further testing at the discretion of the administrator or designee to ensure unimpairment.

c. For a second violation, a licensee shall be suspended and allowed to enroll in a certified alcohol/drug rehabilitation program approved by the administrator and to apply for reinstatement only at the discretion of the administrator.

491—13.12(99D,99F,252J) Failure to pay child support. Failure to pay child support shall result in license revocation, suspension, denial or nonrenewal.

13.12(1) The notice required by Iowa Code section 252J.8 shall be served upon the applicant or licensee by restricted certified mail, return receipt requested, or personal service in accordance with R.C.P. 56.1. Alternatively, the licensee or applicant may accept service personally or through authorized counsel.

13.12(2) The effective date of revocation or suspension of a license, or denial of the issuance or renewal of a license, as specified in the notice required by Iowa Code section 252J.8, shall be 60 days following service of the notice upon the licensee or applicant.

13.12(3) It is the responsibility of the administrator or commission representative to issue the notice required by Iowa Code section 252J.8.

13.12(4) Licensees and license applicants shall keep the agency informed of all court actions and all child support recovery unit actions taken under or in connection with Iowa Code chapter 252J and shall provide the agency copies, within seven days of filing or issuance, of all applications filed with the district court pursuant to Iowa Code section 252J.9, all court orders entered in such actions, and withdrawals of certificates of noncompliance by the child support recovery unit.

13.12(5) All agency fees for applications, license renewal or reinstatement must be paid by licensees or applicants before a license will be issued, renewed or reinstated after the agency has denied the issuance or renewal of a license, or has suspended or revoked a license pursuant to Iowa Code chapter 252J.

13.12(6) In the event a licensee or applicant timely files a district court action following service of an agency notice pursuant to Iowa Code sections 252J.8 and 252J.9, the agency shall continue with the intended action described in the notice upon the receipt of a court order lifting the stay, dismissing the action, or otherwise directing the agency to proceed. For purposes of determining the effective date of revocation or suspension, or denial of the issuance or renewal of a license, the agency 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.

491—13.13(99D,99F,261) Issuance or renewal of a certificate of registration—denial. The administrator or commission representative shall deny the issuance or renewal of a license upon receipt of a certificate of noncompliance from the college student aid commission according to the procedures set forth in 1998 Iowa Acts, chapter 1081, sections 1 to 7. In addition to the procedures contained in those sections, the following shall apply.

13.13(1) The notice required by 1998 Iowa Acts, chapter 1081, section 6, shall be served by restricted certified mail, return receipt requested, or by personal service in accordance with the Iowa Rules of Civil Procedure. Alternatively, the applicant or registrant may accept service personally or through authorized counsel.

13.13(2) The effective date of the revocation or suspension of a license, or denial of the issuance or renewal of a license, as specified in the notice required by 1998 Iowa Acts, chapter 1081, section 6, shall be 60 days following service of the notice upon the licensee or applicant.

13.13(3) It is the responsibility of the administrator or commission representative to issue the notice required by 1998 Iowa Acts, chapter 1081, section 6.

13.13(4) Licensees and license applicants shall keep the agency informed of all court actions and all college student aid commission actions taken under or in connection with 1998 Iowa Acts, chapter 1081, and shall provide the agency copies, within seven days of filing or issuance, of all applications filed with the district court pursuant to 1998 Iowa Acts, chapter 1081, section 7, all court orders entered in such actions, and withdrawals of certificates of noncompliance by the college student aid commission.

13.13(5) All commission fees for applications, license renewal or reinstatement must be paid by licensees or applicants before a license will be issued, renewed or reinstated after the agency has denied the issuance or renewal of a license or has suspended or revoked a license pursuant to 1998 Iowa Acts, chapter 1081.

13.13(6) In the event a licensee or applicant timely files a district court action following service of a notice pursuant to 1998 Iowa Acts, chapter 1081, sections 6 and 7, the commission representative shall continue with the intended action described in the notice upon the receipt of a court order lifting the stay, dismissing the action, or otherwise directing the commission representative to proceed. For purposes of determining the effective date of revocation or suspension, or denial of the issuance or renewal of a license, the commission representative 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.

13.13(7) The commission representative shall notify the licensee or license applicant in writing through regular first-class mail, or such other means as the commission representative deems appropriate in the circumstances, within ten days of the effective date of the denial of the license, and shall similarly notify the licensee or applicant when the license is issued or renewed following the commission representative's receipt of a withdrawal of the certificate of noncompliance.

491—13.14(99D,99F) Labor organization registration required. Rescinded IAB 5/17/00, effective 6/21/00.

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EMERGENCY MANAGEMENT DIVISION[605]

[Created within the Department of Defense[601] by 1992 Iowa Acts, chapter 1139, section 21]
[Prior to 12/23/92, see Disaster Services Division[607]]

CHAPTER 7
LOCAL EMERGENCY MANAGEMENT

[Prior to 4/18/90, Public Defense Department(650), Ch 7]
[Prior to 5/12/93, Disaster Services Division(607), Ch 7]

605—7.1(29C) Scope and purpose. These rules apply to each local emergency management commission as provided for in Iowa Code section 29C.9. These rules are intended to establish standards for emergency management and to provide local emergency management commissions with the criteria to assess and measure their capability to mitigate against, prepare for, respond to, and recover from emergencies or disasters.

605—7.2(29C) Local emergency management commission.

7.2(1) The county board of supervisors, city councils, and school district boards of directors in each county shall cooperate with the emergency management division to establish a local emergency management commission to carry out the provisions of Iowa Code chapter 29C.

a. The local commission shall be named the (county name) county emergency management commission.

b. The commission shall be comprised of the following members:

(1) A member of the county board of supervisors or its appointed representative.

(2) The county sheriff or the sheriff's appointed representative.

(3) The mayor or the mayor's appointed representative from each city within the county.

c. The commission is a municipality as defined in Iowa Code section 670.1.

7.2(2) Local commission bylaws. The commission shall develop bylaws to specify, at a minimum, the following information:

a. The name of the commission.

b. The list of members.

c. The date for the commencement of operations.

d. The commission's mission.

e. The commission's powers and duties.

f. The manner for financing the commission and its activities and maintaining a budget therefor.

g. The manner for acquiring, holding and disposing of property.

h. The manner for electing or appointing officers and the terms of office.

i. The manner by which members may vote.

j. The manner for appointing, hiring, disciplining and terminating employees.

k. The rules for conducting meetings of the commission.

l. Any other necessary and proper rules or procedures.

The bylaws, as adopted, shall be signed by each member of the commission. The commission shall record the signed bylaws with the county recorder and shall forward a copy of the bylaws to the administrator of the state emergency management division.

7.2(3) Commission business. Commission business shall be conducted in compliance with Iowa Code chapter 21, "Official Meetings Open to Public," and Iowa Code chapter 22, "Examination of Public Records."

7.2(4) The commission shall have the following minimum duties and responsibilities:

a. Administration and finance.

(1) Establish and maintain an agency responsible for the local emergency management program. The primary responsibility of this agency is to develop and maintain a comprehensive emergency management capability in cooperation with other governmental agencies, volunteer organizations, and private sector organizations. The name of this agency shall be the (county name) county emergency management agency.

(2) Determine the mission of the agency and its program.

(3) Develop and adopt a budget in accordance with the provisions of Iowa Code chapter 24 and Iowa Code section 29C.17 in support of the commission and its programs. The commission shall be the fiscal authority and the chairperson or vice chairperson shall be the certifying official for the budget.

(4) Appoint an emergency management coordinator who meets the qualifications established in subrule 7.3(3).

(5) Develop and adopt policies defining the rights and liabilities of commission employees, emergency workers and volunteers.

(6) Provide direction for the delivery of the emergency management services of planning, administration, coordination, training, exercising, and support for local governments and their departments.

(7) Coordinate emergency management activities and services among county and city governments and the private sector agencies within the county.

b. Hazard identification, risk assessment, and capability assessment.

(1) The commission shall continually identify credible hazards that may affect their jurisdiction, the likelihood of occurrence, and the vulnerability of the jurisdiction to such hazards. Hazards to be considered shall include natural, technological, and human-caused.

(2) The commission shall conduct an analysis to determine the consequences and impact of identified hazards on the health and safety of the public, the health and safety of responders, property and infrastructure, critical and essential facilities, public services, the environment, the economy of the jurisdiction, and government operations and obligations.

(3) The hazard analysis shall include identification of vital personnel, systems, operations, equipment, and facilities at risk.

(4) The commission shall identify mitigation and preparedness considerations based upon the hazard analysis.

(5) A comprehensive assessment of the emergency management program elements shall be conducted periodically to determine the operational capability and readiness of the jurisdiction to address the identified hazards and risks.

c. Resource management.

(1) The commission shall develop the capability to effectively identify, acquire, distribute, account for, and utilize resources essential to emergency functions.

(2) The commission shall identify resource capability shortfalls and the steps necessary to overcome such shortfalls.

(3) The commission shall, in collaboration with other public and private agencies within this state, develop written mutual aid agreements. Such agreements shall provide reciprocal disaster services and recovery aid and assistance in case of disaster too great to be dealt with by the jurisdiction unassisted. Mutual aid agreements shall be in compliance with the appropriate requirements contained in Iowa Code chapter 28E.

d. Planning.

(1) The commission shall develop comprehensive countywide emergency operations plans which are multihazard and multifunctional in nature and which shall include, but not be limited to, a part "A" operations plan, part "B" mitigation plan, and part "C" recovery plan that may be contained in a single document or multiple documents.

1. An operations plan assigns responsibilities to organizations and individuals for carrying out specific actions at projected times and places in an emergency or disaster.

2. The mitigation plan shall establish interim and long-term strategies to eliminate hazards or to reduce the impact of those hazards that cannot be eliminated. This requirement notwithstanding, to qualify for federal funding for mitigation assistance, the eligible applicant must comply with the mitigation planning requirements set forth in 44 CFR 206, Subpart M, and the Iowa Hazard Mitigation Grant Program Administrative Plan, as appropriate.

3. A recovery plan shall identify the short-term and long-term strategic priorities, processes, vital resources, and acceptable timeframes and procedures for restoration.

(2) Plans shall contain the following common elements.

1. The functional roles and responsibilities of internal and external agencies, organizations, departments, and individuals during mitigation, preparedness, response and recovery shall be identified.

2. Lines of authority for those agencies, organizations, departments, and individuals shall be established and identified.

(3) Plans shall be regularly reviewed and amended as appropriate in accordance with schedules established by the commission, to include at a minimum:

1. A complete review, and amendment as appropriate, of the operations plan at a minimum of every five years. However, a review, and amendment as appropriate, of the hazardous materials portion of the plan shall be conducted on a yearly basis.

2. A complete review, and amendment as appropriate, of the mitigation plan at a minimum of every five years and in conjunction with any presidentially declared disaster for which mitigation assistance is requested.

3. A complete review, and amendment as appropriate, of the recovery plan at a minimum of every five years and in conjunction with any presidentially declared disaster for which individual or public assistance is requested.

(4) In addition to the standards heretofore established in 7.2(4)*"d,"* the operations plan shall include provisions for damage assessment.

(5) Hazardous materials plans shall meet the minimum requirements of federal law, 42 U.S.C., Sec. 11003.

(6) Counties designated as risk or host counties for a nuclear facility emergency planning zone shall meet the standards and requirements as published by the United States Nuclear Regulatory Commission and the Federal Emergency Management Agency in NUREG-0654, FEMA-REP-1, Rev. 1, March 1987.

(7) Required plans, submitted for approval to the division by a local or joint emergency management commission, shall be reviewed within 60 calendar days from the receipt of the plan. The division shall notify the local emergency management coordinator in writing of the approval or nonapproval of the plan. If the plan is not approved, the division shall state the specific standard or standards that are not being met and offer guidance on how the plan may be brought into compliance.

(8) A comprehensive countywide emergency operations plan shall not be considered approved by the emergency management division as required in Iowa Code subsection 29C.9(8), unless such plan adheres to and meets the minimum standards as established in subrule 7.2(4), paragraph *"d."*

(9) Iowa Code section 29C.6 provides that state participation in funding financial assistance in a presidentially declared disaster is contingent upon the local government's having on file a state-approved, comprehensive, countywide plan as provided in Iowa Code subsection 29C.9(8). Required plans must be received and approved by the division by the time the first public or private, nonprofit entity within the county otherwise becomes eligible to receive state assistance or within one year from the date of presidential declaration, whichever is earlier.

e. Direction, control and coordination.

(1) The commission shall execute and enforce the orders or rules made by the governor, or under the governor's authority.

(2) The commission shall establish and maintain the capability to effectively direct, control and coordinate emergency and disaster response and recovery efforts.

(3) The commission shall establish a means of interfacing on-scene management with direction and control personnel and facilities.

(4) The commission shall actively support use of the Incident Command System (ICS) model by all emergency and disaster response agencies within the jurisdiction.

f. Damage assessment.

(1) The commission shall develop and maintain a damage assessment capability consistent with local, state and federal requirements and shall designate individuals responsible for the function of damage assessment.

(2) Individuals identified by the commission to perform the function of damage assessment shall be trained through a course of instruction approved by the division.

g. Communications and warning.

(1) The commission shall establish and maintain the capability of disseminating a warning to the public, key officials, emergency response personnel and those other persons within the jurisdiction that may be potentially affected.

(2) The commission shall develop and maintain primary and secondary means of communications to support direction, control, and coordination of emergency management activities.

h. Operations and procedures. The commission should encourage public and private agencies, having defined responsibilities in the countywide emergency operations plan, to develop standard operating procedures, policies, and directives in support of the plan.

i. Training.

(1) The commission shall require the local emergency management coordinator to meet the minimum training requirements as established by the division and identified in subrule 7.3(4).

(2) The commission shall, in conjunction with the local emergency management coordinator, arrange for and actively support ongoing emergency management related training for local public officials, emergency responders, volunteers, and support staff.

(3) Persons responsible for emergency plan development or implementation should receive training specific to, or related to, hazards identified in the local hazard analysis.

(4) The commission should encourage individuals, other than the emergency management coordinator, with emergency management responsibilities as defined in the countywide emergency operations plan, to complete, within two years of appointment, training consistent with their emergency management responsibilities.

(5) The commission should encourage all individuals with emergency management responsibilities to maintain current and adequate training consistent with their responsibilities.

j. Exercises.

(1) The commission shall ensure that exercise activities are conducted annually in accordance with local, state and federal requirements.

(2) Exercise activities shall follow a progressive five-year plan that is designed to meet the needs of the jurisdiction.

(3) Local entities assigned to an exercise shall actively participate and support the role of the entity in the exercise.

(4) Local entities assigned to an exercise should actively participate in the design, development, implementation, and evaluation of the exercise activity.

k. Public education and information.

(1) The commission shall designate the individual or individuals who are responsible for public education and information functions.

(2) The commission shall ensure a public information capability, to include:

1. Designated public information personnel trained to meet local requirements.
2. A system of receiving and disseminating emergency public information.
3. A method to develop, coordinate, and authorize the release of information.
4. The capability to communicate with special needs populations.

(3) The commission should actively support the development of capabilities to electronically collect, compile, report, receive, and transmit emergency public information.

7.2(5) Two or more commissions. Two or more local commissions may, upon review by the state administrator and with the approval of their respective boards of supervisors and cities, enter into agreements pursuant to Iowa Code chapter 28E for the joint coordination and administration of emergency management services throughout the multicounty area.

605—7.3(29C) Emergency management coordinator.

7.3(1) Each county emergency management commission or joint commission shall appoint an emergency management coordinator who shall serve at the pleasure of the commission. The commission shall delegate to the emergency management coordinator the authority to fulfill the commission's and coordinator's duties as provided in Iowa Code sections 29C.9 and 29C.10, as further described in subrule 7.1(5), and as otherwise assigned and authorized by the commission.

7.3(2) The representative of the local or joint commission, serving as coordinator, shall not be a member of a local or joint commission. An individual serving in a full-time or part-time governmental position having incompatibility with the position of coordinator shall not be appointed as emergency management coordinator.

7.3(3) Emergency management coordinator qualifications. Each person appointed after July 1, 1990, as an emergency management coordinator shall meet the following requirements with regard to education, abilities, experience, knowledge and skills:

a. Demonstrate a knowledge of local, state, and federal laws and regulations pertaining to emergency management.

b. Demonstrate an understanding of communications systems, frequencies, and equipment capabilities.

c. Demonstrate a knowledge of basic accounting principles and practices.

d. Express oneself clearly and concisely, both orally and in writing.

e. Establish and maintain effective working relationships with employees, public officials, and the general public.

f. Prepare accurate reports.

g. Write plans, direct the use of resources, and coordinate emergency operations under extraordinary circumstances.

h. Exercise good judgment in evaluating situations and making decisions.

i. Coordinate with agencies at all levels of government.

j. Have graduated from an accredited four-year college or university and have two years of responsible experience in emergency management, public or business administration, public relations, military preparedness or related work; or have an equivalent combination of experience and education, substituting 30 semester hours of graduate study for each year of the required work experience to a maximum of two years; or have an equivalent combination of experience and education, substituting one year of experience in the aforementioned areas for each year of college to a maximum of four years; or be employees with current continuous experience in the state classified service that includes the equivalent of 18 months of full-time experience as an emergency management operations officer; or be employees with current continuous experience in the state classified service that includes the equivalent of 36 months of full-time experience as a local emergency management assistant.

7.3(4) Emergency management coordinator continuing education requirements. Each local coordinator shall meet the following educational development requirements. The administrator may extend the time frame for meeting these continuing education requirements upon request from the local or joint commission.

a. By July 1, 2002, or within five years of appointment as an emergency management coordinator, whichever is later, completion of the following independent study courses:

(1) Citizens Guide to Disaster Assistance.

(2) Emergency Operations Center Role in Community Preparedness Response and Recovery Operations.

(3) Emergency Program Manager: An Orientation to the Position.

(4) Emergency Preparedness U.S.A.

(5) Hazardous Materials: A Citizen's Guide.

(6) An Orientation to Community Disaster Exercise.

(7) The Professional in Emergency Management.

(8) Radiological Emergency Management.

(9) Introduction to Hazard Mitigation.

(10) Basic Incident Command System.

b. By July 1, 2002, or within five years of appointment as an emergency management coordinator, whichever is later, completion of the professional development series of courses as prescribed by the Federal Emergency Management Agency.

c. Upon completion of the requirements established in subrule 7.3(4), paragraphs *"a"* and *"b,"* annual completion of a minimum of 24 hours of state-approved emergency management training.

d. The local emergency management coordinator must document completion of courses by submitting a copy of the certificate of completion, a letter indicating satisfactory completion, or other appropriate documentation.

605—7.4(29C) Local commission or joint commission personnel.

7.4(1) Personnel for the local commission or joint commission shall be considered as employees of that local commission to include the coordinator, operations officers, and emergency management assistants.

7.4(2) The local or joint commission shall determine the personnel policies of the agency to include holidays, rate of pay, sick leave, vacation, and health benefits. The local commission may adopt existing county or city policies in lieu of writing their own policies.

605—7.5(29C) Damage assessment and financial assistance for disaster recovery. Disaster-related expenditures and damages incurred by local governments, private nonprofit entities, individuals, and businesses may be reimbursable and covered under certain state and federal disaster assistance programs. Preliminary damage assessments shall be provided to the emergency management division prior to the governor's making a determination that the magnitude and impact are sufficient to warrant a request for a presidential disaster declaration.

7.5(1) *Local preliminary damage assessment and impact statement.* The county emergency management coordinator shall be responsible for the coordination and collection of damage assessment and impact statement information immediately following a disaster that affects the county or any municipality within the county.

7.5(2) *Damage assessment guidance and forms to be provided.* The state emergency management division will provide guidance regarding the methodologies to be used in collecting damage assessment and impact statement information and shall provide the forms and format by which this information shall be recorded.

7.5(3) *Joint preliminary damage assessment.* Once the governor has determined that a request for a presidential disaster declaration is appropriate, joint preliminary damage assessment teams, consisting of local, state, and federal inspectors, will assess the uninsured damages and costs incurred or to be incurred in responding to and recovering from the disaster. All affected city, municipality, or county governments shall be required to provide assistance to the joint preliminary damage assessment teams for conducting damage assessments. The jurisdiction may be required to develop maps to show the damaged areas and to compile lists of names and telephone numbers of individuals, businesses, private nonprofit entities, and governmental agencies sustaining disaster response and recovery costs or damages. This joint preliminary damage assessment may be required before the request for presidential declaration is formally transmitted to the Federal Emergency Management Agency.

7.5(4) *Public assistance and hazard mitigation briefing.* In the event that a presidential disaster declaration is received, affected jurisdictions and eligible private nonprofit entities should be prepared to attend a public assistance and hazard mitigation briefing to acquire the information and documents necessary to make their formal applications for public and hazard mitigation assistance. Failure to comply with the deadlines for making application for public and mitigation assistance as established in 44 CFR Part 206 and the Stafford Act (PL 923-288) may jeopardize or eliminate the jurisdiction's or private nonprofit entity's ability to receive assistance.

7.5(5) *Forfeiture of assistance funding.* Failure to provide timely and accurate damage assessment and impact statement information may jeopardize or eliminate an applicant's ability to receive federal and state disaster assistance funds that may otherwise be available.

State participation in funding of disaster financial assistance in a presidentially declared disaster shall be contingent upon the local or joint emergency management commission's having on file a state-approved, comprehensive, countywide emergency operations plan which meets the standards as provided in subrule 7.2(4), paragraph *"d."*

605—7.6(29C) Emergency management performance grant program. Emergency management is a joint responsibility of the federal government, the states, and their political subdivisions. Emergency management means all those activities and measures designed or undertaken to mitigate against, prepare for, respond to, or recover from the effects of a human-caused, technological, or natural hazard. The purpose of the emergency management performance grant program is to provide the necessary assistance to local governments to ensure that a comprehensive emergency preparedness system exists for all hazards.

7.6(1) *Eligibility.* Local or joint emergency management commissions may be eligible for funding under the state and emergency management performance grant program by meeting the requirements, conditions, duties and responsibilities for emergency management commissions and county emergency management coordinators established in rules 7.2(29C) and 7.3(29C). In addition, the local commission shall ensure that the coordinator works an average of 20 hours per week or more toward the emergency management effort. Joint commissions shall ensure that the coordinator works an average of 40 hours per week toward the emergency management effort.

7.6(2) *Application for funding.* Local or joint commissions may apply for funding under the emergency management performance grant program by entering into an agreement with the division and by completing the necessary application and forms, as published and distributed yearly to each commission by the division.

7.6(3) *Allocation and distribution of funds.* The emergency management division shall allocate funds to eligible local or joint commissions within 45 days of receipt of notice from the Federal Emergency Management Agency that such funds are available. The division shall use a formula for the allocation of funds based upon the number of eligible applicants, the coordinator's salary and benefits and an equal distribution of remaining funds, not to exceed an individual applicant's request. Funds will be reimbursed to local and joint commissions on a federal fiscal year, quarterly basis; and such reimbursement will be based on eligible claims made against the local or joint commission's allocation. In no case will the allocation or reimbursement of funds be greater than one-half of the total cost of eligible emergency management related expenses.

7.6(4) *Compliance.* The administrator may withhold or recover emergency management performance grant funds from any local or joint commission for their failure or their coordinator's failure to meet any of the following conditions:

a. Appoint a qualified coordinator.

b. Comply with continuing education requirements.

c. Adopt a comprehensive countywide emergency operations plan that meets current standards.

d. Determine the mission of its agency.

e. Show continuing progress in fulfilling the commission's duties and obligations.

f. Conduct commission business according to the guidelines and rules established in this chapter.

g. Enter into and file a cooperative agreement with the division by the stipulated filing date.

h. Abide by state and federal regulations governing the proper disbursement and accountability for federal funds, equal employment opportunity and merit system standards.

i. Accomplish work specified in one or more program areas, as agreed upon in the cooperative agreement, or applicable state or federal rule or statute.

j. Provide the required matching financial contribution.

k. Expend funds for authorized purposes or in accordance with applicable laws, regulations, terms and conditions.

l. Respond to, or cooperate with, state efforts to determine the extent and nature of compliance with the cooperative agreement.

7.6(5) *Serious nonperformance problems.* If a local or joint commission cannot demonstrate achievement of agreed-upon work products, the division is empowered to withhold reimbursement or to recover funds from the local or joint commission. Corrective action procedures are designed to focus the commission's attention on nonperformance problems and to bring about compliance with the cooperative agreement. Corrective action procedures, which could lead to sanction, may be enacted as soon as the administrator becomes aware of present or future serious nonperformance or noncompliance. This realization may arise from staff visits or other contacts with the local agency or commission, from indications in the commission or coordinator's quarterly reports that indicate a significant shortfall from planned accomplishments, or from the commission or coordinator's failure to report. Financial sanctions are to be applied only after corrective action remedies fail to result in accomplishment of agreed-upon work product.

7.6(6) *Corrective actions.*

a. *Informal corrective action.* As a first and basic step to correcting nonperformance, a designated member of the state emergency management division staff will visit, call or write the local coordinator to determine the reason for nonperformance and seek an agreeable resolution.

b. *Formal corrective action.* On those occasions when there is considerable discrepancy between agreed and actual performance and response to informal corrective action is not sufficient or agreeable, the division will take the following steps:

(1) Emergency management staff will review the scope of work, as agreed to in the cooperative agreement, to determine the extent of nonperformance. To focus attention on the total nonperformance issue, all instances of nonperformance will be addressed together in a single correspondence to the local or joint commission.

(2) The administrator will prepare a letter to the local or joint commission which will contain, at a minimum, the following information:

1. The reasons why the division believes the local or joint commission may be in noncompliance, including the specified provisions in question.

2. A description of the efforts made by the division to resolve the matter and the reasons these efforts were unsuccessful.

3. A declaration of the local or joint commission's commitment to accomplishing the work agreed upon and specified in the comprehensive cooperative agreement and its importance to the emergency management capability of the local jurisdiction.

4. A description of the exact actions or alternative actions required of the local or joint commission to bring the problem to an agreed resolution.

5. A statement that this letter constitutes the final no-penalty effort to achieve a resolution and that financial sanctions provided for in these rules will be undertaken if a satisfactory response is not received by the division within 30 days.

7.6(7) *Financial sanctions.* If the corrective actions heretofore described fail to produce a satisfactory resolution to cases of serious nonperformance, the administrator may invoke the following financial sanction procedures:

a. Send a "Notice of Intention to Withhold Payment" to the chairperson of the local or joint commission. This notice shall also contain notice of a reasonable time and place for a hearing, should the local or joint commission request a hearing before the administrator.

b. Any request by a local or joint commission for a hearing must be made in writing, to the division, within 15 days of receipt of the notice of intention to withhold payment.

c. Any hearing under the notice of intention to withhold payment shall be held before the administrator. However, the administrator may designate an administrative law judge to take evidence and certify to the administrator the entire record, including findings and recommended actions.

d. The local or joint commission shall be given full opportunity to present their position orally and in writing.

e. If, after a hearing, the administrator finds sufficient evidence that the local or joint commission has violated established rules and regulations or the terms and conditions of the cooperative agreement, the administrator may withhold such contributions and payments as may be considered advisable, until the failure to expend funds in accordance with said rules, regulations, terms and conditions has been corrected or the administrator is satisfied that there will no longer be any such failure.

f. If upon the expiration of the 15-day period stated for a hearing, a hearing has not been requested, the administrator may issue the findings and take appropriate action as described in the preceding paragraph.

g. If the administrator finds there is serious nonperformance by the commission or its coordinator and issues an order to withhold payments to the local or joint commission as described in this rule, the commission shall not receive funds under the emergency management performance grant program for the remainder of the federal fiscal year in which the order is issued and one additional year or until such time that all issues of nonperformance have been agreeably addressed by the division and the commission.

h. Any emergency management performance grant program funds withheld or recovered by the division as a result of this process shall be reallocated at the end of the federal fiscal year to the remaining participating counties.

These rules are intended to implement Iowa Code sections 29C.6 and 29C.8.

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CHAPTER 13
PERMITS
[Prior to 12/17/86, Revenue Department[730]]

701—13.1(422) Retail sales tax permit required. When used in this chapter or any other chapter relating to retail sales, the word "permit" shall mean "a retail sales tax permit."

A person shall not engage in any Iowa business subject to tax until the person has procured a permit except as provided in 13.5(422). There is no charge for a retail sales tax permit. If a person makes retail sales from more than one location, each location from which taxable sales of tangible personal property or services will occur shall be required to hold a permit. Retail sales tax permits are issued to retailers for the purpose of making retail sales of tangible personal property or taxable services. Persons shall not make application for a permit for any other purpose. For details regarding direct pay permits, see rule 701—12.3(422).

This rule is intended to implement Iowa Code section 422.53 as amended by 1999 Iowa Acts, chapter 152.

701—13.2(422) Application for permit. An application for a permanent permit shall be made upon a form provided by the department, and the applicant shall furnish all information requested on such form.

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

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

For electronically transmitted applications, the application form shall state that in lieu of a person's handwritten signature, the E-mail address will constitute a valid signature.

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

This rule is intended to implement Iowa Code sections 421.17(15) and 422.53.

701—13.3(422) Permit not transferable—sale of business. Permits shall not be transferable. A permit holder selling the business shall cancel the permit, and the purchaser of the business shall apply for a new permit in the purchaser's own name.

This rule is intended to implement Iowa Code section 422.53.

701—13.4(422) Permit—consolidated return optional. Two types of permit holders have the option of filing a consolidated return. The first is a permit holder with multiple locations from which taxable sales are made and the second is certain affiliated corporations.

13.4(1) *Permit holders with multiple locations.* A permit holder procuring more than one permit may file a separate return for each permit; or, if arrangements have been made with the department, the permit holder may file one consolidated return reporting sales made at all locations for which a permit is held.

13.4(2) *Affiliated corporations.* Any group consisting of a parent and its affiliates, which is entitled to file a consolidated return for federal income tax purposes and which makes retail sales of tangible personal property or taxable enumerated services, may make application to the director for permission to make deposits and file a consolidated Iowa sales tax return. An application for consolidation can be made for any tax period beginning on or after January 1, 2000.

* Date corrected 5/17/00 on page issued in 4/19/00 IAC Supp.

The application shall be in writing and shall be signed by an officer of the parent corporation. It shall contain the business name, address, federal identification number, and Iowa sales tax identification number of every corporation seeking the right to file a consolidated return. The application shall state the initial tax period for which the right to file a consolidated return is sought and shall be filed no later than 90 days prior to the beginning of that period. The application shall also contain any additional relevant information which the director may, in individual instances, require.

A parent corporation and each affiliate corporation that file a consolidated return are jointly and severally liable for all tax, penalty, and interest found due for the tax period for which a consolidated return is filed or required to be filed.

13.4(3) *Requirements common to returns filed under subrules 13.4(1) and 13.4(2).* Taxpayers shall file consolidated returns only on forms provided by the department. All working papers used in the preparation of the information required to complete the returns must be available for examination by the department. Undercollections of sales tax at one or more locations or by one or more affiliates may not be offset by overcollections at other locations or by other affiliates.

This rule is intended to implement Iowa Code section 422.51 as amended by 1999 Iowa Acts, chapter 156, and Iowa Code section 422.53.

701—13.5(422) Retailers operating a temporary business. A person not regularly engaged in selling at retail and not having a permanent place of business but is temporarily selling from trucks, portable roadside stands, concessionaires at state, county, district or local fairs, carnivals and the like shall not be required to hold a permit. These retailers shall request an identification card from the department. The card shall be in a form prescribed by the director and shall be completed and displayed by the retailer to show authorization to collect tax. The issuance of the card by the department shall be dependent upon the frequency of sales and other conditions as each individual case may warrant.

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

701—13.6(422) Reinstatement of canceled permit. A person who previously held and canceled a permit and wishes to reengage in business in the same county shall apply to the department for reinstatement of the permit. Upon receipt of the proper clearance for previous tax returns, a new permit shall be issued.

This rule is intended to implement Iowa Code section 422.53.

701—13.7(422) Reinstatement of revoked permit. A revoked permit shall be reinstated only on such terms and conditions as the case may warrant. Terms and conditions include payment of any tax liability which may be due to the department. See rule 13.17(422) for a description of the circumstances under which nonpayment of taxes may lead to revocation of a permit.

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

As set forth above, the director may impose a waiting period during which the permit holder must refrain from taxable occurrences pursuant to the penalties of Iowa Code section 422.58(2), not to exceed 90 days to restore a permit or issue a new permit after a revocation. The department may require a sworn affidavit, subject to the penalties of perjury, stating that the permit holder has fulfilled all requirements of said order of revocation, and stating the dates on which the permit holder refrained from taxable occurrences.

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

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]]

CHAPTER 1
WORKFORCE DEVELOPMENT BOARD

877—1.1(84A) Composition.

1.1(1) *Voting members.* The board consists of nine voting members appointed by the governor. One member shall represent a nonprofit organization involved in workforce development, four members shall represent employers, and four members shall represent nonsupervisory employees. Of the members appointed to represent nonsupervisory employees, two members shall be from statewide organized labor organizations, one member shall be an employee representative of a labor management council, and one member shall be a person with work experience in worker training programs.

1.1(2) *Nonvoting members.* The board consists of eight ex officio, nonvoting members. Of the eight members, four members shall be members of the general assembly; one member shall be a president or president's designee of one of the three state universities, designated by the board of regents on a rotating basis; one member shall represent the largest statewide public employees' organization representing state employees; one member shall be a superintendent or superintendent's designee of a community college, appointed by the Iowa association of community college presidents; and one member shall represent the independent colleges and universities in Iowa.

877—1.2(84A) Meetings. The board shall meet in May of each year for the purpose of electing one of its voting members as chairperson and one of its voting members as vice chairperson. The chairperson and vice chairperson shall not be of the same political party or gender, or represent the same group of persons. The board shall meet at the call of the chairperson or when five members of the board file a written request of the chairperson for a meeting. Written notice of the time and place of each meeting shall be given to each member of the board. A majority of the voting members constitutes a quorum.

877—1.3(84A) Duties. The board shall perform the duties outlined in Iowa Code section 84A.1B and other functions as necessary and proper to carry out its responsibilities. The board approves contracts and administrative rules for the programs administered by the division of workforce development center administration.

877—1.4(84A) Records. Agendas, minutes, and materials presented to the board are available from the Division of Policy and Information, Iowa Workforce Development, 1000 East Grand Avenue, Des Moines, Iowa 50319, except those records concerning closed sessions which are exempt from disclosure under Iowa Code subsection 21.5(4) or which are otherwise confidential by law. Board records contain information about persons who participate in meetings. This information is collected pursuant to Iowa Code section 21.3 and subsection 96.11(5). These records are not stored in an automated data processing system and may not be retrieved by a personal identifier. Rule-making records may contain information about persons making written or oral comments on proposed rules. This information is collected pursuant to Iowa Code section 17A.4. These records are not stored in an automated data processing system and may not be retrieved by a personal identifier.

877—1.5(84A) Coordination with the department of corrections on private sector employment projects. To assist the department of corrections with programs that employ offenders in the private sector, the department of workforce development shall be responsible for coordinating the following process:

1.5(1) Prior to an employer's submitting an application to the department of corrections for a private sector employment project, the employer shall place with the nearest workforce development center a job order with a duration of at least 30 days. The job order shall be listed statewide in all centers and on the department of workforce development's jobs Internet site.

1.5(2) The department of corrections shall send a letter requesting verification of the employer's 30-day job listing, the average wage rate for the job(s) the offenders will perform, the current unemployment rate in the county where the employer is located, and the current employment level of the company that will employ the offenders. The letter should be sent to Division Administrator, Division of Policy and Information, Iowa Workforce Development, 1000 East Grand Avenue, Des Moines, Iowa 50319.

1.5(3) The department of workforce development shall verify in writing the job listing, including the number of qualified applicant referrals and hires made as a result of the job order, the average entry-level wage rate for the proposed job(s), the entry-level wage range, the current unemployment rate for the county where the employer is located, and the current employment levels of the company that will employ the offenders based upon the most recent quarter for which data is available. The average wage rate and wage range will be based on the appropriate geographic area for which occupational wage information is available. The appropriate geographic area may be statewide.

1.5(4) Average entry-level wage rates and entry-level wage ranges for jobs currently held by offenders and employment levels of companies employing offenders shall be updated by the department of workforce development every six months upon the department of corrections' sending a letter listing all current companies employing offenders and the offenders' job classifications to Division Administrator, Division of Policy and Information, Iowa Workforce Development, 1000 East Grand Avenue, Des Moines, Iowa 50319.

1.5(5) The department of workforce development shall provide a periodic report to the state workforce development board regarding information supplied to the department of corrections for private sector employment projects. Frequency of the report will depend upon the level of activity.

1.5(6) Inquiries concerning private sector employment projects shall be in writing and address the following questions:

a. Whether and how the project is believed to violate the intent of Iowa Code section 904.809;

b. Evidence of a local surplus of labor in the job classifications of the type in which offenders are employed; and

c. Whether private sector employees or employees involved in a labor dispute have been displaced as a result of the project.

Inquiries shall be sent to Division Administrator, Division of Policy and Information, Iowa Workforce Development, 1000 East Grand Avenue, Des Moines, Iowa 50319. A copy of the inquiry shall be sent to the department of corrections. The director of the department shall consult with the director of prison industries and the affected regional advisory board concerning the inquiry prior to the workforce development board's making a final recommendation regarding possible corrective action.

The administrative rules committee of the state workforce development board shall review the inquiry and any additional responses or oral testimony requested by the committee and make a recommendation to the full board as to whether the intent of Iowa Code section 904.809 has or has not been met and whether corrective action, if any, needs to be taken by the department of corrections to meet the intent. At the discretion of the administrative rules committee, oral presentations may be requested from the party(ies) to the inquiry. The full board shall make a final recommendation within 60 days of receipt of the inquiry. The board's final recommendation shall be mailed to both the department of corrections and the party(ies) making the inquiry.

877—1.6(84A) Coordination with the department of corrections on construction and maintenance projects. To assist the department of corrections with the employment of offenders on construction and maintenance projects, the department of workforce development shall be responsible for coordinating the following process:

1.6(1) Prior to an employer's submitting an application to the department of corrections for employing offenders on a construction or maintenance project, the employer shall place with the nearest workforce development center a job order with a duration of at least 30 days. The job order shall be listed statewide in all centers and on the department of workforce development's jobs Internet site.

1.6(2) The department of corrections shall send a letter requesting verification of the employer's 30-day job listing, the average wage rate for the job(s) the offenders will perform, the current unemployment rate in the county where the employer is located, and the current employment level of the company that will employ the offenders. The letter should be sent to Division Administrator, Division of Policy and Information, Iowa Workforce Development, 1000 East Grand Avenue, Des Moines, Iowa 50319.

1.6(3) The department of workforce development shall verify in writing the job listing, including the number of qualified applicant referrals and hires made as a result of the job order, the average entry-level wage rate for the proposed job(s), the entry-level wage range, the prevailing wage as determined by the U.S. Department of Labor, the current unemployment rate for the county where the employer is located, and the current employment levels of the company that will employ the offenders based upon the most recent quarter for which data is available. The average entry-level wage rate and entry-level wage range will be based on the appropriate geographic area for which occupational wage information is available. The appropriate geographic area may be statewide.

1.6(4) It is recommended that all offenders employed in construction and maintenance projects receive a ten-hour OSHA safety course provided free of charge by the department of workforce development. The department of workforce development will make every effort to conduct the training within a reasonable time period after receipt of a request for training.

1.6(5) If the contract to employ offender labor exceeds six months, the department of corrections shall request and receive from the department of workforce development the average wage rates and wage ranges for jobs currently held by offenders and current employment levels of companies employing offenders. The letter should be addressed to Division Administrator, Division of Policy and Information, Iowa Workforce Development, 1000 East Grand Avenue, Des Moines, Iowa 50319.

1.6(6) The department of workforce development shall provide a periodic report to the state workforce development board regarding information supplied to the department of corrections for construction and maintenance projects. Frequency of the report will depend upon the level of activity.

1.6(7) Inquiries concerning construction and maintenance projects performed by offenders may be made by area workers, or their representatives, that are affected by a project. Inquiries shall be in writing and address the following questions:

a. Whether and how the project is believed to violate the intent of Iowa Code sections 904.701 and 904.703;

b. Evidence of a local surplus of labor in the job classifications of the type in which offenders are employed;

c. Whether private sector employees or state, county or local government employees or employees involved in a labor dispute have been displaced as a result of the project; and

d. Whether existing contracts for employment or services have been impaired.

Inquiries shall be sent to Division Administrator, Division of Policy and Information, Iowa Workforce Development, 1000 East Grand Avenue, Des Moines, Iowa 50319. A copy of the inquiry shall be sent to the department of corrections. The director of the department shall consult with the director of the department of corrections and the affected regional advisory board concerning the inquiry prior to the workforce development board's making a final recommendation regarding possible corrective action.

The administrative rules committee of the state workforce development board shall review the inquiry and any additional responses or oral testimony requested by the committee and make a recommendation to the full board as to whether the intent of Iowa Code sections 904.701 and 904.703 has or has not been met and whether corrective action, if any, needs to be taken by the department of corrections to meet the intent. At the discretion of the administrative rules committee, oral presentations may be requested from the party(ies) to the inquiry. The full board shall make a final recommendation within 60 days of receipt of the inquiry. The board's final recommendation shall be mailed to both the department of corrections and the party(ies) making the inquiry.

These rules are intended to implement Iowa Code sections 84A.1A and 84A.1B.

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6.5(4) The chief elected officials will send an appointment letter to the person selected to fill the vacancy on behalf of the chief elected officials and the governor within 30 days of receipt of the revised list and send a copy of the letter to the department.

6.5(5) If the chief elected officials fail to submit nominations for a vacancy within the 45-day time period or fail to reach agreement locally on appointments to the board, the governor may appoint a person to fill the vacancy.

877—6.6(84A,PL105-220) Meetings. The board shall meet in May of each year for the purpose of electing one of its voting members as chairperson and one of its voting members as vice chairperson. The chairperson and vice chairperson shall not be of the same political party. The board shall meet at the call of the chairperson or when a majority of the members of the board file a written request of the chairperson for a meeting. Written notice of the time and place of each meeting shall be given to each member of the board. A majority of the voting members constitutes a quorum.

877—6.7(84A,PL105-220) Duties. The board shall perform the following duties and other functions as necessary and proper to carry out its responsibilities.

6.7(1) Conduct a needs assessment to identify the workforce development needs of the region.

6.7(2) Recommend to the state workforce development board and the department of workforce development awards of grants and contracts administered by the department in the region.

6.7(3) Monitor the performance of grants and contracts awarded in the region.

6.7(4) File an annual report with the department as required by Iowa Code section 84A.1B.

6.7(5) Recommend to the state workforce development board and department of workforce development the services to be delivered in the region.

6.7(6) Fulfill the responsibilities of a local workforce investment board as required by the Workforce Investment Act of 1998, subsequent amendments and all related regulations.

6.7(7) Enter into an agreement with the region's chief elected officials board to delineate their respective duties related to administration of the Workforce Investment Act of 1998.

877—6.8(84A,PL105-220) Board certification. Each board will be certified by the governor every two years based upon:

1. The extent to which the board's composition complies with rule 6.3(84A,PL105-220), and
2. The extent to which the board has ensured the workforce development activities carried out in a region have enabled the region to meet local performance measures.

The first certification shall be conducted by the governor by July 1, 2000, on the basis of 6.8"1" only. Certifications after July 1, 2000, will be based upon both criteria.

877—6.9(84A,PL105-220) Board decertification. The governor may decertify a board for:

1. Failure to achieve certification as outlined in rule 6.8(84A,PL105-220); or
2. Fraud or abuse; or
3. If the region fails to meet performance measures for two consecutive program years.

If the governor decertifies a board for any of the above reasons, the governor may require a new board be appointed and certified through a reorganization plan developed by the governor in conjunction with the chief elected official of the region.

877—6.10(84A,PL105-220) Member travel expenses. Board members may be reimbursed for actual and necessary travel expenses for board meetings and other authorized board travel. Expenses will be reimbursed according to guidelines issued by the department of revenue and finance.

877—6.11(84A,PL105-220) Records. Agendas, minutes, and materials presented to the board are available from the Division of Workforce Development Center Administration, Department of Workforce Development, 150 Des Moines Street, Des Moines, Iowa 50309, except those records concerning closed sessions which are exempt from disclosure under Iowa Code subsection 21.5(4) or which are otherwise confidential by law. Board records contain information about persons who participate in meetings. This information is collected pursuant to Iowa Code section 21.3 and subsection 96.11(6). These records are not stored in an automated data processing system and may not be retrieved by a personal identifier.

Rule-making records may contain information about persons making written or oral comments on proposed rules. This information is collected pursuant to Iowa Code section 17A.4. These records are not stored in an automated data processing system and may not be retrieved by a personal identifier.

These rules are intended to implement Iowa Code section 84A.4 and the federal Workforce Investment Act of 1998 (P.L. 105-220).

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CHAPTER 7
IOWA WORKFORCE INVESTMENT ACT PROGRAM

877—7.1(84A,PL105-220) Designation of responsibility. Through Executive Order Number One and Executive Order Number Five, the department of workforce development was designated by the governor as the department responsible for activities and services under the Workforce Investment Act (WIA) of 1998 (P. L. 105-220).

877—7.2(84A,PL105-220) Purpose. The purpose of the Iowa workforce investment Act program is to meet the needs of businesses for skilled workers and the training, education and employment needs of individuals through a statewide, one-stop workforce development center system.

877—7.3(84A,PL105-220) Definitions.

"Chief elected official board" means the units of local government joined through an agreement for the purpose of sharing liability and responsibility for programs funded by the Workforce Investment Act of 1998.

"Contractor" means grantees, subrecipients, coordinating service providers, and service providers.

"Coordinating service provider" means the entity or consortium of entities selected by the regional workforce investment board and the chief elected official board to coordinate partners within the workforce development center system. The coordinating service provider is one of the workforce development center system partners.

"Department" means the department of workforce development.

"Director" means the director of the department of workforce development.

"Local elected official" means the county supervisors and mayors of a region's cities with a population of more than 50,000.

"Local grant recipient" means the chief elected official board.

"Mandatory partners" means the service providers that make their services available through the workforce development center system and use a portion of their resources to support the operation of the regional workforce development center system and the delivery of core services to their customers. Entities that carry out the following federal programs are required to make their services available through the workforce development center system: Wagner-Peyser Act; Unemployment Insurance; Senior Community Service Employment Activities - Title V Older Americans Act; Adult Education and Literacy Activities - Title II; Title I of the Rehabilitation Act of 1973; Welfare to Work; Veterans Services under Chapter 41, Title 38; Employment and Training Activities under Community Block Grants; HUD Employment and Training Activities; and Post-Secondary Vocational Education Activities under the Carl Perkins Act. In addition, those entities selected to provide Workforce Investment Act funded services for adults, dislocated workers and youth are mandatory partners, as are service providers for Native American programs, migrant and farm worker programs, veterans workforce programs, and Job Corps.

"Regional workforce investment board (RWIB)" means a board established according to 877—Chapter 6, "Regional Advisory Boards," Iowa Administrative Code.

"Subrecipient" means an entity selected by the chief elected official board to receive the Workforce Investment Act funds in a region from the department and disburse those funds to the entity(ies) designated by the regional workforce investment board.

"Workforce development center system" means the regional network of workforce development centers and access points for workforce development services supported by the chief elected official board, regional workforce investment board, partners, service providers, and vendors. The system is focused on meeting the needs and priorities of the customer through an integrated service delivery system based on interagency partnerships and the sharing of resources.

"Workforce Investment Act of 1998," "WIA" or "the Act" means Public Law 105-220.

877—7.4(84A,PL105-220) Service delivery region designations. The governor is responsible for the designation of workforce investment regions with the assistance of the state workforce development board, after consultation with the chief elected officials and after consideration of comments received through a public comment process.

7.4(1) In making the designation of regions, the governor shall take into consideration the following:

a. Geographic areas served by local educational agencies and intermediate educational agencies;

b. Geographic areas served by postsecondary educational institutions and vocational education schools;

c. The extent to which the regions are consistent with labor market areas;

d. The distance that individuals will need to travel to receive services provided in the regions; and

e. The resources of the areas that are available to effectively administer the activities carried out through the workforce development centers.

7.4(2) In order to initiate the designation process, the governor shall publicly announce the proposed region designations after receiving a recommendation from the state workforce development board. This will begin a public comment period of two weeks, during which local elected officials and other interested parties may comment on the proposed designations. Due to state legislative limitations, the maximum number of regions that may be designated is 16.

7.4(3) Any request from any unit of local government with a population of 500,000 or more shall be approved by the governor. In addition, the governor shall approve any requests from any unit of general local government, or consortium of contiguous units of general local government, that was a service delivery area under the federal Job Training Partnership Act, provided that it is determined that the area performed successfully in each of the last two program years and has sustained the fiscal integrity of funds. For the purposes of this subrule, "performed successfully" means that the service delivery area met or exceeded the performance for the following performance standards as appropriate:

a. Title IIA: adult follow-up employment rate; adult welfare follow-up employment rate; adult follow-up weekly earnings; and adult welfare follow-up weekly earnings.

b. Title III: entered employment rate; and average wage at placement.

Also for the purposes of this subrule, "sustained fiscal integrity" means that the Secretary of the Department of Labor has not made a final determination during any of the last three years that either the grant recipient or administrative entity misspent funds due to willful disregard of the requirements of the Job Training Partnership Act, gross negligence, or failure to observe accepted standards of administration.

7.4(4) The final designation of the regions shall be made by the governor once all comments have been received and reviewed.

7.4(5) Any unit of general local government, or consortium of contiguous units of general government, that requests, but is not designated, a region under 7.4(3) may submit an appeal in accordance with the provisions of 7.24(12).

877—7.5(84A,PL105-220) Chief elected official board. Each region is required to form a chief elected official board made up of representatives of the elected officials of local governments within the region.

7.5(1) The board shall consist of a representative of each county within a region and a representative of each of the region's cities with a population of 50,000 or more. Although required to participate, the supervisors or mayors may choose to "opt out" by resolution of their full boards of supervisors or city councils. By exercising this option, the county or city will no longer share in the liability for the WIA funds or have a voice in the design and oversight of the system.

7.5(2) The board shall be formed through an agreement that details how the responsibilities and liabilities related to WIA programs will be shared by the local governments. At a minimum, the agreement must contain the following items:

a. All elements of an agreement required by Iowa Code chapter 28E for joint exercise of governmental powers;

b. Process for selecting the chairperson;

c. Process for nominating and selecting appointments to the regional workforce investment board;

d. Apportionment of responsibility and liability among participating units of government, including losses, expenses and burdens that may result from any misuse of WIA grant funds; and

e. Designation of an entity to serve as the local subrecipient.

7.5(3) The fully executed agreement, or any amendments to the agreement, must be filed with the secretary of state and the county recorder of each county that is a party to the agreement. A copy of the agreement and any amendments must also be sent to Division of Workforce Development Center Administration, Department of Workforce Development, 150 Des Moines Street, Des Moines, Iowa 50309.

7.5(4) The chief elected official board shall serve as the local grant recipient and be liable for any misuse of WIA grant funds, unless an agreement is reached with the department to act as the local grant recipient and to bear such liability. The department shall serve as a region's local grant recipient only in rare or extreme circumstances.

7.5(5) The chief elected official boards have the following roles and responsibilities:

a. Providing input to the governor, through the department and state workforce development board, on designation of workforce investment regions;

b. Securing nominations for regional workforce investment board vacancies in accordance with 877—Chapter 6, "Regional Advisory Boards," Iowa Administrative Code; and

c. Accepting liability for any misuse of WIA funds expended under contract with the chief elected official board.

7.5(6) In partnership with the regional workforce investment board, the chief elected official board is responsible for:

a. Negotiating and reaching agreement with the department on regional performance standards;

b. Appointing a youth advisory council;

c. Determining the role of the coordinating service provider;

d. Designating and certifying the coordinating service provider;

e. Developing a chief elected official/regional workforce investment board agreement to detail how the two boards shall work together in establishing and overseeing the region's workforce development center system, as defined in 877—7.7(84A,PL105-220);

f. Developing and entering into a memorandum of understanding with the region's workforce development center system's partners;

g. Conducting oversight of the WIA adult and dislocated worker services, youth programs, and the workforce development center system;

h. Evaluating service delivery to determine if regional needs and priorities are being met;

i. Determining whether regional needs have changed and, if so, whether a plan modification is necessary;

j. Ensuring quality improvement is ongoing and performance standards are met; and

k. Developing and submitting the regional workforce development customer service plan based on a regional needs assessment and analysis.

877—7.6(84A,PL105-220) Regional workforce investment board. Each region shall establish a regional workforce investment board as defined in 877—Chapter 6, "Regional Advisory Boards," Iowa Administrative Code. The roles and responsibilities of the regional workforce investment board include:

1. Selecting service providers for WIA adult and dislocated worker intensive services and youth programs.

2. Establishing policy for the region's workforce development center system.
3. Developing a budget to carry out the duties of the board, subject to the approval of the chief elected official board.
4. Coordinating WIA youth, adult and dislocated worker employment and training activities with economic development strategies and developing other employer linkages with these activities.
5. Promoting the participation of private sector employers in the workforce development system and ensuring the availability of services to assist such employers in meeting workforce development needs.
6. Certifying eligible training providers.
7. Determining the use of the strategic workforce development fund, including the operation and funding of a summer or in-school youth program(s), use of discretionary funds, and selection of service providers.
8. Selecting the welfare-to-work service provider.
9. Submitting an annual report to the state workforce development board.
10. Establishing cooperative relationships with other boards in the region.
11. Directing the activities of the youth advisory council.
12. Sharing the duties with the chief elected official board as outlined in subrule 7.5(6).

877—7.7(84A,PL105-220) Regional workforce investment board/chief elected official board agreement. Each regional workforce investment board and chief elected official board shall enter into an agreement to define how they shall share certain responsibilities.

7.7(1) At a minimum, the agreement must include the following elements:

a. How the coordinating service provider will be selected;

b. How the boards will be involved in negotiations of performance measures with the department;

c. How the boards will develop a memorandum of understanding with the region's workforce development center system's partners;

d. How the boards will develop and approve the regional workforce development customer service plan;

e. How the boards will share the oversight of the workforce development center system;

f. Process that will be used by the boards to appoint members to the youth advisory council;

g. Process for modifying or amending the agreement;

h. Process to be used to develop an operating budget for the regional workforce investment board and youth advisory council; and

i. Methods of communications between the two boards.

7.7(2) A fully executed copy, and any subsequent modifications, of the agreement shall be submitted to Division of Workforce Development Center Administration, Department of Workforce Development, 150 Des Moines Street, Des Moines, Iowa 50309.

877—7.8(84A,PL105-220) Youth advisory council. Each region must appoint a youth advisory council to provide expertise and make recommendations regarding youth employment and training policy.

7.8(1) The roles and responsibilities of the youth advisory council, at the direction of the regional workforce investment board, include the following:

a. Assist in the development of the regional customer service plan relating to eligible youth;

b. Recommend and oversee youth service providers; and

c. Coordinate youth activities funded under WIA.

7.8(2) Youth advisory council membership shall include:

a. Members of the regional workforce investment board that have a special interest or expertise in youth policy;

b. Individuals who represent youth service agencies, such as juvenile justice and local law enforcement agencies;

c. Individuals who represent local public housing authorities, if applicable;

d. Parents of youth eligible for WIA youth services or who were served under a Job Training Partnership Act youth program;

e. Individuals with experience relating to youth activities;

f. Former Job Training Partnership Act participants;

g. Representatives of the Job Corps, if Job Corps has an office within the region; and

h. Any other individuals that the chairperson of the regional workforce investment board, in cooperation with the chief elected official board, determines to be appropriate.

7.8(3) The size of the youth council, the number of representatives from each sector, term length, nomination process, and county/city representation are decisions of the regional workforce investment board and chief elected official board.

7.8(4) The regional workforce investment board shall submit the name, mailing address, and sector affiliation of each youth advisory council appointee to the department for mailing list purposes. The list, and subsequent updates due to new appointments, shall be submitted to Division of Workforce Development Center Administration, Department of Workforce Development, 150 Des Moines Street, Des Moines, Iowa 50309.

877—7.9(84A,PL105-220) Selection of coordinating service provider. To receive funds made available under Title I of WIA, the regional workforce investment board, in agreement with the chief elected official board, must designate an entity as the coordinating service provider for the workforce investment region.

7.9(1) The regional workforce investment board and chief elected official board must determine the role of the coordinating service provider. At a minimum, the coordinating service provider's roles and responsibilities shall include the following:

a. Provide overall customer management and tracking, including responsibility for results of enrollments.

b. Manage the workforce development center system in the region, including workforce development center facilities, and ensure that services are accessible and available in every county of the region.

c. Ensure workforce development center system partners' compliance with the memorandum(s) of understanding.

d. Coordinate and negotiate the resource sharing agreement.

e. Ensure that performance standards and customer satisfaction goals for the region's workforce development center system are met.

f. Provide information and feedback to the regional workforce investment board and chief elected official board concerning the delivery of the services outlined in the customer service plan versus the needs and priorities identified in the regional needs assessment and analysis.

g. Maintain, promote and market the regional workforce development center system.

h. Develop and submit an annual progress report toward meeting the needs and priorities identified in the regional needs assessment and analysis to the regional workforce investment board.

i. May, as described in the memorandum(s) of understanding, determine eligibility for training services.

7.9(2) The regional workforce investment board and chief elected official board need to determine if they want to grandfather the current coordinating service provider, based on the role that has been determined. The boards also need to determine if the current coordinating service provider desires to be grandfathered.

7.9(3) If the regional workforce investment board or chief elected official board does not desire to grandfather the existing coordinating service provider, or if the coordinating service provider members do not desire to be grandfathered, then the service provider(s) needs to be selected prior to the designation of the coordinating service provider.

7.9(4) The coordinating service provider may be a public or private entity, or a consortium of entities, of demonstrated effectiveness located in the region. Eligible entities may include, but are not limited to, the following:

a. A postsecondary educational institution;

b. An employment service agency established under the Wagner-Peyser Act;

c. A private nonprofit organization (including a community-based organization);

d. A private, for-profit entity;

e. A government agency; or

f. Another interested organization (includes a local chamber of commerce, labor organization or other business organization).

Elementary schools and secondary schools are the only entities not eligible for designation or certification as a coordinating service provider. However, nontraditional public secondary schools and area vocational schools are eligible for designation.

7.9(5) To designate a coordinating service provider, the regional workforce investment board must utilize one of the three processes listed below. More than one option may be pursued concurrently.

a. An agreement with the governor to designate the coordinating service provider that was in place on August 7, 1998. In order to utilize this option, the chairpersons of the regional workforce investment board and chief elected official board must provide a written notice to the department indicating that both boards have taken appropriate action and desire to pursue this option.

b. A competitive process. At a minimum, the competitive process to designate the coordinating service provider shall include the following:

(1) Public notice. A public notice shall be published in one of the official county newspapers, as designated by the county board of supervisors. The public notice must indicate that both boards shall hold a joint meeting to select the coordinating service provider(s) for the region. The notice must list the criteria that will be used in the selection of the coordinating service provider(s). The notice must also require that written proposals be submitted by a specific date and invite interested entities to give presentations and answer questions relating to the selection criteria in 7.9(6) at the joint public meeting. Notices must also be mailed to potentially interested entities within the region.

(2) Public meeting. Since both boards must agree on the designation of the coordinating service provider, at a minimum, the boards shall jointly conduct a public meeting to review the written proposals received, obtain any additional information from entities submitting written proposals, and reach an agreement as to the selection(s).

c. An agreement between the regional workforce investment board and a consortium of entities that, at a minimum, includes three or more of the mandatory partners. In order to utilize this option, at a minimum, the regional workforce investment board and chief elected official board shall notify all partners that they are willing to consider proposals from mandatory partners and hold an open meeting to obtain input and finalize the action.

7.9(6) The following criteria are suggested for use in the selection of a coordinating service provider:

a. The effectiveness of the agency or organization in delivering comparable or related services based on documentation of achievement of performance and service level requirements, previous audit and monitoring reports, and capability of the agency's fiscal unit to manage a similar type of program or project;

b. The likelihood of meeting program goals based upon factors such as past performance, staff commitment, and availability and location of staff;

c. The effectiveness of the agency or organization in minimizing the duplication of services, while at the same time maximizing the coordination with other agencies and organizations to provide the highest quality activities and services to the participants in the programs; and

d. Other criteria as determined by both boards.

877—7.10(84A,PL105-220) Selection of service providers. Core and intensive services for the adult program and the dislocated worker program shall be provided through the workforce development center. These services may be provided by one entity or a number of different entities. If the role of the coordinating service provider includes the provision of core and intensive services for adults and dislocated workers, then the selection of adult and youth service providers may be combined with the selection of the coordinating service provider. The regional workforce investment board and chief elected official board must determine the most effective and efficient manner to provide these services in the region. The regional workforce investment board and chief elected official board must also determine which service providers will be responsible for ensuring that performance standards are met and that the service provider(s) responsible for performance have the authority to make enrollment decisions for their participants.

7.10(1) In selecting service providers, the regional workforce investment board may use the following procedure or may develop a more formal procurement procedure. At a minimum, the procedure to designate service providers must include the following:

a. Public notice. A public notice shall be published in the official county newspaper, as designated by the county board of supervisors. The public notice must indicate that the regional workforce investment board shall hold a meeting to select the service provider(s) to provide core and intensive services for the adult and dislocated worker programs under Title I. The notice shall list the criteria for the selection of the service provider(s) and invite interested entities to give presentations and answer questions relating to the selection criteria. Notices shall also be mailed to potentially interested entities within the local region.

b. Public meeting. The regional workforce investment board shall conduct a public meeting to obtain information from entities interested in providing core and intensive services in the local region and to reach an agreement as to the selection of the service provider(s).

c. Criteria for selecting service providers. The following are examples of criteria that could be considered and addressed in the selection of a service provider:

(1) The effectiveness of the agency or organization in delivering comparable or related services based on documentation of achievement of performance and service level requirements, previous audit and monitoring reports, previous partnerships negotiated for services for customers, and capability of the agency's fiscal unit to manage a similar type of program or project;

(2) The likelihood of meeting performance goals based upon factors such as past performance, effective use of previous grant funds, staff commitment, and availability of staff;

(3) The effectiveness of the agency or organization in minimizing the duplication of services, while at the same time maximizing the coordination with other agencies and organizations to provide the highest quality activities and services to the participants in the program; and

(4) Other criteria as determined by the regional workforce investment board.

7.10(2) Youth service providers shall be selected via a competitive process and based on recommendations of the youth advisory council. Since the delivery of the youth services could be accomplished through a number of different service providers, the regional workforce investment board should initially designate a youth service provider to coordinate the operation of the youth program and to provide eligibility, enrollment, objective assessment and individual service strategy services for youth. Additional youth service providers could be designated at a later date. At a minimum, the procedure to designate the youth service provider(s) must include the following:

a. Public notice. A public notice shall be published in one of the official county newspapers, as designated by the county board of supervisors. The public notice must indicate that the regional workforce investment board shall hold a public meeting to select a youth service provider to coordinate the operation of the youth program, and to provide eligibility, enrollment, objective assessment and individual service strategy services for youth. The notice must list the criteria to be used in the selection of the youth service provider(s) and must require that written proposals be submitted by a specific date. The notice must also invite interested entities that have submitted written proposals to give presentations and answer questions relating to the selection criteria at the public meeting. Notices must also be mailed to potentially interested entities within the local region.

b. Public meeting. The regional workforce investment board must conduct a public meeting to review the written proposals received, obtain any additional information from entities submitting written proposals, and reach an agreement as to the selection(s).

c. Criteria for selecting youth service providers. The following are examples of criteria that could be considered and addressed in the selection of a service provider:

(1) The effectiveness of the agency or organization in delivering comparable or related services based on documentation of achievement of performance and service level requirements, previous audit and monitoring reports and capability of the agency's fiscal unit to manage a similar type of program or project;

(2) The likelihood of meeting performance goals based upon factors such as past performance, staff commitment, and availability of staff;

(3) The effectiveness of the agency or organization in minimizing the duplication of services, while at the same time maximizing the coordination with other agencies and organizations to provide the highest quality activities and services to the participants in the program; and

(4) Other criteria as determined by the regional workforce investment board.

7.10(3) Entities with taxing authority may not use tax paid services as in-kind matching funds.

877—7.11(84A,PL105-220) Memorandum of understanding. The memorandum of understanding is an agreement developed and executed between the regional workforce investment board, with the agreement of the chief elected official board, and the workforce development center system partners relating to the operation of the workforce development center system in the region. There may be a single memorandum of understanding developed that addresses the issues relating to the regional workforce development center system, or the regional workforce investment board and partners may decide to enter into several agreements. Regardless of whether there is a single agreement or multiple agreements, each partner should be aware of the contents of all of the agreements executed.

7.11(1) The regional workforce investment board and the chief elected official board should initiate the negotiation process for the development of the agreement. Prior to the start of negotiations, the following tasks shall be completed:

a. Identify all of the local partners and the services they provide.

b. Name the coordinating service provider.

c. Determine the role of the coordinating service provider.

d. Complete the regional needs assessment and analysis.

e. Execute a single memorandum of understanding or multiple memorandums of understanding.

7.11(2) At a minimum, the memorandum of understanding shall include:

a. The services to be provided through the workforce development center system.

b. The location of the comprehensive workforce development center(s), as well as other locations where each partner's services will be provided. All partners must make their core services available, at a minimum, at one comprehensive physical center in the region. All adult and dislocated worker core services shall also be available at the comprehensive center. In addition, core services may be provided at additional sites, and partners' applicable core services need not be provided exclusively at the comprehensive workforce development center. The core services may be made available by the provision of appropriate technology at the comprehensive workforce development center by co-locating personnel at the center, by cross-training of staff, or through a cost reimbursement agreement.

c. The programs and services that will be available at the different locations must be specified, as well as the manner in which the services will be made available.

d. The particular arrangements for funding the services provided through the workforce development center system and the operating costs of the system. Each partner must contribute a fair share of the operating costs based on the use of the workforce development center delivery system by the individuals attributable to the partner's program. While the resources that a partner contributes do not have to be cash, the resources must be of value and must be necessary for the effective and efficient operation of the center system. The specific method of determining each partner's proportionate responsibility must be described in the agreement. This could include a list of resources that each partner is providing toward the operation of the system. Since most partners' budgets fluctuate on an annual basis, partner contributions for the operating costs of the system should be reevaluated annually.

e. The partners who will be using the common intake/case management system as the primary referral mechanism, and how referrals will occur between and among the partners not utilizing the common intake/case management system.

f. When the agreement will become effective as well as when the memorandum will terminate or expire. The effective date must be no later than July 1, 2000.

g. The process or procedure for amending the agreement. The procedure should include such items as:

(1) Identification of who can initiate an amendment;

(2) Time lines for completing an amendment;

(3) Conditions under which an amendment will become necessary; and

(4) Method of communicating changes to all of the partners.

7.11(3) It is a legal obligation for the regional workforce investment board, chief elected official board and partners to engage in good-faith negotiation and reach agreement on the memorandum of understanding. Any or all parties may seek the assistance of the department or other appropriate state agencies in negotiating the agreements. After exhausting all alternatives, the department or the other state agencies may consult with the appropriate federal agencies to address impasse situations. If the regional workforce investment board and chief elected official board have not executed a memorandum of understanding with all of the mandatory partners and service providers, the region shall not be eligible for state incentive grants awarded for local cooperation.

877—7.12(84A,PL105-220) Performance measures. The programs authorized in Title I are evaluated by measures established by the Act on a state and regional basis. In order for the state to qualify for incentive funds, it must meet performance standards set for these measures, in conjunction with successful performance by programs funded under the Carl Perkins Act and the Workforce Investment Act Title II.

7.12(1) Standards for measurement for each region shall be established through negotiations between the department, the chief elected official board and each regional workforce investment board.

7.12(2) Performance outcome measures. The overall mission of Iowa's workforce development center system is to increase the size of the skilled labor force and increase earned income among Iowa citizens. Each region's workforce development center system shall address its locally developed priorities in conjunction with the above goals. In addition to having the performance of the regional workforce development center system evaluated as a whole, all Title I programs shall be evaluated based on the following outcome measures:

a. Adult program outcome measures.

(1) Entry into unsubsidized employment;

(2) Retention in unsubsidized employment for six months after entry into employment;

(3) Earnings received in unsubsidized employment for six months after entry into employment; and

(4) Attainment of a recognized credential related to achievement of educational skills (such as a secondary school diploma or its recognized equivalent), or occupational skills, by participants who enter unsubsidized employment.

b. Dislocated worker program outcome measures.

(1) Entry into unsubsidized employment;

(2) Retention in unsubsidized employment for six months after entry into employment;

(3) Earnings received in unsubsidized employment for six months after entry into employment; and

(4) Attainment of a recognized credential related to achievement of educational skills (such as a secondary school diploma or its recognized equivalent), or occupational skills, by participants who enter unsubsidized employment.

c. Youth aged 19 to 21 outcome measures.

(1) Entry into unsubsidized employment;

(2) Retention in unsubsidized employment for six months after entry into employment;

(3) Earnings received in unsubsidized employment for six months after entry into employment; and

(4) Attainment of a recognized credential related to achievement of educational skills (such as a secondary school diploma or its recognized equivalent), or occupational skills, by participants who enter postsecondary education, advanced training, or unsubsidized employment.

d. Youth aged 14 to18 outcome measures.

(1) Attainment of basic skills and, as appropriate, work readiness or occupational skills;

(2) Attainment of secondary school diplomas or their recognized equivalents; and

(3) Placement and retention in postsecondary education, advanced training, military service, employment, or qualified apprenticeships.

e. Customer satisfaction of participants.

f. Customer satisfaction of employers.

7.12(3) Other measures. The following measures shall also be tracked and progress reported.

a. Entry by participants who have completed training services into unsubsidized employment related to the training received;

b. Wages at entry into employment (including rate of wage replacement for groups of participants, such as dislocated workers);

c. Cost of workforce investment activities relative to the effect of the activities on the performance of participants;

d. Retention and earnings received in unsubsidized employment 12 months after entry into the employment; and

e. Performance of recipients of public assistance, out-of-school youth, veterans, individuals with disabilities, displaced homemakers, and older individuals, as required by the Department of Labor.

7.12(4) Retention in employment measures and wages earned measures will be calculated using data from the unemployment insurance wage record database with the assistance of the department.

7.12(5) Regional performance standards shall be negotiated between the department, the regional workforce investment board and chief elected official board. Performance standards shall be negotiated for each region annually. The department, the regional workforce investment board and chief elected official board shall evaluate regional performance and the appropriateness of the negotiated standards each year. Formal negotiation shall be conducted for two-year periods and remain consistent with years in which needs assessment activities are conducted.

The department shall establish a minimum acceptable level of performance for each measure, based upon levels established through negotiation between the state and the Department of Labor and using historical data. Negotiation will focus on the adjusted level of performance, which will serve as the regional objective. Performance of a program within a region below the minimum acceptable levels shall be the basis for corrective action or sanctions. Performance above adjusted levels shall be the basis for incentive awards. In addition, regions may negotiate maximum levels of performance (level at which adjusted levels shall not be negotiated beyond during the first five years).

7.12(6) Incentive awards. A portion of the state level funds shall be reserved from Title I programs to provide incentive awards to regions that demonstrate superior performance and to provide technical assistance to all regions. Incentive awards, which are granted during a program year, shall be distributed based upon performance from the previous program year. Actual distribution of the funds shall occur after the end of each program year when final performance standards are calculated. At that time, performance shall be compared against the region's adjusted levels to determine eligibility for, and the amount of, incentive awards.

Incentive awards shall be distributed to regional workforce investment boards when average performance across all measures exceeds the average adjusted levels for the percent achieved score for each measure. When the percent achieved score is greater than 100 percent, the region qualifies for a regional incentive award. There is no requirement for the number of individual measures that must be exceeded, but the customer and employer satisfaction measures must be exceeded for a region to qualify for an incentive award.

The regional workforce investment board must utilize the incentive funds to support Title I services, but it is possible for a region to purchase services that do not count toward performance measurement.

The determination of actual performance achievement on the 17 performance measures and any subsequent incentive awards shall be based on data contained in the integrated customer service (ICS) system. The initial determination of incentive awards shall be made no later than September 1 following the end of the program year. By that time, the chair of each regional workforce investment board shall be notified of its initial performance and incentive award determination. The regional workforce investment board, or its designee, shall be allowed two weeks in which to respond to these initial determinations. The response shall be limited to the calculation of the awards. Changes to the data shall not be permitted unless authorized by the department. A final determination and the awarding of incentive funds shall occur no later than October 1 following the end of the program year. The department reserves the authority to adjust the time lines for the awarding of incentive funds if circumstances warrant such an adjustment.

7.12(7) If a region does not meet performance outcome requirements, the department shall provide technical assistance to the region to improve its performance. The following process shall be used:

a. Technical assistance shall be available to the Title I service providers through the department's staff. In situations where regional performance falls below the minimum acceptable level, the department will assist the regional workforce investment board, or its designee, with the development of a performance improvement plan.

b. If regional Title I programs do not meet the minimum acceptable level of performance for two consecutive years, the regional workforce investment board shall be required to develop a performance improvement plan. Technical assistance shall also be available to the regional workforce investment board and chief elected official board to adjust the regional customer service plan to facilitate the success of the region's performance improvement plan.

c. The performance improvement plan must be reviewed and approved by the chief elected official board prior to its submittal of the plan to the department.

7.12(8) If a region falls below the minimum acceptable levels of performance agreed upon for the region's average composite percent achieved score in any of the program areas for two consecutive years, the governor, through the department, shall take corrective action. The critical measures that determine possible sanctions are:

1. Adult program measures average;
2. Dislocated worker program measures average;
3. Youth program measures average; and
4. Customer satisfaction measures average.

At a minimum, the corrective action shall include the development of a performance improvement plan and the possibility of a reorganization plan, under which the governor:

a. Requires the appointment and certification of a new regional workforce investment board;

b. Prohibits the use of particular service providers that have been identified as achieving poor levels of performance;

c. Requires the certification of a new coordinating service provider;

d. Requires the development of a new regional plan; or

e. Requires other appropriate measures designed to improve the performance of the region.

An appeal to sanctions may be made by following the process identified in 7.24(15). If a region is being sanctioned, it shall not qualify for an incentive award in the Title I category.

877—7.13(84A,PL105-220) Regional customer service plan. Each regional workforce investment board, in partnership with the chief elected official board, shall develop and submit to the governor a five-year comprehensive plan that is in compliance with the state's workforce investment plan. A region must have an approved plan in place prior to receiving funds.

7.13(1) The plan shall contain the following elements:

a. Workforce development services available in the region.

b. An explanation of how customers access the services.

c. Statement of the region's workforce development priorities.

d. An identification of the workforce investment needs of businesses, job seekers, and workers in the region.

e. Current and projected employment opportunities, and the job skills necessary to obtain such opportunities.

f. A description of the regional workforce development center system, including the locations of access points, such as the region's one-stop center, satellite workforce development centers, resource centers, and other locations within the region where access to services shall be provided (including the access point in each county for department services that is required by state law); what products and services will be delivered at each of these locations and how access to those services will be provided at that location; identification of the products and services that may be provided upon a fee basis and an explanation of the amount and circumstances when the fee will be applied; and a description or flowchart of the service delivery system, identifying how customers will be served and referred within the center system, and when necessary, how program services, including the adult, dislocated worker and youth programs, will be provided to employers, and to other customers through the adult, dislocated workers, rapid response, and youth programs.

g. Description of the region's policies regarding issues such as activities and services, eligibility, selection, enrollment, and applicant and participant processes.

h. If a region will be sharing the costs of delivering services with another region within a labor market area, that arrangement and cost-sharing agreement shall be described.

i. Identification of the chief elected official board's and regional workforce investment board's oversight policies concerning the region's performance standards and continuous improvement activities.

j. Identification of how the regional workforce investment board and chief elected official board will evaluate the service delivery process and service providers' performance.

k. Description of the annual budget development, review and monitoring process for the region.

l. Description of how economic development groups, older workers, disabled individuals, and partners are provided an opportunity to provide periodic and meaningful input regarding the operation of the workforce development system.

m. Identification of the subrecipient or entity responsible for the disbursal of grant funds.

n. Attachments, including the regional needs assessment and analysis; region's negotiated performance measures; the region's memorandum of understanding; a copy of the region's complaint procedures; procurement procedures; and any documentation customers will be asked to provide for enrollment.

o. Public input process, including proof of publication for public notices soliciting public input for the plan.

p. Limitations on the dollar amount or duration of an individual training account (ITA), or both. There may be a limit for an individual participant that is based on the needs identified in the individual employment plan, as documented by an individual needs determination, or there may be a maximum amount applied to all ITAs. The amount of any ITA must be decreased by the amount of any Pell Grant awarded to a participant.

7.13(2) Prior to submitting the plan to the governor, the regional workforce investment board shall provide opportunities for public input regarding the plan. The public input process must include, at minimum:

a. Making copies of a proposed plan available to the public through such means as public hearings and public notices in local newspapers.

b. Allowing a 30-day period for regional workforce investment board members and members of the public, including representatives of business and labor organizations, to submit comments to the regional workforce investment board on the proposed plan after the plan is made available to the public. When the plan is submitted to the governor, any comments received expressing disagreement with the plan shall be included.

c. Holding open meetings to make information about the plan available to the public on an ongoing basis.

7.13(3) The plan must be formally approved by the regional workforce investment board and chief elected official board. An original signed document and four copies must be submitted by April 1, 2000, to the Division of Workforce Development Center Administration, Department of Workforce Development, 150 Des Moines Street, Des Moines, Iowa 50309.

7.13(4) The department shall review the plan and recommend approval to the state workforce development board, unless deficiencies in the plan are identified in writing by the department and revision is required; or the plan is not in compliance with federal and state laws and regulations, including required consultations and public comment provisions.

7.13(5) Modifications to the plan may be required by the department under certain circumstances, including significant changes in regional economic conditions, changes in the financing available, changes in the regional workforce investment board structure, or a need to revise strategies to meet performance goals. A proposed modification of the plan must be approved by vote of the regional workforce investment board and chief elected official board at a public meeting.

877—7.14(84A,PL105-220) Activities and services.

7.14(1) *Core services.* Core services are designated as self-service and informational, which do not require registration or eligibility determination; and staff-assisted, which require registration and eligibility determination.

a. The following types of activities and services are considered self-service or informational core services:

(1) Determination of eligibility to receive services under WIA;

(2) Outreach, intake (which may include worker profiling) and orientation to the information and other services available through the system;

(3) Initial assessment of skill levels, aptitudes, abilities, and supportive service needs;

(4) Job search and placement assistance and, where appropriate, career counseling;

(5) Provision of employment statistics information, related to local, regional, and national labor market areas, such as job vacancy listings in such labor market areas, information on job skills necessary to obtain the jobs listed, and information relating to local occupations in demand and the earnings and skill requirements for such occupations;

(6) Provision of performance and program cost information on eligible providers of training services;

(7) Provision of information regarding how the local area is performing on the local performance measures and any additional information with respect to the workforce development center system in the local region;

(8) Provision of accurate information relating to the availability of supportive services, including child care and transportation available in the local region, and referral to such services as appropriate;

(9) Provision of information regarding filing claims for unemployment compensation;

(10) Assistance in establishing eligibility for welfare-to-work and programs of financial aid for assistance for training and education programs that are not funded under the Act and are available in the region;

(11) Follow-up services, including counseling regarding the workplace, for WIA participants who are placed in unsubsidized employment, for not less than 12 months after the first day of employment, as appropriate.

b. The following types of activities and services are considered staff-assisted core services:

(1) Counseling;

(2) Individual job development;

(3) Job clubs; and

(4) Screened referrals.

7.14(2) *Intensive services.* A participant must receive intensive services before being determined to be in need of training services to obtain employment that leads to self-sufficiency. Intensive services include:

a. Comprehensive and specialized assessments of skill levels and service needs, including diagnostic testing and use of other assessment tools, and in-depth interviewing and evaluation to identify employment barriers and appropriate employment goals;

b. Development of an individual employment plan to identify the employment goals, appropriate achievement objectives, and appropriate combination of services for the participant to achieve the employment goals;

c. Group counseling;

d. Individual counseling and career planning;

e. Case management for participants seeking training services;

f. Short-term prevocational services, including development of learning skills, communication skills, interviewing skills, punctuality, personal maintenance skills, and professional conduct, to prepare individuals for unsubsidized employment or training;

g. Out-of-area job search expenses;

h. Relocation expenses;
i. Internships; and
j. Work experience.

7.14(3) *Training services.* The following types of activities and services are considered to be training services:

a. Occupational skills training, including training for nontraditional employment;
b. Programs that combine workplace training with related instruction, which may include cooperative education programs;
c. Training programs operated by the private sector;
d. Skill upgrading and retraining;
e. Entrepreneurial training;
f. Job readiness training; and
g. Customized training.

7.14(4) *Supportive services.* Supportive services are those services necessary to enable an individual to participate in activities authorized under WIA. The following types of supportive services are allowable:

a. Clothing;
b. Counseling;
c. Dependent care;
d. Financial assistance;
e. Health care;
f. Housing assistance;
g. Miscellaneous services;
h. Needs-related payments;
i. Residential/meals support;
j. Services to individuals with disabilities;
k. Supported employment and training; and
l. Transportation.

7.14(5) *Youth services.* An array of services may be made available to youth. The list of youth services, which must be made available in each region, is as follows:

a. Tutoring, study skills training and instruction leading to secondary school completion, including dropout prevention strategies;
b. Alternative secondary school offerings;
c. Summer employment opportunities directly linked to academic and occupational learning;
d. Paid and unpaid work experiences, including internships and job shadowing;
e. Occupational skill training;
f. Leadership development opportunities;
g. Supportive services;
h. Adult mentoring, for a duration of at least 12 months, which may occur both during and after program participation;
i. Follow-up services; and
j. Comprehensive guidance and counseling, including drug and alcohol abuse counseling.

7.14(6) *Customized training.* The purpose of customized training is to provide training specific to an employer's needs, so individuals will be hired, or retained, by the employer after successful completion of the training. Customized training is normally provided in a classroom setting and is designed to meet the special requirements of an employer or group of employers. The employer(s) must commit to hire, or in the case of incumbent workers, continue to employ, an individual on successful completion of the training and must pay not less than 50 percent of the cost of the training. Participants enrolled in this activity must be covered by adequate medical and accident insurance.

7.14(7) *Entrepreneurial training.* The purpose of entrepreneurial training is to help participants acquire the skills and abilities necessary to successfully establish and operate their own self-employment businesses or enterprises.

a. The methods of providing training may include classes in small business development, marketing, accounting, financing, or any other courses that could contribute to a participant's goal of self-employment. On-site observation and instruction in business skills may also be provided, as well as individualized instruction and mentoring.

b. Entrepreneurial training may not be used for training in job-specific skills other than business management. However, it may be provided concurrently or consecutively with specific skill training for the purpose of establishing an enterprise that utilizes those skills.

c. Payments under entrepreneurial training are limited to training programs and activities that provide instruction in business operation and management. Funds may not be used for any direct costs associated with the establishment or operation of the business (e.g., materials, inventory, overhead, or advertising).

d. All participants who are enrolled in this training must apply for any financial assistance for which they may qualify, including Pell Grants. For purposes of this requirement, financial assistance does not include loans.

e. Participants must be covered by adequate medical and accident insurance.

7.14(8) *Follow-up services.* The purpose of these services is to identify any problems or needs that might preclude a former participant from remaining employed or continuing to progress toward unsubsidized employment. The provision of follow-up services and contacts or attempted contacts must be documented in the participant file.

a. Follow-up services must be provided for all adults and dislocated workers who enter employment for not less than 12 months after the first day of employment. The first follow-up contact must occur within the first 30 days of entering employment. The first contact must be a personal contact (in person or by telephone) with the participant. A second contact must occur approximately 90 days after the first day of employment. Contacts are required quarterly thereafter for the next three quarters. The types of follow-up services provided must be based on the needs of the adult or dislocated worker. Follow-up services may include:

(1) Counseling regarding the workplace;

(2) Assistance to obtain better employment;

(3) Determination of the need for additional assistance; and

(4) Referral to services of partner agencies or other community resources.

b. Follow-up services must be provided for all youth for not less than 12 months from the date of exit from the program. The first follow-up contact must occur within the first 30 days of entering employment. The first contact must be a personal contact (in person or by telephone) with the participant. A second contact must occur approximately 90 days after the first day of employment. Contacts are required quarterly thereafter for the next three quarters. Follow-up services may be provided beyond 12 months at the discretion of the RWIB. The types of services provided must be determined based on the needs of the youth. Follow-up services for youth may include:

(1) Leadership development and supportive services;

(2) Regular contact with the youth's employer, including assistance in addressing work-related problems that arise;

(3) Assistance in securing better paying jobs, career development, and further education;

(4) Work-related peer support groups;

(5) Adult mentoring; and

(6) Tracking the progress of youth in employment, postsecondary training, or advanced training.

7.14(9) *Guidance and counseling.* Guidance and counseling is the provision of advice to participants through a mutual exchange of ideas and opinions, discussion and deliberation. Guidance and counseling should be academic or employment-related, and may include drug and alcohol abuse counseling and referral. Guidance for youth must be categorized as either academic (primarily provided to assist a youth in achieving academic success), or employment-related (primarily provided to assist a youth in achieving employment-related success).

7.14(10) *Institutional skill training.* The purpose of this service is to provide individuals with the technical skills and information required to perform a specific job or group of jobs. Institutional skill training is conducted in a classroom setting.

a. All participants who are enrolled in this service must apply for any financial assistance for which they may qualify, including Pell Grants. All participants must be covered by the training institution's tuition refund policy. In the absence of a refund policy established by the training institution, the WIA service provider must negotiate a reasonable refund policy with the training site.

b. Participants must be covered by adequate medical and accident insurance.

c. A participant who is employed must not be earning a self-sufficiency wage to be enrolled in this service.

7.14(11) *Job club.* The purpose of this activity is to provide a structured job search activity for a group of participants who develop common objectives during their time of learning and working together, supporting one another in the job search process. The scheduled activities and required hours of participation should reflect proven job search techniques and the employment environment of the region.

a. Participants in job club shall meet the following objectives:

(1) Have been prepared to understand and function in the interview process and the workplace;

(2) Have completed all tools needed for effective work search, including a résumé and an application letter; and

(3) Have the opportunity to complete as many actual job contacts and interviews as possible after completing all of the job search tools.

b. Participants must be covered by adequate medical and accident insurance.

7.14(12) *Leadership development.* The purpose of leadership development is to enhance the personal life, social, and leadership skills of participants, and to remove barriers to educational and employment-related success. Leadership development opportunities may include the following:

a. Exposure to postsecondary educational opportunities;

b. Community and service learning projects;

c. Peer-centered activities, including peer mentoring and tutoring;

d. Organizational and team training, including team leadership training;

e. Training in decision making, including determining priorities;

f. Citizenship training, including life skills training such as parenting, work behavior training, and budgeting of resources;

g. Employability training; and

h. Positive social behavior or "soft skills," including but not limited to, positive attitudinal development, self-esteem building, cultural diversity training, and work simulation activities.

Leadership development activities are normally conducted in a group setting and must include a schedule for the participant to follow, regular contact by a staff person, a maximum length of time allowed in the activity, and documentation that the participant and staff are making the required contacts and following the established schedule. Participants must be covered by adequate on-site medical and accident insurance.

7.14(13) *Limited internship.* The purpose of a limited internship is to provide a participant with exposure to work and the requirements for successful job retention that are needed to enhance the long-term employability of that participant.

a. Limited internships are limited in duration, devoted to skill development, and enhanced by significant employer investment.

b. Internships may be conducted at public, private, for-profit and nonprofit work sites. The use of an intern should involve a substantial investment of effort by employers accepting the intern, and an intern must not be employed in a manner that subsidizes or appears to subsidize private sector employers.

c. The total participation in a limited internship for any participant must not exceed 500 hours per enrollment. In addition, for in-school youth, participation must be limited to 20 hours per week during the school year. In-school youth may participate full-time during summer vacation and holidays.

d. Limited internship agreements must be written only for positions for which a participant would not normally be hired because of lack of experience or other barriers to employment.

e. Participants may be compensated for time spent in the activity. This compensation may be in the form of incentive and bonus payments or wages. If the participant receives wages, the WIA service provider is the employer of record. The wages paid to the participant must be at the same rates as similarly situated employees or trainees of the employer of record, but in no event less than the higher of the federal or state minimum wage. Participants receiving wages must always be paid for time worked, must not be paid for any scheduled hours they failed to attend without good cause, and must, at a minimum, be covered by workers' compensation in accordance with state law. In addition, all participants who are paid wages must be provided benefits and working conditions at the same level and to the same extent as other employees of the employer of record working a similar length of time and doing the same type of work.

f. Participants receiving incentive or bonus payments based on attendance must not receive any payment for scheduled hours that they failed to attend without good cause.

g. Participants who are not receiving wages must be covered by adequate on-site medical and accident insurance.

h. Limited internships may be used in conjunction with on-the-job training with the same employer. However, when this occurs, the internship must precede on-the-job training, and the on-the-job training time for the participant must be reduced.

i. If the private sector work site employer hires the participant during internship, the internship for that participant must be terminated.

7.14(14) *Mentoring.* The purpose of mentoring is to provide a participant with the opportunity to develop a positive relationship with an adult. The adult mentor should provide a positive role model for educational, work skills, or personal or social development. Mentoring for youth must be categorized as either academic (primarily provided to assist a youth in achieving academic success) or employment-related (primarily provided to assist a youth in achieving employment-related success).

7.14(15) *On-the-job training.* The purpose of on-the-job training (OJT) is to train a participant in an actual work situation that has career advancement potential in order to develop specific occupational skills or obtain specialized skills required by an individual employer.

a. Since OJT is employment, state and federal regulations governing employment situations apply to OJT. Participants in OJT must be compensated at the same rates, including periodic increases, as trainees or employees who are similarly situated in similar occupations by the same employer. Wages paid must not be less than the highest of federal or state minimum wage or the prevailing rates of pay for individuals employed in similar occupations by the same employer.

b. Participants in OJT must be provided benefits and working conditions at the same level and to the same extent as other trainees or employees working a similar length of time and doing the same type of job. Each participant in OJT must be covered by workers' compensation in accordance with state law.

c. Payment to employers is compensation for the extraordinary costs of training participants, including costs of classroom training, and compensation for costs associated with the lower productivity of such participants. A trainer must be available at the work site to provide training under an OJT contract. For example, a truck driving position in which the driver drives alone or without immediate supervision or training would not be appropriate for OJT. The payment must not exceed 50 percent of the wages paid by the employer to the participant during the period of the training agreement. Wages are considered to be moneys paid by the employer to the participant. Wages do not include tips, commissions, piece-rate-based earnings or nonwage employee fringe benefits. Payment for overtime hours and holidays is only allowable in accordance with local policies. Holidays may be used as the basis for OJT payments only if the participant actually works and receives training on the holiday.

d. An OJT contract with an employer may be written for a maximum of 6 calendar months unless the contract is for a part-time OJT of less than 500 hours, in which instance the contract period may be extended to a maximum of 12 months. Under no circumstances may an OJT contract be written for a participant if the hours of training required for the position in which the participant is to be trained are determined to be less than 160 hours. The number of OJT training hours for a participant must be determined using a standardized chart, unless the regional customer service plan contains an alternative methodology for determining the length of OJTs. The hours specified must be considered as a departure point for determining actual WIA training hours. If the total number of training hours for the OJT position cannot be provided during the maximum contract length allowable, as many training hours as possible must be provided. The OJT training hours for a participant must be reduced if a participant has related prior employment or training in the same or similar occupation. Previous training or experience, which occurred so long ago that skills gained from that experience are obsolete, may be disregarded to the extent that those skills need to be relearned or reacquired. The number of training hours for a participant may be increased based upon the participant's circumstances, such as a disability. The number of hours of training for any participant as well as the process for extending or reducing those training hours from the basic method of determination must be documented.

e. OJTs may not be written with temporary help agencies or employee leasing firms for positions which will be "hired out" to other employers for probationary, seasonal, temporary or intermittent employment. A temporary employment agency may serve as the employer of record only when the OJT position is one of the staff positions with the agency and not a position that will be "hired out."

f. In situations in which an employer refers an individual for eligibility determination with the intent of hiring that individual under an OJT contract, the individual referred may be enrolled in an OJT with the referring employer only when the referring employer has not already hired the individual and an objective assessment and service plan have been completed which support the development of an OJT with the referring employer.

g. Prior to recontracting with an OJT employer, the past performance of that employer must be reviewed. An OJT contract must not be entered into with an employer who has previously exhibited a pattern of failing to provide OJT participants with continued long-term employment as regular employees with wages and working conditions at the same level and to the same extent as similarly situated employees. Employer eligibility for future OJT contracts need not result in termination if OJT participants voluntarily quit, are terminated for cause, or are released due to unforeseeable changes in business conditions. An employer that has been excluded from OJT contracting because of failing to hire participants may again be considered for an OJT placement one year after that sanction was imposed. In this recontracting situation, if the employer fails to retain the participant after the OJT ends, and there is no apparent cause for dismissing the employee, the employer must not receive any future OJT contracts.

h. OJTs may be written for employed workers when the following additional criteria are met and documented:

(1) The employee is not earning a self-sufficiency wage as defined in the regional customer service plan; and

(2) The OJT relates to the introduction of new technologies, introduction to new production or service procedures, upgrading to new jobs that require additional skills or workplace literacy, or other appropriate purposes identified in the regional customer service plan.

7.14(16) *Preemployment training.* The purpose of preemployment training is to help participants acquire skills necessary to obtain unsubsidized employment and to maintain employment.

a. Activities may include, but are not limited to:

(1) Instruction on how to keep jobs, including employer's expectations relating to punctuality, job attendance, dependability, professional conduct, and interaction with other employees;

(2) Assistance in personal growth and development which may include motivation, self-esteem building, communication skills, basic living skills, personal maintenance skills, social planning, citizenship, and life survival skills; and

(3) Instruction in how to obtain jobs, including completing applications and résumés, and interviewing skills.

b. Preemployment training activities must include a schedule for the participant to follow, regular contact by a staff person, a maximum length of time allowed in the activity, and documentation that the participant and staff are making the required contacts and following the established schedule.

c. Participants must be covered by adequate on-site medical and accident insurance.

7.14(17) *Remedial and basic skill training.* The purpose of remedial and basic skill training is to enhance the employability of participants by upgrading basic literacy skills through basic and remedial education courses, literacy training, adult basic education, and English as a second language (ESL) instruction. Remedial and basic skill training may be conducted in a classroom setting or on an individual basis. Remedial and basic skill training may be used to improve academic or language skills prior to enrollment in other training activities.

a. For adults and dislocated workers, remedial and basic skill training must be offered in combination with other allowable training services (not including customized training).

b. Remedial and basic skill training activities must include a schedule for the participant to follow, regular contact by a staff person, a maximum length of time allowed in the activity, and documentation that the participant and staff are making the required contacts and following the established schedule.

c. Participants must be covered by adequate on-site medical and accident insurance.

7.14(18) *Secondary education certification.* The purpose of secondary education certification is to enhance the employability of participants by upgrading their level of education. Secondary education certification activities may be conducted in a classroom setting or on an individual basis.

a. Secondary education certification must be categorized as one of the following:

(1) Secondary school;

(2) Alternative school;

(3) Tutoring; or

(4) Individualized study.

b. Participation in this component must be expected to result in a high school diploma, general educational development (GED) certificate, or an individualized educational program (IEP) diploma.

c. Secondary education certification activities must include a schedule for the participant to follow, regular contact by a staff person, a maximum length of time allowed in the activity, and documentation that the participant and staff are making the required contacts and following the established schedule.

d. Participants must be covered by adequate on-site medical and accident insurance.

7.14(19) *Skill upgrading.* The purpose of skill upgrading is to provide short-term prevocational training to participants to upgrade their occupational skills and enhance their employability. Examples of allowable skill upgrading activities include a typing refresher to increase speed and accuracy, keyboarding, or basic computer literacy. Skill upgrading may be conducted in a classroom setting or on an individual basis, but must be short-term in nature and must not exceed nine weeks in duration. Participants must be covered by adequate on-site medical and accident insurance.

7.14(20) *Summer activities.* The purpose of summer activities is to provide a youth with summer employment activities that are directly linked to academic and occupational learning.

a. The employment component provides participants with a positive employment experience during the summer months. The employment experience should be directly linked to academic and occupational learning activities. The employment component could be a limited internship, on-the-job training, vocational exploration, or work experience.

b. The summer academic learning component assists youth in achieving academic success. For in-school youth the goal is to prevent the erosion of basic literacy skills over the summer months and, to the extent possible, to increase basic literacy skill levels, particularly in reading and math. In addition, the purpose of the academic learning component includes the improvement of the employment potential of individuals who are not intending to return to school.

(1) All participants must have at least 30 hours of academic learning activities included in their service strategies.

(2) The academic learning activities should be designed as a comprehensive instructional approach that includes thinking, reasoning, and decision-making processes that are necessary for success in school, on the job, and in society in general.

(3) The academic learning activity may include:

1. Remedial and basic skill training;
2. Basic literacy training;
3. Adult basic education;
4. English as a second language;
5. General educational development (GED) instruction;
6. Tutoring;
7. Study skills training;
8. Leadership development opportunities;
9. Adult mentoring;
10. Citizenship training;
11. Postsecondary vocational and academic courses;
12. Applied academic courses; and
13. Other courses or training methods that are intended to retain or improve the basic educational skills of the participant.

(4) The academic learning activities may be conducted in a classroom setting or on an individual basis. The academic learning curriculum provided to a participant should take into account the learning level and interests of that participant.

(5) A participant may be paid a wage-equivalent payment (stipend) based upon attendance for time spent in the academic learning activity, or may be paid release time wages for time spent in the academic learning activity if work experience, on-the-job training, limited internship or vocational exploration is the primary activity. In lieu of being paid a stipend or wages, the youth may be rewarded with an incentive and bonus payment. Participants cannot be paid for unattended hours in the academic learning activity.

c. The occupational learning component provides youth with an opportunity to learn occupational skills related to a specific occupation, or to an occupational cluster. The occupational learning activities may be incorporated in the employment or academic learning component or may be a separate component such as skill upgrading.

d. Participants must be covered by adequate on-site medical and accident insurance.

7.14(21) *Vocational exploration.* The purpose of vocational exploration is to expose participants to jobs available in the private or public sector through job shadowing, instruction and, if appropriate, limited practical experience at actual work sites.

a. Vocational exploration may take place at public, private nonprofit, or private-for-profit work sites.

b. The total participation in this activity for any participant in any one occupation must not exceed 160 hours per enrollment.

c. The length of a participant's enrollment is limited to a maximum of 640 hours, regardless of the number of explorations conducted for the participant.

d. The participant must not receive wages for the time spent in this activity and is not necessarily entitled to a job at the end of the vocational exploration period.

e. The service provider must derive no immediate advantage from the activities of the participant and on occasion the operation of the employer may actually be impeded. In the case of private-for-profit organizations, the participant must not be involved in any activity that contributes, or could be expected to contribute, to additional sales or profits or otherwise result in subsidization of wages for the organization.

f. Vocational exploration activities must include a schedule for the participant to follow, regular contact by a staff person, a maximum length of time allowed in the activity, and documentation that the participant and staff are making the required contacts and following the established schedule.

g. Participants must be covered by adequate on-site medical and accident insurance.

7.14(22) *Work experience.* The purpose of work experience is to provide participants with short-term or part-time subsidized work assignments to enhance their employability through the development of good work habits and basic work skills. Work experience should held participants acquire the personal attributes, knowledge, and skills needed to obtain a job and advance in employment.

a. This activity should be used for individuals who have never worked or have been out of the labor force for an extended period of time including, but not limited to, students, school dropouts, individuals with disabilities, displaced homemakers, and older individuals. Work experience must be limited to persons who need assistance to become accustomed to basic work requirements, including basic work skills, in order to successfully compete in the labor market.

b. Work experience may be used to provide:

(1) Instructions concerning work habits and employer and employee relationships in a work environment;

(2) An improved work history and work references;

(3) An opportunity to actively participate in a specific work field; and

(4) An opportunity to progressively master more complex tasks.

c. Work experiences may be paid or unpaid. If the participant is paid wages, the wages must be at the same rates as similarly situated employees or trainees of the employer of record, but in no event less than the higher of the federal or state minimum wage. In most situations, the service provider is the employer of record. Participants must always be paid for time worked, but must not be paid for any scheduled hours they failed to attend without good cause.

d. In addition, all individuals participating in work experience must be provided benefits and working conditions at the same level and to the same extent as other employees of the employer of record working a similar length of time and doing the same type of work. Each participant must be covered either by workers' compensation in accordance with state law or by adequate on-site medical and accident insurance. Participants are exempt from unemployment compensation insurance. Therefore, unemployment compensation costs are not allowable.

e. Under certain conditions participants in a wage-paying work experience may be paid for time spent attending other activities. Such payments may be made only if work experience participation is scheduled for more than 50 percent of the scheduled training time in all activities. Usually, the participant will be enrolled simultaneously in both the work experience and another activity.

f. Service providers may supplement the costs of wages and fringe benefits only if the service provider is the employer of record. In these instances, the payment for work experience would be made to the employer after adequate time and attendance and supporting documentation is provided. Any such arrangement must be specified in an agreement with the service provider.

g. Work experience may take place in the private, for-profit sector, the nonprofit sector, or the public sector. A participant cannot be placed in work experience with an employer with whom the participant is already employed in an unsubsidized position.

h. Work experience must not be used as a substitute for public service employment activities.

i. A work experience agreement at one work site may be written for a maximum of 13 calendar weeks unless the agreement is for a part-time work experience of less than 500 hours, in which instance the activity period may be extended to a maximum of 26 weeks.

7.14(23) *Miscellaneous services.*

a. Bonding is an allowable cost, if it is not available under federally or locally sponsored programs. If bonding is an occupational requirement, it should be verified that the participant is bondable before the participant is placed in training for that occupation.

b. The costs of licenses or application fees are allowable if occupationally required.

c. The costs of relocation are allowable if it is determined by service provider staff that a participant cannot obtain employment within a reasonable commuting area and that the participant has secured suitable long-duration employment or obtained a bona fide job offer in the area of relocation.

d. The costs of lodging for each night away from the participant's permanent home are allowable if required for continued program participation. While the participant is away from home or in travel status for required training the costs for meals are allowable.

e. The costs of special services, supplies, equipment, and tools necessary to enable a participant with a disability to participate in training are allowable. It is not an allowable use of WIA funds to make capital improvements to a training or work site for general compliance with the Americans with Disabilities Act requirements.

f. Supported employment and training payments are allowable to provide individuals requiring individualized assistance with one-on-one instruction and with the support necessary to enable them to complete occupational skill training and to obtain and retain competitive employment. Supported employment and training may only be used in training situations that are designed to prepare the participant for continuing nonsupported competitive employment. Employment positions supported at sheltered workshops or similar situations may not utilize this activity.

g. The cost of transportation necessary to travel to and from WIA activities and services, including job interviews, are allowable.

h. Incentive and bonus payments are allowable to reward youth for attendance or achievement. Payments must be based upon a local policy that is described in the regional customer service plan, is applied consistently to all participants and is based on attendance or achievement of basic education skills, preemployment/work maturity skills, or occupational skills. The payments may be based on a combination of attendance and achievement.

877—7.15(84A,PL105-220) Individual training accounts. The individual training account (ITA) is established on behalf of a participant by the intensive service provider. ITA is the mechanism through which adults and dislocated workers shall purchase training services from eligible training providers. Payment for supportive services and related needs is not allowable under the ITAs.

7.15(1) Adult and dislocated worker service providers must provide participants the opportunity to select an eligible training provider, maximizing participant choice yet also allowing consultation from the participant's case manager. Unless the program has exhausted funding or has insufficient funds to cover the estimated cost of the program, the service provider must refer the individual to the selected training provider. Since funds are limited, priority shall be given to recipients of public assistance and other low-income individuals.

7.15(2) Participants whose application for a Pell Grant is pending may receive training services; however, an agreement must be in place between the participant and the training provider. In the event the Pell Grant is awarded, funds shall be released to reimburse the program and not the participant.

7.15(3) Payments from ITAs may be made in a variety of ways including credit vouchers, electronic transfer of funds through financial institutions, purchase orders, credit/debit cards or other appropriate methods. How funds will be transferred within a region, within the state and outside the state shall be a local decision as described by the regional workforce investment board in the local plan.

7.15(4) The actual implementation of ITAs will involve the service provider(s) in the region where the participant resides and the selected training provider. Payment amounts and duration of an ITA may be limited according to the needs identified in the individual's employment plan and specified in the local plan.

877—7.16(84A,PL105-220) Certification of training providers.

7.16(1) Eligible training providers. Eligible training providers include:

a. Postsecondary educational institutions that are eligible to receive funds under Title IV of the Higher Education Act of 1965 and provide a program that leads to an associate degree, baccalaureate degree or certificate;

b. Entities that carry out programs under the National Apprenticeship Act; and

c. Other public or private providers of a program of training services.

7.16(2) Training programs. A program of training services is one or more courses or classes that, upon successful completion, lead to a certificate, an associate degree, or baccalaureate degree; or a competency or skill recognized by employers; or a training regimen that provides individuals with additional skills or competencies generally recognized by employers.

7.16(3) Certification process. An application for each training program must be submitted to the regional workforce investment board in the region in which the training provider desires its program to be approved. Each program of training services must be described, including appropriate performance and cost information. Training providers shall be approved, initially, as well as subsequently, by regional workforce investment boards in partnership with the department.

7.16(4) Regional workforce investment board role. The regional workforce investment board shall be responsible for:

a. Accepting applications from postsecondary educational institutions, entities providing apprenticeship programs, and public and private providers for initial and subsequent approval.

b. Submitting to the department the local list of approved providers, including performance and cost information for each program.

c. Ensuring dissemination of the statewide list to participants in employment and training activities through the regional workforce development center system.

d. Consulting with the department in cases where approved providers shall have their approval revoked because inaccurate information has been provided.

e. Notifying all known providers of training in their region regarding the process and time line for accepting applications.

7.16(5) Department role. The department shall be responsible for:

a. Establishing initial approval criteria as well as setting minimum levels of performance for public and private providers;

b. Setting minimum levels of performance measures for all providers to remain subsequently approved;

c. Developing and maintaining the state list of eligible training providers, which is compiled from information submitted by the regional workforce investment boards;

d. Verifying the accuracy of the information on the state list;

e. Removing training providers who do not meet program performance levels;

f. Disapproving training providers who provide inaccurate information; and

g. Disapproving training providers who violate any provision of the Workforce Investment Act.

7.16(6) Initial provider approval. Upon completion of the application, initial approval shall be granted to:

a. Postsecondary educational institutions that are eligible to receive funds under Title IV of the Higher Education Act of 1965 and provide a program that leads to an associate or baccalaureate degree, certificate, or diploma; and

b. Entities that carry out apprenticeship programs registered under the National Apprenticeship Act.

c. Other public and private providers of training services that currently provide a training program shall be required to submit additional information to the regional workforce investment board in the region in which they desire to provide training services.

The department shall accept documentation from the appropriate certification body for postsecondary educational institutions that are eligible to receive funds under Title IV and National Apprenticeship programs, who do not provide a program of training services at the time of application.

7.16(7) Other public and private providers of training services that currently do not provide a program of training services at the time of application must:

a. Document the need for the training based on specific employer needs in the region; and

b. Develop a training curriculum with the agreement of local employers.

Once the training provider's program is approved, the training provider shall be included on a statewide list that will be available to customers seeking training services.

7.16(8) To be eligible effective July 1, 2000, interested training providers must submit their applications to the regional workforce investment board in their region. The application date shall be established by each regional workforce investment board. All approved applications must be submitted to the department by May 31, 2000. The department has 30 days from the receipt of the regionally approved applications to review and verify the information provided. Initial approval for all training providers shall be effective until November 30, 2001.

7.16(9) If a training provider has been determined to be initially eligible and desires to continue its eligibility, it must submit performance information to the regional workforce investment board and meet performance levels annually.

7.16(10) Each regional workforce investment board shall maintain a list of all approved training providers, including providers for on-the-job and customized training in the region, and make the list available statewide. The regional workforce investment board shall submit all approved applications to the department after the applications are received locally. The department shall be responsible for maintaining the statewide list of all approved training providers. The list will be updated at least annually or as needed and made available to participants in employment and training activities and others through the regional workforce development center system. The regional workforce investment board has the responsibility of notifying all known providers of training in the board's region regarding the process and time line for accepting applications. The department may approve training providers from other neighboring states when requested.

7.16(11) Application process for initial approval.

a. Postsecondary educational institutions that are eligible to receive funds under Title IV of the Higher Education Act of 1965 and entities that carry out programs under the National Apprenticeship Act must submit an application as required by the regional workforce investment board. The regional workforce investment board may develop its own application procedures or adopt the procedure developed by the department for other public and private training providers.

b. Other public or private providers of a program of training services shall be required to complete and submit an application to the regional workforce investment board in each region as specified below. The application requires identifying information on the training provider and enrollment periods, as well as the following information:

(1) The name and description of the training program(s) to be offered.

(2) The cost of each training program (tuition; books; supplies, including tools; uniforms; fees, including laboratory; rentals, deposits and other miscellaneous charges) to complete a certificate or degree program or an employer-identified competency skill.

(3) A description of the facility and organization of the school.

c. Program completion rate for all individuals participating in the applicable program conducted by the provider. A program completer is a person who has obtained a certificate, degree, or diploma; or received credit for taking the program; or received a passing grade in the program; or finished the required curriculum of the program.

d. Percentage of all students in the program who obtained unsubsidized employment.

e. Average wages of all students in unsubsidized employment.

For initial approval, the regional workforce investment board may require additional information.

7.16(12) Required information for subsequent approval. To remain an approved training provider, all training providers must have their performance information reviewed by the regional workforce investment board on an annual basis. The required performance information for subsequent approval includes the following information:

a. Program completion rate for all individuals participating in the applicable program conducted by the provider.

b. Percentage of all students who obtained unsubsidized employment.

c. Average wages of all students who obtained unsubsidized employment. (If a training provider is using the unemployment insurance database to calculate wages, the average starting wage will be calculated by a national Department of Labor formula that converts quarterly unemployment insurance wages into an hourly rate.)

d. Where applicable, the rates of licensure or certification, attainment of academic degrees or equivalents, or attainment of other measures of skill of the graduates of the training program.

e. Percentage of WIA participants who obtained unsubsidized employment.

f. Percentage of WIA participants who have completed the training program and who are placed in unsubsidized employment.

g. Retention rates in unsubsidized employment, six months after the first day of employment, of WIA participants who have completed the training program.

h. Average wages, six months after the first day of employment, received by WIA participants who have completed the training program.

i. Average actual cost of training, including tuition, fees, and books, for WIA participants to complete the training program.

The department shall publish, on an annual basis, guidelines on acceptable performance measures for training providers.

7.16(13) Nonapproval. The department, in consultation with the regional workforce investment board, determines whether or not to approve a training provider. If the regional workforce investment board determines that the training provider does not meet the established performance levels, a written recommendation shall be sent to the division administrator of the division of workforce development center administration. The division administrator shall make a determination whether the training provider is disapproved and removed from the list. Regional workforce investment boards and the department must take into consideration the following factors when determining subsequent approval:

a. The specific economic, geographic, and demographic factors in the region in which the training providers seeking approval are located; and

b. Characteristics of the populations served by the training providers seeking approval, including difficulties in serving such populations, where applicable.

If it is determined that an eligible provider or an individual supplying information on behalf of the provider intentionally supplies inaccurate information, the department shall terminate the approval of the training provider for a minimum of two years. If either the regional workforce investment board or the department determines that an eligible provider substantially violates any requirement under the Act, it may terminate approval to receive funds for the program involved or take other such action as determined to be appropriate. A provider whose approval is terminated under any of these conditions is liable to repay all WIA training funds it received during the period of noncompliance.

7.16(14) Appeal process. If a training provider has been determined to be ineligible by failing to meet performance levels, intentionally supplying inaccurate information, or violating any provision of the Act, it has the right to appeal the denial of approval to the department. The training provider shall follow appeal procedures as defined in 7.24(13).

877—7.17(84A,PL105-220) Financial management. Allowable costs shall be determined in accordance with the Office of Management and Budget (OMB) circulars applicable to the various entities receiving grant funds from the department. Nothing in this rule shall supersede the requirements placed on each entity as promulgated by the applicable OMB circular including factors which affect allowability of costs, reasonable costs, allocable costs, applicable credits, direct costs, indirect or facility and administrative costs, allowable costs as defined in "selected items of costs," in accordance with the appropriate OMB circular.

Additional regulations applicable to contractors are found in 29 CFR Part 97 for State and Local Governments and Part 95 for Institutions of Higher Education, Hospitals and other Non-Profit Organizations. Exceptions to those regulations are that:

1. Procurement contracts and other transactions between local boards and units of state and local governments must be conducted only on a cost reimbursement basis.

2. Program income shall be calculated based on the methods outlined in 7.17(2).

3. Any excess revenue over expenditures incurred for services provided by a governmental unit or nonprofit must be considered program income.

7.17(1) General requirements of a financial management system. Financial management systems should provide fiscal controls and accounting procedures that conform to generally accepted accounting principles (GAAP) as they relate to programs administered. A financial management system must also have certain procedures in place to ensure that the system meets the requirements of state and federal laws and regulations.

7.17(2) Program income means income generated by a program-supported activity or earned only as a result of the contract.

a. Program income includes:

(1) Income from fees for services performed and from conferences;

(2) Income from the use or rental of property acquired with contract funds;

(3) Income from the sale of commodities or items fabricated under a contract;

(4) Income generated due to revenue in excess of expenditures for services rendered, when provided by a governmental unit or nonprofit entity.

b. Program income does not include:

(1) Interest earned on grant funds, rebates, credits, discounts, refunds, or any interest earned on any of them. (Such funds shall be credited as a reduction of costs if received during the same funding period. Any credits received after the funding period must be returned to the department.);

(2) Taxes, special assessments, levies, fines, and other governmental revenues raised by a contractor;

(3) Income from royalties and license fees, copyrighted material, patents, patent applications, trademarks, and inventions developed by a contractor;

(4) Any other refunds or reimbursements, such as Pell Grant reimbursement. (Such funds shall be credited back to the program that incurred the original costs.);

(5) Any other funds received as the result of the sale of equipment. (Such funds shall be credited back to the program that incurred the original costs.)

c. Costs incidental to the generation of program income must be deducted, if not already charged to the grant, from gross program income to determine net program income. Net program income earned may be retained and not sent back to the department, if such income is added to the funds committed to the particular program under which it was earned. Net program income must be used for allowable program purposes, and under the terms and conditions applicable to the use of that program's funds. Program income generated may be used for any allowable activity under the program that generated that income.

d. All net program income generated and expended must be reported to the department each month on the financial status report. Documentation of the use of net program income must be maintained on file. Any net program income not used in accordance with the requirements of this rule must be returned to the department.

(1) The classification of costs, including cost limitations, apply to net program income. Net program income must be disbursed prior to requesting additional cash payments. Net program income not disbursed prior to the submittal of the annual closeout reports must be returned to the department.

(2) If the net program income cannot be used by the region that generated such income for allowable purposes, the funds must be returned to the department. The department may permit another region to use the net program income for allowable purposes.

7.17(3) Working capital advance payments of federal funds.

a. Reimbursement is the preferred method for payment. However, the subrecipient may provide working capital advance payments of federal funds only to contractors, not vendors or training providers, after determining that:

(1) Reimbursement is not feasible because the contractor lacks sufficient working capital;

(2) The contractor meets the standards of this rule governing advances to contractor;

(3) Advance payment is in the best interest of the grantee or subrecipient; and

(4) The reason for needing an advance is not the unwillingness or inability of the grantee or subrecipient to provide timely reimbursements to meet the contractor's actual cash disbursements.

b. If the conditions in 7.17(3)*"a"* are met, working capital advance payments may be made to contractors by use of one of the two procedures outlined below:

(1) Cash is only advanced (through check or warrant) to the contractor to cover its estimated disbursement needs for an initial period, generally geared to the contractor's disbursement cycle, but in no event may the advance exceed 20 percent of the contract amount. After the initial advance, the contractor is only reimbursed for its actual cash disbursements; or

(2) Cash is advanced electronically on a weekly basis similar to the system maintained between the department and its contractors. Drawdowns and expenditures must be timed in a way that minimizes the delay between the receipt and actual disbursement of those funds.

7.17(4) Cost allocation. The methods of cost allocation identified in this subrule are not all inclusive. Any method chosen must be consistent with cost allocation principles as defined in the OMB circular applicable to the contractor.

a. Any single cost which is properly chargeable to more than one program or cost category is allocated among the appropriate programs and cost categories based on the benefits derived. Contractors that receive WIA funds are required to maintain a written cost allocation for WIA expenditures. A cost allocation plan is the means by which costs related to more than one program or cost category are distributed appropriately. All costs included in a cost allocation plan must be supported by formal accounting records that substantiate the propriety of eventual charges. Each subrecipient must develop a written plan that addresses how joint costs will be allocated during the fiscal year. The plan must include:

(1) The time period involved;

(2) Programs that must be allocated;

(3) Basis to be used for allocation; and

(4) Exceptions to the general rules.

Any cost that cannot be identified as a direct cost of a particular program or a cost category is allocated based on one of the acceptable methods discussed above and must be included in the cost allocation plan.

b. Cost allocation plans are based on a documented basis. The basis upon which a given cost is allocated is relevant to the nature of the cost being allocated, and whether the cost is a legitimate charge to the program(s) and cost category to which it is being allocated. The basis upon which costs are allocated is consistent throughout the fiscal year.

c. Possible acceptable actual bases for allocating costs include:

(1) Staff timesheet allocation basis (fixed or variable).

(2) Service level allocation basis (fixed or variable).

(3) Usage rate allocation basis (fixed or variable).

(4) Full-time employees basis (fixed only).

d. Funds received under various programs may be allocated using the cost pooling method. Under a cost pooling method, expenditures that cannot be identified to a particular cost category or program may be pooled and allocated in total on a monthly basis. If this method is established, the expenditures must be allocated to each program based upon the benefit derived by each program. Cost pools may be established for a cost category, a line item in an agency's budget or to include multiple programs. The process used to allocate pool costs must ensure that no program or cost category is charged an amount in excess of what is allowed by law or regulation. Examples include:

(1) Administrative, program services or combined cost category pool. (An administrative pool may be used if an entity also has administrative costs associated with programs other than WIA Title I programs.)

(2) Facility or supplies line item cost pool.

(3) Workforce (multiple) programs.

e. Cost allocation plans must be submitted by August 31 of each year to Bureau of Administrative Support, Budgeting and Reporting, Department of Workforce Development, 1000 E. Grand Avenue, Des Moines, Iowa 50319.

7.17(5) Indirect costs may be charged to programs, if the contractor has an approved indirect cost agreement with a federal cognizant agency or another state agency and the agreement covers the term of the grant. The plan must be in compliance with the applicable OMB circular for the entity charging indirect costs.

7.17(6) Time and attendance documentation must be maintained for any individual who receives any part of the individual's wage from programs funded by WIA and for all participants receiving payments based in whole or in part on attendance in programs funded by WIA.

7.17(7) A contractor receiving federal or state funds from the department and conducting its own procurement must have written procurement procedures. The procedures must be consistent with applicable state and local laws and regulations; the procurement standards set forth in this subrule; and the regulations as described in 29 CFR Part 95 for institutions of higher education and nonprofit organizations; or 29 CFR Part 97 for state and local government organizations.

a. State and federal procurement laws and regulations, including the procurement standards set forth in this subrule, take precedence over any contractor procurement policies and procedures.

b. The written procurement policies and procedures of each contractor must include, at a minimum, the following elements:

(1) Authority to take procurement actions;

(2) Standards of conduct;

(3) Methods of procurement;

(4) Solicitation procedures; and

(5) Documentation requirements.

c. There are three types of allowable procurement procedures: request for quotations (RFQ), request for proposals (RFP), and sole source. Contractors must conduct competitive procurement except as outlined in *"d"* below.

d. The circumstances or situations under which sole source procurement is allowable are limited to the following:

(1) Any single purchase of supplies, equipment, or services totaling less than $2,000 in the aggregate;

(2) Single participant work experience, vocational exploration, limited internship and on-the-job training contracts;

(3) Enrollment of individual participants in institutional skills training;

(4) All other individual training or services contracts involving only one participant, except where such contracts include the purchase of property. Such property must be purchased through competitive procedures;

(5) Activities and services that are provided by the fiscal agent, designated service provider, or subrecipient when a determination of demonstrated performance clearly documents the staff's ability to provide the training or services;

(6) A modification to a contract that does not substantially change the statement of work of that contract;

(7) After solicitation of an adequate number of sources, only one acceptable response was received;

(8) Any single service or workshop costing less than $5,000 identified in the regional customer service plan;

(9) Supplies, property and services which have been determined to be available from a single source; and

(10) An emergency situation for which the department or applicable governing boards provide written approval.

7.17(8) Property purchased with funds received through the department must be acquired in accordance with the department standards.

a. Prior approval must be obtained from the department before purchasing any property with a unit acquisition value of $5,000 or more.

b. Real property (real estate and land) shall not be purchased with funds received through the department.

c. Title to all property purchased with the department funds, including participant property, is vested with the state if the state is the majority owner. (If more than one agency contributed funds for the purchase of property, the majority owner is the entity that provided the largest portion of funds. In instances in which entities contributed the same amount of funding, the state is considered the majority owner.)

d. Prenumbered department property tags shall be affixed to all property with a unit acquisition value of $2,000 or more, and to all personal computer logic units and monitors. Unnumbered department property tags shall be affixed to all property with an aggregate value of $2,000 or more at time of purchase. Prenumbered and unnumbered tags will be provided to each region.

e. At a minimum, an inventory of all property must include the following:

1. Property tag number, if applicable;
2. Description of the property;
3. Stock or identification number, including model and manufacturer's serial number, when applicable;
4. Manufacturer;
5. Purchase date;
6. Purchase order number, when applicable;
7. Unit cost;
8. Location of property;
9. Condition of property;
10. Disposition of property as applicable; and
11. Grant agreement number.

f. A physical observation of all property must be conducted by the program operator prior to the end of each fiscal year (June 30). A complete inventory list must be provided to the department in each fiscal year's close-out package.

g. All property purchased with the department funds or transferred from programs under the authority of the department must be used to meet program objectives and the needs and priorities identified in the regional customer service plan. Property purchased with the department funds must be used by the coordinating service provider or program operator in the program or project for which it was acquired, as long as it is needed for that project or program. When no longer needed for the original program or project, the property may be used in other activities supported by the department.

h. The department-purchased property may be made available for use on other projects or programs providing such use does not interfere with the work on the project or program for which it was originally acquired. Priority should be given to other programs or projects supported by the department.

i. Disposition of any property, including participant property, is allowable only with the written concurrence of the department. The request to dispose of property must be in writing and include:

1. A description of the property;
2. Its purchase price;
3. Property tag number;
4. Current condition; and
5. Preference for the method of disposal.

j. The method of disposal may be the outright disposal by local waste agencies of items that are either unusable or unsafe or are currently of immaterial value. Those items that do not fit this definition may be sold locally, using a public process, to generate program income.

k. Requests to dispose of property are to be sent to Business Management, Department of Workforce Development, 1000 E. Grand Avenue, Des Moines, Iowa 50319.

l. Any funds generated from sale of property are to be considered program income and must be used to further the objectives of the program(s) that paid for that property originally. If that funding source no longer exists, then the program income generated must be used for other allowable employment or training activities. In cases where the property was purchased from multiple funding sources, the program income generated may be attributed to the funding source that paid the greatest share of the cost of the property. Otherwise, the program income must be allocated by the same percentages as were used to purchase the property originally.

7.17(9) Certifications. All contractors must certify, as a condition to receive funding, compliance with the following laws and implementing regulations:

a. Workforce Investment Act of 1998 (P. L. 105-220) and all subsequent amendments.

b. U.S. Department of Labor implementing regulations.

c. Iowa Code chapters 84, 84A, and 96.

d. Iowa Administrative Code 877—Chapter 11.

e. Iowa Civil Rights Act of 1965.

f. OMB Circular A-87 for State and Local Governments.

g. OMB Circular A-122 for Non-Profit Entities.

h. OMB Circular A-21 for Institutions of Higher Education.

i. Appendix E of 45 CFR Part 74 for hospitals receiving research and development grants.

j. 29 CFR Part 97 for State and Local Governments.

k. 29 CFR Part 95 for Institutions of Higher Education, Hospitals and other Non-Profit Organizations.

l. Age Discrimination Act of 1975 (42 U.S.C. 6101 et seq.).

m. Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794).

n. Americans with Disabilities Act of 1990.

o. Title IX of the Education Amendments of 1972 (20 U.S.C. 1681 et seq.).

p. Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d et seq.).

q. Debarment and suspension; restrictions on lobbying (29 CFR Part 93).

r. Drug-Free Workplace (29 CFR Part 98).

s. Other relevant regulations as noted in the department's handbook for grantees and contracts for services with the department.

7.17(10) Unallowable costs. WIA funds shall not be spent on the following:

a. Wages of incumbent employees during their participation in economic development activities provided through a statewide workforce investment system.

b. Expenses prohibited under any other federal, state or local law or regulation.

c. Foreign travel, if the source of funds is formula funds under Subtitle B, Title I of WIA.

d. Financial assistance for any program involving political activities.

e. The encouragement of a business to relocate from any location in the United States if the relocation results in any employees losing their jobs at the original location.

f. Customized, skill, or on-the-job training or company-specific assessments of job applicants or employees of a business that has relocated from any location in the United States, until the company has operated at that location for 120 days, if the relocation has resulted in any employees losing their jobs at the original location.

g. Any region may enter into an agreement with another region within the same labor market to pay or share costs of program services, including supportive services. The agreement must be approved by each regional board providing guidance to the area and shall be described in the regional customer service plan.

h. WIA funds cannot be used for public service employment except for disaster relief employment.

i. Fees may not be charged for placement or referral to a WIA activity. However, services, facilities, or equipment funded under the WIA may be used on a fee-for-service basis by employers in a region in order to provide employment and training activities to incumbent workers when such services, facilities, or equipment is not in use to provide services for WIA participants; if such use for incumbent workers would not have an adverse affect on providing services to WIA participants; and if the income derived from such fees is used to carry out WIA programs.

j. WIA funds may not be spent on employment generating activities, economic development, and other similar activities, unless they are directly related to training for eligible individuals. Employer outreach and job development activities are directly related to training for eligible individuals. Allowable employer outreach and job development activities include:

(1) Contacts with potential employers for the purpose of placement of WIA participants;

(2) Participation in business associations (such as chambers of commerce);

(3) Staff participation on economic development boards and commissions, and work with economic development agencies to provide information about WIA programs, to assist in making informed decisions about community job training needs, and to promote the use of first source hiring agreements and enterprise zone vouchering services;

(4) Active participation in local business resource centers (incubators) to provide technical assistance to small and new business to reduce the rate of business failure;

(5) Subscriptions to relevant publications;

(6) General dissemination of information of WIA programs and activities;

(7) The conduct of labor market surveys;

(8) The development of on-the-job training opportunities; and

(9) Other allowable WIA activities in the private sector.

k. The employment or training of participants in sectarian activities is prohibited, as is the construction, operation or maintenance of any part of any facility that is used for sectarian instruction or religious worship. However, WIA funds may be used for the maintenance of a facility that is not primarily devoted to sectarian instruction or religious worship if the organization operating the facility is part of a program or activity providing services to WIA participants.

l. WIA Title I funds may not be used for the encouragement of a business to relocate from any location in the United States if the relocation results in any employee's losing a job at the original location. Also, WIA Title I funds may not be used for customized, skill, or on-the-job training or company-specific assessments of job applicants or employees of a business that has relocated from any location in the United States, until the company has operated at that location for 120 days, if the relocation has resulted in any employee's losing a job at the original location. Pre-award reviews must be conducted to verify that employers are new or expanding and are not relocating from another area.

m. A participant in a program or activity authorized under Title I of WIA shall not displace (including a partial displacement) any current employee as of the date of the participation. In addition, a program or activity authorized under Title I of WIA must not impair existing contracts for services or collective bargaining agreements. If so, the appropriate labor organization and employer must provide written concurrence before the program or activity begins. Regular employees and program participants alleging displacement may file a complaint under WIA grievance procedures.

7.17(11) Record retention. Contractors must maintain all records pertinent to funds received from IWD, including financial, statistical, property, and participant records and supporting documentation.

a. Contractors shall maintain books, records, and documents that sufficiently and properly document and calculate all charges billed for a period of at least five years after the end of each contractor's fiscal year.

b. All records must be retained for a longer period of time if any litigation, audit, or claim is started and not resolved during that period. In these instances, the records must be retained either for five years after the end of the entity's fiscal year or for three years after the litigation, audit, or claim is resolved, whichever is longer.

c. Records for property must be retained for a period of three years after the final disposition of the property.

7.17(12) Disaster recovery system. The contractor must ensure that a satisfactory plan is in place for record recovery in the event that critical records are lost due to fire, vandalism, or natural disaster. All computerized or microfilmed MIS and accounting records must be safeguarded by off-site or multiple-site storage of such records.

7.17(13) Access to records. The state, U.S. Department of Labor, Director—Office of Civil Rights, the Comptroller General of the United States, and any of their authorized representatives must have timely and reasonable right of access to any pertinent books, documents, papers, or other records of the contractor to make audits, examinations, excerpts or transcripts. These rights are not limited to the record retention policies, but may last as long as the records are actually retained by the contractor. If the contractor has established a retention period longer than that required by the regulations, access to those records, by any of the above organizations, does not cease until the records are actually destroyed or discarded.

7.17(14) Records substitution. Substitution of original records can be made by microfilming, photocopying, film imaging or other similar methods.

877—7.18(84A,PL105-220) Auditing.

7.18(1) State and local governments, nonprofits, institutions for higher education and hospitals. Contractors that expend $300,000 or more in a fiscal year in federal funds shall have a single or program-specific audit conducted for that year. Contractors that expend $300,000 or more in federal funds in a fiscal year shall have a single audit conducted, in compliance with OMB Circular A-133 (A-133), except when they elect to have a program-specific audit conducted. Program-specific audits are allowed under the following circumstances:

a. A contractor expends federal funds under only one federal program; and

b. Federal program laws, regulations, or grant agreements do not require a financial statement audit of the contractor.

Contractors that expend less than $300,000 in federal funds in a fiscal year are exempt from federal audit requirements for that year. However, records must be made available for review or audit by the state and federal agencies and the General Accounting Office.

7.18(2) Commercial organizations. If such entities expend more than $300,000 in federal funds in their fiscal year, then either an A-133 audit or a program-specific audit must be conducted.

7.18(3) Vendors. In most cases, contractors need only ensure that procurement, receipt, and payment for goods or services comply with the laws, regulations, and the provisions of contracts or agreements. However, the contractor is responsible for ensuring compliance for vendor transactions which are structured such that the vendor is responsible for program compliance or the vendor's records must be reviewed to determine compliance. If these transactions relate to a major program, the scope of the audit shall include determining whether these transactions are in compliance with laws, regulations, and the provisions of the contract or agreement.

7.18(4) Relation to other audits. Audits performed in accordance with A-133 are in lieu of any financial audit required under individual federal awards. To the extent that this audit meets a federal agency's needs, it shall rely upon and use such audits. However, this does not limit the authority of the federal agency, including the General Accounting Office, to conduct or arrange for additional audits. Federal agencies that conduct additional audits shall ensure that they build upon audit work previously conducted and be responsible for costs incurred for the additional audit work.

7.18(5) Frequency of audits. With the following exceptions, the audit is normally conducted on an annual basis. Entities which are required by constitution or statute, in effect on January 1, 1987, to have audits performed less frequently are permitted to undergo audits biennially. Also, nonprofit entities that had biennial audits for all biennial periods ending between July 1, 1992, and January 1, 1995, are permitted to undergo audits biennially.

7.18(6) Completion and submittal. The audit must be completed and data collection/reporting package forms are to be submitted the earlier of 30 days after the completion of the audit or within nine months after the period covered by the audit. The data collection form and reporting package must also be submitted to the federal clearinghouse designated by the Office of Management and Budget. In addition, one copy of the reporting package and any management letters issued by the auditors are to be submitted to Budgeting and Reporting Bureau, Department of Workforce Development, 1000 E. Grand Avenue, Des Moines, Iowa 50319. Each contractor shall provide one copy of the reporting package to the contracting entity that provided the contractor with WIA funds.

7.18(7) Data collection form. Each contractor shall submit a data collection form to the contracting entity that provided the contractor with WIA funds. This form should state whether the audit was completed in accordance with A-133 guidelines and provide information concerning the federal funds and the results of the audit. The form used shall be approved by the Office of Management and Budget, available from the clearinghouse designated by OMB, and include a signature of a senior level representative of the contractor. Also, a certification must be submitted which states that the entity audited complied with the requirements of A-133, that the form was prepared in accordance with A-133, and that the form, in its entirety, is accurate and complete.

The auditors must sign a statement to be included with the data collection form that indicates, at a minimum, the source of the information included in the form, the auditor's responsibility for the information, the form is not a substitute for the reporting package, and the content of the form is limited to the data elements prescribed by OMB.

7.18(8) Reporting package. Auditors are required to complete a reporting package that includes:

1. Financial statements and schedule of expenditures of federal awards;
2. Summary schedule of prior audit findings;
3. Auditor's report(s); and
4. Corrective action plan.

7.18(9) Records retention. One copy of the data collection form and one copy of the reporting package must remain on file for three years from the date of submission to the federal clearinghouse.

7.18(10) Audit resolution. If an audit is completed with no findings, the department shall receive a notification of audit letter from the appropriate audit firm. The auditee shall be notified of the acceptance of that letter. In no case shall the date from receipt of an acceptable audit report or notification letter to the date of the final determination exceed 180 days. The department shall issue an initial determination within 30 days of receipt of each audit report with negative findings. Such initial determination shall identify costs questioned under the audit and either propose corrective actions to be taken or request additional documentation from the auditee.

a. Each initial determination shall include:

(1) Relevant statutory, regulatory or grant agreement citations supporting the findings and determinations;

(2) Necessary corrective actions required by the auditee to achieve compliance;

(3) A request for additional documentation, as necessary, to adequately respond to the findings; and

(4) Notice of the opportunity for an audit resolution conference with the department.

Each auditee shall be allowed a 30-day period in which to respond. An additional 30 days in which to respond may be requested in writing prior to the end of the initial 30 days. Such request shall include the reason the extension is needed and the date by which the response will be completed. Such a request must be received by the department no later than 30 days after the issuance of the initial determination. The auditee shall be notified in writing of the approval or disapproval of the request.

b. Within 30 days after the due date of the response to the initial determination, a final determination shall be issued and sent to the auditee. A final determination shall be issued whether or not a response to the initial determination has been made. The final determination shall include:

(1) Identification of those costs questioned in the audit report that will be allowed and an explanation of why those costs are allowed;

(2) Identification of disallowed costs, a listing of each disallowed cost and a description of the reasons for each disallowance;

(3) Notification to the chief elected official board and auditee of final determination and debt establishment, if relevant; and

(4) Information on the auditee's and chief elected official board's right to appeal through the department's appeals process.

When a debt has been established, the final determination will be used to set up a debt account in the amount of the debt.

7.18(11) The decision to impose the disallowed cost sanction shall take into consideration whether or not the funds were expended in accordance with that program's rules and regulations, the contract agreement, the Iowa Administrative Code and generally accepted accounting practices. Ignorance of the requirements is not sufficient justification to allow a previously questioned cost nor will the auditee's inability to pay the debt be a consideration in the decision to impose the disallowed cost sanction.

7.18(12) An audit file shall be maintained for each audit or notification letter received from each auditee. The audit may not be considered closed until such time as the federal clearinghouse designated by the Office of Management and Budget accepts the state's resolution report.

877—7.19(84A,PL105-220) Debt collection procedures.

7.19(1) Debt collection begins once the debt has been established by either an audit final determination or financial/program monitoring final decision letter. Debts arising from other forms of oversight will be identified through written communication to the chief elected official board.

7.19(2) If the debt is appealed, debt collection is suspended until that appeal is resolved. If the appeal is granted, debt collection shall not be established.

7.19(3) No earlier than 15 days, but not later than 20 days, after the debt has been established, an initial demand for repayment letter shall be sent to the chief elected official board by certified mail with return receipt requested. The initial demand letter informs the chief elected official board that a debt has been established and references the previous letter that established the debt. When applicable, instructions for requesting a waiver from debt shall be provided in the letter. The chief elected official board shall be granted 15 days from the date of the initial demand letter either to submit payment in full or to forward the applicable request for waiver. If the chief elected official board refuses those options, does not accept the letter, or if no response is received within the required time frame, a final demand for payment shall be issued.

7.19(4) The final demand letter, also sent by certified mail with return receipt requested, shall ask for payment within 10 days from the date of that letter. If the chief elected official board refuses the options identified in the final demand letter, does not accept the letter or does not respond, legal action shall be taken. Such action will seek payment of the debt as well as applicable court costs and accrued interest.

7.19(5) The debt collection process is suspended if a request for waiver is received by the department in accordance with waiver policies applicable to that program. If the request for waiver is denied, the debt collection process will continue.

7.19(6) Payment options. Payment options include the following:

a. Payment in full. Payment of debts is generally a one-time cash payment due at the time of final determination by the department. In cases of documented financial hardship or for other reasons as allowed by law, the department may grant repayment as outlined in *"b"* or *"c"* below. However, the department may charge interest on debts from the date they are established.

b. Repayment agreement. A repayment agreement may be negotiated for a time period not to exceed one year. The agreement must be written and signed by both parties. The agreement must include a schedule of payments which includes exact payment dates, amount of debt and each payment, interest, dates of agreement and a requirement for payment in full for breach of the agreement by the chief elected official board.

c. Allocation reduction. Where allowable, a reduction may be made in a chief elected official board's budget to offset a debt. This may be done in cases where the misexpenditure of funds was not due to willful disregard of the Act or regulations, gross negligence, failure to observe accepted standards of administration or a pattern of misexpenditure. Such allocation reductions will come from administrative funds only.

877—7.20(84A,PL105-220) Grantee report requirements.

7.20(1) *Financial reports.* Financial status reports and funds verification forms are tools used by the department for oversight of financial activity, as well as providing the documentation necessary to complete state and federal reports. Failure to report in a timely manner may result in advance payment delays, negative performance evaluations or possible termination of the contract.

a. Financial status reports. Expenditures must be reported according to the programs and cost categories identified in the budget summary section of each contract. Revenue is reported according to the amount drawn from the department, via wire transfer, at the end of the reporting period. At least quarterly (September, December, March and June reports) expenditures must be reported on an accrued cost basis. Expenditures should further be reported on a modified first-in, first-out basis, which means the oldest year's funds, by cost category, are to be expended first. Financial status reports and fund source pages are to be submitted to Department of Workforce Development, Bureau of Financial Management, 1000 E. Grand Avenue, Des Moines, Iowa 50319.

b. Funds verification forms. Funds drawn by the contractor from the department are done so by electronic funds transfer. The funds are generally requested on Monday of each week and distributed on Friday of the same week. Exceptions are made for weeks that include holidays, and those are addressed on a case-by-case basis. The financial management bureau of the department shall notify contractors in advance of call-in date changes. Funds are requested by preparation of an electronic funds verification form that is attached to an E-mail request. This is sent to the financial management bureau and is the basis for the Friday wire transfer. In order to establish a wire transfer system for a contractor, bank account information must be received by the department two weeks prior to the first wire transfer of funds. The timing of the contractor's receipt of funds and the disbursement of those funds must be done in a manner that minimizes the time that elapses between those two transactions.

7.20(2) *Program reports.* The information entered into the department's management information system is the official database to be used for reporting. Reports are to be submitted to the program coordinator responsible for each individual program. Monthly expenditure reports are due the twentieth of the month following the month that is being reported. Final federal program reports for adult and dislocated worker programs are due August 15 of each year.

Final federal program reports for youth programs are due May 15 of each year.

7.20(3) *Performance reports.* Progress on performance objectives must be reported to the department on a quarterly basis. Quarterly progress reports are due from each regional workforce investment board on October 30, January 31, and April 30 of each year. The annual progress report is due from each region to the department on August 15 of each year.

877—7.21(84A,PL105-220) Compliance review system. The department shall conduct annual financial, program, and quality reviews.

7.21(1) *Financial compliance reviews.* An annual financial compliance review shall be conducted by the department. The on-site reviews will be of all programs administered through written agreement between the department, the subrecipient, and the fiscal agents. Monitoring of non-fiscal agent entities will be limited to those subcontractors of the department that receive $100,000 or more during the fiscal year. The monitoring will be performed to ensure compliance with, but is not limited to, federal and state laws and regulations, the workforce development center system handbook, welfare-to-work handbook, contractual agreements with the department, and generally accepted accounting principles, memorandum(s) of understanding, resource sharing agreements and cost allocation plans.

7.21(2) *Program compliance reviews.* An annual program compliance review shall be conducted by the department. The reviews will focus on the designated service providers for various programs. The on-site reviews include, but are not limited to, the following: activities and services; applicant and participant processes; participant eligibility; participant file review; procurement procedures; management information systems; local plans; and verifications of program performance. The review will ensure local compliance with the applicable state and federal laws and regulations.

7.21(3) *Initial determination.* Separate initial determination letters are completed for each on-site visit. The report shall include a description of findings, which includes specific references to the standards, policies or procedures which have been violated; if necessary, recommended and required corrective action to be implemented by the contractor, designated service provider or coordinating service provider; a description of any questioned costs, including the amount; and time frames for completing any corrective action and responding to the initial report. Responses to the initial determination letter shall be submitted to the department within 20 days from the date of receipt of the letter.

7.21(4) *Final determination.* A final determination letter shall be issued to the subrecipient within 20 days after receipt of the response from the fiscal agent. The letter shall state the department's determination on all findings that required a response and the notification of the right to appeal the final determination. If any findings are unresolved or if costs are disallowed, the letter shall also include a description of the unresolved finding(s); a citation or reference to the applicable regulations or policies on which the finding was based; the final determination of the department on each unresolved finding; and, if there are disallowed costs, the amount of costs disallowed and notification that an initial demand letter shall be sent. Copies of the final determination letter shall be sent to each region's regional workforce investment board, chief elected official board, and coordinating service provider chairs.

7.21(5) *Follow-up.* Follow-up on findings identified shall be conducted during the following fiscal year's review. The department's follow-up will review corrective actions taken in response to those findings.

7.21(6) *Appeals.* The subrecipient may submit an appeal of a final determination within ten days of receipt of the final determination. The appeal may be on behalf of a designated service provider, coordinating service provider or the fiscal agent. The appeal must be directed to the Division Administrator, Division of Workforce Development Center Administration, Department of Workforce Development, 150 Des Moines Street, Des Moines, Iowa 50309. The request for an appeal must also include a copy of the final determination and the basis for the appeal. Appeals shall be reviewed by a three-member appeal committee which shall include one staff member from three different bureaus in the department. Appeals shall be reviewed by staff not actually involved in the on-site monitoring that resulted in the original finding and subsequent final determination. A decision on the appeal shall be rendered by a majority vote of the appeal committee. If the appeal committee cannot arrive at a decision, the division administrator shall make the final decision.

7.21(7) *Quality reviews.* The department shall conduct annual quality reviews. The reviews will focus on overall workforce development center system performance, customer satisfaction, and continuous improvement.

a. System performance measures will be reviewed with the coordinating service provider to identify areas of strength and areas that may need improvement. The review will include an interview with the required workforce development center system partners individually or the partners as a group, or both. The regional customer service plan will also be reviewed to determine what progress is being made to meet the needs and priorities identified by the regional workforce investment board and chief elected official board. In the event system performance standards are not being met, the objective of the review will be to help identify methods for improvement. Should the same issues be identified for two consecutive years, a corrective action plan will be required by the department. All other issues will be referred to the regional workforce investment board for its action.

b. The memorandum(s) of understanding between the workforce development center system partners and the regional workforce investment board will be reviewed. The purpose is to ensure that the products and services offered through the system are available, accessible, and being used.

c. The review will look at efforts being made to coordinate workforce development services throughout the region, to build new partnerships, and to assess the results of these efforts. This may include, but is not limited to, joint grant applications, efforts to integrate services and minimize duplication from the system, level of participation in the system by required and voluntary partners, and unique funding or service delivery methods involving multiple service providers.

d. Overall customer satisfaction of the workforce development center system is to be evaluated. Randomly selected program participants and employers identified in the common intake system will be interviewed. The interview will include, at a minimum, a review of the customer's file as presented on the common intake system, the customer's overall perception of how the customer was treated, an evaluation of the services offered as compared to the needs of the customer, and a review of the case file with the case manager.

e. An exit interview to review the findings will be conducted with the regional workforce investment board and coordinating service provider. Methods for improving systems will be discussed and an agreement reached on their implementation. The coordinating service provider will have 14 days to respond to the findings and recommendations, at which time a final report will be prepared and delivered to the chair of the regional workforce investment board.

877—7.22(84A,PL105-220) Equal opportunity compliance. Reserved.

877—7.23(84A,PL105-220) Regional level complaint procedures. Each coordinating service provider must establish procedures for grievances and complaints. At a minimum, the local procedures must provide:

7.23(1) A process for dealing with grievances and complaints from participants and other interested parties affected by the local workforce investment system, including one-stop partners and service providers;

7.23(2) An opportunity for an informal resolution and a hearing to be completed within two days of the filing of the grievance or complaint;

7.23(3) A process which allows an individual alleging a labor standards violation to submit a grievance to a binding arbitration procedure, if a collective bargaining agreement covering the parties to the grievance so provides; and

7.23(4) An opportunity for a local level appeal to the department when:

a. No decision is reached within 60 days; or

b. Either party is dissatisfied with the local hearing decision.

7.23(5) Participants, service providers and other interested individuals must be informed of the local complaint procedure in writing, as well as the ability and procedures to appeal local decisions to the department.

877—7.24(84A,PL105-220) Department complaint procedures. Complaints may be filed with the department to resolve alleged violations of the Act, federal or state regulations, grant agreement, contract or other agreements under the Act. The department's complaint procedure may also be used to resolve complaints with respect to audit findings, investigations or monitoring reports.

7.24(1) Grievances and complaints from customers and other parties related to the regional workforce development center system and regional programs shall be filed through regional complaint procedures. Any party which has alleged violations at the regional level, and has filed a complaint at the regional level, may request review by the department if that party receives an adverse decision or no decision within 60 days of the date the complaint was filed at the regional level.

7.24(2) Any interested person, organization or agency may file a complaint. Complaints must be filed within 90 calendar days of the alleged occurrence. Complaints must be clearly portrayed as such and meet the following requirements:

a. Complaints must be legible and signed by the complainant or the complainant's authorized representative;

b. Complaints must pertain to a single subject, situation or set of facts and pertain to issues over which the state has authority (unless appealed from the regional level);

c. The name, address and telephone number (or TDD number) must be clearly indicated. If the complainant is represented by an attorney or other representative of the complainant's choice, the name, address and telephone number of the representative must also appear in the complaint;

d. Complaints must state the name of the party or parties complained against and, if known to the complainant, the address and telephone number of the party or parties complained against;

e. Complaints must contain a clear and concise statement of the facts, including pertinent dates, constituting the alleged violations;

f. Complaints must cite the provisions of federal or state regulations, grant agreements, or other agreements believed to have been violated, if applicable;

g. Complaints must state the relief or remedial action(s) sought;

h. Copies of documents supporting or referred to in the complaint must be attached to the complaint; and

i. Complaints must be addressed to Complaint Officer, Division of Workforce Development Center Administration, Department of Workforce Development, 150 Des Moines Street, Des Moines, Iowa 50309.

7.24(3) A complaint is deemed filed with the department when it has been received by the complaint officer and meets the requirements outlined in 7.24(2). Upon receipt of a complaint, the department will send a copy of the complaint and a letter of acknowledgment and notice to the complainant and any persons or entities cited in the complaint within seven calendar days. The letter of acknowledgment and notice shall contain the filing date and notice of the following opportunities:

a. The opportunity for informal resolution of the complaint at any time before a hearing is convened; and

b. The opportunity for a party to request a hearing by filing with the complaint officer within seven calendar days of receipt of the acknowledgment of the complaint.

7.24(4) Failure to file a written request for a hearing within the time provided constitutes a waiver of the right to a hearing, and a three-member panel shall rule on the complaint based upon the information submitted. If a hearing is requested within seven calendar days of receipt of the acknowledgment of the complaint, the hearing shall be held within 20 calendar days of the filing of the complaint. The party(ies) to the complaint shall have the opportunity to submit written evidence, statements, and documents in a time and manner prescribed by the complaint officer.

7.24(5) The complaint officer shall convene a review panel of three agency staff members to review complaints within 20 calendar days of the receipt of the complaint. The review panel may, at its discretion, request oral testimony from the complainant and the parties complained against. Within 30 calendar days of the receipt of the complaint, the review panel shall issue a written decision, including the basis for the decision and, if applicable, remedies to be granted. The decision shall detail the procedures for a review by the director if the complainant is not satisfied with the decision.

7.24(6) Party(ies) may appeal the decision by filing an appeal with the complaint officer no later than 10 calendar days from the issuance date of the decision. The complaint officer will forward the complaint file to the director for review. If no appeal of the decision is filed within the time provided, the decision shall become the final agency decision.

7.24(7) A complaint may, unless precluded by statute, be informally settled by mutual agreement of the parties at any time before a hearing is convened. The settlement must be effected by a settlement agreement or a statement from the complainant that the complaint has been withdrawn or resolved to the complainant's satisfaction. The complaint officer must acknowledge the informal settlement and notify the parties of the final action. With respect to the specific factual situation which is the subject of controversy, the informal settlement constitutes a waiver by all parties of the formalities to which they are entitled under the terms of the Iowa administrative procedure Act, Iowa Code chapter 17A, the Act, and the rules and regulations of the Act.

7.24(8) Upon receipt of a timely request for a hearing, the complaint officer shall assign the matter to a panel. The panel will give all parties at least seven days' written notice either by personal service or certified mail of the date, time and place of the hearing. The notice may be waived in case of emergency, as determined by the panel, or for administrative expediency upon agreement of the interested parties.

a. The notice of hearing shall include:

(1) A statement of the date, time, place, and nature of the hearing;

(2) A brief statement of the issues involved; and

(3) A statement informing all parties of their opportunities at the hearing.

b. All parties are granted the following opportunities at hearing:

(1) Opportunity for the complainant to withdraw the request for hearing before the hearing;

(2) Opportunity to reschedule the hearing for good cause, provided the hearing is not held later than 20 days after the filing of the complaint;

(3) Opportunity to be represented by an attorney or other representative of choice at the complainant's expense;

(4) Opportunity to respond and present evidence and bring witnesses to the hearing;

(5) Opportunity to have records or documents relevant to the issues produced by their custodian when such records or documents are kept by or for the state, contractor or its subcontractor in the ordinary course of business and where prior reasonable notice has been given to the complaint officer;

(6) Opportunity to question any witnesses or parties;

(7) The right to an impartial review panel; and

(8) A final written agency decision shall be issued within 60 days of the filing of the complaint.

7.24(9) An appeal to the director must be filed within 10 calendar days from the issuance date of the decision and include the date of filing the appeal and the specific grounds upon which the appeal is made. Those provisions upon which an appeal is not requested shall be considered resolved and not subject to further review. Appeals must be addressed to Complaint Officer, Division of Workforce Development Center Administration, Department of Workforce Development, 150 Des Moines Street, Des Moines, Iowa 50309.

Upon receipt of an appeal, the complaint officer shall forward the complaint file to the director. The complaint officer shall give written notice to all parties of the filing of the appeal and set a deadline for submission of all written evidence, statements, and documents. The director shall consider all timely filed appeals, exceptions, statements, and documents at the time the decision is reviewed. With the consent of the director, each party may present oral argument. The director may adopt, modify or reject the review panel's decision or remand the case to the review panel for the taking of such additional evidence and the making of such further findings of fact, decision and order as the director deems necessary.

Upon completing the review of the review panel's decision, the director shall issue and forward to all parties a final written decision no later than 60 days after the filing of the initial complaint.

7.24(10) The director's decision is final unless the Secretary of Labor exercises the authority of federal review in accordance with 20 CFR Part 667. Federal level review may be accepted by the Secretary if the complaint meets the requirements of 20 CFR Part 667. Upon exhaustion of the state's grievance and complaint procedure, or when the Secretary has reason to believe that the state is failing to comply with the Act, the state plan, or the region's customer service plan, the Secretary must investigate the allegation or belief and determine within 120 days after receiving the complaint whether such allegation or complaint is true.

7.24(11) Any party receiving an adverse decision at the regional level may file an appeal within 10 calendar days to the department's complaint officer. In addition, any complaint filed at the regional level with no decision within 60 days of the date of the filing may be reviewed by the department. The request to review the complaint must be filed with the complaint officer within 15 calendar days from the date on which the decision should have been received. The appeal or request for review must comply with the procedures as prescribed in 7.24(2) for filing a complaint. The parties involved shall be afforded the rights and opportunities for filing a state level complaint.

The complaint officer shall review all complaints filed within seven calendar days. If the subject and facts presented in the complaint are most relevant to regional policy, the complaint officer shall remand the complaint to the coordinating service provider of the appropriate region for resolution.

Failure to file the complaint or grievance in the proper venue does not negate the complainant's responsibility for filing the complaint in the appropriate time frames.

7.24(12) A unit or combination of units of general local governments or a rural concentrated employment program grant recipient that requests, but is not granted automatic or temporary and subsequent designation as a local workforce investment area, may appeal to the state workforce development board within 30 days of the nondesignation. If the state workforce development board does not grant designation on appeal, the decision may be appealed to the Secretary of Labor within 30 days of the written notice of denial. The appeal must be submitted by certified mail, return receipt requested, to the Secretary, U.S. Department of Labor, Washington, DC 20210. The appellant must establish that it was not accorded procedural rights under the appeal process described in the state plan or establish that it meets the requirements for designation in the Act. The Secretary shall take into account any comments submitted by the state workforce development board.

7.24(13) Training providers have the opportunity to appeal denial of eligibility by a regional workforce investment board or the department, termination of eligibility or other action by a regional workforce investment board or the department, or denial of eligibility as a provider of on-the-job training or customized training by the coordinating service provider. All appeals must be filed with the department within 30 days of receipt of written notice of denial or termination of eligibility. Appellants must follow the procedures for a complaint described in 7.24(2). Appeals shall be handled in the same manner as a complaint. State decisions issued under this subrule may not be appealed to the Secretary of Labor.

7.24(14) WIA participants subject to testing for use of controlled substances and WIA participants who are sanctioned after testing positive for the use of controlled substances may appeal to the department using the procedures for a complaint described in 7.24(2). State decisions issued under this subrule may not be appealed to the Secretary of Labor.

7.24(15) A workforce development region may appeal nonperformance sanctions to the Secretary of Labor under the following conditions:

a. The region has been found in substantial violation of WIA Title I, and has received notice from the governor that either all or part of the local plan will be revoked or that a reorganization will occur; or

b. The region has failed to meet regional performance measures for two consecutive years and has received the governor's notice of intent to impose a reorganization plan.

Revocation of the regional plan or reorganization does not become effective until the time for appeal has expired or the Secretary has issued a decision. An appeal must be filed within 30 days after receipt of written notification of plan revocation or imposed reorganization. It must be submitted by certified mail, return receipt requested, to Secretary of Labor, Attention: ASET, U.S. Department of Labor, Washington, DC 20010. A copy of the appeal must be simultaneously provided to the governor. In deciding the appeal, the Secretary may consider comments submitted in response from the governor. The Secretary will notify the governor and appellant in writing of the Secretary's decision within 45 days after receipt of the appeal filed under 7.24(15)*"a"* above; and within 30 days after receipt of appeals filed under 7.24(15)*"b"* above.

These rules are intended to implement Iowa Code sections 84A.1 to 84A.1B, Iowa Code chapter 96, and the Workforce Investment Act of 1998.

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GAS UTILITIES (cont'd)
Standards

GRANTS (cont'd)
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