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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.

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IOWA ADMINISTRATIVE CODE

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UPDATING INSTRUCTIONS
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CHAPTER 14
PRIVATE WINE SALES
[Prior to 10/8/86, Beer and Liquor Control Department[150]]

185—14.1(123) Wine definition. Wine means any beverage containing more than 5 percent, but not more than 17 percent, of alcohol by weight obtained by the fermentation of the natural sugar content of fruits or other agricultural products by excluding any product containing alcohol derived from malt or by the distillation process from grain cereal, molasses, or cactus. Any wines obtained by the process defined herein that contain more than 17 percent of alcohol by weight will be considered an alcoholic liquor.

This rule is intended to implement Iowa Code section 123.3(37).

185—14.2(123) Bottle label requirements and registration. All holders of a vintner's certificate of compliance must register with the division the labels on all wines they wish to distribute for sale in the state. Applications for label approval will be in letter form and will include a copy of the approved ATF Form 1649, along with the front and back label of the brand for which approval is being requested. No additional approval is required on size extensions unless there is a label change. No wines will be distributed for sales without prior label approval from the division. Requests for approval will be submitted to: The Alcoholic Beverages Division, 1918 S.E. Hulsizer, Ankeny, Iowa 50021, Attn: Products Division.

This rule is intended to implement Iowa Code section 123.21, subsection 7.

185—14.3(123) Wholesaler discrimination. Rescinded IAB 5/15/91, effective 6/19/91.

185—14.4(123) Price postings by all holders of vintner's certificates of compliance. Price postings by all holders of vintner's certificates of compliance will be required for all wines they wish to distribute within the state. These price postings will be submitted in the format as determined by the division. Prices posted will be the most current case price and should reflect the f.o.b. cost at the winery, out-of-state warehouse, or port of entry. Information will be made available by the division to all interested parties.

This rule is intended to implement Iowa Code section 123.21, subsection 6.

185—14.5(123) Price postings. Price postings will be required on all prices charged in sales between Class "A" wine permitholders and Class "B" permitholders. These price postings will contain the most current prices and will be submitted in the format as determined by the division. Frequency of submission will be monthly, commencing July 31, 1985, and each month thereafter as changes occur. The division will post a list of the most current price of wines it lists in a conspicuous place in the agency's central office and in all state liquor stores. Price postings from both the Class "A" wine permitholder and the division will be consolidated in a master price list each month. This information will be made available to all interested parties.

This rule is intended to implement Iowa Code section 123.21, subsection 6.

185—14.6(123) Coupons. Rescinded IAB 5/15/91, effective 6/19/91.

185—14.7(123) Supplier discrimination. A holder of a vintner's certificate of compliance shall not discriminate on the sale of wine to wholesalers of wine which the vintner designates and files with its application for a vintner's certificate of compliance as a wholesaler with whom it intends to do business. Nothing in this rule shall be construed to require any holder of a vintner's certificate of compliance to do business with any wine wholesaler. The holder of a vintner's certificate of compliance may appoint more than one wine wholesaler to service the same geographical territory.

This rule is intended to implement Iowa Code section 123.180.

185—14.8 Rescinded, effective July 1, 1986.

These rules are intended to implement Iowa Code section 123.4.

[Filed emergency 8/2/85—published 8/28/85, effective 8/2/85]
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CHAPTER 15
AGENCY STORES
Rescinded IAB 5/15/91, effective 6/19/91

CHAPTER 16
TRADE PRACTICES

185—16.1(123) Definitions.

16.1(1) Industry member means an alcoholic beverages manufacturer, including a distiller, vintner or brewer, bottler, importer, wholesaler, jobber, representative, broker, agent, officer, director, shareholder, partner or employee of each of the above.

16.1(2) Retailer means the holder of an alcoholic beverages license or permit, agents, officers, directors, shareholders, partners, and employees who sell alcoholic liquor, wine or beer to consumers for consumption on or off the premises of the licensee or permittee.

16.1(3) Equipment includes, but is not limited to, mechanized and nonmechanized refrigeration units and devices used in the storage, dispensing, and cooling of alcoholic liquor, wine and beer, tap boxes, "party wagons," dispensing systems, and shelving. Equipment does not include tapping accessories (including faucets, rods, vents, taps, hoses, washers, couplings, gas gauges, vent tongues, shanks, check valves and "picnic" pumps) which are used in dispensing wine or beer from kegs or bulk packaging.

16.1(4) Furnishings include, but are not limited to, money, services, chairs, tables, lamps, pictures, remodeling costs, bar sinks, menus, carpeting, bar stools, display cabinets and curios, linens, linen services, china and silver or stainless steel eating and other utensils, decorations, and sound systems used by a retailer. (Durable and disposable glassware is addressed in rule 16.6(123).)

16.1(5) Fixtures include, but are not limited to, bar sinks, bars, light fixtures, and indoor or outdoor signs used to identify the retail establishment.

16.1(6) Exclusion, in whole or in part, of a competitor's products includes, but is not limited to, any, some or all of the following factors:

a. Position and location of alcoholic beverages products sold during special event.

b. Alcoholic beverages products sold prior to allegation of violation in retail establishment.

c. Industry member and retailer objective intent.

d. Industry member and retailer connection with charitable or civic sponsor of special event.

e. Alcoholic beverages products sold during the event.

f. Sales price and discounts on alcoholic beverages products sold during the event.

g. Any other special considerations or preferential treatment offered by the industry member and accepted by the retailer which were not similarly offered to all retailers in the same market.

16.1(7) Cost adjustment factor. The division shall annually adjust the dollar limitations in 16.3(123) not to exceed the adjusted annual cost permitted by the federal Bureau of Alcohol, Tobacco, and Firearms contained in 27 CFR 6.83. The division shall annually adjust the dollar limitations in 16.13(123) not to exceed the adjusted annual cost permitted by the federal Bureau of Alcohol, Tobacco, and Firearms contained in 27 CFR 6.85. The division shall annually adjust the dollar limitations in 16.16(123) not to exceed the adjusted annual cost permitted by the federal Bureau of Alcohol, Tobacco, and Firearms contained in 27 CFR 6.100. The dollar limitations for the rules listed in this subrule for calendar year 1992 are as follows:

16.3(123) Product displays: $160.

16.13(123) Retailer advertising utensils: $78.

16.16(123) Participation in retail association activities: $160.

16.1(8) Furnishings, fixtures and equipment do not include the items identified in 16.3(123), 16.5(5), 16.5(6), 16.6(123), 16.10(123), 16.11(123), 16.12(123), or 16.13(5).

This rule is intended to implement Iowa Code sections 123.45 and 123.186.

185—16.2(123) Interest in a retail establishment.

16.2(1) An industry member is prohibited, directly or indirectly, from:

a. Acquiring or holding a partial or complete ownership interest in a retail establishment.

b. Acquiring or holding an interest in the real or personal property owned, occupied or used by the retailer in the conduct of the retail establishment.

c. Acquiring a mortgage on the real or personal property owned by the retailer.

d. Guaranteeing any loan or paying a financial obligation of the retailer, including, but not limited to, personal loans, home mortgages, car loans, operating capital obligations, or utilities.

e. Providing financial, legal, administrative or other assistance to a retailer to obtain a license or permit.

16.2(2) For the purposes of this rule, a subsidiary or an affiliate of an industry member shall not be considered to have any interest in the ownership, conduct or operation of a retailer provided all of the following conditions are satisfied:

a. The industry member and the retail establishment do not share any common officers or directors.

b. The industry member does not control the retail establishment.

c. The industry member is not involved, directly or indirectly, in the operation of the retail establishment.

d. The retail establishment is free from control or interference by the industry member with respect to the retailer's ability to make choices as to the types, brands and quantities of alcoholic beverages purchased and sold.

e. The retail establishment sells brands of alcoholic beverages that are produced or distributed by competing industry members with no preference given to the industry member that holds a financial interest in the retailer.

f. There is no exclusion, in whole or in part, of alcoholic beverages sold or offered for sale by competing industry members that constitutes a substantial impairment of commerce.

g. The retail establishment shall not purchase more than 20 percent of the total annual liquor sales, 20 percent of the total annual wine sales, and 20 percent of the total annual beer sales (measured by gallons) from the industry member.

h. The primary business of the retail establishment is not the sale of alcoholic beverages.

i. All purchases of alcoholic beverages by the retail establishment are made pursuant to Iowa's three-tier system as provided for in Iowa Code chapter 123.

16.2(3) A retail establishment shall file verification with the alcoholic beverages division that it is in compliance with the conditions set forth in this rule upon application, renewal or request of the agency.

16.2(4) This rule is not subject to waiver or variance in specific circumstances.

This rule is intended to implement Iowa Code sections 123.45 and 123.186.

185—16.3(123) Product displays. An industry member is prohibited, directly or indirectly, from renting, leasing or buying display space from a retailer, paying a retailer to set up a display, giving a special price on the products featured in the display or other products sold by the industry member, or providing free merchandise to a retailer in return for a display.

16.3(1) An industry member may give, furnish, sell, rent or loan product displays such as wine racks, bins, barrels, casks and portable, disposable shelving from which alcoholic beverages are displayed and sold, provided that the product display bears conspicuous and substantial advertising matter. A product display is prohibited if it has secondary value to the retailer, for other than advertising purposes. An industry member is prohibited from requiring a retailer to purchase a specific quantity of alcoholic liquor, wine or beer in order to receive a product display.

16.3(2) The total value of all product displays per brand per calendar year may not exceed $155. The value of the product display is the industry member's original cost of the item.

16.3(3) Industry members may not pool or combine their dollar limitations in order to provide a retailer with a product display which exceeds $155. Industry members are prohibited from pooling or combining several brands to provide a retailer with a product display which exceeds $155.

This rule is intended to implement Iowa Code section 123.186.

185—16.4(123) Equipment, furnishings, fixtures. An industry member is prohibited from giving, selling, renting, or lending equipment, furnishings or fixtures to a retailer for use by the retailer or in the retail establishment.

16.4(1) An industry member is prohibited from obtaining equipment, furnishings, or fixtures for a retailer from a third party at a special price.

16.4(2) Reserved.

This rule is intended to implement Iowa Code sections 123.45 and 123.186.

185—16.5(123) Advertising. An industry member is prohibited from paying a retailer, directly or indirectly, to advertise the industry member's alcoholic beverages products.

16.5(1) An industry member is prohibited, directly or indirectly, from sharing the cost of an advertisement with a retailer.

16.5(2) An industry member is prohibited from purchasing advertising from a retailer on such things as, but not limited to, signs, scoreboards, programs, scorecards, and tote boards in ballparks, stadiums, auditoriums, racetracks, arenas, bowling alleys and all other retail establishments.

16.5(3) An industry member may furnish a billboard or "spectacular" sign to a retailer. The sign must bear conspicuous, permanently affixed advertising which identifies the industry member or the industry member's alcoholic beverages products. The sign may be displayed within the establishment or on a fence or similar enclosure facing into the establishment.

If the billboard or sign has secondary value (i.e., electronic, mechanical or manual message center, scorekeeping capabilities, menu board) other than mere advertising, an industry member may furnish a billboard or "spectacular" sign to a retailer provided:

a. The sign is not on a premises covered by a license or permit;

b. The sign is not owned by a retail licensee or permittee;

c. The retailer is not compensated, directly or indirectly, in conjunction with the placement of the sign or advertising thereon;

d. The furnishing of the "spectacular" sign by an industry member shall not result in exclusion (which includes, but is not limited to, preferential treatment), in whole or in part, of a competitor's alcoholic beverages products in the retail establishment; and

e. The billboard or "spectacular" sign does not contain or show an advertisement naming or advertising any retailer, or provide any other secondary utility value for the retailer.

16.5(4) An industry member may purchase advertising in a publication owned by an incorporated nonprofit trade association of retail members. The publication shall be disseminated to the membership of the association on a regular basis. No revenue derived from the advertising shall be used for the benefit or use of any individual member.

The fact that an industry member did not advertise in the publication shall not be used in any way by the membership jointly or severally to effect a restraint of trade of the brands carried by the industry member failing to advertise.

16.5(5) An industry member may give, furnish, loan, rent, or sell copy ready art, newspaper cuts, mats or engraved blocks to retailers for use in retailers' advertisements.

16.5(6) An industry member may furnish a retailer with inside signs, including posters, placards, mechanical devices and window decorations and point-of-sale advertising matter (table tents, menu clip-ons) which have no secondary value to the retailer and are designed solely to promote the alcoholic beverages product. An industry member is prohibited from paying the retailer for any incidental expenses related to the operation of the inside sign.

This rule is intended to implement Iowa Code sections 123.45 and 123.186.

185—16.6(123) Glassware. An industry member engaged in the manufacturing or wholesaling of beer or wine may sell disposable glassware (including foam, paper and one-use plastic cups) to a retailer. An industry member engaged in the manufacturing or wholesaling of beer or wine is prohibited from selling disposable glassware to a retailer at less than the industry member's laid-in cost of the disposable glassware. An industry member engaged in the manufacturing or wholesaling of beer or wine may sell commemorative glassware which bears substantial advertising matter identifying the industry member or the industry member's product to off-premises retailers for resale to consumers. An industry member engaged in the manufacturing or wholesaling of beer or wine is prohibited from selling commemorative glassware to off-premises retailers at less than the industry member's laid-in cost. An industry member engaged in the manufacturing or wholesaling of alcoholic liquor may sell durable or disposable (including foam, paper or one-use plastic cups) glassware to a retailer. The glassware must bear advertising matter which identifies the industry member or the industry member's product. An industry member engaged in manufacturing or wholesaling alcoholic liquor is prohibited from selling durable or disposable glassware to a retailer at less than the industry member's laid-in cost of the disposable or durable glassware.

This rule is intended to implement Iowa Code sections 123.45 and 123.186.

185—16.7(123) Extension of credit and prepaid accounts. An industry member is prohibited from extending credit on the sale of alcoholic liquor, beer, wine coolers, or spirit coolers to a retailer. An industry member may extend credit to a retailer on the sale of wine for not more than 30 days from the date of the sale. An industry member engaged in the manufacturing or wholesaling of beer is prohibited from extending credit to a retailer on the sale of disposable or commemorative glassware. An industry member engaged in the manufacturing or wholesaling of wine may extend not more than 30 days' credit to a retailer on the sale of durable or disposable glassware.

16.7(1) An industry member may establish prepaid accounts in which retailers deposit a sum of money in the hands of the industry member to pay for future purchases of alcoholic beverages products, although a retailer is not required to purchase any quota of alcoholic liquor, wine or beer. The industry member may not hold the money so deposited as "security" for future payment of a debt. The industry member must transfer the amount of the invoice from the retailer's prepaid account each time that the industry member makes a sale and a delivery to the retail establishment. An industry member is not required to establish separate escrow accounts for prepaid accounts; however, the industry member is responsible for accurately and honestly accounting for the funds so held. A retailer may withdraw the money placed in a prepaid account at any time. An industry member is prohibited from utilizing prepaid accounts to require a retailer to take and dispose of any quota of alcoholic liquor, wine or beer.

16.7(2) Reserved.

This rule is intended to implement Iowa Code sections 123.45 and 123.181(2).

185—16.8(123) Quota sales, tie-in sales. An industry member is prohibited from requiring a retailer to purchase and sell any quota of alcoholic liquor, wine or beer. An industry member is prohibited from requiring a retailer to purchase one product in order to purchase another. This prohibition includes combination sales if one or more products may be purchased only in combination with other products and not individually. However, an industry member is not prohibited from selling at a special combination price, two or more kinds or brands of products to a retailer, provided that the retailer has the option of purchasing either product at the usual price, and the retailer is not required to purchase any product not wanted by the retailer.

This rule is intended to implement Iowa Code section 123.186.

185—16.9(123) Combination packaging. An industry member may package and distribute alcoholic liquor, wine or beer in combination with other nonalcoholic items or products provided that the items have no secondary value to the retailer other than having the potential of attracting purchasers and promoting sales. The combination package must be designed to be delivered intact to the consumer and the additional cost incurred by the industry member shall be included in the cost to the retailer. (Industry members who sell alcoholic liquor to the division must comply with the division's policies regarding combination packaging.)

This rule is intended to implement Iowa Code section 123.186.

185—16.10(123) Tastings, samplings and trade spending. An industry member may conduct tastings in a retail establishment, provided that the tasting has the indicia of a tasting and is not a subterfuge to provide a retailer with free merchandise. An industry member may provide samples of alcoholic liquor, wine or beer to a retailer who has not previously purchased the brand from the industry member provided that the quantities of any brand of beer do not exceed 3 gallons; of wine, 3 liters; of alcoholic liquor, 500 milliliters. An industry member may engage in the practice of trade spending (purchasing one round of alcoholic or nonalcoholic beverages for patrons of an on-premises retail establishment). An industry member who engages in trade spending is prohibited from paying the retailer more than the ordinary and customary charge for the beverages.

This rule is intended to implement Iowa Code section 123.186.

185—16.11(123) Tapping accessories and coil cleaning service. An industry member may sell tapping accessories, identified in rule 16.1(123), and carbon dioxide to a retailer at not less than the industry member's laid-in cost. An industry member may sell, furnish or give wine and beer coil cleaning services to a retailer.

This rule is intended to implement Iowa Code sections 123.45 and 123.186.

185—16.12(123) Wine lists. An industry member may furnish, sell, give, rent or loan wine lists and wine menus to a retailer.

This rule is intended to implement Iowa Code section 123.186.

185—16.13(123) Retailer advertising utensils, consumer souvenirs, wearing apparel. An industry member may furnish, give, or sell retailer advertising utensils which bear conspicuous advertising matter permanently affixed to the utensils and which are primarily valuable as point-of-sale advertising intended for use on the premises of the retail establishment. No advertising utensils with secondary value which constitute furnishings, fixtures, or equipment used in the storage, handling, serving, or dispensing of alcoholic beverages, wine, beer, or food within the place of the retail business of a licensee or permittee shall be given, furnished or sold by an industry member to a retailer.

16.13(1) The total value of all retailer advertising utensils which may be furnished, given or sold by an industry member to a retailer per brand per calendar year may not exceed $76.

16.13(2) Industry members may not pool or combine their dollar limitations in order to provide a retailer with retailer advertising utensils which exceed $76.

16.13(3) Industry members may not pool or combine the dollar limitations for several brands in order to provide a retailer with retailer advertising utensils which exceed $76.

16.13(4) The value of the retailer advertising utensil is the industry member's original cost of the item.

16.13(5) An industry member may furnish, give or sell consumer souvenirs to a retailer for unconditional distribution by the retailer to consumers. Consumer souvenirs may include such items as printed recipes, matches, bottle or can openers, corkscrews, shopping bags, pamphlets, leaflets, blotters, postcards, pens or pencils.

Consumer souvenirs must bear conspicuous advertising matter which identifies the industry member or the industry member's alcoholic beverages product. The industry member may not pay or credit the retailer, directly or indirectly, for distributing consumer souvenirs. There is no dollar limitation on consumer souvenirs.

Such souvenirs shall be offered to all retailers by the industry member within the industry member's marketing territory on as equal and equitable a basis as possible. In the event the souvenir also advertises a local event not sponsored by the retailer, the souvenir need only be offered by the industry member to the retailers within the local community where the event is held.

16.13(6) An industry member may sell wearing apparel, including sweatshirts, T-shirts, pants, shorts, hats, caps, polo-type shirts, jackets, jerseys and other similar clothing, which bears substantial permanently affixed advertising identifying the industry member's name or products to a retailer at not less than the industry member's laid-in cost of the items. There is no dollar limitation on wearing apparel which may be sold by an industry member to a retailer.

This rule is intended to implement Iowa Code sections 123.45 and 123.186.

185—16.14(123) Coupons. An industry member may offer coupons to the public for mail-in rebates on alcoholic liquor, wine and beer. An industry member must offer all retailers the opportunity to participate in the coupon offering. A retailer may offer its own coupons to consumers, and the retailer's own coupons may be mail-in rebates or instant rebates at the cash register. An industry member is prohibited from reimbursing the retailer more than the ordinary and customary handling fee for redeeming the coupons.

This rule is intended to implement Iowa Code section 123.186.

185—16.15(123) Stocking and product rotation. An industry member may stock and rotate alcoholic liquor, wine or beer sold by the industry member. An industry member may affix prices to alcoholic liquor, wine or beer sold by the industry member at the time of delivery, provided that the retailer independently determines the price of the alcoholic liquor, wine and beer. An industry member may build product displays either at the time of delivery or at other times. An industry member may not reset or rearrange another industry member's products without the explicit consent of the retailer. An industry member is prohibited from removing another industry member's point-of-sale advertising matter.

This rule is intended to implement Iowa Code section 123.186.

185—16.16(123) Participation in seminars and retail association activities. An industry member may provide educational seminars for retailers regarding such topics as merchandising and product knowledge, tours of alcoholic beverages manufacturing facilities; however, an industry member is prohibited from paying a retailer's expenses or compensating a retailer for attending such seminars and tours.

16.16(1) An industry member may participate in retail association activities in the following manner:

a. Display its products at a trade show or convention.

b. Rent display booth space provided that the rental fee is not excessive and is the same paid by all exhibitors.

c. Provide hospitality for the persons attending the trade show or convention. The hospitality provided by the industry member shall be independent from association-sponsored activities.

d. Purchase tickets, attend functions, and pay registration fees, provided that such payments are not excessive and are the same paid by all exhibitors.

e. Pay for advertising in programs or brochures issued by retail associations at a convention or trade show, provided that the total payments made by an industry member do not exceed $155 per calendar year to any one retail association.

16.16(2) Reserved.

This rule is intended to implement Iowa Code section 123.186.

185—16.17(123) Sponsorships and special events. An industry member is prohibited from giving or furnishing a retailer with money, services, or other things of value (including equipment, fixtures and furnishings) in conjunction with a community, civic, charitable or retailer-sponsored special event. An industry member may contribute to charitable, civic, religious, fraternal, educational and community activities; however, such contributions may not be given to influence a retailer in the selection of the alcoholic beverages products which may be sold at such activities and events. If the industry member's contribution influences, directly or indirectly, the retailer in selection of alcoholic beverages products, and a competitor's alcoholic beverages products are excluded in whole or in part from sale at the activity or event, the industry member and the retailer violate the provisions of this chapter.

This rule is intended to implement Iowa Code sections 123.45 and 123.186.

185—16.18(123) Commercial bribery. An industry member is prohibited from offering or giving a retailer free trips, bonuses or prizes based on sales of the industry member's alcoholic beverages products.

This rule is intended to implement Iowa Code section 123.186.

185—16.19(123) Consignment sales. An industry member is prohibited from selling alcoholic liquor, wine or beer to a retailer on consignment. Consignment means a sale under which the retailer is not obligated to pay for the alcoholic liquor, wine or beer, until the product is sold by the retailer. An industry member may accept the return of alcoholic liquor, wine and beer for ordinary and usual commercial reasons, but it is not obligated to do so. Ordinary and usual commercial reasons for the return of alcoholic liquor, wine and beer include the following: defective products, error in products delivered and discovered by the retailer and reported to the industry member within seven days of the date of delivery, products which may no longer be lawfully sold, termination of retailer's business, termination of franchise, change in formula, proof, label or container of the product, discontinued product. An industry member is prohibited from accepting the return of overstocked or slow moving or seasonal products. An industry member may repack alcoholic liquor, wine and beer for the purpose of assisting the retailer to sell slow moving or overstocked products.

This rule is intended to implement Iowa Code section 123.186.

185—16.20(123) Record keeping. Industry members are required to keep and maintain accurate records for a three-year period regarding each of the items which may be provided to retailers in rules 16.3(123) (product displays), 16.6(123) (glassware), 16.10(123) (tastings, samplings, and trade spending), 16.13(123) (retailer advertising utensils, consumer souvenirs, wearing apparel), 16.16(123) (participation in seminars and retail association activities), and 16.17(123) (sponsorships and special events). Commercial records or invoices may be used to satisfy this record-keeping requirement if all the required information appears on the record or invoice. These records shall state the following: the name and address of the retailer receiving the item, the date furnished, sold, given, loaned, leased or rented, the item furnished, the industry member's laid-in cost of the item furnished, and charges to the retailer for the item. Such records shall be open to representatives of the division during normal business hours of the industry member, and may be subject to administrative subpoena issued by the division administrator.

This rule is intended to implement Iowa Code section 123.186.

185—16.21(123) Free warehousing prohibited. An industry member is prohibited, directly or indirectly, from providing free warehousing of products for a retailer.

This rule is intended to implement Iowa Code section 123.186.

185—16.22(123) Implied or express contracts prohibited. An industry member and a retailer are prohibited from entering into implied or express contracts for the future sale and purchase of alcoholic beverages.

This rule is intended to implement Iowa Code section 123.186.

185—16.23(123) Discounts prohibited. An industry member is prohibited from offering discounts to retailers which are not uniformly offered to all retailers in the market area. An industry member is prohibited from refusing to give a retailer a discount which is offered to other retailers in the market area even though the retailer declines to reduce the price to the consumer during the discount period, or to advertise the industry member's product during the promotion period.

This rule is intended to implement Iowa Code sections 123.135(4) and 123.180(4).

185—16.24(123) Industry member, retailer—subject to penalties. An industry member or a retailer who commits, permits or assents to the prohibitions in this chapter shall be subject to administrative penalties including administrative fines, suspension or revocation of the certificate of compliance, license or permit.

This rule is intended to implement Iowa Code section 123.45.

185—16.25(123) Contested case—burden. In any contested case alleging a violation of this chapter, the burden of demonstrating compliance with the lawful requirements for retention of the license or permit or certificate of compliance shall be placed on the licensee, permittee, or certificate of compliance holder.

This rule is intended to implement Iowa Code sections 17A.18(3) and 123.39.

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*Two ARCs. See Alcoholic Beverages Division, IAB 7/30/86

UTILITIES DIVISION[199]

Former Commerce Commission[250] renamed Utilities Division[199] under the "umbrella" of Commerce Department[181] by 1986 Iowa Acts, Senate File 2175, section 740.

CHAPTER 1
ORGANIZATION AND OPERATION
[Prior to 10/8/86, Commerce Commission[250]]

199—1.1(17A,474) Purpose. This chapter describes the organization and operation of the Iowa utilities board (hereinafter referred to as board) including the offices where, and the means by which any interested person may obtain information and make submittals or requests.

199—1.2(17A,474) Scope of rules. Promulgated under Iowa Code chapters 17A and 474, these rules shall apply to all matters before the Iowa utilities board. No rule shall in any way relieve a utility or other person from any duty under the laws of this state.

199—1.3(17A,474,476,78GA,HF2206) Waivers. In response to a request, or on its own motion, the board may grant a waiver from a rule adopted by the board, in whole or in part, as applied to a specific set of circumstances, if the board finds, based on clear and convincing evidence, that:

1. The application of the rule would pose an undue hardship on the person for whom the waiver is requested;
2. The waiver would not prejudice the substantial legal rights of any person;
3. The provisions of the rule subject to a petition for waiver are not specifically mandated by statute or another provision of law; and
4. Substantially equal protection of public health, safety, and welfare will be afforded by a means other than that prescribed in the rule for which the waiver is requested.

The burden of persuasion rests with the person who petitions the board for the waiver. If the above criteria are met, a waiver may be granted at the discretion of the board upon consideration of all relevant factors.

Persons requesting a waiver may use the form provided in 199—subrule 2.2(17), or may submit their request as a part of another pleading. The waiver request must state the relevant facts and reasons the requester believes will justify the waiver, if they have not already been provided to the board in another pleading. The waiver request must also state the scope and operative period of the requested waiver. If the request is for a permanent waiver, the requester must state reasons why a temporary waiver would be impractical.

The waiver shall describe its precise scope and operative period. Grants or denials of waiver requests shall contain a statement of the facts and reasons upon which the decision is based. The board may condition the grant of the waiver on such reasonable conditions as appropriate to achieve the objectives of the particular rule in question. The board may at any time cancel a waiver upon appropriate notice and opportunity for hearing.

This rule is intended to implement Iowa Code chapters 17A, 474, and 476 and 2000 Iowa Acts, House File 2206.

199—1.4(17A,474) Duties of the board. The utilities board regulates electric, gas, telephone, telegraph, and water utilities; and pipelines and underground gas storage. The board regulates the rates and services of public utilities pursuant to Iowa Code chapter 476; certification of electric power generators pursuant to chapter 476A; construction and safety of electric transmission lines pursuant to chapter 478; and the construction and operation of pipelines and underground gas or hazardous liquid storage pursuant to chapters 479, 479A and 479B.

199—1.5(17A,474) Organization. The utilities division consists of the three-member board, the office of the executive secretary, which heads the technical and administrative staff, and the office of general counsel.

1.5(1) *The board.* The three-member board is the policy-making body for the utilities division. The chairperson serves as the administrator of the utilities division. As administrator, the chairperson is responsible for all administrative functions and decisions.

1.5(2) *General counsel.* The duties of the general counsel are prescribed by Iowa Code section 474.10. The general counsel acts as attorney for and legal advisor of the board and its staff and represents the board in all actions instituted in a state or federal court challenging the validity of any rule, regulation or order of the board.

1.5(3) *The office of the executive secretary.* The executive secretary is appointed by the board and is its chief operating officer and responsible for all technical staff. The executive secretary is also the custodian of the board seal and all board records. The executive secretary. deputy executive secretary, or secretary's designee is responsible for attesting to the signatures of the board members and placing the seal on original board orders. The executive secretary, deputy executive secretary, or the secretary's designee is responsible for certifying official copies of board documents. The executive secretary shall also be responsible for establishing procedures for the examination of board records by the general public pursuant to the provisions of Iowa Code section 22.11 and for providing for the enforcement of those procedures.

a. The deputy executive secretary assists the executive secretary in carrying out responsibilities and is responsible for preparing the agency budget and managing the records center, technical library, and receptionist area.

b. The customer service section serves as the agency's information contact and provides customer assistance and education for both the staff and the public. The section assists customers and competitors in resolving disputes with service providers. The section monitors customer service policies and practices, provides information to the public, and advises the board on customer service quality and issues of public concern.

c. The energy section is responsible for providing the board with recommendations for appropriate actions on energy matters. The section monitors activities of gas, electric, and water service providers. It also provides analysis and recommendations on tariff filings, rate proceedings, annual fuel purchase reviews, service territory disputes, and restructuring issues. The section advises the board on issues before the Federal Energy Regulatory Commission (FERC) and U.S. Department of Energy (DOE).

d. The information technology section is responsible for the development of electronic support and technology training for the division. This includes the development of a management information system and other database applications for the division. It also maintains the board's local area network system and provides all computer and technical support services and systems for the processing of information and records, including website development and maintenance, and monitoring incoming electronic messages and requests for information.

e. The policy development section provides professional and technical support to the industry sections and the board in the areas of policy development and research. In cases before the board, the section is responsible for the review and analysis of cost of capital, cost of service, and rate design. The section is responsible for performing analysis of competitive and restructuring issues, utility management performance, least cost alternatives, energy efficiency activities, and other public policy matters.

f. The safety and engineering section is responsible for the regulation of gas and electric providers and pipeline and electric transmission and distribution companies as it relates to safety, construction, and operation and maintenance of facilities. The section reviews and processes all petitions for electric transmission line franchises under Iowa Code chapter 478 and for pipeline permits under Iowa Code chapters 479 and 479B. It also acts as an agent for the federal Department of Transportation in pipeline safety matters.

g. The telecommunications section is responsible for providing the board with recommendations for appropriate actions on telecommunications matters. The section monitors activities of telecommunications service providers. It also provides analysis and recommendations of telecommunications providers' filings, rate proceedings, and advises the board on ratemaking and restructuring issues. The section advises the board on issues before the Federal Communications Commission (FCC).

199—1.6(68B) Consent for the sale of goods and services.

1.6(1) *General prohibition.* An official or employee shall not sell, either directly or indirectly, any goods or services to individuals, associations, or corporations subject to the regulatory authority of the board without obtaining written consent as provided in this rule.

1.6(2) *Definitions.*

"Employee" shall mean a full-time employee of the utilities division, the employee's spouse and dependents, a firm in which the employee is a partner, and any corporation in which the employee holds 10 percent or more of the stock either directly or indirectly.

"Employment" means selling of goods or services to another for hire or selling goods or services.

"Official" means an individual appointed to the utilities board, that individual's spouse or dependents, a firm in which the official is a partner, and any corporation in which the official holds 10 percent or more of the stock either directly or indirectly.

"Selling goods or services" may include "employment by" or "employment on behalf of."

1.6(3) *Application for consent.*

a. Written consent shall be obtained at least 30 days in advance of making a sale in the following manner:

(1) For utilities division employees, by written application to the utilities board.

(2) For utilities board members, by written application to the director of the department of management.

b. The written application, filed in the utilities division record center, shall include the following information:

(1) Name of prospective employer;

(2) Term of anticipated employment;

(3) Copy of the employment contract or job description, if available;

(4) Service to be provided, detailing duties or function to be performed;

(5) Description of goods to be sold; and

(6) Direct or indirect relationship to regulated entity.

c. Consent or denial of consent shall be given in writing within 14 days of the written request and shall be retained in the utilities division record center as a public record.

1.6(4) *Conditions of consent for officials.* Consent shall not be given to an official unless all of the following conditions are met:

a. The selling of the good or service does not affect the official's job duties or functions.

b. The selling of the good or service does not include acting as an advocate on behalf of the individual, association, or corporation to the department.

c. The selling of the good or service does not result in the official selling of a good or service to the division on behalf of the individual, association, or corporation.

1.6(5) *Conditions of consent for employees.* Consent shall not be given to an employee unless all of the following conditions are met:

a. The employee's job duties or functions are not related to the division's regulatory authority over the individual, association, or corporation, or the selling of the good or service does not affect the employee's job duties or functions.

b. The selling of the good or service does not include acting as an advocate on behalf of the individual, association, or corporation to the division.

c. The selling of the good or service does not result in the employee selling a good or service to the department on behalf of the individual, association, or corporation.

1.6(6) *Effect of consent.* The consent must be in writing. The consent is valid only for the activities and period described in it and only to the extent that material facts have been disclosed and the actual facts are consistent with those described in the application. Consent can be revoked at any time by notice to the employee or official.

1.6(7) *Participation in utility programs.* Nothing in this rule shall prohibit employees or officials of the utilities division from participating in utility programs on the same terms and conditions offered to other customers.

1.6(8) *Appeal.* An employee may grieve the decision in accordance with 581—Chapter 12 of the Iowa department of personnel rules.

1.6(9) *Notice.* Officials and employees of the utilities division shall be provided a copy of the rule. A copy of the rule shall be provided by the division to each new official and employee upon employment.

199—1.7 Rescinded, effective January 1, 1984.

199—1.8(17A,474) Matters applicable to all proceedings.

1.8(1) *Communications.* All communications to the board shall be addressed to the Executive Secretary, Iowa Utilities Board, 350 Maple Street, Des Moines, Iowa 50319-0069, unless otherwise specifically directed. Pleadings and other papers required to be filed with the board shall be filed in the office of the executive secretary of the board within the time limit, if any, for such filing. Unless otherwise specifically provided, all communications and documents are officially filed upon receipt at the office of the board.

1.8(2) *Office hours.* Office hours are 8 a.m. to 4:30 p.m., Monday to Friday. Offices are closed on Saturdays and Sundays and on official state holidays designated in accordance with state law.

1.8(3) *Sessions of the board.* The board shall be considered in session at the office of the board in Des Moines, Iowa, during regular business hours. When a quorum of the board is present, it shall be considered a session for considering and acting upon any business of the board. A majority of the board constitutes a quorum for the transaction of business.

1.8(4) *Service of documents.*

a. Method of service. Unless otherwise specified, the papers which are required to be served in a proceeding may be served by first-class mail, properly addressed with postage prepaid, or by delivery in person. When a paper is served, the party effecting service shall file with the board proof of service substantially in the form prescribed in board rule 2.2(16) or by admission of service by the party served or his attorney. The proof of service shall be attached to a copy of the paper served. When service is made by the board, the board will attach an affidavit of service, signed by the person serving same, to the original of the paper.

b. Date of service. The date of service shall be the day when the paper served is deposited in the United States mail or is delivered in person.

c. Parties entitled to service. All parties in any proceeding, including the general counsel and the consumer advocate, shall be served with all notices, motions, or pleadings filed or issued in the proceeding. Consumer advocate shall be served three copies, either by separate mailing addressed to the Office of Consumer Advocate, 310 Maple Street, Des Moines, Iowa 50319-0069, or by separate envelope delivered to the office of the consumer advocate.

1.9(9) *Procedures by which the subject of a confidential record may have a copy released to a named third party.* Upon a request which complies with the following procedures, the board will disclose a confidential record to its subject or to a named third party designated by the subject. Positive identification is required of all individuals making such a request.

a. In-person requests. Subjects of a confidential record who request that information be given to a named third party will be asked for positive means of identification. If an individual cannot provide suitable identification, the request will be denied.

Subjects of a confidential record who request that information be given to a named third party will be asked to sign a release form before the records are disclosed.

b. Written request. All requests by a subject of a confidential board record for release of the information to a named third party sent by mail shall be signed by the requester and shall include the requester's current address and telephone number (if any). If positive identification cannot be made on the basis of the information submitted along with the information contained in the record, the request will be denied.

Subjects of a confidential record who request by mail that information be given to a named third party will be asked to sign a release form before the records are disclosed.

c. Denial of access to the record. If positive identification cannot be made on the basis of the information submitted, and if data in the record is so sensitive that unauthorized access could cause harm or embarrassment to the individual to whom the record pertains, the board may deny access to the record pending the production of additional evidence of identity.

1.9(10) *Procedure by which the subject of a board record may have additions, dissents or objections entered into the record.* An individual may request an addition, dissent or an objection be entered into a board record which contains personally identifiable data pertaining to that individual. The request shall be acted on within a reasonable time.

a. Content of request. The request must be in writing and addressed to the executive secretary of the board. The request should contain the following information:

(1) A reasonable description of the pertinent record.
(2) Verification of identity.
(3) The requested addition, dissent or objection.
(4) The reason for the requested addition, dissent or objection to the record.

b. Denial of request. If the request is denied, the requester will be notified in writing of the refusal and will be advised that the requester may seek board review of the denial within ten working days after issuance of the denial.

1.9(11) *Advice and assistance.* Individuals who have questions regarding the procedures contained in these rules may contact the executive secretary of the board at the following address: Iowa Utilities Board, 350 Maple Street, Des Moines, Iowa 50319.

1.9(12) *Data processing system.* The board does not currently have a data processing system which matches, collates or permits the comparison of personally identifiable information in one record system with personally identifiable information on another record system.

These rules are intended to implement Iowa Code sections 17A.3, 68B.4, 474.1, 474.5, 474.10, 476.1, 476.2, 476.31 and 546.7.

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2.2(14) *Motion.*

STATE OF IOWA
BEFORE THE IOWA UTILITIES BOARD

(insert case title)	}	DOCKET NO. (insert docket No.) MOTION FOR (insert subject matter of motion)

COMES NOW (insert name of moving party) and moves the board to (insert specific relief sought) and in support thereof states:

(The motion shall then set forth in separately numbered paragraphs the grounds relied on in making the motion, including specific statutory or other authority.)

WHEREFORE, (insert name of moving party) prays the board to (insert specific relief or order sought).

Respectfully submitted,

_____
(signature)
(name)
(address and zip code)

2.2(15) *Written appearance.*

STATE OF IOWA
BEFORE THE IOWA UTILITIES BOARD

(insert case title)	}	DOCKET NO. (insert docket No.) APPEARANCE

COMES NOW (insert name of person filing appearance) and enters (insert pronoun) appearance on behalf of (insert name(s), address(es) and zip code(s) of person(s) on behalf of whom the appearance is filed) in this matter.

Respectfully submitted,

_____
(signature)
(name)
(address and zip code)

2.2(16) *Certificate of service.*

I hereby certify that I have this day served the foregoing document upon all parties of record in this proceeding in accordance with the requirements of the rules of the Iowa utilities board.

Dated at _____ this _____ day of _____,19 _____.

By _____
(signature)
(name)
(address and zip code)

2.2(17) *Waiver request.*

STATE OF IOWA
BEFORE THE IOWA UTILITIES BOARD

(insert case title) } DOCKET NO. (insert docket No.)
WAIVER REQUEST

COMES NOW (insert name of person requesting the waiver), and files this request for a waiver, and in support states:

1. (Insert the specific waiver requested, including a citation to the specific rule the requester wants to be waived, and the precise scope and operative period of the requested waiver. If the request is for a permanent waiver, state the reasons why a temporary waiver would be impractical.)

2. (Insert the relevant facts and reasons that show each of the following: (a) the application of the rule would pose an undue hardship on the person for whom the waiver is requested; (b) the waiver would not prejudice the substantial legal rights of any person; (c) the provisions of the rule subject to a petition for waiver are not specifically mandated by statute or another provision of law; and (d) substantially equal protection of public health, safety, and welfare will be afforded by a means other than that prescribed in the rule for which the waiver is requested.)

3. (Insert the names of the persons who may be adversely impacted by the grant of the waiver, if known.)

WHEREFORE, (insert name of requester) prays the board grant the request for a waiver of the rule specified above.

Respectfully submitted,

_____
(signature of requester)
(name)
(address and zip code)

This rule is intended to implement Iowa Code sections 474.6, 476.6 and 476.8 and 2000 Iowa Acts, House File 2206.

199—2.3 Rescinded, effective 9/8/86.

199—2.4(17A,474) Forms. The following forms for proceedings under Iowa Code chapters 478, 479, and 479B are available upon request:

1. Petition for Electric Line Franchise.
2. Petition for Amendment of Electric Line Franchise.
3. Petition for Extension of Electric Franchise.
4. Exhibit C, Overhead Transmission Line: Typical Engineering Specifications.
5. Exhibit C-UG, Engineering Specifications for Underground Transmission Line.
6. Petition for Permit to Construct, Operate, and Maintain a Pipeline.
7. Petition for Renewal of Permit to Construct, Operate, and Maintain a Pipeline.
8. Exhibit C, Specifications for Pipeline.
9. Petition for Permit for Hazardous Liquid Pipeline.

These rules are intended to implement Iowa Code sections 474.1, 474.5, 474.6, 474.10, 476.6, 476.8 and 546.7.

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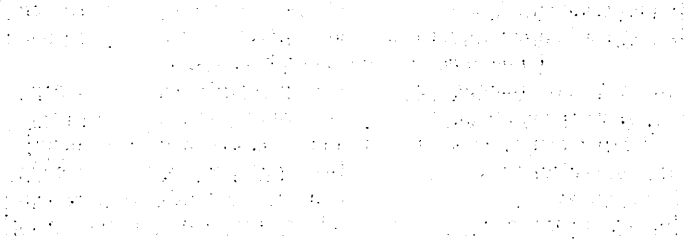

UTILITIES AND TRANSPORTATION DIVISIONS

CHAPTER 15
COGENERATION AND SMALL POWER PRODUCTION

[Ch 15 renumbered as Ch 7,10/20/75]
[Prior to 10/8/86, Commerce Commission[250]]

199—15.1(476) Definitions. Terms defined in the Public Utility Regulatory Policies Act of 1978 (PURPA), 16 U.S.C. 2601, et seq., shall have the same meaning for purposes of these rules as they have under PURPA, unless further defined in this chapter.

"Avoided costs" means the incremental costs to an electric utility of electric energy or capacity or both which, but for the purchase from the qualifying facility or qualifying facilities, such utility would generate itself or purchase from another source.

"Back-up power" means electric energy or capacity supplied by an electric utility to replace energy ordinarily generated by a facility's own generation equipment during an unscheduled outage of the facility.

"Board" means the Iowa utilities board.

"Interconnection costs" means the reasonable costs of connection, switching, metering, transmission, distribution, safety provisions and administrative costs incurred by the electric utility directly related to the installation and maintenance of the physical facilities necessary to permit interconnected operations with a qualifying facility, to the extent the costs are in excess of the corresponding costs which the electric utility would have incurred if it had not engaged in interconnected operations, but instead generated an equivalent amount of electric energy itself or purchased an equivalent amount of electric energy or capacity from other sources. Interconnection costs do not include any costs included in the calculation of avoided costs.

"Interruptible power" means electric energy or capacity supplied by an electric utility subject to interruption by the electric utility under specified conditions.

"Maintenance power" means electric energy or capacity supplied by an electric utility during scheduled outages of the qualifying facility.

"Next generating plant" means the utility's assumed next coal-fired base load electric generating plant, whether currently planned or not, based on current technology and undiscounted current cost.

"Purchase" means the purchase of electric energy or capacity or both from a qualifying facility by an electric utility.

"Qualifying alternate energy production facility" means any of the following:

1. An electric production facility which derives 75 percent or more of its energy input from solar energy, wind, waste management, resource recovery, refuse-derived fuel, agricultural crops or residues, or wood burning;
2. Land, systems, buildings, or improvements that are located at the project site and are necessary or convenient to the construction, completion, or operation of the facility; or
3. Transmission or distribution facilities necessary to conduct the energy produced by the facility to the purchasing utility.

A facility which is a qualifying facility under 18 CFR Part 292, Subpart B, is not precluded from being an alternate energy production facility.

"Qualifying facility" means a cogeneration facility or a small power production facility which is a qualifying facility under 18 CFR Part 292, Subpart B.

"Qualifying small hydro facility" means any of the following:

1. A hydroelectric facility at a dam;

2. Land, systems, buildings, or improvements that are located at the project site and are necessary or convenient to the construction, completion or operation of the facility; or

3. Transmission or distribution facilities necessary to conduct the energy produced by the facility to the purchasing utility.

A facility which is a qualifying facility under 18 CFR Part 292, Subpart B, is not precluded from being a small hydro facility.

"Rate" means any price, rate, charge, or classification made, demanded, observed or received with respect to the sale or purchase of electric energy or capacity, or any rule, regulation, or practice respecting any rate, charge, or classification, and any contract pertaining to the sale or purchase of electric energy or capacity.

"Sale" means the sale of electric energy or capacity or both by an electric utility to a qualifying facility.

"Supplementary power" means electric energy or capacity supplied by an electric utility, regularly used by a qualifying facility in addition to that which the facility generates itself.

"System emergency" means a condition on a utility's system which is likely to result in imminent significant disruption of service to customers or is imminently likely to endanger life or property.

199—15.2(476) Scope.

15.2(1) *Applicability.*

a. Subrule 15.2(2) and rules 199—15.3(476) and 199—15.10(476) of this chapter apply to all electric utilities and to all qualifying facilities, all qualifying alternate energy production facilities, and all qualifying small hydro facilities.

b. Rules 199—15.4(476) to 199—15.9(476) of this chapter apply only to the regulation of sales and purchases between qualifying facilities and electric utilities which are subject to rate regulation by the board.

c. Rules 199—15.11(476) to 199—15.16(476) of this chapter apply only to the regulation of sales and purchases between qualifying alternate energy production or small hydro facilities, and electric utilities which are subject to rate regulation by the board, pursuant to Iowa Code sections 476.41 to 476.45.

15.2(2) *Negotiated rates or terms.* These rules do not:

a. Limit the authority of any electric utility, any qualifying facility, any qualifying alternate energy production facility, or any qualifying small hydro facility to agree to a rate for any purchase, or terms or conditions relating to any purchase, which differ from the rate or terms or conditions which would otherwise be required by these rules; or

b. Affect the validity of any contract entered into between an electric utility and either a qualifying facility, a qualifying alternate energy production facility, or a qualifying small hydro facility, for any purchase.

199—15.3(476) Information to board. In addition to the information required to be supplied to the board under 18 CFR 292.302, all electric utilities shall supply to the board copies of contracts executed for the purchase or sale, for resale, of energy or capacity. If the purchases or sales are made other than pursuant to the terms of a written contract, then information as to the relevant prices and conditions shall be supplied to the board. All information required to be supplied under this rule shall be filed with the board by May 1 and November 1 of each year, for all transactions occurring since the last filing was made.

199—15.4(476) Rate-regulated electric utility obligations under this chapter regarding qualifying facilities. For purposes of this rule, "electric utility" means a rate-regulated electric utility.

15.4(1) *Obligation to purchase from qualifying facilities.* Each electric utility shall purchase, in accordance with these rules, any energy and capacity which is made available from a qualifying facility:

a. Directly to the electric utility; or

b. Indirectly to the electric utility in accordance with subrule 15.4(4).

15.4(2) *Obligation to sell to qualifying facilities.* Each electric utility shall sell to any qualifying facility, in accordance with these rules and the other requirements of law, any energy and capacity requested by the qualifying facility.

15.4(3) *Obligation to interconnect.* Any electric utility shall make the interconnections with any qualifying facility as may be necessary to accomplish purchases or sales under these rules. The obligation to pay for any interconnection costs shall be determined in accordance with rule 199—15.8(476). However, no electric utility is required to interconnect with any qualifying facility if, solely by reason of purchases or sales over the interconnection, the electric utility would become subject to regulation as a public utility under Part II of the Federal Power Act.

15.4(4) *Transmission to other electric utilities.* If a qualifying facility agrees, an electric utility which would otherwise be obligated to purchase energy or capacity from the qualifying facility may transmit the energy or capacity to any other electric utility. Any electric utility to which the energy or capacity is transmitted shall purchase the energy or capacity under this subpart as if the qualifying facility were supplying energy or capacity directly to the electric utility. The rate for purchase by the electric utility to which the energy is transmitted shall be adjusted up or down to reflect line losses and shall not include any charges for transmission.

15.4(5) *Parallel operation.* Each electric utility shall offer to operate in parallel with a qualifying facility, provided that the qualifying facility complies with any applicable standards established in accordance with these rules.

199—15.5(476) Rates for purchases from qualifying facilities by rate-regulated electric utilities. For purposes of this rule, "electric utility" or "utility" means a rate-regulated electric utility.

15.5(1) *Rates for purchases.* Rates for purchases shall:

a. Be just and reasonable to the electric consumer of the electric utility and in the public interest; and

b. Not discriminate against qualifying cogeneration and small power production facilities. Nothing in these rules requires any electric utility to pay more than the avoided costs, as set forth in these rules, for purchases.

15.5(2) *Relationship to avoided costs.* For purposes of this subrule, "new capacity" means any purchase from capacity of a qualifying facility, construction of which was commenced on or after November 9, 1978.

A rate for purchases satisfies the requirements of this rule if the rate equals the avoided costs determined after consideration of the factors set forth in rule 15.6(476); except that a rate for purchases other than from new capacity may be less than the avoided cost if the board determines that a lower rate is consistent with subrule 15.5(1) and is sufficient to encourage cogeneration and small power production.

Unless the qualifying facility and the utility agree otherwise, rates for purchases shall conform to the requirements of this rule regardless of whether the electric utility making purchases is simultaneously making sales to the qualifying facility.

In the case in which the rates for purchases are based upon estimates of avoided costs over the specific term of the contract or other legally enforceable obligation, the rates for purchases do not violate this rule if the rates for the purchases differ from avoided costs at the time of delivery.

15.5(3) *Standard rates for purchases.* Each electric utility shall file and maintain with the board tariffs specifying standard rates for purchases from qualifying facilities with a design capacity of 100 kilowatts or less. These tariffs may differentiate between qualifying facilities using various technologies on the basis of the supply characteristics of the different technologies. All utilities shall include a seasonal differential in these rates for purchases to the extent avoided costs vary by season. All utilities shall make available time of day rates for those facilities with a design capacity of 100 kilowatts or less, provided that the qualifying facility shall pay, in addition to the interconnection costs set forth in these rules, all additional costs associated with the time of day metering.

The standard rates set forth in this rule shall indicate what portion of the rate is attributable to payments for the utility's avoided energy costs, and what portion of the rate, if any, is attributable to payments for capacity costs avoided by the utility. If no capacity credit is provided in the standard tariff, a qualifying facility may petition the board for an allowance of the capacity credit. The petition shall be handled by the board as a contested case proceeding, and the burden of proof shall be on the qualifying facility to demonstrate that capacity credit is warranted in the case in question.

The board may require utilities interconnected with qualifying facilities to provide metering and other equipment necessary for the collection test and monitoring of information concerning the time and conditions under which energy and capacity are available from the qualifying facility. The costs of such metering shall be treated by the utility in the same manner as any other research expenditure.

15.5(4) *Other purchases.* Rates for purchases from qualifying facilities with a design capacity of greater than 100 kilowatts shall be determined in contested case proceedings before the board, unless the rates are otherwise agreed upon by the qualifying facility and the utility involved.

15.5(5) *Purchases "as available" or pursuant to a legally enforceable obligation.* Each qualifying facility shall have the option either:

a. To provide energy as the qualifying facility determines the energy to be available for the purchases, in which case the rates for the purchases shall be based on the purchasing utility's avoided costs calculated at the time of delivery; or

b. To provide energy or capacity pursuant to a legally enforceable obligation for the delivery of energy or capacity over a specified term, in which case the rates for the purchases shall, at the option of the qualifying facility exercised prior to the beginning of the specified term, be based on either: The avoided costs calculated at the time of delivery; or the avoided costs calculated at the time the obligation is incurred.

15.5(6) *Factors affecting rates for purchases.* In determining avoided costs, the following factors shall, to the extent practicable, be taken into account:

a. The prevailing rates for capacity or energy on any interstate power grid with which the utility is interconnected.

b. The incremental energy costs or capacity costs of the utility itself or utilities in the interstate power grid with which the utility is interconnected.

c. The time of day or season during which capacity or energy is available, including:

(1) The ability of the utility to dispatch the qualifying facility;

(2) The expected or demonstrated reliability of the qualifying facility;

(3) The terms of any contract or other legally enforceable obligation, including the duration of the obligation, termination notice requirement and sanctions for noncompliance;

(4) The extent to which scheduled outages of the qualifying facility can be usefully coordinated with scheduled outages of the utility's facilities;

(5) The usefulness of energy and capacity supplied from a qualifying facility during system emergencies, including its ability to separate its load from its generation; and

(6) The individual and aggregate value of energy and capacity from qualifying facilities on the electric utility's system.

d. The costs or savings resulting from variations in line losses from those that would have existed in the absence of purchases from the qualifying facility, if the purchasing electric utility generated an equivalent amount of energy itself.

15.5(7) *Periods during which purchases not required.* Any electric utility will not be required to purchase electric energy or capacity during any period during which, due to operational circumstances, purchases from qualifying facilities will result in costs greater than those which the utility would incur if it did not make the purchases, but instead generated an equivalent amount of energy itself; provided, however, that any electric utility seeking to invoke this subrule must notify each affected qualifying facility within a reasonable amount of time to allow the qualifying facility to cease the delivery of energy or capacity to the electric utility.

a. Any electric utility which fails to comply with the provisions of this subrule will be required to pay the usual rate for the purchase of energy or capacity from the facility.

b. A claim by an electric utility that such a period has occurred or will occur is subject to verification by the board.

199—15.6(476) Rates for sales to qualifying facilities by rate-regulated utilities. For purposes of this rule, "utility" means a rate-regulated electric utility. Rates for sales to qualifying facilities shall be just, reasonable and in the public interest, and shall not discriminate against the qualifying facility in comparison to rates for sales to other customers with similar load or other cost-related characteristics served by the utility. The rate for sales of back-up or maintenance power shall not be based upon an assumption (unless supported by data) that forced outages or other reductions in electric output by all qualifying facilities will occur simultaneously or during the system peak, or both, and shall take into account the extent to which scheduled outages of the qualifying facility can be usefully coordinated with scheduled outages of the utility's facilities.

199—15.7(476) Additional services to be provided to qualifying facilities by rate-regulated electric utilities. For purposes of this rule, "electric utility" or "utility" means a rate-regulated electric utility.

15.7(1) Upon request of a qualifying facility, each electric utility shall provide supplementary power, backup, maintenance power, and interruptible power. Rates for such service shall meet the requirements of subrule 15.5(6), and shall be in accordance with the terms of the utility's tariff.

The board may waive this requirement pursuant to rule 199—1.3(17A,474) only after notice in the area served by the utility and an opportunity for public comment. The waiver may be granted if compliance with this rule will:

a. Impair the electric utility's ability to render adequate service to its customers, or

b. Place an undue burden on the electric utility.

15.7(2) Reserved.

199—15.8(476) Interconnection costs. For purposes of this rule, "utility" means a rate-regulated electric utility.

15.8(1) Each qualifying facility shall be obligated to pay any interconnection costs, as defined in this chapter. These costs shall be assessed on a nondiscriminatory basis with respect to other customers with similar load characteristics.

15.8(2) Utilities shall be reimbursed by the qualifying facility for interconnection costs at the time the costs are incurred. Upon petition by any party involved and for good cause shown, the board may allow for reimbursement of costs over a reasonable period of time and upon such conditions as the board may determine; provided, however, that no other customers of the utility shall bear any of the costs of interconnection.

199—15.9(476) System emergencies. For purposes of this rule, "electric utility" means a rate-regulated electric utility. A qualifying facility shall be required to provide energy or capacity to an electric utility during a system emergency only to the extent:

15.9(1) Provided by agreement between the qualifying facility and electric utility; or

15.9(2) Ordered under Section 202(c) of the Federal Power Act. During any system emergency, an electric utility may immediately discontinue:

a. Purchases from a qualifying facility if purchases would contribute to the emergency; and

b. Sales to a qualifying facility, provided that the discontinuance is on a nondiscriminatory basis.

199—15.10(476) Standards for interconnection, safety, and operating reliability. For purposes of this rule, "electric utility" or "utility" means both rate-regulated and nonrate-regulated electric utilities.

15.10(1) *Acceptable standards.* Qualifying facilities, qualifying alternate energy production facilities, and qualifying small hydro facilities shall all meet the applicable provisions in the publications listed below in order to be eligible for interconnection to an electric utility system:

a. General Requirements for Synchronous Machines, ANSI C50.10-1990.

b. Requirements for Salient Pole Synchronous Generators and Condensers, ANSI C50.12-1982.

c. Requirements for Cylindrical-Rotor Synchronous Generators, ANSI C50.13-1982.

d. Requirements for Combustion Gas Turbine Driven Cylindrical-Rotor Synchronous Generators, ANSI C50.14-1977.

e. Iowa Electrical Safety Code, as defined in 199—Chapter 25.

f. National Electrical Code, ANSI/NFPA 70-1993.

For those facilities which are of such design as to not be subject to the standards noted in *"a," "b," "c,"* and *"d,"* above, data on the manufacturer, type of device, and output current wave form (at full load) and output voltage wave form (at no load and at full load) shall be submitted to the utility for review and approval prior to interconnection. A copy of the utility decision (whether approving or disapproving), including the data specified above and the exact location of the facility, shall be filed with the board within one week of the date of the decision. The utility decision, or its failure to decide within a reasonable time, may be appealed to the board. The appeal shall be treated as a contested case proceeding.

15.10(2) *Modifications required.* The standards set forth in ANSI C50.10 are modified as follows:

a. Rule 8.1 "Maximum allowable deviation factor," is modified to read: "The deviation factor of the open-circuit terminal voltage wave and the current wave at all loads shall not exceed 0.1. Deviation factor shall be as defined in ANSI C42.100-1972."

15.10(3) *Interconnection facilities.* Interconnections between qualifying facilities (or qualifying alternate energy production facilities, or qualifying small hydro facilities) and electric utility systems shall be equipped with devices, as set forth below, to protect either system from abnormalities or component failures that may occur within the facility or the electric utility system. Inclusion of the following protective systems shall be considered as a minimum standard of accepted good practice unless otherwise ordered by the board:

a. The interconnection must be provided with a switch that provides a visible break or opening. The switch must be capable of being padlocked in the open position.

b. The interconnection shall include overcurrent devices on the facility to automatically disconnect the facility at all currents that exceed the full-load current rating of the facility.

c. Facilities with a design capacity of 100 kilowatts or less must be equipped with automatic disconnection upon loss of electric utility-supplied voltage.

d. Those facilities that produce a terminal voltage prior to the closure of the interconnection shall be provided with synchronism-check devices to prevent closure of the interconnection under conditions other than a reasonable degree of synchronization between the voltages on each side of the interconnection switch.

15.10(4) *Access.* Both the operator of the qualifying facility (or qualifying alternate energy production facility, or qualifying small hydro facility) and the utility shall have access to the interconnection switch at all times.

15.10(5) *Inspections.* The operator of the qualifying facility (or qualifying alternate energy production facility, or qualifying small hydro facility) shall adopt a program of inspection of the generator and its appurtenances and the interconnection facilities in order to determine necessity for replacement and repair. Representatives of the utility shall have access at all reasonable hours to the interconnection equipment specified in subrule 15.10(3) for inspection and testing.

15.10(6) *Emergency disconnection.* In the event that an electric utility or its customers experience problems of a type that could be caused by the presence of alternating currents or voltages with a frequency higher than 60 Hertz, the utility shall be permitted to open and lock the interconnection switch pending a complete investigation of the problem. Where the utility believes the condition creates a hazard to the public or to property, the disconnection may be made without prior notice. However, the utility shall notify the operator of the qualifying facility (or qualifying alternate energy production facility, or qualifying small hydro facility) by written notice and, where possible, verbal notice as soon as practicable after the disconnection; and shall notify the electric engineering section of the bureau of rate and safety evaluation of the board by the next working day. If the facility and the utility are unable to agree on conditions for reconnection of the facility, a contested case proceeding to determine the conditions for reconnection may be commenced by the facility or the utility upon filing of a petition.

199—15.11(476) Rate-regulated electric utility obligations under this chapter regarding alternate energy and small hydro facilities. For purposes of this rule, "electric utility" means rate-regulated electric utilities.

15.11(1) *Obligation to purchase from qualifying alternate energy production and small hydro facilities.* Each electric utility shall purchase, pursuant to contract, in accordance with these rules, any electricity which is made available from a qualifying alternate energy production or small hydro facility:

a. Directly to the electric utility; or

b. Indirectly to the electric utility in accordance with subrule 15.11(4).

c. Provided the facility is owned or operated by an individual, firm, copartnership, corporation, company, association, joint stock association, city, town, or county that meets both of the following:

(1) Is not primarily engaged in the business of producing or selling electricity, gas, or useful thermal energy other than electricity, gas, or useful thermal energy sold solely from alternate energy production facilities or small hydro facilities.

(2) Does not sell electricity, gas, or useful thermal energy to residential users other than the tenants or the owner or operator of the facility.

15.11(2) *Obligation to sell to qualifying alternate energy production and small hydro facilities.* Each electric utility shall sell to any qualifying alternate energy production or small hydro facility, under long-term contract if requested by the alternate energy producer, in accordance with these rules and the other requirements of law, any energy and capacity requested by the facility.

15.11(3) *Obligation to interconnect.* Any electric utility shall make such interconnections with any qualifying alternate energy production or small hydro facility as may be necessary to accomplish purchases or sales under these rules. The obligation to pay for any interconnection costs shall be determined in accordance with rule 199—15.15(476).

15.11(4) *Transmission to other electric utilities or locations.* If a qualifying alternate energy production or small hydro facility agrees, an electric utility which would otherwise be obligated to purchase electricity from the facility may transmit the electricity to any other electric utility, or to a separate location owned or occupied by the owners of the facility. Any electric utility to which the electricity is transmitted may purchase or transmit the electricity under this subrule as if the facility were supplying electricity directly to the electric utility.

15.11(5) *Parallel operation.* Each electric utility shall offer to operate in parallel (with a single meter monitoring only the net amount of electricity sold or purchased) with a qualifying alternate energy production or small hydro facility, provided that the facility complies with any applicable standards established in accordance with these rules.

In the alternative, by choice of the facility, the electric utility and facility shall operate in a purchase and sale arrangement whereby any electricity provided to the utility by the qualifying facility is sold to the utility at the fixed or negotiated buy-back rate, and any electricity provided to the qualifying facility by the utility is sold to the facility at the tariffed rate.

15.11(6) *Purchases pursuant to a legally enforceable obligation.* Each qualifying alternate energy production or small hydro facility shall provide electricity on a best-efforts basis pursuant to a legally enforceable obligation for the delivery of electricity over a specified contract term of its choosing, but not to exceed the book life of the next generating plant specified in subparagraph 15.12(3)*"a"*(1).

15.11(7) *Metering for testing and monitoring.* The board may require utilities interconnected with qualifying alternate energy production or small hydro facilities to provide metering and other equipment necessary for the collection, testing, and monitoring of information concerning the time and conditions under which energy and capacity are available from the facilities. The costs of such metering shall be treated by the utility in the same manner as any other research expenditure.

199—15.12(476) Rates for purchases from qualifying alternate energy and small hydro facilities by rate-regulated electric utilities. For purposes of this rule, "kW" means kilowatt, "kWh" means kilowatt-hour, "utility" and "electric utility" mean rate-regulated electric utilities, and "AEP facility" means qualifying alternate energy production or small hydro facility.

15.12(1) Each electric utility shall purchase kW capacity and kWh energy from AEP facilities on a monthly basis, at rates specified in subrule 15.12(3), and set forth in tariffs filed pursuant to subrule 15.12(4).

15.12(2) Estimated generating plant information. On or before November 1, 1992, and biennially thereafter, each electric utility shall file the following information on its next generating plant and related transmission facilities to be placed in service, with complete support for and documentation of all estimates. This information shall include:

a. Plant unit identification;

b. Plant percentage ownership;

c. Type of plant;

d. Estimated plant book life;

e. Primary and secondary fuel type;

f. Expected full load kW power production capacity and estimated percent operating availability;

g. All estimated plant investment costs based on current costs at the time of filing including, but not limited to: land and land rights, structures and improvements, equipment, labor, construction overhead, and allowance for funds used during construction (AFUDC) (in total dollars and in dollars per kW);

h. Estimated annual property tax expense based on estimated plant investment cost (in total dollars per year, and in dollars per kW per year);

i. Estimated average annual value of fuel inventory based on current costs at the time of filing (in total dollars and in dollars per kW), and method of estimation;

j. Estimated average annual cost of fuel based on current costs at the time of filing (in total dollars per year and in cents per kWh per year), and method of estimation;

k. Estimated average annual nonfuel operation and maintenance costs based on current costs at the time of filing (in total dollars per year and in cents per kWh per year), and method of estimation;

l. Expected average annual net kWh generation;

m. The kWh data used for the calculations specified in *"j"* and *"k"* above, and the source of the kWh data if other than *"l"* above.

15.12(3) Rates for purchase of AEP capacity and energy. Uniform statewide rates for monthly utility purchases of AEP capacity and energy apply to all electric utility service areas. The following specified uniform rates are based on representative data rather than utility-specific data.

a. (1) kW capacity rates. A uniform monthly capacity rate, adjustable to a maximum of $25.15 per kW of available AEP generating capacity, shall be applied only to new or renewal AEP contracts. Once established by contract, a new or renewal AEP contract's capacity rate shall not change over the course of the contract. The capacity rate for individual AEPs is adjustable according to the term of contract (t) between the AEP facility and electric utility. The term of contract shall not exceed the estimated book life of the representative next generating plant (33 years). This adjustable, uniform capacity rate is determined according to the following levelized carrying charge formula.

$$C = \frac{[(t/n \times IC) \times A] + OC}{12}$$

C is the monthly payment by the utility per kW of available generating capacity purchased from the AEP facility.

t is the term of contract between the AEP facility and the utility (in years).

n is 33 years, the estimated book life of the representative next generating plant.

IC is $1,883 per kW, the per kW investment cost of the representative next generating plant and related transmission facilities to be placed in service ($1,601), divided by the next generating plant's expected percent operating availability (85 percent).

A is an annuity factor for computing a levelized annual carrying charge based on the book life of the representative next generating plant, determined as follows:

$$A = [i (1 + i)^t] / [(1 + i)^t - 1]$$

i is 13.76 percent, the current annual rate of return requirement associated with new utility construction, determined as follows:

$$i = [r + .015] + [(r/2 + .015) \times (tx / (1 - tx))] - [r/2 \times tx]$$

r is 9.85 percent, the published average yield rate on outstanding Moody's "A" rated utility bonds over the latest 12 months (ending February 1991).

.015 is 1.5 percent equity premium.

tx is 40.71 percent, the composite state and federal income tax rate.

t is the term of contract between the AEP facility and the utility (in years).

OC is $39.01 per kW, other annual per kW costs associated with the representative next generating plant, including return on fuel inventory (based on "i" above) and annual property taxes.

(2) Available kW generating capacity. kW capacity buy-back rates shall be applied to the AEP facility's monthly available kW capacity. Facilities shall have their monthly available capacity measured by dividing kWh delivered to the utility during the month by number of hours in the month. Facilities operating in parallel with a utility pursuant to subrule 15.11(5) shall have their monthly available capacity measured by dividing total net monthly kWh delivered to the utility by the total number of hours in the same month.

(3) Maximum available kW generating capacity. An electric utility shall not be required to purchase more than its share of 105,000 kW of available AEP generating capacity per month under this rule. The utility's share of 105,000 kW is based on the utility's estimated percentage share of Iowa peak demand, which is based on the utility's highest monthly peak shown in its 1990 FERC Form 1 annual report, and on its related Iowa sales and total company sales and losses shown in its 1990 FERC Form 1 and IE-1 annual reports. Each utility's share of the 105,000 kW is determined to be as follows:

	Percentage Share of Iowa Peak	Utility Share of 105,000 kW
Interstate Power Company	13.09 %	13,700 kW
Iowa Electric Light & Power Co.	24.07%	25,300 kW
Iowa-Illinois Gas & Electric Co.	12.28%	12,900 kW
Midwest Power Company	40.29%	42,300 kW
Iowa Southern Utilities Company	10.27%	10,800 kW

If the total available AEP capacity exceeds the utility's share of 105,000 kW in a given month, the utility shall purchase its share of 105,000 kW from AEPs having the earliest-signed contracts with the utility. If an AEP facility is also a PURPA qualifying facility pursuant to 18 CFR Part 292.207 (1988), then the utility shall purchase any excess available capacity, or the amount exceeding the AEP's portion of the utility's share of 105,000 kW, at rates determined under subrules 15.5(3) and 15.5(4), or subrule 15.2(2), for PURPA qualifying facilities.

b. kWh energy rate. A uniform monthly energy rate of $0.0257, per kWh of AEP energy delivered to the utility, shall be applied only to new or renewal AEP contracts. Once established by contract, a new or renewal AEP contract's energy rate shall not change over the course of the contract. The rate is determined according to the following formula.

$$E = ((F + M) / kWh) + Q$$

E is the monthly payment by the utility per kWh purchased from the AEP facility.

F is $338,432,866, power production fuel expenses for Iowa electric utility operations, as reported for accounts 501, 503 (less 504), 518, 521 (less 522), 536, 547, and the energy portion and operation and maintenance portion of account 555 of the Uniform System of Accounts, in the utilities' 1990 IE-1 or FERC Form 1 annual reports. Except for expenses designated as demand or capacity charges in the annual reports, all account 555 expenses are considered energy or operation and maintenance expenses, for purposes of this subrule.

M is $135,235,224, nonfuel power production operation and maintenance expenses for Iowa electric utility operations, as reported for accounts 500, 502, 505-507, 510-514, 517, 519, 520, 523-525, 528-532, 535, 537-546, 548-554, 556, and 557 of the Uniform System of Accounts, in the utilities' 1990 IE-1 or FERC Form 1 annual reports.

kWh is 25,360,063,000 kWh, Iowa utility kWh sales, from accounts 440, 442, and 444-448 of the Uniform System of Accounts, divided by 1 minus the utilities' percent energy losses (0.9340); all as reported in the utilities' 1990 IE-1 or FERC Form 1 annual reports.

Q is $0.007 per kWh, the representative external benefits of AEP power, including environmental and economic benefits.

15.12(4) Tariff filings. The electric utility shall file a proposed schedule of "AEP Contract Provisions Offered." After the initial tariff filing, subsequent filings only require tariff revisions. The tariffs shall be subject to board approval and shall specify, at a minimum, the following information.

a. A statement of what is being purchased from AEP facilities in accordance with subrule 15.12(1).

b. The terms of contract available between AEP facilities and the electric utility in accordance with subrule 15.11(6).

c. The kW capacity buy-back rate formula and formula factor values specified in subparagraph 15.12(3)*"a"*(1).

d. The kWh energy buy-back rate as defined in paragraph 15.12(3)*"b."*

e. The method for measuring kWh energy and available kW capacity purchased from the AEP facility in accordance with subrule 15.12(3).

f. The method of determining the amount of monthly payment from the electric utility to the AEP facility in accordance with subrule 15.12(3).

g. The method of determining payment of interconnection costs in accordance with rule 199—15.15(476).

h. All other contract provisions to be included by the electric utility.

15.12(5) Provisions of any individual AEP contract which differ from or exceed the utility tariff of "AEP Contract Provisions Offered" shall also be subject to board approval, unless otherwise agreed upon by the individual AEP and utility.

199—15.13(476) Rates for sales to qualifying alternate energy production and small hydro facilities by rate-regulated utilities. For purposes of this rule, "utility" means rate-regulated electric utilities. Rates for sales to qualifying alternate energy production and small hydro facilities shall be just, reasonable and in the public interest, and shall not discriminate against the facility in comparison to rates for sales to other customers with similar load or other cost-related characteristics served by the utility. The rates for sales of backup or maintenance power shall not be based upon an assumption (unless supported by data) that forced outages or other reductions in electric output by all qualifying alternate energy production and small hydro facilities will occur simultaneously or during the system peak, or both, and shall consider the extent to which scheduled outages of the qualifying alternate energy production or small hydro facility can be usefully coordinated with scheduled outages of the utility's facilities.

199—15.14(476) Additional services to be provided to qualifying alternate energy production and small hydro facilities. For purposes of this rule, "electric utility" means rate-regulated electric utilities. Upon request of a qualifying alternate energy production or small hydro facility, each electric utility shall provide supplementary power, backup power, maintenance power, or interruptible power on a nondiscriminatory and long-term contract basis. Rates for the service shall meet the requirements of rule 15.13(476) and the terms of the utility's tariff.

The board may waive this requirement, pursuant to rule 199—1.3(17A,474), only after notice in the area served by the utility and an opportunity for public comment. Such waiver may be granted if compliance with the rule will: (1) impair the electric utility's ability to render adequate service to its customers, or (2) place an undue burden on the electric utility.

199—15.15(476) Interconnection costs. For purposes of this rule, "utility" means rate-regulated electric utilities.

15.15(1) Each qualifying alternate energy production or small hydro facility shall be obligated to pay any interconnection costs, as defined in this chapter. These costs shall be assessed on a nondiscriminatory basis with respect to other customers with similar load characteristics.

15.15(2) Utilities shall be reimbursed by the facility for interconnection costs at the time such costs are incurred. Upon petition by any party involved and for good cause shown, the board may allow for reimbursement of costs over a reasonable period of time and upon such conditions as the board may determine; provided, however, that no other customers of the utility shall bear any of the costs of interconnection.

199—15.16(476) System emergencies. For purposes of this rule, "electric utility" means rate-regulated electric utilities. A qualifying alternate energy production or small hydro facility shall be required to provide energy or capacity to an electric utility during a system emergency only to the extent:

15.16(1) Provided by agreement between such facility and electric utility; or

15.16(2) Ordered under Section 202(c) of the Federal Power Act. During any system emergency, an electric utility may immediately discontinue: (a) Purchases from a qualifying alternate energy production or small hydro facility if such purchases would contribute to such emergency; and (b) sales to such a facility, provided that such discontinuance is on a nondiscriminatory basis.

These rules are intended to implement Iowa Code sections 476.1, 476.8, 476.41 to 476.45, and 546.7, Section 210 of the Public Utility Regulatory Policies Act of 1978, and 18 CFR Part 292.

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CORRECTIONS DEPARTMENT[201]

Rules transferred from Social Services Department[770] to Department of Corrections[291]; see 1983 Iowa Acts, chapter 96. Rules transferred from agency number [291] to [201] to conform with the 1986 reorganization numbering scheme in general, IAC Supp. 3/20/91.

Note: Iowa Code chapter 246 renumbered as chapter 904 and 247 renumbered as chapter 913 in 1993 Iowa Code.

CHAPTER 26
NORTH CENTRAL CORRECTIONAL FACILITY
[Prior to 3/20/91, Corrections Department[291]]

201—26.1(904) Visiting.

26.1(1) Visitation within the north central correctional facility is additionally governed by the provisions of department of corrections policy IN-V-122 and IAC 201—20.3(904).

26.1(2) Visiting hours are from 8:30 a.m. to 7:30 p.m. on Saturday and Sunday, 8:30 a.m. to 3:30 p.m. on Monday, and 12:30 p.m. to 7:30 p.m. on Friday. There is no visiting on Tuesday, Wednesday, or Thursday unless a recognized state holiday falls on that day, and then the visiting hours shall be 8:30 a.m. to 3:30 p.m.

26.1(3) Visitors are authorized to bring in only the following items to a visit: one small change purse, wallet or billfold, as long as it does not contain paper money; coin money for the purpose of purchasing items from the vending machines; and, when applicable, one baby bottle, one jar of baby food, three baby diapers, one carrying bag, and one infant seat. Tobacco products are not allowed in the visiting room as smoking is not permitted at any time.

26.1(4) Visitors shall not give any article to offenders during a visit. This does not apply to purchases from the vending machines which must be consumed during the visit.

26.1(5) Offenders are permitted three-hour visits on Saturday, Sunday, and recognized state holidays, and four-hour visits are permitted on Monday and Friday. Visits may be extended at the discretion of the warden when visitors are from great distances or when they are only able to make rare visits or in cases when an offender is in need of comfort during a time of personal or family crisis. Visits may be temporarily modified, suspended, or terminated by the warden due to a disturbance, riot, fire, labor dispute, natural disaster, or other emergency; and visits may be temporarily modified or terminated by the shift supervisor due to disruptive conduct by the offender or visitor or due to space restrictions in the visiting room.

26.1(6) Offenders are permitted eight visits per month from each approved person on the offender's visiting list.

26.1(7) A maximum of five persons may visit one offender at a time.

26.1(8) A maximum of two offenders may be visited by a visitor at a time, provided both offenders are members of the visitor's immediate family.

26.1(9) Visits with attorneys or chaplains shall be conducted during normal business hours unless previously approved by the warden.

26.1(10) Offenders in administrative segregation and disciplinary detention may have their visits modified as to length of time and location depending on the conduct which caused placement in that status.

201—26.2(904) Tours.

26.2(1) Tours of the facility are classified as either regular or official tours. A regular tour is given to persons with a genuine interest in corrections and for whom the tour might prove to be beneficial or enlightening, such as students, representatives of the criminal justice system, and probationers under the jurisdiction of the department of corrections or the judicial system. An official tour is given to persons directly related to the operation of the facility such as legislators and the board of corrections.

26.2(2) Sightseeing tours to the general public shall not be allowed unless approved by the warden for specific reasons.

26.2(3) Regular tours shall be conducted on Tuesday and Wednesday between the hours of 9 a.m. and 3 p.m., while official tours shall be conducted during the daytime or evening hours on a day scheduled by the warden.

26.2(4) Minimum age for regular tours is 12 years of age.

26.2(5) Tour groups larger than 30 persons, excluding nonstaff sponsors, shall not be allowed.

26.2(6) Prior approval from the warden is required for relatives or close friends of offenders to tour the facility.

201—26.3(904) Offender trips. An outside group wishing to have an offender from one of the facility's approved organizations visit it shall send a written request to the warden. Trips are limited to a 100-mile radius from the facility.

These rules are intended to implement Iowa Code section 904.512.

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37.5(8) *Prison industries advisory board review.* Following approval by the director of corrections, the deputy director of prison industries shall forward the final proposal to the prison industries advisory board with the recommendation to approve or disapprove the work program, including all correspondence from the department of workforce development, the Department of Justice, and any local official who has offered comments.

The deputy director of prison industries shall provide written documentation to the prison industries advisory board confirming that the proposed work project will not displace civilian workers. If displacement occurs, the deputy director of prison industries shall advise the private employer that the employer will be given 30 days to become compliant or the department of corrections will terminate the use of offender labor.

37.5(9) *Disputes.* Anyone who believes that the private sector work program violates this rule shall advise the department of workforce development. A written complaint may be filed in accordance with workforce development board rule 877—1.5(84A). The workforce development director shall consult with the deputy director of prison industries before the workforce development board makes a final recommendation(s) to resolve any complaint.

The deputy director of prison industries will assist the department of workforce development in compiling all information necessary to resolve the dispute. The workforce development board shall notify the deputy director of prison industries and interested parties in writing of the recommended action to resolve a complaint, which will be binding on all parties.

This rule is intended to implement Iowa Code section 904.809.

201—37.6(904) Utilization of offender labor in construction and maintenance projects.

37.6(1) *Definitions.*

"Director" means the chief executive officer of the department of corrections.

"Employer" means a contractor or subcontractor providing maintenance or construction services under contract to the department of corrections or under the department of general services.

"Workforce development director" means the chief executive officer of the department of workforce development.

37.6(2) *Scope.* Utilization of offender labor applies only to contractors or subcontractors providing construction or maintenance services to the department of corrections. The contract authority for providing construction or maintenance services may be the department of general services.

37.6(3) *Employer application.* Employers working under contract with the state of Iowa may submit an application to the department of corrections to employ offenders. Requests for such labor shall not include work release offenders assigned to community-based corrections under Iowa Code chapter 905.

a. Prior to submitting an application, the employer shall place with the nearest workforce development center a job order with a duration of at least 30 days. The job order will contain the prevailing wage determined by the department of workforce development. The job order shall be listed statewide in all centers and on the department of workforce development's jobs Internet site.

b. The employer's application shall include:

1. Scope of work, including type of work and required number of workers;
2. Proposed wage rate;
3. Location;
4. Duration; and
5. Reason for utilizing offender labor.

c. The department of corrections shall verify through the department of workforce development 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 employer that will employ the offenders.

37.6(4) *Verification.* The director of workforce development shall verify the employment levels and prevailing wages paid for similar jobs in the area and provide to the director, in writing:

1. Verification of the employer's 30-day job listing;
2. The number of qualified applicant referrals and hires made as a result of the job order;
3. The average wage rate for the proposed job(s);
4. The wage range;
5. The prevailing wage as determined by the U.S. Department of Labor;
6. The current unemployment rate for the county where the employer is located;
7. The current employment levels of the employer that will employ the offenders based upon the most recent quarter for which data is available.

37.6(5) *Safety training.* The employer shall document that all offenders employed in construction and maintenance projects receive a ten-hour safety course provided free of charge by the department of workforce development or by a trainer with the appropriate authorization from the Occupational Safety and Health Administration Training Institute.

37.6(6) *Prevailing wages.* The director will not authorize an employer to employ offenders in hard labor programs without obtaining from the department of workforce development employment levels in the locale of the proposed jobs and the prevailing wages for the jobs in question. The average wage rate and wage range from the department of workforce development will be based on the appropriate geographic area for which occupational wage information is available. The appropriate geographic area may be statewide.

To reduce any potential displacement of civilian workers, the director shall advise prospective employers and eligible offenders of the following requirements:

1. Offenders will not be eligible for unemployment compensation while incarcerated.
2. Before the employer initiates work utilizing offender labor, the director shall provide the baseline number of jobs as established by the department of workforce development.
3. If the contract to employ offender labor exceeds six months, the director shall request and receive from the workforce development director the average wage rates and wage ranges for jobs currently held by offenders and current employment levels of employers employing offenders and shall compile a side-by-side comparison of each employer.

37.6(7) *Disputes.* Anyone who believes that the employer's application violates this rule shall present concerns in writing to the workforce development board. A written complaint may be filed with the workforce development board for any dispute arising from the implementation of the employer's application in accordance with the workforce development board's rule 877—1.6(84A). The workforce development board shall consult with the director prior to making recommendations. The director will assist the workforce development board in compiling all information necessary to resolve the dispute. The workforce development board shall notify the director and interested parties in writing of the corrective action plan to resolve the dispute, which will be binding on all parties.

This rule is intended to implement Iowa Code section 904.701.

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*Prior to 3/20/91, see Prison Industries Advisory Board 635—Chapter 1
◊Two ARCs

IOWA FINANCE AUTHORITY[265]

[Prior to 7/26/85, Housing Finance Authority[495]]
[Prior to 4/3/91, Iowa Finance Authority[524]]

CHAPTER 7
CONTESTED CASES

CHAPTER 8
PRIVATE ACTIVITY BOND ALLOCATION

CHAPTER 9
TITLE GUARANTY DIVISION

CHAPTER 10
MORTGAGE CREDIT CERTIFICATES

CHAPTER 11
Reserved

CHAPTER 12
LOW-INCOME HOUSING TAX CREDITS

CHAPTER 12
LOW-INCOME HOUSING TAX CREDITS

265—12.1(16) Qualified allocation plan. The qualified allocation plan entitled Iowa Finance Authority Qualified Allocation Plan effective July 14, 2000, shall be the qualified allocation plan for the distribution of low-income housing tax credits consistent with IRC Section 42 and the applicable Treasury regulations and Iowa Code section 16.52. The qualified allocation plan includes the plan, application, and the application instructions. The qualified allocation plan is incorporated by reference pursuant to Iowa Code section 17A.6 and 265—subrules 17.4(2) and 17.12(2).

265—12.2(16) Location of copies of the plan. The qualified allocation plan can be reviewed and copied in its entirety on the authority's Web site at http://www.ifahome.com. Copies of the qualified allocation plan, application, and all related attachments and exhibits shall be deposited with the administrative rules coordinator and at the state law library. The plan incorporates by reference IRC Section 42 and the regulations in effect as of July 14, 2000. Additionally, the plan incorporates by reference Iowa Code section 16.52. These documents are available from the state law library and links to these statutes, regulations and rules are on the authority's Web site. Copies are available upon request at no charge from the authority.

265—12.3(16) Compliance manual. The compliance manual for all low-income housing tax credit projects monitored by the authority for compliance with IRC Section 42, effective December 6, 2000, is incorporated by reference pursuant to Iowa Code section 17A.6 and 265—subrules 17.4(2) and 17.12(2).

265—12.4(16) Location of copies of the manual. The compliance manual can be reviewed and copied in its entirety on the authority's Web site at http://www.ifahome.com. Copies of the compliance manual shall be deposited with the administrative rules coordinator and at the state law library. The compliance manual incorporates by reference IRC Section 42 and the regulations in effect as of December 6, 2000. Additionally, the compliance manual incorporates by reference Iowa Code section 16.52. These documents are available from the state law library, and links to these statutes, regulations and rules are on the authority's Web site. Copies are available from the authority upon request at no charge.

These rules are intended to implement Iowa Code section 16.52.

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38.6(225C,217) Field-initiated proposals
38.7(225C,217) Notification
38.8(225C,217) Request for reconsideration
38.9(225C,217) Contracts
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38.11(225C,217) Reallocation of funds
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TITLE IV
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CHAPTER 40
APPLICATION FOR AID

[Prior to 7/1/83, Social Services[770] Ch 40]
[Prior to 2/11/87, Human Services[498]]

DIVISION I
FAMILY INVESTMENT PROGRAM—CONTROL GROUP

[Rescinded IAB 2/12/97, effective 3/1/97]

441—40.1 to **40.20** Reserved.

DIVISION II
FAMILY INVESTMENT PROGRAM—TREATMENT GROUP

[Prior to 10/13/93, 441—40.1(239) to 40.9(239)]

441—40.21(239B) Definitions.

"Applicant" means a person for whom assistance is being requested, parent(s) living in the home with the child(ren), and the nonparental relative as defined in 441—subrule 41.22(3) who is requesting assistance for the child(ren).

"Assistance unit" includes any person whose income is considered when determining eligibility or the family investment program grant amount.

"Budgeting process" means the process by which income is computed to determine eligibility under the 185 percent eligibility test described in 441—41.27(239B), Initial eligibility, the initial family investment program grant, ongoing eligibility, and the ongoing family investment program grant.

1. For retrospective budgeting, the budget month is the second month preceding the payment month.

2. For prospective budgeting, the budget month and payment month are the same calendar month.

"Budget month" means the calendar month from which the local office uses income or circumstances of the eligible group to compute eligibility and the amount of assistance.

"Central office" shall mean the state administrative office of the department of human services.

"Change in income" means a permanent change in hours worked or rate of pay, any change in the amount of unearned income, or the beginning or ending of any income.

"Department" shall mean the Iowa department of human services.

"Dependent" means an individual who can be claimed by another individual as a dependent for federal income tax purposes.

"Dependent child" or *"dependent children"* means a child or children who meet the nonfinancial eligibility requirements of the family investment program.

"Income in kind" is any gain or benefit which is not in the form of money payable directly to the eligible group including nonmonetary or in-kind benefits, such as meals, clothing, and vendor payments. Vendor payments are money payments which are paid to a third party and not to the eligible group.

"Initial two months" means the first two consecutive months for which assistance is paid. This may include a month for which a partial payment is made.

Whenever *"medical institution"* is used in this title, it shall mean a facility which is organized to provide medical care, including nursing and convalescent care, in accordance with accepted standards as authorized by state law and as evidenced by the facility's license. A medical institution may be public or private. Medical institutions include the following:

1. Hospitals
2. Extended care facilities (skilled nursing)
3. Intermediate care facilities
4. Mental health institutions
5. Hospital schools

"Needy specified relative" means a nonparental specified relative, listed in 441—subrule 41.22(3), who meets all the eligibility requirements to be included in the family investment program.

"Parent" means a legally recognized parent, including an adoptive parent, or a biological father if there is no legally recognized father.

"Payment month" means the calendar month for which assistance is paid.

"Payment standard" means the total needs of a group as determined by adding need according to the schedule of basic needs, described in 441—subrule 41.28(2), to any allowable special needs, described in 441—subrule 41.28(3).

"Promoting independence and self-sufficiency through employment job opportunities and basic skills (PROMISE JOBS) programs" means the department's training program as described in 441—Chapter 93, Division II.

"Prospective budgeting" means the determination of eligibility and the amount of assistance for a calendar month based on the best estimate of income and circumstances which will exist in that calendar month.

"Recipient" means a person for whom assistance is paid, parent(s) living in the home with the eligible child(ren) and nonparental relative as defined in 441—subrule 41.22(3) who is receiving assistance for the child(ren). Unless otherwise specified, a person is not a recipient for any month in which the assistance issued for that person is subject to recoupment because the person was ineligible.

"Report month" for retrospective budgeting means the calendar month following the budget month. "Report month" for prospective budgeting means the calendar month in which a change occurs.

"Retrospective budgeting" means the computation of the amount of assistance for a payment month based on actual income and circumstances which existed in the budget month.

"Standard of need" means the total needs of a group as determined by adding need according to the schedule of living costs, described in 441—subrule 41.28(2), to any allowable special needs, described in 441—subrule 41.28(3).

"Stepparent" means a person who is not the parent of the dependent child, but is the legal spouse of the dependent child's parent, by ceremonial or common-law marriage.

"Suspension" means a month in which an assistance payment is not made due to ineligibility for one month when eligibility is expected to exist the following month.

"Unborn child" shall include an unborn child during the entire term of the pregnancy.

This rule is intended to implement Iowa Code sections 239B.3, 239B.5, and 239B.6.

441—40.22(239B) Application. The application for the family investment program shall be submitted on the Public Assistance Application, Form 470-0462 or Form 470-0466 (Spanish). Form 470-0462 or Form 470-0466 (Spanish) shall be signed by the applicant, the applicant's authorized representative or, when the applicant is incompetent or incapacitated, someone acting responsibly on the applicant's behalf. When both parents, or a parent and a stepparent, are in the home, both shall sign the application.

441—40.28(239B) Referral for investigation. The local office may refer questionable cases to the department of inspections and appeals for further investigation. Referrals shall be made using Form 427-0328, Referral For Front End Investigation.

This rule is intended to implement Iowa Code section 239B.5.

441—40.29(239B) Conversion to the X-PERT system. Rescinded IAB 10/4/00, effective 12/1/00.

These rules are intended to implement Iowa Code chapter 239B.

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CHAPTER 41
GRANTING ASSISTANCE

[Prior to 7/1/83, Social Services[770] Ch 41]
[Prior to 2/11/87, Human Services[498]]

DIVISION I
FAMILY INVESTMENT PROGRAM—CONTROL GROUP
[Rescinded IAB 2/12/97, effective 3/1/97]

441—41.1 to **41.20** Reserved.

DIVISION II
FAMILY INVESTMENT PROGRAM—TREATMENT GROUP
[Prior to 10/13/93, Human Services(441—41.1 to 41.9)]

441—41.21(239B) Eligibility factors specific to child.

41.21(1) *Age.* The family investment program shall be available to a needy child under the age of 18 years without regard to school attendance.

A child is eligible for the entire month in which the child's eighteenth birthday occurs, unless the birthday falls on the first day of the month. The family investment program shall also be available to a needy child of 18 years who is a full-time student in a secondary school, or in the equivalent level of vocational or technical training, as defined in paragraph 41.24(2)"*e,*" and who is reasonably expected to complete the program before reaching the age of 19.

41.21(2) Rescinded, effective June 1, 1988.

41.21(3) *Residing with relative.* The child shall be living in the home of one of the relatives specified in subrule 41.22(3). When an unwed mother intends to place her child for adoption shortly after birth, the child shall be considered as living with the mother until the time custody is actually relinquished.

a. Living with relatives implies primarily the existence of a relationship involving an accepted responsibility on the part of the relative for the child's welfare, including the sharing of a common household.

b. Home is the family setting maintained or in the process of being established as evidenced by the assumption and continuation of responsibility for the child by the relative.

41.21(4) Rescinded, effective July 1, 1980.

41.21(5) *Deprivation of parental care and support.* Rescinded IAB 11/1/00, effective 1/1/01.

This rule is intended to implement Iowa Code sections 239B.1, 239B.2 and 239B.5.

441—41.22(239B) Eligibility factors specific to payee.

41.22(1) Reserved.

41.22(2) Rescinded, effective June 1, 1988.

41.22(3) *Specified relationship.*

a. A child may be considered as meeting the requirement of living with a specified relative if the child's home is with one of the following or with a spouse of the relative even though the marriage is terminated by death or divorce:

Father—adoptive father.

Mother—adoptive mother.

Grandfather—grandfather-in-law, meaning the subsequent husband of the child's natural grandmother, i.e., stepgrandfather—adoptive grandfather.

Grandmother—grandmother-in-law, meaning the subsequent wife of the child's natural grandfather, i.e., stepgrandmother—adoptive grandmother.

Great-grandfather—great-great-grandfather.

Great-grandmother—great-great-grandmother.

Stepfather, but not his parents.

Stepmother, but not her parents.

Brother—brother-of-half-blood—stepbrother—brother-in-law—adoptive brother.

Sister—sister-of-half-blood—stepsister—sister-in-law—adoptive sister.

Uncle—aunt, of whole or half blood.

Uncle-in-law—aunt-in-law.

Great uncle—great-great-uncle.

Great aunt—great-great-aunt.

First cousins—nephews—nieces.

Second cousins, meaning the son or daughter of one's parent's first cousin.

b. A relative of the putative father can qualify as a specified relative if the putative father has acknowledged paternity by the type of written evidence on which a prudent person would rely.

c. The family investment program is available to a child of unmarried parents the same as to a child of married parents when all eligibility factors are met.

d. The presence of an able-bodied stepparent in the home shall not disqualify a child for assistance, provided that other eligibility factors are met.

41.22(4) *Liability of relatives.* All appropriate steps shall be taken to secure support from legally liable persons on behalf of all persons in the eligible group, including the establishment of paternity.

a. When necessary to establish eligibility, the local office shall make the initial contact with the absent parent at the time of application. Subsequent contacts shall be made by the child support recovery unit.

b. When contact with the family investment program family or other sources of information indicates that relatives other than parents and spouses of the eligible children are contributing toward the support of members of the eligible group, have contributed in the past, or are of such financial standing they might reasonably be expected to contribute, the local office shall contact these persons to verify current contributions or arrange for contributions on a voluntary basis.

41.22(5) *Referral to child support recovery unit.* The county office shall provide prompt notice to the child support recovery unit whenever assistance is furnished with respect to a child with a parent who is absent from the home or when any member of the eligible group is entitled to support payments.

A referral to the child support recovery unit shall not be made when a parent's absence is occasioned solely by reason of the performance of active duty in the uniformed services of the United States. "Uniformed service" means the Army, Navy, Air Force, Marine Corps, Coast Guard, National Oceanographic and Atmospheric Administration, or Public Health Service of the United States.

"Prompt notice" means within two working days of the date assistance is approved.

41.22(6) *Cooperation in obtaining support.* Each applicant for or recipient of the family investment program shall cooperate with the department in establishing paternity and securing support for persons whose needs are included in the assistance grant, except when good cause as defined in 41.22(8) for refusal to cooperate is established.

a. The applicant or recipient shall cooperate in the following areas:

(1) Identifying and locating the parent of the child for whom aid is claimed.

(2) Establishing the paternity of a child born out of wedlock for whom aid is claimed.

(3) Obtaining support payments for the applicant or recipient and for a child for whom aid is claimed.

(4) Rescinded IAB 12/3/97, effective 2/1/98.

b. Cooperation is defined as including the following actions by the applicant or recipient:

(1) Appearing at the local office or the child support recovery unit to provide verbal or written information or documentary evidence known to, possessed by, or reasonably obtained by the applicant or recipient that is relevant to achieving the objectives of the child support recovery program.

(2) Appearing as a witness at judicial or other hearings or proceedings.

(3) Providing information, or attesting to the lack of information, under penalty of perjury.

(4) Paying to the department any cash support payments for a member of the eligible group, except as described at 41.27(7)*"p"* and *"q,"* received by a recipient after the date of decision as defined in 441—subrule 40.24(4).

(5) Providing the name of the absent parent and additional necessary information.

c. The applicant or recipient shall cooperate with the local office in supplying information with respect to the absent parent, the receipt of support, and the establishment of paternity, to the extent necessary to establish eligibility for assistance and permit an appropriate referral to the child support recovery unit.

d. The applicant or recipient shall cooperate with the child support recovery unit to the extent of supplying all known information and documents pertaining to the location of the absent parent and taking action as may be necessary to secure or enforce a support obligation or establish paternity. This includes completing and signing documents determined to be necessary by the state's attorney for any relevant judicial or administrative process.

e. In the circumstance as described at paragraph *"b,"* subparagraph (4), the income maintenance unit in the county office shall make the determination of whether or not the client has cooperated. In all other instances, the child support recovery unit (CSRU) shall make the determination of whether the client has cooperated. CSRU delegates the income maintenance unit in the county office to make this determination for applicants.

f. Failure to cooperate shall result in a sanction to the family. The sanction shall be a deduction of 25 percent from the net cash assistance grant amount payable to the family prior to any deduction for recoupment of a prior overpayment. When the income maintenance unit determines noncooperation, the sanction shall be implemented after the noncooperation has occurred. The sanction shall remain in effect until the client has expressed willingness to cooperate. However, any action to remove the sanction shall be delayed until cooperation has occurred. When the child support recovery unit (CSRU) makes the determination, the sanction shall be implemented upon notification from CSRU to the income maintenance unit that the client has failed to cooperate. The sanction shall remain in effect until the client has expressed to either income maintenance or CSRU staff willingness to cooperate. However, any action to remove the sanction shall be delayed until income maintenance is notified by CSRU that the client has cooperated. When the family is also subject to sanction under paragraph 41.25(8)*"g,"* the sanction for failure to cooperate in obtaining support shall be calculated as though the sanction at paragraph 41.25(8)*"g"* does not exist.

41.22(7) *Assignment of support payments.* Each applicant for or recipient of assistance shall assign to the department any rights to support from any other person as the applicant or recipient may have. This shall include rights to support in the applicant's or recipient's own behalf or in behalf of any other family member for whom the applicant or recipient is applying or receiving assistance and which have accrued at the time the assignment is executed. An assignment is effective the same date the county office enters all eligibility information into the department's computer system and is effective for the entire period for which assistance is paid.

a. The support assignment shall remain in effect during the month of suspension. However, the monthly support entitlement or the support collected for a month of suspension, whichever is less, shall be refunded to the client by the child support recovery unit at the earliest possible date.

b. Rescinded IAB 7/1/98, effective 7/1/98.

c. and *d.* Reserved.

e. Rescinded IAB 12/3/97, effective 2/1/98.

41.22(8) *Good cause for refusal to cooperate.* Good cause shall exist when it is determined that cooperation in establishing paternity and securing support is against the best interests of the child.

a. The local office shall determine that cooperation is against the child's best interest when the applicant's or recipient's cooperation in establishing paternity or securing support is reasonably anticipated to result in:

(1) Physical harm to the child for whom support is to be sought; or

(2) Emotional harm to the child for whom support is to be sought; or

(3) Physical harm to the parent or caretaker relative with whom the child is living which reduces the person's capacity to care for the child adequately; or

(4) Emotional harm to the parent or caretaker relative with whom the child is living of a nature or degree that it reduces the person's capacity to care for the child adequately.

b. The local office shall determine that cooperation is against the child's best interest when at least one of the following circumstances exists, and the local office believes that because of the existence of that circumstance, in the particular case, proceeding to establish paternity or secure support would be detrimental to the child for whom support would be sought.

(1) The child for whom support is sought was conceived as a result of incest or forcible rape.

(2) Legal proceedings for the adoption of the child are pending before a court of competent jurisdiction.

(3) The applicant or recipient is currently being assisted by a public or licensed private social agency to resolve the issue of whether to keep the child or relinquish the child for adoption, and the discussions have not gone on for more than three months.

c. Physical harm and emotional harm shall be of a serious nature in order to justify a finding of good cause. A finding of good cause for emotional harm shall be based only upon a demonstration of an emotional impairment that substantially affects the individual's functioning.

d. When the good cause determination is based in whole or in part upon the anticipation of emotional harm to the child, the parent, or the caretaker relative, the following shall be considered:

(1) The present emotional state of the individual subject to emotional harm.

(2) The emotional health history of the individual subject to emotional harm.

(3) Intensity and probable duration of the emotional impairment.

(4) The degree of cooperation required.

(5) The extent of involvement of the child in the paternity establishment or support enforcement activity to be undertaken.

a. A good cause claim may be corroborated with the following types of evidence.

(1) Birth certificates or medical or law enforcement records which indicate that the child was conceived as the result of incest or forcible rape.

(2) Court documents or other records which indicate that legal proceedings for adoption are pending before a court of competent jurisdiction.

(3) Court, medical, criminal, child protective services, social services, psychological, or law enforcement records which indicate that the putative father or absent parent might inflict physical or emotional harm on the child or caretaker relative.

(4) Medical records which indicate emotional health history and present emotional health status of the caretaker relative or the child for whom support would be sought; or written statements from a mental health professional indicating a diagnosis or prognosis concerning the emotional health of the caretaker relative or the child for whom support would be sought.

(5) A written statement from a public or licensed private social agency that the applicant or recipient is being assisted by the agency to resolve the issue of whether to keep the child or relinquish the child for adoption.

(6) Sworn statements from individuals other than the applicant or recipient with knowledge of the circumstances which provide the basis for the good cause claim.

b. When, after examining the corroborative evidence submitted by the applicant or recipient, the local office wishes to request additional corroborative evidence which is needed to permit a good cause determination, the local office shall:

(1) Promptly notify the applicant or recipient that additional corroborative evidence is needed, and

(2) Specify the type of document which is needed.

c. When the applicant or recipient requests assistance in securing evidence, the local office shall:

(1) Advise the applicant or recipient how to obtain the necessary documents, and

(2) Make a reasonable effort to obtain any specific documents which the applicant or recipient is not reasonably able to obtain without assistance.

d. When a claim is based on the applicant's or recipient's anticipation of physical harm and corroborative evidence is not submitted in support of the claim:

(1) The local office will investigate the good cause claim when the office believes that the claim is credible without corroborative evidence and corroborative evidence is not available.

(2) Good cause will be found when the claimant's statement and investigation which is conducted satisfies the office that the applicant or recipient has good cause for refusing to cooperate.

(3) A determination that good cause exists will be reviewed and approved or disapproved by the worker's immediate supervisor and the findings will be recorded in the case record.

e. The local office may further verify the good cause claim when the applicant's or recipient's statement of the claim together with the corroborative evidence do not provide sufficient basis for making a determination. When the local office determines that it is necessary, it may conduct an investigation of good cause claims to determine that good cause does or does not exist.

f. When it conducts an investigation of a good cause claim, the local office will:

(1) Contact the absent parent or putative father from whom support would be sought when the contact is determined to be necessary to establish the good cause claim.

(2) Prior to making the necessary contact, notify the applicant or recipient so the applicant or recipient may present additional corroborative evidence or information so that contact with the parent or putative father becomes unnecessary, withdraw the application for assistance or have the case closed, or have the good cause claim denied.

41.22(12) *Enforcement without caretaker's cooperation.* When the local office makes a determination that good cause exists, it shall also make a determination of whether or not child support enforcement can proceed without risk of harm to the child or caretaker relative when the enforcement or collection activities do not involve their participation.

a. Prior to making the determination, the child support recovery unit shall have an opportunity to review and comment on the findings and basis for the proposed determination and the local office shall consider any recommendation from the unit.

b. The determination shall be in writing, contain the local office's findings and basis for determination, and be entered into the family investment program case record.

c. When the local office excuses cooperation but determines that the child support recovery unit may proceed to establish paternity or enforce support, it will notify the applicant or recipient to enable the individual to withdraw the application for assistance or have the case closed.

41.22(13) *Furnishing of social security number.* As a condition of eligibility each applicant for or recipient of and all members of the eligible group must furnish a social security account number or proof of application for a number if it has not been issued or is not known and provide the number upon its receipt. The requirement shall not apply to a payee who is not a member of the eligible group.

a. Assistance shall not be denied, delayed, or discontinued pending the issuance or verification of the numbers when the applicant or recipient has complied with the requirements of 41.22(13).

b. When the mother of the newborn child is a current recipient, the mother shall have until the second month following the mother's discharge from the hospital to apply for a social security account number for the child.

41.22(14) *Department of workforce development registration and referral.* Rescinded IAB 11/1/00, effective 1/1/01.

41.22(15) *Requiring minor parents to live with parent or legal guardian.* A minor parent and the dependent child in the minor parent's care must live in the home of a parent or legal guardian of the minor parent in order to receive family investment program benefits unless good cause for not living with the parent or legal guardian is established. "Living in the home" includes living in the same apartment, same half of a duplex, same condominium or same row house as the adult parent or legal guardian. It also includes living in an apartment which is located in the home of the adult parent or legal guardian.

For applicants, determination of whether the minor parent and child are living with a parent or legal guardian or have good cause must be made as of the date of the first application interview as described at 441—subrule 40.24(2). If, as of the date of this interview, the minor parent and child are living with a parent or legal guardian or are determined to have good cause, the FIP application for the minor parent and child shall be approved as early as seven days from receipt of the application provided they are otherwise eligible. For pending applications that have already had the first interview before this subrule is implemented, the department shall determine eligibility in accordance with 441—subrule 40.24(4). If, as of the date of this interview, the minor parent and child are not living with a parent or legal guardian and do not have good cause, the FIP application for the minor parent and child shall be denied. For recipients, when changes occur, continuing eligibility shall be redetermined according to 441—subrules 40.27(4) and 40.27(5).

A minor parent determined to have good cause for not living with a parent or legal guardian must attend FaDSS or other family development as required in 441—subrule 93.109(2).

41.22(16) *Good cause for not living in the home of a parent or legal guardian.* Good cause shall exist when at least one of the following conditions applies:

a. The parents or legal guardian of the minor parent is deceased, missing or living in another state.

b. The physical or emotional health or safety of the minor parent or child would be jeopardized if the minor parent is required to live with the parent or legal guardian.

(1) Physical or emotional harm shall be of a serious nature in order to justify a finding of good cause.

(2) Physical or emotional harm shall include situations of documented abuse or incest.

(3) when the good cause determination is based in whole or in part upon the anticipation of emotional harm to the minor parent or child, the following shall be considered:

1. The present emotional state of the individual subject to emotional harm.
2. The emotional health history of the individual subject to emotional harm.
3. Intensity and probable duration of the emotional impairment.

c. The minor parent is in a foster care independent living arrangement.

d. The minor parent is participating in the job corps solo parent program.

e. The parents or legal guardian refuses to allow the minor parent and child to return home and the minor parent is living with a specified relative, aged 21 or over, on the day of interview, and the caretaker is the applicant or payee.

f. The minor parent and child live in a maternity home or other licensed adult-supervised supportive living arrangement as defined by the department of human services.

g. Other circumstances exist which indicate that living with the parents or legal guardian will defeat the goals of self-sufficiency and responsible parenting. Situations which appear to meet this good cause reason must be referred to the administrator of the division of economic assistance, or the administrator's designee, for determination of good cause.

41.22(17) *Claiming good cause for not living in the home of a parent or legal guardian.* Each applicant or recipient who is not living with a parent or legal guardian shall have the opportunity to claim good cause for not living with a parent or legal guardian.

41.22(18) *Determination of good cause for not living in the home of a parent or legal guardian.* The county office shall determine whether good cause exists for each applicant or recipient who claims good cause.

a. The applicant or recipient shall be notified by the county office of its determination that good cause does or does not exist. The determination shall:

(1) Be in writing.

(2) Contain the county office's findings and basis for determination.

(3) Be entered in the family investment program case record.

b. When the county office determines that good cause does not exist:

(1) The applicant or recipient shall be so notified.

(2) The application shall be denied or family investment program assistance canceled.

(3) A referral to services shall be made if the minor parent is not living with a parent or legal guardian and good cause does not exist.

c. The county office shall:

(1) Periodically, but not less frequently than every six months, review those cases in which the agency has determined that good cause exists based on a circumstance that is subject to change.

(2) When it determines that circumstances have changed so that good cause no longer exists, rescind its findings and proceed to enforce the requirements.

41.22(19) *Proof of good cause for not living in the home of a parent or legal guardian.* The applicant or recipient who claims good cause shall provide corroborative evidence to prove the good cause claim within the time frames described at 441—subrule 40.24(1) and paragraph 40.27(4) *"c."*

a. A good cause claim may be corroborated by one or more of the following types of evidence:

(1) Court, medical, criminal, child protective services, social services, psychological, or law enforcement records which indicate that the parent or legal guardian might inflict physical or emotional harm on the minor parent or child.

(2) Medical records that indicate the emotional health history and present emotional health status of the minor parent or child; or written statements from a mental health professional indicating a diagnosis or prognosis concerning the emotional health of the minor parent or child.

(3) Sworn statements from individuals other than the applicant or recipient with knowledge of the circumstances which provide the basis for the good cause claim. Written statements from the client's friends or relatives are not sufficient alone to grant good cause based on physical or emotional harm, but may be used to support other evidence.

(4) Notarized statements from the parents or legal guardian or other reliable evidence to verify that the parents or legal guardian refuse to allow the minor parent and child to return home.

(5) Court, criminal, child protective services, social services or other records which verify that the parents or legal guardian of the minor parent is deceased, missing or living in another state, or that the minor parent is in a foster care independent living arrangement, the job corps solo parent program, maternity home or other licensed adult-supervised supportive living arrangement.

b. When after examining the corroborative evidence submitted by the applicant or recipient, the county office wishes to request additional corroborative evidence which is needed to permit a good cause determination, the county office shall:

(1) Promptly notify the applicant or recipient that additional corroborative evidence is needed.

(2) Specify the type of document which is needed.

c. When the applicant or recipient requests assistance in securing evidence, the county office shall:

(1) Advise the applicant or recipient how to obtain the necessary documents.

(2) Make a reasonable effort to obtain any specific documents which the applicant or recipient is not reasonably able to obtain without assistance.

This rule is intended to implement Iowa Code chapter 239B, Iowa Code section 249A.4, and 1997 Iowa Acts, House File 715, section 3, subsection 5.

441—41.23(239B) Home, residence, citizenship, and alienage.

41.23(1) *Iowa residence.*

a. A resident of Iowa is one:

(1) Who is living in Iowa voluntarily with the intention of making that person's home there and not for a temporary purpose. A child is a resident of Iowa when living there on other than a temporary basis. Residence may not depend upon the reason for which the individual entered the state, except insofar as it may bear upon whether the individual is there voluntarily or for a temporary purpose; or

(2) Who, at the time of application, is living in Iowa, is not receiving assistance from another state, and entered Iowa with a job commitment or seeking employment in Iowa, whether or not currently employed. Under this definition the child is a resident of the state in which the caretaker is a resident.

b. Residence is retained until abandoned. Temporary absence from Iowa, with subsequent returns to Iowa, or intent to return when the purposes of the absence have been accomplished, does not interrupt continuity of residence.

41.23(2) *Suitability of home.* The home shall be deemed suitable until the court has ruled it unsuitable and, as a result of such action, the child has been removed from the home.

41.23(3) *Absence from the home.*

a. An individual who is absent from the home shall not be included in the assistance unit, except as described in paragraph *"b."*

(1) A parent who is a convicted offender but is permitted to live at home while serving a court-imposed sentence by performing unpaid public work or unpaid community service during the workday is considered absent from the home.

(2) A parent whose absence from the home is due solely to a pattern of employment is not considered to be absent.

(3) A parent whose absence is occasioned solely by reason of the performance of active duty in the uniformed services of the United States is considered absent from the home, notwithstanding the provisions of subrule 41.22(5). "Uniformed service" means the Army, Navy, Air Force, Marine Corps, Coast Guard, National Oceanographic and Atmospheric Administration, or Public Health Service of the United States.

b. The needs of an individual who is temporarily out of the home are included in the eligible group, if otherwise eligible. A temporary absence exists in the following circumstances:

(1) An individual is anticipated to be in the medical institution for less than a year, as verified by a physician's statement. Failure to return within one year will result in the individual's needs being removed from the grant.

(2) An individual is out of the home to secure education or training, as defined for children in 41.24(2)"*e*" and for adults in 441—subrule 93.114(1), first sentence, as long as the caretaker relative retains supervision of the child.

(3) An individual is out of the home for reasons other than reasons in subparagraphs (1) and (2) and the payee intends that the individual will return to the home within three months. Failure to return within three months will result in the individual's needs being removed from the grant.

41.23(4) *Citizenship and alienage for persons entering the United States before August 22, 1996.* Rescinded IAB 10/4/00, effective 12/1/00.

41.23(5) *Citizenship and alienage.*

a. A family investment program assistance grant may include the needs of a citizen or national of the United States, or a qualified alien as defined at 8 United States Code Section 1641. A person who is a qualified alien as defined at 8 United States Code Section 1641 is not eligible for family investment program assistance for five years. The five-year period of ineligibility begins on the date of the person's entry into the United States with a qualified alien status as defined at 8 United States Code Section 1641.

EXCEPTIONS: The five-year prohibition from family investment program assistance does not apply to qualified aliens described in 8 United States Code Section 1612, or to qualified aliens as defined at 8 United States Code Section 1641 who entered the United States before August 22, 1996. A person who is not a United States citizen or is not a qualified alien as defined at 8 United States Code Section 1641 is not eligible for the family investment program regardless of the date the person entered the United States.

b. As a condition of eligibility each recipient shall complete and sign Form 470-2549, Statement of Citizenship Status, attesting to the recipient's citizenship or alien status, when the statement has not previously been signed on the application. The form shall be signed by the recipient, or when the recipient is incompetent or incapacitated, someone acting responsibly on the recipient's behalf. When both parents are in the home, both shall sign the form. An adult recipient shall sign the form for dependent children. Failure to sign Form 470-2549 when required to do so creates ineligibility for the entire eligibility group.

This rule is intended to implement Iowa Code section 239B.2.

441—41.24(239B) Promoting independence and self-sufficiency through employment job opportunities and basic skills (PROMISE JOBS) program. An application for assistance constitutes a registration for the program for all members of the family investment program (FIP) case. Persons in any FIP case who are not exempt from referral to PROMISE JOBS shall enter into a family investment agreement (FIA) as a condition of receiving FIP, except as described at 41.24(8).

41.24(1) *Referral to PROMISE JOBS.*

a. All persons whose needs are included in a grant under the FIP program shall be referred to PROMISE JOBS as FIA-responsible persons unless the county office determines the persons are exempt.

b. Any parent living in the home of a child receiving a grant shall also be referred to PROMISE JOBS as an FIA-responsible person unless the county office determines the person is exempt.

c. Except for persons described at paragraph 41.24(2)*"f,"* persons determined exempt from referral, including applicants, may volunteer for PROMISE JOBS.

d. Applicants who have chosen and are in a limited benefit plan that began on or after June 1, 1999, shall complete significant contact with or action in regard to PROMISE JOBS as described at paragraphs 41.24(8)*"a"* and *"d"* for FIP eligibility to be considered. For two-parent households, both parents must participate as previously stated except when one parent meets the exemption criteria described at subrule 41.24(2).

41.24(2) *Exemptions.* The following persons are exempt from referral:

a. and *b.* Rescinded IAB 12/3/97, effective 2/1/98.

c. A person who is under the age of 16 and is not a parent.

d. A person who is disabled, according to the Americans with Disabilities Act, and unable to participate. Medical evidence of disability may be obtained from either an independent physician or psychologist or the state rehabilitation agency.

(1) The evidence may be submitted either by letter from the physician or on Form 470-0447, Report on Incapacity.

(2) When an examination is required and other resources are not available to meet the expense of the examination, the physician shall be authorized to make the examination and submit the claim for payment on Form 470-0502, Authorization for Examination and Claim for Payment.

(3) A finding of eligibility for social security benefits or supplemental security income benefits based on disability or blindness is acceptable proof of disability for family investment program purposes.

e. A person who is aged 16 to 19, and is not a parent, who attends an elementary, secondary or equivalent level of vocational or technical school full-time.

(1) A person shall be considered to be attending school full-time when enrolled or accepted in a full-time (as certified by the school or institute attended) elementary, secondary or the equivalent level of vocational or technical school or training leading to a certificate or diploma. Correspondence school is not an allowable program of study.

(2) A person shall also be considered to be in regular attendance in months when the person is not attending because of an official school or training program vacation, illness, convalescence, or family emergency. A child meets the definition of regular school attendance until the child has been officially dropped from the school rolls.

(3) When a person's education is temporarily interrupted pending adjustment of the education or training program, exemption shall be continued for a reasonable period of time to complete the adjustment.

f. A person who is not a United States citizen and is not a qualified alien as defined in 8 United States Code Section 1641.

41.24(3) *Parents aged 19 and under.*

a. Unless exempt as described at subrule 41.24(2), parents aged 18 or 19 are referred to PROMISE JOBS as follows:

(1) A parent aged 18 or 19 who has not successfully completed a high school education (or its equivalent) shall be required to participate in educational activities, directed toward the attainment of a high school diploma or its equivalent.

(2) The parent shall be required to participate in other PROMISE JOBS options if the person fails to make good progress in completing educational activities or if it is determined that participation in educational activities is inappropriate for the parent.

(3) The parent shall be required to participate in parenting skills training in accordance with 441—Chapter 93.

b. Unless exempt as described at subrule 41.24(2), parents aged 17 or younger are referred to PROMISE JOBS as follows:

(1) A parent aged 17 or younger who has not successfully completed a high school education or its equivalent shall be required to participate in high school completion activities, directed toward the attainment of a high school diploma or its equivalent.

(2) The parent shall be required to participate in parenting skills training in accordance with 441—Chapter 93.

41.24(4) *Method of referral.*

a. While the eligibility decision is pending, applicants in a limited benefit plan that began on or after June 1, 1999, shall receive a letter which contains information about the need to complete significant contact with or action in regard to the PROMISE JOBS program to be eligible for FIP assistance and the procedure for being referred to the PROMISE JOBS program.

b. When the FIP application is approved or when exempt status is lost, volunteers and persons who are not exempt from referral to PROMISE JOBS shall receive a letter which contains information about participant responsibility under PROMISE JOBS and the FIA and instructs the FIP participant to contact PROMISE JOBS within ten calendar days to schedule the PROMISE JOBS orientation.

41.24(5) *Changes in status and redetermination of exempt status.* Any exempt person shall report any change affecting the exempt status to the county office within ten days of the change. The county office shall reevaluate exempt persons when changes in status occur and at the time of six-month or annual review. The recipient and the PROMISE JOBS unit shall be notified of any change in a recipient's exempt status.

41.24(6) *Volunteers.* Except for persons described at paragraph 41.24(2)*"f,"* any applicant and any recipient may volunteer for referral. The income maintenance worker shall not refer an applicant to the program when it appears that the applicant shall be ineligible for FIP.

41.24(7) *Referral to vocational rehabilitation.* The department shall make the department of education, division of vocational rehabilitation services, aware of any person determined exempt from referral to PROMISE JOBS because of a medically determined physical or mental impairment. However, acceptance of vocational rehabilitation services by the client is optional.

41.24(8) *The limited benefit plan (LBP).* When a participant responsible for signing and meeting the terms of a family investment agreement as described at rule 441—93.109(239B) chooses not to sign or fulfill the terms of the agreement, the FIP eligible group or the individual participant shall enter into a limited benefit plan. The first month of the limited benefit plan is the first month after the month in which timely and adequate notice is given to the participant as defined at 441—subrule 7.7(1). A participant who is exempt from PROMISE JOBS is not subject to the limited benefit plan.

a. A limited benefit plan shall either be a first limited benefit plan or a subsequent limited benefit plan. From the effective date of the limited benefit plan, for a first limited benefit plan, the FIP household shall not be eligible until the participant who chose the limited benefit plan completes significant contact with or action in regard to the PROMISE JOBS program as defined in paragraph *"d."* If a subsequent limited benefit plan is chosen by the same participant, a six-month period of ineligibility applies and ineligibility continues after the six-month period is over until the participant who chose the LBP completes significant contact with or action in regard to the PROMISE JOBS program as defined in paragraph *"d."* A limited benefit plan imposed in error as described in paragraph *"f"* shall not be considered a limited benefit plan. A limited benefit plan is considered imposed when timely and adequate notice is issued establishing the limited benefit plan.

b. The limited benefit plan shall be applied to participants responsible for the family investment agreement and other members of the participant's family as follows:

(1) When the participant responsible for the family investment agreement is a parent or needy specified relative, the limited benefit plan shall apply to the entire FIP eligible group as defined at subrule 41.28(1).

(2) When the participant choosing a limited benefit plan is a needy specified relative who acts as payee when the parent is in the home but is unable to act as payee, or is a dependent child's stepparent who is in the FIP eligible group because of incapacity, the limited benefit plan shall apply only to the individual participant choosing the plan.

(3) When the FIP eligible group includes a minor parent living with the minor parent's adult parent or needy specified relative who receives FIP benefits and both the minor parent and the adult parent or needy specified relative are responsible for developing a family investment agreement, each parent or needy specified relative is responsible for a separate family investment agreement, and the limited benefit plan shall be applied as follows:

1. When the adult parent or needy specified relative chooses the limited benefit plan, the requirements of the limited benefit plan shall apply to the entire eligible group, even though the minor parent has not chosen the limited benefit plan. However, the minor parent may reapply for FIP benefits as a minor parent living with self-supporting parents or as a minor parent living independently and continue in the family investment agreement process.

2. When the minor parent chooses the limited benefit plan, the requirements of the limited benefit plan shall apply to the minor parent and any child of the minor parent.

3. When the minor parent is the only eligible child in the adult parent's or needy specified relative's home and the minor parent chooses the limited benefit plan, the adult parent's or needy specified relative's FIP eligibility ceases in accordance with subrule 41.28(1). The adult parent or needy specified relative shall become ineligible beginning with the effective date of the minor parent's limited benefit plan.

(4) When the FIP eligible group includes children who are mandatory PROMISE JOBS participants, the children shall not have a separate family investment agreement but shall be asked to sign the eligible group's family investment agreement and to carry out the responsibilities of that family investment agreement. A limited benefit plan shall be applied as follows:

1. When the parent or needy specified relative responsible for a family investment agreement meets those responsibilities but a child who is a mandatory PROMISE JOBS participant chooses an individual limited benefit plan, the limited benefit plan shall apply only to the individual child choosing the plan.

2. When the child who chooses a limited benefit plan under numbered paragraph "1" above is the only child in the eligible group, the parents' or needy specified relative's eligibility ceases in accordance with subrule 41.28(1). The parents or needy specified relative shall become ineligible beginning with the effective date of the child's limited benefit plan.

(5) When the FIP eligible group includes parents or needy specified relatives who are exempt from PROMISE JOBS participation and children who are mandatory PROMISE JOBS participants, the children are responsible for completing a family investment agreement. If a child who is a mandatory PROMISE JOBS participant chooses the limited benefit plan, the limited benefit plan shall be applied in the manner described in subparagraph (4).

(6) When both parents of a FIP child are in the home, a limited benefit plan shall be applied as follows:

1. When only one parent of a child in the eligible group is responsible for a family investment agreement and that parent chooses the limited benefit plan, the limited benefit plan applies to the entire family and cannot be ended by the voluntary participation in a family investment agreement by the exempt parent.

2. When both parents of a child in the eligible group are responsible for a family investment agreement, both are expected to sign the agreement. If either parent chooses the limited benefit plan, the limited benefit plan cannot be ended by the participation of the other parent in a family investment agreement.

3. When the parents from a two-parent family in a limited benefit plan separate, the limited benefit plan shall follow only the parent who chose the limited benefit plan and any children in the home of that parent.

4. A subsequent limited benefit plan applies when either parent in a two-parent family previously chose a limited benefit plan.

c. A participant shall be considered to have chosen a limited benefit plan under any of the following circumstances:

(1) A participant who does not establish an orientation appointment with the PROMISE JOBS program as described at 441—subrule 93.105(2) or who fails to keep or reschedule an orientation appointment shall receive one reminder letter which informs the participant that those who do not attend orientation have elected to choose the limited benefit plan. A participant who does not establish an orientation appointment within ten calendar days from the mailing date of the reminder letter or who fails to keep or reschedule an orientation appointment shall receive notice establishing the limited benefit plan. Timely and adequate notice provisions as in 441—subrule 7.7(1) apply.

(2) A participant who chooses not to sign the family investment agreement after attending a PROMISE JOBS program orientation shall enter into the limited benefit plan as described in subparagraph (1).

(3) A participant who signs a family investment agreement but does not carry out the family investment agreement responsibilities shall be deemed to have chosen a limited benefit plan as described in subparagraph (1). This includes a participant who fails to respond to the PROMISE JOBS worker's request to renegotiate the family investment agreement when the participant has not attained self-sufficiency by the date established in the family investment agreement. A limited benefit plan shall be imposed regardless of whether the request to renegotiate is made before or after expiration of the family investment agreement.

d. A participant who chooses a limited benefit plan may reconsider that choice as follows:

(1) A participant who chooses a first limited benefit plan may reconsider at any time from the date timely and adequate notice is issued establishing the limited benefit plan. To reconsider, the participant must communicate the desire to engage in PROMISE JOBS activities to the department or appropriate PROMISE JOBS office and develop and sign the family investment agreement. FIP benefits shall be effective the date the family investment agreement is signed or the effective date of the grant as described in rule 441—40.26(239B), whichever date is later. FIP benefits may be reinstated in accordance with 441—subrule 40.22(5) when the family investment agreement is signed before the limited benefit plan goes into effect.

(2) Rescinded IAB 4/7/99, effective 5/31/99.

(3) A participant who chooses a subsequent limited benefit plan may reconsider that choice at any time following the required six-month period of ineligibility. To reconsider, the participant must contact the department or the appropriate PROMISE JOBS office to communicate the desire to engage in PROMISE JOBS activities, sign a new or updated family investment agreement, and satisfactorily complete 20 hours of employment or the equivalent in an activity other than work experience or unpaid community service, unless problems or barriers as described at rules 441—93.133(239B) and 93.134(239B) apply. The 20 hours of employment or other activity must be completed within 30 days of the date that the family investment agreement is signed, unless problems or barriers as described at rules 441—93.133(239B) and 93.134(239B) apply. FIP benefits shall not begin until the person who chose the limited benefit plan completes the previously defined significant actions. FIP benefits shall be effective the date the family investment agreement is signed or the effective date of the grant as described in rule 441—40.26(239B), whichever date is later, but in no case shall the effective date be within the six-month period of ineligibility.

(4) For a two-parent family when both parents are responsible for a family investment agreement as described at subrule 41.24(1), a first or subsequent limited benefit plan continues until both parents have completed significant contact or action with the PROMISE JOBS program as described in subparagraphs (1) and (3) above.

e. When a participant has chosen a subsequent limited benefit plan, a qualified professional shall attempt to visit with the participant family with a focus upon the children's well-being. The visit shall be performed during or within four weeks of the second month of the start of the subsequent limited benefit plan. The visit shall serve as an extension of the family investment program and the family investment agreement philosophy of supporting families as they move toward self-sufficiency. The department may contract for the visit.

f. A limited benefit plan imposed in error shall not be considered a limited benefit plan. This includes any instance when participation in PROMISE JOBS should not have been required as defined in the administrative rules. Examples of instances when an error has occurred are:

(1) The person considered to have chosen the limited benefit plan was disabled and unable to participate as described at paragraph 41.24(2)*"d"* on the date the notice of decision was issued to impose the limited benefit plan.

(2) It is verified that the person considered to have chosen the limited benefit plan moved out of state prior to the date that PROMISE JOBS determined the limited benefit plan was chosen.

(3) The final appeal decision under 441—Chapter 7 reverses the decision to impose a limited benefit plan.

41.24(9) *Nonparticipation by volunteer participants.*

a. Volunteer participants are not subject to the limited benefit plan as described at 41.24(8).

(1) Volunteer participants who do not schedule or keep an appointment for orientation or who choose not to complete an FIA after attending orientation shall have PROMISE JOBS referral status changed to exempt by the income maintenance worker. No penalty is involved.

(2) Volunteers who complete the FIA and choose not to carry out the activities or meet the responsibilities of the FIA, including resolving participation issues as described at rule 441—93.132(249C), shall be deactivated from the PROMISE JOBS program after completion of the conciliation process described below. Volunteers who are deactivated from the program after completing the FIA shall not be eligible for priority program services as long as other participants are waiting for services.

(5) Any other direct cost involved in the production of the income, except the purchase of capital equipment and payment on the principal of loans for capital equipment and payment on the principal of loans for capital assets and durable goods or any cost of depreciation.

p. Rescinded IAB 6/30/99, effective 9/1/99.

q. The applicant or recipient shall cooperate in supplying verification of all earned income and of any change in income, as defined at rule 441—40.21(239B). A self-employed individual shall keep any records necessary to establish eligibility.

41.27(3) *Shared living arrangements.* When a family investment program parent shares living arrangements with another family or person, funds combined to meet mutual obligations for shelter and other basic needs are not income. Funds made available to the family investment program eligible group, exclusively for their needs, are considered income.

41.27(4) *Diversion of income.*

a. Nonexempt earned and unearned income of the parent shall be diverted to meet the unmet needs, including special needs, of the ineligible child(ren) of the parent living in the family group who meets the age and school attendance requirements specified in subrule 41.21(1). Income of the parent shall be diverted to meet the unmet needs of the ineligible child(ren) of the parent and a companion in the home only when the income and resources of the companion and the child(ren) are within family investment program standards. The maximum income that shall be diverted to meet the needs of the ineligible child(ren) shall be the difference between the needs of the eligible group if the ineligible child(ren) were included and the needs of the eligible group with the child(ren) excluded, except as specified in 41.27(8)*"a"*(2) and 41.27(8)*"b."*

b. Nonexempt earned and unearned income of the parent shall be diverted to permit payment of court-ordered support to children not living with the parent when the payment is actually being made.

41.27(5) *Income of unmarried specified relatives under age 19.*

a. Income of an unmarried specified relative under age 19 when that specified relative lives with a parent who receives the family investment program or lives with a nonparental relative or in an independent living arrangement.

(1) The income of the unmarried, underage specified relative who is also an eligible child in the grant of the specified relative's parent shall be treated in the same manner as that of any other child. The income for the unmarried, underage specified relative who is not an eligible child in the grant of the specified relative's parent shall be treated in the same manner as though the specified relative had attained majority.

(2) The income of the unmarried, underage specified relative living with a nonparental relative or in an independent living arrangement shall be treated in the same manner as though the specified relative had attained majority.

b. Income of the unmarried specified relative under the age of 19 who lives in the same home as a self-supporting parent(s). The income of the unmarried specified relative under the age of 19 living in the same home as a self-supporting parent(s) shall be treated in accordance with subparagraphs (1), (2), and (4) below.

(1) When the unmarried specified relative is under the age of 18 and not a parent of the dependent child, the income of the specified relative shall be exempt.

(2) When the unmarried specified relative is under the age of 18 and a parent of the dependent child, the income of the specified relative shall be treated in the same manner as though the specified relative had attained majority. The income of the specified relative's self-supporting parent(s) shall be treated in accordance with 41.27(8)*"c."*

(3) Rescinded IAB 4/3/91, effective 3/14/91.

(4) When the unmarried specified relative is age 18, the income of the specified relative shall be treated in the same manner as though the specified relative had attained majority.

41.27(6) *Exempt as income and resources.* The following shall be exempt as income and resources:

a. Food reserves from home-produced garden products, orchards, domestic animals, and the like, when utilized by the household for its own consumption.

b. The value of the coupon allotment in the food stamp program.

c. The value of the United States Department of Agriculture donated foods (surplus commodities).

d. The value of supplemental food assistance received under the Child Nutrition Act and the special food service program for children under the National School Lunch Act.

e. Any benefits received under Title III-C, Nutrition Program for the Elderly, of the Older Americans Act.

f. Benefits paid to eligible households under the Low Income Home Energy Assistance Act of 1981.

g. Any payment received under Title II of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 and the Federal-Aid Highway Act of 1968.

h. Any judgment funds that have been or will be distributed per capita or held in trust for members of any Indian tribe. When the payment, in all or part, is converted to another type of resource, that resource is also exempt.

i. Payments to volunteers participating in the Volunteers in Service to America (VISTA) program, except that this exemption will not be applied when the director of ACTION determines that the value of all VISTA payments, adjusted to reflect the number of hours the volunteers are serving, is equivalent to or greater than the minimum wage then in effect under the Fair Labor Standards Act of 1938, or the minimum wage under the laws of the state where the volunteers are serving, whichever is greater.

j. Payments for supporting services or reimbursement of out-of-pocket expenses received by volunteers in any of the programs established under Titles II and III of the Domestic Volunteer Services Act.

k. Tax-exempt portions of payments made pursuant to the Alaskan Native Claims Settlement Act.

l. Experimental housing allowance program payments made under annual contribution contracts entered into prior to January 1, 1975, under Section 23 of the U.S. Housing Act of 1936 as amended.

m. The income of a supplemental security income recipient.

n. Income of an ineligible child.

o. Income in-kind.

p. Family support subsidy program payments.

q. Grants obtained and used under conditions that preclude their use for current living costs.

r. All earned and unearned educational funds of an undergraduate or graduate student or a person in training. Any extended social security or veterans benefits received by a parent or nonparental relative as defined at subrule 41.22(3), conditional to school attendance, shall be exempt. However, any additional amount received for the person's dependents who are in the eligible group shall be counted as nonexempt income.

s. Rescinded IAB 2/11/98, effective 2/1/98.

t. Any income restricted by law or regulation which is paid to a representative payee, living outside the home, other than a parent who is the applicant or recipient, unless the income is actually made available to the applicant or recipient by the representative payee.

u. The first $50 received and retained by an applicant or recipient which represents a current monthly support obligation or a voluntary support payment, paid by a legally responsible individual, but in no case shall the total amount exempted exceed $50 per month per eligible group.

ac. Payments received from the comprehensive child development program, funded by the Administration for Children, Youth, and Families, provided the payments are considered complimentary assistance by federal regulation.

ad. Incentive allowance payments received from the work force investment project, provided the payments are considered complimentary assistance by federal regulation.

ae. Interest and dividend income.

af. Rescinded IAB 12/3/97, effective 2/1/98.

ag. Terminated income of recipient households who are subject to retrospective budgeting beginning with the calendar month the source of the income is absent, provided the absence of the income is timely reported as described at 441—subrule 40.24(1) and 441—subparagraph 40.27(4)*"f"*(1).

EXCEPTION: Income that terminated in one of the two initial months occurring at time of an initial application that was not used prospectively shall be considered retrospectively as required by 41.27(9)*"b"*(1). If income terminated and is timely reported but a grant adjustment cannot be made effective the first of the next month, a payment adjustment shall be made. This subrule shall not apply to nonrecurring lump sum income defined at 41.27(9)*"c"*(2).

ah. Welfare reform and regular household honorarium income. All moneys paid to a FIP household in connection with the welfare reform demonstration longitudinal study or focus groups shall be exempted.

ai. Diversion or self-sufficiency grants assistance as described at 441—Chapter 47.

aj. Payments from property sold under an installment contract as specified in paragraphs 41.26(4)*"b"* and 41.27(1)*"f."*

ak. All census earnings received by temporary workers from the Bureau of the Census for Census 2000 during the period of April 1, 2000, through January 31, 2001.

41.27(8) *Treatment of income in excluded parent cases, stepparent cases, and underage parent cases.*

a. Treatment of income in excluded parent cases.

(1) A parent who is living in the home with the eligible child(ren) but whose needs are excluded from the eligible group is eligible for the 20 percent earned income deduction, the 50 percent work incentive deduction described at 41.27(2)*"a"* and *"c,"* and diversions described at 41.27(4), and shall be permitted to retain that part of the parent's income to meet the parent's needs as determined by the difference between the needs of the eligible group with the parent included and the needs of the eligible group with the parent excluded except as described at 41.27(11). All remaining income of the parent shall be applied against the needs of the eligible group.

(2) Rescinded IAB 10/4/00, effective 12/1/00.

b. Treatment of income in stepparent cases. The income of a stepparent who is not included in the eligible group, but is living with the parent in the home of the eligible child(ren), shall be given the same consideration and treatment as that of a parent subject to the limitations of subparagraphs (1) to (10) below.

(1) The stepparent's monthly gross nonexempt earned income, earned as an employee or monthly net profit from self-employment, shall receive a 20 percent earned income deduction.

(2) Rescinded IAB 6/30/99, effective 7/1/99.

(3) Any amounts actually paid by the stepparent to individuals not living in the home, who are claimed or could be claimed by the stepparent as dependents for federal income tax purposes, shall be deducted from nonexempt monthly earned and unearned income of the stepparent.

(4) The stepparent shall also be allowed a deduction from nonexempt monthly earned and unearned income for alimony and child support payments made to individuals not living in the home with the stepparent.

(5) Except as described at 41.27(11), the nonexempt monthly earned and unearned income of the stepparent remaining after application of the deductions in 41.27(8)*"b"*(1) to (4) above shall be used to meet the needs of the stepparent and the stepparent's dependents living in the home, when the dependents' needs are not included in the eligible group and the stepparent claims or could claim the dependents for federal income tax purposes. These needs shall be determined in accordance with the family investment program standard of need for a family group of the same composition.

(6) The stepparent shall be allowed the 50 percent work incentive deduction from monthly earnings. The deduction shall be applied to earnings that remain after all other deductions in 41.27(8)"*b*"(1) through (5) have been subtracted from the earnings. However, the 50 percent work incentive deduction is not allowed when determining initial eligibility as described at 41.27(9)"*a*"(2) and (3).

(7) The deductions described in subparagraphs (1) through (6) will first be subtracted from earned income in the same order as they appear above.

When the stepparent has both nonexempt earned and unearned income and earnings are less than the allowable deductions, then any remaining portion of the deductions in subparagraphs (3) through (5) shall be subtracted from unearned income. Any remaining income shall be applied as unearned income to the needs of the eligible group.

If the stepparent has earned income remaining after allowable deductions, then any nonexempt unearned income shall be added to the earnings and the resulting total counted as unearned income to the needs of the eligible group.

(8) A nonexempt nonrecurring lump sum received by a stepparent shall be considered as income in the budget month, and counted in computing eligibility and the amount of the grant for the payment month. Any portion of the nonrecurring lump sum retained by the stepparent in the month following the month of receipt shall be considered a resource to the stepparent.

(9) When the income of the stepparent, not in the eligible group, is insufficient to meet the needs of the stepparent and the stepparent's dependents living in the home who are not eligible for FIP, the income of the parent may be diverted to meet the unmet needs of the child(ren) of the current marriage except as described at 41.27(11).

(10) When the needs of the stepparent, living in the home, are not included in the eligible group, the eligible group and any child(ren) of the parent living in the home who is not eligible for FIP shall be considered as one unit, and the stepparent and the stepparent's dependents, other than the spouse, shall be considered a separate unit.

(11) Rescinded IAB 6/30/99, effective 9/1/99.

c. Treatment of income in underage parent cases. In the case of a dependent child whose unmarried parent is under the age of 18 and living in the same home as the unmarried, underage parent's own self-supporting parent(s), the income of each self-supporting parent shall be considered available to the eligible group after appropriate deductions. The deductions to be applied are the same as are applied to the income of a stepparent pursuant to 41.27(8)"*b*"(1) to (7). Nonrecurring lump sum income received by the self-supporting parent(s) shall be treated in accordance with 41.27(8)"*b*"(8).

When the self-supporting spouse of a self-supporting parent is also living in the home, the income of that spouse shall be attributable to the self-supporting parent in the same manner as the income of a stepparent is determined pursuant to 41.27(8)"*b*"(1) to (7). Nonrecurring lump sum income received by the spouse of the self-supporting parent shall be treated in accordance with 41.27(8)"*b*"(8). The self-supporting parent and any ineligible dependents of that person shall be considered as one unit; the self-supporting spouse and the spouse's ineligible dependents, other than the self-supporting parent, shall be considered a separate unit.

41.27(9) *Budgeting process.*

a. Initial eligibility.

(1) At time of application all earned and unearned income received and anticipated to be received by the eligible group during the month the decision is made shall be considered to determine eligibility for the family investment program, except income which is exempt. When income is prorated in accordance with 41.27(9)*"c"*(1) and 41.27(9)*"i,"* the prorated amount is counted as income received in the month of decision. Allowable work expenses during the month of decision shall be deducted from earned income, except when determining eligibility under the 185 percent test defined in 41.27(239B). The determination of eligibility in the month of decision is a three-step process as described in 41.27(239B).

(2) When countable gross nonexempt earned and unearned income in the month of decision, or in any other month after assistance is approved, exceeds 185 percent of the standard of need for the eligible group, the application shall be rejected or the assistance grant canceled. Countable gross income means nonexempt gross income, as defined in rule 441—41.27(239B), without application of any disregards, deductions, or diversions. When the countable gross nonexempt earned and unearned income in the month of decision equals or is less than 185 percent of the standard of need for the eligible group, initial eligibility under the standard of need shall then be determined. Initial eligibility under the standard of need is determined without application of the earned income disregard as specified in 41.27(2)*"c."* All other appropriate exemptions, deductions and diversions are applied. Countable income is then compared to the standard of need for the eligible group. When countable net earned and unearned income in the month of decision equals or exceeds the standard of need for the eligible group, the application shall be denied.

(3) When the countable net income in the month of the decision is less than the standard of need for the eligible group, the earned income disregard in 41.27(2)*"c"* shall be applied when there is eligibility for this disregard. When countable net earned and unearned income in the month of decision, after application of the earned income disregard in 41.27(2)*"c"* and all other appropriate exemptions, deductions, and diversions, equals or exceeds the payment standard for the eligible group, the application shall be denied.

When the countable net income in the month of decision is less than the payment standard for the eligible group, the application shall be approved. The amount of the family investment program grant shall be determined by subtracting countable net income in the month of decision from the payment standard for the eligible group, except as specified in 41.27(9)*"a"*(4).

(4) Eligibility for the family investment program for any month or partial month before the month of decision shall be determined only when there is eligibility in the month of decision. The family composition for any month or partial month before the month of decision shall be considered the same as on the date of decision. In determining eligibility and the amount of the assistance payment for any month or partial month preceding the month of decision, income and all circumstances except family composition in that month shall be considered in the same manner as in the month of decision. When the eligibility determination is delayed until the third initial month or later and payment is being made for the preceding months, the payment for the month following the initial two months shall be based, retrospectively, on income and all circumstances except family composition in the corresponding budget month.

(5) The amount of the assistance grant for the initial two months of eligibility shall be computed prospectively with two exceptions. Income shall be considered retrospectively for the first two payment months which follow a month of suspension, unless there has been a change in the family's circumstances. Also, income for the first and second months of eligibility shall be considered retrospectively when the applicant was a recipient for the two immediately preceding payment months, including months for which payment was not received due to the restriction defined in 441—45.26(239B) and 441—45.27(239B).

41.27(11) *Restriction on diversion of income.* No income may be diverted to meet the needs of a person living in the home who has been sanctioned under subrule 41.24(8) or 41.25(5), or who has been disqualified under subrule 41.25(10) or rule 441—46.28(239B) or 441—46.29(239B), or who is required to be included in the eligible group according to 41.28(1)*"a"* and has failed to cooperate. This restriction applies to 41.27(4)*"a"* and 41.27(8).

This rule is intended to implement Iowa Code section 239B.7.

441—41.28(239B) Need standards.

41.28(1) *Definition of the eligible group.* The eligible group consists of all eligible persons specified below and living together, except when one or more of these persons have elected to receive supplemental security income under Title XVI of the Social Security Act. There shall be at least one child in the eligible group except when the only eligible child is receiving supplemental security income. The unborn child is not considered a member of the eligible group for purposes of establishing the number of persons in the eligible group.

a. The following persons shall be included (except as otherwise provided in these rules), without regard to the person's employment status, income or resources:

(1) All dependent children who are siblings of whole or half blood or adoptive.

(2) Any parent of such children, if the parent is living in the same home as the dependent children.

b. The following persons may be included:

(1) The needy specified relative who assumes the role of parent.

(2) The needy specified relative who acts as payee when the parent is in the home, but is unable to act as payee.

(3) An incapacitated stepparent, upon request, when the stepparent is the legal spouse of the parent by ceremonial or common-law marriage and the incapacitated stepparent does not have a child in the eligible group.

1. A stepparent is considered incapacitated when a clearly identifiable physical or mental defect has a demonstrable effect upon earning capacity or the performance of the homemaking duties required to maintain a home for the stepchild. The incapacity shall be expected to last for a period of at least 30 days from the date of application.

2. The determination of incapacity shall be supported by medical or psychological evidence. The evidence may be submitted in the same manner specified in paragraph 41.24(2)*"d."*

(4) Rescinded IAB 6/30/99, effective 7/1/99.

41.28(2) *Schedule of needs.* The schedule of living costs represents 100 percent of basic needs. The schedule of living costs is used to determine the needs of individuals when these needs must be determined in accordance with the standard of need defined in 441—40.21(239B). The 185 percent schedule is included for the determination of eligibility in accordance with 441—41.27(239B). The schedule of basic needs is used to determine the basic needs of those persons whose needs are included in and are eligible for a family investment program grant. The eligible group is considered a separate and distinct group without regard to the presence in the home of other persons, regardless of relationship to or whether they have a liability to support members of the eligible group. The schedule of basic needs is also used to determine the needs of persons not included in the assistance grant, when these needs must be determined in accordance with the payment standard defined in 441—40.21(239B). The percentage of basic needs paid to one or more persons as compared to the schedule of living costs is shown on the chart below.

SCHEDULE OF NEEDS

Number of Persons	1	2	3	4	5	6	7	8	9	10	Each Additional Person
185% of Living Costs	675.25	1330.15	1570.65	1824.10	2020.20	2249.60	2469.75	2695.45	2915.60	3189.40	320.05
Schedule of Living Costs	365	719	849	986	1092	1216	1335	1457	1576	1724	173
Schedule of Basic Needs	183	361	426	495	548	610	670	731	791	865	87
Ratio of Basic Needs to Living Costs	50.18	50.18	50.18	50.18	50.18	50.18	50.18	50.18	50.18	50.18	50.18

CHART OF BASIC NEEDS COMPONENTS
(all figures are on a per person basis)

Number of Persons	1	2	3	4	5	6	7	8	9	10 or More
Shelter	77.14	65.81	47.10	35.20	31.74	26.28	25.69	22.52	20.91	20.58
Utilities	19.29	16.45	11.77	8.80	7.93	6.57	6.42	5.63	5.23	5.14
Household Supplies	4.27	5.33	4.01	3.75	3.36	3.26	3.10	3.08	2.97	2.92
Food	34.49	44.98	40.31	39.11	36.65	37.04	34.00	33.53	32.87	32.36
Clothing	11.17	11.49	8.70	8.75	6.82	6.84	6.54	6.39	6.20	6.10
Pers. Care & Supplies	3.29	3.64	2.68	2.38	2.02	1.91	1.82	1.72	1.67	1.64
Med. Chest Supplies	.99	1.40	1.34	1.13	1.15	1.11	1.08	1.06	1.09	1.08
Communications	7.23	6.17	3.85	3.25	2.50	2.07	1.82	1.66	1.51	1.49
Transportation	25.13	25.23	22.24	21.38	17.43	16.59	15.24	15.79	15.44	15.19

a. The definitions of the basic need components are as follows:

(1) Shelter: Rental, taxes, upkeep, insurance, amortization.

(2) Utilities: Fuel, water, lights, water heating, refrigeration, garbage.

(3) Household supplies and replacements: Essentials associated with housekeeping and meal preparation.

(4) Food: Including school lunches.

(5) Clothing: Including layette, laundry, dry cleaning.

(6) Personal care and supplies: Including regular school supplies.

(7) Medicine chest items.

(8) Communications: Telephone, newspapers, magazines.

(9) Transportation: Includes bus fares and other out-of-pocket costs of operating a privately owned vehicle.

b. Special situations in determining eligible group:

(1) The needs of a child or children in a nonparental home shall be considered a separate eligible group when the relative is receiving the family investment program assistance for the relative's own children.

(2) When the unmarried specified relative under age 19 is living in the same home with a parent or parents who receive the family investment program, the needs of the specified relative, when eligible, shall be included in the same eligible group with the parent(s). When the specified relative is a parent, the needs of the eligible children for whom the unmarried parent is caretaker shall be included in the same eligible group. When the specified relative is a nonparental relative, the needs of the eligible children for whom the specified relative is caretaker shall be considered a separate eligible group.

When the unmarried specified relative under the age of 19 is living in the same home as a parent(s) who receives the family investment program but the specified relative is not an eligible child, need of the specified relative shall be determined in the same manner as though the specified relative had attained majority.

When the unmarried specified relative under the age of 19 is living with a nonparental relative or in an independent living arrangement, need shall be determined in the same manner as though the specified relative had attained majority.

When the unmarried specified relative is under the age of 18 and living in the same home with a parent(s) who does not receive the family investment program, the needs of the specified relative, when eligible, shall be included in the assistance grant with the children when the specified relative is a parent. When the specified relative is a nonparental relative as defined in 41.22(3), only the needs of the eligible children shall be included in the assistance grant. When the unmarried specified relative is aged 18, need shall be determined in the same manner as though the specified relative had attained majority.

(3) When a person who would ordinarily be in the eligible group has elected to receive supplemental security income benefits, the person, income and resources, shall not be considered in determining family investment program benefits for the rest of the family.

(4) When two individuals, married to each other, are living in a common household and the children of each of them are recipients of assistance, the assistance grant shall be computed on the basis of their comprising one eligible group. This rule shall not be construed to require that an application for assistance be made for children who are not the natural or adoptive children of the applicant.

41.28(3) Special needs. On the basis of demonstrated need the following special needs shall be allowed, in addition to the basic needs.

a. School expenses. Any specific charge, excluding tuition, for a child's education made by the school, or in accordance with school requirements in connection with a course in the curriculum, shall be allowed provided the allowance shall not exceed the reasonable cost required to meet the specifications of the course, and the student is actually participating in the course at the time the expense is claimed. Payment will not be made for ordinary expenses for school supplies.

b. Guardian/conservator fee. An amount not to exceed $10 per case per month may be allowed for guardian's/conservator's fees when authorized by appropriate court order. No additional payment is permitted for court costs or attorney's fees.

c. FIP special needs classroom training. Rescinded IAB 12/3/97, effective 2/1/98.

d. Job Training Partnership Act. Rescinded IAB 12/3/97, effective 2/1/98.

41.28(4) *Period of adjustment.* Rescinded IAB 11/1/00, effective 1/1/01.

This rule is intended to implement Iowa Code section 239B.5.

441—41.29(239B) Composite FIP/SSI cases. When persons in the family investment program household, who would ordinarily be in the eligible group, are receiving supplemental security income benefits, the following rules shall apply.

41.29(1) *Pending SSI approval.* When a person who would ordinarily be in the eligible group has applied for supplemental security income benefits, the person's needs may be included in the family investment program grant pending approval of supplemental security income.

41.29(2) *Ownership of property.* When property is owned by both the supplemental security income beneficiary and the family investment program recipient, each shall be considered as having a half interest in order to determine the value of the resource, unless the terms of the deed or purchase contract clearly establish ownership on a different proportional basis.

This rule is intended to implement Iowa Code section 239B.5.

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CHAPTER 42
UNEMPLOYED PARENT

[Prior to 7/1/83, Social Services[770] Ch 42]
[Prior to 2/11/87, Human Services[498]]

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CHAPTER 47
PILOT DIVERSION INITIATIVES

PREAMBLE

This chapter describes the department of human services pilot diversion initiatives. The purpose of these pilot programs is to determine the potential benefits and cost savings of providing immediate, short-term assistance to families in lieu of ongoing assistance under the family investment program (FIP) (applicant diversion), or to meet needs of FIP participants not currently met by existing PROMISE JOBS services (self-sufficiency grants), or to provide supportive services and short-term cash assistance to families in order to prevent the need to return to FIP (post-FIP diversion). Assistance under this chapter is intended to enable families to become or remain self-sufficient by removing barriers to obtaining or retaining employment.

DIVISION I
PILOT FIP-APPLICANT DIVERSION PROGRAM

PREAMBLE

The pilot FIP-applicant diversion program provides a voluntary alternative to ongoing cash assistance to families through the family investment program (FIP) as provided under 441—Chapters 40 and 41. The purpose of the pilot FIP-applicant diversion program is to provide immediate, short-term assistance to a family in lieu of ongoing FIP cash assistance. Assistance under this division may postpone or prevent the need to apply for FIP.

441—47.1(239B) Definitions.

"Approved pilot project" means a pilot proposal meeting the conditions in the request for application or request for renewal that was reviewed, approved and funded by the division administrator. Each approved pilot project shall have a local plan, as described at rule 441—47.6(239B), approved by the division administrator. The project shall be limited to families in a specific geographic area detailed in the local plan.

"Candidate" means anyone expressing an interest in the pilot FIP-applicant diversion program, or identified by a county office having an approved pilot project as likely to meet the criteria for participating in the project, and who is working with the county office to enroll in the program.

"Cash value" means FIP-applicant diversion assistance having direct value to the participant, through cash payment, voucher, or vendor payment. Examples of assistance without direct cash value are mentoring and case management.

"County office" means the county office of the department of human services.

"Department" means the Iowa department of human services.

"Director" means the director of the department.

"Diversion assistance" means any type of assistance provided under this division as described in subrule 47.4(1).

"Division administrator" means the administrator of the division of economic assistance of the department, or the administrator's designee.

"Family" means *"assistance unit"* as defined at rule 441—40.21(239B).

"Family investment program" or *"FIP"* means the cash grant program provided by 441—Chapters 40 and 41, designed to sustain Iowa families.

"Fiscal agent" means that entity provided funds under an agreement with a county office having an approved pilot project. The fiscal agent shall, at the direction of the county office, issue payments for assistance under this division and maintain accounting records as specified by the agreement.

"Human services area administrator (HSAA)" means the person responsible for delivery of income maintenance and social services programs for a county or multicounty area.

"Immediate, short-term assistance" means assistance provided under this division shall be authorized in less time than it would take to process and issue FIP under normal processing standards described at rule 441—40.25(239B), and that it shall not occur on a regular or frequent basis. Participants may receive assistance under this division more than once under the duration of the pilot, but shall not receive assistance so often as to be considered receiving ongoing assistance as under FIP. Time frames and frequency of assistance shall be detailed in the local plan.

"Local plan" means the written policies and procedures and other components for administering an approved pilot project as described at rule 441—47.6(239B).

"Participant" means anyone receiving assistance under this division.

"Pilot proposal" means the project description submitted by the county office prepared within the parameters of a request for application or request for renewal issued by the division administrator. The division administrator shall review, approve, modify and approve, or deny the proposal.

"Request for application" means a request issued by the division administrator to county offices for proposals to implement a pilot project under this division. The request shall provide background information about the purpose, authorization and funding for the pilot FIP-applicant diversion program, as well as general parameters, specific criteria and time frames for submitting a proposal.

"Request for renewal" means a request issued by the division administrator to county offices for proposals to renew an approved pilot project under this division. The request shall provide general parameters, specific criteria and time frames for submitting a renewal proposal.

"Support services" means FIP-applicant diversion assistance having no direct cash value for the participant. Services include, but are not limited to, case management, mentoring, job coaching, skill building, and intervention.

"Temporary assistance for needy families" or *"TANF"* means the program for granting benefits to eligible groups under Title IV-A of the federal Social Security Act as amended by Public Law 104-193, the Personal Responsibility and Work Opportunity Reconciliation Act of 1996. This replaced the aid to families with dependent children program.

"Written funding agreement" means that agreement between a county office having an approved pilot project and a fiscal agent. The agreement shall specify the responsibilities of each party to the agreement as well as indicate the amount of FIP-applicant diversion funds allocated to the approved pilot project. The written funding agreement shall be signed by authorized representatives of the department and the fiscal agent.

441—47.2(239B) Availability of program. The pilot FIP-applicant diversion program shall be available only in those counties or other specified areas of the state having an approved pilot project as defined at rule 441—47.1(239B). FIP-applicant diversion assistance shall be provided to those families determined to be likely candidates for success in the program, as determined by the local project staff.

441—47.3(239B) General criteria. Pilot FIP-applicant diversion program candidates shall be otherwise eligible for FIP, as set forth at subrule 47.5(1). Participation in the pilot FIP-applicant diversion program is voluntary and shall be based on an informed decision by the family. Further, candidates must have identifiable barriers to obtaining or retaining employment that can be substantially addressed through the immediate, short-term assistance offered by this division, and according to the local plan.

441—47.4(239B) Assistance available. Diversion assistance shall assist participant families to obtain or retain employment. The means of providing the diversion assistance for each project shall be detailed in the local plans.

47.4(1) *Types of assistance.* Diversion assistance shall be granted through any or all of the following: cash payments, vendor payments, voucher payments, or support services. Specific types of assistance administered by each pilot shall be set forth in the local plans.

47.4(2) *Maximum value of assistance.* For assistance having a cash value to the family, each pilot shall establish a maximum amount each family may receive during the pilot period. Specific maximum values of assistance administered by each pilot shall be set forth in the local plans.

47.4(3) *Frequency of assistance.* Diversion assistance is intended to be of an immediate and short-term nature. While a family may be a candidate more than once, this program shall not be considered ongoing assistance. The frequency of assistance for each approved pilot project shall be set forth in the local plans.

47.4(4) *Supplanting.* FIP-applicant diversion funds shall not be used for services already available through local resources at no cost to the family or to the department. In counties that operate both pilot FIP-applicant and post-FIP diversion projects, cash value assistance shall be paid from the post-FIP diversion funds in the initial 12 months following the effective date of FIP cancellation, if the pilot post-FIP diversion project permits cash value assistance payments, and the candidate is otherwise eligible for post-FIP diversion assistance.

441—47.5(239B) Relationship to the family investment program and TANF.

47.5(1) *Otherwise FIP eligible.* Candidates cannot receive both FIP and assistance under this division in the same calendar month. Candidates for the pilot FIP-applicant diversion program must meet the following FIP eligibility criteria and any other FIP eligibility criteria found in 441—Chapters 40 and 41 included in the local plan of an approved pilot project:

a. Requirements related to a child's age and living with a specified relative as described at rules 441—41.21(239B) and 441—41.22(239B).

b. Social security number requirements described at 441—subrule 41.22(13).

c. Residency requirements described at 441—subrule 41.23(1).

d. Citizenship and alien requirements described at 441—subrules 41.23(4) and 41.23(5).

e. Income requirements described at rule 441—41.27(239B). Candidates must pass the 185 percent income test to be considered. Pilot projects may incorporate more restrictive criteria in their local plans, consistent with other income tests for FIP at rule 441—41.27(239B).

f. Family members cannot be in the six-month period of ineligibility applied with a subsequent limited benefit plan as described at 441—subrule 41.24(8).

g. Family members in the indefinite period of ineligibility applied with the limited benefit plan as described at 441—subrule 41.24(8) may receive support services only.

47.5(2) *Offer to participate declined.* Candidates for the pilot FIP-applicant diversion program shall not be denied FIP on the basis that they do not want to participate in the pilot program.

47.5(3) *Period of FIP ineligibility.* Receipt of diversion assistance having a cash value to the family shall result in a period of ineligibility for FIP for that family, including new members moving into the household. Local projects shall have flexibility in determining the period of ineligibility except that the period shall not exceed the number of calendar days arrived at by using the following formula:

$$\text{diversion amount} \div \frac{\text{(payment standard for the family size)}}{30} \times 2$$

For example, if the diversion assistance amount is $500, and the payment standard for the family of three is $426, the period of ineligibility cannot exceed 70 days.

$$\$500 \div \frac{(\$426)}{30} \times 2$$

The period of ineligibility shall include the seven-day wait period as described at rule 441—40.26(239B), when the household applies at least seven days prior to the end of the period of ineligibility. However, there is no eligibility before the period ends, regardless of application date. If the household does not file an application until after the period of ineligibility, the requirements for effective date of eligibility at 441—40.26(239B) apply.

The specific period of ineligibility administered by each pilot shall be set forth in the local plans. These periods of ineligibility are applicable statewide, not limited to the local project area providing the assistance. The period of ineligibility shall not apply to diversion family members moving to other families.

47.5(4) *Exempt as income.* Diversion assistance shall be exempt as income in determining FIP eligibility as described at 441—paragraph 41.27(7)*"ai."*

47.5(5) *Exempt from TANF provisions.* Unless determined otherwise by the U.S. Department of Health and Human Services, receipt of diversion assistance shall not subject the family to the following TANF restrictions:

a. The five-year (60-month) lifetime limit.

b. Work participation rates.

c. Cooperation with child support recovery.

441—47.6(239B) Local plans.

47.6(1) *Written policies and procedures.* Each approved pilot project shall have and maintain written policies and procedures for the project approved by the division administrator. Copies of the plan shall be filed in the county office and with the division administrator. The written policies and procedures shall be available to the public. At a minimum, these policies and procedures shall contain or address the following:

a. What types of services or assistance will be provided, e.g., car repair, licensing fees, and referral to other resources.

b. How determinations will be made that the service or assistance provided meets the program's objective of helping the family obtain or retain employment.

c. How assistance will be provided, e.g., cash payments, vouchers, vendor payments, and procedures for issuing payments.

d. The period of ineligibility for FIP.

e. The maximum (and minimum, if any) values of payments and services.

f. The frequency of receiving assistance.

g. How families most likely to benefit from the program are identified.

h. How families can enroll in the program as a voluntary alternative to FIP. If pilot diversion candidates complete a FIP application, the plan shall include procedures for withdrawing the FIP application. Any forms required to be completed by the family shall be identified by name and form number in the plan.

i. How families will be informed of the availability of the program, its voluntary nature, and how the program works, including periods of ineligibility for FIP.

j. How county offices administering a pilot project will maintain, provide to pilot participants, and otherwise make available, written policies and procedures describing the project.

k. The process used to determine families are "otherwise eligible" for FIP, e.g., having potential project participants complete a standard FIP application.

441—47.10(239B) Records and reports.

47.10(1) *Case records.* The provision of diversion assistance shall be documented by the department in the participant's income maintenance case record.

47.10(2) *Records retention.* All persons who contract with the county office shall maintain all records related to the program for five years. They shall allow federal or state officials access to all records upon request.

47.10(3) *Reports.*

a. County offices having approved pilot projects shall provide reports as requested by the division administrator in a manner, format and frequency specified by the administrator.

b. County offices shall be responsible for maintaining records sufficient for audit and tracking purposes.

441—47.11(239B) Renewal of existing approved pilot projects. Contingent on continued authorization and funding, the division administrator may renew existing approved pilot projects. Renewal proposals shall be prepared and submitted within the parameters set forth in the request for renewal issued by the division administrator.

These rules are intended to implement Iowa Code section 239B.11.

441—47.12 to **47.20** Reserved.

DIVISION II
FAMILY SELF-SUFFICIENCY GRANTS PROGRAM

PREAMBLE

These rules define and structure the family self-sufficiency grants program provided through the PROMISE JOBS service delivery regions. The purpose of the program is to provide immediate and short-term assistance to PROMISE JOBS participant families which will remove barriers related to obtaining or retaining employment. Removing the barriers to self-sufficiency might reduce the length of time a family is dependent on the family investment program (FIP). Family self-sufficiency grants shall be available for payment to families or on behalf of specific families.

441—47.21(239B) Definitions.

"Candidate" means anyone expressing an interest in the family self-sufficiency grants program.

"Department" means the Iowa department of human services.

"Department division administrator" means the administrator of the department of human services division of economic assistance, or the administrator's designee.

"Department of workforce development" means the agency that develops and administers employment, placement and training services in Iowa, often referred to as Iowa workforce development, or IWD.

"Family" means "assistance unit" as defined at 441—40.21(239B).

"Family investment program" or *"FIP"* means the cash grant program provided by 441—Chapters 40 and 41, designed to sustain Iowa families.

"Family self-sufficiency grants" means the payments made to specific PROMISE JOBS participants, to vendors on behalf of specific PROMISE JOBS participants, or for services to specific PROMISE JOBS participants.

"Immediate, short-term assistance" means assistance provided under this division shall be authorized upon determination of need and that it shall not occur on a regular basis.

"Iowa workforce development (IWD) division administrator" means the administrator of the department of workforce development's division of workforce development center administration, or the administrator's designee.

"Local plan for family self-sufficiency grants" means the written policies and procedures for administering the grants for families as set forth in the plan developed by the PROMISE JOBS service delivery region as described in rule 441—47.26(239B). The local plan shall be approved by the Iowa workforce development division administrator.

"Participant" means anyone receiving assistance under this division.

"PROMISE JOBS contract" means the agreement between the department and Iowa workforce development regarding delivery of PROMISE JOBS services.

"PROMISE JOBS participant" means any person receiving services through PROMISE JOBS. A PROMISE JOBS participant must be a member of an eligible FIP household.

"PROMISE JOBS service delivery regions" means the PROMISE JOBS service delivery entities which correspond to the 15 Iowa workforce development regions.

"Promoting independence and self-sufficiency through employment job opportunities and basic skills (PROMISE JOBS) programs" means the department's work and training program as described in 441—Chapter 93, Division II.

441—47.22(239B) Availability of the family self-sufficiency grants program. The family self-sufficiency grants program shall be available statewide in each of the 15 PROMISE JOBS service delivery regions. Under the PROMISE JOBS contract, Iowa workforce development (IWD) shall allocate the funds available for authorization to each of the service delivery regions based on the allocation standards used for PROMISE JOBS service delivery purposes. The department actually retains the funds which are released through the PROMISE JOBS expense allowance authorization system.

441—47.23(239B) General criteria. Family self-sufficiency grants candidates shall be PROMISE JOBS participants. Participation in the family self-sufficiency grants program is voluntary and shall be based on an informed decision by the family. Further, candidates must have identifiable barriers to obtaining or retaining employment that can be substantially addressed through the assistance offered by family self-sufficiency grants.

441—47.24(239B) Assistance available in family self-sufficiency grants. Family self-sufficiency grants shall be authorized for removing an identified barrier to self-sufficiency when it can be reasonably anticipated that the assistance will enable participant families to retain employment or obtain employment in the two full calendar months following the date of authorization of payment. For example, if a payment is authorized on August 20, it should be anticipated that the participant can find employment in September or October.

47.24(1) *Employment does not occur.* If employment does not occur in the anticipated two-calendar-month period or if the participant loses employment in spite of the self-sufficiency grant, no penalty is incurred and no overpayment has occurred.

d. How county offices and PROMISE JOBS offices will maintain, provide to pilot participants, and otherwise make available, written policies and procedures describing the project.

e. Which PROMISE JOBS staff shall make decisions regarding identification of barriers and candidate eligibility for payment and what sign-off or approval is required before a payment is authorized.

47.26(3) *A plan for evaluation of family self-sufficiency grants.* The evaluation plan shall:

a. Describe tracking procedures.

b. Describe the plan for evaluation (e.g., what elements will be used to create significant data regarding outcomes).

c. Describe how measurable results will be determined.

d. Identify any support needed to conduct an evaluation (e.g., what assistance is needed from department and IWD).

e. Describe which aspects of the project were successful and which were not.

These rules are intended to implement Iowa Code section 239B.11.

441—47.27 to **47.40** Reserved.

DIVISION III
PILOT COMMUNITY SELF-SUFFICIENCY GRANTS PROGRAM

PREAMBLE

These rules define and structure the pilot community self-sufficiency grants program. Community self-sufficiency grants shall establish pilot projects to identify and remove systemic or community barriers to self-sufficiency for targeted PROMISE JOBS participants in a geographic area. removing barriers to self-sufficiency might reduce the length of time a family is dependent on the family investment program.

County department offices and PROMISE JOBS service delivery regions must apply jointly. Either entity can administer pilot projects; however, the department and PROMISE JOBS may work in conjunction with other local resources. This program gives local projects flexibility to better address systemic or community barriers to self-sufficiency for PROMISE JOBS participants.

441—47.41(239B) Definitions.

"Approved pilot project" means a pilot proposal for a community self-sufficiency grant meeting the conditions in the request for application that has been reviewed and approved by the department division administrator and IWD division administrator and funded through the PROMISE JOBS contract. The project shall be designed to serve families in a specific geographic area, within the PROMISE JOBS service delivery regions determined by IWD, and detailed in the local plan defined in this division.

"Candidate" means anyone identified by a county office having an approved community self-sufficiency grants pilot project as likely to meet the criteria for participating in the project, and who is working with the county office, PROMISE JOBS office, or other entity, to enroll in the program.

"Community self-sufficiency grants" means the joint department and PROMISE JOBS pilot projects to identify and remove systemic or community barriers to self-sufficiency for PROMISE JOBS participants.

"Department" means the Iowa department of human services.

"Department division administrator" means the administrator of the department of human services division of economic assistance, or the administrator's designee.

"Department of workforce development" means the agency that develops and administers employment, placement and training services in Iowa; often referred to as Iowa workforce development, or IWD.

"Family" means "assistance unit" as defined at rule 441—40.21(239B).

"Family investment program" or *"FIP"* means the cash grant program provided by 441—Chapters 40 and 41, designed to sustain Iowa families.

"Iowa workforce development (IWD) division administrator" means the administrator of the department of workforce development's division of workforce development center administration, or the administrator's designee.

"Local plan for community self-sufficiency grants" means the written policies and procedures for identifying and removing community barriers to self-sufficiency as described in rule 441—47.45(239B).

"Participant" means anyone receiving assistance under this division.

"Pilot proposal" means the community self-sufficiency grants project description submitted jointly by the department county office or offices and the PROMISE JOBS service delivery region prepared within the parameters of a request for application issued by the department division administrator. The department and IWD division administrators shall review, approve, modify and approve, or deny the proposal for a community self-sufficiency grant.

"PROMISE JOBS contract" means the agreement between the department and Iowa workforce development (IWD) regarding delivery of PROMISE JOBS services.

"PROMISE JOBS participant" means any person receiving services through PROMISE JOBS. A PROMISE JOBS participant must be a member of an eligible FIP household.

"Promoting independence and self-sufficiency through employment job opportunities and basic skills (PROMISE JOBS) programs" means the department's training program as described in 441—Chapter 93, Division II.

"PROMISE JOBS service delivery regions" means the PROMISE JOBS service delivery entities which correspond to the 15 Iowa workforce development regions.

"Request for application" means a request issued by the department division administrator to county offices and PROMISE JOBS service delivery regions for proposals to implement a pilot project under this division. The request shall provide background information about the purpose, authorization and funding for the community self-sufficiency grants program, as well as general parameters, specific criteria and time frames for submitting a proposal.

"Request for renewal" means a request issued by the department division administrator to county and PROMISE JOBS offices for proposals to renew an approved pilot project under this division. The request shall provide general parameters, specific criteria, and time frames for submitting a renewal proposal.

"Systemic or community barriers" means obstacles to obtaining or retaining employment which affect multiple families. These barriers result from conditions in the geographic area served by the approved pilot project.

441—47.42(239B) Availability of the community self-sufficiency grants program. The community self-sufficiency grants program shall be available only in those counties, PROMISE JOBS service delivery regions, or other designated areas of the state having an approved pilot project as defined at rule 441—47.41(239B). Under the PROMISE JOBS contract, IWD shall make the funds available through the PROMISE JOBS service delivery regions which are participating in an approved pilot project. This enables the PROMISE JOBS entity to become the fiscal agent for the approved pilot project. It does not restrict the ability of the department and PROMISE JOBS partners in an approved pilot project to assign responsibility for administration of the program to the department or to another entity as part of a local collaboration effort.

47.46(3) *Appealable actions.* Decisions affecting participants made by the department or PROMISE JOBS may be appealed pursuant to 441—Chapter 7. Copies of the local plan shall be included with the appeal summary.

47.46(4) *Nonappealable actions.* Households shall not be entitled to an appeal hearing if the sole basis for denying, terminating or limiting assistance under a community self-sufficiency grant is that self-sufficiency grant funds for the approved pilot project have been exhausted or are otherwise encumbered.

441—47.47(239B) Termination of pilot projects. The department division administrator, in conjunction with IWD, may immediately terminate an approved pilot project:

1. That is not fulfilling the conditions of its pilot proposal.
2. At the conclusion of the authorized approval period, unless a new pilot proposal application has been submitted and approved.
3. When funding is reduced, exhausted, eliminated or otherwise encumbered.

441—47.48(239B) Records and reports.

47.48(1) *Case records.* The provision of services for a participant under the community self-sufficiency grant shall be documented by the department and PROMISE JOBS in each participant's appropriate case record.

47.48(2) *Reports.*

a. PROMISE JOBS offices having approved pilot projects shall provide reports as requested by the department and IWD division administrators in a manner, format and frequency specified by the administrators.

b. PROMISE JOBS offices shall be responsible for maintaining records sufficient for audit and tracking purposes.

441—47.49(239B) Renewal of existing approved pilot projects. Contingent on continued authorization and funding, the department division administrator may renew existing approved pilot projects. Renewal proposals shall be prepared and submitted within the parameters set forth in the request for renewal issued by the department division administrator.

These rules are intended to implement Iowa Code section 239B.11.

441—47.50 to **47.60** Reserved.

DIVISION IV
PILOT POST-FIP DIVERSION PROGRAM

PREAMBLE

These rules define and structure the department of human services pilot post-family investment program (FIP) diversion program. The purpose of this pilot program is to provide assistance to stabilize employment of families leaving FIP and reduce the likelihood of the families' returning to FIP. This assistance may be in the form of support services to help maintain or improve employment status or may be cash value assistance used to meet some employment-related, short-term immediate need or barrier. Post-FIP diversion assistance shall be provided (begin and end) no later than 12 months from the effective date of the FIP cancellation. The department shall establish post-FIP diversion programs in a limited number of pilot projects. The program gives local projects considerable flexibility and authority to provide a range of assistance to help families stay off FIP.

441—47.61(239B) Definitions.

"Approved pilot project" means a pilot proposal meeting the conditions in the request for application or request for renewal that was reviewed, approved and funded by the division administrator. Each approved pilot project shall have a local plan as described at rule 441—47.67(239B) approved by the division administrator. The project shall be limited to families in a specific geographic area detailed in the local plan. At least one approved pilot project shall demonstrate substantial involvement by one or more community entities in developing, implementing, and operating the project.

"Candidate" means anyone meeting the general criteria specified at rule 441—47.65(239B) and identified during the assessment process described at subrule 47.65(1) as likely to benefit from post-FIP diversion assistance or anyone expressing an interest in the pilot post-FIP diversion program.

"Cash value" means post-FIP diversion assistance having direct value to the participant, through cash payment, voucher or vendor payment. Examples of assistance without direct cash value are mentoring and case management.

"Community entity" means any local public, private or nonprofit organization, agency, group or business that works in the employment, training or economic development arenas (including financial resources agencies) that may be involved in the development, implementation or operation of a pilot proposal.

"County office" means the county office of the department of human services.

"Department" means the Iowa department of human services.

"Director" means the director of the department of human services.

"Division administrator" means the administrator of the department of human services division of economic assistance, or the administrator's designee.

"Family" means "assistance unit" as defined at rule 441—40.21(239B).

"Family investment program" or *"FIP"* means the cash grant program provided by 441—Chapters 40 and 41, designed to sustain Iowa families.

"Fiscal agent" means that entity provided funds under an agreement with a county office having an approved pilot project. The fiscal agent shall, as provided by the approved pilot project and local plan, issue payments for assistance under this division and maintain accounting records as specified by the agreement. Fiscal agents shall be used only if an approved pilot project provides that payment for operating the project, including, but not limited to, payment of post-FIP diversion assistance, is done at the local level.

"Human services area administrator" means the person responsible for delivery of income maintenance and social services programs for a county or multicounty area.

"Local plan" means the written policies and procedures and other components described in rule 441—47.67(239B) for administering an approved pilot project.

"Participant" means anyone receiving assistance under this division.

"Pilot proposal" means the project description prepared and submitted within the parameters of a request for application or request for renewal issued by the division administrator. The division administrator shall review, approve, modify and approve, or deny the proposal.

"Post-FIP diversion assistance" means any type of assistance provided under this division as described at rule 441—47.66(239B).

"Project service provider" means any county office or community entity that directly provides support services as defined in this division for participants in a pilot post-FIP diversion project.

"Request for application" means a request issued by the division administrator to county offices for proposals to implement a pilot project under this division. The request shall provide background information about the purpose, authorization and funding for the pilot post-FIP diversion program, as well as general parameters, specific criteria and time frames for submitting a proposal.

"Request for renewal" means a request issued by the division administrator to county offices for proposals to renew an approved pilot project under this division. The request shall provide general parameters, specific criteria and time frames for submitting a renewal proposal.

"Support services" means post-FIP diversion assistance having no direct cash value for the participant. Services include, but are not limited to, case management, mentoring, job coaching, skill building and intervention.

"Temporary assistance for needy families" or *"TANF"* means the program for granting benefits to eligible groups under Title IV-A of the federal Social Security Act as amended by Public Law 104-193, the Personal Responsibility and Work Opportunity Reconciliation Act of 1996. This replaced the aid to families with dependent children program.

"Written funding agreement" means that agreement between a county office having an approved pilot project and a fiscal agent, and may include one or more community entities involved in the operation of the project. The agreement shall specify the responsibilities of each party to the agreement as well as indicate the amount of post-FIP diversion funds allocated to the approved pilot project. The written funding agreement shall be signed by authorized representatives of the department, the fiscal agent, and any community entity that may be a party to the agreement.

441—47.62(239B) Submitting proposals. Only county offices shall submit pilot proposals. Proposals demonstrating substantial involvement by one or more community entities in the development, implementation or operation of the pilot project will be given a higher preference.

441—47.63(239B) Project administration. The county office shall be responsible for overall project administration. Pilot proposals and local plans shall specify all community entities involved in the operation of the project and the functions and responsibilities of each. The county office may delegate, by contract or other written agreement, any or all of the following functions, completely or in part, to a community entity:

1. Assessment and eligibility determination.
2. Authorization of support services and cash assistance.
3. Provision of support services.
4. Local fiscal agent authorization to make payments.
5. Case plan management.

441—47.64(239B) Availability of program. The pilot post-FIP diversion program shall be available only in those counties or other specified areas of the state having an approved pilot project as defined at rule 441—47.61(239B). Post-FIP diversion assistance shall be provided to those families determined likely to be candidates for success in the program as determined by the criteria and procedures set out in the local plan.

441—47.65(239B) General criteria. The following criteria apply to all pilot post-FIP diversion program candidates. Participation in the pilot post-FIP diversion program is voluntary and shall be based on an informed decision by the family.

47.65(1) *Assessment criteria.*

a. Candidate households must have received FIP within the immediate 12 months before being offered or requesting post-FIP diversion assistance.

b. Pilot post-FIP diversion projects shall assess households with earned income immediately upon leaving FIP and may, as an option, assess households anytime within the 12 months immediately following the effective date of FIP cancellation.

c. Projects shall target households deemed to be at risk of losing employment or returning to FIP due to insufficient employment.

d. Post-FIP assistance shall be available only during the 12 months immediately following the effective date of FIP cancellation.

47.65(2) *Barriers.* Candidates must have barriers to retaining or obtaining more reliable or sustainable employment that can be substantially addressed by the assistance available under this division within the 12 months immediately following the effective date of FIP cancellation. Each project shall identify the types of barriers the project is intended to address in the pilot proposal and local plan.

47.65(3) *Employment status.* Either some adult member of the candidate household must be currently employed; or some adult member of the candidate household must have lost a job while participating in the pilot post-FIP diversion program.

47.65(4) *FIP-related eligibility parameters.* Candidates for the pilot post-FIP diversion program must meet the following eligibility criteria, and any other FIP-related eligibility criteria included in the local plan of an approved pilot project:

a. Requirements related to a child's age and living with a specified relative as described at rules 441—41.21(239B) and 441—41.22(239B).

b. Social security number requirements described at 441—subrule 41.22(13).

c. Residency requirements described at 441—subrule 41.23(1).

d. Citizenship and alien requirements described at 441—subrules 41.23(4) and 41.23(5).

e. Family members cannot be in the six-month period of ineligibility applied with a subsequent limited benefit plan as described at 441—subrule 41.24(8).

f. Family members in the indefinite period of ineligibility applied with the limited benefit plan as described at 441—subrule 41.24(8) may receive support services only.

47.65(5) *Income eligibility.* Household income must not exceed 200 percent of the federal poverty guideline for the household size to be considered. Pilot projects may incorporate more restrictive income criteria in their local plans, consistent with other income tests for FIP at rule 441—41.27(239B). Income exemptions include those specified at rule 441—41.27(239B).

47.65(6) *Period of FIP ineligibility.* Receipt of post-FIP diversion assistance having a cash value to the family shall result in a period of ineligibility for FIP for that family, including new members moving into the household. Local projects shall have flexibility in determining the period of ineligibility except that the period shall not exceed the number of calendar days arrived at by using the following formula:

$$\text{diversion amount} \div \frac{\text{(payment standard for the family size)}}{30} \times 2$$

For example, if the diversion assistance amount is $500, and the payment standard for the family of three is $426, the period of ineligibility cannot exceed 70 days.

$$\$500 \div \frac{(\$426)}{30} \times 2$$

441—47.71(239B) Records and reports.

47.71(1) *Case records.* The provision of post-FIP diversion assistance shall be documented by the department or local community entity in each candidate's appropriate case record.

47.71(2) *Records retention.* All persons who contract with the county office shall maintain all records related to the program for five years. They shall allow federal or state officials access to all records upon request.

47.71(3) *Reports.*

a. County offices having approved pilot projects shall provide reports as requested by the division administrator in a manner, format and frequency specified by the administrator.

b. County offices shall be responsible for maintaining records sufficient for audit and tracking purposes.

441—47.72(239B) Renewal of existing approved pilot projects. Contingent on continued authorization and funding, the division administrator may renew existing approved pilot projects. Renewal proposals shall be prepared and submitted within the parameters set forth in the request for renewal issued by the division administrator.

These rules are intended to implement Iowa Code section 239B.11.

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c. Licensed vehicle. The entire equity value of any licensed vehicle is excluded if the vehicle is used primarily for income-producing purposes. Primarily shall be defined as use of the vehicle over 50 percent of the time for income-producing purposes in the self-employment enterprise.

d. Business bank account. The participant shall be allowed to maintain a business bank account which shall be used exclusively for the self-employment enterprise. Up to $5000 of the business bank account shall be exempt as a resource, as of the first day of each month. Any money in the account in excess of that amount shall be counted toward resource limitations, unless exempt in accordance with 441—paragraph 41.26(1)*"f"* or immediately used to reduce outstanding self-employment enterprise obligations.

e. Cash reserve fund. The participant shall be allowed a cash reserve fund, not to exceed $3,000, which shall be used exclusively for business expenses. This fund is exempt as a resource.

48.23(2) *Income.*

a. One hundred eighty-five percent gross-income test. Up to an annual net profit of $15,000 from the self-employment enterprise shall not be counted in the 185 percent test described at 441—41.27(239). Any net profit in excess of $15,000 shall be counted in the 185 percent test.

b. Business expense deductions.

(1) The purchase of capital assets or durable goods shall be allowed as a business expense deduction, up to a limit of $5000 during the waiver period.

(2) The total amount of payment, both principal and interest, on a business loan shall be an allowable business expense deduction, up to a limit of $5000 during the waiver period.

(3) In no case shall the total amount of business deductions for purchase of capital equipment and loan payments exceed $7500 during the waiver period.

(4) Deposits into the cash reserve fund described in 48.23(1)*"e"* shall be allowed as a business expense deduction when calculating self-employment income.

48.23(3) *Two-parent families.* Rescinded IAB 11/1/00, effective 1/1/01.

48.23(4) *PROMISE JOBS.* Participation in the SEID program beginning with Workshop II constitutes approved classroom training for the purpose of the PROMISE JOBS program. A SEID participant shall not be required to participate in any PROMISE JOBS activities, other than orientation, assessment and development of the employability plan, which would interfere with the person's SEID participation.

Participation in the first activity offered as beginning self-employment training or technical assistance by the service provider shall be considered as beginning ISHIP participation. Participation in ISHIP shall be considered approved classroom training for the purposes of the PROMISE JOBS program.

These rules are intended to implement Iowa Code sections 239B.7, 239B.8, 249C.3, 249C.5 and 249C.7.

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CHAPTER 52
PAYMENT

[Prior to 7/1/83, Social Services[770] Ch 52]
[Prior to 2/11/87, Human Services[498]]

441—52.1(249) Assistance standards. Assistance standards are the amounts of money allowed on a monthly basis to recipients of state supplementary assistance in determining financial need and the amount of assistance granted.

52.1(1) *Protective living arrangement.* The following assistance standards have been established for state supplementary assistance for persons living in a protective living arrangement:

Family life home certified under rules in 441—Chapter 111.

$521.20	care allowance
73.00	personal allowance
$594.20	Total

52.1(2) *Dependent relative.* The following assistance standards have been established for state supplementary assistance for dependent relatives residing in a recipient's home.

a. Aged or disabled client and a dependent relative $769
b. Aged or disabled client, eligible spouse, and a dependent relative $1026
c. Blind client and a dependent relative $791
d. Blind client, aged or disabled spouse, and a dependent relative $1048
e. Blind client, blind spouse, and a dependent relative $1070

52.1(3) *Residential care.* Payment to a recipient in a residential care facility shall be made on a flat per diem rate of $17.50 or on a cost-related reimbursement system with a maximum reimbursement per diem rate of $29.34 for the month of November 2000 and $24.50 for each month thereafter. A cost-related per diem rate shall be established for each facility choosing this method of payment according to rule 441—54.3(249).

The facility shall accept the per diem rate established by the department for state supplementary assistance recipients as payment in full from the recipient and make no additional charges to the recipient.

a. All income of a recipient as described in this subrule after the disregards described in this subrule shall be applied to meet the cost of care before payment is made through the state supplementary assistance program.

Income applied to meet the cost of care shall be the income considered available to the resident pursuant to supplemental security income (SSI) policy plus the SSI benefit less the following monthly disregards applied in the order specified:

(1) When income is earned, impairment related work expenses, as defined by SSI plus $65 plus one-half of any remaining earned income.

(2) Effective January 1, 2000, a $73 allowance to meet personal expenses and Medicaid copayment expenses.

(3) When there is a spouse at home, the amount of the SSI benefit for an individual minus the spouse's countable income according to SSI policies. When the spouse at home has been determined eligible for SSI benefits, no income disregard shall be made.

(4) When there is a dependent child living with the spouse at home who meets the definition of a dependent according to the SSI program, the amount of the SSI allowance for a dependent minus the dependent's countable income and the amount of income from the parent at home that exceeds the SSI benefit for one according to SSI policies.

(5) Established unmet medical needs of the resident, excluding private health insurance premiums and Medicaid copayment expenses. Unmet medical needs of the spouse at home, exclusive of health insurance premiums and Medicaid copayment expenses, shall be an additional deduction when the countable income of the spouse at home is not sufficient to cover those expenses. Unmet medical needs of the dependent living with the spouse at home, exclusive of health insurance premiums and Medicaid copayment expenses, shall also be deducted when the countable income of the dependent and the income of the parent at home that exceeds the SSI benefit for one is not sufficient to cover the expenses.

(6) The income of recipients of state supplementary assistance or Medicaid needed to pay the cost of care in another residential care facility, a family life home, an in-home health-related care provider, a home- and community-based waiver setting, or a medical institution is not available to apply to the cost of care. The income of a resident who lived at home in the month of entry shall not be applied to the cost of care except to the extent the income exceeds the SSI benefit for one person or for a married couple if the resident also had a spouse living in the home in the month of entry.

b. Payment is made for only the days the recipient is a resident of the facility. Payment shall be made for the date of entry into the facility, but not the date of death or discharge.

c. Payment shall be made in the form of a grant to the recipient on a post payment basis.

d. Payment shall not be made when income is sufficient to pay the cost of care in a month with less than 31 days, but the recipient shall remain eligible for all other benefits of the program.

e. Payment will be made for periods the resident is absent overnight for the purpose of visitation or vacation. The facility will be paid to hold the bed for a period not to exceed 30 days during any calendar year, unless a family member or legal guardian of the resident, the resident's physician, case manager, or department service worker provides signed documentation that additional visitation days are desired by the resident and are for the benefit of the resident. This documentation shall be obtained by the facility for each period of paid absence which exceeds the 30-day annual limit. This information shall be retained in the resident's personal file. If documentation is not available to justify periods of absence in excess of the 30-day annual limit, the facility shall submit a Case Activity Report, Form AA-4166-0, to the county office of the department to terminate the state supplementary assistance payment.

A family member may contribute to the cost of care for a resident subject to supplementation provisions at rule 441—51.2(249) and any contributions shall be reported to the county office of the department by the facility.

f. Payment will be made for a period not to exceed 20 days in any calendar month when the resident is absent due to hospitalization. A resident may not start state supplementary assistance on reserve bed days.

g. The per diem rate established for recipients of state supplementary assistance shall not exceed the average rate established by the facility for private pay residents.

(1) Residents placed in a facility by another governmental agency are not considered private paying individuals. Payments received by the facility from such an agency shall not be included in determining the average rate for private paying residents.

(2) To compute the facilitywide average rate for private paying residents, the facility shall accumulate total monthly charges for those individuals over a six-month period and divide by the total patient days care provided to this group during the same period of time.

52.1(4) *Blind.* The standard for a blind recipient not receiving another type of state supplementary assistance is $22 per month.

52.1(5) *In-home, health-related care.* Payment to a person receiving in-home, health-related care shall be made in accordance with rules in 441—Chapter 177.

52.1(6) *Minimum income level cases.* The income level of those persons receiving old age assistance, aid to the blind, and aid to the disabled in December 1973 shall be maintained at the December 1973 level as long as the recipient's circumstances remain unchanged and that income level is above current standards. In determining the continuing eligibility for the minimum income level, the income limits, resource limits, and exclusions which were in effect in October 1972 shall be utilized.

This rule is intended to implement Iowa Code sections 234.6, 234.38, 249.2, 249.3, 249.4, and 249A.4.

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CHAPTER 60
REFUGEE CASH ASSISTANCE

[Prior to 9/24/86 IAC Supp., see Refugee Service 715—Chapters 1 to 8]
[Prior to 2/11/87, Human Services[498]]

PREAMBLE

These rules define and structure the department's refugee cash assistance program. Eligibility criteria, application procedures, reasons for adverse action, payment procedures, and recoupment procedures for overpayments are outlined.

441—60.1(217) Alienage requirements.

60.1(1) *Immigration status.* Refugees with the following immigration status meet the alienage requirement:

a. A person from any country who has a "parole" status as a "refugee" or "asylee" under Section 212(d)(5) of the Immigration and Nationality Act.

b. A person admitted from any country as a "conditional entrant" under Section 203(a)(7) of the Immigration and Nationality Act.

c. A person admitted from any country as a "refugee" under Section 207 of the Immigration and Nationality Act.

d. A person from any country who has been granted "asylum" under Section 208 of the Immigration and Nationality Act.

e. An alien who was admitted to the United States under Section 584 of the Foreign Operations Appropriations Act as incorporated in the 1988 Continuing Resolution, Public Law 100-202.

f. A person from any country who previously held one of the statuses in subrule 60.1(1), paragraphs *"a"* through *"e,"* whose status has subsequently been adjusted to that of "permanent resident alien."

g. A person admitted as a spouse or minor child of an alien previously admitted to the United States as an asylee or as a Visa 92 beneficiary whose immigration documentation is inscribed with the words "Visa 92" and is also generally inscribed with the words "Section 208."

h. A person admitted as a spouse or minor child of an alien previously admitted to the United States as a refugee or a Visa 93 beneficiary whose immigration documentation is inscribed with the words "Visa 93" and is also generally inscribed with the words "Section 207."

60.1(2) *Nonrefugee child of refugee parents.* A nonrefugee child of refugee parents, when both parents in the home are refugees as defined in subrule 60.1(1), meets the alienage requirements. When only one parent is in the home and that parent is a refugee as defined in subrule 60.1(1), the child meets the alienage requirements.

60.1(3) *Immigration and Naturalization Service documents.* Each refugee shall provide Immigration and Naturalization Service documents in the form of either an I-94 card, an I-151 or I-551 card, or an I-181 card to support the immigration status defined in subrule 60.1(1). If the name of the resettlement agency which resettled the refugee is not on the document, the refugee shall provide the name of the resettlement agency.

441—60.2(217) Application procedures. Application policies are defined in rules 441—40.23(239B), 441—40.24(239B), and 441—40.25(239B).

441—60.3(217) Effective date of grant. The date of eligibility for a grant is defined in rule 441—40.26(239B).

441—60.4(217) Accepting other assistance.

60.4(1) *Family investment program.* A refugee applicant or recipient shall accept a family investment program (FIP) grant if eligible under 441—Chapters 40 and 41.

60.4(2) *Supplemental security income (SSI).* Refugees who are 65 or older, blind, or disabled shall apply for and, if eligible, accept supplemental security income.

441—60.5(217) Eligibility factors.

60.5(1) *Age.*

a. An unmarried refugee is considered an adult at age 18, except as defined in 441—subrule 41.21(1), and is eligible to receive refugee cash assistance if otherwise eligible.

b. Married refugees with or without children, as defined in 441—subrule 41.21(1), are eligible regardless of age if other eligibility factors are met.

60.5(2) *Residency.* Residency requirements are defined in 441—subrule 41.23(1).

60.5(3) *Social security numbers.* Refugees are required to furnish a social security number as defined in 441—subrule 41.22(13).

60.5(4) *Determination of need.* Need shall be determined as defined in rule 441—41.28(239B) except as otherwise provided in this chapter.

60.5(5) *Income.* Income is defined in rules 441—40.21(239B) and 441—41.27(239B).

60.5(6) *Resources.* Resource requirements are defined in rule 441—41.26(239B).

441—60.6(217) Students in institutions of higher education. A refugee who is a full-time student in an institution of higher education (other than a correspondence school) is ineligible for assistance with two exceptions:

1. The refugee is in a program approved as part of an individual employability plan, as defined in subrule 60.9(3).
2. The refugee is in a program solely in English as a second language.

60.6(1) *Institution of higher education.* An institution of higher education is defined as an educational institution which provides an education program as specified below:

a. A public or private nonprofit institution of higher education is an educational institution which provides an educational program for which it awards an associate, baccalaureate, graduate, or professional degree; or at least a two-year program which is acceptable for full credit toward a baccalaureate degree; or at least a one-year training program which leads to a certificate or degree and prepares students for gainful employment in a recognized occupation.

b. A proprietary institution of higher education is an educational institution which provides at least a six-month program of training to prepare students for gainful employment in a recognized occupation.

c. A postsecondary vocational institution is a public or private nonprofit educational institution which provides at least a six-month program of training to prepare students for gainful employment in a recognized occupation.

60.6(2) *Full-time student.* A full-time student is a student who is carrying a full-time academic workload which equals or exceeds the following:

a. Twelve semester or 12 quarter hours per academic term in those institutions using standard semester, trimester, or quarter-hour systems.

b. Twenty-four semester hours or 36 quarter hours per academic year for institutions using credit hours to measure progress, but not using semester, trimester, or quarter systems, or the prorated equivalent for programs of less than one academic year.

c. Twenty-four clock hours per week for institutions using clock hours.

d. A series of courses or seminars which equals 12 semester hours or 12 quarter hours in a maximum of 18 weeks.

e. The work portion of a cooperative education program in which the amount of work performed is equivalent to the academic workload of a full-time student.

441—60.7(217) Time limit for eligibility. A refugee may receive assistance, if otherwise eligible, during the first eight months the refugee is in the United States, beginning the month the refugee enters the country. EXCEPTION: For asylees, the date of entry is the date asylum is granted. The eight-month period of eligibility begins the month asylum is granted. A nonrefugee child in the home with a refugee parent (or refugee parents, if both are in the home) is eligible for assistance until the parent(s) has been in the United States for eight months, or until the child reaches eight months of age, whichever occurs first.

60.7(1) *Resources.* The resources of refugees excluded because of the eight-month limit shall be considered in the same manner as though these refugees were included in the eligible group.

60.7(2) *Income.*

a. When the eligible refugee group has income, the income shall be diverted to meet the needs of the refugees ineligible because of the time limit who would otherwise have been included in the refugee assistance group as defined in subrule 60.5(4).

b. The income of the refugees ineligible because of the time limit who would otherwise have been included in the assistance group as defined in subrule 60.5(4), shall be used first to meet the needs of the ineligible group and then applied to the eligible group's needs.

c. The amount of need for the ineligible group is the difference between the needs of the group including the ineligible refugees and the needs of the group excluding the ineligible refugees. Any excess income shall be applied to the needs of the eligible group.

d. Any cash grant received by the applicant under the Department of State or the Department of Justice reception and placement programs shall be disregarded as income and as a resource.

441—60.8(217) Criteria for exemption from registration for employment services, registration, and refusal to register. Each refugee applying for or receiving cash assistance shall register for employment unless the department determines the refugee is exempt because of reasons listed in subrule 60.8(1). Inability to communicate in English does not exempt a refugee from registration for employment services, participation in employability service programs and acceptance of appropriate offers of employment.

60.8(1) *Exemptions.* The following refugees are exempt from registration:

a. A refugee who is under the age of 16; or who is aged 16 but under the age of 18 and attending elementary, secondary, or vocational or technical school full-time; or a refugee who is enrolled full-time in training approved by the local office as part of an approved employability plan; or a refugee 18 years of age who is a full-time student in a secondary school, or in the equivalent level of vocational or technical training, and reasonably expected to complete the program before reaching the age of 19.

(1) A refugee shall be considered as attending school full time when enrolled or accepted full time (as certified by the school or institute attended) in a school or training leading to a certificate or diploma. Correspondence school is not an allowable program of study.

(2) The refugee also shall be considered in regular attendance in months when the refugee is not attending because of an official school or training program, vacation, illness, convalescence, or family emergency. A refugee meets the definition of regular school attendance until the refugee has been officially dropped from the school rolls.

(3) When the refugee's education is temporarily interrupted pending adjustment of the education or training program, assistance shall be continued for a reasonable period of time to complete the adjustment.

b. A refugee aged 65 or older.

c. A refugee who is caring for another member of the household who has a physical or mental impairment which requires, as determined by a physician or licensed or certified psychologist and verified by the department, care in the home on a substantially continuous basis, and no other appropriate member of the household is available. The condition shall be established as specified in 441—paragraph 41.24(2)*"d."*

d. A woman who is pregnant if it has been medically verified that the child is expected to be born in the month in which registration would otherwise be required or within the next six months. Verification of the pregnancy and estimated date of birth shall be obtained in the same manner as specified in 441—paragraph 41.24(2)*"d."*

e. A parent or other caretaker relative of a child under the age of three who personally provides full-time care for the child with only very brief and infrequent absences from the child. Only one parent or other caretaker relative in a case may be exempt under this paragraph. "Brief and infrequent absence" means short-term absences which do not reoccur on a regular basis. Any involvement by the parent employed less than 129 hours per month or attending school less than full-time, as defined by the school, shall be considered brief and infrequent. Recreational activities and vacations by the parent or child which result in the parent being absent from the child shall be considered brief and infrequent.

f. A refugee who is working at least 30 hours a week in unsubsidized employment expected to last a minimum of 30 days. This exemption continues to apply if there is a temporary break in full-time employment expected to last no longer than ten workdays.

g. A refugee who is ill, when determined by the department on the basis of medical evidence or another sound basis that the illness or injury is serious enough to temporarily prevent entry into employment or training.

h. A refugee who is incapacitated, when determined by a physician or licensed or certified psychologist and verified by the department, that a physical or mental impairment, by itself or in conjunction with age, prevents the refugee from engaging in employment or training.

60.8(2) *Registration.* A refugee not exempt under subrule 60.8(1) shall be considered an employable refugee. An employable refugee shall register with the department of employment services and, within 30 days of receipt of aid, participate in the employment services provided by the bureau of refugee services. The department does permit, but does not require, the voluntary registration for employment services of any applicant or recipient of refugee cash assistance who is exempt under the provisions of this rule. If a voluntary registrant fails or refuses to participate in appropriate employability services, to carry out job search, or to accept an appropriate offer of employment, the bureau of refugee services may deregister the refugee for up to 90 days from the date of determination that failure or refusal has occurred, but the refugee's cash assistance may not be affected.

60.8(3) *Refusal to register.*

a. An employable applicant refugee who refuses or fails to cooperate in accepting a referral to the department of employment services or the bureau of refugee services, refuses or fails to appear at the department of employment services office for registration, or refuses or fails to mail or deliver the registration form to the bureau of refugee services, shall be denied assistance.

b. Assistance for an employable recipient refugee shall be terminated when the refugee refuses or fails to register with the department of employment services or the bureau of refugee services.

c. For the first refusal or failure the refugee shall be sanctioned for three payment months. Subsequent refusals or failures shall result in a six-payment month sanction for each refusal or failure.

d. If the sanctioned individual is the only member of the filing unit, the assistance shall be terminated. If the filing unit includes other members, the department shall not take into account the sanctioned individual's needs in determining the filing unit's need for assistance. If the sanctioned individual is a caretaker relative, assistance provided to the other persons in the grant shall be made in the form of protective payments as defined in rule 441—43.22(239B).

e. A conciliation period prior to the imposition of sanctions must be provided for in accordance with the following time limitations. The conciliation effort shall begin as soon as possible, but no later than 10 days following the date of failure or refusal to participate, and may continue for a period not to exceed 30 days. Either the department or the recipient may terminate this period sooner when either believes that the dispute cannot be resolved by conciliation.

441—60.10(217) Uncategorized factors of eligibility.

60.10(1) *Duplication of assistance.* A refugee whose needs are included in a refugee cash assistance grant shall not concurrently receive a grant under any other public assistance program administered by the department. Neither shall a recipient concurrently receive a grant from a public assistance program in another state.

60.10(2) *Contracts for support.* A person entitled to total support under the terms of an enforceable contract is not eligible to receive refugee cash assistance when the other party, obligated to provide the support, is able to fulfill that part of the contract.

60.10(3) *Participation in a strike.*

a. The spouse and children shall be ineligible for assistance for any month in which the other spouse or parent is participating in a strike on the last day of the month.

b. Any person shall be ineligible for assistance for any month in which the person is participating in a strike on the last day of that month.

c. Definitions of a strike and participating in a strike are defined in 441—subrule 41.25(5), paragraph *"c."*

441—60.11(217) Temporary absence from home. Temporary absence from home is defined in 441—subrule 41.23(3).

441—60.12(217) Application. The application shall be processed as defined in 441—40.22(239B).

441—60.13(217) Continuing eligibility. Continuing eligibility shall be determined as defined in rule 441—40.27(239B) except that refugee cash assistance shall be substituted for the family investment program whenever it appears.

441—60.14(217) Alternate payees. Alternate payees are defined in 441—Chapter 43 except that refugee cash assistance shall be substituted for the family investment program whenever it appears.

EXCEPTION: 441—subrule 43.22(1), paragraph *"c,"* shall not apply to refugee cash assistance applicants or recipients.

441—60.15(217) Payment. Payment shall be issued as defined in 441—Chapter 45 except that refugee cash assistance shall be substituted for the family investment program whenever it appears.

441—60.16(217) Overpayment recovery. Recovery of overpayments and intentional program violation shall be determined as defined in 441—Chapter 46, Division II, except that refugee cash assistance shall be substituted for the family investment program whenever it appears.

These rules are intended to implement Iowa Code section 217.6.

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TITLE VIII
MEDICAL ASSISTANCE

CHAPTER 75
CONDITIONS OF ELIGIBILITY

[Ch 75, 1973 IDR, renumbered as Ch 90]
[Prior to 7/1/83, Social Services[770] Ch 75]
[Prior to 2/11/87, Human Services[498]]

DIVISION I
GENERAL CONDITIONS OF ELIGIBILITY, COVERAGE GROUPS, AND SSI-RELATED PROGRAMS

441—75.1(249A) Persons covered.

75.1(1) *Persons receiving refugee cash assistance.* Medical assistance shall be available to all recipients of refugee cash assistance. Recipient means a person for whom a refugee cash assistance (RCA) payment is received and includes persons deemed to be receiving RCA. Persons deemed to be receiving RCA are:

a. Persons denied RCA because the amount of payment would be less than $10.

b. Persons suspended from RCA because of a temporary increase in income expected to last for only one month, such as five weekly checks received in the budget month instead of the usual four, or due to recovery of an overpayment.

c. Persons who are eligible in every respect for refugee cash assistance (RCA) as provided in 441—Chapter 60, but who do not receive RCA because they did not make application for the assistance.

75.1(2) Rescinded IAB 10/8/97, effective 12/1/97.

75.1(3) *Persons who are ineligible for Supplemental Security Income (SSI) because of requirements that do not apply under Title XIX of the Social Security Act.* Medicaid shall be available to persons who would be eligible for SSI except for an eligibility requirement used in that program which is specifically prohibited under Title XIX.

75.1(4) *Beneficiaries of Title XVI of the Social Security Act (supplemental security income for the aged, blind and disabled) and mandatory state supplementation.* Medical assistance will be available to all beneficiaries of the Title XVI program and those receiving mandatory state supplementation.

75.1(5) *Persons receiving care in a medical institution who were eligible for Medicaid as of December 31, 1973.* Medicaid shall be available to all persons receiving care in a medical institution who were recipients of Medicaid as of December 31, 1973. Eligibility of these persons will continue as long as they continue to meet the eligibility requirements for the applicable assistance programs (old-age assistance, aid to the blind or aid to the disabled) in effect on December 31, 1973.

75.1(6) *Persons who would be eligible for supplemental security income (SSI), state supplementary assistance (SSA), or the family medical assistance program (FMAP) except for their institutional status.* Medicaid shall be available to persons receiving care in a medical institution who would be eligible for SSI, SSA, or FMAP if they were not institutionalized.

75.1(7) *Persons receiving care in a medical facility who would be eligible under a special income standard.*

a. Subject to paragraphs *"b"* and *"c"* below, Medicaid shall be available to persons who:

(1) Meet level of care requirements as set forth in rules 441—78.3(249A), 441—81.3(249A), and 441—82.7(249A).

(2) Receive care in a hospital, nursing facility, psychiatric medical institution, intermediate care facility for the mentally retarded, or Medicare-certified skilled nursing facility.

(3) Have gross countable monthly income that does not exceed 300 percent of the federal supplemental security income benefits for one.

(4) Either meet all supplemental security income (SSI) eligibility requirements except for income or are under age 21. FMAP policies regarding income and age do not apply when determining eligibility for persons under the age of 21.

b. For all persons in this coverage group, income shall be considered as provided for SSI-related coverage groups under subrule 75.13(2). In establishing eligibility for persons aged 21 or older for this coverage group, resources shall be considered as provided for SSI-related coverage groups under subrule 75.13(2).

c. Eligibility for persons in this group shall not exist until the person has been institutionalized for a period of 30 consecutive days and shall be effective no earlier than the first day of the month in which the 30-day period begins. A "period of 30 days" is defined as being from 12 a.m. of the day of admission to the medical institution, and ending no earlier than 12 midnight of the thirtieth day following the beginning of the period.

(1) A person who enters a medical institution and who dies prior to completion of the 30-day period shall be considered to meet the 30-day period provision.

(2) Only one 30-day period is required to establish eligibility during a continuous stay in a medical institution. Discharge during a subsequent month, creating a partial month of care, does not affect eligibility for that partial month regardless of whether the eligibility determination was completed prior to discharge.

(3) A temporary absence of not more than 14 full consecutive days during which the person remains under the jurisdiction of the institution does not interrupt the 30-day period. In order to remain "under the jurisdiction of the institution" a person must first have been physically admitted to the institution.

75.1(8) *Certain persons essential to the welfare of Title XVI beneficiaries.* Medical assistance will be available to the person living with and essential to the welfare of a Title XIX beneficiary provided the essential person was eligible for medical assistance as of December 31, 1973. The person will continue to be eligible for medical assistance as long as the person continues to meet the definition of "essential person" in effect in the public assistance program on December 31, 1973.

75.1(9) *Individuals receiving state supplemental assistance.* Medical assistance shall be available to all recipients of state supplemental assistance as authorized by Iowa Code chapter 249. Medical assistance shall also be available to the individual's dependent relative as defined in 441—subrule 51.4(4).

75.1(10) *Individuals under age 21 living in a licensed foster care facility or in a private home pursuant to a subsidized adoption arrangement for whom the department has financial responsibility in whole or in part.* Medical assistance will be available to all these individuals provided they are not otherwise eligible under a category for which federal financial participation is available.

75.1(11) *Individuals under the age of 18 living in a court-approved subsidized guardianship home.* Medical assistance will be available to individuals under the age of 18 living in a court-approved subsidized guardianship home under this subrule provided they are not otherwise eligible for medical assistance under a category for which federal financial participation is available.

75.1(12) *Persons ineligible due to October 1, 1972, social security increase.* Medical assistance will be available to individuals and families whose assistance grants were canceled as a result of the increase in social security benefits October 1, 1972, as long as these individuals and families would be eligible for an assistance grant if the increase were not considered.

75.1(13) *Persons who would be eligible for supplemental security income or state supplementary assistance but for social security cost-of-living increases received.* Medical assistance shall be available to all current social security recipients who meet the following conditions:

a. They were entitled to and received concurrently in any month after April 1977 supplemental security income and social security or state supplementary assistance and social security, and

b. They subsequently lost eligibility for supplemental security income or state supplementary assistance, and

c. They would be eligible for supplemental security income or state supplementary assistance if all of the social security cost-of-living increases which they and their financially responsible spouses, parents, and dependent children received since they were last eligible for and received social security and supplemental security income (or state supplementary assistance) concurrently were deducted from their income. Spouses, parents, and dependent children are considered financially responsible if their income would be considered in determining the applicant's eligibility.

75.1(14) *Family medical assistance program (FMAP).* Medicaid shall be available to children who meet the provisions of rule 441—75.54(249A) and to the children's specified relatives who meet the provisions of subrule 75.54(2) and rule 441—75.55(249A) if the following criteria are met.

a. In establishing eligibility of specified relatives for this coverage group, resources are considered in accordance with the provisions of rule 441—75.56(249A) and shall not exceed $2,000 for applicant households or $5,000 for recipient households. In establishing eligibility for children for this coverage group, resources of all persons in the eligible group, regardless of age, shall be disregarded.

b. Income is considered in accordance with rule 441—75.57(249A) and does not exceed needs standards established in rule 441—75.58(249A).

c. Rescinded IAB 11/1/00, effective 1/1/01.

75.1(15) *Child medical assistance program (CMAP).* Medicaid shall be available to persons under the age of 21 if the following criteria are met:

a. Financial eligibility shall be determined for the family size of which the child is a member using the income standards in effect for the family medical assistance program (FMAP) unless otherwise specified. Income shall be considered as provided in rule 441—75.57(249A). Additionally, the earned income disregards as provided in paragraphs 75.57(2)*"a," "b," "c,"* and *"d"* shall be allowed for those persons whose income is considered in establishing eligibility for the persons under the age of 21 and whose needs must be included in accordance with paragraph 75.58(1)*"a"* but who are not eligible for Medicaid. Resources of all persons in the eligible group, regardless of age, shall be disregarded. Unless a family member is voluntarily excluded in accordance with the provisions of rule 441—75.59(249A), family size shall be determined as follows:

(1) If the person under the age of 21 is pregnant and the pregnancy has been verified in accordance with rule 441—75.17(249A), the unborn child (or children if more than one) is considered a member of the family for purposes of establishing the number of persons in the family.

(2) A "man-in-the-house" who is not married to the mother of the unborn child is not considered a member of the unborn child's family for the purpose of establishing the number of persons in the family. His income and resources are not automatically considered, regardless of whether or not he is the legal or natural father of the unborn child. However, income and resources made available to the mother of the unborn child by the "man-in-the-house" shall be considered in determining eligibility for the pregnant individual.

(3) Unless otherwise specified, when the person under the age of 21 is living with a parent(s), the family size shall consist of all family members as defined by the family medical assistance program in accordance with paragraph 75.57(8)*"c"* and subrule 75.58(1).

Application for Medicaid shall be made by the parent(s) when the person is residing with them. A person shall be considered to be living with the parent(s) when the person is temporarily absent from the parent's(s') home as defined in subrule 75.53(4). If the person under the age of 21 is married or has been married, the needs, income and resources of the person's parent(s) and any siblings in the home shall not be considered in the eligibility determination unless the marriage was annulled.

(4) When a person is living with a spouse the family size shall consist of that person, the spouse and any of their children, including any unborn children.

(5) Siblings under the age of 21 who live together shall be considered in the same filing unit for the purpose of establishing eligibility under this rule unless one sibling is married or has been married, in which case, the married sibling shall be considered separately unless the marriage was annulled.

(6) When a person is residing in a household in which some members are receiving FMAP under the provisions of subrule 75.1(14) or MAC under the provisions of subrule 75.1(28), and when the person is not included in the FMAP or MAC eligible group, the family size shall consist of the person and all other family members as defined above except those in the FMAP or MAC eligible group.

b. Rescinded IAB 9/6/89, effective 11/1/89.

c. Rescinded IAB 11/1/89, effective 1/1/90.

d. A person is eligible for the entire month in which the person's twenty-first birthday occurs unless the birthday falls on the first day of the month.

e. Living with a specified relative as provided in subrule 75.54(2) shall not be considered when determining eligibility for persons under this coverage group.

75.1(16) Rescinded IAB 10/8/97, effective 12/1/97.

75.1(17) *Persons who meet the income and resource requirements of the cash assistance programs.* Medicaid shall be available to the following persons who meet the income and resource guidelines of supplemental security income or refugee cash assistance, but who are not receiving cash assistance:

a. Aged and blind persons, as defined at subrule 75.13(2).

b. Disabled persons, as defined at rule 441—75.20(249A).

In establishing eligibility for children for this coverage group based on eligibility for SSI, resources of all persons in the eligible group, regardless of age, shall be disregarded. In establishing eligibility for adults for this coverage group, resources shall be considered as provided for SSI-related coverage groups under subrule 75.13(2) or as under refugee cash assistance.

75.1(18) *Persons eligible for waiver services.* Medicaid shall be available to recipients of waiver services as defined in 441—Chapter 83.

75.1(19) *Persons and families terminated from aid to dependent children (ADC) prior to April 1, 1990, due to discontinuance of the $30 or the $30 and one-third earned income disregards.* Rescinded IAB 6/12/91, effective 8/1/91.

75.1(20) *Newborn children of Medicaid-eligible mothers.* Medicaid shall be available without an application to newborn children of women who had applied for Medicaid prior to the end of their pregnancy and were subsequently determined eligible for Medicaid for the month of the child's birth. Eligibility begins with the month of the birth and continues through the month of the first birthday as long as the child lives with the mother and (1) the mother remains eligible for Medicaid or (2) for a child born on or after January 1, 1991, the mother would be eligible under Iowa's state plan if she were still pregnant.

a. The newborn's birth date shall be verified in order to establish the effective date for Medicaid.

b. In order for Medicaid to continue after the month of the first birthday, a redetermination of eligibility shall be completed.

(3) Unless otherwise specified, when the person under the age of 19 is living with a parent or parents, the family size shall consist of all family members as defined by the family medical assistance program.

Application for Medicaid shall be made by the parents when the person is residing with them. A person shall be considered to be living with the parents when the person is temporarily absent from the parent's home as defined in subrule 75.53(4). If the person under the age of 19 is married or has been married, the needs, income and resources of the person's parents and any siblings in the home shall not be considered in the eligibility determination unless the marriage was annulled.

(4) When a person under the age of 19 is living with a spouse, the family size shall consist of that person, the spouse, and any of their children.

(5) Siblings under the age of 19 who live together shall be considered in the same filing unit for the purpose of establishing eligibility under this subrule unless one sibling is married or has been married, in which case the married sibling shall be considered separately unless the marriage was annulled.

b. For pregnant women, resources shall not exceed $10,000 per household. In establishing eligibility for infants and children for this coverage group, resources of all persons in the eligible group, regardless of age, shall be disregarded. In establishing eligibility for pregnant women for this coverage group, resources shall be considered in accordance with department of public health 641—subrule 75.4(2).

c. Rescinded IAB 9/6/89, effective 11/1/89.

d. Eligibility for pregnant women under this rule shall begin no earlier than the first day of the month in which conception occurred and in accordance with 441—76.5(249A).

e. The unborn child (children if more than one fetus exists) shall be considered when determining the number of persons in the household.

f. An infant shall be eligible through the month of the first birthday unless the birthday falls on the first day of the month. A child shall be eligible through the month of the nineteenth birthday unless the birthday falls on the first day of the month.

g. Rescinded IAB 11/1/89, effective 1/1/90.

h. When determining eligibility under this coverage group, living with a specified relative as specified at subrule 75.54(2) and the student provisions specified in subrule 75.54(1) do not apply.

i. A woman who had applied for Medicaid prior to the end of her pregnancy and was subsequently determined eligible for assistance under this coverage group for the month in which her pregnancy ended shall be entitled to receive Medicaid through the postpartum period in accordance with subrule 75.1(24).

j. If an infant loses eligibility under this coverage group at the time of the first birthday due to an inability to meet the income limit for children or if a child loses eligibility at the time of the nineteenth birthday, but the infant or child is receiving inpatient services in a medical institution, Medicaid shall continue under this coverage group for the duration of the time continuous inpatient services are provided.

75.1(29) *Persons who are entitled to hospital insurance benefits under Part A of Medicare (Qualified Medicare Beneficiary program).* Medicaid shall be available to persons who are entitled to hospital insurance under Part A of Medicare to cover the cost of the Medicare Part A and B premiums, coinsurance and deductibles, providing the following conditions are met:

a. The person's monthly income does not exceed the following percentage of the federal poverty level (as defined by the United States Office of Management and Budget and revised annually in accordance with Section 673(2) of the Omnibus Budget Reconciliation Act of 1981) applicable to a family of the size involved:

(1) 85 percent effective January 1, 1989.

(2) 90 percent effective January 1, 1990.

(3) 100 percent effective January 1, 1991, and thereafter.

(4) Rescinded IAB 1/9/91, effective 1/1/91.

b. The person's resources do not exceed twice the maximum amount of resources that a person may have and obtain benefits under the Supplemental Security Income (SSI) program.

The amount of income and resources shall be determined as under the SSI program unless the person lives and is expected to live at least 30 consecutive days in a medical institution and has a spouse at home. Then the resource determination shall be made according to subrules 75.5(3) and 75.5(4). Income shall not include any amount of social security income attributable to the cost-of-living increase through the month following the month in which the annual revision of the official poverty line is published.

c. The effective date of eligibility is the first of the month after the month of decision.

75.1(30) *Presumptive eligibility for pregnant women.* A pregnant woman who is determined by a qualified provider to be presumptively eligible for Medicaid, based only on her statements regarding family income, shall be eligible for ambulatory prenatal care until the last day of the month following the month of the presumptive eligibility determination unless the pregnant woman is determined to be ineligible for Medicaid during this period based on a Medicaid application filed either prior to the presumptive eligibility determination or during this period. In this case, presumptive eligibility shall end on the date Medicaid ineligibility is determined. The pregnant woman shall complete Form 470-2927, Health Services Application, in order for the qualified provider to make the presumptive eligibility determination. The qualified provider shall complete Form 470-2629, Income Calculation Worksheet for Presumptive Medicaid Eligibility Determinations, in order to establish that the pregnant woman's family income is within the prescribed limits of the Medicaid program.

If the pregnant woman files a Medicaid application in accordance with rule 441—76.1(249A) by the last day of the month following the month of the presumptive eligibility determination, Medicaid shall continue until a decision is made on the application. Payment of claims for ambulatory prenatal care services provided to a pregnant woman under this subrule is not dependent upon a finding of Medicaid eligibility for the pregnant woman.

a. A qualified provider is defined as a provider who is eligible for payment under the Medicaid program and who meets all of the following criteria:

(1) Provides one or more of the following services:

1. Outpatient hospital services.

2. Rural health clinic services (if contained in the state plan).

3. Clinic services furnished by or under the direction of a physician, without regard to whether the clinic itself is administered by a physician.

j. These provisions apply to specified relatives defined at paragraph 75.55(1)*"a,"* including:

(1) Any parent who is in the home. This includes parents who are included in the eligible group as well as those who are not.

(2) A stepparent who is included in the eligible group and who has assumed the role of the caretaker relative due to the absence or incapacity of the parent.

(3) A needy specified relative who is included in the eligible group.

k. The timely notice requirements as provided in 441—subrule 76.4(1) shall not apply when it is determined that the family failed to meet the eligibility criteria specified in paragraph *"g"* or *"i"* above. Transitional Medicaid shall be terminated beginning with the first month following the month in which the family no longer met the eligibility criteria. An adequate notice shall be provided to the family when any adverse action is taken.

75.1(32) *Persons and families terminated from refugee cash assistance (RCA) because of income earned from employment.* Refugee medical assistance (RMA) shall be available as long as the eight-month limit for the refugee program is not exceeded to persons who are receiving RMA and who are canceled from the RCA program solely because a member of the eligible group receives income from employment.

a. An RCA recipient shall not be required to meet any minimum program participation time frames in order to receive RMA coverage under these provisions.

b. A person who returns to the home after the family became ineligible for RCA may be included in the eligible group for RMA coverage if the person was included on the assistance grant the month the family became ineligible for RCA.

75.1(33) *Qualified disabled and working persons.* Medicaid shall be available to cover the cost of the premium for Part A of Medicare (hospital insurance benefits) for qualified disabled and working persons.

a. Qualified disabled and working persons are persons who meet the following requirements:

(1) The person's monthly income does not exceed 200 percent of the federal poverty level applicable to the family size involved.

(2) The person's resources do not exceed twice the maximum amount allowed under the supplemental security income (SSI) program.

(3) The person is not eligible for any other Medicaid benefits.

(4) The person is entitled to enroll in Medicare Part A of Title XVIII under Section 1818A of the Social Security Act (as added by Section 6012 of OBRA 1989).

b. The amount of the person's income and resources shall be determined as under the SSI program.

75.1(34) *Specified low-income Medicare beneficiaries.* Medicaid shall be available to persons who are entitled to hospital insurance under Part A of Medicare to cover the cost of the Medicare Part B premium, provided the following conditions are met:

a. The person's monthly income exceeds 100 percent of the federal poverty level but is less than the following percentage of the federal poverty level (as defined by the United States Office of Management and Budget and revised annually in accordance with Section 673(2) of the Omnibus Budget Reconciliation Act of 1981) applicable to a family of the size involved:

(1) 110 percent effective January 1, 1993.

(2) 120 percent effective January 1, 1995, and thereafter.

b. The person's resources do not exceed twice the maximum amount of resources that a person may have and obtain benefits under the Supplemental Security Income (SSI) program.

c. The amount of income and resources shall be determined as under the SSI program unless the person lives and is expected to live at least 30 consecutive days in a medical institution and has a spouse at home. Then the resource determination shall be made according to subrules 75.5(3) and 75.5(4). Income shall not include any amount of social security income attributable to the cost-of-living increase through the month following the month in which the annual revision of the official poverty level is published.

d. The effective date of eligibility shall be as set forth in rule 441—76.5(249A).

75.1(35) *Medically needy persons.*

a. Coverage groups. Subject to other requirements of this chapter, Medicaid shall be available to the following persons:

(1) Pregnant women. Pregnant women who would be eligible for FMAP-related coverage groups except for excess income or resources. For FMAP-related programs, pregnant women shall have the unborn child or children counted in the household size as if the child or children were born and living with them.

(2) FMAP-related persons under the age of 19. Persons under the age of 19 who would be eligible for an FMAP-related coverage group except for excess income.

(3) CMAP-related persons under the age of 21. Persons under the age of 21 who would be eligible in accordance with subrule 75.1(15) except for excess income.

(4) SSI-related persons. Persons who would be eligible for SSI except for excess income or resources.

(5) FMAP-specified relatives. Persons whose income or resources exceed the family medical assistance program's limit and who are a specified relative as defined at subrule 75.55(1) living with a child who is determined dependent.

b. Resources and income of all persons considered.

(1) Resources of all specified relatives and of all potentially eligible individuals living together, except as specified at subparagraph 75.1(35)*"b"*(2) or who are excluded in accordance with the provisions of rule 441—75.59(249A), shall be considered in determining eligibility of adults. Resources of all specified relatives and of all potentially eligible individuals living together shall be disregarded in determining eligibility of children. Income of all specified relatives and of all potentially eligible individuals living together, except as specified at subparagraph 75.1(35)*"b"*(2) or who are excluded in accordance with the provisions of rule 441—75.59(249A), shall be considered in determining eligibility.

(2) The amount of income of the responsible relative that has been counted as available to an FMAP household or SSI individual shall not be considered in determining the countable income for the medically needy eligible group.

(3) The resource determination shall be according to subrules 75.5(3) and 75.5(4) when one spouse is expected to reside at least 30 consecutive days in a medical institution.

c. Resources.

(1) The resource limit for adults in SSI-related households shall be $10,000 per household.

(2) Disposal of resources for less than fair market value by SSI-related applicants or recipients shall be treated according to policies specified in rule 441—75.23(249A).

(3) The resource limit for FMAP- or CMAP-related adults shall be $10,000 per household. In establishing eligibility for children for this coverage group, resources of all persons in the eligible group, regardless of age, shall be disregarded. In establishing eligibility for adults for this coverage group, resources shall be considered according to department of public health 641—subrule 75.4(2).

(4) The resources of SSI-related persons shall be treated according to SSI policies.

(5) When a resource is jointly owned by SSI-related persons and FMAP-related persons, the resource shall be treated according to SSI policies for the SSI-related person and according to FMAP policies for the FMAP-related persons.

d. Income. All unearned and earned income, unless specifically exempted, disregarded, deducted for work expenses, or diverted shall be considered in determining initial and continuing eligibility.

"Qualifying quarters" includes all of the qualifying quarters of coverage as defined under Title II of the Social Security Act worked by a parent of an alien while the alien was under age 18 and all of the qualifying quarters worked by a spouse of the alien during their marriage if the alien remains married to the spouse or the spouse is deceased. No qualifying quarter of coverage that is creditable under Title II of the Social Security Act for any period beginning after December 31, 1996, may be credited to an alien if the parent or spouse of the alien received any federal means-tested public benefit during the period for which the qualifying quarter is so credited.

75.11(2) *Citizenship and alienage.*

a. To be eligible for Medicaid a person must be one of the following:

(1) A citizen or national of the United States.

(2) A qualified alien as defined in subrule 75.11(1) residing in the United States prior to August 22, 1996.

(3) A qualified alien who entered the United States on or after August 22, 1996, and who is:

- A refugee who is admitted to the United States under Section 207 of the Immigration and Nationality Act;
- Granted asylum under Section 208 of the Immigration and Nationality Act;
- An alien whose deportation is being withheld under Section 243(h) of the Immigration and Nationality Act; or
- A veteran with a discharge characterized as an honorable discharge and not on account of alienage, an alien who is on active duty in the Armed Forces of the United States other than active duty for training, or the veteran's spouse or unmarried dependent child.

(4) A qualified alien who entered the United States on or after August 22, 1996, and who has resided in the United States for a period of at least five years.

b. As a condition of eligibility, each recipient shall complete and sign Form 470-2549, Statement of Citizenship Status, attesting to the recipient's citizenship or alien status. The form shall be signed by the recipient, or when the recipient is incompetent or deceased, someone acting responsibly on the recipient's behalf. When both parents are in the home, both shall sign the form. An adult recipient shall sign the form for dependent children. As a condition of eligibility, all applicants for Medicaid shall attest to their citizenship status by signing the application form which contains the same declaration. As a condition of continued eligibility, recipients of SSI-related Medicaid not actually receiving SSI who have been continuous recipients since August 1, 1988, shall attest to their citizenship status by signing the application form which contains a similar declaration at time of review.

75.11(3) *Deeming of sponsor's income and resources.*

a. In determining the eligibility and amount of benefits of an alien, the income and resources of the alien shall be deemed to include the following:

(1) The income and resources of any person who executed an affidavit of support pursuant to Section 213A of the Immigration and Nationality Act (as implemented by the Personal Responsibility and Work Reconciliation Act of 1996) on behalf of the alien.

(2) The income and resources of the spouse of the person who executed the affidavit of support.

b. When an alien attains citizenship through naturalization pursuant to Chapter 2 of Title III of the Immigration and Nationality Act or has worked 40 qualifying quarters of coverage as defined in Title II of the Social Security Act or can be credited with qualifying quarters as defined at subrule 75.11(1) and, in the case of any qualifying quarter creditable for any period beginning after December 31, 1996, did not receive any federal means-tested public benefits, as defined in subrule 75.11(1), during any period, deeming of the sponsor's income and resources no longer applies.

75.11(4) *Eligibility for payment of emergency medical services.* Aliens who do not meet the provisions of subrule 75.11(2) and who would otherwise qualify except for their alienage status are eligible to receive Medicaid for emergency medical care as defined in subrule 75.11(1). To qualify under these provisions, the alien must meet all eligibility criteria, including state residence requirements provided at rules 441—75.10(249A) and 441—75.53(249A). However, the requirements of rule 441—75.7(249A) and subrules 75.11(2) and 75.11(3) do not apply to eligibility for aliens seeking the care and services necessary for the treatment of an emergency medical condition not related to an organ transplant procedure furnished on or after August 10, 1993.

441—75.12(249A) Persons who enter jails or penal institutions or are on work release. A person who enters a jail or penal institution, including a work release center, shall not be eligible for Medicaid A person who is a convicted offender but is permitted to live at home while serving a court-imposed sentence by performing unpaid public work or unpaid community service during the workday shall not be eligible.

441—75.13(249A) Categorical relatedness.

75.13(1) *FMAP-related Medicaid eligibility.* Medicaid eligibility for persons who are under the age of 21, pregnant women, or specified relatives of dependent children who are not blind or disabled shall be determined using the income criteria in effect for the family medical assistance program (FMAP) as provided in subrule 75.1(14) unless otherwise specified. Income shall be considered prospectively.

75.13(2) *SSI-related Medicaid.* Except as otherwise provided in subrule 75.13(3) and in 441—Chapters 75 and 76, persons who are 65 years of age or older, blind, or disabled are eligible for Medicaid only if eligible for the Supplemental Security Income (SSI) program administered by the United States Social Security Administration. The statutes, regulations, and policy governing eligibility for SSI are found in Title XVI of the Social Security Act (42 U.S.C. Sections 1381 to 1383f), in the federal regulations promulgated pursuant to Title XVI (20 CFR Sections 416.101 to 416.2227), and in Part 5 of the Program Operations Manual System published by the United States Social Security Administration. The Program Operations Manual System is available at Social Security Administration offices in Ames, Burlington, Carroll, Cedar Rapids, Clinton, Creston, Davenport, Decorah, Des Moines, Dubuque, Fort Dodge, Iowa City, Marshalltown, Mason City, Oskaloosa, Ottumwa, Sioux City, Spencer, Storm Lake, and Waterloo, or through the Department of Human Services, Division of Medical Services, Hoover State Office Building, Des Moines, Iowa 50319-0114.

For SSI-related Medicaid eligibility purposes, income shall be considered prospectively.

Income that a person contributes to a trust as specified at 75.24(3)*"b"* shall not be considered for purposes of determining eligibility for SSI-related Medicaid.

For purposes of determining eligibility for SSI-related Medicaid, the SSI conditional eligibility process, by which a client may receive SSI benefits while attempting to sell excess resources, found at 20 CFR 416.1240 to 416.1245, is not considered an eligibility methodology.

Valuation of life estates and remainder interests. In the absence of other evidence, the value of a life estate or remainder interest in property shall be determined using the following table by multiplying the fair market value of the entire underlying property (including all life estates and all remainder interests) by the life estate or remainder interest decimal corresponding to the age of the life estate holder or other person whose life controls the life estate.

If a Medicaid applicant or recipient disputes the value determined using the following table, the applicant or recipient may submit other evidence and the value of the life estate or remainder interest shall be determined based on the preponderance of all the evidence submitted to or obtained by the department, including the value given by the following table.

b. Cooperation is defined as including the following actions by the applicant or recipient:

(1) Appearing at the county office or the child support recovery unit to provide verbal or written information or documentary evidence known to, possessed by or reasonably obtainable by the applicant or recipient that is relevant to achieving the objectives of the child support recovery program.

(2) Appearing as a witness at judicial or other hearings or proceedings.

(3) Providing information, or attesting to the lack of information, under penalty of perjury.

c. The applicant or recipient shall cooperate with the county office in supplying information with respect to the absent parent, the receipt of medical support or payments for medical care, and the establishment of paternity, to the extent necessary to establish eligibility for assistance and permit an appropriate referral to the child support recovery unit.

d. The applicant or recipient shall cooperate with the child support recovery unit to the extent of supplying all known information and documents pertaining to the location of the absent parent and taking action as may be necessary to secure medical support and payments for medical care or to establish paternity. This includes completing and signing documents determined to be necessary by the state's attorney for any relevant judicial or administrative process.

e. The income maintenance unit in the county office shall make the determination of whether or not the client has cooperated.

75.14(2) Failure of the applicant or recipient to cooperate shall result in denial or cancellation of the person's Medicaid benefits. In family medical assistance program (FMAP)-related Medicaid cases, all deductions and disregards described at paragraphs 75.57(2)*"a," "b,"* and *"c"* shall be allowed when otherwise applicable but income shall not be diverted to meet the needs of the parent who refuses to cooperate without good cause when establishing eligibility for the children as described at paragraph 75.57(8)*"a."*

75.14(3) Each applicant for or recipient of Medicaid who is required to cooperate with the child support recovery unit shall have the opportunity to claim good cause for refusing to cooperate in establishing paternity or securing medical support and payments for medical care. The provisions set forth in subrules 75.14(8) to 75.14(12) shall be used when making a determination of the existence of good cause.

75.14(4) Each applicant for or recipient of Medicaid shall assign to the department any rights to medical support and payments for medical care from any other person for which the person can legally make assignment. This shall include rights to medical support and payments for medical care on the applicant's or recipient's own behalf or on behalf of any other family member for whom the applicant or recipient is applying. An assignment is effective the same date the county office enters the eligibility information into the automated benefit calculation system or into the X-PERT system and is effective for the entire period for which eligibility is granted. Support payments not intended for medical support shall not be assigned to the department.

75.14(5) Referrals to the child support recovery unit for Medicaid applicants or recipients. The county office shall provide prompt notice to the child support recovery unit whenever assistance is furnished with respect to a child with a parent who is absent from the home or when any member of the eligible group is entitled to support payments.

A referral to the child support recovery unit shall not be made when a parent's absence is occasioned solely by reason of the performance of active duty in the uniformed services of the United States. "Uniformed service" means the Army, Navy, Air Force, Marine Corps, Coast Guard, National Oceanographic and Atmospheric Administration, or Public Health Service of the United States.

"Prompt notice" means within two working days of the date assistance is approved.

75.14(6) Pregnant women establishing eligibility under the mothers and children (MAC) coverage group as provided at subrule 75.1(28) shall be exempt from the provisions in this rule for any born child for whom the pregnant woman applies for or receives Medicaid. Additionally, any previously pregnant woman eligible for postpartum coverage under the provision of subrule 75.1(24) shall not be subject to the provisions in this rule until after the end of the month in which the 60-day postpartum period expires. Pregnant women establishing eligibility under any other coverage groups except those set forth in subrule 75.1(24) or 75.1(28) shall be subject to the provisions in this rule when establishing eligibility for born children. A pregnant woman applying for or receiving Medicaid under any coverage group which requires her cooperation in establishing paternity and obtaining medical support for born children shall not be eligible under any other coverage group if she fails to cooperate without good cause.

75.14(7) Notwithstanding subrule 75.14(6), any pregnant woman or previously pregnant woman establishing eligibility under subrule 75.1(28) or 75.1(24) shall not be exempt from the provisions of 75.14(4) and 75.14(5) which require the applicant or recipient to assign any rights to medical support and payments for medical care and to be referred to the child support recovery unit.

75.14(8) Good cause for refusal to cooperate. Good cause shall exist when it is determined that cooperation in establishing paternity and securing support is against the best interests of the child.

a. The county office shall determine that cooperation is against the child's best interest when the applicant's or recipient's cooperation in establishing paternity or securing support is reasonably anticipated to result in:

(1) Physical or emotional harm to the child for whom support is to be sought; or

(2) Physical or emotional harm to the parent or specified relative with whom the child is living which reduces the person's capacity to care for the child adequately.

(3) Physical harm to the parent or specified relative with whom the child is living which reduces the person's capacity to care for the child adequately; or

(4) Emotional harm to the parent or specified relative with whom the child is living of a nature or degree that it reduces the person's capacity to care for the child adequately.

b. The county office shall determine that cooperation is against the child's best interest when at least one of the following circumstances exists, and the county office believes that because of the existence of that circumstance, in the particular case, proceeding to establish paternity or secure support would be detrimental to the child for whom support would be sought.

(1) The child was conceived as the result of incest or forcible rape.

(2) Legal proceedings for the adoption of the child are pending before a court of competent jurisdiction.

(3) The applicant or recipient is currently being assisted by a public or licensed private social agency to resolve the issue of whether to keep the child or relinquish the child for adoption, and the discussions have not gone on for more than three months.

c. Physical harm and emotional harm shall be of a serious nature in order to justify a finding of good cause. A finding of good cause for emotional harm shall be based only upon a demonstration of an emotional impairment that substantially affects the individual's functioning.

d. When the good cause determination is based in whole or in part upon the anticipation of emotional harm to the child, the parent, or the specified relative, the following shall be considered:

(1) The present emotional state of the individual subject to emotional harm.

(2) The emotional health history of the individual subject to emotional harm.

"Responsible relative" for medically needy shall mean a spouse, parent, or stepparent living in the household of the eligible recipient.

"Retroactive certification period" for medically needy shall mean one, two, or three calendar months prior to the date of application. The retroactive certification period begins with the first month Medicaid-covered services were received and continues to the end of the month immediately prior to the month of application.

"Retroactive period" shall mean the three calendar months immediately preceding the month in which an application is filed.

"Spenddown" shall mean the process by which a medically needy person obligates excess income for allowable medical expenses to reduce income to the appropriate MNIL.

"SSI-related" shall mean those persons whose eligibility is derived from regulations governing the supplemental security income (SSI) program except that income shall be considered prospectively.

"SSI-related medically needy" shall mean those persons whose eligibility is derived from regulations governing the supplemental security income (SSI) program except for income or resources.

"Supply" shall mean the requested information is received by the department by the specified due date.

"Transfer of assets" shall mean transfer of resources or income for less than fair market value for the purposes of rule 441—75.23(249A). For example, a transfer of resources or income could include establishing a trust, contributing to a charity, removing a name from a resource or income, or reducing ownership interest in a resource or income.

"Unborn child" shall include an unborn child during the entire term of pregnancy.

"X-PERT" means an automated knowledge-based computer system that determines eligibility for Medicaid and other assistance programs.

441—75.26(249A) References to the family investment program. Rescinded IAB 10/8/97, effective 12/1/97.

441—75.27(249A) AIDS/HIV settlement payments. The following payments are exempt as income and resources when determining eligibility for or the amount of Medicaid benefits under any coverage group if the payments are kept in a separate, identifiable account:

75.27(1) *Class settlement payments.* Payments made from any fund established pursuant to a class settlement in the case of Susan Walker v. Bayer Corporation, et al., 96-C-5024 (N.D. Ill.) are exempt.

75.27(2) *Other settlement payments.* Payments made pursuant to a release of all claims in a case that is entered into in lieu of the class settlement referred to in subrule 75.27(1) and that is signed by all affected parties in the cases on or before the later of December 31, 1997, or the date that is 270 days after the date on which the release is first sent to the person (or the legal representative of the person) to whom payment is to be made are exempt.

441—75.28 to **75.49** Reserved.

These rules are intended to implement Iowa Code sections 249A.3 and 249A.4.

DIVISION II
ELIGIBILITY FACTORS SPECIFIC TO COVERAGE GROUPS RELATED TO
THE FAMILY MEDICAL ASSISTANCE PROGRAM (FMAP)

441—75.50(249A) Definitions.

"Applicant" shall mean a person who is requesting assistance on the person's own behalf or on behalf of another person, including recertification under the medically needy program. This also includes parents living in the home with the children and the nonparental relative who is requesting assistance for the children.

"Application period" means the months beginning with the month in which the application is considered to be filed, through and including the month in which an eligibility determination is made.

"Assistance unit" includes any person whose income is considered when determining eligibility.

"Bona fide offer" means an actual or genuine offer which includes a specific wage or a training opportunity at a specified place when used to determine whether the parent has refused an offer of training or employment.

"Budget month" means the calendar month from which the county office uses income or circumstances of the eligible group to calculate eligibility.

"Central office" shall mean the state administrative office of the department of human services.

"Change in income" means a permanent change in hours worked or rate of pay, any change in the amount of unearned income, or the beginning or ending of any income.

"Change in work expenses" means a permanent change in the cost of dependent care or the beginning or ending of dependent care.

"Client" shall mean an applicant or recipient of Medicaid.

"Department" shall mean the Iowa department of human services.

"Dependent" means an individual who can be claimed by another individual as a dependent for federal income tax purposes.

"Dependent child" or *"dependent children"* means a child or children who meet the nonfinancial eligibility requirements of the applicable FMAP-related coverage group.

"Income in-kind" is any gain or benefit which is not in the form of money payable directly to the eligible group including nonmonetary benefits, such as meals, clothing, and vendor payments. Vendor payments are money payments which are paid to a third party and not to the eligible group.

"Initial two months" means the first two consecutive months for which eligibility is granted.

"Medical institution," when used in this division, shall mean a facility which is organized to provide medical care, including nursing and convalescent care, in accordance with accepted standards as authorized by state law and as evidenced by the facility's license. A medical institution may be public or private. Medical institutions include the following:

1. Hospitals.
2. Extended care facilities (skilled nursing).
3. Intermediate care facilities.
4. Mental health institutions.
5. Hospital schools.

"Needy specified relative" means a nonparental specified relative, listed in 75.55(1), who meets all the eligibility requirements of the FMAP coverage group, listed in 75.1(14).

"Nonrecurring lump sum unearned income" means a payment in the nature of a windfall, for example, an inheritance, an insurance settlement for pain and suffering, an insurance death benefit, a gift, lottery winnings, or a retroactive payment of benefits such as social security, job insurance or workers' compensation.

"Parent" means a legally recognized parent, including an adoptive parent, or a biological father if there is no legally recognized father.

"Prospective budgeting" means the determination of eligibility and the amount of assistance for a calendar month based on the best estimate of income and circumstances which will exist in that calendar month.

"Recipient" means a person for whom Medicaid is received as well as parents living in the home with the eligible children and other specified relatives as defined in subrule 75.55(1) who are receiving Medicaid for the children. Unless otherwise specified, a person is not a recipient for any month in which the assistance issued for that person is subject to recoupment because the person was ineligible.

"Schedule of needs" means the total needs of a group as determined by the schedule of living costs, described at subrule 75.58(2).

"Stepparent" means a person who is not the parent of the dependent child, but is the legal spouse of the dependent child's parent by ceremonial or common-law marriage.

"Unborn child" shall include an unborn child during the entire term of the pregnancy.

"Uniformed service" means the Army, Navy, Air Force, Marine Corps, Coast Guard, National Oceanographic and Atmospheric Administration, or Public Health Service of the United States.

441—75.51(249A) Reinstatement of eligibility. Eligibility for the family medical assistance program (FMAP) and FMAP-related programs shall be reinstated without a new application when all necessary information is provided at least three working days before the effective date of cancellation and eligibility can be reestablished, except as provided in the transitional Medicaid program in accordance with subparagraph 75.1(31)*"j"*(2).

Assistance may be reinstated without a new application when all necessary information is provided after the third working day but before the effective date of cancellation and eligibility can be reestablished before the effective date of cancellation.

When all eligibility factors are met, assistance shall be reinstated when a completed Review/Recertification Eligibility Document, Form 470-2881, is received by the county office within ten days of the date a cancellation notice is sent to the recipient because the form was incomplete or not returned.

441—75.52(249A) Continuing eligibility.

75.52(1) *Reviews.* Eligibility factors shall be reviewed at least annually for the family medical assistance program and family medical assistance-related programs. A face-to-face interview shall be conducted at least annually at the time of a review for adults using information contained in and verification supplied with Form 470-2881, Review/Recertification Eligibility Document.

75.52(2) *Additional reviews.* A redetermination of specific eligibility factors shall be made when:

a. The recipient reports a change in circumstances (for example, a change in income, as defined at rule 441—75.50(249A)), or

b. A change in the recipient's circumstances comes to the attention of a staff member.

75.52(3) *Forms.* Information for the annual face-to-face determination interview shall be submitted on Form 470-2881, Review/Recertification Eligibility Document (RRED). When the client has completed Form 470-0462, Public Assistance Application, for another purpose, this form may be used as the review document for the semiannual or annual review.

75.52(4) *Recipient responsibilities.* For the purposes of this subrule, recipients shall include persons who received assistance subject to recoupment because the persons were ineligible.

a. The recipient shall cooperate by giving complete and accurate information needed to establish eligibility.

b. The recipient shall complete Form 470-2881, Review/Recertification Eligibility Document (RRED), when requested by the county office in accordance with these rules. The form shall be supplied as needed to the recipient by the department. The department shall pay the cost of postage to return the form. When the form is issued in the department's regular end-of-month mailing, the recipient shall return the completed form to the county office by the fifth calendar day of the report month. When the form is not issued in the department's regular end-of-month mailing, the recipient shall return the completed form to the county office by the seventh day after the date it is mailed by the department. The county office shall supply the recipient with a RRED upon request. Failure to return a completed form shall result in cancellation of assistance. A completed form is a form with all items answered, signed, dated no earlier than the first day of the budget month and accompanied by verification as required in paragraphs 75.57(1)*"f"* and 75.57(2)*"l."*

c. The recipient shall report any change in the following circumstances at the annual review or upon the addition of an individual to the eligible group:

(1) Income from all sources, including any change in care expenses.
(2) Resources.
(3) Members of the household.
(4) School attendance.
(5) A stepparent recovering from an incapacity.
(6) Change of mailing or living address.
(7) Payment of child support.
(8) Receipt of a social security number.
(9) Payment for child support, alimony, or dependents as defined in paragraph 75.57(8)*"b."*
(10) Health insurance premiums or coverage.

d. All recipients shall timely report any change in the following circumstances at any time:

(1) Members of the household.
(2) Change of mailing or living address.
(3) Sources of income.
(4) Health insurance premiums or coverage.

e. Recipients described at subrule 75.1(35) shall also timely report any change in income from any source and any change in care expenses at any time.

f. A report shall be considered timely when made within ten days from the date:

(1) A person enters or leaves the household.
(2) The mailing or living address changes.
(3) A source of income changes.
(4) A health insurance premium or coverage change is effective.
(5) Of any change in income.
(6) Of any change in care expenses.

g. When a change is not reported as required in paragraphs 75.52(4)*"c"* through *"e,"* any excess Medicaid paid shall be subject to recovery.

h. When a change in any circumstance is reported, its effect on eligibility shall be evaluated and eligibility shall be redetermined, if appropriate, regardless of whether the report of the change was required in paragraphs 75.52(4)*"c"* through *"e."*

75.52(5) *Effective date.* After assistance has been approved, eligibility for continuing assistance shall be effective as of the first of each month. Any change affecting eligibility reported during a month shall be effective the first day of the next calendar month, subject to timely notice requirements at rule 441—7.6(217) for any adverse actions.

a. When the change creates ineligibility, eligibility under the current coverage group shall be canceled and an automatic redetermination of eligibility shall be completed in accordance with rule 441—76.11(249A).

b. Rescinded IAB 10/4/00, effective 10/1/00.

c. When an individual included in the eligible group becomes ineligible, that individual's needs shall be removed effective the first of the next month unless the action must be delayed due to timely notice requirements at rule 441—7.6(217).

441—75.53(249A) Iowa residency policies specific to FMAP and FMAP-related coverage groups. Notwithstanding the provisions of rule 441—75.10(249A), the following rules shall apply when determining eligibility for persons under FMAP or FMAP-related coverage groups.

75.53(1) *Definition of resident.* A resident of Iowa is one:

a. Who is living in Iowa voluntarily with the intention of making that person's home there and not for a temporary purpose. A child is a resident of Iowa when living there on other than a temporary basis. Residence may not depend upon the reason for which the individual entered the state, except insofar as it may bear upon whether the individual is there voluntarily or for a temporary purpose; or

b. Who, at the time of application, is living in Iowa, is not receiving assistance from another state, and entered Iowa with a job commitment or seeking employment in Iowa, whether or not currently employed. Under this definition the child is a resident of the state in which the specified relative is a resident.

75.53(2) *Retention of residence.* Residence is retained until abandoned. Temporary absence from Iowa, with subsequent returns to Iowa, or intent to return when the purposes of the absence have been accomplished does not interrupt continuity of residence.

75.53(3) *Suitability of home.* The home shall be deemed suitable until the court has ruled it unsuitable and, as a result of such action, the child has been removed from the home.

75.53(4) *Absence from the home.*

a. An individual who is absent from the home shall not be included in the eligible group, except as described in paragraph *"b."*

(1) A parent who is a convicted offender but is permitted to live at home while serving a court-imposed sentence by performing unpaid public work or unpaid community service during the workday is considered absent from the home.

(2) A parent whose absence from the home is due solely to a pattern of employment is not considered to be absent.

(3) A parent whose absence is occasioned solely by reason of the performance of active duty in the uniformed services of the United States is considered absent from the home. "Uniformed service" means the Army, Navy, Air Force, Marine Corps, Coast Guard, National Oceanographic and Atmospheric Administration, or Public Health Service of the United States.

b. The needs of an individual who is temporarily out of the home are included in the eligible group if otherwise eligible. A temporary absence exists in the following circumstances:

(1) An individual is anticipated to be in the medical institution for less than a year, as verified by a physician's statement. Failure to return within one year from the date of entry into the medical institution will result in the individual's needs being removed from the eligible group.

(2) An individual is out of the home to secure education or training, as defined for children in paragraph 75.54(1)*"b"* and for adults in 441—subrule 93.114(1), first sentence, as long as the specified relative retains supervision of the child.

(3) An individual is out of the home for reasons other than reasons in subparagraphs (1) and (2) and intends to return to the home within three months. Failure to return within three months from the date the individual left the home will result in the individual's needs being removed from the eligible group.

441—75.54(249A) Eligibility factors specific to child.

75.54(1) *Age.* Unless otherwise specified at rule 441—75.1(249A), Medicaid shall be available to a needy child under the age of 18 years without regard to school attendance.

a. A child is eligible for the entire month in which the child's eighteenth birthday occurs, unless the birthday falls on the first day of the month.

b. Medicaid shall also be available to a needy child aged 18 years who is a full-time student in a secondary school, or in the equivalent level of vocational or technical training, and who is reasonably expected to complete the program before reaching the age of 19 if the following criteria are met.

(1) A child shall be considered attending school full-time when enrolled or accepted in a full-time (as certified by the school or institute attended) elementary, secondary or the equivalent level of vocational or technical school or training leading to a certificate or diploma. Correspondence school is not an allowable program of study.

(2) A child shall also be considered to be in regular attendance in months when the child is not attending because of an official school or training program vacation, illness, convalescence, or family emergency. A child meets the definition of regular school attendance until the child has been officially dropped from the school rolls.

(3) When a child's education is temporarily interrupted pending adjustment of an education or training program, exemption shall be continued for a reasonable period of time to complete the adjustment.

75.54(2) *Residing with a relative.* The child shall be living in the home of one of the relatives specified in subrule 75.55(1). When the mother intends to place her child for adoption shortly after birth, the child shall be considered as living with the mother until the time custody is actually relinquished.

a. Living with relatives implies primarily the existence of a relationship involving an accepted responsibility on the part of the relative for the child's welfare, including the sharing of a common household.

b. Home is the family setting maintained or in the process of being established as evidenced by the assumption and continuation of responsibility for the child by the relative.

75.54(3) *Deprivation of parental care and support.* Rescinded IAB 11/1/00, effective 1/1/01.

75.54(4) *Assistance continued.* Rescinded IAB 11/1/00, effective 1/1/01.

441—75.55(249A) Eligibility factors specific to specified relatives.

75.55(1) *Specified relationship.*

a. A child may be considered as meeting the requirement of living with a specified relative if the child's home is with one of the following or with a spouse of the relative even though the marriage is terminated by death or divorce:

Father or adoptive father.

Mother or adoptive mother.

Grandfather or grandfather-in-law, meaning the subsequent husband of the child's natural grandmother, i.e., stepgrandfather or adoptive grandfather.

Grandmother or grandmother-in-law, meaning the subsequent wife of the child's natural grandfather, i.e., stepgrandmother or adoptive grandmother.

Great-grandfather or great-great-grandfather.

Great-grandmother or great-great-grandmother.

Stepfather, but not his parents.

Stepmother, but not her parents.

Brother, brother-of-half-blood, stepbrother, brother-in-law or adoptive brother.

Sister, sister-of-half-blood, stepsister, sister-in-law or adoptive sister.

Uncle or aunt, of whole or half blood.

Uncle-in-law or aunt-in-law.

Great uncle or great-great-uncle.

Great aunt or great-great-aunt.

First cousins, nephews, or nieces.

b. A relative of the putative father can qualify as a specified relative if the putative father has acknowledged paternity by the type of written evidence on which a prudent person would rely.

75.55(2) *Liability of relatives.* All appropriate steps shall be taken to secure support from legally liable persons on behalf of all persons in the eligible group, including the establishment of paternity as provided in rule 441—75.14(249A).

a. When necessary to establish eligibility, the county office shall make the initial contact with the absent parent at the time of application. Subsequent contacts shall be made by the child support recovery unit.

b. When contact with the family or other sources of information indicates that relatives other than parents and spouses of the eligible children are contributing toward the support of members of the eligible group, have contributed in the past, or are of such financial standing they might reasonably be expected to contribute, the county office shall contact these persons to verify current contributions or arrange for contributions on a voluntary basis.

441—75.56(249A) Resources.

75.56(1) *Limitation.* Unless otherwise specified, an applicant or recipient may have the following resources and be eligible for the family medical assistance program (FMAP) or FMAP-related programs. Any resource not specifically exempted shall be counted toward the applicable resource limit when determining eligibility for adults. All resources shall be disregarded when determining eligibility for children.

a. A homestead without regard to its value. A mobile home or similar shelter shall be considered as a homestead when it is occupied by the recipient. Temporary absence from the homestead with a defined purpose for the absence and with intent to return when the purpose of the absence has been accomplished shall not be considered to have altered the exempt status of the homestead. Except as described at paragraph 75.56(1)*"n"* or *"o,"* the net market value of any other real property shall be considered with personal property.

b. Household goods and personal effects without regard to their value. Personal effects are personal or intimate tangible belongings of an individual, especially those that are worn or carried on the person, which are maintained in one's home, and include clothing, books, grooming aids, jewelry, hobby equipment, and similar items.

c. Life insurance which has no cash surrender value. The owner of the life insurance policy is the individual paying the premium on the policy with the right to change the policy as the individual sees fit.

d. An equity not to exceed a value of $3,000 in one motor vehicle for each adult and working teenage child whose resources must be considered as described in subrule 75.56(2). The disregard shall be allowed when the working teenager is temporarily absent from work. The equity value in excess of $3,000 of any vehicle shall be counted toward the resource limit in paragraph 75.56(1)*"e."* When a motor vehicle(s) is modified with special equipment for the handicapped, the special equipment shall not increase the value of the motor vehicle(s).

Beginning July 1, 1994, and continuing in succeeding state fiscal years, the motor vehicle equity value to be disregarded shall be increased by the latest increase in the consumer price index for used vehicles during the previous state fiscal year.

e. A reserve of other property, real or personal, not to exceed $2,000 for applicant assistance units and $5,000 for recipient assistance units.

EXCEPTION: Applicant assistance units with at least one member who was a recipient in Iowa in the month prior to the month of application are subject to the $5,000 limit.

Resources of the applicant or the recipient shall be determined in accordance with persons considered, as described at subrule 75.56(2).

f. Money which is counted as income in a month, during that same month; and that part of lump sum income defined at subparagraph 75.57(9)*"c"*(2) reserved for the current or future month's income.

g. Payments which are exempted for consideration as income and resources under subrule 75.57(6).

h. An equity not to exceed $1,500 in one funeral contract or burial trust for each member of the eligible group. Any amount in excess of $1,500 shall be counted toward resource limits unless it is established that the funeral contract or burial trust is irrevocable.

i. One burial plot for each member of the eligible group. A burial plot is defined as a conventional gravesite, crypt, mausoleum, urn, or other repository which is customarily and traditionally used for the remains of a deceased person.

e. A person is considered self-employed when the person:

(1) Is not required to report to the office regularly except for specific purposes such as sales training meetings, administrative meetings, or evaluation sessions.

(2) Establishes the person's own working hours, territory, and methods of work.

(3) Files quarterly reports of earnings, withholding payments, and FICA payments to the Internal Revenue Service.

f. The net profit from self-employment income in a non-home-based operation shall be determined by deducting only the following expenses that are directly related to the production of the income:

(1) The cost of inventories and supplies purchased that are required for the business, such as items for sale or consumption and raw materials.

(2) Wages, commissions, and mandated costs relating to the wages for employees of the self-employed.

(3) The cost of shelter in the form of rent, the interest on mortgage or contract payments; taxes; and utilities.

(4) The cost of machinery and equipment in the form of rent or the interest on mortgage or contract payments.

(5) Insurance on the real or personal property involved.

(6) The cost of any repairs needed.

(7) The cost of any travel required.

(8) Any other expense directly related to the production of income, except the purchase of capital equipment and payment on the principal of loans for capital assets and durable goods or any cost of depreciation.

g. When the client is renting out apartments in the client's home, the following shall be deducted from the gross rentals received to determine the profit:

(1) Shelter expense in excess of that set forth on the chart of basic needs components at subrule 75.58(2) for the eligible group.

(2) That portion of expense for utilities furnished to tenants which exceeds the amount set forth on the chart of basic needs components at subrule 75.58(2).

(3) Ten percent of gross rentals to cover the cost of upkeep.

h. In determining profit from furnishing board, room, operating a family life home, or providing nursing care, the following amounts shall be deducted from the payments received:

(1) $41 plus an amount equivalent to the monthly maximum food stamp allotment in the food stamp program for a one-member household for a boarder and roomer or an individual in the home to receive nursing care, or $41 for a roomer, or an amount equivalent to the monthly maximum food stamp allotment in the food stamp program for a one-member household for a boarder.

(2) Ten percent of the total payment to cover the cost of upkeep for individuals receiving a room or nursing care.

i. Gross income from providing child care in the applicant's or recipient's own home shall include the total payments received for the service and any payment received due to the Child Nutrition Amendments of 1978 for the cost of providing meals to children. In determining profit from providing child care services in the applicant's or recipient's own home, 40 percent of the total gross income received shall be deducted to cover the costs of producing the income, unless the individual requests to have actual expenses in excess of the 40 percent considered. When the applicant or recipient requests to have expenses in excess of the 40 percent considered, profit shall be determined in the same manner as specified at paragraph 75.57(2)*"j."*

j. In determining profit for a self-employed enterprise in the home other than providing room and board, renting apartments or providing child care services, the following expenses shall be deducted from the income received:

(1) The cost of inventories and supplies purchased that are required for the business, such as items for sale or consumption and raw materials.

(2) Wages, commissions, and mandated costs relating to the wages for employees.

(3) The cost of machinery and equipment in the form of rent; or the interest on mortgage or contract payment; and any insurance on such machinery equipment.

(4) Ten percent of the total gross income to cover the costs of upkeep when the work is performed in the home.

(5) Any other direct cost involved in the production of the income, except the purchase of capital equipment and payment on the principal of loans for capital equipment and payment on the principal of loans for capital assets and durable goods or any cost of depreciation.

k. Rescinded IAB 6/30/99, effective 9/1/99.

l. The applicant or recipient shall cooperate in supplying verification of all earned income and of any change in income, as defined at rule 441—75.50(249A). A self-employed individual shall keep any records necessary to establish eligibility.

75.57(3) *Shared living arrangements.* When an applicant or recipient shares living arrangements with another family or person, funds combined to meet mutual obligations for shelter and other basic needs are not income. Funds made available to the applicant or recipient, exclusively for the applicant's or recipient's needs, are considered income.

75.57(4) *Diversion of income.*

a. Nonexempt earned and unearned income of the parent shall be diverted to meet the unmet needs of the ineligible children of the parent living in the family group who meet the age and school attendance requirements specified in subrule 75.54(1). Income of the parent shall be diverted to meet the unmet needs of the ineligible children of the parent and a companion in the home only when the income and resources of the companion and the children are within family medical assistance program standards. The maximum income that shall be diverted to meet the needs of the ineligible children shall be the difference between the needs of the eligible group if the ineligible children were included and the needs of the eligible group with the ineligible children excluded, except as specified at paragraph 75.57(8)*"b."*

b. Nonexempt earned and unearned income of the parent shall be diverted to permit payment of court-ordered support to children not living with the parent when the payment is actually being made.

75.57(5) *Income of unmarried specified relatives under the age of 19.*

a. Income of the unmarried specified relative under the age of 19 when that specified relative lives with a parent who receives coverage under family medical assistance-related programs or lives with a nonparental relative or in an independent living arrangement.

(1) The income of the unmarried, underage specified relative who is also an eligible child in the eligible group of the specified relative's parent shall be treated in the same manner as that of any other child. The income for the unmarried, underage specified relative who is not an eligible child in the eligible group of the specified relative's parent shall be treated in the same manner as though the specified relative had attained majority.

(2) The income of the unmarried, underage specified relative living with a nonparental relative or in an independent living arrangement shall be treated in the same manner as though the specified relative had attained majority.

b. Treatment of income in stepparent cases. The income of a stepparent who is not included in the eligible group, but is living with the parent in the home of the eligible child(ren), shall be given the same consideration and treatment as that of a parent subject to the limitations of subparagraphs (1) through (10) below.

(1) The stepparent's monthly gross nonexempt earned income, earned as an employee or monthly net profit from self-employment, shall receive a 20 percent earned income deduction.

(2) The stepparent's monthly nonexempt earned income remaining after the 20 percent earned income deduction shall be allowed child care expenses for the stepparent's ineligible dependents in the home, subject to the restrictions described at subparagraphs 75.57(2)*"b"*(1) through (5).

(3) Any amounts actually paid by the stepparent to individuals not living in the home, who are claimed or could be claimed by the stepparent as dependents for federal income tax purposes, shall be deducted from nonexempt monthly earned and unearned income of the stepparent.

(4) The stepparent shall also be allowed a deduction from nonexempt monthly earned and unearned income for alimony and child support payments made to individuals not living in the home with the stepparent.

(5) Except as described at subrule 75.57(10), the nonexempt monthly earned and unearned income of the stepparent remaining after application of the deductions at subparagraphs 75.57(8)*"b"*(1) through (4) above shall be used to meet the needs of the stepparent and the stepparent's dependents living in the home, when the dependents' needs are not included in the eligible group and the stepparent claims or could claim the dependents for federal income tax purposes. These needs shall be determined in accordance with the schedule of needs for a family group of the same composition in accordance with subrule 75.58(2).

(6) The stepparent shall be allowed the 50 percent work incentive deduction from monthly earnings. The deduction shall be applied to earnings that remain after all other deductions at subparagraphs 75.57(8)*"b"*(1) through (5) have been subtracted from the earnings. However, the 50 percent work incentive deduction is not allowed when determining initial eligibility as described at subparagraphs 75.57(9)*"a"*(2) and (3).

(7) The deductions described in subparagraphs (1) through (6) shall first be subtracted from earned income in the same order as they appear above.

When the stepparent has both nonexempt earned and unearned income and earnings are less than the allowable deductions, then any remaining portion of the deductions in subparagraphs (3) through (5) shall be subtracted from unearned income. Any remaining income shall be applied as unearned income to the needs of the eligible group.

If the stepparent has earned income remaining after allowable deductions, then any nonexempt unearned income shall be added to the earnings and the resulting total counted as unearned income to the needs of the eligible group.

(8) A nonexempt nonrecurring lump sum received by a stepparent shall be considered as income in the budget month and counted in computing eligibility. Any portion of the nonrecurring lump sum retained by the stepparent in the month following the month of receipt shall be considered a resource to the stepparent.

(9) When the income of the stepparent, not in the eligible group, is insufficient to meet the needs of the stepparent and the stepparent's dependents living in the home who are not eligible for FMAP-related Medicaid, the income of the parent may be diverted to meet the unmet needs of the children of the current marriage except as described at subrule 75.57(10).

(10) When the needs of the stepparent, living in the home, are not included in the eligible group, the eligible group and any children of the parent living in the home who are not eligible for FMAP-related Medicaid shall be considered as one unit, and the stepparent and the stepparent's dependents, other than the spouse, shall be considered a separate unit.

(11) Rescinded IAB 6/30/99, effective 9/1/99.

c. Treatment of income in underage parent cases. In the case of a dependent child whose unmarried parent is under the age of 18 and living in the same home as the unmarried, underage parent's own self-supporting parents, the income of each self-supporting parent shall be considered available to the eligible group after appropriate deductions unless the provisions of rule 441—75.59(249A) apply. The deductions to be applied are the same as are applied to the income of a stepparent pursuant to subparagraphs 75.57(8)*"b"*(1) through (7). Child care expenses at subparagraph 75.57(8)*"b"*(2) shall be allowed for the self-supporting parent's ineligible children. Nonrecurring lump sum income received by the self-supporting parent(s) shall be treated in accordance with subparagraph 75.57(8)*"b"*(8).

When the self-supporting spouse of a self-supporting parent is also living in the home, the income of that spouse shall be attributable to the self-supporting parent in the same manner as the income of a stepparent is determined pursuant to subparagraphs 75.57(8)*"b"*(1) through (7) unless the provisions of rule 441—75.59(249A) apply. Child care expenses at subparagraph 75.57(8)*"b"*(2) shall be allowed for the ineligible dependents of the self-supporting spouse who is a stepparent of the minor parent. Nonrecurring lump sum income received by the spouse of the self-supporting parent shall be treated in accordance with subparagraph 75.57(8)*"b"*(8). The self-supporting parent and any ineligible dependents of that person shall be considered as one unit. The self-supporting spouse and the spouse's ineligible dependents, other than the self-supporting parent, shall be considered a separate unit.

75.57(9) *Budgeting process.*

a. Initial and ongoing eligibility. Both initial and ongoing eligibility shall be based on a projection of income based on the best estimate of future income.

(1) Upon application for which a face-to-face interview is completed pursuant to 441—subrule 76.2(1), all earned and unearned income received by the eligible group during the 30 days prior to the interview shall be used to project future income unless the applicant provides verification that those 30 days are not indicative of future income. Upon application for which a face-to-face interview is not completed pursuant to subrule 441—76.2(1), all earned and unearned income received by the eligible group during the 30 days prior to the application date shall be used to project future income unless the applicant provides verification that those 30 days are not indicative of future income. If the applicant provides verification that the 30-day period specified above is not indicative of future income, income from a longer period or verification of anticipated income from the income source may be used to project future income. Allowable work expenses shall be deducted from earned income, except when determining eligibility under the 185 percent test defined at rule 441—75.57(249A). The determination of initial eligibility is a three-step process as described at rule 441—75.57(249A).

(2) When countable gross nonexempt earned and unearned income exceeds 185 percent of the schedule of living costs (Test 1), as identified at subrule 75.58(2) for the eligible group, eligibility does not exist under any coverage group for which these income tests apply. Countable gross income means nonexempt gross income, as defined at rule 441—75.57(249A), without application of any disregards, deductions, or diversions. When the countable gross nonexempt earned and unearned income equals or is less than 185 percent of the schedule of living costs for the eligible group, initial eligibility under the schedule of living costs (Test 2) shall then be determined. Initial eligibility under the schedule of living costs is determined without application of the 50 percent earned income disregard as specified at paragraph 75.57(2)*"c."* All other appropriate exemptions, deductions and diversions are applied. Countable income is then compared to the schedule of basic needs (Test 3) for the eligible group. When countable net earned and unearned income equals or exceeds the schedule of basic needs for the eligible group, eligibility does not exist under any coverage group for which these income tests apply.

(3) When the countable net income is less than the schedule of living costs (Test 2) for the eligible group, the 50 percent earned income disregard at paragraph 75.57(2)*"c"* shall be applied when there is eligibility for this disregard. When countable net earned and unearned income, after application of the earned income disregards at paragraph 75.57(2)*"c"* and all other appropriate exemptions, deductions, and diversions, equals or exceeds the schedule of basic needs (Test 3) for the eligible group, eligibility does not exist under any coverage group for which these tests apply.

When the countable net income is less than the payment standard for the eligible group, the application shall be approved.

(4) The family circumstances shall be considered, based upon the anticipated circumstances during each month.

(5) Rescinded IAB 10/4/00, effective 10/1/00.

(6) When income received weekly or biweekly (once every two weeks) is projected for future months, it shall be projected by adding all income received in the time period being used and dividing the result by the number of instances of income received in that time period. The result shall be multiplied by four if the income is received weekly, or by two if the income is received biweekly, regardless of the number of weekly or biweekly payments to be made in future months.

(7) Work expense for care, as defined at paragraph 75.57(2)*"b,"* shall be the average allowable care expense expected to be billed or otherwise expected to become due during a month. The 20 percent earned income deduction for each wage earner, as defined at paragraph 75.57(2)*"a,"* and the 50 percent work incentive deduction, as defined at paragraph 75.57(2)*"c,"* shall be allowed.

(8) When a change in circumstances that is required to be timely reported by the client pursuant to paragraphs 75.52(4)*"d"* and *"e"* is not reported as required, eligibility shall be redetermined beginning with the month following the month in which the change occurred. When a change in circumstances that is required to be reported by the client at annual review or upon the addition of an individual to the eligible group pursuant to paragraph 75.52(4)*"c"* is not reported as required, eligibility shall be redetermined beginning with the month following the month in which the change was required to be reported. All other changes shall be acted upon when they are reported or otherwise become known to the department, allowing for a ten-day notice of adverse action, if required.

b. Rescinded IAB 10/4/00, effective 10/1/00.

c. Lump sum income.

(1) Recurring lump sum income. Recurring lump sum earned and unearned income, except for the income of the self-employed, shall be prorated over the number of months for which the income was received and applied to the eligibility determination for the same number of months. Income received by an individual employed under a contract shall be prorated over the period of the contract. Income received at periodic intervals or intermittently shall be prorated over the period covered by the income and applied to the eligibility determination for the same number of months, except periodic or intermittent income from self-employment shall be treated as described at paragraph 75.57(9)*"i."* When the lump sum income is earned income, appropriate disregards, deductions and diversions shall be applied to the monthly prorated income. Income is prorated when a recurring lump sum is received at any time.

(2) Nonrecurring lump sum income. Moneys received as a nonrecurring lump sum, except as specified in subrules 75.56(4) and 75.56(7) and at paragraphs 75.57(8)*"b"* and *"c,"* shall be treated in accordance with this rule. Nonrecurring lump sum income includes an inheritance, an insurance settlement or tort recovery, an insurance death benefit, a gift, lottery winnings, or a retroactive payment of benefits, such as social security, job insurance, or workers' compensation. Nonrecurring lump sum income shall be considered as income in the month of receipt and counted in computing eligibility, unless the income is exempt. When countable income exclusive of any family investment program grant but including countable lump sum income exceeds the needs of the eligible group under their current coverage group, the countable lump sum income shall be prorated. The number of full months for which a monthly amount of the lump sum shall be counted as income in the eligibility determination is derived by dividing the total of the lump sum income and any other countable income received in the month the lump sum was received by the schedule of living costs, as identified at subrule 75.58(2), for the eligible group. This period of time is referred to as the period of proration.

Any income remaining after this calculation shall be applied as income to the first month following the period of proration and disregarded as income thereafter. The period of proration shall begin with the month following a ten-day notice of adverse action when the receipt of the lump sum was timely reported. The period of proration shall begin with the month following the receipt of the lump sum when the receipt of the lump sum was not timely reported. The period of proration shall be shortened when the schedule of living costs as defined at subrule 75.58(2) increases. The period of proration shall be shortened by the amount which is no longer available to the eligible group due to loss, theft, or because the person controlling the lump sum no longer resides with the eligible group and the lump sum is no longer available to the eligible group.

The period of proration shall also be shortened when there is an expenditure of the lump sum made for the following circumstances unless there was insurance available to meet the expense: Payments made on medical services for the former eligible group or their dependents for services listed in 441—Chapters 78, 81, 82, and 85 at the time the expense is reported to the department; the cost of necessary repairs to maintain habitability of the homestead requiring the spending of over $25 per incident; cost of replacement of exempt resources as defined in subrule 75.56(1) due to fire, tornado, or other natural disaster; or funeral and burial expenses. The expenditure of these funds shall be verified.

When countable income, including the lump sum income, is less than the needs of the eligible group in accordance with the provisions of their current coverage group, the lump sum shall be counted as income for the month of receipt. For purposes of applying the lump sum provision, the eligible group is defined as all eligible persons and any other individual whose lump sum income is counted in determining the period of proration. During the period of proration, individuals not in the eligible group when the lump sum income was received may be eligible as a separate eligible group. Income of this eligible group plus income, excluding the lump sum income already considered, of the parent or other legally responsible person in the home shall be considered as available in determining eligibility.

d. The third digit to the right of the decimal point in any calculation of income, hours of employment and work expenses for care, as defined at paragraph 75.57(2)*"b,"* shall be dropped.

e. In any month for which an individual is determined eligible to be added to a currently active family medical assistance (FMAP) or FMAP-related Medicaid case, the individual's needs, income, and resources shall be included. The needs, income, and resources of an individual determined to be ineligible to remain a member of the eligible group shall be removed prospectively effective the first of the following month if the timely notice of adverse action requirements as provided at 441—subrule 76.4(1) can be met.

f. Rescinded IAB 10/4/00, effective 10/1/00.

g. Rescinded IAB 2/11/98, effective 2/1/98.

h. Income from self-employment received on a regular weekly, biweekly, semimonthly or monthly basis shall be budgeted in the same manner as the earnings of an employee. The countable income shall be the net income.

i. Income from self-employment not received on a regular weekly, biweekly, semimonthly or monthly basis that represents an individual's annual income shall be averaged over a 12-month period of time, even if the income is received within a short period of time during that 12-month period. Any change in self-employment shall be handled in accordance with subparagraphs (3) through (5) below.

(1) When a self-employment enterprise which does not produce a regular weekly, biweekly, semimonthly or monthly income has been in existence for less than a year, income shall be averaged over the period of time the enterprise has been in existence and the monthly amount projected for the same period of time. If the enterprise has been in existence for such a short time that there is very little income information, the worker shall establish, with the cooperation of the client, a reasonable estimate which shall be considered accurate and projected for three months, after which the income shall be averaged and projected for the same period of time. Any changes in self-employment shall be considered in accordance with subparagraphs (3) through (5) below.

(2) These policies apply when the self-employment income is received before the month of decision and the income is expected to continue, in the month of decision, after assistance is approved.

(3) A change in the cost of producing self-employment income is defined as an established permanent ongoing change in the operating expenses of a self-employment enterprise. Change in self-employment income is defined as a change in the nature of business.

(4) When a change in operating expenses occurs, the county office shall recalculate the expenses on the basis of the change.

(5) When a change occurs in the nature of the business, the income and expenses shall be computed on the basis of the change.

75.57(10) *Restriction on diversion of income.* No income may be diverted to meet the needs of a person living in the home who has been sanctioned under subrule 75.14(2) or who is required to be included in the eligible group according to paragraph 75.58(1)*"a"* and has failed to cooperate. This restriction applies to paragraph 75.57(4)*"a"* and subrule 75.57(8).

75.57(11) *Divesting of income.* Assistance shall not be approved when an investigation proves that income was divested and the action was deliberate and for the primary purpose of qualifying for assistance or increasing the amount of assistance paid.

441—75.58(249A) Need standards.

75.58(1) *Definition of eligible group.* The eligible group consists of all eligible persons specified below and living together, except when one or more of these persons have elected to receive supplemental security income under Title XVI of the Social Security Act or are voluntarily excluded in accordance with the provisions of rule 441—75.59(249A). There shall be at least one child, which may be an unborn child, in the eligible group except when the only eligible child is receiving supplemental security income.

a. The following persons shall be included (except as otherwise provided in these rules) without regard to the person's employment status, income or resources:

(1) All dependent children who are siblings of whole or half blood or adoptive.

(2) Any parent of such children, if the parent is living in the same home as the dependent children.

b. The following persons may be included:

(1) The needy specified relative who assumes the role of parent.

(2) The needy specified relative who acts as caretaker when the parent is in the home but is unable to act as caretaker.

(3) An incapacitated stepparent, upon request, when the stepparent is the legal spouse of the parent by ceremonial or common-law marriage and the stepparent does not have a child in the eligible group.

1. A stepparent is considered incapacitated when a clearly identifiable physical or mental defect has a demonstrable effect upon earning capacity or the performance of the homemaking duties required to maintain a home for the stepchild. The incapacity shall be expected to last for a period of at least 30 days from the date of application.

2. The determination of incapacity shall be supported by medical or psychological evidence. The evidence may be submitted either by letter from the physician or on Form 470-0447, Report on Incapacity.

3. When an examination is required and other resources are not available to meet the expense of the examination, the physician shall be authorized to make the examination and submit the claim for payment on Form 470-0502, Authorization for Examination and Claim for Payment.

4. A finding of eligibility for social security benefits or supplemental security income benefits based on disability or blindness is acceptable proof of incapacity for the family medical assistance program (FMAP) and FMAP-related program purposes.

5. A stepparent who is considered incapacitated and is receiving Medicaid shall be referred to the department of education, division of vocational rehabilitation services, for evaluation and services. Acceptance of these services is optional.

(4) The stepparent who is not incapacitated when the stepparent is the legal spouse of the parent by ceremonial or common-law marriage and the stepparent is required in the home to care for the dependent children. These services must be required to the extent that if the stepparent were not available, it would be necessary to allow for care as a deduction from earned income of the parent.

When the unmarried specified relative under the age of 19 is living with a nonparental relative or in an independent living arrangement, need shall be determined in the same manner as though the specified relative had attained majority.

When the unmarried specified relative is under the age of 18 and living in the same home with a parent who does not receive Medicaid, the needs of the specified relative, when eligible, shall be included in the eligible group with the children when the specified relative is a parent. When the specified relative is a nonparental relative as defined at subrule 75.55(1), only the needs of the eligible children shall be included in the eligible group. When the unmarried specified relative is aged 18, need shall be determined in the same manner as though the specified relative had attained majority.

(3) When a person who would ordinarily be in the eligible group has elected to receive supplemental security income benefits, the person, income and resources shall not be considered in determining eligibility for the rest of the family.

(4) When two individuals, married to each other, are living in a common household and the children of each of them are recipients of Medicaid, the eligibility shall be computed on the basis of their comprising one eligible group.

441—75.59(249A) Persons who may be excluded from the eligible group when determining eligibility for the family medical assistance program (FMAP) and FMAP-related coverage groups.

75.59(1) *Exclusions from the eligible group.* In determining eligibility under the family medical assistance program (FMAP) or any FMAP-related Medicaid coverage group in this chapter, the following persons may be excluded from the eligible group when determining Medicaid eligibility of other household members.

a. Siblings (of whole or half blood, or adoptive) of eligible children.

b. Self-supporting parents of minor unmarried parents.

c. Stepparents of eligible children.

d. Children living with a specified relative, as listed at subrule 75.55(1).

75.59(2) *Needs, income, and resource exclusions.* The needs, income, and resources of persons who are excluded shall also be excluded. If the income of the self-supporting parents of a minor unmarried parent is excluded, then the needs of the minor unmarried parent shall also be excluded. However, the income and resources of the minor unmarried parent shall not be excluded. If the income of the stepparent is excluded, the needs of the parent shall also be excluded.

75.59(3) *Medicaid entitlement.* Persons whose needs are excluded from the eligibility determination shall not be entitled to Medicaid under this or any other coverage group.

75.59(4) *Situations where parent's needs are excluded.* In situations where the parent's needs are excluded but the parent's income and resources are considered in the eligibility determination (e.g., minor unmarried parent living with self-supporting parents), the excluded parent shall be allowed the earned income deduction, child care expenses and the 50 percent work incentive disregard as provided at paragraphs 75.57(2)*"a," "b,"* and *"c."*

75.59(5) *Situations where child's needs, income, and resources are excluded.* In situations where the child's needs, income, and resources are excluded from the eligibility determination pursuant to subrule 75.59(1), and the child's income is not sufficient to meet the child's needs, the parent shall be allowed to divert income to meet the unmet needs of the excluded child. The maximum amount to be diverted shall be the difference between the schedule of basic needs of the eligible group with the child included and the schedule of basic needs with the child excluded, in accordance with the provisions of subrule 75.58(2), minus any countable income of the child.

441—75.60(249A) Pending SSI approval. When a person who would ordinarily be in the eligible group has applied for supplemental security income benefits, the person's needs may be included in the eligible group pending approval of supplemental security income.

These rules are intended to implement Iowa Code section 249A.4.

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◊ Two ARCs

78.1(17) Abortions. Payment for an abortion or related service is made when Form XIX (PHY-4) is completed for the applicable circumstances and is attached to each claim for services. Payment for an abortion is made under one of the following circumstances:

a. The physician certifies that the pregnant woman's life would be endangered if the fetus were carried to term.

b. The physician certifies that the fetus is physically deformed, mentally deficient or afflicted with a congenital illness and the physician states the medical indication for determining the fetal condition.

c. The pregnancy was the result of rape reported to a law enforcement agency or public or private health agency which may include a family physician within 45 days of the date of occurrence of the incident. The report shall include the name, address, and signature of the person making the report. Form XIX (PHY-4) shall be signed by the person receiving the report of the rape.

d. The pregnancy was the result of incest reported to a law enforcement agency or public or private health agency including a family physician no later than 150 days after the date of occurrence. The report shall include the name, address, and signature of the person making the report. Form XIX (PHY-4) shall be signed by the person receiving the report of incest.

78.1(18) Payment and procedure for obtaining eyeglasses, contact lenses, and visual aids, shall be the same as described in 441—78.6(249A). (Cross-reference 78.28(3))

78.1(19) Preprocedure review by the Iowa Foundation for Medical Care (IFMC) will be required if payment under Medicaid is to be made for certain frequently performed surgical procedures which have a wide variation in the relative frequency the procedures are performed. Preprocedure surgical review applies to surgeries performed in hospitals (outpatient and inpatient) and ambulatory surgical centers. Approval by the IFMC will be granted only if the procedures are determined to be necessary based on the condition of the patient and the published criteria established by the IFMC and the department. If not so approved by the IFMC, payment will not be made under the program to the physician or to the facility in which the surgery is performed. The criteria are available from IFMC, 6000 Westown Parkway, Suite 350E, West Des Moines, Iowa 50265-7771, or in local hospital utilization review offices.

The "Preprocedure Surgical Review List" shall be published by the department in the provider manuals for physicians, hospitals, and ambulatory surgical centers. The "Preprocedure Surgical Review List" shall be developed by the department with advice and consultation from the IFMC and appropriate professional organizations and will list the procedures for which prior review is required and the steps that must be followed in requesting such review. The department shall update the "Preprocedure Surgical Review List" annually. (Cross-reference 78.28(1)"*e.*")

78.1(20) Transplants.

a. Payment will be made only for the following organ and tissue transplant services:

(1) Kidney, cornea, skin, and bone transplants.

(2) Allogeneic bone marrow transplants for the treatment of leukemia, aplastic anemia, severe combined immunodeficiency disease (SCID), or Wiskott-Aldrich syndrome.

(3) Autologous bone marrow transplants for treatment of the following conditions: acute leukemia in remission with a high probability of relapse when there is no matched donor; resistant non-Hodgkin's lymphomas; lymphomas presenting poor prognostic features; recurrent or refractory neuroblastoma; or advanced Hodgkin's disease when conventional therapy has failed and there is no matched donor.

(4) Liver transplants for persons with extrahepatic biliary artesia or any other form of endstage liver disease, except that coverage is not provided for persons with a malignancy extending beyond the margins of the liver or those with persistent viremia.

Liver transplants require preprocedure review by the Iowa Foundation for Medical Care. (Cross-reference 78.1(19) and 78.28(1)"*f.*")

Covered liver transplants are payable only when performed in a facility which meets the requirements of 78.3(10).

(5) Heart transplants. Artificial hearts and ventricular assist devices, either as a permanent replacement for a human heart or as a temporary life-support system until a human heart becomes available for transplants, are not covered. Heart-lung transplants are not covered.

Heart transplants require preprocedure review by the Iowa Foundation for Medical Care. (Cross-reference 78.1(19) and 78.28(1)"*f.*") Covered heart transplants are payable only when performed in a facility which meets the requirements of 78.3(10).

(6) Lung transplants. Lung transplants for persons having end-stage pulmonary disease. Lung transplants require preprocedure review by the Iowa Foundation for Medical Care. (Cross-reference 78.1(19) and 78.28(1)"*f.*") Covered transplants are payable only when performed in a facility which meets the requirements of 78.3(10). Heart-lung transplants are not covered.

b. Donor expenses incurred directly in connection with a covered transplant are payable. Expenses incurred for complications that arise with respect to the donor are covered only if they are directly and immediately attributed to surgery. Expenses of searching for a donor are not covered.

c. All transplants must be medically necessary and meet other general requirements of this chapter for physician and hospital services.

d. Payment will not be made for any transplant not specifically listed in paragraph "*a.*"

78.1(21) Utilization review. Utilization review shall be conducted of Medicaid recipients who access more than 24 outpatient visits in any 12-month period from physicians, family and pediatric nurse practitioners, federally qualified health centers, other clinics, and emergency rooms. For the purposes of utilization review, the term "physician" does not include a psychiatrist. Refer to rule 441—76.9(249A) for further information concerning the recipient lock-in program.

78.1(22) Risk assessments. Risk assessments, using Form 470-2942, Medicaid Prenatal Risk Assessment, shall be completed twice during a Medicaid recipient's pregnancy. If the risk assessment reflects a high-risk pregnancy, referral shall be made for enhanced services. Enhanced services include care coordination, health education, social services, nutrition education, and a postpartum home visit. Additional reimbursement shall be provided for obstetrical services related to a high-risk pregnancy. (See description of enhanced services at subrule 78.25(3).)

78.1(23) EPSDT care coordination. Payment for EPSDT care coordination services outlined in 78.18(6)"*b*"(2)"1" to "7" is available to Medipass eligible providers as defined in rule 441—88.41(249A) who accept responsibility for providing EPSDT care coordination services to the Medipass recipients under the age of 21 assigned to them on a monthly basis. All Medipass providers shall be required to complete Form 470-3183, Care Coordination Agreement, to reflect acceptance or denial of EPSDT care coordination responsibility. When the Medipass provider does not accept the responsibility, the Medipass patients assigned to the Medipass provider are automatically referred to the designated department of public health EPSDT care coordination agency in the recipient's geographical area. Acknowledgment of acceptance of the EPSDT care coordination responsibility shall be for a specified period of time of no less than six months. Medipass providers who identify Medipass EPSDT recipients in need of transportation assistance beyond that available according to rule 441—78.13(249A) shall be referred to the designated department of public health agency assigned to the geographical area of the recipient's residence.

78.1(24) Topical fluoride varnish. Payment shall be made for application of an FDA-approved topical fluoride varnish, as defined by the Current Dental Terminology, Third Edition (CDT-3), for the purpose of preventing the worsening of early childhood caries in children aged 0 to 36 months of age, when rendered by physicians acting within the scope of their practice, licensure, and other applicable state law, subject to the following provisions and limitations:

a. Application of topical fluoride varnish must be provided in conjunction with an early and periodic screening, diagnosis, and treatment (EPSDT) examination which includes a limited oral screening.

b. Separate payment shall be available only for application of topical fluoride varnish, which shall be at the same rate of reimbursement paid to dentists for providing this service. Separate payment for the limited oral screening shall not be available, as this service is already part of and paid under the EPSDT screening examination.

c. Parents, legal guardians, or other authorized caregivers of children receiving application of topical fluoride varnish as part of an EPSDT screening examination shall be informed by the physician or auxiliary staff employed by and under the physician's supervision that this application is not a substitute for comprehensive dental care.

d. Physicians rendering the services under this subrule shall make every reasonable effort to refer or facilitate referral of these children for comprehensive dental care rendered by a dental professional.

This rule is intended to implement Iowa Code section 249A.4.

441—78.2(249A) Retail pharmacies.

78.2(1) Payment will be approved for the following when ordered by a legally qualified practitioner (physician, dentist, or podiatrist, therapeutically certified optometrist, physician assistant, or advanced registered nurse practitioner):

a. Drugs and devices subject to the same conditions as specified in subrule 78.1(2).

b. Medical and sickroom supplies when ordered by a legally qualified practitioner for a specific rather than incidental use subject to the same conditions as specified in paragraph 78.1(2)*"b."*

c. Rental or purchase of medical equipment and appliances subject to the same conditions as specified in rule 78.10(249A).

d. Nonprescription drugs as specified in 78.1(2)*"f."*

78.2(2) Rescinded, effective July 1, 1987.

78.2(3) The pharmacist shall dispense the lowest cost item in stock which meets the requirements of the practitioner as shown on the prescription.

78.2(4) Prescription records are required for all drugs as specified in Iowa Code sections 155.33, 155.34, and 204.308. For the purposes of the medical assistance program, prescriptions for medical supplies are required and shall be subject to the same provisions. All prescriptions shall be available for audit by the department of human services.

78.2(5) Payment will be approved for pharmaceutical agents when ordered by a therapeutically certified optometrist, in accordance with Iowa Code chapter 154 regulating the practice of optometry.

78.2(6) Consultation. In accordance with Public Law 101-508 (Omnibus Budget Reconciliation Act of 1990), a pharmacist shall offer to discuss with each Medicaid recipient or the caregiver of a recipient presenting a prescription, information regarding the use of the medication. The consultation is not required if the person refuses the consultation. Standards for the content of the consultation shall be found in rules of the Iowa board of pharmacy examiners.

This rule is intended to implement Iowa Code section 249A.4.

441—78.3(249A) Inpatient hospital services. Payment for inpatient hospital admission is approved when it meets the criteria for inpatient hospital care as determined by the Iowa Foundation for Medical Care (IFMC). All cases are subject to random retrospective review and may be subject to a more intensive retrospective review if abuse is suspected. In addition, transfers, outliers, and readmissions within 31 days are subject to random review. Readmissions to the same facility due to premature discharge shall not be paid a new DRG. Selected admissions and procedures are subject to a 100 percent review before the services are rendered. Medicaid payment for inpatient hospital admissions and continued stays are approved when the admissions and continued stays are determined to meet the criteria for inpatient hospital care. (Cross-reference 78.28(5)) The criteria are available from IFMC, 6000 Westown Parkway, Suite 350E, West Des Moines, Iowa 50265-7771, or in local hospital utilization review offices. No payment will be made for waiver days.

See rule 441—78.31(249A) for policies regarding payment of hospital outpatient services.

If the recipient is eligible for inpatient or outpatient hospital care through the Medicare program, payment will be made for deductibles and coinsurance applicable in that program.

The DRG payment calculations include any special services required by the hospital, including a private room.

78.3(1) Payment for Medicaid-certified physical rehabilitation units will be approved for the day of admission but not the day of discharge or death.

78.3(2) No payment will be approved for private duty nursing.

78.3(3) Certification of inpatient hospital care shall be the same as that in effect in part A of Medicare. The hospital admittance records are sufficient for the original certification.

78.3(4) Services provided for intestinal or gastric bypass surgery for treatment of obesity requires prior approval, which must be obtained by the attending physician before surgery is performed.

78.3(5) Payment will be approved for drugs provided inpatients subject to the same provisions specified in 78.1(2)*"a"*(2) and (3). The basis of payment for drugs administered to inpatients is through the DRG reimbursement. Payment will be approved for drugs and supplies provided outpatients subject to the same provisions specified in 78.1(2). The basis of payment for drugs provided outpatients is through the APG reimbursement. Hospitals which wish to administer vaccines which are available through the vaccines for children program to Medicaid children shall enroll in the vaccines for children program. In lieu of payment, vaccines available through the vaccines for children program shall be accessed from the department of public health for Medicaid recipients.

78.3(6) Payment for nursing care provided by a hospital shall be made to those hospitals which have been certified by the department of inspections and appeals as meeting the standards for a nursing facility.

78.3(7) Payment for inpatient hospital tests for purposes of diagnosis and treatment shall be made only when the tests are specifically ordered for the diagnosis and treatment of a particular patient's condition by the attending physician or other licensed practitioner acting within the scope of practice as defined by law, who is responsible for that patient's diagnosis or treatment.

78.3(8) Rescinded IAB 2/6/91, effective 4/1/91.

78.3(9) Payment will be made for sterilizations in accordance with 78.1(16).

78.3(10) Payment will be approved for organ and tissue transplant services, as specified in subrule 78.1(20). Kidney, cornea, skin, bone, allogeneic bone marrow, autologous bone marrow, heart, liver, and lung transplants are covered as specified in subrule 78.1(20). Lung transplants are payable at Medicare-designated lung transplant centers only. Heart and liver transplants are payable when performed at facilities that meet the following criteria:

a. Recipient selection and education.

(1) *Selection.* The transplant center must have written criteria based on medical need for transplantation for final facility selection of recipients. These criteria should include an equitable, consistent and practical protocol for selection of recipients. The criteria must be at least as strict as those specified by Medicare.

(2) *Education.* The transplant center will provide a written plan for recipient education. It shall include educational plans for recipient, family and significant others during all phases of the program. These phases shall include:

Intake.

Preparation and waiting period.

Preadmission.

Hospitalization.

Discharge planning.

Follow-up.

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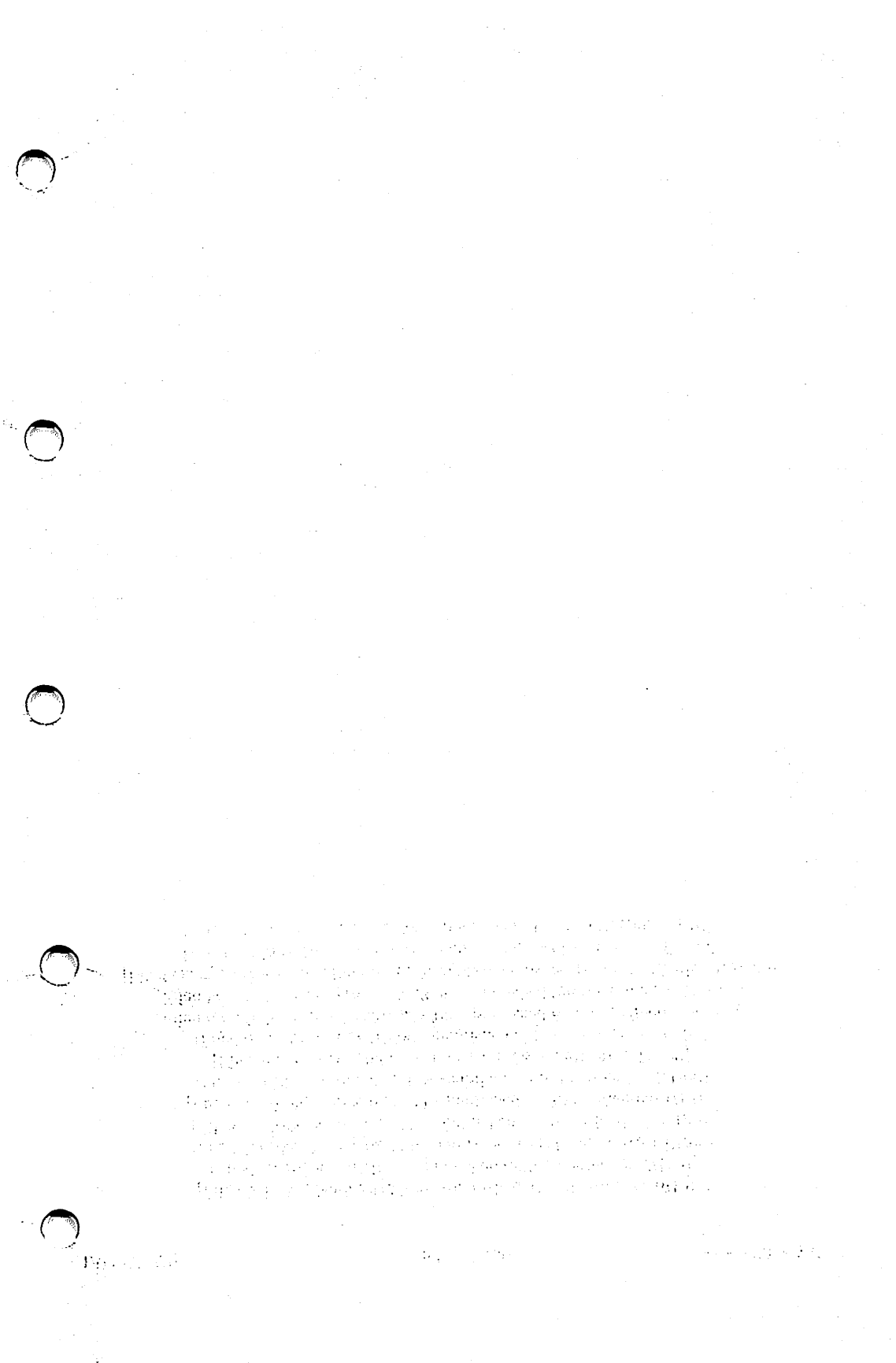

Provider category	Basis of reimbursement	Upper limit
Clinics	Fee schedule	Maximum physician reimbursement rate
Community mental health centers	Fee schedule	Reimbursement rate for center in effect 6/30/00 plus 17.33%
Dentists	Fee schedule	75% of usual and customary rate
Durable medical equipment, prosthetic devices and medical supply dealers	Fee schedule. See 79.1(4)	Fee schedule in effect 6/30/00 plus 0.7%
Family or pediatric nurse practitioner	Fee schedule	Rate in effect on 1/1/00 under the fee schedule established for Iowa under the federal Medicare program, incorporating the resource-based relative value scale (RBRVS) methodology
Family planning clinics	Fee schedule	Fees in effect 6/30/00 plus 0.7%
Federally qualified health centers (FQHC)	Retrospective cost-related See 441—88.14(249A)	1. 100% of reasonable cost as determined by Medicare cost reimbursement principles 2. In the case of services provided pursuant to a contract between an FQHC and a managed care organization (MCO), reimbursement from the MCO shall be supplemented to achieve "1" above
HCBS AIDS/HIV waiver service providers, including:		
1. Counseling		
Individual:	Fee schedule	$10.07 per unit
Group:	Fee schedule	$40.26 per hour
2. Home health aide	Retrospective cost-related	Maximum Medicare rate
3. Homemaker	Fee schedule	$18.49 per hour
4. Nursing care	Agency's financial and statistical cost report and Medicare percentage rate per visit	Cannot exceed $74.77 per visit

Provider category	Basis of reimbursement	Upper limit
5. Respite care providers, including:		
Home health agency:		
Specialized respite	Rate for nursing services provided by a home health agency (encounter services-intermittent services)	Maximum Medicare rate converted to an hourly rate not to exceed $294 per day
Basic individual respite	Rate for home health aide services provided by a home health agency (encounter services-intermittent services)	Maximum Medicare rate converted to an hourly rate not to exceed $294 per day
Group respite	Retrospectively limited prospective rates. See 79.1(15)	$12.24 per hour not to exceed $294 per day
Home care agency:		
Specialized respite	Retrospectively limited prospective rates. See 79.1(15)	$31.50 per hour not to exceed $294 per day
Basic individual respite	Retrospectively limited prospective rates. See 79.1(15)	$16.80 per hour not to exceed $294 per day
Group respite	Retrospectively limited prospective rates. See 79.1(15)	$12.24 per hour not to exceed $294 per day
Nonfacility care:		
Specialized respite	Retrospectively limited prospective rates. See 79.1(15)	$31.50 per hour not to exceed $294 per day
Basic individual respite	Retrospectively limited prospective rates. See 79.1(15)	$16.80 per hour not to exceed $294 per day
Group respite	Retrospectively limited prospective rates. See 79.1(15)	$12.24 per hour not to exceed $294 per day
Facility care:		
Hospital or nursing facility providing skilled care	$12.24 per hour	$12.24 per hour not to exceed daily per diem for skilled nursing facility level of care
Nursing facility	$12.24 per hour	$12.24 per hour not to exceed daily per diem for nursing facility level of care
Intermediate care facility for the mentally retarded	$12.24 per hour	$12.24 per hour not to exceed daily per diem for ICF/MR level of care

Provider category	Basis of reimbursement	Upper limit
Psychiatric medical institutions for children (Inpatient)	Prospective reimbursement	Reimbursement rate for provider based on per diem rates for actual costs on 6/30/00, not to exceed a maximum of $147.20 per day
(Outpatient day treatment)	Fee schedule	Fee schedule in effect 6/30/00 plus 0.7%
Psychologists	Fee schedule	Rate in effect on 1/1/00 under the fee schedule established for Iowa under the federal Medicare program, incorporating the resource-based relative value scale (RBRVS) methodology
Rehabilitation agencies	Retrospective cost-related	Reimbursement rate for agency in effect 6/30/00 plus 0.7%
Rehabilitative treatment services	Reasonable and necessary costs per unit of service based on data included on the Rehabilitative Treatment and Supportive Services Financial and Statistical Report, Form 470-3049. See 441—185.101(234) to 441—185.107(234). A provider who is an individual may choose between the fee schedule in effect November 1, 1993 (See 441—subrule 185.103(7)) and reasonable and necessary costs.	No cap
Rural health clinics (RHC)	Retrospective cost-related See 441—88.14(249A)	1. 100% of reasonable cost as determined by Medicare cost reimbursement principles 2. In the case of services provided pursuant to a contract between an RHC and a managed care organization (MCO), reimbursement from the MCO shall be supplemented to achieve "1" above
Screening centers	Fee schedule	Reimbursement rate for center in effect 6/30/00 plus 0.7%
State-operated institutions	Retrospective cost-related	

79.1(3) *Ambulatory surgical centers.* Payment is made for facility services on a fee schedule which is determined by Medicare. These fees are grouped into eight categories corresponding to the difficulty or complexity of the surgical procedure involved. Procedures not classified by Medicare shall be included in the category with comparable procedures.

Services of the physician are reimbursed on the basis of a fee schedule (see subrule 79.1(1)*"c"*). This payment is made directly to the physician.

79.1(4) *Durable medical equipment, prosthetic devices, medical supply dealers.* Fees for durable medical appliances, prosthetic devices and medical supplies are developed from several pricing sources and are based on pricing appropriate to the date of service; prices are developed using prior calendar year price information. The average wholesale price from all available sources is averaged to determine the fee for each item. Payment for used equipment will be no more than 80 percent of the purchase allowance. For supplies, equipment, and servicing of standard wheelchairs, standard hospital beds, enteral nutrients, and enteral and parenteral supplies and equipment, the fee for payment shall be the lowest price for which the devices are widely and consistently available in a locality.

79.1(5) *Reimbursement for hospitals.*

a. Definitions.

"Adolescent" shall mean a Medicaid patient 17 years or younger.

"Adult" shall mean a Medicaid patient 18 years or older.

"Average daily rate" shall mean the hospital's final payment rate multiplied by the DRG weight and divided by the statewide average length of stay for a DRG.

"Base year cost report" shall mean the hospital's cost report with fiscal-year-end on or after January 1, 1998, and prior to January 1, 1999, except as noted in 79.1(5)*"x."* Cost reports shall be reviewed using Medicare's cost reporting regulations for cost reporting periods ending on or after January 1, 1998, and prior to January 1, 1999.

"Blended base amount" shall mean the case-mix adjusted, hospital-specific operating cost per discharge associated with treating Medicaid patients, plus the statewide average case-mix adjusted operating cost per Medicaid discharge, divided by two. This base amount is the value to which add-on payments for inflation, capital costs, direct medical education costs, and costs associated with treating a disproportionate share of poor patients and indirect medical education are added to form a final payment rate.

"Capital costs" shall mean an add-on to the blended base amount which shall compensate for Medicaid's portion of capital costs. Capital costs for buildings, fixtures and movable equipment are defined in the hospital's base year cost report, are case-mix adjusted, are adjusted to reflect 80 percent of allowable costs, and are adjusted to be no greater than one standard deviation off the mean Medicaid blended capital rate.

"Case-mix adjusted" shall mean the division of the hospital-specific base amount or other applicable components of the final payment rate by the hospital-specific case-mix index.

"Case-mix index" shall mean an arithmetical index measuring the relative average costliness of cases treated in a hospital compared to the statewide average.

"Cost outlier" shall mean cases which have an extraordinarily high cost as established in 79.1(5)*"f,"* so as to be eligible for additional payments above and beyond the initial DRG payment.

"Diagnosis-related group (DRG)" shall mean a group of similar diagnoses combined based on patient age, procedure coding, comorbidity, and complications.

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441—88.11(249A) Patient education.

88.11(1) *Health education procedures.* The HMO will have written procedures for health education designed to prepare patients for participation in and reaction to specific medical procedures and to instruct patients in self-management of medical problems and in disease prevention. This service may be provided by any health practitioner or by any other person approved by the HMO.

88.11(2) *Use of services.* The HMO will have procedures in effect to orient covered persons in the use of all services provided. This includes but is not limited to written instructions regarding appropriate use of the referral system, grievance procedure, after hours call-in system, and provisions for emergency treatment.

88.11(3) *Patient rights and responsibilities.* The HMO shall have in effect a written statement of patient rights and responsibilities which is available to patients upon request and which is sent to all new enrolled recipients. The rights of the recipient to request disenrollment shall be included.

441—88.12(249A) Reimbursement.

88.12(1) *Capitation rate.* In consideration for all services rendered by an HMO under a contract with the department, the HMO will receive a payment each month for each enrolled recipient. This capitation rate represents the total obligation of the department with respect to the costs of medical care and services provided to enrolled recipients under the contract.

A portion of any increase in capitation payments may be reserved for an incentive payment to be paid based on the percentage of counties in a region included in an HMO's enrollment area. Incentive payments shall be made retroactively to the beginning of a state fiscal year if an HMO increases the percentage of counties in a region included in its enrollment area.

88.12(2) *Determination of rate.* The capitation rate is actuarially determined for the beginning of each new fiscal year using statistics and data about Medicaid fee-for-service expenses for HMO-covered services to a similar population during a base fiscal year. The capitation rate, including the expansion incentive enhanced capitation payment based on the counties in a region included in the HMO's enrollment area, shall not exceed the cost to the department of providing the same services on a fee-for-service basis to an actuarially equivalent nonenrolled population group. HMOs electing to share risk with the department shall have their payment rates reduced by an amount reflecting the department's experience for high cost fee-for-service recipients.

88.12(3) *Amounts not included in rate.* The capitation rate does not include any amounts for the recoupment of losses suffered by the HMO for risks assumed under the contract or any previous risk contract. Any savings realized by the HMO due to the expenditure for necessary health services by the enrolled population being less than the capitation rate paid by the department will be wholly retained by the HMO.

88.12(4) *Third-party liability.* If an enrolled recipient has health insurance coverage or a responsible party other than the Medicaid program available for payment of medical expenses it is the right and responsibility of the HMO to investigate these third-party resources and attempt to obtain payment. The HMO will retain all funds collected for third-party resources. A complete record of all income from these sources must be maintained and made available to the department on request.

441—88.13(249A) Quality assurance. The HMO shall have in effect an internal quality assurance system which meets the requirements of 42 CFR 434.44 and a system of periodic medical audits meeting the requirements of 42 CFR 434.53, both as amended to October 1, 1987.

441—88.14(249A) Contracts with federally qualified health centers (FQHCs) and rural health clinics (RHCs). In the case of services provided pursuant to a contract between an FQHC or RHC and a managed care organization, the organization shall provide payment to the FQHC or RHC that is not less than the amount of payment that it would make for the services if furnished by a provider other than an FQHC or RHC. The payment from the managed care organization to the FQHC or RHC shall be supplemented by a direct payment from the department to the FQHC or RHC to provide reimbursement at 100 percent of reasonable cost as determined by Medicare cost reimbursement principles. FQHCs and RHCs shall be required to submit Form 470-3495, Managed Care Wraparound Payment Request Form, to the Iowa Medicaid fiscal agent to document Medicaid encounters and differences between payments by the managed care organization and 100 percent of reasonable cost as determined by Medicare cost reimbursement principles.

441—88.15 to **88.20** Reserved.

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CHAPTER 93
PROMISE JOBS PROGRAM
[Prior to 7/1/89, see 441—Chapters 55, 59 and 90]

DIVISION I
FAMILY INVESTMENT PROGRAM—CONTROL GROUP
[Rescinded IAB 2/12/97, effective 3/1/97]

441—93.1 to **93.100** Reserved.

DIVISION II
FAMILY INVESTMENT PROGRAM—TREATMENT GROUP
[Prior to 10/13/93, 441—93.1(249C) to 93.52(249C)]

PREAMBLE

This chapter implements the PROMISE JOBS* program which is designed to increase the availability of employment and training opportunities to family investment program (FIP) recipients. It implements the family investment agreement (FIA) as directed in legislation passed by the Seventy-fifth General Assembly and signed by the governor on May 4, 1993, and approved under federal waiver August 13, 1993. The program also implements the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA), Title I—Block Grants for Temporary Assistance for Needy Families (TANF).

The program assigns responsibility for the provision of services to the Iowa department of workforce development (IWD) and IWD's subcontractors as appropriate. In addition, the bureau of refugee services (BRS) of the department of human services is assigned the responsibility of providing program services, to the extent compatible with resources available, to all refugees.

PROMISE JOBS services, which are also FIA options, include orientation, assessment, job-seeking skills training, group and individual job search, classroom training programs ranging from basic education to postsecondary education opportunities, entrepreneurial training, PROMISE JOBS on-the-job training, work experience, unpaid community service, parenting skills training, life skills training, monitored employment, referral for family planning counseling, volunteer mentoring, and FaDSS or other family development services. In addition, participants have access to all services offered by IWD and its subcontractor provider agencies. Persons in other work and training programs outside of PROMISE JOBS or not approvable by PROMISE JOBS can use those as FIA options.

441—93.101(239B) Program area. The department of human services shall administer an employment and training program known as PROMISE JOBS. The PROMISE JOBS program shall include the family investment agreement (FIA). The program shall be available statewide. If the department determines that sufficient funds are not available to offer on-location services in each county, it shall prioritize the availability of services in those counties having the largest FIP populations.

441—93.102(249C) Agency responsibility for provision of each service. Rescinded IAB 12/8/93, effective 1/1/94.

*See definition in 441—40.21(239B)

441—93.103(239B) Contracts with provider agencies for provision of services. The department of human services shall contract with the department of workforce development to provide PROMISE JOBS and FIA services to FIP recipients. Services shall include orientation, assessment, job-seeking skills training, group and individual job search, job placement and job development, high school completion, adult basic education (ABE), general educational development (GED), and English as second language (ESL), vocational classroom training, postsecondary education including entrepreneurial training, PROMISE JOBS on-the-job training (OJT), work experience, unpaid community service, parenting skills training, life skills training, monitored employment, volunteer mentoring, FaDSS or other family development services, and referral for family planning counseling.

The bureau of refugee services shall provide the above services, to the extent compatible with resources available, to persons who entered the United States with refugee status.

441—93.104(239B) Registration and referral requirements. An application for assistance constitutes a registration for the PROMISE JOBS program and the FIA for all members of the FIP case and all other persons responsible for the FIA as specified at 441—41.24(239B) unless the county office determines a person is exempt as specified in 441—subrule 41.24(2).

93.104(1) All registrants may volunteer for services except for persons described at 441—paragraph 41.24(2)*"f."*

93.104(2) Except for persons described at 441—paragraph 41.24(2)*"f,"* applicants for FIP assistance may volunteer for and are eligible to receive job placement services prior to approval of the FIP application. Applicants who participate in the program shall receive a transportation allowance, as well as payment of child care, if required. The transportation allowance shall be paid at the start of participation. The income maintenance worker shall not refer an applicant to the program when it appears that the applicant will be ineligible for FIP.

93.104(3) Applicants in a limited benefit plan who must complete significant contact with or action in regard to PROMISE JOBS for FIP eligibility to be considered, as described at 441—paragraphs 41.24(8)*"a"* and *"d,"* are eligible for expense allowances for the 20 hours of activity. However, PROMISE JOBS services and allowances are only available when it appears the applicant will otherwise be eligible for FIP.

93.104(4) Volunteers and FIP participants who are responsible for the FIA shall contact the appropriate PROMISE JOBS office to schedule an appointment for PROMISE JOBS orientation within ten calendar days of notice that the FIP application is approved or that exempt status is lost and FIA responsibility has begun.

93.104(5) Registrants are exempt from referral when they qualify for exemption as specified in 441—subrule 41.24(1).

93.104(6) Only clients applying for or receiving FIP assistance are eligible for PROMISE JOBS services.

441—93.105(239B) Priority of service.

93.105(1) *Federal requirements.* Federal law, the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA), Title I—Temporary Assistance for Needy Families, Section 407, contains mandatory work requirements expressed as participation rate requirements:

a. Rescinded IAB 12/3/97, effective 2/1/98.

b. Federal law requires that each state shall achieve a minimum participation rate for all families as described in PRWORA, Title I, Section 407.

c. Federal law requires that each state shall achieve a minimum participation rate for two-parent families as described in PRWORA, Title I, Section 407.

93.105(2) *Service upon referral.* FIP applicants and participants who are referred to PROMISE JOBS shall initiate service for PROMISE JOBS orientation by contacting the appropriate PROMISE JOBS office within ten calendar days of the mailing date of the notice of FIP approval or within ten calendar days of notice that exempt status has been lost and FIA responsibility has begun, as required under 441—subrule 41.24(5).

PROMISE JOBS provider agencies shall schedule FIA orientation appointments at the earliest available times for FIP participants who contact the appropriate PROMISE JOBS office within the ten days except when the department exercises administrative authority to require prioritization of orientation services to ensure that specific groups receive services in order to achieve self-sufficiency in the shortest possible time, to meet federal minimum participation rate requirements and other TANF requirements.

Applicants who have chosen and are in a limited benefit plan are referred to PROMISE JOBS and must initiate service by contacting the department or the appropriate PROMISE JOBS office as described at 441—subrule 41.24(1). The applicants who communicate the desire to engage in PROMISE JOBS activities shall be scheduled at the earliest available time to begin or resume the family investment agreement process.

a. to *f.* Rescinded IAB 12/3/97, effective 2/1/98.

The department reserves the authority to prioritize orientation and other services to FIP applicants and participants in whatever order best fits the needs of applicants and participants and the PROMISE JOBS program.

Applicants and participants who are participating in the food stamp employment and training (FSET) program at the time of referral shall be allowed to use the FSET component in which they are currently enrolled as the first step in the FIA. This does not apply to persons who drop out of the FSET component.

93.105(3) *Waiting lists.* Because of state and federal budgetary limitations, federal mandatory work requirements and minimum participation rate requirements, and other TANF requirements on the PROMISE JOBS program, the department shall have the administrative authority to determine agency and geographical breakdowns for service, to designate specific groups for priority services, or to designate specific PROMISE JOBS components or supportive service levels for a waiting list. Persons shall be removed from these waiting lists and placed in components at the discretion of state-level PROMISE JOBS administrators in order to help participants achieve self-sufficiency in the shortest possible time, meet budgetary limitations, enable participants to make maximum use of other programs, fulfill the federal minimum participation rate requirements and meet other TANF requirements.

a. and *b.* Rescinded IAB 12/3/97, effective 2/1/98.

c. Persons who are participating in a component who are canceled from FIP are not eligible for PROMISE JOBS services while FIP is canceled. However, the person can regain immediate eligibility for PROMISE JOBS services and shall not be placed on a postsecondary classroom training waiting list if the period of FIP ineligibility does not exceed four consecutive months and the participant is still satisfactorily participating in approvable training at the time that FIP eligibility is regained.

441—93.106(239B) Orientation for PROMISE JOBS and the FIA. Every FIP participant who schedules and keeps an orientation appointment as described at 93.105(2) shall receive orientation services.

93.106(1) *Requirements of orientation.* During orientation, each participant shall receive a full explanation of the advantages of employment under the family investment program (FIP), services available under PROMISE JOBS, a review of participant rights and responsibilities under the FIA and PROMISE JOBS, a review of the LBP as described at 441—subrule 41.24(8), an explanation of the benefits of cooperation with the child support recovery unit, and an explanation of the other programs available through PROMISE, specifically the transitional Medicaid and child care assistance programs.

a. Each participant shall sign Form WI-3305, Your Rights and Responsibilities, acknowledging that information described above has been provided.

b. Participants are required to complete a current workforce development registration, Form 60-0330, Application for Job Placement and/or Job Insurance, when requested by PROMISE JOBS staff.

c. Orientation may also include completing self-assessment instruments.

d. The PROMISE JOBS worker shall meet with each participant, or family if appropriate when two parents or children who are mandatory PROMISE JOBS participants are involved, to determine readiness to participate, establish expenses and a payment schedule and to discuss child care needs.

93.106(2) *Beginning PROMISE JOBS participation.* An individual becomes a PROMISE JOBS participant when that person attends the first day of the assessment component, as described at rule 441—93.111(239B), or provides the substitute assessment information as described at 93.111(1)*"a"*(4).

441—93.107(239B) Medical examinations. A person shall secure and provide written documentation signed by a licensed health practitioner, licensed in Iowa or adjoining states, to verify a claimed illness or disability within 45 days of a written request by staff.

441—93.108(239B) Self-initiated training. Registrants who have attended one or more days of training prior to participating in a PROMISE JOBS orientation are considered to be self-initiated. For registrants who at time of call-up for PROMISE JOBS orientation are in self-initiated classroom training, including government-sponsored training programs, PROMISE JOBS staff shall determine whether the training program meets acceptable criteria as prescribed for the classroom training component at rule 441—93.114(239B).

93.108(1) *Nonapprovable training.* When it is determined that the self-initiated training does not meet the criteria of rule 441—93.114(239B), the registrant has the option to participate in other PROMISE JOBS options or to use the nonapprovable training to meet the obligations of the FIA, under the other education and training component, as long as the training can still be reasonably expected to result in self-sufficiency. PROMISE JOBS expense allowances are not available for persons in nonapprovable training.

93.108(2) *Approvable training.* When a self-initiated training program meets PROMISE JOBS program standards, including SEID and ISHIP as described at 441—subrule 48.3(4), the participant shall be enrolled in the classroom training component in order to be eligible for child care and transportation assistance. Eligibility for payment of transportation and child care allowances shall begin for that month, or part thereof, in which the training plan is approved or the participant is removed from a waiting list as described at 93.105(3), whichever is later. Self-initiated participants are not eligible for expense allowances to pay for tuition, fees, books, or supplies.

441—93.109(239B) The family investment agreement (FIA). Families and individuals eligible for FIP shall, through any persons referred to PROMISE JOBS, enter into and carry out the activities of the FIA. Those who choose not to enter into the FIA or who choose not to continue its activities after signing the FIA shall enter into the limited benefit plan (LBP) as described at 441—subrule 41.24(8).

93.109(1) *FIA-responsible persons.*

a. All parents who are not exempt from PROMISE JOBS shall be responsible for signing and carrying out the activities of the FIA.

b. In addition, any other adults or a minor nonparental specified relative whose needs are included in the FIP grant shall be responsible for the FIA.

c. Persons who volunteer for PROMISE JOBS shall be responsible for the FIA as appropriate to their status as a parent or caretaker relative or child on the case.

d. When the FIP-eligible group holds a minor parent living with a parent or needy specified relative who receives FIP, as described at 441—paragraph 41.28(2)*"b"*(2), and both are referred to PROMISE JOBS, each parent or needy specified relative is responsible for a separate FIA.

e. When the FIP-eligible group holds a parent or parents or needy specified relative and a child or children who are all mandatory PROMISE JOBS participants, each parent or needy specified relative and each child would not have a separate FIA. All would be asked to sign one FIA with the family and to carry out the activities of that FIA. Copies of the FIA would be placed in individual case files.

f. When the FIP-eligible group holds a parent or parents or needy specified relative who is exempt from PROMISE JOBS and a child or children who are mandatory PROMISE JOBS participants, each child is responsible for completing a separate FIA.

93.109(2) *FIA requirements.* The FIA shall be developed during the orientation and assessment process through discussion between the FIP participants and PROMISE JOBS staff of coordinating PROMISE JOBS provider agencies, using Form 470-3095, Family Investment Agreement, and Form 470-3096, FIA Steps to Achieve Self-Sufficiency.

a. The FIA shall require the FIA-responsible persons and family members who are referred to PROMISE JOBS to choose participation in one or more activities which are described below. The level of participation in one or more of the options shall be equivalent to the level of commitment required for full-time employment or shall be significant so as to move toward that level.

(1) The options of the FIA shall include, but are not limited to, all of the following: assessment, self-directed job search, job-seeking skills training, group and individual job search, high school completion activities, GED, ABE, ESL, postsecondary classroom training including entrepreneurial training, work experience, PROMISE JOBS on-the-job training, unpaid community service, parenting skills training, life skills training, monitored part-time or full-time employment, referral for family planning counseling, volunteer mentoring, and participation in FaDSS or other family development programs.

(2) The following are additional FIA options:

1. Participants have access to all services offered by the provider agencies.

2. Persons in work and training programs below a graduate degree which are funded outside of PROMISE JOBS and are approvable by PROMISE JOBS can use those as FIA options.

3. Persons in work and training programs below a graduate degree which are funded outside of PROMISE JOBS and are not approvable by PROMISE JOBS can use those as FIA options only when the participant is active in the nonapprovable program at the time of PROMISE JOBS orientation.

4. Work toward a graduate degree can be used as an FIA option only when the participant is active in the graduate program at the time of PROMISE JOBS orientation and the undergraduate degree was not earned under PROMISE JOBS.

(3) It is expected that employment shall be the principal activity of the FIA or shall be combined with other FIA options whenever it is possible for the participant to do so as part of the plan to achieve self-sufficiency.

(4) Participants who are placed on a waiting list, as described at 93.105(3), for a PROMISE JOBS component or supportive service shall include employment in the FIA unless family circumstances indicate that employment is not appropriate.

b. The FIA shall reflect, to the maximum extent possible, the goals of the family, subject to program rules, funding, the capability, experience and aptitudes of family members, and the potential market for the job skills currently possessed or to be developed.

(1) The FIA shall include the long-term goals of the family for achieving self-sufficiency and shall establish a time frame, with a specific ending date, during which the FIA family expects to become self-sufficient, after which FIP benefits will be terminated.

(2) The FIA shall outline the expectations of the PROMISE JOBS program and of the family, clearly establishing interim goals necessary to reach the long-term goals and self-sufficiency.

1. It shall identify barriers to participation so that the FIA may include a plan, appropriate referrals, and supportive services necessary to eliminate the barriers.

2. It shall stipulate specific services to be provided by the PROMISE JOBS program, including child care assistance, transportation assistance, family development services, and other supportive services.

(3) The FIA shall record participant response to the option of referral for family planning counseling. Participants who desire to do so may include family planning counseling in the steps of the FIA. It is not acceptable for the FIA to have family planning counseling as the only step of the FIA. Policies regarding family planning and the LBP are described at rule 441— 93.118(239B).

(4) Parents aged 19 and younger shall include parenting skills training as described at rule 441—93.116(239B) in the FIA.

(5) Unmarried parents aged 17 and younger who do not live with a parent or legal guardian, with good cause as described at 441—subrule 41.22(16), shall include FaDSS, as described at 441—Chapter 165, or other family development services, as described at rule 441—93.119(239B), in the FIA. The FaDSS or other family development services shall continue after the parent is aged 18 only when the participant and the family development worker believe that the services are needed for the family to reach self-sufficiency.

c. The FIA may incorporate a self-sufficiency plan which the family has developed with another agency or person, such as, but not limited to, Head Start, public housing authorities, child welfare workers, and FaDSS grantees, so long as that self-sufficiency plan meets the requirements of these rules and is deemed by PROMISE JOBS staff to be appropriate to the family circumstances. Participants shall authorize PROMISE JOBS to obtain the self-sufficiency plan and to arrange coordination with the manager of the self-sufficiency plan by signing Form MH-2201-0, Consent to Release or Obtain Information.

d. The FIA shall contain a provision for extension of the time frames and amendment of the FIA if funding for PROMISE JOBS components included in the FIA or required supportive services is not available.

e. The FIA shall be signed by the FIA-responsible person or persons and other family members who are referred to PROMISE JOBS, the PROMISE JOBS worker, and the project supervisor, before the FIA is considered to be completed.

f. If the FIA-responsible person demonstrates effort and is carrying out the steps of the FIA but is unable to achieve self-sufficiency within the time frame specified in the FIA, the FIA shall be renegotiated, the time frame shall be extended and the FIA shall be amended to describe the new plan for self-sufficiency.

g. Participants who choose not to cooperate in the renegotiation process shall be considered to have chosen the LBP.

h. Responsibility for carrying out the steps of the FIA ends at the point that FIP assistance is not provided to the participant.

i. When a participant who has signed an FIA loses FIP eligibility and the period the participant is without FIP assistance is one month or less and the participant has not become exempt from PROMISE JOBS at the time of FIP reapplication, the contents of the FIA and the participant's responsibility for carrying out the steps of that FIA shall be reinstated when FIP eligibility is reestablished.

The reinstated FIA shall be renegotiated and amended only if needed to accommodate changed family circumstances. Participants shall receive Form 470-3300, Your Family Investment Agreement Reminder, to remind them of their FIA obligation and to offer the opportunity to renegotiate and amend the reinstated FIA.

441—93.110(239B) Arranging for services. Staff is responsible for providing or helping the participant to arrange for employment-oriented services, as required, to facilitate the registrants' successful participation, including client assessment or case management, employment education, transportation, child care, referral for medical examination, and supportive services under the family development and self-sufficiency program described in 441—Chapter 165 or other family development programs, described in rule 441—93.119(239B). PROMISE JOBS funds shall be used to pay costs of obtaining a birth certificate when the birth certificate is needed in order for the registrant to complete the employment service registration process described in rule 441—93.106(239B). PROMISE JOBS funds may also be used to pay expenses for clients enrolled in JTPA-funded components when those expenses are allowable under these rules. Clients shall submit Form 470-0510, Estimate of Cost, to initiate allowances or change the amount of payment for expenses other than child care. Clients shall submit Form 470-2959, Child Care Certificate, to initiate child care payments or change the amount of child care payments. The caretaker, the provider and the worker shall sign Form 470-2959 before the provider is paid.

Payment for child care, if required for participation in any PROMISE JOBS component other than orientation, not specifically prohibited elsewhere in these rules, and not available from any other source, shall be provided for participants after service has been received as described at 441—Chapter 170.

93.110(1) to **93.110(5)** Rescinded IAB 6/30/99, effective 7/1/99.

93.110(6) Transportation allowances. Participants may receive a transportation allowance for each day of participation, if transportation is required for participation in a PROMISE JOBS activity, but shall not receive a transportation allowance for orientation or for assessment activities which occur on the same day as orientation or for employment. The transportation allowance shall be paid monthly at the start of each month of participation or when participation begins, whichever is earlier. Persons employed shall be entitled to the work expense deduction described at 441—paragraphs 41.27(2)*"a"* and *"d."*

Transportation allowances shall be developed individually according to the circumstances of each participant. Allowances shall cover transportation for the participant and child, if necessary, from the participant's home to the child care provider, if necessary, and to the PROMISE JOBS site or activity.

a. For those who use public transportation, the allowance shall be based on the normally scheduled days of participation in the PROMISE JOBS activity for the period covered by the payment, using the rate schedules of the local transit authority to the greatest advantage, including use of weekly and monthly passes or other rate reduction opportunities.

b. For participants who use a motor vehicle they operate themselves or who hire private transportation, the transportation allowance shall be based on a formula which uses the normally scheduled days of participation in the PROMISE JOBS activity for the period covered by the allowance times the participant's anticipated daily round-trip miles times the mileage rate of $.16 per mile.

c. Transportation allowances for the assessment component shall be issued in advance in weekly increments as described in 93.110(6)*"a"* or 93.110(6)*"b,"* with payments for the second or third week of assessment being issued as soon as it is determined that the participant will be required to participate in the second or third week of the component.

d. Monthly transportation allowances for each full calendar month of participation shall be issued in advance in the amount determined by the formula described in 93.110(6)*"a"* or 93.110(6)*"b."*

(1) Allowances for the third and subsequent months of an ongoing activity shall not be authorized prior to receipt of time and attendance verification, as described at subrule 93.135(2), for the month previous to the issuance month. (For example, a transportation allowance for December, normally issued after November 15 to be available to the participant by December 1, will not be authorized until time and attendance verification for the month of October has been received in the PROMISE JOBS office.)

(2) The amounts of allowances for the third and subsequent months of an ongoing activity shall be adjusted by subtracting from normally scheduled days any number of days which represent a difference between the number of normally scheduled days in the month previous to the issuance month and the number of actual days attended in the month previous to the issuance month. (For example, a transportation allowance based on 16 normally scheduled days of participation is authorized for October, issued in September. If ten days of participation are normally scheduled in December, and the participant did not attend two days of the PROMISE JOBS activity in October, the December transportation allowance, issued in November for December, shall be calculated using eight days.) Because this adjustment is not possible in the last two months of an ongoing activity, transportation allowances for the last two months of an ongoing activity shall be subject to transportation overpayment provisions of 93.110(8)*"b."*

e. Persons who require, due to a mental or physical disability, a mode of transportation other than a vehicle they operate themselves shall be eligible for payment of a supplemental transportation allowance when documented actual transportation costs are greater than transportation allowances provided under these rules and transportation is not available from a nonreimbursable source. Costs of transportation by a public or private agency shall be allowed for the actual costs. Costs of transportation provided by private automobile shall be allowed for the actual charge up to a maximum of the rate per mile as described in 93.110(6)*"b."*

(1) Medical evidence of disability or incapacity may be obtained from either an independent physician or psychologist or the state rehabilitation agency in the same manner specified in 441—paragraph 41.24(2)*"d."*

(2) The client's need for a mode of transportation other than a vehicle operated by the client due to disability or incapacity shall be verified by either an independent physician or psychologist or the state rehabilitation agency.

f. In those instances where a PROMISE JOBS participant is enrolled in high school, a transportation allowance shall not be allowed if transportation is available from a nonreimbursable source such as when transportation is provided by the school district, or the school district has deemed it unnecessary due to the proximity of the participant's home to the school. If child care needs make it impossible for the participant to use transportation provided by the school district, a transportation allowance shall be authorized.

93.110(7) Expense allowances during a month of FIP suspension. Payment for expenses shall be made for a month of FIP suspension if the client chooses to participate during that month in a PROMISE JOBS component or other FIA activity for which expense allowance payment is allowable under these rules and to which the client has been previously assigned.

93.110(8) Transportation overpayment. Payment for transportation shall be considered an overpayment subject to recovery in accordance with rule 441—93.151(239B) in the following instances:

a. When the participant attends none of the scheduled days of participation in a PROMISE JOBS activity, the entire transportation allowance shall be considered an overpayment. Recovery of the overpayment shall be initiated when it becomes clear that subsequent participation in the activity is not possible for reasons such as, but not limited to, family investment program ineligibility, establishment of a limited benefit plan or exemption from PROMISE JOBS participation requirements.

b. When the participant fails to attend 75 percent of the normally scheduled days of participation in either of the last two months of an ongoing PROMISE JOBS activity or in any transportation allowance period of an activity which has not been used for allowance adjustment as described at 93.110(6)*"d,"* an overpayment is considered to have occurred. The amount to recover shall be the difference between the amount for the actual number of days attended and the amount for 75 percent of normally scheduled days. However, a transportation allowance overpayment does not occur for any month in which the participant leaves the PROMISE JOBS activity in order to enter employment.

441—93.111(239B) Assessment and assignment to other activities and components. PROMISE JOBS components and FIA options include assessment, job-seeking skills training, job search activities, monitored employment, basic education services, PROMISE JOBS OJT, work experience, unpaid community service, parenting skills training, life skills training, postsecondary classroom training including entrepreneurial training, volunteer mentoring, and FaDSS or other family development services.

93.111(1) *Assessment.* The purpose of assessment is to provide for a thorough self-evaluation by the FIP participant or family and to provide a basis for PROMISE JOBS staff to determine employability potential and to determine the services that will be needed to achieve self-sufficiency through PROMISE JOBS and the FIA. Assessment shall be conducted so as to ensure that participants can make well-informed choices and PROMISE JOBS workers can provide appropriate guidance as they complete the FIA to achieve the earliest possible self-sufficiency for the FIP family. Assessment services shall be provided through coordination among PROMISE JOBS provider agencies.

Assessment services shall be delivered through options known as assessment I, assessment II, and assessment III. These options may be provided as separate services, delivered at appropriate times during the duration of the FIA, or may be delivered as a continuous service up to the level necessary to provide the assessment needed for participant and PROMISE JOBS worker decisions while completing the FIA.

a. Assessment I shall be provided for all FIP participants. PROMISE JOBS staff shall meet individually with FIP recipients who are referred to PROMISE JOBS and who choose to develop the FIA. This assessment meeting, at a minimum, shall assess the family's financial situation, family profile and goals, employment background, educational background, housing needs, child care needs, transportation needs, health care needs, family-size assessment and participant wishes regarding referral to family planning counseling, and other barriers which may require referral to entities other than PROMISE JOBS for services.

(1) Assessment I may be the level of assessment appropriate for persons for whom: a part-time job has the potential to become full-time; there is an expectation of securing immediate employment; there are obvious literacy or other basic education barriers; family responsibilities limit the time that can be dedicated toward achieving self-sufficiency; there are transportation barriers; or there are multiple barriers which indicate that FaDSS, other family development services, or other social services are appropriate before other significant steps can be taken toward self-sufficiency.

(2) Persons in these circumstances may, based on the results of assessment I, complete the FIA to participate in activities such as, but not limited to, monitored part-time or full-time employment, job search, PROMISE JOBS OJT, unpaid community service, parenting skills training, referral for family planning counseling, FaDSS or other family development services, other social services, or basic or remedial education, perhaps in conjunction with other services.

(3) The services of assessment I shall be provided in one individual session unless the PROMISE JOBS worker documents a need for additional time.

(4) Participants shall have the option of substituting for assessment I assessment information which they have completed with another agency or person such as, but not limited to, JTPA, Head Start, public housing authorities, child welfare workers, and family development services. Participants shall authorize PROMISE JOBS to obtain these assessment results by signing Form MH-2201-0, Consent to Release or Obtain Information. To be used in place of assessment I, the assessment results must contain all or nearly all of the items from paragraph *"a"* above and must have been completed within the past 12 months.

(5) Participants shall have the option to supplement assessment I with information in the manner as described in subparagraph (4) above and to establish communication between PROMISE JOBS staff and other agencies or persons in order to ensure that the family investment agreement activities do not conflict with any case plans which have already been established for the family. Authorizing this communication is not mandatory under the FIA but PROMISE JOBS staff shall have the authority to ask for verification of activities planned under another case plan when the participant reports conflicts.

b. Assessment II services shall be provided for those who, during assessment I, have no barriers to limit participation, have no specific career goal or plan, and need further assessment services to complete the FIA; and for those who are ready to advance to other components after completing a PROMISE JOBS activity or other services which were determined after assessment I and are part of the FIA.

(1) The services of assessment II may include, but are not limited to, literacy and aptitude testing, educational level and basic skills assessment, self-esteem building, interest assessment, exposure to nontraditional jobs, exposure to job-retention skills, goal setting, motivational exercises, exposure to job-seeking skills, and exposure to role models.

(2) Persons who complete assessment II may complete the FIA to participate in FIA activities such as, but not limited to, parenting skills training, referral for family counseling, job club or other job search activities, PROMISE JOBS OJT, work experience placement, or referral for entrepreneurial training.

(3) Assessment III services shall be provided for those who, during assessment I or II, request postsecondary classroom training as part of the FIA; or those whose previous participation indicates a need for and a likelihood of success in postsecondary classroom training.

c. Services of assessment III shall provide occupational specific assessment or guidance before completing the FIA for postsecondary classroom training. These services may be provided by PROMISE JOBS staff or other entities as arranged locally.

It is expected that assessment II and assessment III activities shall be provided in a maximum of 20 hours per week for each option unless the PROMISE JOBS worker documents a need for additional time.

d. FIP participants who previously participated in assessment options and then were canceled from FIP or entered an LBP may be required to participate in any assessment option again when the PROMISE JOBS worker determines that updated assessment is needed for development or amendment of the FIA.

e. Family development and self-sufficiency (FaDSS) program participants attend orientation but are not referred to assessment until the FaDSS grantee approves the assignment of the FaDSS participant to other PROMISE JOBS activities. FaDSS participants who have completed assessment in the past may be required to complete assessment again when the FaDSS grantee approves assignment to other PROMISE JOBS activities if the PROMISE JOBS worker believes that extended assessment is necessary to reassess the participant's abilities and circumstances.

f. Except for assessment activities which occur on the same day as orientation, persons participating in assessment options are eligible for allowances for transportation and child care needed to allow the scheduled participation. Persons who miss any portion of scheduled assessment services may be required to make up the missed portion of the sessions, based on worker judgment and participant needs. When make-up sessions are required, the participant shall not receive an additional transportation allowance, but necessary child care shall be paid.

g. A participant who has completed assessment I and who wishes to include postsecondary classroom training in the FIA shall be required to participate in assessment II and assessment III unless the participant is not required to do so because:

(1) The person had been accepted for training by either SEID or an ISHIP training provider.

(2) The person is already involved in approvable self-initiated training at the time of PROMISE JOBS orientation.

(3) Participation in assessment II and assessment III would interfere with training initiated by the participant after orientation and the training is approvable under PROMISE JOBS. Participants who initiate training after orientation are not considered self-initiated but are otherwise treated in accordance with rule 441—93.108(239B) or in accordance with 93.111(2).

93.111(2) *Assessment-related restrictions on expense allowance assistance for self-initiated training.* When persons described at 93.111(1)"*g*"(2) and (3) are still within the first quarter or semester of involvement with the training program that they have chosen, expense allowance assistance through PROMISE JOBS cannot be approved, even if the training is otherwise approvable, until the persons have completed the assessment II and assessment III options or have successfully completed the first quarter or semester of the training program in accordance with the requirements of the educational institution being attended. Persons involved in training programs where quarters or semesters are not used must successfully complete four months of the training program before assistance can begin, except for SEID and ISHIP participants who are exempt from the limitations of this paragraph. Otherwise, assistance shall only be approved effective with the second quarter or semester, or with the fifth month of participation in the training program, as applicable to the client's situation.

93.111(3) *Requirements for parents aged 19 and younger.* Assessment and development of FIA options shall follow these guidelines for parents under the age of 20.

a. Parents under the age of 16 who have not completed high school shall be expected to use enrollment or continued attendance in high school completion as a first step in the FIA.

b. Parents aged 16 or 17 who have not completed high school shall be expected to use enrollment or continued attendance in high school completion or the GED program as a first step in the FIA. Participants deemed incapable of participating in these activities by the local education agency shall choose other FIA options.

c. Parents who are aged 18 or 19 who have not completed high school shall be expected to use enrollment or continued attendance in high school completion or the GED program as a first step in the FIA if assessment indicates the participants are capable of completing regular high school, alternate high school, or GED. Participants deemed incapable of participating in these activities shall choose other FIA options.

d. For parents aged 19 and younger, the FIA shall include parenting skills training as described at rule 441—93.116(239B) or the case file shall include documentation that this requirement has been fulfilled.

e. For unmarried parents aged 17 and younger, who do not live with a parent or legal guardian, with good cause as described at 441—subrule 41.22(16), the FIA shall include FaDSS, as described at 441—Chapter 165, or other family development services, as described at rule 441—93.119(239B). The FaDSS or other family development services shall continue after the parent is aged 18 only when both the participant and the family development worker believe that the services are needed for the family to reach self-sufficiency.

93.111(4) *Participation after completion of appropriate assessment.* After completion of the appropriate assessment level, participants shall be referred for the PROMISE JOBS component services or supportive services which are designated in the completed FIA.

93.111(5) *Retention of a training slot.* Once a person has been assigned a PROMISE JOBS training slot, that person retains that training slot until FIP eligibility is lost for more than four consecutive months, an LBP chosen after completing an FIA is in effect, or the person becomes exempt from PROMISE JOBS and the person who is eligible to volunteer does not choose to volunteer to continue to participate in the program.

441—93.112(239B) Job search options. Employment is an emphasis of the FIA as described at rule 441—93.109(239B) and PROMISE JOBS participants shall have several options to search for work: job club, individual job search, and self-directed job search. The participant and the PROMISE JOBS workers shall incorporate into the self-sufficiency plan the job search option which is appropriate for the previous work history, skill level, and life circumstances of the participant. Job search contacts shall be documented by PROMISE JOBS staff or by participants, as appropriate. Participant documentation shall be provided as described at 93.135(3). For job search planning and reporting purposes, each in-person job search contact documented by the participant shall be considered to require one hour of participation.

93.112(1) *Job club.* Job club consists of one week of job-seeking skills training and two weeks of group job search. It is expected that job clubs will be designed to require at least 20 hours a week of participation in each week. However, less than 20 hours a week may be scheduled based on local office need and resources. Participants who choose job club shall receive a child care allowance, if required, and an allowance as described at 93.110(6) to cover costs of transportation, if required. The transportation allowance shall be paid in full at the start of participation.

Job-seeking skills training includes, but is not limited to: self-esteem building, goal attainment planning, résumé development, grooming, letters of application and follow-up letters, job application completion, job-retention skills, motivational exercises, identifying and eliminating employment barriers, positive impressions and self-marketing, finding job leads, obtaining interviews, use of telephones, interviewing skills development and practice interviewing.

a. All participants who choose the job club option shall receive one week of job-seeking skills training. Daily attendance during the one week of job-seeking skills training is necessary. Participants who miss any portion of the job-seeking skills training shall repeat the entire week of training.

(1) Participants who must repeat the job-seeking skills training because of absence due to reasons as described at rule 441—93.133(239B) shall receive an additional transportation allowance as described at 93.110(6) and required child care payment shall be made.

(2) Participants who must repeat job-seeking skills training for absence due to reasons other than those described at rule 441—93.133(239B) shall not receive an additional transportation allowance. Required child care payment shall be allowed.

b. Participants shall then take part in a structured employment search activity for a period not to exceed two weeks. Scheduled activities and required hours of participation shall reflect proven job search techniques and the employment environment of the community of the local office and may be varied due to the resources available and the needs of the participants.

Participants who choose job club shall make up absences which occur during the two-week job search period. Additional transportation allowances shall not be paid to these persons. Required child care payments shall be allowed.

c. Job club participants who obtain employment of 86 or more but less than 129 hours per month may discontinue job club if part-time employment was the FIA goal.

d. Job club participants who, during participation, obtain part-time employment of less than 86 hours per month shall continue job club unless the scheduled job club hours conflict with the scheduled hours of employment. PROMISE JOBS participation shall be scheduled to occur during those hours where no conflict with work hours exists.

e. Rescinded IAB 11/1/00, effective 1/1/01.

f. Participants who do not complete the number of job searches required in the period of the job club have chosen the limited benefit plan. Policies at 441—93.132(239B), numbered paragraph "7," rules 441—93.133(239B) and 441—93.134(239B) and subrule 93.138(3) apply.

93.112(2) *Individual job search.* The individual job search component shall be available to participants for whom job club is not appropriate or not available, such as, but not limited to, participants who have completed training or have recent ties with the work force. The total period for each episode of individual job search shall not exceed 12 weeks or three calendar months.

a. The participant shall, in consultation with PROMISE JOBS staff, design and provide a written plan of the individual job search activities. The plan shall contain a designated period of time, not to exceed four weeks or a calendar month, and the specific locations of the job search. It shall also contain, but not be limited to, information as specific as possible pertaining to, for example, areas of employment interest and employers to be contacted.

b. Participants who choose individual job search shall receive a child care allowance, if required, and an allowance as described at 93.110(6) to cover costs of transportation, if required.

(1) Payment for required child care shall be limited to 20 hours per week.

(2) The transportation allowance shall be paid in full at the start of each designated time period of the individual job search. The anticipated days for job search shall be included in the written plan so as to provide the most effective use of transportation funds. Transportation allowances for any missed days of job search activity shall be subject to transportation overpayment policies as described at 93.110(8).

c. Participants who do not complete the steps of the written plan of the individual job search have chosen the limited benefit plan. Policies at 441—93.132(239B), numbered paragraph "7," rules 441—93.133(239B) and 441—93.134(239B), and subrule 93.138(3) apply.

93.112(3) *Self-directed job search.* PROMISE JOBS participants who indicate, during assessment I, a desire to complete a short-term FIA or who have achieved an FIA interim goal which should lead to employment shall be provided the option of first engaging in self-directed job search activities before beginning other FIA options. This option does not apply to parents under the age of 20 who are required to participate in high school completion activities.

a. The participant shall, in consultation with PROMISE JOBS staff, design and provide a written plan of job search activities. The plan shall contain a designated period of time, not to exceed four weeks or a calendar month, and the specific locations of the job search. It shall also contain, but not be limited to, information as specific as possible pertaining to, for example, areas of employment interest and employers to be contacted.

b. The participant shall not be required to provide documentation of the job search activities.

c. Transportation and child care allowances are not available for this job search option.

441—93.113(239B) Monitored employment. Employment leading to self-sufficiency is the goal of the FIA. Full-time employment or part-time employment is an option under the FIA. Employment shall be the primary activity of the FIA whenever compatible with the self-sufficiency goal. Employment leading to better employment shall be an acceptable option under the FIA. Anticipated and actual hours of employment shall be verified by the participant, when not available from any other source, and documented in the case file. Transportation allowances are not paid through PROMISE JOBS but are covered by FIP earned income deductions. Required child care payments shall be allowed.

93.113(1) *Full-time employment.* Persons who become employed 30 or more hours per week (129 hours per month) while participating in PROMISE JOBS shall meet the obligations of the FIA by continuing in that employment if FIP eligibility continues and the end date of the FIA has not been reached. Persons who have not achieved self-sufficiency through full-time employment before the end date of the FIA may have the FIA extended. Persons who choose not to enter into the renegotiation process to extend the FIA shall be considered to have chosen the LBP.

93.113(2) *Part-time employment.* Persons who are employed less than 30 hours per week (129 hours per month) shall meet the obligations of the FIA by continuing employment at that level as long as that employment is part of the FIA. For some participants, this may be the only activity described in the self-sufficiency plan of the FIA. For other participants, in order to move to self-sufficiency at the earliest possible time, the FIA shall most often include part-time employment in combination with participation in other PROMISE JOBS activities such as, but not limited to, high school completion, GED, ABE, or ESL, unpaid community service, parenting skills training, or placement on a PROMISE JOBS waiting list.

441—93.114(239B) Assignment to vocational classroom training. Participants who demonstrate capability and who express a desire to participate shall be considered for enrollment in the PROMISE JOBS classroom training component. This component shall also be used to fund the costs of ABE, GED, or ESL and other high school completion activities described in these rules.

93.114(1) Classroom training means any academic or vocational training course of study which enables a participant to complete high school or improve one's ability to read and speak English, or which prepares the individual for a specific professional or vocational area of employment. A training plan shall be based on occupational evaluation and assessment as obtained in accordance with the assessment processes described at rule 441—93.111(239B).

a. The plan shall be approved for training facilities which are approved or registered with the state or accredited by an appropriate accrediting agency. Institutional training can be provided by both public and private agencies.

b. In addition, PROMISE JOBS workers may approve training from community action program agencies, churches, or other agencies providing training, if in the worker's judgment, the training is adequate and leads to the completion of the goal outlined in the employability plan.

c. Training from a particular training facility, community action program agency, church or other agency shall be approved when the worker determines that the training provider possesses appropriate and up-to-date equipment, has qualified instructors, adequate facilities, a complete curriculum, acceptable grade point requirements, a good job-placement history and demonstrates expenses of training that are reasonable and comparable to the costs of similar programs.

d. A participant's request for classroom training services shall be denied when it is determined through assessment that the participant will be unlikely to successfully complete the requested program. Form SS-1104-0, Notice of Decision-Services, shall be issued to the participant to inform the participant that the request for training is denied.

93.114(2) All family members who meet classroom training eligibility criteria shall be eligible for all program benefits, even when two or more family members are simultaneously participating and even if participation is at the same training facility and in the same program.

93.114(3) Academic workload requirements. With the exceptions noted below, participants are expected to maintain a full-time academic workload and to complete training within the minimum time frames specified for a given training program as established by the training facility. The time frames specified are maximums. Months required to complete the training plan cannot exceed these limits, whether full-time or part-time.

a. Months spent in ABE, GED, or ESL program do not count toward the time limits described below.

b. For purposes of the following participation limitations a month of participation is defined as a fiscal month or part thereof starting with the month PROMISE JOBS classroom training services begin. A fiscal month shall generally have starting and ending dates falling within two calendar months but shall only count as one month of participation.

c. Months of participation need not be consecutive.

d. Participants who are not in subsidized employment shall be allowed to maintain less than a full-time training workload provided that the months required to complete the training plan would not exceed 30 fiscal months for two-year degree programs and other vocational programs or 40 fiscal months for three- or four-year degree programs.

e. Rescinded IAB 11/1/00, effective 1/1/01.

f. Participants who are in unsubsidized employment and in a classroom training component simultaneously for a total of 24 hours per week or more shall be allowed to maintain less than a full-time, but at least a half-time, training workload provided that the months required to complete the training plan would not exceed 40 fiscal months for two-year degree programs and other vocational programs or 50 fiscal months for three- or four-year degree programs.

93.114(4) Clients enrolled in ABE, GED, or ESL programs must be able to complete training in the time determined by testing unless the PROMISE JOBS worker and, if appropriate, the client's academic advisor or instructor agree that additional time should be allowed. Under no circumstances, however, shall more than six additional months be allowed. Additional time shall not be allowed if, as a result, months required to complete training would exceed 24 for ABE or GED or 12 months for ESL.

93.114(5) Clients who have not completed a high school education may be required to do so before other vocational training courses may be arranged. GED or high school training courses and vocational training may run concurrently. Unless under the age of 18, clients may be approved to return to regular high school only when they can graduate within one year of their normal graduation date.

93.114(6) Testing and grade transcripts before training plan approval. Prior to training plan approval and as part of the continuing assessment process described at rule 441—93.111(239B), staff may require that clients take nationally recognized vocational tests, including the general aptitude test battery, as well as provide grade transcripts from previous training.

93.114(7) Testing prior to plan approval. Prior to plan approval for a client requesting GED, adult basic education, or English as a second language training, testing shall be conducted, when available, to determine a projected length of time for which the plan shall be approved. In regard to GED testing, a transportation allowance as described at subrule 93.10(6) and child care expenses shall be allowed if required in order for the client to participate.

93.114(8) Academic achievement requirements. Clients shall maintain the minimum cumulative grade point average required by the training facility which the client attends. If at the end of any term, a client's cumulative grade point average drops to less than that required by the training facility, the client shall be placed on probation for the next term when the counselor or the lead instructor in the educational program verifies in writing that the student's capability to complete the program has been demonstrated through regular class participation, practical application of course content, or successful work in other courses so that there is an excellent likelihood the student will raise the grade point to the acceptable level in the next semester, that the student will be able to raise the grade point average to the acceptable level through successful completion of the remaining coursework and tests, and that the student can still be expected to complete the program satisfactorily within the maximum participation period as required by subrule 93.114(3). This rule does not apply to parents under the age of 18 who are attending high school completion programs.

93.114(9) Clients are expected to maintain a full-time workload as defined by the training facility unless the department or designee has given approval to carry fewer hours in accordance with other requirements of these rules, for example, subrule 93.114(3). A half-time workload shall also be defined by the training facility when this is needed under other provisions of these rules, as in paragraph 93.114(3)*"f."*

93.114(10) Client responsibilities for plan approval. In order to have a plan approved, clients have the following responsibilities:

a. Rescinded IAB 5/13/92, effective 7/1/92.

b. A client must provide all information required to approve a Family Investment Agreement, Form 470-3095, and FIA Steps to Achieve Self-Sufficiency, Form 470-3096, which include vocational classroom training as an interim goal.

c. Rescinded IAB 10/8/97, effective 11/12/97.

93.114(11) Approvable training plans. In order to have a plan approved, the plan must meet certain criteria:

a. Training plans shall include a specific goal, that is, high school completion, improved English skills, development of specific academic or vocational skills, completion of which shall not exceed a maximum of 24 months of participation to complete high school, GED, or adult basic education, a maximum of 12 months to complete English as a second language classes, or shall not exceed the maximum participation limits for postsecondary classroom training as described in subrule 93.114(3). Up to an additional 12 months of ESL training may be allowed when need is determined by PROMISE JOBS staff. If the client is under the age of 18, the 24-month maximum to complete high school activities does not apply.

b. Training may be approved for high school completion activities, adult basic education, GED, English as a second language, and postsecondary education up to and including a baccalaureate degree program. In addition, the following training may be approved:

(1) Previously completed courses or training only when intended as a brush up.

(2) Correspondence courses only when the courses are required but not offered by a training facility attended by the client.

e. Shall not be used by sponsors to displace current employees or to infringe on their promotional opportunities, shall not be used in place of hiring staff for established vacant positions, and shall not result in placement of a participant in a position when any other person is on layoff from the same or an equivalent position in the same unit.

93.121(4) Vocational skills and interests which the registrant possesses shall be matched as closely as possible with the job description and skills requirement specified by the sponsor.

93.121(5) Participants shall interview for and accept positions offered by work experience sponsors. Participants shall present Form WI-3303-0, Referral for WEP Placement, to the sponsor at the interview. The form shall be completed by the sponsor and returned to PROMISE JOBS.

93.121(6) Although sponsors are expected to accept for placement work experience referrals made by PROMISE JOBS, sponsors may refuse any referrals they deem inappropriate for the position which they have available. Sponsors shall not discriminate because of race, color, religion, sex, age, creed, physical or mental disability, political affiliation or national origin against any program participant. Sponsors who refuse a referral must notify PROMISE JOBS staff in writing of the reason for the refusal.

93.121(7) Sponsors shall complete and provide a monthly evaluation of the participant's performance using Form WI-1103-5, Work Experience Participant Evaluation, to PROMISE JOBS and the participant.

93.121(8) Sponsors shall complete Form WI-1103-5, Work Experience Participant Evaluation, at the time of termination for each work experience participant. When termination occurs at sponsor request the sponsor shall specify the reason for termination and identify those areas of individual performance which were unsatisfactory. For participants who leave to accept regular employment or reach their work experience placement time limit, the sponsor's evaluation shall indicate whether or not a positive job reference would be provided if the participant requested one.

93.121(9) Allowances for work experience placements. Participants assigned to work experience shall receive a child care allowance, if required, and a transportation allowance for each month or part thereof as described at subrule 93.110(6). The portion of the transportation allowance for job-seeking activities shall be determined by including the day of the job search obligation in the normally scheduled days used in the formulas described at subrule 93.110(6).

93.121(10) Required clothing and equipment. Clothing, shoes, gloves, and health and safety equipment for the performance of work at a work site under the program, which the participant does not already possess, shall be provided by the entity responsible for the work site or, in the case of safety equipment which the work site entity does not normally provide to employees, through PROMISE JOBS expense allowances. Under no circumstances shall participants be required to use their assistance or their income or resources to pay any portion of their participation costs.

a. Items which are provided by the entity responsible for the work site shall remain the property of the entity responsible for the work site, unless the participant and the entity agree to a different arrangement.

b. Safety equipment which the entity responsible for the work site does not normally provide to employees, including, but not limited to, steel-toed shoes, may be provided through PROMISE JOBS expense allowances up to a limit of $100 per participant per work site assignment. Participants who complete the FIA activity keep the safety equipment. Participants who choose the limited benefit plan shall return all reusable safety equipment, excluding clothing.

441—93.122(239B) FIP-UP work program. Rescinded IAB 11/1/00, effective 1/1/01.

441—93.123(239B) PROMISE JOBS on-the-job training (OJT). Under OJT, a PROMISE JOBS participant shall be hired by a private or public employer and, while engaged in productive work, receive training that provides knowledge or skills essential to the full and adequate performance of that job.

93.123(1) *PROMISE JOBS OJT participants.* PROMISE JOBS participants eligible for OJT shall be hard-to-place participants such as, but not limited to, those who lack work skills, have outdated skills, or have demonstrated difficulty in finding employment.

93.123(2) *PROMISE JOBS OJT contracts.* PROMISE JOBS SDA staff shall enter into a contract with the OJT employer for providing training and additional supervision to the participant, using a contract format established by the department or PROMISE JOBS provider agency designee which contains these requirements:

a. The participant is hired by the OJT employer after the contract is signed and is to be retained by the employer as a regular employee at the end of the OJT.

b. The job is full-time, defined as 30 or more hours per week.

c. The participant will engage in productive work.

d. The specific knowledge or skills to be gained through the training are described in detail.

e. The length of the training period is established as provided in subrule 93.123(4).

f. The participant is compensated by the employer at the same rates, including benefits and periodic increases, as similarly situated employees or trainees and in accordance with applicable law, but in no event less than the federal or Iowa minimum wage, whichever is higher.

g. The employer shall provide training and additional supervision, if needed, to enable the participant to gain knowledge and skills essential to the job.

h. The rate and time of the compensation to reimburse the employer for training and additional supervision are established as described at subrule 93.123(3).

i. Qualitative and quantitative measures are established which the OJT employer, the PROMISE JOBS participant, and the department (through the PROMISE JOBS SDA staff as designees) shall use to determine whether the participant is making good or satisfactory progress in gaining the knowledge or skills described in the specific contract and whether the training shall continue.

j. An employer is required to provide a monthly report on good or satisfactory progress using Form 470-2617, PROMISE JOBS Time and Attendance, or other form which contains all of the elements of Form 470-2617, allowing reporting of good or satisfactory progress under the qualitative and quantitative measures included in the contract, and is approved by the department or the PROMISE JOBS provider agencies as designees.

93.123(3) *PROMISE JOBS OJT employer reimbursement.* The department shall have the administrative authority to establish the statewide standard for the rate and time of reimbursement to be included in the OJT contract, subject to state and federal budgetary limitations.

a. The department shall establish a statewide standard for rate and time of reimbursement to be implemented upon the effective date of these rules, August 1, 1995, and at the beginning of each state fiscal year thereafter, to be provided to the PROMISE JOBS SDA staff for contract purposes.

(1) The methodology for establishing the statewide reimbursement rate shall be determined each time that the statewide rate is established. It may include, but is not limited to, a payment rate for units of training time such as hours or weeks, or a payment rate based on an average of a specified percent of the wages paid to the participant during the training period.

(2) No matter what methodology is used to establish the statewide rate, the payments shall never exceed an average of 50 percent of the wages paid by the employer to the participant during the period of training.

b. The amount of the reimbursements per participant shall be based on the standard established rate and the duration of the OJT as provided at subrule 93.123(4).

c. The time of the reimbursements shall be related to the ending date of the OJT or the date the OJT participant leaves the OJT before the training is completed.

d. PROMISE JOBS staff shall require the OJT employer to document the claim for reimbursement using a claim format which contains the following elements:

(1) Employer name, address, and federal employer ID number.
(2) Participant name and social security number.
(3) Beginning and ending dates of the claim period.
(4) Wage paid per hour.
(5) Total hours worked in the claim period and total wages paid in the claim period.
(6) Day-by-day record of daily hours of employment in the claim period.

93.123(4) *Duration of PROMISE JOBS OJT training period.* PROMISE JOBS OJT is limited to occupational training which can be completed within six months. The PROMISE JOBS SDA staff shall use the Dictionary of Occupational Titles and the Standard Vocation Preparation Guide from the U.S. Department of Labor to establish appropriate durations for occupational training which can be completed within the six-month limit.

93.123(5) *OJT participant eligibility for PROMISE JOBS.* If a participant in OJT becomes ineligible for FIP due to income policies as described at 441—subrule 41.27(2), the participant shall remain a PROMISE JOBS participant for the purpose of managing and tracking the OJT. The participant in these circumstances is eligible for the supportive services which are available to any other employed PROMISE JOBS participant.

93.123(6) *Wages paid to a PROMISE JOBS OJT participant.* Wages paid to participants in OJT are considered to be earned income for purposes of any provision. OJT is not considered subsidized employment.

441—93.124(249C) Referral for UP-CWEP services. Rescinded IAB 3/3/93, effective 5/1/93.

441—93.125(249C) JTPA UP-CWEP responsibilities. Rescinded IAB 3/3/93, effective 5/1/93.

441—93.126(249C) UP-CWEP provider agency responsibilities. Rescinded IAB 3/3/93, effective 5/1/93.

441—93.127(249C) Assignment to UP-CWEP work sites. Rescinded IAB 3/3/93, effective 5/1/93.

441—93.128(249C) UP-CWEP relationship with job search activities. Rescinded IAB 3/3/93, effective 5/1/93.

441—93.129(239B) Nonparticipation by volunteers. Volunteer participants are not subject to the limited benefit plan as described at 441—subrule 41.24(8).

93.129(1) *Consequences of nonparticipation by volunteers.*

a. Volunteer participants who do not schedule or keep an appointment for orientation or who choose not to sign an FIA after attending orientation shall have PROMISE JOBS referral status changed to exempt by the income maintenance worker. No penalty is involved.

b. Volunteers who sign the FIA and choose not to carry out the activities or meet the responsibilities of the FIA, including resolving participation issues as described at rule 441—93.132(239B), shall be deactivated from the PROMISE JOBS program after completion of the conciliation process described below. Volunteers who are deactivated from the program after signing the FIA shall not be eligible for priority program services as long as other participants are waiting for services.

93.129(2) *Conciliation period for volunteers.* The purpose of the conciliation period is to identify and remove or resolve barriers to participation, to ensure that volunteer participants do not unknowingly lose their right to priority service, and to identify the steps that the participant and the PROMISE JOBS staff will take to ensure successful participation. Conciliation for volunteers shall be provided by a conciliation unit established by the PROMISE JOBS provider agencies in each local service delivery area. PROMISE JOBS staff from DWD shall conciliate decisions made by JTPA workers. PROMISE JOBS staff from JTPA shall conciliate DWD decisions. The bureau of refugee services shall arrange with PROMISE JOBS staff of DWD and JTPA to provide conciliation services when the need arises. If the local service delivery area assigns interagency teams, decisions by a team shall be conciliated by the other teams.

a. When the PROMISE JOBS worker determines that an exempt volunteer, after signing the FIA, has chosen not to carry out the activities or responsibilities of the FIA, the worker shall notify the conciliation unit of the PROMISE JOBS local service delivery area. This notice shall include documentation of the issues of participation or problems of participation which have not been resolved. The conciliation unit shall review the material to determine if the nonfinancial sanction of loss of priority service is applicable.

b. If the conciliation unit disagrees with the PROMISE JOBS worker, the conciliation unit shall contact the worker to resolve the issue.

c. If the conciliation unit agrees with the PROMISE JOBS worker, the conciliation unit shall initiate a 30-day conciliation period by issuing the Notice of Potential Loss of Priority Service—Exempt Volunteers, Form 470-3116, to the participant. The conciliation period begins the day following the day the Notice of Potential Loss of Priority Service—Exempt Volunteers is issued. During this 30-day period, the participant can present additional information to the conciliation unit to resolve the issues of participation or problems with participation, or identify barriers to participation which should be addressed in the FIA.

d. If the participant presents additional information which indicates resolution of issues of participation or problems with participation, or which indicates a barrier to participation which will be addressed in the FIA, the conciliation unit shall review these with the PROMISE JOBS worker, with conciliation staff having the final say. If the conciliation unit finds that the activities of the FIA can be resumed or the FIA can be renegotiated, the conciliation unit shall notify the PROMISE JOBS worker of that finding.

e. If the conciliation unit finds that the participant has chosen not to carry out the activities or responsibilities of the FIA, i.e., the issues and problems are not resolved, barriers to participation are not identified, or the participant indicates unwillingness to include the barriers to participation in a renegotiated FIA, the conciliation unit shall notify the PROMISE JOBS worker to apply the loss of priority services sanction.

441—93.130(249C) Sanctions for mandatory participants aged 16 or 17 who are required to participate in high school completion activities. Rescinded IAB 12/8/93, effective 1/1/94.

441—93.131(239B) Failure to participate in classroom training.

93.131(1) Rescinded IAB 9/11/96, effective 11/1/96.

93.131(2) *Participants aged 17 or younger.* A participant aged 17 or younger who chooses not to participate in high school completion activities shall be considered to have chosen the LBP. The participant may choose other FIA options only if the local education agency will not allow a participant to enroll in high school completion activities.

441—93.132(239B) Participation issues for FIA-responsible persons. PROMISE JOBS participants who do not carry out the responsibilities of the FIA are considered to have chosen the limited benefit plan, as described at 441—subrule 41.24(8).

The participation issues in this rule are those which are important for effective functioning in the workplace or training facility and to the completion of the FIA.

Participants aged 18 or older who, for reasons other than those described at rule 441—93.133(239B), do not resolve these issues shall be considered to have chosen the limited benefit plan, unless participant circumstances are revealed which indicate that a barrier to participation exists which should be addressed in the FIA.

Those who may be considered to have chosen the limited benefit plan are:

1. Participants who are more than 15 minutes late for a third time within three months of the first lateness, after receiving a written reminder of the importance of complying with the FIA at the time the second lateness occurred.
2. Participants who do not, for a second time after receiving a written reminder of the importance of complying with the FIA at the first occurrence, appear for scheduled appointments, participate in appraisal activities, complete required forms, or take required vocational or aptitude tests, or are absent from activities designated in the FIA or other self-sufficiency plan.
3. Participants who do not, for a second time after receiving written reminder of the importance of complying with the FIA at the first occurrence, notify work experience sponsors or PROMISE JOBS staff of absence within one hour of the time at which they are due to appear.
4. Participants who exhibit disruptive behavior for a second time after receiving a written reminder of the importance of complying with the FIA at the first occurrence. Disruptive behavior means the participant hinders the performance of other participants or staff, refuses to follow instructions, uses abusive language, or is under the influence of alcohol or drugs.
5. Participants who fail to secure required physical examinations after a written request to do so.
6. Participants who continue an offense after being notified that the behavior is disruptive and in what manner it is disruptive.
7. Participants whose performance continues to be unsatisfactory after being notified by program or provider agency staff of unacceptable performance and what is necessary to make performance acceptable. Notification of unsatisfactory performance may be oral initially, but shall be documented to the participant in writing.
8. Participants who make physical threats to other participants or staff. A physical threat is defined as having a dangerous weapon in one's possession and either threatening with or using the weapon or committing assault.
9. Participants who do not accept work experience assignments when the work experience option is part of the FIA.
10. Participants who do not, for a second time after receiving written reminder of the importance of complying with the FIA at the first occurrence, appear for work experience interviews.
11. Participants who do not follow up on job referrals, refuse offers of employment or terminate employment, or who are discharged from employment due to misconduct. For the purposes of these rules, "misconduct" is defined as a deliberate act or omission by a worker which constitutes a material breach of the duties and obligations arising out of the worker's contract of employment. To be considered "misconduct," the employee's conduct must demonstrate deliberate violation or disregard of standards of behavior which the employer has the right to expect of employees. Mere inefficiency, unsatisfactory conduct, failure to perform well due to inability or incapacity, ordinary negligence in isolated instances, or good-faith errors in judgement or discretion are not to be deemed misconduct for the purpose of these rules.

12. Participants who do not secure adequate child care when registered or licensed facilities are available.

13. Participants for whom child care, transportation, or educational services become unavailable as a result of failure to use PROMISE JOBS funds or child care assistance funds to pay the provider or failure to provide required receipts.

14. FIA-responsible persons who are required to participate in high school completion activities and who fail to provide grade transcripts or reports.

441—93.133(239B) Problems with participation of a temporary or incidental nature. Problems with participation as described below shall be considered to be of a temporary or incidental nature when participation can be easily resumed. These problems are acceptable instances when a participant is excused from participation or for refusing or quitting a job or limiting or reducing hours or for discharge from employment due to misconduct as described at rule 441—93.132(239B).

93.133(1) *Acceptable instances when a person is excused from participation.*

a. Illness. When a participant is ill more than three consecutive days or if illness is habitual, staff may require medical documentation of the illness.

b. Required in the home due to illness of another family member. Staff may require medical documentation for the same reasons as when a participant is ill.

c. Family emergency, using reasonable standards of an employer.

d. Bad weather, using reasonable standards of an employer.

e. Absent or late due to participant's or spouse's job interview. When possible, the participant shall provide notice of the interview at least 24 hours in advance including the name and address of the employer conducting the interview. When 24-hour notice is not possible, notice must be given as soon as possible and prior to the interview.

f. Leave due to the birth of a child. When a child is born after referral, necessary absence shall be determined in accordance with the Family Leave Act of 1993.

93.133(2) *Acceptable instances when a person is excused from participation or for refusing or quitting a job or limiting or reducing hours or for discharge from employment due to misconduct as described at rule 441—93.132(239B).*

a. Required travel time from home to the job or available work experience or unpaid community service site exceeds one hour each way. This includes additional travel time necessary to take a child to a child care provider.

b. Except as described in 441—subrule 41.25(5), work offered is at a site subject to a strike or lockout, unless the strike has been enjoined under Section 208 of the Labor-Management Relations Act (29 U.S.C. 78A) (commonly known as the Taft-Hartley Act), or unless an injunction has been issued under Section 10 of the Railway Labor Act (45 U.S.C. 160).

c. Violates applicable state or federal health and safety standards or workers' compensation insurance is not provided.

d. Job is contrary to the participant's religious or ethical beliefs.

e. The participant is required to join, resign from or refrain from joining a legitimate labor organization.

f. Work requirements are beyond the mental or physical capabilities as documented by medical evidence or other reliable sources.

g. Discrimination by an employer based on age, race, sex, color, handicap, religion, national origin or political beliefs.

h. Work demands or conditions render continued employment unreasonable, such as working without being paid on schedule.

i. Circumstances beyond the control of the participant, such as disruption of regular mail delivery.

93.133(3) *Jobs that participants have the choice of refusing or quitting or limiting or reducing, or instances when participants are excused for discharge from the job due to misconduct as described at rule 441—93.132(239B).*

a. Employment change or termination is part of the FIA.

b. Job does not pay at least the minimum amount customary for the same work in the community.

c. Employment is terminated in order to take a better-paying job, even though hours of employment may be less than current.

d. The employment would result in the family of the participant experiencing a net loss of cash income. Net loss of cash income results if the family's gross income less necessary work-related expenses is less than the cash assistance the person was receiving at the time the offer of employment is made. Gross income includes, but is not limited to, earnings, unearned income, and cash assistance. Gross income does not include food stamp benefits and in-kind income.

e. The employment changes substantially from the terms of hire, such as a change in work hours, work shift, or decrease in pay rate.

93.133(4) *Instances when problems of participation could negatively impact the client's achievement of self-sufficiency.* There may be instances where staff determine that a participant's problems of participation are not described in 93.133(1) to 93.133(3), but may be circumstances which could negatively impact the participant's achievement of self-sufficiency. When this occurs, the case shall be referred to the administrator of the division of economic assistance for a determination as to whether the problems are acceptable instances for not participating or for refusing or quitting a job or for discharge from employment due to misconduct as described at rule 441—93.132(239B).

441—93.134(239B) Barriers to participation. Problems with participation of a permanent or long-term nature shall be considered barriers to participation and shall be identified in the FIA as issues to be resolved so that participation can result. These barriers may be identified during assessment and shall be part of the FIA from the beginning. When barriers are revealed by the participant during the FIA or are identified by problems which develop after the FIA is signed, the FIA shall be renegotiated and amended to provide for removal of the barriers. FIA-responsible persons who choose not to cooperate in removing identified barriers to participation shall be considered to have chosen the LBP.

Barriers to participation shall include, but not be limited to, the following:

1. Child or adult care is needed before a person can participate or take a job, and the care is not available. Participants are not required to do any activity unless suitable child or adult care has been arranged. In limited instances where special-needs care is not available, it may be most practical for the participant to develop the FIA to identify providing the child or adult care as the FIA option.
2. Lack of transportation.
3. Substance addiction.
4. Sexual or domestic abuse history.
5. Overwhelming family stress.

441—93.135(239B) Required client documentation. Documentation necessary to verify that the PROMISE JOBS participant is carrying out the terms of the FIA shall be provided by the participant.

93.135(1) *Written verification.* The client can be required to provide written verification of family emergency, lack of transportation, or job search activities. It is the responsibility of the client to notify program staff or work site supervisors as soon as possible that a lack of transportation or family emergency has occurred and the expected duration.

93.135(2) *Time and attendance.* The participant's hours of attendance in work and training activities shall be verified monthly.

a. When the participant is in the work experience (WEP) component, the hours of participation shall be verified monthly by the work site, within ten calendar days following the end of each month.

b. Rescinded IAB 3/3/93, effective 5/1/93.

c. When work and training services are provided by training institutions, organizations, agencies, or persons outside of the PROMISE JOBS program, unless some other method is agreed to by the provider and PROMISE JOBS staff, the participant's hours of attendance shall be verified on the PROMISE JOBS Time and Attendance Report, Form 470-2617, which shall be signed and dated by the training provider. When a training provider refuses or fails to verify the hours of attendance, a signed and dated statement from the participant on Form 470-2617 shall be accepted in lieu of a signed statement from the training provider. The form shall be returned by the training provider or client within ten calendar days following the end of each month. In those instances when a training provider refuses or fails to return a completed, signed and dated PROMISE JOBS Time and Attendance Report, Form 470-2617, and it is necessary to request that the form be completed by the participant instead, the participant shall be allowed five working days to provide the form, even if the fifth working day falls on or after the tenth calendar day following the end of the month.

These rules are intended to implement Iowa Code Supplement sections 239B.17 to 239B.22.

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"Review organization" means the entity designated by the department to make rehabilitative treatment service authorization determination.

"Service authorization" means the process of service necessity determination and service authorization of scope, amount, and duration by the review organization.

"Service management activities" are undertaken by the service provider to structure and facilitate the delivery of the service or services they are providing in response to the directions and goals of the department case plan. These activities include the following:

1. *"Intake"* activities to collect information about the family necessary to begin service delivery.
2. *"Assessment"* activities to review all available information on the family to identify the strengths and resources of the family and its individual members as well as obstacles impeding the family. Such strengths, resources and obstacles are analyzed with the family throughout the service period to facilitate the service provider's response to the department's case plan directions and goals.
3. *"Planning"* activities to develop or revise a written service plan with the family which reflects the assessment findings and describes the service provider's implementation of the department's case plan directions.
4. *"Implementation"* activities to facilitate and deliver the services identified in the written service plan. These activities include documentation of service provision and the family's progress toward the identified goals and objectives.
5. *"Termination"* activities to review information with the family prior to the discontinuation of one or more services. These activities shall result in a written summary of service delivery and service outcome. This summary shall include recommendations to the department or the court regarding the family's needs for future services.

"Supervision services" means the activities undertaken to provide the structured monitoring needed by a child and the child's family to use and benefit from the rehabilitative treatment services defined in 441—Chapter 185, the nonrehabilitative treatment services outlined in this chapter, or treatment services provided through other funding sources such as private insurance, private payment, or Medicaid managed health care. These activities may include the following: behavior monitoring, oversight of family participation in services, monitoring of an individual's ability to adjust within the community, and guidance for the family to improve their adjustment. Service programs such as in-home supervision and detention that use a combination of direct family contact, collateral contacts with schools and service providers, and indirect behavioral monitoring contacts with the family are examples of supervision services.

"Supportive services" means supervision services and respite care services.

"Treatment plan" means written, goal-oriented plan of service developed for a child and family by the provider.

This rule is intended to implement Iowa Code section 234.6.

441—182.2(234) Eligibility.

182.2(1) *Eligibility for supportive services.* Children shall be eligible for family-centered supportive services without regard to income when the department worker has determined there is a need for services, as evidenced by one of the following situations, and family-centered rehabilitative treatment services have been authorized in compliance with the procedures of rule 441—185.4(234), nonrehabilitative treatment services have been approved through procedures outlined in this chapter, or the department worker determines that comparable treatment services are being provided through another funding source. However, respite care services for families of MR/DD children, as defined in 441—Chapter 180, Division I, may be provided as a family-centered supportive service with or without provision of family-centered rehabilitative treatment or other treatment services.

a. Families with children who are experiencing problems they have not been able to alleviate or solve that place the family in danger of separation through an out-of-home placement of one or more of the children.

b. Children are in out-of-home placement, family reunification is the case plan, and services for the children and their families are necessary to achieve this goal or family reunification is not the case plan goal but services for the child from a family-centered provider are determined by the referral worker to be necessary in order to maintain the child's productive relationship with a previous provider, to provide a type of service program not available under the out-of-home placement program, or to maintain the child's permanent placement.

c. Families with children who are experiencing problems they have not been able to alleviate or solve through their own efforts that place one or more of the family's children in danger of abuse, neglect or exploitation if the families meet the eligibility guidelines established in rule 441—175.4(235A).

d. Children have returned home from out-of-home placement, and services are needed to maintain reunification.

182.2(2) *Eligibility for MR/DD family-centered services.* Rescinded IAB 9/1/93, effective 11/1/93.

182.2(3) *Eligibility for nonrehabilitative family-centered treatment services.* A child is eligible for nonrehabilitative family-centered treatment services when the child is at risk of abuse, neglect, delinquency or placement outside the home.

182.2(4) *Required service authorization for nonrehabilitative family-centered services.* The following procedures shall occur when a referral worker has determined that a child and family need family-centered services for a child at risk of abuse, neglect, delinquency or placement outside the home:

a. A referral shall be made to the review organization for service authorization in accordance with the procedures in rule 441—185.3(234) for determination of whether a rehabilitative behavioral health care treatment need exists.

The review organization will make the determination in accordance with the requirements of rule 441—185.4(234).

b. If the review organization determines that the child has a rehabilitative behavioral health care treatment need, family-centered services shall be authorized as outlined in rule 441—185.4(234).

c. If the review organization determines that the child does not have a rehabilitative behavioral health care treatment need for specific family-centered services and denies the request, the referral worker may, with supervisory approval, approve nonrehabilitative family-centered treatment services to address the child's nonrehabilitative treatment needs, assist the family in selecting an appropriate provider, and notify the provider that the family-centered services are approved on a nonrehabilitative treatment case basis. The referral worker shall complete Form 470-3055, Referral of Client for Rehabilitative Treatment and Supportive Services, indicating services are approved with nonrehabilitative treatment need for a duration not to exceed six months, and forward a copy to the provider and a copy to the department when the referral worker is with juvenile court before services are provided to the child and family.

This rule is intended to implement Iowa Code section 234.6.

441—182.3(234) Application. Application for family-centered supportive services shall be made according to 441—Chapter 130 on Form SS-1120-0, Application for Social Services. Families who have terminated services may reapply for services and shall be handled as new applications.

The regional office shall manage the funds allocated by the region for the purchase of family-centered supportive services by limiting the number of new families approved based on this funding amount. This is to ensure that the regional allocation is not exceeded and that services are continued throughout the fiscal year for eligible families receiving these supportive services.

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441—185.14 to **185.20** Reserved.

DIVISION II
FAMILY-CENTERED PROGRAM

PREAMBLE

Family-centered services provide assistance to children and their families to prevent and alleviate child abuse and neglect, to prevent and alleviate delinquency, to prevent out-of-home child placements, to reunite families that have had children placed outside the home, to promote service continuity or provide specialized service programs as necessary for children placed in out-of-home care when reunification is not the case plan goal, and to maintain family reunification or other alternative permanent placement after a child has been returned to the family or placed in a permanent setting after an out-of-home placement.

The goals of the family-centered program are to assist the child and family in developing and using their own support systems and resources to reduce the risk of harm to the child, family, or the community.

Services provided to a child and family will reflect the needs of that family and the intensity and frequency of the crisis situation, the child's behavior, the potential for abuse and neglect or the potential for delinquency.

441—185.21(234) Component services. Component services of family-centered services are:

1. Restorative living skills development.
2. Family skill development.
3. Social skills development.
4. Therapy and counseling services.
5. Psychosocial evaluation.

441—185.22(234) Service cores. Providers offering family-centered services shall provide one or more of the following sets of services. Component services shall be provided in core sets of services as follows:

185.22(1) *Service core one.* Services in this core are delivered to a child or family to develop and implement a planned and structured therapeutic approach to address the presenting factors identified through the diagnostic and assessment process.

a. Therapy and counseling shall comprise service core one.

b. These services shall:

(1) Occur on a face-to-face basis.

(2) Be directed toward the needs of the child and shall include the child, other family members, or both.

(3) Be delivered in whatever locations the referral worker's social casework findings indicate are appropriate to ensure that reasonable efforts are being made to meet the family's needs.

c. Units of service shall be provided in one-half hour increments.

**d.* Services shall be reimbursed for each billable unit of core one services authorized and delivered. Services shall not be provided while driving a motor vehicle.

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185.22(2) *Service core two.* Services in this core are delivered to a child or family to build the necessary skills of the child and family, to ameliorate the identified problems, and to assist the child and family to function in the community on a daily basis.

a. Skill development services shall comprise service core two. Skill development services include restorative living skills, social skills and family skills development.

b. These services shall:

(1) Occur on a face-to-face basis.

(2) Be directed toward the needs of the child and shall include the child, other family members, or both.

(3) Be delivered in whatever locations the referral worker's social casework findings indicate are appropriate to ensure that reasonable efforts are being made to meet the family's needs.

c. Units of service shall be provided in one-half hour increments.

**d.* Services shall be reimbursed for each billable unit of core two services authorized and delivered. Services shall not be provided while driving a motor vehicle.

185.22(3) *Service core three.* Services in this core are delivered to a child or family to evaluate the environmental factors that impact the child and family and identify goals and resources to promote the general functioning of the child and family.

a. A psychosocial evaluation shall comprise service core three.

b. These services shall:

(1) Occur on a face-to-face basis.

(2) Be directed toward the needs of the child and shall include the child, other family members, or both.

(3) Be delivered in whatever locations the referral worker's social casework findings indicate are appropriate to ensure that all reasonable efforts are being made to meet the family's needs.

c. Units of service shall be provided in one-half hour increments.

**d.* Services shall be reimbursed for each billable unit of core three services authorized and delivered. Services shall not be provided while driving a motor vehicle.

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441—185.23(234) Desired outcomes of family-centered services. Desired outcomes include achievement of or movement toward the goals identified in the case permanency plan, treatment plan, or court order, continuing involvement in an active school program or employment (if age appropriate), elimination of risk of abuse or neglect of the child by the family, ensuring family remains intact, and eliminating risk of delinquency of the child.

441—185.24(234) Duration of services. Family-centered services shall not be authorized for more than six months from the initial day of contact by the provider. Prior approval shall be obtained from the review organization for services to extend beyond the time period authorized initially.

These rules are intended to implement Iowa Code section 234.6.

DIVISION VII
BILLING AND PAYMENT PROCEDURES

441—185.121(234) Billing procedures. At the end of each month the provider agency shall prepare Form AA–2241–0, Purchase of Service Provider Invoice, for contractual services provided by the agency during the month.

Separate invoices shall be prepared for each county from which clients were referred and each program. Complete invoices shall be sent to the department county office responsible for the client for approval and forwarding for payment.

Providers shall never bill for more than one month of service. A separate invoice is required for each separate month of service, even if the service span overlaps one month.

185.121(1) *Time limit for submitting invoices.* The time limit for submission of original invoices shall be 90 days from the date of service, except at the end of the state fiscal year when claims for services through June 30 are to be submitted by August 10.

185.121(2) *Resubmittals of rejected claims.* Valid claims which were originally submitted within the time limit specified in 185.121(1) but were rejected because of an error shall be resubmitted as soon as corrections can be made.

185.121(3) *Payment.* Within 60 days of the date of receipt of a valid invoice, the department shall make payment in full of all invoices concerning rehabilitative treatment and supportive services rendered to clients, provided the invoices shall be subject to audit and adjustment by the department.

441—185.122(234) Recoupment procedures. Public agencies that are reimbursed more than their actual costs are required to refund any excess to the department within four months of the end of their fiscal year. No provision for profit or other increment above cost is intended in OMB Circular A–87 for public agencies. Those public providers subject to this provision who fail to comply with this requirement shall be considered to be in violation of 185.12(1)*"r"* and subject to sanctions. Providers who do not refund any excess payments within six months of the end of their fiscal year shall be given notice in accordance with 185.12(6) and have any and all payments suspended or withheld in accordance with 185.12(7).

These rules are intended to implement Iowa Code sections 234.6 and 234.38.

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CHAPTERS 186 to 199
Reserved

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RACING AND GAMING COMMISSION[491]

[Prior to 11/19/86, Chs 1 to 10, see Racing Commission[693]; Renamed Racing and Gaming Division [195] under the "umbrella" of Commerce, Department of [181], 11/19/86]
[Prior to 12/17/86, Chs 20 to 25, see Revenue Department[730] Chs 91 to 96]
[Transferred from Commerce Department[181] to the Department of Inspections and Appeals "umbrella"[481] pursuant to 1987 Iowa Acts, chapter 234, section 421]
[Renamed Racing and Gaming Commission[491], 8/23/89; See 1989 Iowa Acts, ch 67 §1(2), and ch 231 §30(1), 31]

DIVISION I
GAMING REPRESENTATIVE, GAMING BOARD, AND BOARD OF STEWARDS

DIVISION II
CONTESTED CASES

CHAPTER 5
TRACK AND EXCURSION BOAT LICENSEES' RESPONSIBILITIES

CHAPTER 6
OCCUPATIONAL AND VENDOR LICENSING

12.9(99F) Removal of gaming chips from gaming tables
12.10(99F) Dropping or opening a gaming table
12.11(99F) Slot machines—keys
12.12(99F) Forms for hopper fills and jackpot payout slips
12.13(99F) Hopper fills
12.14(99F) Jackpot payouts
12.15(99F) Computer recording requirements and monitoring of slot machines
12.16(99F) Transportation of containers
12.17(99F) Count room—characteristics
12.18(99F) Opening, counting, and recording contents of containers in the count room

1.7(14) Breeders. The commission will consider whether the proposed racetrack operation is beneficial to Iowa breeders.

1.7(15) Gaming integrity. The commission will consider whether the proposed operation would ensure that gaming is conducted with a high degree of integrity in Iowa.

1.7(16) Economic development. The commission will consider whether the proposed operation will maximize economic development.

1.7(17) Tourism. The commission will consider whether the proposed operation is beneficial to Iowa tourism.

1.7(18) Employment opportunities. The commission will consider the number and quality of employment opportunities for Iowans the proposed operation will create and promote.

1.7(19) Sale of Iowa products. The commission will consider how the proposed operation will promote the development and sale of Iowa products.

1.7(20) Shore development. The commission will consider the amount and type of shore developments associated with the proposed excursion gambling boat project.

1.7(21) The commission will consider such other factors as may arise in the circumstances presented by a particular application.

491—1.8(17A,99D,99F) Granting of a waiver. For purposes of this rule, a waiver or variance means action by the commission that suspends in whole or in part the requirements or provisions of a rule as applied to an identified entity on the basis of the particular circumstances of that entity. For simplicity, the term "waiver" shall include both a waiver and a variance.

1.8(1) *Scope of rule.* This rule outlines generally applicable standards and a uniform process for the granting of a waiver from rules adopted by the commission in situations where no other more specifically applicable law provides for waivers. To the extent another more specific provision of law governs the issuance of a waiver from a particular rule, the more specific provision shall supersede this rule with respect to any waiver from that rule.

1.8(2) *Applicability of rule.* The commission may grant a waiver from a rule only if the commission has jurisdiction over the rule and the requested waiver is consistent with applicable statutes, constitutional provisions, or other provisions of law. The commission may not waive requirements created or duties imposed by statute.

1.8(3) *Criteria for waiver.* In response to a petition completed pursuant to subrule 1.8(5), the commission may in its sole discretion issue an order waiving in whole or in part the requirements of a rule if the commission finds, based on clear and convincing evidence, all of the following:

a. The application of the rule would impose an undue hardship on the entity for whom the waiver is requested;

b. The waiver from the requirements of the rule in the specific case would not prejudice the substantial legal rights of any entity;

c. The provisions of the rule subject to the petition for a waiver are not specifically mandated by statute or another provision of law; and

d. Substantially equal protection of public health, safety, and welfare will be afforded by a means other than that prescribed in the particular rule for which the waiver is requested.

1.8(4) *Filing of petition.* A petition for a waiver must be submitted in writing to the commission as follows:

a. License application. If the petition relates to a license application, the petition shall be made in accordance with the filing requirements for the license in question.

b. Contested cases. If the petition relates to a pending contested case, the petition shall be filed in the contested case proceeding, using the caption of the contested case.

c. Other. If the petition does not relate to a license application or a pending contested case, the petition may be submitted to the administrator.

1.8(5) *Content of petition.* A petition for waiver shall include the following information where applicable and known to the requester:

a. The name, address, and telephone number of the person or entity for whom a waiver is being requested, and the case number of any related contested case.

b. A description and citation of the specific rule from which a waiver is requested.

c. The specific waiver requested, including the precise scope and duration.

d. The relevant facts that the petitioner believes would justify a waiver under each of the four criteria described in subrule 1.8(3). This statement shall include a signed statement from the petitioner attesting to the accuracy of the facts provided in the petition, and a statement of reasons that the petitioner believes will justify a waiver.

e. A history of any prior contacts between the commission and the petitioner relating to the regulated activity or license affected by the proposed waiver, including a description of each affected license held by the requester, any notices of violation, contested case hearings, or investigative reports relating to the regulated activity or license within the last five years.

f. Any information known to the requester regarding the commission's treatment of similar cases.

g. The name, address, and telephone number of any public agency or political subdivision which also regulates the activity in question, or which might be affected by the grant of a waiver.

h. The name, address, and telephone number of any person or entity who would be adversely affected by the grant of a waiver.

i. The name, address, and telephone number of any person with knowledge of the relevant facts relating to the proposed waiver.

j. Signed releases of information authorizing persons with knowledge regarding the request to furnish the commission with information relevant to the waiver.

1.8(6) *Additional information.* Prior to issuing an order granting or denying a waiver, the commission may request additional information from the petitioner relative to the petition and surrounding circumstances. If the petition was not filed in a contested case, the commission may, on its own motion or at the petitioner's request, schedule a telephonic or in-person meeting between the petitioner and the administrator, a committee of the commission, or a quorum of the commission.

1.8(7) *Notice.* The commission shall acknowledge a petition upon receipt. The commission shall ensure that notice of the pendency of the petition and a concise summary of its contents have been provided to all persons to whom notice is required by any provision of law, within 30 days of the receipt of the petition. In addition, the commission may give notice to other persons.

To accomplish this notice provision, the commission may require the petitioner to serve the notice on all persons to whom notice is required by any provision of law, and provide a written statement to the commission attesting that notice has been provided.

1.8(8) *Hearing procedures.* The provisions of Iowa Code sections 17A.10 to 17A.18A regarding contested case hearings shall apply to any petition for a waiver filed within a contested case and shall otherwise apply to agency proceedings for a waiver only when the commission so provides by rule or order or is required to do so by statute.

1.8(9) *Ruling.* An order granting or denying a waiver shall be in writing and shall contain a reference to the particular person and rule or portion thereof to which the order pertains, a statement of the relevant facts, reasons upon which the action is based, and a description of the precise scope and duration of the waiver if one is issued.

1.8(10) *Board discretion.* The final decision on whether the circumstances justify the granting of a waiver shall be made at the sole discretion of the commission, upon consideration of all relevant factors. Each petition for a waiver shall be evaluated by the commission based on the unique, individual circumstances set out in the petition.

1.8(11) *Burden of persuasion.* The burden of persuasion rests with the petitioner to demonstrate by clear and convincing evidence that the commission should exercise its discretion to grant a waiver from a commission rule.

1.8(12) *Narrowly tailored exception.* A waiver, if granted, shall provide the narrowest exception possible to the provisions of a rule.

1.8(13) *Administrative deadlines.* When the rule from which a waiver is sought establishes administrative deadlines, the commission shall balance the special individual circumstances of the petitioner with the overall goal of uniform treatment of all similarly situated persons.

1.8(14) *Conditions.* The commission may place any condition on a waiver that the commission finds desirable to protect the public health, safety, and welfare.

1.8(15) *Time period of waiver.* A waiver shall not be permanent unless the petitioner can show that a temporary waiver would be impracticable. If a temporary waiver is granted, there is no automatic right to renewal. At the sole discretion of the commission, a waiver may be renewed if the commission finds that grounds for the waiver continue to exist.

1.8(16) *Time for ruling.* The commission shall grant or deny a petition for a waiver as soon as practicable but, in any event, shall do so within 120 days of its receipt, unless the petitioner agrees to a later date. However, if a petition is filed in a contested case, the commission shall grant or deny the petition no later than the time at which the final decision in that contested case is issued.

1.8(17) *When deemed denied.* Failure of the commission to grant or deny a petition within the required time period shall be deemed a denial of that petition by the commission. However, the commission shall remain responsible for issuing an order denying a waiver.

1.8(18) *Service of order.* Within seven days of its issuance, any order issued under this rule shall be transmitted to the petitioner or the person to whom the order pertains and to any other person entitled to such notice by any provision of law.

1.8(19) *Public availability.* All orders granting or denying a waiver petition shall be indexed, filed, and available for public inspection as provided in Iowa Code section 17A.3. Petitions for a waiver and orders granting or denying a waiver petition are public records under Iowa Code chapter 22. Some petitions or orders may contain information the commission is authorized or required to keep confidential. The commission may accordingly redact confidential information from petitions or orders prior to public inspection.

1.8(20) *Summary reports.* Semiannually, the commission shall prepare a summary report identifying the rules for which a waiver has been granted or denied, the number of times a waiver was granted or denied for each rule, a citation to the statutory provisions implemented by these rules, and a general summary of the reasons justifying the commission's actions on waiver requests. If practicable, the report shall detail the extent to which the granting of a waiver has affected the general applicability of the rule itself. Copies of this report shall be available for public inspection and shall be provided semiannually to the administrative rules coordinator and the administrative rules review committee.

1.8(21) *Cancellation of a waiver.* A waiver issued by the commission pursuant to this rule may be withdrawn, canceled, or modified if, after appropriate notice and hearing, the commission issues an order finding any of the following:

a. The petitioner or the person who was the subject of the waiver order withheld or misrepresented material facts relevant to the propriety or desirability of the waiver;

b. The alternative means for ensuring that the public health, safety, and welfare will be adequately protected after issuance of the waiver order have been demonstrated to be insufficient; or

c. The subject of the waiver order has failed to comply with all conditions contained in the order.

1.8(22) *Violations.* Violation of a condition in a waiver order shall be treated as a violation of the particular rule for which the waiver was granted. As a result, the recipient of a waiver under this rule who violates a condition of the waiver may be subject to the same remedies or penalties as a person who violates the rule at issue.

1.8(23) *Defense.* After the commission issues an order granting a waiver, the order is a defense within its terms and the specific facts indicated therein for the person to whom the order pertains in any proceeding in which the rule in question is sought to be invoked.

1.8(24) *Judicial review.* Judicial review of the commission's decision to grant or deny a waiver petition may be taken in accordance with Iowa Code chapter 17A.

These rules are intended to implement 2000 Iowa Acts, House File 2206, and Iowa Code chapters 99D and 99F.

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CHAPTER 3
FAIR INFORMATION PRACTICES

The racing and gaming commission adopts, with the following exceptions and amendments, rules of the Governor's Task Force on Uniform Rules of Agency Procedure relating to fair information practices which are printed in the first volume of the Iowa Administrative Code.

491—3.1(17A,22) Definitions. As used in this chapter:

"Agency." In lieu of the words "(official or body issuing these rules)", insert "racing and gaming commission".

491—3.3(17A,22) Requests for access to records.

3.3(1) *Location of record.* In lieu of the words "(insert agency head)", insert "Administrator". In lieu of the words "(insert agency name and address)", insert "Racing and Gaming Commission, 717 East Court, Suite B, Des Moines, Iowa 50309".

3.3(2) *Office hours.* In lieu of the words "(insert customary office hours, and if agency does not have customary office hours of at least thirty hours per week, insert hours specified in Iowa Code section 22.4)", insert "8 a.m. to 4:30 p.m. Monday through Friday except legal holidays".

3.3(7) *Fees.*

c. Supervisory fee. In lieu of the words "(specify time period)", insert "30 minutes".

491—3.6(17A,22) Procedure by which additions, dissents, or objections may be entered into certain records. In lieu of the words "(designate office)", insert "racing and gaming commission".

491—3.9(17A,22) Disclosures without the consent of the subject.

3.9(1) Open records are routinely disclosed without the consent of the subject.

3.9(2) To the extent allowed by law, disclosure of confidential records may occur without the consent of the subject. Following are instances where disclosure, if lawful, will generally occur without notice to the subject:

a. For a routine use as defined in rule 3.10(17A, 22) or in the notice for a particular record system.

b. To a recipient who has provided the agency with advance written assurance that the record will be used solely as a statistical research or reporting record, provided that the record is transferred in a form that does not identify the subject.

c. To another government agency or to an instrumentality of any governmental jurisdiction within or under the control of the United States for a civil or criminal law enforcement activity if the activity is authorized by law, and if an authorized representative of such government agency or instrumentality has submitted a written request to the agency specifying the record desired and the law enforcement activity for which the record is sought.

d. To an individual pursuant to a showing of compelling circumstances affecting the health or safety of any individual if a notice of the disclosure is transmitted to the last known address of the subject.

e. To the legislative fiscal bureau under Iowa Code section 2.52.

f. Disclosures in the course of employee disciplinary proceedings.

g. In response to a court order or subpoena.

491—3.10(17A,22) Routine use. *"Routine use"* means the disclosure of a record without the consent of the subject or subjects, for a purpose which is compatible with the purpose for which the record was collected. It includes disclosures required to be made by statute other than the public records law, Iowa Code chapter 22.

3.10(1) To the extent allowed by law, the following uses are considered routine uses of all agency records:

a. Disclosure to those officers, employees, and agents of the agency who have a need for the record in the performance of their duties. The custodian of the record may upon request of any officer, employee, or on the custodian's own initiative, determine what constitutes legitimate need to use confidential records.

b. Disclosure of information indicating an apparent violation of the law to appropriate law enforcement authorities for investigation and possible criminal prosecution, civil court action, or regulatory order.

c. Transfers of information within the agency, to other state agencies, or to local units of government as appropriate to administer the program for which the information is collected.

d. Information released to staff of federal and state entities for audit purposes or for purposes of determining whether the agency is operating a program lawfully.

e. Any disclosure specifically authorized by the statute under which the record was collected or maintained.

f. Information transferred to any originating agency when racing and gaming commission has completed the authorized audit, investigation, or inspection.

3.10(2) Reserved.

491—3.11(17A,22) Consensual disclosure of confidential records.

3.11(1) *Consent to disclosure by a subject individual.* To the extent permitted by law, the subject may consent in writing to agency disclosure of confidential records as provided in rule 3.7(17A,22).

3.11(2) *Complaints to public officials.* A letter from a subject of a confidential record to a public official which seeks the official's intervention on behalf of the subject in a matter that involves the agency may to the extent permitted by law be treated as an authorization to release sufficient information about the subject to the official to resolve the matter.

3.11(3) *Sharing information.* Notwithstanding any statutory confidentiality provision, the agency may share information with the child support recovery unit and the college student aid commission through manual or automated means for the sole purpose of identifying licensees or applicants subject to enforcement under Iowa Code chapter 252J, 261 or 598.

491—3.12(17A,22) Release to subject.

3.12(1) A written request to review confidential records may be filed by the subject of the record as provided in rule 3.6(17A,22). The commission need not release the following records to the subject:

a. The identity of a person providing information to the agency need not be disclosed directly or indirectly to the subject of the information when the information is authorized to be held confidential pursuant to Iowa Code section 22.7(18) or other provision of law.

b. Records need not be disclosed to the subject when they are the work product of an attorney or otherwise privileged.

c. Investigative reports may be withheld from the subject, except as required by the Iowa Code. (See Iowa Code section 22.7(5))

d. As otherwise authorized by law.

3.12(2) Where a record has multiple subjects with interest in the confidentiality of the record, the commission may take reasonable steps to protect confidential information relating to another subject.

491—3.13(17A,22) Availability of records.

3.13(1) Agency records are open for public inspection and copying unless otherwise provided by rule or law.

3.13(2) Confidential records. The following records may be withheld from public inspection. Records are listed by category, according to the legal basis for withholding them from public inspection.

a. Sealed bids received prior to the time set for public opening of bids. (Iowa Code section 72.3)

b. Tax records made available to the agency. (Iowa Code sections 422.20 and 422.72)

c. Exempt records under Iowa Code section 22.7.

d. Minutes of closed meetings of a government body. (Iowa Code section 21.5(4))

e. Identifying details in final orders, decisions and opinions to the extent required to prevent a clearly unwarranted invasion of personal privacy or trade secrets under Iowa Code section 17A.3(1)*"d."*

f. Those portions of commission staff manuals, instructions or other statements issued which set forth criteria or guidelines to be used by commission staff in auditing, in making inspections, in settling commercial disputes or negotiating commercial arrangements, or in the selection or handling of cases, such as operational tactics or allowable tolerances or criteria for the defense, prosecution or settlement of cases, when disclosure of these statements would:

(1) Enable law violators to avoid detection;

(2) Facilitate disregard of requirements imposed by law; or

(3) Give a clearly improper advantage to persons who are in an adverse position to the agency. (See Iowa Code sections 17A.2 and 17A.3)

g. Records which constitute attorney work product, attorney-client communications, or which are otherwise privileged. Attorney work product is confidential under Iowa Code sections 22.7(4), 622.10 and 622.11, Iowa R.C.P. 122.11, the rules of evidence, the Code of Professional Responsibility, and case law.

h. Criminal investigative reports. (Iowa Code section 22.7(5))

i. Personnel files. Information required for tax withholding, information concerning employee benefits, affirmative action reports, and other information concerning the employer-employee relationship. Some of this information is confidential under Iowa Code section 22.7(11).

491—3.14(17A,22) Personally identifiable information. The commission maintains systems of records which contain personally identifiable information.

3.14(1) *Board of stewards or gaming board hearings and contested case records.* Records are maintained in paper and computer files and contain names and identifying numbers of people involved. Evidence and documents submitted as a result of a hearing are contained in the board of stewards or gaming board hearing or contested case records as well as summary lists of enforcement activities.

Records are collected by authority of Iowa Code chapters 99D and 99F. None of the information stored in a data processing system is compared with information in any other data processing system.

3.14(2) *Occupational licensing.* Records associated with occupational licensing conducted under Iowa Code chapters 99D and 99F are maintained by this commission. The licensing system of records includes numerous files and crossfiles which include but are not limited to: computer storage of licensing records and photos, fingerprint cards, and license applications. The records associated with occupational licenses, which contain personally identifiable information, are open for public inspection only upon the approval of the administrator or the administrator's designee. The information stored in a data processing system is not compared with information in any other data processing system.

3.14(3) *List of contested cases and stewards' hearings.* The commission utilizes a listing of contested case and stewards' hearings furnished by the Association of Racing Commissioners International and provides individually identifiable information to that organization. The list is used for purposes delineated in Iowa Code chapter 99D.

These rules are intended to implement Iowa Code section 22.11 and chapters 99D and 17A.

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CHAPTER 7
GREYHOUND RACING

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

491—7.1(99D) Terms defined. As used in these rules, unless the context otherwise requires, the following definitions apply:

"Bertillion card" means a card that lists the identifying features of a greyhound.

"Bolt" means when a greyhound leaves the race course during the running of an official race.

"Commission" means the racing and gaming commission.

"Dead heat" means when two or more greyhounds reach the finish line of a race at the same time.

"Double entry" means entry of two or more greyhounds in the same race from the same kennel or same owner that are separate wagering interests.

"Draw" means the process of selecting runners and the process of assigning post positions in a manner to ensure compliance with the conditions of the rules of racing.

"Entrance fee" means a fee set by the facility that must be paid in order to make a greyhound eligible for a stakes race.

"Facility" means an entity licensed by the commission to conduct pari-mutuel wagering or gaming operations in Iowa.

"Facility grounds" means all real property utilized by the facility in the conduct of its race meeting, including the racetrack, grandstand, concession stands, offices, kennel area, parking lots, and any other areas under the jurisdiction of the commission.

"Foreign substance" means any drug, medicine, or any other substance uncommon to the greyhound's body which can or may affect the racing condition of a greyhound or which can or may affect sampling or testing procedures.

"Forfeit" means money due but lost because of an error, fault, neglect of duty, breach of contract, or a penalty.

"Greyhound" means a greyhound registered with the National Greyhound Association.

"Licensee" means a person that has been issued a current license to participate in racing in Iowa.

"Lock-out kennel" means the secure and restricted facility within the paddock used to temporarily house entered greyhounds prior to their participation in the current performance.

"NGA" means the National Greyhound Association.

"No Race" means a race canceled for any reason by the stewards.

"Owner" means any person or entity that holds any title, right of interest, whole or partial, in a greyhound, including the lessee and lessor of a greyhound.

"Post position" means the position assigned to a greyhound for the start of the race.

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

"Rule off" means the act of barring a greyhound from the grounds of a facility and denying all racing privileges.

"Scratch" means the act of withdrawing an entered greyhound from a race after the program is printed.

"Tote/totalizator" means the machines that sell mutuel tickets and the board on which the approximate odds are posted.

491—7.2(99D) Facility's responsibilities.

7.2(1) *Racetrack.* Each facility shall provide a race course which:

a. Is constructed and elevated in a manner that is safe and humane for greyhounds.

b. Has a surface, including cushion subsurface and base, constructed of materials and to a depth that adequately provides for the safety of the greyhounds.

c. Has a drainage system that is approved by the commission.

d. Must be approved by the commission and be subject to periodic inspections by the stewards.

7.2(2) *Equipment.* Each facility shall install, and maintain in good working condition, the following equipment and provide for qualified personnel to operate:

a. Equipment necessary to produce adequate videotapes and record each race from start to finish. Videotapes shall be retained and secured by the facility until the first day of the following racing season.

b. Communications systems between the stewards, mutuel department, starting box, public address announcer, paddock, and necessary on-track racing officials.

c. A starting box and mechanical lure approved by the commission.

7.2(3) *Vacancies.*

a. When a vacancy occurs among the racing officials other than the stewards prior to post time of the first race of the day, or when a vacancy occurs after the racing of the day has started, the facility shall immediately fill the vacancy, subject to approval by the board of stewards. Permanent changes of racing officials during the racing meet shall be requested in writing by the licensee subject to the written approval of the administrator or commission representative before the change occurs.

b. If none of the stewards are present prior to post time of the first race of the day, the management of the facility shall name at least three qualified persons to serve during the absence of the stewards, immediately filing a full written report of the absence and the names of the replacements to the commission.

7.2(4) *Other responsibilities.*

a. The facility shall provide an area located within a reasonable proximity of the paddock for the purpose of collecting body fluid samples for any tests required by the commission. The location, arrangement, and furnishings, including refrigeration and hot and cold running water, must be approved by the commission.

b. The facility shall take such measures needed to maintain the security of the greyhounds while on facility grounds to protect them from injury, vexing, or tampering.

c. The facility shall exclude all persons from the kennel compound area who have no designated duty or authority with the greyhounds entered and are not representatives of the commission, racing officials, duly authorized licensed employees, or escorted guests with facility-approved passes.

d. The facility shall periodically, or whenever the stewards deem necessary, remove soiled surface materials from runs, the detention area for collection of samples, and exercise areas and replace with clean surface materials.

491—7.3(99D) Racing officials—duties.

7.3(1) *Racing officials—general.*

a. The officials of a race meeting shall include: the board of stewards (track steward and state stewards); commission veterinarian; commission veterinary assistants; director of racing; mutuel manager; racing secretary; assistant racing secretary; chart writer; paddock judge; clerk of scales; lure operator; brakeman; photo finish operator/timer; starter; patrol judge; and kennel master.

b. All racing officials, except the state stewards, commission veterinarian and commission veterinary assistants, shall be appointed by the facility. Appointments by the facility are subject to the approval of the commission or commission representative. The commission or commission representative may demand a change of personnel for what the commission deems good and sufficient reason. The appointment of a successor to racing officials shall be subject to the approval of the administrator or commission representative.

c. Racing officials are prohibited from the following activities:

(1) Having any interest in the sale, lease, purchase, or ownership of any greyhound racing at the meeting, or its sire or dam.

(2) Wagering on the outcome of a race at the facility where they are employed.

(3) Owning a business or being employed by a business that does business with the facility.

(4) Accepting or receiving money or anything of value for assistance in connection with the racing official's duties.

7.3(2) *Stewards.*

a. There shall be three stewards for each racing meet, two of whom shall be appointed by the commission and one who shall be nominated by the facility for approval by the commission or commission representative.

b. The laws of Iowa and the rules of the commission supersede the conditions of a race. In matters pertaining to racing, the orders of the stewards supersede the orders of the officers of the facility.

c. The stewards shall have the authority to interpret the rules and to decide all questions not specifically covered by the rules.

d. All questions pertaining to the extent of the stewards' authority shall be determined by a majority of the stewards.

e. The stewards shall have the authority to regulate owners, trainers, kennel helpers, all other persons attendant to greyhounds, racing officials, and licensed personnel of the racing meet and those persons addressed by 491—paragraph 4.6(5)"*e.*"

f. The stewards shall have the authority to determine all questions arising with reference to entries and racing.

g. The stewards shall have the authority to call for proof that a greyhound is neither itself disqualified in any respect, nor nominated by, nor the property, wholly or in part, of a disqualified person, and in default of proof being given to their satisfaction, they may declare the greyhound disqualified.

h. The stewards shall have the authority to order at any time an examination of any greyhound entered for a race or which has run in a race.

i. The stewards shall take notice of any questionable conduct, with or without complaint, and shall investigate promptly and render a decision on every objection and on every complaint made to them.

j. The stewards, in order to maintain necessary safety and health conditions and to protect the public confidence in greyhound racing as a sport, shall have the right to authorize a person(s) on their behalf to enter into or upon the buildings, kennels, rooms, motor vehicles, trailers, or other places within the grounds of a facility, to examine same, and to inspect and examine the person, personal property, and effects of any person within such place, and to seize any illegal articles or any items as evidence found.

k. The steward(s) present shall appoint one or two persons to serve as temporary stewards if a vacancy or vacancies occur among the stewards.

l. The stewards may excuse a greyhound, after it has left the paddock for the post, if they consider the greyhound injured, disabled, or unfit to run. All money on the greyhound shall be refunded.

m. The stewards shall determine the finish of a race by the relative position of the muzzle, or nose if the muzzle is lost or hanging, of each greyhound. They shall immediately notify the mutuel department of the numbers of the first three (four in races with superfecta wagering) greyhounds.

(1) The stewards shall promptly display the numbers of the first three (four in races with superfecta wagering) greyhounds in each race in order of their finishes. If the stewards differ in their placing, the majority shall prevail.

(2) The stewards may consult a picture from the photo finish camera whenever they consider it advisable; however, in all cases, the camera is merely an aid and the decision of the stewards shall be final.

(3) The stewards may post, without waiting for a picture, such placements as are in their opinion unquestionable and, after consulting the picture, make other placements. However, in no case shall the race be declared official until the stewards have determined the greyhounds finishing first, second and third (and fourth in races with superfecta wagering).

(4) The stewards may correct an error before the display of the sign "Official" or recall the sign "Official" in case it has been displayed through error.

n. The stewards may place any greyhound on the schooling list at any time for any reason that, in their opinion, warrants such action.

7.3(3) *Commission veterinarian and veterinary assistants.*

a. The commission veterinarian shall advise the commission and the stewards on all veterinary matters.

b. The commission veterinarian shall be on the grounds of the facility at weigh-in time and during all racing hours. The veterinarian shall make an examination of the physical condition of each greyhound at weigh-in time.

c. The commission veterinarian shall observe each greyhound as it enters the lock-out kennel, examine it when it enters the paddock prior to the race, and recommend to the board of stewards that any greyhound deemed unsafe to race or physically unfit to produce a satisfactory effort in a race be scratched.

d. The commission veterinarian shall place any greyhound determined to be sick or have a communicable disease, or any greyhound deemed unsafe, unsound, or unfit, on a veterinarian's list which shall be posted in a conspicuous place available to all owners, trainers, and racing officials. Once a greyhound has been placed on the veterinarian's list, it must remain on the list for at least three calendar days and may be allowed to race only after it has been removed from the list by the commission veterinarian.

e. The commission veterinarian shall have full access to each and every kennel where greyhounds are kenneled on the facility premises. The commission veterinarian shall inspect the general physical condition of the greyhounds, sanitary conditions of the kennels, segregation of female greyhounds in season, segregation of sick greyhounds, the types of medicine found in use, incidents of cruel and inhumane treatment, and any other matters or conditions which are brought to the attention of the commission veterinarian.

f. The commission veterinarian shall have supervision and control of the detention area for collection of body fluid samples for the testing of greyhounds for prohibited medication.

g. The commission veterinarian shall not be licensed to participate in racing in any other capacity. Except in the case of an emergency, a commission veterinarian may not prescribe any medication for, or treat, any greyhound owned by a person licensed by the commission, on or away from any facility, with or without compensation. This provision does not apply to a relief veterinarian appointed by the administrator to cover the absence of the commission veterinarian. When emergency treatment is given, a commission veterinarian shall make a complete written report to the stewards. Euthanasia and disposition of greyhounds shall not be considered treatment.

h. The commission veterinarian shall conduct a postmortem examination on every greyhound to determine the injury or sickness which resulted in the euthanasia or death if:

(1) A greyhound suffers a breakdown on the racetrack.

(2) A greyhound expires while kenneled on facility grounds.

i. Commission veterinary assistant. The commission veterinarian may employ persons to assist in maintaining the detention area and collecting body fluid samples.

7.3(4) *Director of racing.*

a. The director of racing shall have full supervision over kennel owners, greyhound owners, trainers, kennel helpers, lead-outs, and all racing officials.

b. The director of racing shall ascertain that all racing department personnel are properly trained in the discharge of their duties.

7.3(5) *Mutuel manager.* The mutuel manager is responsible for the operation of the mutuel department. The mutuel manager shall ensure that any delays in the running of official races caused by totalizator malfunctions are reported to the stewards. The mutuel manager shall submit a written report on a delay when requested by the state steward.

7.3(6) *Racing secretary and assistant racing secretary.*

a. The racing secretary shall discharge all duties whether expressed or required by the rules and shall keep a complete record of all races.

b. The racing secretary is responsible for maintaining a file of all NGA lease (or appropriate substitute) and ownership papers on greyhounds racing at the meeting. The racing secretary shall inspect all papers and documents dealing with owners and trainers, partnership agreements, appointments of authorized agents, and adoption of kennel names to be sure they are accurate, complete, and up to date. The racing secretary has the authority to demand the production of any documents or other evidence in order to be satisfied as to their validity and authenticity to ensure compliance with the rules. The racing secretary shall be responsible for the care and security of the papers while the greyhounds are located on facility property. Disclosure is made for the benefit of the public, and all documents pertaining to the ownership or lease of a greyhound filed with the racing secretary shall be available for public inspection.

c. The racing secretary shall ensure that current valid vaccination certificates for diseases, as determined by the commission veterinarian, are submitted for greyhounds housed within facility property. The racing secretary shall also maintain records of vaccinations in such a manner as to notify the stewards, the commission veterinarian, and the trainer of impending expiration ten days prior to the actual date of expiration.

d. The racing secretary shall receive and enter all entries and withdrawals as set forth in this chapter. Conditions of races shall not conflict with commission rules and the racing secretary shall, each day, as soon as the entries have closed and been compiled and the withdrawals have been made, post in a conspicuous place an overnight listing of the greyhounds in each race. The racing secretary shall make every effort to ensure fairness and equal opportunity for all greyhound owners and kennel owners in the drawing of all races.

e. The racing secretary shall not allow any greyhound to start in a race unless the greyhound is entered in the name of the legal owner and the owner's name appears on the registration papers, a legal lease, or bill of sale attached to the registration papers.

f. The racing secretary shall not allow any greyhound to start in a race if it is in any way ineligible or disqualified.

g. Assistant racing secretary. The facility may employ an assistant racing secretary who shall assist the racing secretary in the performance of duties and serve under the supervision of the racing secretary.

7.3(7) *Chart writer.*

a. The chart writer shall compile the information necessary for a program that shall be printed for each racing day. The program shall contain the names of the greyhounds that are to run in each of the races for that day. These names shall appear in the order of their post positions to be designated by numerals placed at the left and in lines with the names of the greyhounds in each race.

b. The program or form sheet must carry at least two past performances of each greyhound scheduled to race. The program or form sheet must also contain name; color; sex; date of whelping; breeding; established racing weight; number of starts in official races; number of times finishing first, second and third; name of owner or lessee (if applicable); name of trainer; distance of race; track record; and other information to enable the public to properly judge the greyhound's ability.

c. If a greyhound's name is changed, the new name, together with the former name, shall be published in the official entries and program until after the greyhound has started six times.

7.3(8) *Paddock judge.*

a. The paddock judge shall complete a Bertillion card for each greyhound prior to entering official schooling or an official race, by a physical inspection of each greyhound and comparison with NGA ownership papers. Inconsistencies between the physical inspection and NGA papers shall be noted on the Bertillion card, and significant inconsistencies shall be reported to the stewards.

b. The paddock judge shall fully identify and check, using the Bertillion card index system of identification maintained by the facility, all greyhounds starting in schooling and official races while in the paddock before post time. No greyhound shall be permitted to start in an official schooling race or official race that has not been fully identified and checked against the Bertillion card. The paddock judge shall report to the stewards any greyhound(s) that does not conform to the card index identification.

c. The paddock judge shall provide to the stewards, at the beginning of each race meeting and during the meeting if requested by the stewards due to inaccuracies or exceptional circumstances, written certification of the accuracy of the official scale used for weighing greyhounds.

d. The paddock judge shall supervise the kennel master and lead-outs in the performance of their duties.

e. The paddock judge shall not allow any greyhound to be weighed in unless it has an identification tag attached to its collar indicating the number of the race in which the greyhound is entered and its post position. This tag shall not be removed until the greyhound has been weighed out and blanketed.

f. The paddock judge shall not allow anyone to weigh in a greyhound for racing unless the person has a valid kennel owner's, trainer's, or assistant trainer's license issued by the commission.

g. The paddock judge shall not allow any greyhound to leave the paddock for the starting box unless it is equipped with a regulation muzzle and blanket. The blanket worn by each greyhound shall prominently display the numeral corresponding to the greyhound's assigned post position. The muzzles and blankets used shall be approved by the paddock judge, who shall carefully examine them in the paddock before the greyhound leaves for the post to ensure they are properly fitted and secured.

h. The paddock judge shall keep on hand and ready for use extra muzzles of all sizes, lead straps, and collars.

i. The paddock judge shall assign post positions to lead-outs by lot and maintain a record of all such assignments.

j. The paddock judge shall report all delays and weight violations to the stewards.

7.3(9) *Clerk of scales.*

a. The clerk of scales shall weigh all greyhounds in and out in a uniform manner and observe the weight display and scale platform when reading the weight.

b. The clerk of scales shall post a scale sheet of weights promptly in a conspicuous location after weighing.

c. The clerk of scales shall prevent a greyhound from passing the scales if there should be a weight variation as set forth in subrules 7.9(4), 7.9(5), and 7.9(6). The clerk of scales shall promptly notify the paddock judge of the weight variation, who will report to the stewards any infraction of the rules as to weight or weighing.

d. The clerk of scales shall report all late scratches and weights for display on the tote board or on a bulletin board located in a place conspicuous to the wagering public.

e. The clerk of scales shall ensure that all greyhounds are weighed in and weighed out with a muzzle, collar, and lead strap.

f. The clerk of scales shall keep a list of all greyhounds known by the racing officials to be consistent weight losers while in the lock-out kennel and shall notify the stewards as to the weight loss of any such greyhound before each race.

7.3(10) *Lure operator.*

a. The lure operator shall operate the lure in a smooth, uniform, and consistent manner so as not to impede or otherwise disrupt the running of the race.

b. The lure operator shall ensure that the distance between the lure and lead greyhound is consistent with the distance prescribed by the stewards.

c. The lure operator shall take into consideration the location on the course and the prevailing weather conditions to maintain the appropriate distance of the lure from the lead greyhound.

d. The lure operator shall be held accountable by the stewards for the lure's operation.

e. The lure operator shall determine that the lure is in good operating condition and shall immediately report to the stewards any circumstance that may prevent the normal, consistent operation of the lure.

7.3(11) *Brakeman.*

a. Prior to the running of each race, the brakeman shall:

(1) Ensure that the brake system is in good operating condition, which includes properly unlocking the brake.

(2) Inspect the lure motor for any noticeable malfunctions.

(3) Ensure that the lure is secured and the arm is fully extended into a stable and locked position.

(4) Inspect the rail to ensure that it is in perfect repair and free of debris.

b. The brakeman shall ensure that the arm has retracted and stop the lure in a safe and consistent manner after each race is finished.

7.3(12) *Photo finish operator/timer.*

a. The photo finish operator/timer shall maintain the photo finish and timing equipment in proper working order and shall photograph each race.

b. The photo finish operator/timer shall be responsible for and declare the official time of each race. The time of the race shall be taken from the opening of the doors of the starting box.

c. The timer shall use the time shown on the timing device as the official time of the race if the timer is satisfied that the timing device is functioning properly; otherwise, the timer shall use the time recorded manually with a stopwatch.

7.3(13) *Starter.*

a. The starter shall give orders and take measures not in conflict with commission rules necessary to secure a fair start. There shall be no start until, and no recall after, the doors of the starting box have opened except under subrules 7.12(10) and 7.12(11).

b. The starter shall report causes of delay to the stewards.

7.3(14) *Patrol judge.*

a. The patrol judge shall supervise the lead-outs and greyhounds from paddock to post.

b. The patrol judge, in view of the stewards and the public, shall inspect the muzzles and blankets of greyhounds to ensure muzzles and blankets are properly fitted and secured after the greyhounds have left the paddock.

c. The patrol judge shall assist the starter in the starter's duties upon the arrival of the lead-outs and greyhounds at the starting box.

7.3(15) *Kennel master.*

a. The kennel master shall unlock the prerace lock-out kennels immediately before weigh in to inspect that the lock-out kennels are in proper working order and that nothing has been deposited in any of the lock-out crates.

b. The kennel master or designee must receive the greyhounds from the trainer, one at a time, and ensure that each greyhound is placed in its lock-out crate and continue to ensure the security of the lock-out area from weigh in until the time when greyhounds are removed for the last race of a performance.

c. The kennel master shall, on a daily basis, ensure that the lock-out kennels are sprayed, disinfected, and maintained in proper sanitary condition and at an appropriate temperature and climate.

491—7.4(99D) Lead-outs.

7.4(1) A lead-out shall lead the greyhounds from the paddock to the starting box. Owners, trainers, or attendants will not be allowed to lead their own greyhounds.

7.4(2) Each lead-out will lead only one greyhound from the paddock to the starting box during official races. In official schooling races, no more than two greyhounds may be led from the paddock to the starting box by one lead-out.

7.4(3) Lead-outs must handle the greyhounds in a humane manner, put the assigned greyhound in its proper box before the race, and then retire to their designated post during the running of the race.

7.4(4) Lead-outs are prohibited from holding any conversation with the public or with one another en route to the starting box or while returning to the paddock.

7.4(5) Lead-outs shall be attired in clean uniforms, present a neat appearance, and conduct themselves in an orderly manner.

7.4(6) Lead-outs are prohibited from smoking, drinking beverages other than water, or eating unless on duly authorized breaks in a designated area.

7.4(7) Lead-outs shall not be permitted to have any interest in the greyhounds racing for the facility.

7.4(8) Lead-outs are prohibited from wagering on the result of any greyhound racing at the facility where they are assigned.

7.4(9) Lead-outs shall immediately report any infirmities or physical problems they observe in greyhounds under their care to the nearest racing official for communication to the commission veterinarian.

7.4(10) Lead-outs shall not remove racing blankets until the greyhounds are accepted by licensed kennel representatives at the conclusion of the race.

7.4(11) Lead-outs may assist the kennel master in the performance of the kennel master's duties.

491—7.5(99D) Trainers and assistant trainers.

7.5(1) A trainer shall prevent the administration of any drug, medication, or other prohibited substance that may cause a violation of commission rules. The trainer is responsible for the condition of a greyhound entered in an official race and, in the absence of substantial evidence to the contrary, is responsible for the presence of any prohibited drug, medication, or other substance, regardless of the acts of third parties. A positive test for a prohibited drug, medication, or substance, as reported by a commission-approved laboratory, is prima facie evidence of a violation of this rule or Iowa Code chapter 99D.

7.5(2) Other responsibilities. A trainer is responsible for:

a. Ensuring that facilities and primary enclosures are cleaned and sanitized as may be necessary to reduce disease hazards and odors. Runs and exercise areas having gravel or other nonpermanent surface materials shall be sanitized by periodic removal of soiled materials, application of suitable disinfectants, and replacement with clean surface materials.

b. Ensuring that fire prevention rules are strictly observed in the assigned area.

c. Providing a list to the state steward(s) of the trainer's employees in any area under the jurisdiction of the commission. The list shall include each employee's name, occupation, social security number, and occupational license number. The commission shall be notified by the trainer, in writing, within 24 hours of any change.

d. Ensuring the proper identity, custody, care, health, condition, and safety of greyhounds in the trainer's charge.

e. Disclosing to the racing secretary the true and entire ownership of each greyhound in the trainer's care upon its arrival on the facility's property, at time of license application, or entry, whichever event occurs first, and making revision immediately upon any subsequent change in ownership. The disclosure, together with all written agreements and affidavits setting out oral agreements pertaining to the ownership for, or rights in and to, a greyhound, shall be attached to the registration certificate for the greyhound and filed with the racing secretary.

f. Ensuring that greyhounds under the trainer's care have a completed Bertillion card on file with the paddock judge prior to being entered for official schooling or official races.

g. Ensuring that greyhounds under the trainer's care have not been trained using a live lure or live bait.

h. Using the services of those veterinarians licensed by the commission to attend greyhounds that are kenneled on facility grounds.

i. Promptly reporting to the stewards and the commission veterinarian the serious illness of any greyhound in the trainer's charge.

j. Promptly reporting the death of any greyhound in the trainer's care on facility grounds to the stewards, owner, and the commission veterinarian and complying with the rules on postmortem examination set forth in paragraph 7.3(3)*"h."*

k. Immediately reporting to the stewards and the commission veterinarian if the trainer knows, or has cause to believe, that a greyhound in the trainer's custody, care, or control has received any prohibited drugs or medication.

l. Having the trainer's greyhound at the weigh-in room promptly at the time appointed. If not, the greyhound may be scratched and the trainer may be subject to disciplinary action.

m. When a trainer is to be absent 24 hours or more from the kennel or grounds where greyhounds are racing, the trainer shall provide a licensed trainer or assistant trainer to assume complete responsibility for all greyhounds under the trainer's care, and both shall sign a "trainer's responsibility form" which must be approved by the stewards.

7.5(3) *Assistant trainers.*

a. Upon the demonstration of a valid need, a trainer may employ an assistant trainer as approved by the stewards.

b. An assistant trainer may substitute for and shall assume the same duties, responsibilities, and restrictions as imposed on the licensed trainer. The trainer shall be jointly responsible for the assistant trainer's compliance with commission rules.

491—7.6(99D) Registration.

7.6(1) No greyhound shall be entered or permitted to race or to be schooled at any facility unless properly tattooed and registered by the NGA and, if applicable, its last four past-performance lines are made available to the racing secretary. The NGA shall be recognized as the official breeding registry of all greyhounds.

7.6(2) A certificate of registration for each greyhound shall be filed with the racing secretary at the racetrack where the greyhound is to be schooled, entered, or raced. All certificates of registration must be available at all times for inspection by the stewards.

7.6(3) All transfers of any title to a leasehold or other interest in greyhounds schooled, entered, or raced at any facility shall be registered and recorded with the NGA.

7.6(4) No title or other interest in any greyhound will be recognized by the commission until the title or other interest is evidenced by written instrument duly filed with and recorded by the NGA. Certified copies of the written instrument shall be filed with the racing secretary at the facility where the greyhound is to be schooled, entered, or raced, and, upon request, with the commission. When a greyhound is leased, the lessee of the greyhound shall file a copy of the lease agreement with the racing secretary and, upon request, with the commission. The lease agreement shall include:

a. The name of the greyhound.

b. The name and address of the owner.

c. The name and address of the lessee.

d. The kennel name, if any, of each party.

e. The terms of the lease.

7.6(5) Whenever a greyhound, or any interest in a greyhound, is sold or transferred, a copy of the NGA transfer of ownership documents must be filed with the racing secretary, who must forward it to the commission upon request.

7.6(6) When a greyhound is sold with engagements, or any part of them, the written acknowledgment of both parties that the greyhound was sold with the engagements is necessary to entitle the seller or buyer to any rights or obligations set forth in the transaction. If certain engagements are specified, only those are sold with the greyhound. When the greyhound is sold by public auction, the advertised conditions of the sale are sufficient evidence and, if certain engagements are specified, only those are sold with the greyhound.

7.6(7) Vaccination certificates.

a. All NGA certificates must be accompanied by a current valid vaccination certificate for rabies and other diseases as determined by the commission veterinarian and administrator. This certificate must indicate vaccination by a duly licensed veterinarian against such diseases. The criteria for vaccination will be disclosed seven days before the opening of each racing season and will be subject to continuing review. The criteria may be revised at any time and in any manner deemed appropriate by the commission veterinarian and the administrator.

b. Upon expiration of a vaccination certificate, the greyhound must be removed from the premises immediately.

491—7.7(99D) Entries.

7.7(1) Persons entering greyhounds to run at facilities agree in so doing to accept the decision of the stewards on any questions relating to a race or racing.

7.7(2) Every entry for a race must be in the name of the registered owner, lessee, or a kennel name and may be made in person, in writing, by telephone, or by fax. The full name of every person having an ownership in a greyhound, accepting the trainer's percentage, or having any interest in its winnings must be registered with the racing secretary before the greyhound starts at any meeting.

7.7(3) A greyhound shall not be qualified to run in any race unless it has been, and continues to be, duly entered for the same. A greyhound eligible at the time of entry shall continue to be qualified unless the conditions of a race specify otherwise or the greyhound is disqualified by violation of commission rules. A greyhound must be eligible at the time of the start to be qualified for an overnight event.

7.7(4) The entrance to a race shall be free unless otherwise stipulated in its conditions. If the conditions require an entrance fee, it must accompany the entry or the greyhound shall be considered ineligible.

a. A person entering a greyhound becomes liable for the entrance money or stake.

b. A greyhound shall not become a starter for a race unless any stake or entrance money required for that race has been duly paid.

c. Entrance money is not refunded on the death or withdrawal of a greyhound, because of a mistake in its entry if the greyhound is ineligible, or the greyhound's failure to start.

d. If the racing secretary should allow a greyhound to start in a race without its entrance money or stake having been paid, the facility shall be liable for the entrance money or stake.

e. If a race is not run, all stakes or entrance money shall be refunded.

f. No entry, or right of entry under it, shall become void upon the death of the person who entered the greyhound.

7.7(5) The entrance money required for a race shall be distributed as provided in the conditions of the race.

7.7(6) Any person having an interest in a greyhound that is less than the interest or property of any other person is not entitled to assume any of the rights or duties of an owner as provided by commission rules, including but not limited to the right of entry and declaration.

7.7(7) Joint subscriptions and entries may be made by any one or more of the owners. However, all partners shall be jointly and severally liable for all fees and forfeits.

7.7(8) The racing officials shall have the right to call on any person in whose name a greyhound is entered to produce proof that the greyhound entered is not the property, either wholly or in part, of any person who is disqualified or to produce proof as to the extent of interest or property a person holds in the greyhound. The greyhound shall be considered ineligible if such proof is not provided.

7.7(9) No greyhound shall be permitted to start that has not been fully identified.

7.7(10) Any person who knowingly attempts to establish the identity of a greyhound or its ownership shall be held to account the same as the owner and shall be subject to the same penalty in case of fraud or attempted fraud.

7.7(11) No disqualified greyhound shall be allowed to enter or to start in any race. A greyhound will be considered disqualified if the greyhound is:

a. Owned in whole or in part or is under the control, directly or indirectly, of a disqualified person.

b. Not conditioned by a licensed trainer.

c. On the schooling list or the veterinarian's list.

d. A female greyhound in season or lactating.

e. Disqualified by any other commission rule.

7.7(12) Entries that have closed shall be compiled and conspicuously posted without delay by the racing secretary.

a. Entries for stakes races shall close at the time advertised and no entry shall be accepted after that time.

b. In the absence of notice to the contrary, entrance and withdrawals for sweepstakes which close during or on the eve of a race meeting shall close at the office of the racing secretary who shall make provisions therefor. Closing at all other times for sweepstakes shall be at the office of the facility.

7.7(13) No alteration shall be made in any entry after closing of entries, but an error may be corrected.

7.7(14) No trainer or owner shall have more than two greyhounds in any race except in stakes or sweepstakes races. No double entries shall be allowed until all single interests eligible for the performance are used and double entries shall be uncoupled for wagering purposes. Double entries shall be prohibited in all twin trifecta and tri-super races.

7.7(15) No greyhound under the age of 16 months shall be eligible to enter or race.

7.7(16) The facility shall have the right to withdraw or change any unclosed race. In the event the number of entries to any stakes race is in excess of the number of greyhounds that may, because of track limitations, be permitted to start, the starters for the race shall be determined by the racing secretary, in accordance with the conditions of the race.

7.7(17) No greyhound that has been trained using a live lure or live bait shall be entered to race at a facility in the state of Iowa.

7.7(18) The starting post position of greyhounds shall be assigned by lot or drawing supervised by the racing secretary at a time and place properly posted in the paddock, at least one day prior to the running of the races so that any and all owners, trainers, or authorized agents interested may be present if they so desire.

491—7.8(99D) Withdrawals and scratches.

7.8(1) The withdrawal of a greyhound from an engagement is irrevocable.

7.8(2) Withdrawals from sweepstakes shall be made to the racing secretary in the same manner as for making entries. The racing secretary shall record the day and hour of receipt and give early publicity thereto.

7.8(3) Withdrawals from official races must be made by the owner, trainer, or authorized agent to the racing secretary or assistant racing secretary at least one-half hour before the time designated for the drawing of post positions on the day prior to the day on which the greyhound is to race, or at the time the racing secretary may appoint.

7.8(4) Any greyhound that is withdrawn from a race after the overnight entries are closed shall be deemed a scratch. Such a greyhound shall lose all preference accrued up to that date unless excused by the stewards.

a. In order to scratch a greyhound entered in a race, sufficient cause must be given to satisfy the stewards, and the cause must be reported immediately.

b. Any scratches that occur as the result of a violation of a commission rule must carry a penalty, or a suspension of the greyhound for a period of six racing days, or both. Scratches for other causes shall be disciplined at the discretion of the stewards.

c. If any owner or trainer fails to have the greyhound entered at the appointed time for weigh in and as a result the greyhound is scratched, the stewards shall impose a fine, suspension, or both, on the person or persons responsible.

d. The stewards may for sufficient cause scratch a greyhound entered in a race.

7.8(5) All greyhounds scratched from a race because of overweight or underweight shall receive a suspension of six racing days and must school back before starting in an official race. Greyhounds so scratched may school during their suspension.

491—7.9(99D) Weights and weighing.

7.9(1) All greyhounds must be weighed, under supervision of a majority of the stewards, not less than one hour before the time of the first race of the performance, unless prior permission is granted by the state steward.

7.9(2) The weigh-in time shall be limited to a 30-minute period unless an extension has been granted by the state steward.

7.9(3) Before a greyhound is allowed to school or race at any track, the owner or trainer must establish the racing weight of each greyhound with the clerk of scales.

7.9(4) At weigh-in time, should there be a variation of more than one and one-half pounds either way from the greyhound's established weight, the stewards shall order the greyhound scratched.

7.9(5) If, at weigh-in time, there should be more than two pounds of variation between the weight of the greyhound's present race and the weight at weigh-in time of the greyhound's last race, the stewards shall order the greyhound scratched.

7.9(6) At weigh-out time, if a greyhound loses weight in excess of two pounds from its weigh-in weight while in the lock-out kennels, the stewards shall order the greyhound scratched. However, if, in the opinion of the veterinarian, the loss of weight while in the lock-out kennels does not impair the racing condition of the greyhound, the stewards may allow the greyhound to race.

7.9(7) The weight regulations provided in subrules 7.9(1) through 7.9(6) shall be printed in the daily program.

7.9(8) The established racing weight may be changed upon written request of the kennel owner or trainer and written consent of the stewards, provided the change is made four calendar days before the greyhound is allowed to race at the new weight.

a. All greyhounds having an established weight change of more than one pound must be schooled at least once, or more at the discretion of the stewards, at the new established weight before being eligible for starting.

b. Greyhounds that have not raced or schooled officially for a period of three weeks will be allowed to establish a new racing weight with the consent of the stewards.

7.9(9) The stewards shall have the privilege of weighing a greyhound entered in a race at any period from the time it enters the lock-out kennel until post time.

7.9(10) Immediately after being weighed in, the greyhounds shall be placed in lock-out kennels under the supervision of the paddock judge, and no owner or other person except racing officials, commission representatives, or lead-outs shall be allowed in or near the lock-out kennels.

491—7.10(99D) Qualifying time.

7.10(1) Each facility shall establish and notify the state steward of the qualifying times to be in effect during the racing meet. Said notification must be made at least three days before the first day of official racing.

7.10(2) The qualifying time shall be posted on the notice board at the track.

7.10(3) Any change in the qualifying time during the course of the meeting shall be made only with the approval of the board of stewards.

7.10(4) Any greyhound that fails to meet the established qualifying time shall not be permitted to start other than in futurity or stakes races.

491—7.11(99D) Schooling.

7.11(1) Greyhounds must be schooled in the presence of the stewards, or must, in the opinion of the stewards, be sufficiently experienced before they can be entered or started.

7.11(2) All schooling races shall be at a distance not less than 3/16 mile and wagering will not be allowed.

7.11(3) Any greyhound that has not raced on site for a period of 10 racing days or 15 calendar days, whichever is less, or has been placed on the veterinarian's list shall be officially schooled at least once at its racing weight before being eligible for entry. Any greyhound that has not raced for a period of 30 calendar days shall be officially schooled at its racing weight at least twice before being eligible for entry.

7.11(4) Each official schooling race must consist of at least six greyhounds. However, if this condition creates a hardship, less than six may be schooled with the permission of the state steward.

7.11(5) No hand schooling will be considered official.

7.11(6) All greyhounds in official schooling races must be raced at their established racing weight and started from the box wearing muzzles and blankets.

7.11(7) Any greyhound may be ordered on the schooling list by the stewards at any time for good cause and must be schooled officially and satisfactorily before being allowed to enter an official race.

491—7.12(99D) Running of the race.

7.12(1) When two or more greyhounds run a dead heat, all prizes and moneys to which the greyhounds would have been entitled shall be divided equally between them.

7.12(2) If a greyhound bolts the course, runs in the opposite direction, or does not run the entire prescribed distance for the race, it shall forfeit all rights in the race and, no matter where it finished, the stewards shall declare the finish of the race the same as if it were not a contender. However, for the purpose of this rule, the greyhound shall be considered to have started the race.

7.12(3) If a greyhound bolts the course, or runs in the opposite direction during the running of the race, and in so doing, in the opinion of the stewards, interfered with any other greyhound in the race, the stewards shall declare a "No Race" and all moneys wagered shall be refunded, except when, in the opinion of the stewards, the interference clearly did not interfere with the outcome of the race.

7.12(4) If it appears that a greyhound may interfere with the running of the race because of failure to leave the box, an accident, or for any other reason, any lead-out or racing official stationed around the track may remove the greyhound from the track. However, for the purpose of this rule, the greyhound shall be considered to have started the race.

7.12(5) All greyhounds must wear the regulation muzzle and blanket while racing.

7.12(6) All greyhounds must be exhibited in the show paddock before post time of the race in which they are entered.

7.12(7) A race shall not be called official unless the lure is in advance of the greyhounds at all times during the race. If at any time during the race a greyhound catches or passes the lure, the stewards shall declare a "No Race" and all moneys wagered shall be refunded.

7.12(8) The stewards shall closely observe the operation of the lure and hold the lure operator to strict accountability for any inconsistency of operation.

7.12(9) If a greyhound is left in the box when the doors of the starting box open at the start, there shall be no refund.

7.12(10) A false start, due to any faulty action of the starting box, break in the machinery, or other cause, is void, and the greyhounds may be started again as soon as practicable, or the race may be canceled at the discretion of the stewards.

7.12(11) After a greyhound has been placed in the starting box, no refund shall be made and all wagers shall stand. In case of mechanical failure with the starting box, the greyhounds shall be removed from the starting box. The stewards shall determine whether the race will be declared a "No Race" and all moneys wagered be refunded or whether to allow the race to be run after the malfunction has been repaired.

7.12(12) The decision as to whether the greyhound(s) was prevented from starting by a mechanical failure shall be made by the stewards after consultation with the starter.

7.12(13) If a race is marred by jams, spills, or racing circumstances other than accident to the machinery while a race is being run, and three or more greyhounds finish, the stewards shall declare the race finished; but if fewer than three greyhounds finish the stewards shall declare a "No Race" and all moneys wagered shall be refunded.

7.12(14) In the event the lure arm is not fully extended or fails to remain fully extended during the running of the race, the stewards may declare a "No Race" if, in their opinion, the position of the lure arm affected the outcome of the race. In the event the lure arm collapses to the rail during the running of the race, the stewards shall declare a "No Race" and all moneys wagered shall be refunded.

7.12(15) Any act of the owner, trainer, or handler of a greyhound that would tend to prevent the greyhound from running its best and winning if possible shall result in suspension of all persons found guilty of complicity.

491—7.13(99D) Race reckless/interfered/ruled off.

7.13(1) *Race reckless.* It is the steward's discretion for the first offense on a maiden as to whether the maiden interfered or raced reckless. It will not be mandatory that a first offense on a maiden be raced reckless.

7.13(2) *Interfered.*

a. Maidens or graded greyhounds coming into Iowa with an interference line from another state will be ruled off all Iowa tracks at the time of the first offense in Iowa.

b. Graded greyhounds will be given an interference ticket at the time of their first offense and will be required to school back to stewards' satisfaction.

c. First offense interference greyhounds will be deleted from the master interference list after one year has elapsed.

7.13(3) *Ruled off.*

a. For a second interference, a greyhound is ruled off all Iowa tracks.

b. The stewards may rule off a greyhound after the first incident of interference if they determine the greyhound's continued participation in racing jeopardizes the safety of the greyhounds it competes against.

c. Once a greyhound has been ruled off in the state of Iowa, it can not for any reason be entered to race in Iowa again.

491—7.14(99D) Medication and administration, sample collection, chemists, and practicing veterinarians.

7.14(1) *Medication and administration.*

a. No greyhound, while participating in a race, shall carry in its body any medication, drug, foreign substance, or metabolic derivative thereof.

b. Also prohibited are any drugs or foreign substances that might mask or screen the presence of the prohibited drugs or prevent or delay testing procedures.

c. Proof of detection by the commission chemist of the presence of a medication, drug, foreign substance, or metabolic derivative thereof, prohibited by paragraph 7.14(1)*"a"* or *"b,"* in a saliva, urine, or blood specimen duly taken under the supervision of the commission veterinarian from a greyhound immediately prior to or promptly after running in a race shall be prima facie evidence that the greyhound was administered, with the intent that it would carry or that it did carry, prohibited medication, drug, or foreign substance in its body while running in a race in violation of this rule.

d. No person other than a licensed veterinarian shall administer, cause to be administered, participate, or attempt to participate in any way in the administration to a greyhound registered for racing any medication, drug, or foreign substance prior to a race on the day of the race for which a greyhound is entered.

e. Any such person found to have administered or caused, participated, or attempted to participate in any way in the administration of, a medication, drug, or foreign substance which caused or could have caused a violation of this rule shall be subject to disciplinary action.

f. The owner, trainer, kennel helper, or any other person having charge, custody, or care of the greyhound is obligated to protect the greyhound and guard it against the administration or attempted administration of any medication, drug, or foreign substance. If the stewards find that any person has failed to show proper protection and guarding of the greyhound, or if the stewards find that any owner, lessee, or trainer is guilty of negligence, they shall impose discipline and take other action they deem proper under any of the rules of the commission.

7.14(2) *Sample collection.*

a. Under the supervision of the commission veterinarian, urine, blood, and other specimens shall be taken and tested from any greyhounds that the stewards of the meeting, commission veterinarian, or the commission's representatives may designate. Tests are to be under the supervision of the commission. The specimens shall be collected by the commission veterinarian or other person(s) the commission may designate.

b. No unauthorized person shall be admitted at any time to the building or the area utilized for the purpose of collecting the required body fluid samples or the area designated for the retention of greyhounds pending the obtaining of body fluid samples.

c. During the taking of specimens from a greyhound, the owner, trainer, or kennel representative designated by the owner or trainer may be present and witness the taking of the specimen and so signify in writing. Failure to be present and witness the collection of the samples constitutes a waiver by the owner, trainer, or kennel representative of any objections to the source and documentation of the sample.

d. A security guard must be in attendance during the hours designated by the commission.

e. The commission veterinarian, the board of stewards, agents of the division of criminal investigation, or the authorized representatives of the commission may take samples of any medicine or other materials suspected of containing improper medication, drugs, or other substance which could affect the racing condition of a greyhound in a race, which may be found in kennels or elsewhere on facility grounds or in the possession of any person connected with racing, and the same shall be delivered to the official chemist for analysis.

f. Nothing in this rule shall be construed to prevent:

(1) Any greyhound in any race from being subjected by the order of a steward or the commission veterinarian to tests of body fluid samples for the purpose of determining the presence of any foreign substance.

(2) The state steward or the commission veterinarian from authorizing the splitting of any sample.

(3) The commission veterinarian from requiring body fluid samples to be stored in a frozen state for future analysis.

7.14(3) *Chemist.*

a. The commission shall employ one or more chemists or contract with one or more qualified chemical laboratories to determine by chemical testing and analysis of body fluid samples whether a foreign substance, medication, drug, or metabolic derivative thereof is present.

b. All body fluid samples taken by or under direction of the commission veterinarian or authorized representative of the commission shall be delivered to the laboratory of the official chemist for analysis. Each sample shall be marked or numbered and bear information essential to its proper analysis; but the identity of the greyhound from which the specimen was taken or the identity of its owners, trainer, or kennel shall not be revealed to the official chemist or the staff of the chemist. The container of each sample shall be sealed as soon as the sample is placed therein.

c. The commission chemist shall be responsible for safeguarding and testing each sample delivered to the laboratory by the commission veterinarian.

d. The commission chemist shall conduct individual tests on each sample, screening for prohibited substances and conducting other tests to detect and identify any suspected prohibited substance or metabolic derivative thereof with specificity. Pooling of samples shall be permitted only with the knowledge and approval of the administrator.

e. Upon the finding of a test negative for prohibited substances, the remaining portions of the sample may be discarded. Upon the finding of tests suspicious or positive for prohibited substances, the tests shall be reconfirmed, and the remaining portion of the sample, if available, preserved and protected for two years following close of meet.

f. The commission chemist shall submit to the commission a written report as to each sample tested, indicating by sample tag identification number, whether the sample tested negative or positive for prohibited substances. The commission chemist shall report test findings to no person other than the administrator or commission representative. In addition to the administrator, the commission chemist shall notify the state steward of all positive tests. In the event the commission chemist should find a sample suspicious for a prohibited medication, additional time for test analysis and confirmation may be requested.

g. In reporting to the administrator or state steward a finding of a test positive for a prohibited substance, the commission chemist shall present documentary or demonstrative evidence acceptable in the scientific community and admissible in court in support of the professional opinion as to the positive finding.

h. No action shall be taken by the administrator or state steward on the report of the official chemist unless and until the medication, drug, or other substance and the greyhound from which the sample was taken have been properly identified and until an official report signed by the chemist has been received by the administrator or state steward.

i. The cost of the testing and analysis shall be paid by the commission to the official chemist. The commission shall then be reimbursed by each facility on a per-sample basis so that each facility shall bear only its proportion of the total cost of testing and analysis. The commission may first receive payment from funds provided in Iowa Code chapter 99D, if available.

7.14(4) *Practicing veterinarian.*

a. Prohibited acts.

(1) A licensed veterinarian practicing at any meeting is prohibited from possessing any ownership, directly or indirectly, in any racing animal racing during the meeting.

(2) Veterinarians licensed by the commission as veterinarians are prohibited from placing any wager of money or other thing of value directly or indirectly on the outcome of any race conducted at the meeting at which the veterinarian is furnishing professional service.

(3) No veterinarian shall within the facility grounds furnish, sell, or loan any hypodermic syringe, needle, or other injection device, or any drug, narcotic, or prohibited substance to any other person unless with written permission of the stewards.

b. Whenever a veterinarian has used a hypodermic needle or syringe, the veterinarian shall destroy the needle and syringe and remove it from the facility. The use of other than single-use disposable syringes and infusion tubes on facility grounds is prohibited.

c. Every practicing veterinarian licensed by the commission shall keep, on the premises of a facility, a written record of practice relating to greyhounds participating in racing.

(1) This record shall include the name of the greyhound treated, the nature of the greyhound's ailment, the type of treatment prescribed and performed for the greyhound, and the date and time of treatment.

(2) This record shall be kept for practice engaged in at all facilities in the state of Iowa and shall be produced without delay upon the request of the board of stewards or the commission veterinarian.

d. Each veterinarian shall report immediately to the commission veterinarian any illness presenting unusual or unknown symptoms in a racing animal entrusted into the veterinarian's care.

e. Practicing veterinarians may have employees licensed as veterinary assistants or veterinary technicians working under their direct supervision. Activities of these employees shall not include direct treatment or diagnosis of any racing animal. A practicing veterinarian must be present if an employee is to have access to injection devices or injectables.

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CHAPTER 11
GAMBLING GAMES

491—11.1(99F) Definitions.

"Administrator" means the administrator of the commission.

"Coin" means tokens, nickels, and quarters of legal tender.

"Commission" means the racing and gaming commission.

"Distributor's license" means a license issued by the administrator to any entity that sells, leases, or otherwise distributes gambling games to any entity licensed to conduct gambling games pursuant to Iowa Code chapter 99F.

"EPROM" means a computer chip that stores erasable, programmable, read-only memory.

"Facility" means an entity licensed by the commission to conduct gaming operations in Iowa.

"Facility grounds" means all real property utilized by the facility in the conduct of its gaming activity, including the grandstand, concession stands, offices, parking lots, and any other areas under the jurisdiction of the commission.

"Gambling game" means any game of chance approved by the commission for wagering, including, but not limited to, gambling games authorized by this chapter.

"Implement of gambling" means any device or object determined by the administrator to directly or indirectly influence the outcome of a gambling game; collect wagering information while directly connected to a slot machine; or be integral to the conduct of a commission-authorized gambling game, possession or use of which is otherwise prohibited by statute.

"Manufacturer's license" means a license issued by the administrator to any entity that assembles, fabricates, produces, or otherwise constructs a gambling game or implement of gambling used in the conduct of gambling games pursuant to Iowa Code chapter 99F.

"Slot machine" means a mechanical or electronic gambling game device into which a player may deposit coins, currency, or other form of cashless wagering and from which certain numbers of credits are paid out when a particular configuration of symbols or events is displayed on the machine.

491—11.2(99F) Conduct of all gambling games.

11.2(1) *Commission policy.* It is the policy of the commission to require that all facilities conduct gambling games in a manner suitable to protect the public health, safety, morals, good order, and general welfare of the state. Responsibility for the employment and maintenance of suitable methods of operation rests with the facility. Willful or persistent use or toleration of methods of operation deemed unsuitable in the sole discretion of the commission will constitute grounds for disciplinary action, up to and including license revocation.

11.2(2) *Activities prohibited.* A facility is expressly prohibited from the following activities:

a. Failing to conduct advertising and public relations activities in accordance with decency, dignity, good taste, and honesty.

b. Permitting persons who are visibly intoxicated to participate in gaming activity.

c. Failing to comply with or make provision for compliance with all federal, state, and local laws and rules pertaining to the operation of a facility including payment of license fees, withholding payroll taxes, and violations of alcoholic beverage laws or regulations.

d. Possessing, or permitting to remain in or upon any facility grounds, any associated gambling equipment which may have in any manner been marked, tampered with, or otherwise placed in a condition or operated in a manner which might affect the game and its payouts.

e. Permitting, if the facility was aware of, or should have been aware of, any cheating.

f. Possessing or permitting to remain in or upon any facility grounds, if the facility was aware of, or should have been aware of, any cheating device whatsoever; or conducting, carrying on, operating, or dealing any cheating or thieving game or device on the grounds.

g. Possessing or permitting to remain in or upon any facility grounds, if the facility was aware of, or should have been aware of, any gambling device which tends to alter the normal random selection of criteria which determines the results of the game or deceives the public in any way.

h. Failing to conduct gaming operations in accordance with proper standards of custom, decorum, and decency; or permitting any type of conduct that reflects negatively on the state or acts as a detriment to the gaming industry.

i. Denying a commissioner or commission representative, upon proper and lawful demand, information or access to inspect any portion of the gaming operation.

11.2(3) *Gambling aids.* No person shall use, or possess with the intent to use, any calculator, computer, or other electronic, electrical, or mechanical device that:

a. Assists in projecting the outcome of a game.

b. Keeps track of cards that have been dealt.

c. Keeps track of changing probabilities.

11.2(4) *Wagers.* Wagers may only be made:

a. By a person present at a facility.

b. In the form of chips, coins, or other cashless wagering system.

c. By persons 21 years of age or older.

491—11.3(99F) Gambling games approved by the commission. The commission may approve a gambling game by administrative rule, resolution, or motion.

491—11.4(99F) Approval for distribution or operation of gambling games and implements of gambling.

11.4(1) *Approval.* Prior to distribution, a distributor shall request that the administrator inspect, investigate, and approve a gambling game or implement of gambling for compliance with commission rules. The distributor, at its own expense, must provide the administrator with information and product sufficient to determine the integrity and security of the product, including independent testing conducted or contracted by the commission.

11.4(2) *Trial period.* Prior to or after commission approval and after completing a review of a proposed gambling game, the administrator may require a trial period of up to 180 days to test the gambling game in a facility. During the trial period, minor changes in the operation or design of the gambling game may be made with prior approval of the administrator. During the trial period, a gambling game distributor shall not be entitled to receive revenue of any kind from the operation of that gambling game.

11.4(3) *Gambling game submissions.* Prior to conducting a commission-authorized gambling game or for a trial period, a facility shall submit proposals for game rules, procedures, wagers, shuffling procedures, dealing procedures, cutting procedures, and payout odds. The gambling game submission, or requests for modification to an approved submission, shall be in writing and approved by the administrator or a commission representative prior to implementation.

11.4(4) *Public notice.* All gambling games shall clearly represent the rules of play, payout schedule, and permitted wagering amounts to the playing public as required by the administrator.

11.4(5) *Operation.* Each gambling game shall operate and play in accordance with the representation made to the commission and the public at all times. The administrator or commission representative may order the withdrawal of any gambling game suspected of malfunction or misrepresentation, until all deficiencies are corrected.

491—11.5(99F) Gambling games authorized.

11.5(1) Dice, craps, roulette, twenty-one (blackjack), big six—roulette, red dog, baccarat, and poker are authorized as table games.

11.5(2) Slot machines, video poker, and all other video games of chance, both progressive and nonprogressive, shall be allowed as slot machine games, subject to the administrator's approval of individual slot machine prototypes and game variations. For racetrack enclosures, "video machine" as used in Iowa Code section 99F.1(9) shall mean video keno and any video machine game version of a table or card game, including but not limited to those listed in subrule 11.5(1).

11.5(3) The administrator is authorized to approve variations of approved gambling games and bonus features or progressive wagers associated with approved gambling games, subject to the requirements of rule 11.4(99F).

491—11.6(99F) Gambling game-based tournaments and contests.

11.6(1) *Proposals.* Proposals for terms, game rules, entry fees, prizes, dates, and procedures must be submitted in writing and approved by a commission representative before a facility conducts any tournament or contest. Any changes to approved tournaments and contests must be submitted to the commission representative for review and approval prior to being implemented. Rules, fees, and a schedule of prizes must be made available to the player prior to entry.

11.6(2) *Limits.* Tournaments and contests must be based on gambling games authorized by the commission. Entry fees, less prizes paid, are subject to the wagering tax pursuant to Iowa Code section 99F.11. In determining adjusted gross receipts, to the extent that prizes paid out exceed entry fees received, the facility shall be deemed to have paid the fees for the participants.

491—11.7(99F) Table game requirements.

11.7(1) Removable storage media in a table game device which controls the randomness of card shufflers or progressive table game meters shall be verified and sealed with evidence tape by a commission representative prior to implementation.

11.7(2) Wagers. All wagers at table games shall be made by placing gaming chips or coins on the appropriate areas of the layout.

11.7(3) Craps. Wagers must be made before the dice are thrown. "Call bets," or the calling out of bets between the time the dice leave the shooter's hand and the time the dice come to rest, not accompanied by the placement of gaming chips, are not allowed.

11.7(4) Twenty-one.

a. Before the first card is dealt for each round of play, each player shall make a wager against the dealer. Once the first card of any hand has been dealt by the dealer, no player shall handle, remove, or alter any wagers that have been made until a decision has been rendered and implemented with respect to that wager. Once a wager on the insurance line, a wager to double down, or a wager to split pairs has been made and confirmed by the dealer, no player shall handle, remove, or alter the wagers until a decision has been rendered and implemented with respect to that wager, except as explicitly permitted. A facility or licensee shall not permit any player to engage in conduct that violates this paragraph.

b. At the conclusion of a round of play, all cards still remaining on the layout shall be picked up by the dealer in a prescribed order and in such a way that they can be readily arranged to indicate each player's hand in case of question or dispute. The dealer shall pick up the cards beginning with those of the player to the far right and moving counterclockwise around the table. The dealer's hand will be the last hand collected. The cards will then be placed on top of the discard pile. No player or spectator shall handle, remove, or alter any cards used to game at twenty-one or be permitted to do so by a casino employee.

c. Each player at the table shall be responsible for correctly computing the point count of the player's hand. No player shall rely on the point counts announced by the dealer without checking the accuracy of such announcement.

11.7(5) Roulette.

a. No person at a roulette table shall be issued or permitted to game with nonvalue gaming chips that are identical in color and design to value gaming chips or to nonvalue gaming chips being used by another person at that same table.

b. Each player shall be responsible for the correct positioning of the player's wager on the roulette layout, regardless of whether the player is assisted by the dealer. Each player must ensure that any instructions the player gives to the dealer regarding the placement of the player's wager are correctly carried out.

c. Each wager shall be settled strictly in accordance with its position on the layout when the ball falls to rest in a compartment of the wheel.

11.7(6) Big six—roulette.

a. Each player shall be responsible for the correct positioning of the player's wager on the layout regardless of whether the player is assisted by the dealer.

b. Each wager shall be settled strictly in accordance with its position on the layout when the wheel stops with the winning indicator in a compartment of the wheel.

11.7(7) Poker.

a. When a facility conducts poker with an impress dealer gaming chip bank, the rules in 491—Chapter 12 for closing and distributing or removing gaming chips to or from gaming tables do not apply. The entire amount of the table rake is subject to the wagering tax pursuant to Iowa Code section 99F.11. Proposals for impress dealer gaming chip banks must be submitted in writing and approved by a commission representative prior to use.

b. All games shall be played according to table stakes game rules as follows:

(1) Only gaming chips or coins on the table at the start of a deal shall be in play for that pot.

(2) Concealed gaming chips or coins shall not play.

(3) A player with gaming chips may add additional gaming chips between deals, provided that the player complies with any minimum buy-in requirement.

(4) A player is never obliged to drop out of contention because of insufficient gaming chips to call the full amount of a bet, but may call for the amount of gaming chips the player has on the table. The excess part of the bet made by other players is either returned to the players or used to form a side pot.

c. Each player in a poker game is required to act only in the player's own best interest. The facility has the responsibility of ensuring that any behavior designed to assist one player over another is prohibited. The facility may prohibit any two players from playing in the same game.

d. Poker games where winning wagers are paid by the facility according to specific payout odds or pay tables are permitted.

11.7(8) Red dog. Before the first card is dealt for each round of play, each player shall make a wager against the dealer. Once the first card of any hand has been dealt by the dealer, no player shall handle, remove, or alter any wagers that have been made until a decision has been rendered and implemented with respect to that wager. Once a wager to double down has been made and confirmed by the dealer, no player shall handle, remove, or alter the wagers until a decision has been rendered and implemented with respect to that wager, except as explicitly permitted.

491—11.8(99F) Keno.

11.8(1) Keno shall be conducted using an automated ticket writing and redemption system where a game's winning numbers are selected by a random number generator.

11.8(2) Each game shall consist of the selection of 20 numbers out of 80 possible numbers, 1 through 80.

11.8(3) For any type of wager offered, the payout must be at least 80 percent.

11.8(4) Multigame tickets shall be limited to 20 games.

11.8(5) Writing or voiding tickets for a game after that game has closed is prohibited.

11.8(6) All winning tickets shall be valid up to a maximum of one year from the date of purchase. The dollar value of all expired and unclaimed winning tickets shall be added to existing keno jackpots in a manner approved by the administrator.

11.8(7) The administrator shall determine minimum hardware and software requirements to ensure the integrity of play. An automated keno system must be proven to accurately account for adjusted gross receipts to the satisfaction of the administrator.

11.8(8) Adjusted gross receipts from keno games shall be the difference between dollar value of tickets written and dollar value of winning tickets as determined from the automated keno system. The wagering tax pursuant to Iowa Code section 99F.11 shall apply to adjusted gross receipts of keno games.

491—11.9(99F) Slot machine requirements.

11.9(1) Movement. Reports must be filed with the commission on the movement of slot machines into and out of the state. Reports must be received in the commission office no later than 15 calendar days after the movement.

11.9(2) Payout percentage. A slot machine game must meet the following maximum and minimum theoretical percentage payouts during the expected lifetime of the game.

a. A slot machine game's theoretical payout must be at least 80 percent and no more than 100 percent of the amount wagered. The theoretical payout percentage is determined using standard methods of probability theory.

b. A slot machine game must have a probability of obtaining the maximum payout greater than 1 in 17,000,000.

11.9(3) Unless otherwise authorized by the administrator, each slot machine in a casino shall have the following identifying features:

a. A manufacturer's serial number that is firmly attached and visible.

b. A casino number at least two inches in height permanently imprinted, affixed, or impressed on the outside of the machine so that the number may be observed by the surveillance camera.

c. A display located conspicuously on the slot machine that automatically illuminates when a player has won a jackpot not paid automatically and totally by the slot machine and which advises the player to see an attendant to receive full payment.

d. A display on the front of the slot machine that clearly represents its rules of play, character combinations requiring payouts, and the amount of the related payouts. In addition, a facility shall display on the slot machine a clear description of any merchandise or thing of value offered as a payout including the cash equivalent value of the merchandise or thing of value offered, the dates the merchandise or thing of value will be offered if the facility establishes a time limit upon initially offering the merchandise or thing of value, and the availability or unavailability to the patron of the optional cash equivalent value.

e. A mechanical, electrical, or electronic device that automatically precludes a player from operating the slot machine after winning a jackpot requiring a manual payout. The device must require an attendant to reactivate the machine.

f. A light on the pedestal above the slot machine that automatically illuminates when the door to the slot machine or any device connected which may affect the operation of the slot machine is opened.

g. Test connections as may be specified and approved by the administrator for the on-site inspection, examination, and testing of the machine.

h. Devices, equipment, features, and capabilities, as may be required by the commission, that are specific to that slot machine after the prototype model is approved by the commission.

11.9(4) Storage media. Hardware media devices which contain game functions or characteristics, including but not limited to pay tables and random number generators, shall be verified and sealed with evidence tape by a commission representative prior to being placed in operation, as determined by the administrator.

11.9(5) Posting. A weighted average of the theoretical payout percentage, as defined in subrule 11.9(2), for all slot machine games shall be posted at the main casino entrance, cashier cages, and slot booths.

491—11.10(99F) Slot machine hardware and software requirements.

11.10(1) *Hardware specifications.*

a. Electrical and mechanical parts and design principles shall not subject a player to physical hazards.

b. A surge protector must be installed on the line that feeds power to a slot machine. The battery backup, or an equivalent, for the electronic meters must be capable of maintaining accuracy of all information required for 180 days after power is discontinued from a slot machine. The backup shall be kept within the locked logic board compartment.

c. An on/off switch that controls the electrical current used in the operation of a slot machine and any associated equipment must be located in an accessible place within the interior of the slot machine.

d. The operation of each slot machine must not be adversely affected by static discharge or other electromagnetic interference.

e. A minimum of one electronic coin acceptor must be installed in each slot machine with the exception of coinless or coin-free games. Coinless or coin-free games are defined as slot machines that do not have a hopper mechanism and do not utilize coin in the operation of the game. Approval letters and test reports of electronic coin acceptors from other state or federal jurisdictions may be submitted. However, all coin acceptors are subject to approval by the administrator.

f. The internal space of a slot machine shall not be readily accessible when the front door is both closed and locked.

g. Logic boards and software EPROMs must be in a locked compartment within the slot machine.

h. The drop container must be in a locked compartment within or attached to the slot machine.

i. No hardware switches may be installed that alter the pay tables or payout percentages in the operation of a slot machine. Hardware switches may be installed to control graphic routines, speed of play, and sound.

j. An unremovable identification plate must appear on the exterior of the slot machine that contains the following information:

(1) Manufacturer.

(2) Serial number.

(3) Model number.

k. The rules of play for each slot machine must be displayed on the face or screen. Rules may be rejected if they are incomplete, confusing, or misleading. Each slot machine must also display the credits wagered and the credits awarded for the occurrence of each possible winning combination based on the number of credits wagered. All information required by this subrule shall be kept under glass or another transparent surface and at no time may stickers or other removable items be placed on the slot machine face that make the required information unreadable.

l. Equipment must be installed that enables the machine to communicate with a central computer system accessible to commission representatives using a communications protocol provided to each licensed manufacturer by the commission for the information and control programs approved by the administrator.

11.10(2) *Software requirements—random number generator.* Each slot machine must have a random number generator that will determine the occurrence of a specific card, number, or stop. A selection process will be considered random if it meets the following requirements:

a. Each card, number, or stop satisfies the 99 percent confidence limit using the standard chi-squared analysis. "Chi-squared analysis" is the sum of the squares of the difference between the expected result and the observed result.

b. Each card, number, or stop does not produce a significant statistic with regard to producing patterns of occurrences. Each card, number, or stop will be considered random if it meets the 99 percent confidence level with regard to the runs test or any similar pattern-testing statistic. The "runs test" is a mathematical statistic that determines the existence of recurring patterns within a set of data.

c. Each card, number, or stop position is independently chosen without regard to any other card, number, or stop within that game play. This test is the "correlation test." Each pair of card, number, or stop positions is considered random if it meets the 99 percent confidence level using standard correlation analysis.

d. Each card, number, or stop position is independently chosen without reference to the same card, number, or stop position in the previous game. This test is the "serial correlation test." Each card, number, or stop position is considered random if it meets the 99 percent confidence level using standard serial correlation analysis.

11.10(3) *Continuation of game after malfunction is cleared.* Each slot machine must be capable of continuing the current game with all current game features after a malfunction is cleared. This rule does not apply if a slot machine is rendered totally inoperable; however, the current wager and all credits appearing on the screen prior to the malfunction must be returned to the player.

11.10(4) *Software requirements—play transaction records.* Each slot machine must maintain electronic accounting meters at all times, regardless of whether the slot machine is being supplied with power. Each meter must be capable of maintaining totals no fewer than six digits in length for the information required in *"a"* to *"d"* below. The electronic meters must record the following:

a. Total number of coins inserted.
b. Total number of coins paid out.
c. Total number of coins dropped to drop container.
d. Total number of credits wagered.
e. Total number of credits won.
f. Total number of credits paid out.
g. Number of times the logic area was accessed.
h. Number of times the cash door of the device was accessed.
i. Number of coins or credits wagered in the current game.
j. Total credits for games won but not collected, commonly referred to as the credit meter.

The meters required in *"a," "b,"* and *"c"* above shall be placed in a position so that the number thereon can be read without opening the slot machine.

No slot machine may have a mechanism by which an error will cause the electronic accounting meters to automatically clear. Clearing of the electronic accounting meters may be completed only after notification and approval by a commission representative. All meter readings must be recorded both before and after the electronic accounting meter is cleared.

11.10(5) *Software requirements—error conditions—automatic clearing.* Slot machines must be capable of detecting and displaying the following conditions, which must be automatically cleared by the slot machine upon initiation of a new play sequence at the start of the second game.

a. Power reset.
b. Door open.

491—11.11(99F) Slot machine specifications.

11.11(1) *Error conditions.*

a. Slot machines must be capable of detecting and displaying the following error conditions which are manually cleared:

(1) Coin-in jam.

(2) Coin-out jam.

(3) Hopper empty or timed out.

(4) RAM error.

(5) Hopper runaway or extra coins paid out.

(6) Low RAM battery, for batteries external to the RAM itself. A battery approved by a commission representative that is replaced pursuant to its manufacturer's specifications or as specified in the prototype approval report, whichever is sooner, may be installed in lieu of the low RAM battery error condition.

b. A description of slot machine error codes and each code's meaning must be affixed inside the slot machine.

11.11(2) *Hopper mechanism.* Slot machines equipped with a hopper must be designed to detect jammed coins, extra coins paid out, hopper runaways, and hopper empty conditions. The slot machine control program must monitor the hopper mechanism for these error conditions in all game states. All coins paid from the hopper mechanism must be accounted for by the slot machine, including those paid as extra coins during a hopper malfunction.

491—11.12(99F) Progressive slot machines.

11.12(1) *Meter required.* A progressive machine is a slot machine game with a jackpot payout that increases as the slot machine is played. A progressive slot machine or group of linked progressive slot machines must have a meter showing the progressive jackpot payout.

11.12(2) *Progressive controllers.* The reset or base value and the rate of increment of a progressive game must be approved by a commission representative prior to implementation. A reset or base value must equal or exceed the equivalent nonprogressive jackpot payout.

11.12(3) *Limits.* A facility may impose a limit on the progressive jackpot payout of a slot machine if the limit imposed is greater than the progressive jackpot payout at the time the limit is imposed. The facility must prominently display a notice informing the public of the limit. No progressive meter may be turned back to a lesser amount unless one of the following circumstances occurs:

a. The amount shown on the progressive meter is paid to a player as a jackpot.

b. It is necessary to adjust the progressive meter to prevent it from displaying an amount greater than the limit imposed by the facility.

c. It is necessary to change the progressive indicator because of game malfunction.

11.12(4) *Transfer of jackpots.* A progressive jackpot may be transferred to another progressive slot machine at the same facility in the event of malfunction, replacement, or for other good reason. A commission representative shall be notified in writing prior to a transfer.

11.12(5) *Records required.* Records must be maintained that record the amount shown on a progressive jackpot meter. Supporting documents must be maintained to explain any reduction in the payoff amount from a previous entry. The records and documents must be retained for a period of three years unless permission to destroy them earlier is given in writing by the administrator.

11.12(6) *Transfer of progressive slot machines.* A progressive slot machine, upon permission of the administrator, may be moved to a different facility if a bankruptcy, loss of license, or other good cause warrants.

11.12(7) *Linked machines.* Each machine on the link must have the same probability of hitting the combination that will award the progressive jackpot.

11.12(8) *Wide area progressive systems.* A wide area progressive system is a method of linking progressive slot machines or electronic gaming machines across telecommunication lines as part of a network connecting participating facilities. The purpose of a wide area progressive system is to offer a common progressive jackpot (system jackpot) at all participating locations. The operation of a wide area progressive system (multilink) is permitted subject to the following conditions:

a. The method of communication over the multilink must consist of dedicated on-line communication lines (direct connect), dial-tone lines, or wireless communication which may be subject to certain restrictions imposed by the administrator.

b. All communication between each facility location and the central system site must be encrypted.

c. All meter reading data must be obtained in real time in an on-line automated fashion. When requested to do so, the system must return meter readings on all slot machines or electronic gaming machines attached to the multilink within a reasonable time of the meter acquisition request. Manual reading of meter values may not be substituted for these requirements. There is no restriction as to the acceptable method of obtaining meter reading values, provided that the methods consist of either pulses from any machine computer board or associated wiring, or the use of serial interface to the machine's random access memory (RAM) or other nonvolatile memory.

d. The multilink must have the ability to monitor entry into the front door of the machine as well as the logic area of the machine and report such data to a central system.

e. The central system site must be located in the state of Iowa, be equipped with a noninterruptible power supply, and the central computer must be capable of on-line data redundancy should hard disk peripherals fail during operation. The office containing the central computer shall be equipped with a surveillance system that has been approved by the administrator. Any person authorized to provide a multilink shall be required to keep and maintain an entry and exit log for the office containing the central computer. Any person authorized to provide a multilink shall provide access to the office containing the central computer to the administrator and shall make available to the administrator all books, records, and information required by the administrator in fulfilling its regulatory purpose.

f. Any person authorized to provide a multilink must suspend play on the multilink if a communication failure of the system cannot be corrected within 24 consecutive hours.

g. Approval by a commission representative of any multilink shall occur only after the administrator has reviewed the multilink software and hardware and is satisfied that the operation of the system meets accepted industry standards for multilink products, as well as any other requirements that the administrator may impose to ensure the integrity, security, and legal operation of the multilink.

h. A meter that shows the amount of the system jackpot must be conspicuously displayed at or near the machines to which the jackpot applies. The system jackpot meter need not precisely show the actual moneys in the system jackpot award at each instant. Nothing shall prohibit the use of odometer or other paced updating progressive displays. In the case of the use of paced updating displays, the system jackpot meter must display the winning value after the jackpot broadcast is received from the central system, providing the remote site is communicating to the central computer. If a system jackpot is recognized in the middle of a systemwide poll cycle, the system jackpot display may contain a value less than the aggregated amount calculated by the central system. The coin values from the remaining portion of the poll cycle will be received by the central system but not the local site, in which case the system jackpot amount paid will always be the higher of the two reporting amounts.

i. When a system jackpot is won, a person authorized to provide the multilink and the trustee(s) provided for in paragraph *"n,"* subparagraph (1), shall have the opportunity to inspect the machine, EPROM, the error events received by the central system, and any other data which could reasonably be used to ascertain the validity of the jackpot.

(1) The central system shall produce reports that will clearly demonstrate the method of arriving at the payoff amount. This shall include the coins contributed beginning with the polling cycle immediately following the previous jackpot and will include all coins contributed up to, and including, the polling cycle, which includes the jackpot signal. Coins contributed to and registered by the system before the jackpot message is received will be deemed to have been contributed to the progressive amount prior to the current jackpot. Coins contributed to the system subsequent to the jackpot message's being received as well as coins contributed to the system before the jackpot message is received by the system, but registered after the jackpot message is received at the system, will be deemed to have been contributed to the progressive amount of the next jackpot.

(2) The system jackpot may be disbursed in periodic payments as long as each machine clearly displays the fact that the jackpot will be paid in such periodic payments. In addition, the number of periodic payments and time between payments must be clearly displayed on the face of the slot machine in a nonmisleading manner.

(3) Two system jackpots which occur in the same polling cycle before the progressive amount can reset will be deemed to have occurred simultaneously; therefore, each winner shall receive the full amount shown on the system jackpot meter.

j. Any person authorized to provide a multilink must supply to the commission and the trustee(s), as requested, reports which support and verify the economic activity of the system.

(1) Any person authorized to provide a multilink must supply to the commission and the trustee(s), as requested, reports and information indicating the amount of, and basis for, the current system jackpot amount. Such reports may include an aggregate report and a detail report. The aggregate report may show only the balancing of the system with regard to systemwide totals. The detail report shall be in such form as to indicate for each machine, summarized by location, the coin-in totals as such terms are commonly understood in the industry.

(2) In addition, upon the invoicing of any facility participating in a multilink, each such facility must be given a printout of each machine operated by that facility, the coins contributed by each machine to the system jackpot for the period for which an invoice is remitted, and any other information required by the commission to confirm the validity of the facility's contributions to the system jackpot.

k. In calculating adjusted gross receipts, a facility may deduct its pro-rata share of the present value of any system jackpots awarded. Such deduction shall be listed on the detailed accounting records provided by the person authorized to provide the multilink. A facility's pro-rata share is based on the number of coins in from that facility's machines on the multilink, compared to the total amount of coins in on the whole system for the time period(s) between jackpot(s) awarded.

l. In the event a facility ceases operations and a progressive jackpot is awarded subsequent to the last day of the final month of operation, the facility may not file an amended wagering tax submission or make a claim for a wagering tax refund based on its contributions to that particular progressive prize pool.

m. A facility, or an entity that is licensed as a manufacturer or distributor, shall provide the multilink, in accordance with a written agreement which shall be reviewed and approved by the commission prior to offering the jackpots. A trust maintained by the participating facilities shall be established to control the system jackpot fund (trust fund) provided for in paragraph *"n,"* subparagraph (3).

n. The payment of any system jackpot offered on a multilink shall be administered by the trustee(s) in accordance with a written trust agreement which shall be reviewed and approved by the commission prior to the offering of the jackpot. The trustee(s) may contract with a licensed manufacturer or distributor to administer the trust fund. The trust agreement shall require the following:

(1) Any facility participating in offering the system jackpot shall serve as trustee for the trust fund.

(2) Any facility shall be jointly and severally liable for the payment of system jackpots won on a multilink in which the licensee is or was a participant at the time the jackpot was won.

(3) The moneys in the trust fund shall consist of the sum of funds invoiced to the facilities and received by the trust from the facilities with respect to each particular system, which invoices shall be based on a designated percentage of the handle generated by all machines linked to the particular system; any income earned by the trust; and sums borrowed by the trust and any other property received by the trust. Prior to the payment of any other expenses, the trust funds shall be used to purchase Iowa state-issued debt instruments or United States Treasury debt instruments in sufficient amounts to ensure that the trust will have adequate moneys available in each year to make all system jackpot payments which are required under the terms of the multilink.

(4) A reserve shall be established and maintained within the trust fund sufficient to purchase any United States Treasury or Iowa state debt instruments required as system jackpots are won (systems reserves). For purposes of this rule, the system reserves shall mean an amount equal to the sum of the present value of the aggregate remaining balances owed on all jackpots previously won by patrons on the multilink; the present value of the amount currently reflected on the system jackpot meters of the multilink; and the present value of one additional reset (start amount) on such systems.

(5) The trust shall continue to be maintained until all payments owed to winners of the system jackpots have been made.

(6) For system jackpots disbursed in periodic payments, any United States Treasury or Iowa state debt instruments shall be purchased within 90 days following notice of the win of the system jackpot, and a copy of such debt instruments will be provided to the commission office within 30 days of purchase. Any United States Treasury or Iowa state debt instrument shall have a surrender value at maturity, excluding any interest paid before the maturity date, equal to or greater than the value of the corresponding periodic jackpot payment, and shall have a maturity date prior to the date the periodic jackpot payment is required to be made.

(7) The trustee(s) shall not be permitted to sell, trade, or otherwise dispose of any United States Treasury or Iowa state debt instruments prior to maturity unless approval to do so is first obtained from the commission.

(8) Upon becoming aware of an event of noncompliance with the terms of the approved trust agreement or reserve requirement mandated by subparagraph (4) above, the trustee(s) must immediately notify the commission of such event. An event of noncompliance includes a nonpayment of a jackpot periodic payment or a circumstance which may cause the trustee(s) to be unable to fulfill, or otherwise impair, its ability to satisfy its jackpot payment obligations.

(9) With the exception of the transfer to the estate or heir(s) of a deceased system jackpot winner, or to the estate or heir(s) of such transferee upon death, or the granting of a first priority lien to the trust to secure repayment of a tax loan to the winner should a tax liability on the full amount of the jackpot be assessed by the Internal Revenue Service against the winner, no interest in income or principal shall be alienated, encumbered, or otherwise transferred or disposed of in any way by any person while in the possession and control of the trust.

(10) On a quarterly basis, the trustee(s) must deliver to the commission office a calculation of system reserves required under subparagraph (4) above.

(11) The trust must be audited, in accordance with generally accepted auditing standards, on the fiscal year of the trust by an independent certified public accountant. Two copies of the report must be submitted to the commission office within 90 days after the conclusion of the trust's fiscal year.

o. For system jackpots disbursed in periodic payments, subsequent to the date of the win, a winner may be offered the option to receive, in lieu of periodic payments, a discounted single cash payment in the form of a "qualified prize option," as that term is defined in Section 451(h) of the Internal Revenue Code. The trust administrator shall calculate the single cash payment based on the discount rate. "Discount rate" means either the current prime rate as published in the Wall Street Journal or a blended rate computed by obtaining quotes for the purchase of U.S. Government Treasury Securities at least three times per month. The discount rate selected by the trust administrator shall be used to calculate the single cash payment for all qualified prizes that occur subsequent to the date of the selected discount rate, until a new discount rate becomes effective.

491—11.13(99F) Licensing of manufacturers and distributors of gambling games or implements of gambling.

11.13(1) *Impact on gambling.* In considering whether a manufacturer or distributor applicant will be licensed or a specific product will be distributed, the administrator shall give due consideration to the economic impact of the applicant's product, the willingness of a licensed facility to offer the product to the public, and whether its revenue potential warrants the investigative time and effort required to maintain effective control over the product.

11.13(2) *Licensing standards.* Standards which shall be considered when determining the qualifications of an applicant shall include, but are not limited to, financial stability; business ability and experience; good character and reputation of the applicant as well as all directors, officers, partners, and employees; integrity of financial backers; and any effect on the Iowa economy.

11.13(3) *Application procedure.* Application for a manufacturer's or a distributor's license shall be made to the commission for approval by the administrator. In addition to the application, the following must be completed and presented when the application is filed:

a. Disclosure of ownership interest, directors, or officers of licensees.

(1) An applicant or licensee shall notify the administrator of the identity of each director, corporate officer, owner, partner, joint venture participant, trustee, or any other person who has any beneficial interest of 5 percent or more, direct or indirect, in the business entity. For any of the above, as required by the administrator, the applicant or licensee shall submit background information on forms supplied by the division of criminal investigation and any other information the administrator may require.

For purposes of this rule, beneficial interest includes all direct and indirect forms of ownership or control, voting power, or investment power held through any contract, lien, lease, partnership, stockholding, syndication, joint venture, understanding, relationship (including family relationship), present or reversionary right, title or interest, or otherwise.

(2) For ownership interests of less than 5 percent, the administrator may request a list of these interests. The list shall include names, percentages owned, addresses, social security numbers, and dates of birth. The administrator may request the same information required of those individuals in subparagraph (1) above.

b. Investigative fees.

(1) Advance payment. The department of public safety may request payment of the investigative fee in advance as a condition to beginning investigation.

(2) Payment required. The administrator may withhold final action with respect to any application until all investigative fees have been paid in full.

c. A bank or cashier's check made payable to the Iowa Racing and Gaming Commission for the annual license fee as follows:

(1) A manufacturer's license shall be $250.

(2) A distributor's license shall be $1,000.

d. A copy of each of the following:

(1) Articles of incorporation and certificate of incorporation, if the applicant is a corporation.

(2) Partnership agreement, if the business entity is a partnership.

(3) Trust agreement, if the business entity is a trust.

(4) Joint venture agreement, if the business entity is a joint venture.

(5) List of employees of the aforementioned who may have contact with persons within the state of Iowa.

e. A copy of each of the following types of proposed distribution agreements, where applicable:

(1) Purchase agreement(s).

(2) Lease agreement(s).

(3) Bill(s) of sale.

(4) Participation agreement(s).

f. Supplementary information. Each applicant shall promptly furnish the administrator with all additional information pertaining to the application or the applicant which the administrator may require. Failure to supply the information requested within five days after the request has been received by the applicant shall constitute grounds for delaying consideration of the application.

g. Any and all changes in the applicant's legal structure, directors, officers, or the respective ownership interests must be promptly filed with the administrator.

h. The administrator may deny, suspend, or revoke the license of an applicant or licensee in which a director, corporate officer, or holder of a beneficial interest includes or involves any person or entity which would be, or is, ineligible in any respect, such as through want of character, moral fitness, financial responsibility, professional qualifications, or due to failure to meet other criteria employed by the administrator, to participate in gaming regardless of the percentage of ownership interest involved. The administrator may order the ineligible person or entity to terminate all relationships with the licensee or applicant, including divestiture of any ownership interest or beneficial interest at acquisition cost.

i. Disclosure. Disclosure of the full nature and extent of all beneficial interests may be requested by the administrator and shall include the names of individuals and entities, the nature of their relationships, and the exact nature of their beneficial interest.

j. Public disclosure. Disclosure is made for the benefit of the public, and all documents pertaining to the ownership filed with the administrator shall be available for public inspection.

11.13(4) *Temporary license certificates.*

a. A temporary license certificate may be issued at the discretion of the administrator.

b. Temporary licenses—period valid. Any certificate issued at the discretion of the administrator shall be valid for a maximum of 120 calendar days from the date of issue.

Failure to obtain a permanent license within the designated time may result in revocation of the license eligibility, fine, or suspension.

11.13(5) *Withdrawal of application.* A written notice of withdrawal of application may be filed by an applicant at any time prior to final action. No application shall be permitted to be withdrawn unless the administrator determines the withdrawal to be in the public interest. No fee or other payment relating to any application shall become refundable by reason of withdrawal of the application.

11.13(6) *Record keeping.*

a. Record storage required. Distributors and manufacturers shall maintain adequate records of business operations, which shall be made available to the administrator upon request. These records shall include:

(1) All correspondence with the administrator and other governmental agencies on the local, state, and federal level.

(2) All correspondence between the licensee and any of its customers who are applicants or licensees under Iowa Code chapter 99F.

(3) A personnel file on each employee of the licensee, including sales representatives.

(4) Financial records of all transactions with facilities and all other licensees under these regulations.

b. Record retention. The records listed in 11.13(6)"*a*" shall be retained as required by 491—subrule 5.4(14).

11.13(7) *Violation of laws or regulations.* Violation of any provision of any laws of the state or of the United States of America or of any rules of the commission may constitute an unsuitable method of operation, subjecting the licensee to limiting, conditioning, restricting, revoking or suspending the license, or fining the licensee, or any combination of the above.

11.13(8) *Consent to inspections, searches, and seizures.* Each manufacturer or distributor licensed under this chapter shall consent to inspections, searches, and seizures deemed necessary by the administrator and authorized by law in order to enforce licensing requirements.

These rules are intended to implement Iowa Code chapter 99F.

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CHAPTER 12
ACCOUNTING AND CASH CONTROL

491—12.1(99F) Definitions.

"Casino" means all areas of a facility where gaming is conducted.

"Coin" means tokens, nickels, and quarters of legal tender.

"Commission" means the racing and gaming commission.

"Container" means:

1. A box attached to a gaming table in which shall be deposited all currency in exchange for gaming chips, fill and credit slips, requests for fill forms, and table inventory forms.

2. A canister in a slot machine cabinet to which coins played are diverted when the hopper is filled or in which currency is retained by slot machines and not used to make change or automatic jackpot payouts.

"Count room" means an area in the facility where contents of containers are counted and recorded.

"Currency" means paper money of legal tender or paper form of cashless wagering.

"Drop" means removing the containers from the casino to the count room.

"Facility" means an entity licensed by the commission to conduct gaming operations in Iowa.

"Hopper" means a payout reserve container in which coins are retained by a slot machine to automatically pay jackpots.

"Internal controls" means the facility's system of internal controls.

"Moneys" means coin and currency.

"Request" means a request for credit slip, request for fill slip, or request for jackpot payout slip.

"Slip" means a credit slip, fill slip, or jackpot payout slip.

"Slot machine" means a mechanical or electronic gambling game device into which a player may deposit coins, currency, or other form of cashless wagering and from which certain numbers of credits are paid out when a particular configuration of symbols or events is displayed on the machine.

491—12.2(99F) Accounting records.

12.2(1) Each facility shall maintain complete and accurate records of all transactions pertaining to revenues and costs.

12.2(2) General accounting records shall be maintained on a double entry system of accounting with transactions recorded on an accrual basis.

12.2(3) Detailed, supporting, and subsidiary records shall be maintained. The records shall include, but are not limited to:

a. Statistical game records by gaming day to reflect drop and win amounts by table for each game.

b. Records of all investments, advances, loans, and receivable balances due the facility.

c. Records related to investments in property and equipment.

d. Records which identify the handle, payout, win amounts and percentages, theoretical win amounts and percentages, and differences between theoretical and actual win amounts and percentages for each slot machine on a week-to-date, month-to-date, and year-to-date basis.

e. Records of all loans and other amounts payable by the facility.

f. Records that identify the purchase, receipt, and destruction of gaming chips and tokens.

12.2(4) Whenever duplicate or triplicate copies of a form, record, or document are required by these rules, the original, duplicate, and triplicate copies shall be color-coded and have the destination of the original copy identified on the duplicate and triplicate copies.

12.2(5) Whenever forms or serial numbers are required to be accounted for or copies of forms are required to be compared for agreement and exceptions are noted, such exceptions shall be reported immediately and in writing to the commission.

491—12.3(99F) Facility internal controls.

12.3(1) Each facility shall submit a description of internal controls to the commission. The submission shall be made at least 90 days before gaming operations are to commence unless otherwise directed by the administrator. The submission shall include and provide for the following:

a. Administrative control that includes, but is not limited to, the plan of organization and the procedures and records that are concerned with the decision processes leading to management's levels of authorization of transactions.

b. Accounting control that includes the plan of organization and the procedures and records that are concerned with the safeguarding of assets and the reliability of financial records. The accounting control shall be designed to provide reasonable assurance that:

(1) Transactions are executed in accordance with management's general and specific authorization, which shall include the requirements of this chapter.

(2) Transactions are recorded as necessary to permit preparation of financial statements in conformity with generally accepted accounting principles and to maintain accountability for assets.

(3) Access to assets is permitted only in accordance with management authorization, which shall include requirements of this chapter.

(4) The recorded accountability for assets is compared with existing assets at reasonable intervals and appropriate action is taken with respect to any differences.

c. A listing of competent personnel with integrity and an understanding of prescribed internal controls.

d. A listing of the segregation of incompatible functions so that no employee is in a position to perpetrate and conceal errors or irregularities in the normal course of the employee's duties.

12.3(2) A commission representative shall review each submission required by subrule 12.3(1) and determine whether it conforms to the requirements of Iowa Code chapter 99F and to the intent of this chapter and whether the internal controls submitted provide adequate and effective control for the operations of the facility. If the commission representative finds any insufficiencies, the insufficiencies shall be specified in writing to the facility, which shall make appropriate alterations. No facility shall commence gaming operations unless and until the internal controls are approved.

12.3(3) Each facility shall submit to the commission any changes to the internal controls previously approved at least 15 days before the changes are to become effective unless otherwise directed by a commission representative. The proposed changes shall be submitted to the commission and the changes may be approved or disapproved by the commission representative. No facility shall alter its internal controls until the changes are approved.

12.3(4) It shall be the affirmative responsibility and continuing duty of each occupational licensee to follow and comply with all internal controls.

491—12.4(99F) Accounting controls within the cashier's cage.

12.4(1) The assets for which the cashiers are responsible shall be maintained on an impress basis. At the end of each shift, the cashiers assigned to the outgoing shift shall record on a cashier's count sheet the face value of each cage inventory item counted and the total of the opening and closing cage inventories and shall reconcile the total closing inventory with the total opening inventory.

12.4(2) At the conclusion of gaming activity each gaming day, a copy of the cashiers' count sheets and related documentation shall be forwarded to the accounting department for agreement of opening and closing inventories, agreement of amounts thereon to other forms, records, and documents required by this chapter, and the recording of all transactions.

12.4(3) Each facility shall place on file with the commission the names of all persons authorized to enter the cashier's cage, persons who possess the combination or keys to the locks securing the entrance to the cage, and persons who possess the ability to operate alarm systems.

491—12.5(99F) Gaming table container. Each gaming table in a casino shall have attached to it a container.

12.5(1) Each container shall have:

a. A lock securing the contents of the container, the key to which shall be checked out by the drop team.

b. A separate lock securing the container to the gaming table, the key to which shall be different from each of the keys to locks securing the contents of the container.

c. A slot opening through which currency, forms, records, and documents can be inserted.

d. A mechanical device that will close and lock the slot opening upon removal of the container from the gaming table.

12.5(2) Keys referred to in this rule shall be maintained and controlled by the security department in a secured area. The facility shall establish a sign-out procedure for all keys removed from the secured area.

491—12.6(99F) Accepting currency at gaming tables. Whenever currency is presented by a patron at a gaming table in exchange for gaming chips, the following procedures and requirements shall be observed:

12.6(1) The dealer or boxperson accepting the currency shall spread the currency on the top of the gaming table.

12.6(2) The dealer or boxperson shall verbalize the currency value in a tone of voice necessary to be heard by the patron and the casino supervisor assigned to the gaming table.

12.6(3) The dealer or boxperson shall take the currency from the top of the gaming table and place it into the container immediately after verbalizing the amount.

491—12.7(99F) Forms for the movement of gaming chips to and from gaming tables.

12.7(1) A request shall be prepared by a casino supervisor or a casino clerk to authorize the preparation of a slip for the movement of gaming chips. The request shall be a two-part form and access to the form shall, prior to use, be restricted to casino supervisors and casino clerks.

12.7(2) On the original and duplicate requests, the following information shall be recorded:

a. The date and time of preparation.

b. The total amount of each denomination.

c. The total amount of all denominations.

d. The game and table number.

e. The signature of the casino supervisor. Additionally, for credit requests, the signature of the dealer or boxperson assigned to the gaming table.

12.7(3) Slips shall be serially prenumbered forms; each series of slips shall be used in sequential order and the series numbers of all slips received by a casino shall be accounted for by employees who shall have segregation of incompatible functions. Whenever it becomes necessary to void a slip, the original and duplicate slips must clearly be marked "void" and shall require the signature of the preparer.

12.7(4) For facilities in which slips are manually prepared, the following procedures and requirements shall be observed:

a. Each series of slips shall be a three-part form and shall be inserted in a locked dispenser that will permit an individual slip in the series and its copies to be written upon simultaneously while still locked in the dispenser and will discharge the original and duplicate slips while the triplicate remains in a continuous unbroken form in the dispenser.

b. Access to the triplicates shall be maintained and controlled at all times by employees responsible for controlling and accounting for the unused supply of slips, placing slips in the dispensers, and removing from the dispensers, each gaming day, the triplicates remaining therein. The employees shall have segregation of incompatible functions.

12.7(5) For facilities in which slips are computer-prepared, each series of slips shall be a two-part form and shall be inserted in a printer that will simultaneously print an original and a duplicate and store, in machine-readable form, all information printed on the original and duplicate and discharge in the cashier's cage the original and duplicate. The stored data shall not be susceptible to change or removal by any personnel after preparation of a slip.

12.7(6) On original, duplicate, and triplicate slips or in stored data, the preparer shall record the following information:

a. The date and time of preparation.

b. The total amount of each denomination.

c. The total amount of all denominations.

d. The game and table number.

e. The signature of the preparer or, if computer-prepared, the identification code of the preparer.

12.7(7) The original and duplicate slips shall contain signatures of the following personnel at the following times attesting to the accuracy of the information contained on the slips:

a. The cashier upon preparation.

b. The security employee, or other employee authorized by the internal controls, upon receipt of the gaming chips to be transported to or from the cashier's cage.

c. The dealer or boxperson assigned to the gaming table upon receipt of the gaming chips at the table from a security employee, or other employee authorized by the internal controls.

d. The casino supervisor assigned to the gaming table upon receipt of the gaming chips at the table.

12.7(8) The original and duplicate void slips, void and error reports, requests, and the original slip, maintained and controlled in conformity with subrule 12.8(6) or 12.9(4), shall be forwarded using one of the following alternatives:

a. Forwarded to the count team for agreement with the duplicate slip and duplicate request, and the original and duplicate slip shall be forwarded to the accounting department for agreement, on a daily basis, with the triplicate or stored data.

b. Forwarded to the accounting department for agreement, on a daily basis, with the duplicate slip and duplicate request removed from the container and the triplicate or stored data.

491—12.8(99F) Distribution of gaming chips to gaming tables.

12.8(1) After preparation of a request, the original request shall be transported directly to the cashier's cage.

12.8(2) The dealer or boxperson shall place the duplicate request in public view on the gaming table to which the gaming chips are to be received. The duplicate request shall not be removed until the chips are received.

12.8(3) If slips are computer-prepared, and the input data required for preparation complies with subrule 12.7(2), subrules 12.8(1) and 12.8(2) shall not apply.

12.8(4) A slip shall be prepared by a cashier.

12.8(5) All gaming chips distributed to the gaming tables from the cashier's cage shall be transported to the gaming tables from the cashier's cage by a security employee, or other employee authorized by the internal controls, who shall compare the original request to the slip and sign the original request, maintained at the cashier's cage, before transporting the gaming chips and the original and duplicate slips.

12.8(6) Upon meeting the signature requirements as described in subrule 12.7(7), the employee that transported the gaming chips and the original and duplicate slips to the table shall observe the immediate placement by the dealer or boxperson of the original slip and the duplicate request in the container of the gaming table to which the gaming chips were transported and return or observe the return of the duplicate slip to the cashier's cage where the duplicate slip and original request shall be maintained together and controlled by a cashier.

491—12.9(99F) Removal of gaming chips from gaming tables.

12.9(1) Immediately upon preparation of a request and transfer of gaming chips to a security employee, or other employee authorized by the internal controls, a casino supervisor shall obtain on the duplicate request the signature of the employee to whom the gaming chips were transferred. The dealer or boxperson shall then place the duplicate request in public view on the gaming table from which the gaming chips were removed. The duplicate request shall not be removed until a slip is received from a cashier.

12.9(2) The security employee, or other employee authorized by the internal controls, shall transport the original request and the gaming chips removed from the gaming table directly to the cashier's cage.

12.9(3) Slips shall be prepared by a cashier or, if computer-prepared, by a cashier, casino supervisor, or casino clerk, whenever gaming chips are returned from the gaming tables to the cashier's cage.

12.9(4) Upon meeting the signature requirements as described in subrule 12.7(7), the security employee, or other employee authorized by the internal controls, shall transport the original and duplicate slips to the gaming table. The employee transporting the original and duplicate slips shall observe the immediate placement by the dealer or boxperson of the duplicate slip and duplicate request in the container attached to the gaming table from which the gaming chips were removed. The security employee or the casino clerk shall expeditiously return the original slip to the cashier's cage where the original slip and original request shall be maintained and controlled by employees independent of the casino department.

491—12.10(99F) Dropping or opening a gaming table.

12.10(1) The table inventory slips shall be two-part forms, the original marked "closer" and the duplicate marked "opener," containing the following:

a. The date and time of preparation.

b. The game and table number.

c. The total value of each denomination of gaming chips.

d. The total value of all denominations of gaming chips.

12.10(2) Whenever a gaming table is dropped or upon initial opening after a drop, the gaming chips at the gaming table shall be counted by the dealer or boxperson assigned to the gaming table while observed by a casino supervisor assigned to the gaming table.

12.10(3) Signatures attesting to the accuracy of the information recorded on the table inventory slips at the time of dropping or opening of the gaming tables shall be of the dealer or boxperson and the casino supervisor assigned to the gaming table who observed the dealer or boxperson count the contents of the table inventory.

12.10(4) Upon meeting the signature requirements described in subrule 12.10(3):

a. The closer, at dropping, shall be deposited in the container immediately prior to the closing of the table. The opener and the gaming chips remaining at the table shall be placed in a secured locked area on the table.

b. The opener, at opening, shall be immediately deposited in the container.

12.10(5) Upon opening a gaming table, if the totals on the gaming inventory form vary from the opening count, the casino supervisor shall fill out an error notification slip. The casino supervisor and dealer or boxperson shall sign the error notification slip and deposit the slip in the container.

491—12.11(99F) Slot machines—keys.

12.11(1) Each slot machine located in a casino shall have a hopper and a container. Each container shall be identified at time of removal by a number corresponding to the casino number of the slot machine from which it is removed.

12.11(2) The container of each slot machine shall be housed in a locked compartment separate from any other compartment of the slot machine.

12.11(3) The key to the compartment securing the container shall be maintained and controlled by the security department in a secured area. The facility shall establish a sign-out procedure for all keys removed from the secured area.

12.11(4) Keys to each slot machine or any device connected thereto which may affect the operation of the slot machine with the exception of the keys to the compartment housing the container shall be maintained in a secure place and controlled by the slot department.

491—12.12(99F) Forms for hopper fills and jackpot payout slips.

12.12(1) Slips shall be serially prenumbered forms. Each series of slips shall be used in sequential order, and the series numbers of all slips received by a casino shall be accounted for by employees independent of the cashier's cage and the slot department. Whenever it becomes necessary to void a slip, the original and duplicate slips must clearly be marked "void" and shall require the signature of the preparer. A serially prenumbered combined slip may be utilized as approved by a commission representative provided that the combined slip shall be used in a manner which otherwise complies with this chapter.

12.12(2) For facilities in which slips are manually prepared, the following procedures and requirements shall be observed:

a. Each series of slips shall be a three-part form and shall be inserted in a locked dispenser that will permit an individual slip in the series and its copies to be written upon simultaneously while still locked in the dispenser and will discharge the original and duplicate slips while the triplicate remains in a continuous unbroken form in the dispenser.

b. Access to the triplicates shall be maintained and controlled at all times by employees responsible for controlling and accounting for the unused supply of slips, placing slips in the dispensers, and removing from the dispensers, each gaming day, the triplicates remaining therein. The employees shall have segregation of incompatible functions.

12.12(3) For facilities in which slips are computer-prepared, each series of slips shall be a two-part form and shall be inserted in a printer that will simultaneously print an original and a duplicate and store, in a machine-readable form, all information printed on the original and duplicate and discharge the original and duplicate slips. The stored data shall not be susceptible to change or removal by any personnel after the preparation of a slip.

12.12(4) On original, duplicate, and triplicate slips or in stored data, the preparer shall record the following information:

a. The casino number of the slot machine.

b. The date and time of preparation.

c. For fills, the denomination and amount of coins to be distributed.

d. For jackpots, the amount to be paid and the slot booth or cage location from which the amount is to be paid. For jackpots, the winning combination of symbols and the amount to be paid.

e. The signature or, if computer-prepared, identification code of the preparer.

12.12(5) At the end of each gaming day, the original and duplicate slips shall be forwarded as follows:

a. The original slip shall be forwarded to the accounting department for agreement with the triplicate or stored data.

b. The duplicate slip shall be forwarded directly to the accounting department for recording on the slot win sheet for agreement with the meter readings recorded on the slot meter sheet and agreement with the triplicate or stored data.

491—12.13(99F) Hopper fills.

12.13(1) Whenever a slot supervisor, attendant, or slot technician requests a fill, a cashier shall prepare a slip.

12.13(2) All coins distributed to a slot machine shall be transported directly to the slot machine by a security employee, or other employee authorized by the internal controls, who shall at the same time transport the duplicate slip for signature. The employee shall observe the deposit of the coins in the slot machine and the closing and locking of the slot machine by the slot technician or slot attendant before obtaining the signature of the slot technician or slot attendant on the duplicate slip.

12.13(3) A slot technician or slot attendant who participates in fill transactions shall inspect the slot machine and determine if the empty hopper resulted from a machine malfunction. If the empty hopper is a result of machine malfunction, a slot technician will repair the machine before play of the machine is resumed.

12.13(4) Signatures attesting to the accuracy of the information contained on the fill slip shall be of the following personnel at the following times:

a. The cashier upon preparation—on original and duplicate slips.

b. The security employee, or other employee authorized by the internal controls, upon receipt of the coins to be transported to a slot machine from a cashier—on original and duplicate slips.

c. The slot technician or attendant after depositing the coins in the slot machine and closing and locking the slot machine—on duplicate slip only.

12.13(5) Upon meeting the signature requirements as described in paragraphs 12.13(4)*"a"* to *"c,"* the security employee, or other employee authorized by the internal controls, shall maintain and control the duplicate slip or deposit it in a secured area controlled by the accounting department. A cashier shall maintain and control the original slip.

491—12.14(99F) Jackpot payouts.

12.14(1) Whenever a patron wins a jackpot that is not totally and automatically paid directly from a slot machine, a cashier shall prepare a slip.

12.14(2) All remuneration paid to a patron as a result of winning a jackpot shall be disbursed by a cashier to a slot attendant or slot supervisor or, if the jackpot is $1,200 or more, a security employee, or other employee authorized by the internal controls, who shall transport the winnings directly to the patron.

12.14(3) Signatures attesting to the accuracy of the information contained on the slip shall be of the following personnel at the following times:

a. The original and duplicate slips:

(1) The cashier upon preparation.

(2) A slot attendant or supervisor after observing the symbols of the slot machine or, if the jackpot is $1,200 or more, a supervisor after observing the symbols of the slot machine.

b. The duplicate slip:

(1) The shift manager after observing the symbols of the slot machine if the jackpot is in excess of $10,000.

(2) A security employee, or other employee authorized by the internal controls, after observing the payout.

12.14(4) Upon meeting the signature requirements as described in paragraphs 12.14(3)*"a"* and *"b,"* the security employee, or other employee authorized by the internal controls, shall maintain and control the duplicate slip or deposit it in a secured area controlled by the accounting department. A cashier shall maintain and control the original slip.

12.14(5) Prior to payment of a slot jackpot in excess of $100,000, a commission representative shall conduct an investigation, including a verification check of game-related storage media. The commission representative shall have the authority to issue a written order to withhold or award any jackpot when conditions indicate that action is warranted.

491—12.15(99F) Computer recording requirements and monitoring of slot machines.

12.15(1) A facility shall have a computer connected to each slot machine in the casino to record and monitor the slot machine's activities.

12.15(2) The computer shall be designed and operated to automatically perform the functions relating to slot machine meters in the casino as follows:

a. Record the number and total of moneys placed in the slot machine for the purpose of activating play.

b. Record the number and total of moneys in the container(s).

c. Record the number and total of moneys to be paid manually as the result of a jackpot.

d. Record the electronic meter information required by 491—subrule 11.10(4).

12.15(3) The computer shall monitor and detect machine exception codes and error messages as required by 491—subrule 11.10(5) and 491—11.11(99F).

12.15(4) The computer shall store in machine-readable form all information required by subrules 12.15(2) and 12.15(3) and the stored data shall not be susceptible to change or removal.

491—12.16(99F) Transportation of containers.

12.16(1) Each facility shall place on file with a commission representative a schedule setting forth the specific times at which the containers will be brought to or removed from the gaming tables or slot machines.

12.16(2) A security employee shall accompany and observe the drop team. All containers removed from the gaming tables shall be transported by one security employee and one casino supervisor.

12.16(3) All containers removed from slot machine cabinets shall:

a. Be removed by a drop team who shall wear outer garments as required by subrule 12.18(2).

b. Be replaced immediately with an empty container that shall be secured in the cabinet.

12.16(4) All containers removed shall be transported directly to, and secured in, the count room or in a secured area within the facility until the containers can be transferred to the count room.

12.16(5) Empty containers, not secured to the gaming tables or slot machine cabinets, shall be stored in the count room or an approved secured location.

491—12.17(99F) Count room—characteristics.

12.17(1) Each facility shall have a count room that shall:

a. Be designed and constructed to provide maximum security for materials housed within and the activities conducted therein.

b. Have an alarm device connected to the entrance of the room that causes a signaling to the monitors of the closed circuit television system and to the commission representative's office whenever the door to the room is opened.

c. Have, if currency is counted within, a count table constructed of clear glass or similar material for the emptying, counting, and recording of the contents of containers.

12.17(2) All room keys shall be maintained and controlled by the security department in a secured area. The facility shall establish a sign-out procedure for all keys removed from the secured area.

491—12.18(99F) Opening, counting, and recording contents of containers in the count room.

12.18(1) Each facility shall file with a commission representative the specific times and procedures for opening, counting, and recording the contents of containers.

12.18(2) All persons present in the count room during the counting process, unless expressly exempted by a commission representative, shall wear a full-length, one-piece, pocketless outer garment with openings only for the arms, feet, and neck that extends over any other garments and covers the tops of any footwear.

12.18(3) Persons shall not:

a. Carry a pocketbook or other container into the count room, unless it is transparent.

b. Remove their hands from or return them to a position on or above the count table unless the backs and palms of the hands are first held straight out and exposed to the view of other members of the count team and the closed circuit television camera.

12.18(4) Requirements for conducting the count.

a. Immediately prior to the commencement of the count, the count team shall notify the person assigned to the surveillance room that the count is about to begin, after which the surveillance department shall make a video recording with the time and date inserted thereon of the entire counting process.

b. Prior to counting the contents of the containers, the doors to the count room shall be locked and no person shall be permitted to enter or leave the count room, except during an emergency or on scheduled breaks, until the entire counting, recording, and verification process is completed. During this time, a commission representative shall have unrestricted access.

c. When a container is placed on a count table or coin scale, the count team shall ensure that the table or machine number associated with a container is identified to the surveillance department.

d. A machine may be used to automatically count the contents of a container.

e. The contents of each container shall be emptied on the count table or coin scale and either manually counted separately on the count table or counted in an approved currency counting machine located in a conspicuous location on, near, or adjacent to the count table or coin scale. These procedures shall at all times be conducted in full view of the closed circuit television cameras located in the count room.

f. Immediately after the contents of a container are emptied onto the count table or coin scale, the inside of the container shall be held up to the full view of a closed circuit television camera and shall be shown to at least one other count team member to ensure all contents of the container have been removed and, if applicable, the container shall then be locked. Empty containers shall be secured in an area separate from uncounted containers.

g. If the original count is being performed by a machine that automatically counts and records the amounts of the contents of each individual container, an aggregate count may be permitted in substitution of a second container count.

h. For manually counted containers:

(1) The count team members shall place the contents of each container into separate stacks on the count table by denomination of moneys and by type of form, record, or document, except that a machine may be used to automatically sort moneys by denomination.

(2) Each denomination of moneys shall be counted separately by one count team member who shall group moneys of the same denomination on the count table in full view of a closed circuit television camera. The moneys shall then be counted by a second count team member who is unaware of the result of the original count. The second count team member, after completing this count, shall confirm the accuracy of the total, either orally or in writing, with that reached by the first count team member.

12.18(5) Table games.

a. As the contents of each container from a table game are counted, one count team member shall record the following information by game, table number, date, and time on a master game report or supporting documents:

(1) The amount of each denomination of currency.
(2) The amount of all denominations of currency.
(3) The amount of coin.
(4) The total amounts of moneys.
(5) The amount of the opener.
(6) The amount of the closer.
(7) The serial number and amount of each fill.
(8) The amount of all fills.
(9) The serial number and amount of each credit.
(10) The amount of all credits.
(11) The win or loss.

b. After the contents of each container are counted and recorded, one member of the count team shall record by game on the master game report the total amounts of moneys, table inventory slips, fills, credits, and win or loss together with any other required information.

c. Notwithstanding the requirements of paragraphs 12.18(5)*"a"* and *"b,"* if the internal controls allow for the recording of fills, credits, and table inventory slips on the master game report or supporting documents prior to commencement of the count, a count team member shall compare for agreement the totals of the amounts recorded thereon to the fills, credits, and table inventory slips removed from the containers.

d. After preparation of the master game report, each count team member shall sign the report attesting to the accuracy of the information contained thereon.

e. Moneys shall not be removed from the count room after commencement of the count until the moneys total has been verified and accepted by a cashier. At the conclusion of the count, all moneys removed from the containers shall be counted by a cashier in the presence of a count team member prior to having access to the information recorded on the master game report. The cashier shall attest to the accuracy of the amount of moneys received from the gaming tables by signature on the master game report, after which a count team member shall sign the master game report evidencing the fact that both the cashier and count team have agreed on the total amount of moneys counted. The verified funds shall then remain in the custody of the cashier.

f. After the master game report has been signed, the requests, slips, and table inventory slips removed from containers shall be attached. The report, with attachments, shall then be transported directly to the accounting department or shall be maintained in locked storage until the master game report can be delivered to the accounting department. Upon meeting the signature requirements described in paragraph 12.18(5)"*e,*" the report shall not be available to any cashier's cage personnel.

g. Unless the internal controls provide for the forwarding of the original requests and original slips from the cashier's cage directly to the accounting department, the original requests and original slips recorded or to be recorded on the master game report shall be transported from the count room directly to the accounting department.

h. The originals and copies of the master game report, requests, slips, table inventory slips, and the test receipts from the currency counting equipment shall, on a daily basis in the accounting department, be:

(1) Compared for agreement with each other on a test basis if the originals are received from the count room by persons with no recording responsibilities and, if applicable, to triplicates or stored data.

(2) Reviewed for the appropriate number and propriety of signatures on a test basis.

(3) Accounted for by series numbers, if applicable.

(4) Verified for proper calculation, summarization, and recording.

(5) Recorded.

(6) Maintained and controlled by the accounting department as a permanent accounting record.

12.18(6) Slot machines.

a. Moneys shall not be removed from the count room after commencement of the count until the moneys total has been verified and accepted by a cashier. At the conclusion of the count, all moneys removed from the containers shall be counted by a cashier in the presence of a count team member prior to the recording of information on the slot drop sheet. The cashier shall attest to the accuracy of the amount of moneys received from the slot machines by signature on the slot drop sheet, after which a count team member shall sign the slot drop sheet evidencing the fact that both the cashier and count team have agreed on the total amount of moneys counted. The verified funds shall remain in the custody of the cashier.

b. The slot drop sheet and supporting documents shall be transported directly to the accounting department and shall not be available, except for signing, to any cashier's cage or slot personnel or shall be maintained in locked storage until they can be delivered to the accounting department.

c. The preparation of the slot drop sheet shall be completed by accounting employees as follows:

(1) Compare the amount of moneys counted and the drop meter reading for agreement for each slot machine.

(2) Record the hopper fills for each slot machine.

(3) Record for each slot machine the payouts and compare for agreement the payouts to the manual jackpot meter reading recorded on the slot meter sheet.

(4) Calculate and record the win or loss for each slot machine.

(5) Explain and report for corrections of apparent meter malfunctions to the slot department all significant differences between meter readings and amounts recorded.

(6) Calculate statistics by slot machine.

d. The slot drop sheet, the slot meter sheet, payouts, and hopper fills shall be:

(1) Compared for agreement with each other and to triplicates or stored data on a test basis.

(2) Reviewed for the appropriate number and propriety of signatures on a test basis.

(3) Accounted for by series numbers, if applicable.

(4) Verified for proper calculation, summarization, and recording.

(5) Recorded.

(6) Maintained and controlled by accounting employees.

These rules are intended to implement Iowa Code chapter 99F.

[Filed 10/13/00, Notice 9/6/00—published 11/1/00, effective 12/6/00]

CHAPTER 13
OCCUPATIONAL AND VENDOR LICENSING

[This chapter is intended to incorporate all the licensing rules from 491—Chapters 7, 9, 10 and 22 into one chapter]
[Prior to 11/19/86, Racing Commission[693]]
[Prior to 11/18/87, Racing and Gaming Division[195]]
[491—Chapters 20 to 25, relating to Games of Skill, Chance, Raffles and Bingo, transferred to 481—Chapters 100 to 105, 6/14/89 IAB]
Rescinded IAB 9/6/00, effective 10/11/00

CHAPTERS 14 to 17
Reserved

CHAPTER 18
PRACTICE AND PROCEDURE BEFORE THE DEPARTMENT OF INSPECTIONS AND APPEALS DIVISION OF RACING AND GAMING

[Prior to 11/18/87, Racing and Gaming Division[195]]
Rescinded IAB 12/25/91, effective 1/29/92

CHAPTER 19
PROCEDURE FOR RULE MAKING

[Prior to 11/18/87, see Racing and Gaming Division[195]]
Rescinded IAB 12/25/91, effective 1/29/92

CHAPTER 20
APPLICATION PROCESS FOR EXCURSION BOATS AND RACETRACK ENCLOSURE GAMING LICENSE

[491—Chapters 20 to 25, relating to Games of Skill, Chance, Raffles and Bingo, transferred to 481—Chapters 100 to 105, 6/14/89 IAB]
Rescinded IAB 8/9/00, effective 9/13/00

CHAPTER 21
CRITERIA FOR GRANTING AN EXCURSION BOAT AND RACETRACK ENCLOSURE GAMING LICENSE

[491—Chapters 20 to 25, relating to Games of Skill, Chance, Raffles and Bingo, transferred to 481—Chapters 100 to 105, 6/14/89 IAB]
Rescinded IAB 8/9/00, effective 9/13/00

CHAPTER 22
MANUFACTURERS AND DISTRIBUTORS

Rescinded IAB 11/1/00, effective 12/6/00

CHAPTER 23
Reserved

CHAPTER 24
ACCOUNTING AND CASH CONTROL

[491—Chapters 20 to 25, relating to Games of Skill, Chance, Raffles and Bingo, transferred to 481—Chapters 100 to 105, 6/14/89 IAB]
Rescinded IAB 11/1/00, effective 12/6/00

CHAPTER 25
RIVERBOAT OPERATION

[491—Chapters 20 to 25, relating to Games of Skill, Chance, Raffles and Bingo, transferred to 481—Chapters 100 to 105, 6/14/89 IAB]
Rescinded IAB 8/9/00, effective 9/13/00

CHAPTER 26
RULES OF THE GAMES

Rescinded IAB 11/1/00, effective 12/6/00

ENVIRONMENTAL PROTECTION COMMISSION[567]

Former Water, Air and Waste Management[900], renamed by 1986 Iowa Acts, chapter 1245, Environmental Protection Commission under the "umbrella" of the Department of Natural Resources.

TITLE I

GENERAL

TITLE II

AIR QUALITY

CHAPTER 20
SCOPE OF TITLE—DEFINITIONS—FORMS—RULES OF PRACTICE

CHAPTER 21
COMPLIANCE

CHAPTER 22
CONTROLLING POLLUTION

CHAPTER 12
ENVIRONMENTAL SELF-AUDITS

567—12.1(455K) General.

12.1(1) *Scope.* This chapter sets forth rules governing voluntary disclosure of environmental noncompliance discovered as a result of an environmental self-audit conducted by or on behalf of a facility owner or operator under provisions of Iowa Code chapter 455K.

12.1(2) *Definitions.* As used in this chapter, the following terms shall have the following meanings:

"Act" means the environmental audit privilege and immunity Act, 1998 Iowa Acts, chapter 1109.

"Department" means the Iowa department of natural resources.

"Disclosure of violation" means the notice or disclosure made by a person to the department promptly upon discovery of a violation as a result of an environmental audit.

"Environmental audit" means a voluntary evaluation of a facility or operation, of an activity at a facility or operation, or of an environmental management system at a facility or operation, when the facility, operation, or activity is regulated under state or federal environmental laws, rules or permit conditions, conducted by an owner or operator, an employee of the owner or operator, or an independent contractor retained by an owner or operator that is designed to identify historical or current noncompliance with environmental laws, rules, ordinances, or permit conditions, discover environmental contamination or hazards, remedy noncompliance or improve compliance with environmental laws, or improve an environmental management system.

"Environmental audit report" means a document or set of documents generated and developed for the primary purpose and in the course of or as a result of conducting an environmental audit.

"Notice of audit" means the notice an owner or operator provides to the department before the owner or operator begins an environmental audit.

"Owner or operator" means the person or entity who caused the environmental audit to be undertaken.

"Request for extension" means a letter requesting an extension of the time period allowed for the completion of an environmental audit.

567—12.2(455K) Notice of audit. Owners or operators are not required to give the department notice of audit before beginning an environmental audit; however, they are encouraged to do so. Owners or operators may not be able to take advantage of immunity provisions under the Act if they fail to give notice to the department that they are planning to commence an environmental audit and the department initiates an inspection or investigation prior to the person's filing a disclosure of violation with the department. If notice of audit is given to the department, the audit must be completed within a reasonable time not to exceed six calendar months from the date the notice of audit is received by the department unless a request for extension has been filed with and granted by the department.

12.2(1) If a notice of audit is provided to the department, it must be submitted in writing by certified mail. A notice of audit should include the following information:

a. The name of the facility to be audited;

b. The location of the facility to be audited (address and city);

c. The description of the facility or portion of the facility, activity, operation or management system to be audited, including applicable department permit and registration numbers;

d. The date of anticipated initiation of audit (day, month, and year);

e. The general scope of audit, with sufficient detail to enable a determination of whether subsequently discovered violations are included. If the scope of the audit changes before it is completed, an amended notice shall be submitted promptly after this fact becomes known;

f. The names of the persons conducting the audit; and

g. The anticipated date of completion of the audit not to exceed six calendar months.

12.2(2) If, after providing notice of audit, an owner or operator determines the audit will not be completed by the initial anticipated completion date but within six calendar months from the date of the original notice of audit, the owner or operator should provide the department a written amendment to the notice of audit with the revised anticipated completion date, not to exceed six calendar months from the date of the original notice of audit. Amendments to the anticipated date of completion should be filed with the department prior to the expiration of the original listed anticipated date of completion. If the anticipated date of completion will go beyond six calendar months from the date of the original notice of audit, the owner/operator must file a request for extension pursuant to rule 12.3(455K) of this chapter.

12.2(3) A notice of audit is not privileged information and is considered public information subject to provisions of state open records laws in Iowa Code chapter 22.

12.2(4) If a notice of audit is provided to the department, the department will provide written acknowledgment of receipt with an assigned identification number for reference and tracking purposes.

567—12.3(455K) Request for extension. If notice of audit is given to the department, the audit must be completed within a reasonable time not to exceed six calendar months from the date the notice of audit is received by the department unless a written request for extension has been filed with and granted by the department based on reasonable grounds. Owners or operators are cautioned that continuation of an audit after the initial six-month period without prior written approval from the department may limit the availability of immunity under the Act.

12.3(1) A request for extension must be filed in writing with the department at least 30 calendar days prior to expiration of the initial six-month period and provide sufficient information for the department to determine whether reasonable grounds exist to grant an extension. Written requests for extension must be sent by certified mail. Failure to provide sufficient information could result in delay of approval or denial of the extension, which could jeopardize availability of immunity under the Act.

12.3(2) The department will provide written determination either granting or denying the request for extension within 15 calendar days of receipt of the written request for extension.

12.3(3) Requests for extension will be considered as amendments to the notice of audit and as such will not be considered privileged information. Requests for extension will be considered public information subject to the provisions of state open records laws in Iowa Code chapter 22.

567—12.4(455K) Disclosure of violation. An owner or operator wishing to take advantage of the immunity provisions of the Act must make a prompt voluntary disclosure to the department regarding an environmental violation which is discovered through an environmental audit.

12.4(1) A disclosure will be deemed voluntary if the following conditions apply:

a. The disclosure arises out of an environmental audit and relates to information considered privileged under the Act;

b. The disclosure is not otherwise required by federal or state law, rule, permit condition, or an order issued by the department;

c. If no current notice of audit covering the facility, activity, operation or management system is on file with the department, the disclosure is made prior to a violation being independently detected by the department or the initiation of an inspection or investigation by the department;

d. The violation is identified and disclosed to the department before there is notice of a citizen suit or a legal complaint filed by a third party; or before it is reported to the department by any person not involved in conducting the environmental audit or to whom the environmental audit was disclosed;

e. The violation does not involve intentional violation of state or federal law, rule, or permit condition, or result in substantial actual injury or imminent and substantial risk of injury to persons, property, or the environment; and

f. The owner or operator making the disclosure uses reasonable efforts to pursue compliance and to correct the noncompliance within a reasonable period of time after completion of the audit in accordance with a remediation schedule submitted to and approved in writing by the department.

12.4(2) An owner or operator may not be able to take advantage of the immunities under the Act from administrative or civil penalties if:

a. Violations are intentional;

b. Violations resulted in substantial actual injury or imminent and substantial risk of injury to persons, property, or the environment;

c. Violations resulted in a substantial economic benefit which gives an owner or operator a clear advantage over business competitors; or

d. The owner or operator has been found to have committed serious violations that constitute a pattern of continuous or repeated violations or is classified as a habitual violator as set forth in Iowa Code section 455K.8(7).

12.4(3) A disclosure of violation must be sent to the department in writing by certified mail and include the following information:

a. Reference to the date of the relevant notice of audit and assigned reference number, if one was provided;

b. Time of initiation and completion of the audit, if applicable;

c. The names of the person or persons conducting the audit;

d. Affirmative assertion that a violation has been discovered;

e. Description of the violation discovered and reason for believing a violation exists;

f. Date of discovery of the violation and interim measures taken to abate the violation;

g. Duration of the violation if that can be determined; and

h. The status and schedule of proposed final corrective measures, if applicable.

12.4(4) A disclosure of violation is not an environmental audit report and is not privileged information under the Act. A disclosure of violation is public information subject to provisions of state open records laws in Iowa Code chapter 22. Owners or operators should not send copies of environmental audit reports to the department, unless specifically requested in writing by the department.

12.4(5) The department will acknowledge receipt of a disclosure of violation in writing which will include either concurrence or rejection of the proposed final corrective measures and schedule. This written acknowledgment will be sent to the owner or operator within 15 calendar days of receipt of the disclosure of violation.

[Filed 12/28/98, Notice 10/21/98—published 1/13/99, effective 2/17/99]

CHAPTERS 13 to 19
Reserved

TITLE VIII
SEASONS, LIMITS, METHODS OF TAKE

CHAPTER 76
UNPROTECTED NONGAME
[Prior to 12/31/86, Conservation Commission[290] Ch 16]

571—76.1(481A) Species. Certain species of nongame shall not be protected.

76.1(1) *Birds.* The European starling and the house sparrow shall not be protected.

***76.1(2)** *Reptiles.* Rescinded IAB 9/6/00, effective 10/11/00.

This rule is intended to implement Iowa Code sections 481A.38, 481A.39, and 481A.42.

[Filed 1/5/84, Notice 11/23/83—published 2/1/84, effective 3/7/84]
[Filed 10/17/86, Notice 8/27/86—published 11/5/86, effective 1/1/87]
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[Filed 8/18/00, Notice 5/31/00—published 9/6/00, effective 10/11/00*]

*At its meeting held October 9, 2000, the Administrative Rules Review Committee delayed the effective date of the rescission of 76.1(2) from 10/11/00 until adjournment of the 2001 Session of the General Assembly.

CHAPTER 141
LOVE OUR KIDS GRANT

CHAPTERS 142 to 149
Reserved

CHAPTER 150
IOWA REGIONALIZED SYSTEM OF PERINATAL HEALTH CARE

CHAPTER 151
TOBACCO USE PREVENTION AND CONTROL COMMUNITY PARTNERSHIP INITIATIVE

CHAPTER 152
TOBACCO USE PREVENTION AND CONTROL FUNDING PROCESS

CHAPTERS 153 to 161
Reserved

641—150.10(135,77GA,ch1221) Grant or denial of certificate of verification; and offenses and penalties.

150.10(1) Upon receipt of the on-site survey results, the department shall within 30 days issue its decision to grant or deny the hospital a certificate of verification. The department may deny verification or may give a citation and warning, place on probation, suspend, or revoke existing verification if the department finds reason to believe the hospital's perinatal care program has not been or will not be operated in compliance with these rules. The denial, citation and warning, period of probation, suspension, or revocation shall be effected and may be appealed in accordance with the requirements of Iowa Code section 17A.12.

150.10(2) All complaints regarding the operation of a participating hospital's perinatal care program shall be reported to the department and to the department of inspections and appeals.

150.10(3) Complaints and the investigative process shall be treated as confidential to the extent they are protected by Iowa Code section 22.7.

150.10(4) Complaint investigations may result in the department's issuance of a notice of denial, citation and warning, probation, suspension or revocation.

150.10(5) Notice of denial, citation and warning, probation, suspension or revocation shall be effected in accordance with the requirements of Iowa Code section 17A.12. Notice to the hospital of denial, citation and warning, probation, suspension or revocation shall be served by certified mail, return receipt requested, or by personal service.

150.10(6) Any request for a hearing concerning the denial, citation and warning, probation, suspension or revocation shall be submitted by the aggrieved party in writing to the department by certified mail, return receipt requested, within 20 days of the receipt of the department's notice to take action. The address is: Iowa Regionalized System of Perinatal Health Care, Iowa Department of Public Health, Division of Family and Community Health, 321 East 12th Street, Lucas State Office Building, Des Moines, Iowa 50319-0075. If the request is made within the 20-day time period, the notice to take action shall be deemed to be suspended pending the hearing. Prior to or at the hearing, the department may rescind the notice upon satisfaction that the reason for the denial, citation and warning, probation, suspension or revocation has been or will be removed. If no request for a hearing is received within the 20-day time period, the department's notice of denial, citation and warning, probation, suspension or revocation shall become the department's final agency action.

150.10(7) Upon receipt of a request for hearing, the request shall be forwarded within five working days to the department of inspections and appeals pursuant to the rules adopted by that agency regarding the transmission of contested cases. The information upon which the adverse action is based and any additional information, which may be provided by the aggrieved party, shall also be provided to the department of inspections and appeals.

150.10(8) The hearing shall be conducted according to the procedural rules of the department of inspections and appeals found in 481—Chapter 10, Iowa Administrative Code.

150.10(9) When the administrative law judge makes a proposed decision and order, it shall be served by certified mail, return receipt requested, or delivered by personal service. That proposed decision and order then becomes the department's final agency action without further proceedings ten days after it is received by the aggrieved party unless an appeal to the director is taken.

150.10(10) Any appeal to the director for review of the proposed decision and order of the administrative law judge shall be filed in writing and mailed to the director by certified mail, return receipt requested, or delivered by personal service within ten days after the receipt of the administrative law judge's proposed decision and order by the aggrieved party. A copy of the appeal shall also be mailed to the administrative law judge. Any request for an appeal shall state the reason for appeal.

150.10(11) Upon receipt of an appeal request, the administrative law judge shall prepare the record of the hearing for submission to the director. The record shall include the following:

a. All pleadings, motions, and rules.

b. All evidence received or considered and all other submissions by recording or transcript.

c. A statement of all matters officially noticed.

d. All questions and offers of proof, objections and rulings on them.

e. All proposed findings and exceptions.

f. The proposed decision and order of the administrative law judge.

150.10(12) The decision and order of the director becomes the department's final agency action upon receipt by the aggrieved party and shall be delivered by certified mail, return receipt requested, or by personal service.

150.10(13) It is not necessary to file an application for a rehearing to exhaust administrative remedies when appealing to the director or the district court as provided in Iowa Code section 17A.19. The aggrieved party to the final agency action of the department who has exhausted all administrative remedies may petition for judicial review of that action pursuant to Iowa Code chapter 17A.

150.10(14) Any petition for judicial review of a decision and order shall be filed in the district court within 30 days after the decision and order becomes final. A copy of the notice of appeal shall be sent to the department by certified mail, return receipt requested, or by personal service. The address is: Iowa Regionalized System of Perinatal Health Care, Iowa Department of Public Health, Division of Family and Community Health, 321 East 12th Street, Lucas State Office Building, Des Moines, Iowa 50319-0075.

150.10(15) The party who appeals a final agency action to the district court shall pay the cost of the preparation of a transcript of the contested case hearing for the district court.

150.10(16) Final decisions of the department relating to disciplinary proceedings may be transmitted to the department of inspections and appeals and to the appropriate professional associations or news media.

641—150.11(135,77GA,ch1221) Prohibited acts. A hospital that imparts or conveys, or causes to be imparted or conveyed, that it is a participating hospital in Iowa's regionalized system of perinatal health care, or that uses any other term, such as a designated level of care, to indicate or imply that the hospital is a participating hospital in the regionalized system of perinatal health care without having obtained a certificate of verification from the department is subject to licensure disciplinary action by the department of inspections and appeals, as well as to the application by the director to the district court for a writ of injunction to restrain the use of the term or terms "Level I hospital," "Level II hospital," "Level II regional center," and "Level III center" in relation to the provision of perinatal health care services.

641—150.12(135,77GA,ch1221) Construction of rules. Nothing in these administrative rules shall be construed to restrict a hospital from providing any services for which it is duly authorized.

These rules are intended to implement 1998 Iowa Acts, chapter 1221, section 5, subsection 4*"a"*(2)(c).

[Filed 1/21/99, Notice 11/18/98—published 2/10/99, effective 3/17/99]

CHAPTER 151
TOBACCO USE PREVENTION AND CONTROL COMMUNITY PARTNERSHIP INITIATIVE

641—151.1(78GA,HF2565) Scope. These rules apply to community partnerships established under 2000 Iowa Acts, House File 2565, as part of a comprehensive tobacco use prevention and control initiative to reduce tobacco use by youth and pregnant women, to promote compliance by minors and retailers with tobacco sales laws and ordinances, to enhance the capacity of youth to make healthy choices and to foster a social and legal climate in which tobacco use becomes undesirable and unacceptable.

641—151.2(78GA,HF2565) Community partnership areas. It is the goal of the commission on tobacco use prevention and control that the entire state be divided into multiple community partnership areas, so that all portions of the state are included in a community partnership area and no portion of the state is without the services of a community partnership. Toward this goal, the commission will encourage formation of community partnership areas that incorporate surrounding communities in a manner that does not isolate any geographic region of the state, and encourages optimal use of resources. In addition to the requirements of 2000 Iowa Acts, House File 2565, section 8, subsection 1, a community partnership area:

151.2(1) Shall be composed of one or more counties, school districts, economic development enterprise zones, or community empowerment areas.

151.2(2) Shall follow existing boundaries of one or more counties, school districts, economic development enterprise zones, or community empowerment areas.

151.2(3) Shall serve a population of at least 4,000, including a minimum school-age population of 500.

151.2(4) Shall serve a minimum geographic area of one county.

641—151.3(78GA,HF2565) Community partnerships. A community partnership is a public agency or nonprofit organization which utilizes broad community involvement and represents a broad coalition of community groups, organizations, and interests. Community partnerships shall promote a wide range of activities that discourage tobacco use and support smoke-free environments. Some of these activities include developing coalitions with local organizations, conducting educational programs and encouraging policies that support tobacco use prevention and cessation.

641—151.4(78GA,HF2565) Application requirements for community partnerships. In order to qualify for funding through the tobacco use prevention and control program, a public agency or nonprofit organization seeking to be designated as a community partnership must apply to, and be approved by, the department of public health. Only one application per community partnership will be accepted. An application must provide the following information:

151.4(1) A description of the community partnership area to be served by the community partnership, including:

a. The geographic boundaries of the area;

b. Population, including both general population and school-age population, of the area;

151.4(2) A description of the applicant, including a description of the governing structure of the agency or organization, a table of organization, and the applicant's mission statement;

151.4(3) A description of the tobacco use prevention and control services currently provided by the applicant;

151.4(4) A description of the number of years the applicant has provided tobacco use prevention and control services and the number of clients served annually by the applicant;

151.4(5) A description of the funds currently received by the applicant which are targeted to provide tobacco use prevention and control services, including the source of funds, the dollar amount, and the period of funding;

151.4(6) A list of the other agencies, organizations, and entities currently providing tobacco use prevention and control services in the proposed community partnership area and a description of the tobacco use prevention and control services currently provided by the other agencies, organizations, or entities;

151.4(7) A description of the collaborative efforts the applicant has undertaken with the agencies, organizations, and entities described in subrule 151.4(6) and an action plan describing anticipated collaborative efforts during the funding period;

151.4(8) Letters of support from the agencies, organizations, and entities described in subrule 151.4(6);

151.4(9) If the local board of health is not the applicant, a letter of support from the local board of health shall be submitted with the application. The letter of support must include a description of the local board of health's involvement with development of the application and an action plan describing anticipated collaborative efforts between the applicant and the local board of health;

151.4(10) A letter of support from county and city law enforcement agencies shall be submitted with the application. The letter of support must include a description of the local law enforcement agencies' involvement with development of the application and an action plan describing anticipated collaborative efforts between the applicant and local law enforcement agencies;

151.4(11) An assessment of the needs of the community partnership area which incorporates, but is not limited to, the following information for each county in the community partnership area:

a. Tobacco-related information from the community health needs assessment and health improvement plan (CHNA and HIP);

b. Tobacco-related information from the most recent Iowa youth survey;

c. Relevant data regarding tobacco use;

d. Relevant Synar data;

e. Information or data received from other service providers, organizations, or law enforcement agencies;

f. Tobacco-related information from Healthy Iowans 2010;

151.4(12) A description of how the applicant intends to implement the initiative's goals described in 2000 Iowa Acts, House File 2565, section 6, subsection 2, in light of the community needs identified in subrule 151.4(11), including a proposed budget and a description of how performance measures shall be developed and utilized;

151.4(13) Identification of the source and amount of local matching funds, services, or support;

151.4(14) A description of how youth (aged 5 to 24 years) will be involved in the community partnership.

641—151.5(78GA,HF2565) Performance indicators. Periodic reports shall be submitted to the department by the community partnerships. These required reports shall be based on the degree to which the partnerships have achieved goals set out in the application and shall include information such as how many events/meetings were held and how many participants were in attendance.

641—151.6(78GA,HF2565) Application deadline. Applicants seeking to be approved as a community partnership for distribution of funds during the 2001 fiscal year may apply immediately and must apply no later than November 10, 2000.

151.6(1) Application must be on forms supplied by the department of public health. To obtain an application form, contact the director of the Tobacco Use Prevention and Control Division, Department of Public Health, Lucas State Office Building, 321 E. 12th Street, Des Moines, Iowa 50319; telephone (515)281-6225; E-mail mcrawfor@idph.state.ia.us.

151.6(2) Any change in the geographic boundaries of a community partnership area after a community partnership has been approved must be submitted to the tobacco use prevention and control division as a request to amend the application. The request shall describe the boundary change, explain the reason for the boundary change and describe any impact the boundary change will have on the information provided in response to rule 151.4(78GA,HF2565).

641—151.7(78GA,HF2565) Distribution of funding.

151.7(1) Applications submitted in accordance with these rules will be evaluated by the administrator of the division of tobacco use prevention and control, or the administrator's designee, to determine whether the application meets the requirements for funding as designated in these rules. The administrator or designee may request additional information from any applicant regarding the content of the application and may condition funding based on an applicant's submission of additional information or based on an applicant's willingness to change any term of the application, including geographic boundaries of the community partnership area.

151.7(2) The commission shall fund one community partnership per community partnership area. Funds shall be distributed equitably among the state's community partnership areas based on general population, school-age population, and designation of county or counties which comprise the community partnership area as a rural county or a metropolitan statistical area as defined by the U.S. Bureau of the Census. Available funds will be distributed under the following formulas:

Rural counties:

$.84 per school-age youth plus an additional $.84 per non-school-age county resident

Metropolitan statistical areas (Black Hawk, Dallas, Dubuque, Johnson, Linn, Polk, Pottawattamie, Scott, Warren, and Woodbury Counties):

$.52 per school-age youth plus an additional $.52 per non-school-age county resident

151.7(3) Funding received by a community partnership shall be matched on a one-to-one basis. At least 25 percent must be a cash match. Up to 75 percent of the match may include in-kind services, office support, or other tangible support or offset of costs.

Any offers to assist the applicant in reaching the match must be disclosed to the department in writing. In regard to any cash offers that are declined, the applicant must disclose reasons and rationale as to why these offers were declined.

151.7(4) Prior to receiving funding, a community partnership shall be required to execute a contract with the department.

151.7(5) Funding may be denied on grounds including, but not limited to:

a. Applications from more than one entity have been received covering the same, or portions of the same, geographic area and another application more closely satisfies application criteria.

b. The application is incomplete, untimely, or includes misleading or inaccurate information.

c. Program funds are no longer available.

d. Local matching funds, services, or support is not available.

e. The applicant refuses to execute a contract with the department.

f. The applicant fails to comply with the statute or administrative rules governing this program.

These rules are intended to implement 2000 Iowa Acts, House File 2565.

[Filed emergency 10/13/00—published 11/1/00, effective 10/13/00]

CHAPTER 152
TOBACCO USE PREVENTION AND CONTROL FUNDING PROCESS

641—152.1(78GA,HF2565) Scope and purpose. In addition to funding community partnerships in accordance with 641—Chapter 151, it is the goal of the commission on tobacco use prevention and control to provide funding for other programs for the purpose of achieving the goals of the initiative as defined in 2000 Iowa Acts, House File 2565. Toward this end, the commission intends to provide funding on a competitive basis for school programs; a media, marketing, and communications program; and a cessation program for pregnant women.

641—152.2(78GA,HF2565) Funding.

152.2(1) In addition to other requests for proposals necessary to implement the initiative, the commission shall issue a request for proposal (RFP) for the youth program, the media, marketing and communications program, and the cessation program for pregnant women. The RFP for each program shall include the amount of funding available, the project period, the services to be delivered, performance measures, application due date and other relevant time frames, a description of the review process, the review criteria to be used, expected contract terms, and a reference to the appeal process in the event an application is denied.

152.2(2) Applications submitted in accordance with these rules shall be evaluated in accordance with the review process described in the RFP. The administrator of the division of tobacco use prevention and control shall make the final determination regarding funding and shall notify all applicants regarding funding decisions by restricted certified mail, return receipt requested.

641—152.3(78GA,HF2565) Appeals.

152.3(1) Any request for an appeal concerning denial or partial denial of an application for funding shall be submitted by an aggrieved party in writing to the department by certified mail, return receipt requested, within ten days of receipt of the notice of denial. The address is Department of Public Health, Tobacco Use Prevention and Control Division, Lucas State Office Building, 321 E. 12th Street, Des Moines, Iowa 50319. The request for appeal must state the party's complete legal name, street address, telephone number, fax number, and the specific grounds upon which the party challenges the board's denial, including legal authority, if any. The request for appeal commences a contested case.

152.3(2) Upon receipt of an appeal, the appeal shall be forwarded within five working days to the department of inspections and appeals pursuant to the rules adopted by the department regarding transmission of contested cases.

152.3(3) The hearing shall be conducted according to the procedural rules of the department of inspections and appeals found in 481—Chapter 4.

152.3(4) When the hearing officer makes a proposed decision and order, it shall be served by restricted certified mail, return receipt requested, or delivered by personal service. That proposed decision and order then becomes the department's final agency action without further proceeding ten days after it is received by the aggrieved party unless an appeal to the commission is taken as provided in subrule 152.3(5).

152.3(5) Any appeal to the commission for review of the proposed decision and order of the administrative law judge shall be filed in writing and mailed to the commission by certified mail, return receipt requested, or delivered by personal service within ten days after the receipt of the administrative law judge's proposed decision and order by the aggrieved party. A copy of the appeal shall also be mailed to the administrative law judge. Any request for appeal shall state the reasons for appeal.

152.3(6) Upon receipt of an appeal request, the administrative law judge shall prepare the record of the hearing for submission to the commission.

152.3(7) Review of a proposed decision shall be based on the record and limited to the issues raised in the hearing. The issues shall be specified in the notice of appeal of a proposed decision. The party requesting the review shall be responsible for transcribing any tape of the oral proceedings or arranging for a transcript of oral proceedings reported by a certified shorthand reporter.

152.3(8) Each party shall have the opportunity to file exceptions and present briefs. The administrator may set deadlines for the submission of exceptions or briefs. If oral argument will be held, the administrator shall notify all parties of the date, time and location at least ten days in advance.

152.3(9) The commission shall not receive any additional evidence, unless it grants an application to present additional evidence. Any such application must be filed by a party no less than five business days in advance of oral argument. Additional evidence shall be allowed only upon a showing that it is material to the outcome and that there were good reasons for failure to present it at hearing. If an application to present additional evidence is granted, the commission shall order the conditions under which it shall be presented.

152.3(10) The commission's final decision shall be in writing and it may incorporate all or part of the proposed decision.

152.3(11) The decision and order of the commission becomes the department's final agency action pursuant to Iowa Code chapter 17A upon receipt by the aggrieved party and shall be delivered by restricted certified mail, return receipt requested, or by personal service.

These rules are intended to implement Iowa Code chapter 17A and 2000 Iowa Acts, House File 2565.

[Filed emergency 10/13/00—published 11/1/00, effective 10/13/00]

CHAPTERS 153 to 161
Reserved

MORTUARY SCIENCE

CHAPTER 100
FUNERAL DIRECTORS

CHAPTER 101
BOARD OF MORTUARY SCIENCE EXAMINERS

CHAPTER 102
CONTINUING EDUCATION FOR MORTUARY SCIENCE

CHAPTERS 103 to 119
Reserved

HEARING AID DEALERS

CHAPTER 120
BOARD OF EXAMINERS FOR THE LICENSING AND REGULATION OF HEARING AID DEALERS

CHAPTER 121
CONTINUING EDUCATION FOR HEARING AID DEALERS

CHAPTERS 122 to 129
Reserved

MASSAGE THERAPISTS

CHAPTER 130
MASSAGE THERAPISTS

CHAPTER 131
DISCIPLINARY PROCEDURES FOR MASSAGE THERAPISTS

CHAPTER 132
CONTINUING EDUCATION FOR MASSAGE THERAPISTS

CHAPTERS 133 to 139
Reserved

DIETETIC EXAMINERS

CHAPTER 80
BOARD OF DIETETIC EXAMINERS
[Prior to 5/18/88, Health Department[470]—Ch 162]

645—80.1(152A) Definitions.

"Board" means the board of dietetic examiners.

"Department" means the department of public health.

"Dietetics" means the integration and application of principles derived from the sciences of nutrition, biochemistry, physiology, food, management, and behavioral and social sciences to achieve and maintain peoples' health. The primary function of dietetic practice is the provision of nutrition care services that shall include:

a. Assessing the nutrition needs of individuals and groups and determining resources and constraints in the practice setting.

b. Establishing priorities, goals, and objectives that meet nutrition needs and are consistent with available resources and constraints.

c. Providing nutrition counseling in health and disease.

d. Developing, implementing, and managing nutrition care systems.

e. Evaluating, making changes in, and maintaining appropriate standards of quality in food and nutrition services.

"Licensed dietitian" or *"licensee"* means any person licensed to practice dietetics in the state of Iowa.

"License renewal biennium" means from the fifteenth day of the licensee's birth month in an even-numbered year to the fifteenth day of the licensee's birth month two years later.

"Nutrition assessment" means the evaluation of the nutrition needs of individuals and groups based upon appropriate biochemical, anthropometric, physical, and dietary data to determine nutrient needs and recommend appropriate nutrition intake including enteral and parenteral nutrition.

"Nutrition counseling" means advising and assisting individuals or groups on appropriate nutrition intake by integrating information from the nutrition assessment with information on food and other sources of nutrients and meal preparation consistent with cultural background and socioeconomic status.

"Registered dietitian" means a dietitian who has met the standards and qualifications of the Commission on Dietetic Registration, a member of National Commission for Health Certifying Agencies.

645—80.2(152A) Availability of information.

80.2(1) All information regarding rules, forms, time and place of meetings, minutes of meetings, record of hearings, and examination results are available to the public between the hours of 8 a.m. and 4:30 p.m., Monday to Friday, except holidays.

80.2(2) Information may be obtained by writing to the Board of Dietetic Examiners, Department of Public Health, Lucas State Office Building, Des Moines, Iowa 50319-0075. All official correspondence shall be in writing and directed to the board address.

645—80.3(152A) Organization and proceedings.

80.3(1) The board shall consist of five members appointed by the governor and confirmed by the senate. The board shall include one licensed dietitian representing the approved or accredited dietetic education programs, one licensed dietitian representing clinical dietetics in hospitals, one licensed dietitian representing community nutrition services and two members who are not licensed dietitians and who shall represent the general public. The effective date of Iowa Code chapter 152A was July 1, 1985. A quorum shall consist of a majority of the members of the board. For the initial terms of members of the board, the governor shall appoint one member to serve a term of one year, two members to serve a term of two years, and two members to serve a term of three years.

80.3(2) A chairperson, vice chairperson and secretary shall be elected at the first meeting after April 30 of each year.

80.3(3) The board shall hold at least an annual meeting and may hold additional meetings called by the chairperson or by a majority of its members. The chairperson shall designate the date, place, and time prior to each meeting of the board. The board shall follow the latest edition of Robert's Revised Rules of Order at its meeting whenever any objection is made as to the manner in which it proceeds at a meeting.

645—80.4(152A) Requirements for licensure. An applicant for a license as a dietitian shall meet the following requirements.

80.4(1) An applicant shall be issued a license to practice dietetics by the board when the applicant satisfies all of the following:

a. Possesses a baccalaureate degree or postbaccalaureate degree from a U.S. regionally accredited college or university with a major course of study in human nutrition, food and nutrition, nutrition education, dietetics, or food systems management, or in an equivalent major course of minimum academic requirements as established by the American Dietetic Association and approved by the board. Applicants who have obtained their education outside of the U.S. and its territories must have their academic degrees validated as equivalent to the baccalaureate or master's degree conferred by a U.S. regionally accredited college or university and approved by the board.

b. Completes a documented supervised practice experience component in a dietetic practice of not less than 900 hours under the supervision of a registered dietitian, a licensed dietitian or an individual with a doctoral degree conferred by a U.S. regionally accredited college or university with a major course of study in human nutrition, nutrition education, food and nutrition, dietetics or food systems management. Supervised practice experience must be completed in the United States or its territories. Supervisors who obtained their doctoral degree outside of the United States and its territories must have their degree validated as equivalent to the doctoral degree conferred by a U.S. regionally accredited college or university.

c. Satisfactorily completes an examination approved by the board. See 645—80.6(152A) Examinations.

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

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

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

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

This rule is intended to implement Iowa Code section 147.29.

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

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

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

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

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

645—80.6(152A) Application.

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

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

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

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

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

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

645—80.8(152A) License renewal.

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

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

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

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

80.8(5) The continuing education biennium will be the same as the licensee's renewal biennium, which shall be for two years from the fifteenth day of the licensee's birth month.

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

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

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

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

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

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

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

80.9(4) Reinstatement fee is $50.

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

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

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

645—80.10 to **80.99** Reserved.

645—80.100(152A,272C) Grounds for discipline. The board may impose any of the disciplinary sanctions set forth in these rules, including civil penalties in an amount not to exceed $1000, when the board determines that the licensee is guilty of any of the following acts or offenses:

80.100(1) Fraud in procuring a license. Fraud in procuring a license includes, but is not limited to, an intentional perversion of the truth in making application for a license to practice dietetics in this state, and includes false representations of a material fact, whether by word or by conduct, by false or misleading allegations, or by concealment of that which should have been disclosed when making application for a license in this state, or attempting to file or filing with the board or the Iowa department of public health any false or forged diploma, or certificate or affidavit or identification or qualification in making an application for a license in this state.

80.100(2) Professional incompetency. Professional incompetency includes, but is not limited to:

a. A substantial lack of knowledge or ability to discharge professional obligations within the scope of the dietitian's practice;

b. A substantial deviation by the dietitian from the standards of learning ordinarily possessed and applied by other dietitians in the state of Iowa acting in the same or similar circumstances;

c. A failure by a dietitian to exercise in a substantial respect that degree of care which is ordinarily exercised by the average dietitian in the state of Iowa acting in the same or similar circumstances; and

d. A willful or repeated departure from or the failure to conform to the minimal standard of acceptable and prevailing practice of dietetics in the state of Iowa.

80.100(3) Knowingly making misleading, deceptive, untrue or fraudulent representations in the practice of a profession or engaging in unethical conduct as provided by rule 80.212(152A,272C) or practice harmful or detrimental to the public. Proof of actual injury need not be established. Practice harmful or detrimental to the public includes, but is not limited to, the failure of a dietitian to possess and exercise that degree of learning and care expected of a reasonably prudent dietitian acting in the same or similar circumstances in this state.

80.100(4) Habitual intoxication or addiction to the use of drugs. The inability of a dietitian to practice with reasonable skill and safety by reason of the excessive use of alcohol, drugs, narcotics, chemicals or other type of material on a continuing basis, or the excessive use of alcohol, drugs, narcotics, chemicals or other type of material which may impair a dietitian's ability to practice the profession with reasonable skill and safety.

80.100(5) Conviction of a felony related to the profession or occupation of the licensee, or the conviction of any felony that would affect the licensee's ability to practice within a profession. A copy of the record of conviction or plea of guilty shall be conclusive evidence.

80.100(6) Use of untruthful or improbable statements in advertisements. Use of untruthful or improbable statements in advertisements includes, but is not limited to, an action by a dietitian in making information or intention known to the public which is false, deceptive, misleading or promoted through fraud or misrepresentation and includes statements which may consist of, but are not limited to:

a. Inflated or unjustified expectations of favorable results.

b. Self-laudatory claims that imply that the dietitian is a skilled dietitian engaged in a field or specialty of practice for which the dietitian is not qualified.

c. Extravagant claims or proclaiming extraordinary skills not recognized by the dietetic profession.

80.100(7) Willful or repeated violations of the provisions of these rules and Iowa Code chapter 147.

80.100(8) Violating a regulation or law of this state, or the United States, which relates to the practice of dietetics.

80.100(9) Failure to report a license revocation, suspension or other disciplinary action taken by a licensing authority of another state, district, territory or country within 30 days of the final action by such licensing authority. A stay by an appellate court shall not negate this requirement; however, if such disciplinary action is overturned or reversed by a court of last resort, such report shall be expunged from the records of the board.

80.100(10) Failure of a licensee or an applicant for licensure in this state to report any voluntary agreements to restrict the practice of dietetics entered into in another state, district, territory or country.

80.100(11) Knowingly aiding, assisting, procuring, or advising a person to unlawfully practice dietetics.

80.100(12) Failure to identify oneself as a dietitian to the public.

80.100(13) Violating a lawful order of the board, previously entered by the board in a disciplinary hearing or pursuant to informal settlement.

80.100(14) Being adjudged mentally incompetent by a court of competent jurisdiction.

80.100(15) Making suggestive, lewd, lascivious or improper remarks or advances to a patient or client.

80.100(16) Knowingly submitting a false report of continuing education or failure to submit the biennial report of continuing education.

80.100(17) Failure to comply with a subpoena issued by the board.

80.100(18) Failure to file the reports required by these rules concerning acts or omissions committed by another licensee.

80.100(19) Obtaining any fee by fraud or misrepresentation.

80.100(20) Failing to exercise due care in the delegation of dietetic services to or supervision of assistants, employees or other individuals, whether or not injury results.

645—80.101(152A,272C) Principles. The dietetic practitioner shall:

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

645—80.102(152A) Procedures for approval of continuing education activities. Rescinded IAB 11/1/00, effective 12/6/00.

645—80.103(152A) Hearings. Rescinded IAB 11/1/00, effective 12/6/00.

645—80.104(152A) Retention of continuing education records. Rescinded IAB 11/1/00, effective 12/6/00.

645—80.105(152A) Disability or illness. Rescinded IAB 11/1/00, effective 12/6/00.

645—80.106(152A) Inactive licensure. Rescinded IAB 11/1/00, effective 12/6/00.

645—80.107(152A) Reinstatement of inactive license. Rescinded IAB 11/1/00, effective 12/6/00.

645—80.108(152A) Reinstatement of lapsed licenses. Rescinded IAB 11/1/00, effective 12/6/00.

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

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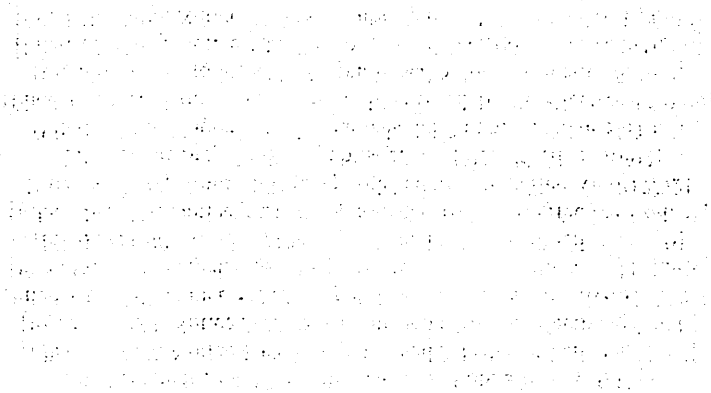

CHAPTER 81
CONTINUING EDUCATION FOR DIETITIANS

645—81.1(152A) Definitions. For the purpose of these rules, the following definitions shall apply:

"Active license" means the license of a person who is acting, practicing, functioning, and working in compliance with license requirements.

"Administrator" means the administrator of the board of dietetic examiners.

"Approved program/activity" means a continuing education program/activity meeting the standards set forth in these rules, which has received advance approval by the board pursuant to these rules.

"Approved sponsor" means a person or an organization sponsoring continuing education activities that has been approved by the board as a sponsor pursuant to these rules. During the time an organization, educational institution, or person is an approved sponsor, all continuing education activities of such organization, educational institution, or person shall be deemed automatically approved.

"Audit" means the selection of licensees for verification of satisfactory completion of continuing education requirements during a specified time period or the selection of providers for verification of adherence to continuing education provider requirements during a specified time period.

"Board" means the board of dietetic examiners.

"Continuing education" means planned, organized learning acts acquired during licensure designed to maintain, improve, or expand a licensee's knowledge and skills in order for the licensee to develop new knowledge and skills relevant to the enhancement of practice, education, or theory development to improve the safety and welfare of the public.

"Hour of continuing education" means a clock hour spent by a licensee in actual attendance at and completion of approved continuing education activity.

"Inactive license" means the license of a person who is not engaged in practice in the state of Iowa.

"Lapsed license" means a license that a person has failed to renew as required, or the license of a person who has failed to meet stated obligations for renewal within a stated time.

"License" means license to practice.

"Licensee" means any person licensed to practice as a dietitian in the state of Iowa.

645—81.2(152A) Continuing education requirements.

81.2(1) The biennial continuing education compliance period shall extend for a two-year period beginning on the fifteenth day of the licensee's birth month and ending on the fifteenth day of the birth month two years later. Each biennium, each person who is licensed to practice as a dietitian in this state shall be required to complete a minimum of 30 hours of continuing education approved by the board.

81.2(2) Requirements for new licensees. Those persons licensed for the first time shall not be required to complete continuing education as a prerequisite for the first renewal of their licenses. Continuing education hours acquired anytime from the initial licensing until the second license renewal may be used. The new licensee will be required to complete a minimum of 30 hours of continuing education per biennium for each subsequent license renewal.

81.2(3) Hours of continuing education credit may be obtained by attending and participating in a continuing education activity. These hours must be approved by the board and meet the requirements herein pursuant to statutory provisions and the rules that implement them.

81.2(4) No hours of continuing education shall be carried over into the next biennium except as stated for the second renewal.

81.2(5) It is the responsibility of each licensee to finance the cost of continuing education.

645—81.3(152A) Standards for approval.

81.3(1) *General criteria.* A continuing education activity which meets all of the following criteria is appropriate for continuing education credit if it is determined by the board that the continuing education activity:

a. Constitutes an organized program of learning which contributes directly to the professional competency of the licensee;

b. Pertains to subject matters which integrally relate to the practice of the profession;

c. Is conducted by individuals who have specialized education, training and experience by reason of which said individuals should be considered qualified concerning the subject matter of the program. An application must be accompanied by a paper, manual or outline which substantively pertains to the subject matter of the program and reflects program schedule, goals and objectives. The board may request the qualifications of the presenters;

d. Fulfills stated program goals, objectives, or both; and

e. Provides proof of attendance to licensees in attendance including:

(1) Date(s), location, course title, presenter(s);

(2) Number of program contact hours. (One contact hour equals one hour of continuing education credit.); and

(3) Official signature or verification by program sponsor.

81.3(2) *Specific criteria.*

a. Continuing education hours of credit may be obtained by completing programs/activities that reflect the educational needs of the dietitian and the nutritional needs of the consumer. Programs/activities may be offered within the state of Iowa and shall have prior approval by the board. If the program/activity is offered outside the state of Iowa, the hours can be accrued if the session meets the criteria in the rules and is approved by the Commission on Dietetic Registration of the American Dietetic Association. Continuing education programs/activities that are scientifically founded and offered at a level beyond entry-level dietetics for professional growth shall be approved for continuing education.

b. The licensee shall participate in other types of activities identified in the individual licensee's professional development portfolio for Commission on Dietetic Registration (CDR) certification. Programs or activities not otherwise prior approved by the board shall be subject to approval in the event of an audit.

c. The following areas are appropriate for continuing education credit:

(1) Sciences related to dietetic practice, education, or research including biological sciences, food and resource management and behavioral and social sciences to achieve and maintain people's health.

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

(3) Management or quality assurance of nutritional care delivery systems.

(4) Dietetic practice related to community health needs.

d. Criteria for hours of credit are as follows:

(1) Academic coursework. Coursework for credit must be completed at a regionally accredited U.S. college or university. In order for the licensee to receive continuing education credit, the coursework must be beyond entry-level dietetics.

1 academic semester hour = 15 continuing education hours

1 academic quarter hour = 10 continuing education hours

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

1. Senior author: first of two or more authors listed.
2. Coauthor: second of two authors listed.
3. Contributing author: all but senior of the three or more authors.
4. Research papers:

• Single author	10 hours
• Senior author	8 hours
• Coauthor	5 hours
• Contributing author	3 hours

5. Technical articles:

• Single author	5 hours
• Senior author	4 hours
• Coauthor	3 hours
• Contributing author	2 hours

6. Information-sharing articles: 1 hour
7. Abstracts:

• Senior author	2 hours
• Coauthor	1 hour

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

(4) Presenters. Presenters may receive continuing education credit. Presentations to the lay public shall not receive credit for continuing education. For each one hour of presentation, two hours of credit for continuing education shall be earned. Presenters of poster sessions at national professional meetings shall receive a maximum of two hours of credit per topic. A copy of the abstract or manuscript and documentation of the peer review process must be included in the licensee's documentation list.

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

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

(6) Staff development training shall meet the criteria herein and be subject to board approval.

645—81.4(152A) Approval of sponsors, programs, and activities for continuing education.

81.4(1) *Approval of sponsors.* An applicant who desires approval as a sponsor of courses, programs, or other continuing education activities shall, unless exempted elsewhere in these rules, apply for approval to the board on the form designated by the board stating the applicant's educational history for the preceding two years or proposed plan for the next two years.

a. The form shall include the following:

(1) Date(s), location, course title(s) offered and outline of content;
(2) Total hours of instruction presented;
(3) Names and qualifications of instructors including résumés or vitae; and
(4) Evaluation form(s).

b. Records shall be retained by the sponsor for four years.

c. Attendance record report. The person or organization sponsoring an approved continuing education activity shall provide a certificate of attendance or verification to the licensee providing the following information:

(1) Program date(s);
(2) Course title and presenter;
(3) Location;
(4) Number of clock hours attended and continuing education hours earned;
(5) Name of sponsor and sponsor number;
(6) Licensee's name; and
(7) Method of presentation.

d. All approved, accredited sponsors shall maintain a copy of the following:

(1) The continuing education activity;
(2) List of enrolled licensees' names and license numbers; and
(3) Number of continuing education clock hours awarded for a minimum of four years from the date of the continuing education activity.

e. The sponsor shall submit a report of all continuing education programs conducted in the previous year during the assigned month for reporting designated by the board. The report shall include:

(1) Date(s), location, course title(s) offered and outline of content;
(2) Total hours of instruction presented;
(3) Names and qualifications of instructors including résumés or vitae;
(4) Evaluation form(s); and
(5) A summary of the evaluations completed by the licensees.

81.4(2) *Prior approval of programs/activities.* An organization or person other than an approved sponsor that desires prior approval of a course, program or other educational activity or that desires to establish approval of such activity prior to attendance shall apply for approval to the board on a form provided by the board at least 60 days in advance of the commencement of the activity. The board shall approve or deny such application in writing within 30 days of receipt of such application. The application shall state:

a. The date(s);
b. Course(s) offered;
c. Course outline;
d. Total hours of instruction; and
e. Names and qualifications of speakers and other pertinent information.

The organization or person shall be notified of approval or denial by ordinary mail.

81.4(3) *Review of programs.* Sponsors shall report continuing education programs every year at a time designated by the board. The board may at any time reevaluate an approved sponsor. The board shall notify the sponsor of the sponsor's status. If, after reevaluation, the board finds there is cause for revocation of the approval of an approved sponsor, the board shall give notice of the revocation to that sponsor by certified mail. The sponsor shall have the right to hearing regarding the revocation. The request for hearing must be sent within 20 days after the receipt of the notice of revocation. The hearing shall be held within 90 days after the receipt of the request for hearing. The board shall give notice by certified mail to the sponsor of the date set for the hearing at least 30 days prior to the hearing. The board shall conduct the hearing in compliance with rule 645—11.9(17A).

81.4(4) *Postapproval of activities.* A licensee seeking credit for attendance and participation in an educational activity which was not conducted by an approved sponsor or otherwise approved shall submit to the board, within 60 days after completion of such activity, the following:

a. The date(s);
b. Course(s) offered;
c. Course outline;
d. Total hours of instruction and credit hours requested;
e. Names and qualifications of speakers and other pertinent information;
f. Request for credit which includes a brief summary of the activity; and
g. Certificate of attendance or verification.

Within 90 days after receipt of such application, the board shall advise the licensee in writing by ordinary mail whether the activity is approved and the number of hours allowed. A licensee not complying with the requirements of this subrule may be denied credit for such activity.

81.4(5) *Voluntary relinquishment.* The approved sponsor may voluntarily relinquish sponsorship by notifying the board office in writing.

645—81.5(152A) Reporting continuing education by licensee. At the time of license renewal, each licensee shall be required to submit a report on continuing education to the board on a board-approved form.

81.5(1) The information included on the form shall include:

a. Title of continuing education activity;
b. Date(s);
c. Sponsor of the activity;
d. Board-approved sponsor number; and
e. Number of continuing education hours earned.

81.5(2) Audit of continuing education report. After each educational biennium, the board will audit a percentage of the continuing education reports before granting the renewal of licenses to those being audited.

a. The board will select licensees to be audited.

b. The licensee shall make available to the board for auditing purposes a copy of the certificate of attendance or verification for all reported activities that includes the following information:

(1) Date, location, course title, schedule (brochure, pamphlet, program, presenter(s)), and method of presentation;
(2) Number of contact hours for program attended;
(3) Indication of successful completion of the course;
(4) Reprints of journal articles; and
(5) Copy of official transcript of college courses.

For activities not provided by an approved sponsor, the licensee shall submit a description of the program content which indicates that the content is integrally related to the practice and contributes directly to the provision of services to the public.

c. For auditing purposes, the licensee must retain the above information for two years after the biennium has ended.

d. Submission of a false report of continuing education or failure to meet continuing education requirements may cause the license to lapse and may result in formal disciplinary action.

e. All renewal license applications that are submitted late (after the end of the compliance period) may be subject to audit of continuing education report.

f. Failure to receive the renewal application shall not relieve the licensee of responsibility of meeting continuing education requirements and submitting the renewal fee by the end of the compliance period.

645—81.6(152A) Reinstatement of lapsed license. Failure of the licensee to renew within 30 days after expiration date shall cause the license to lapse. A person who allows the license to lapse cannot engage in practice in Iowa without first complying with all regulations governing reinstatement as outlined in the board rules. A person who allows the license to lapse may apply to the board for reinstatement of the license. Reinstatement of the lapsed license may be granted by the board if the applicant:

1. Submits a written application for reinstatement to the board;
2. Pays all of the renewal fees then due up to a maximum of two bienniums;
3. Pays all late fees which have been assessed by the board for failure to renew;
4. Pays reinstatement fees; and
5. Provides evidence of satisfactory completion of Iowa continuing education requirements during the period since the license lapsed. The total number of continuing education hours required for license reinstatement is computed by multiplying 30 by the number of bienniums since the license lapsed up to a maximum of 60 hours.

645—81.7(152A,272C) Continuing education waiver for active practitioners. A dietitian licensed to practice shall be deemed to have complied with the continuing education requirements of this state during the period that the licensee serves honorably on active duty in the military services or as a government employee outside the United States as a practicing dietitian.

645—81.8(152A,272C) Continuing education exemption for inactive practitioners. A licensee who is not engaged in practice in the state of Iowa may be granted an exemption of continuing education compliance and obtain a certificate of exemption upon written application to the board. The application shall contain a statement that the applicant will not engage in the practice of dietetics in Iowa without first complying with all regulations governing reinstatement after exemption. The application for a certificate of exemption shall be submitted upon forms provided by the board. The licensee shall have completed the required continuing education at the time of reinstatement.

645—81.9(152A,272C) Continuing education waiver for disability or illness. The board may, in individual cases involving disability or illness, grant waivers of the minimum educational requirements or extension of time within which to fulfill the same or make the required reports. No waiver or extension of time shall be granted unless written application therefor is made on forms provided by the board and signed by the licensee and appropriate licensed health care practitioners. The board may grant a waiver of the minimum educational requirements for any period of time not to exceed one calendar year from the onset of disability or illness. In the event that the disability or illness upon which a waiver has been granted continues beyond the period of waiver, the licensee must reapply for an extension of the waiver. The board may, as a condition of any waiver granted, require the applicant to make up a certain portion or all of the minimum educational requirements waived by such methods as may be prescribed by the board.

645—81.10(152A,272C) Reinstatement of inactive practitioners. Inactive practitioners who have been granted a waiver of compliance with these rules and obtained a certificate of exemption shall, prior to engaging in the practice of dietetics in the state of Iowa, satisfy the following requirements for reinstatement.

81.10(1) Submit written application for reinstatement to the board upon forms provided by the board;

81.10(2) Submit the reinstatement fee;

81.10(3) Furnish evidence of completion of 30 hours of approved continuing education per biennium up to a maximum of 60 hours of continuing education. The continuing education hours must be completed within the two bienniums prior to the date of application for reinstatement; and

81.10(4) Furnish in the application evidence of one of the following:

a. Proof of a current valid dietetics license in another state of the United States or the District of Columbia and completion of continuing education for each year of inactive status substantially equivalent in the opinion of the board to that required under these rules; or

b. Completion of the total number of hours of approved continuing education computed by multiplying 30 by the number of bienniums a waiver of compliance shall have been in effect for the applicant up to a maximum of 60 hours; or

c. Proof of successful completion, with a passing grade, of the license examination conducted within one year immediately prior to the submission of the application for reinstatement.

645—81.11(272C) Hearings. In the event of denial, in whole or part, of any application for approval of a continuing education program or credit for continuing education activity, the applicant, licensee or program provider shall have the right within 20 days after the sending of the notification of denial by ordinary mail to request a hearing which shall be held within 90 days after receipt of the request for hearing. The hearing shall be conducted by the board or an administrative law judge designated by the board, in substantial compliance with the hearing procedure set forth in rule 645—11.9(17A).

These rules are intended to implement Iowa Code section 272C.2 and chapter 152A.

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CHAPTERS 82 to 85
Reserved

CHAPTER 86
AGENCY PROCEDURE FOR RULE MAKING
Rescinded IAB 6/30/99, effective 8/4/99

CHAPTER 87
PETITIONS FOR RULE MAKING
Rescinded IAB 6/30/99, effective 8/4/99

CHAPTER 88
DECLARATORY RULINGS
Rescinded IAB 6/30/99, effective 8/4/99

CHAPTER 89
PUBLIC RECORDS AND FAIR INFORMATION PRACTICES
Rescinded IAB 6/30/99, effective 8/4/99

CHAPTER 90
CHILD SUPPORT NONCOMPLIANCE
Rescinded IAB 6/30/00, effective 8/4/99

CHAPTER 91
IMPAIRED PRACTITIONER REVIEW COMMITTEE
Rescinded IAB 6/30/99, effective 8/4/99

CHAPTERS 92 to 99
Reserved

i. Internship begins upon approval and due notification by the board. Application for change of preceptor or any other alteration must be made in writing and approval granted by the board before the status of the intern is altered.

j. When, for any valid reason, the board feels that the education of a registered intern being received under the supervision of the present preceptor might be detrimental to the intern or the profession at large, the intern will be required to serve the remainder of the internship under the supervision of a licensed funeral director meeting the approval of the board.

k. The intern shall complete a confidential evaluation of the preceptorship program at the end of the internship on a form provided by the board. This shall be submitted before the funeral director's license can be issued to the intern.

l. The intern shall, during the internship, be a full-time employee with the funeral establishment at the site of internship.

101.3(2) *Preceptorship.*

a. A prospective preceptor must have a valid preceptor certificate. A preceptor must have completed a training course within five years of accepting an intern. If the certification is older than five years, the director must recertify as specified by the board.

b. Any duly Iowa licensed and practicing funeral director in good standing for a minimum of five years with the board of mortuary science examiners will be eligible to be certified as a preceptor. This certificate is awarded after completion of a training course as prescribed by the board covering the subjects specified by the board. The training course may be counted toward the continuing education hours required for that licensing period.

c. The preceptor is required to file a six-month progress report of the intern on a board-prescribed form. This form is to be signed by the preceptor and the intern before submission to the board by the end of the seventh month.

d. The preceptor will complete a confidential evaluation of the intern at the end of the internship which must be filed within two weeks of the end of the internship.

e. Certify that the intern shall engage in the practice of mortuary science only during the time frame designated on the official intern certificate.

f. A preceptor's duties shall include the following:

(1) Be physically present and supervise the first five embalmings and first five funeral cases.

(2) Familiarize the intern in the areas specified by the preceptor training outline.

(3) Read and sign each of the 25 embalming and the 25 funeral directing reports done by the intern.

(4) Complete a written six-month report of the intern on a form provided by the board. This report is to be reviewed with and signed by the intern and submitted to the board before the end of the seventh month.

(5) At the end of the internship, complete a confidential evaluation of the intern on a form provided by the board. This shall be submitted within two weeks of the end of the internship.

g. Failure of a preceptor to fulfill the requirements set forth by the board, including failure to remit the required six-month progress report, as well as the final evaluation, shall result in an investigation of the preceptor by the board.

h. If a preceptor does not serve the entire year, the board will evaluate the situation; and if a certified preceptor is not available, a licensed director may serve with the approval of the board.

645—101.4(156) Student practicum.

101.4(1) Application. The applicant shall:

a. Apply to the board for a student practicum on forms provided by the board;

b. Request a letter that shall be sent directly from the student's school, accredited by and in good standing with the American Board of Funeral Service Education, to the board regarding the student's current status and length of practicum; and

c. Pay the fee for student practicum as listed in 645—101.6(147).

101.4(2) No licensed funeral director shall permit any person, in the funeral director's employ or under the funeral director's supervision or control, to serve a student practicum in funeral directing unless that person has a certificate of practicum approved by the board of mortuary science examiners as an Iowa registered practicum student.

101.4(3) Every person who is registered for a student practicum with the board of mortuary science examiners shall have a registration certificate posted in a conspicuous public place in the practicum student's site of practicum.

101.4(4) The practicum student shall serve the practicum in Iowa under the direct physical supervision of the assigned practicum supervisor who has had current preceptor training.

101.4(5) The practicum student shall be under the direct physical supervision of an Iowa licensed funeral director and serve in an Iowa licensed funeral establishment.

101.4(6) No licensed funeral director or licensed funeral establishment shall have more than one practicum student for the first 100 human remains embalmed or funerals conducted per year, and with a maximum of two practicum students per funeral establishment.

101.4(7) Practicum students shall not advertise or present themselves as funeral directors.

101.4(8) The student practicum begins upon approval and due notification by the board. The board shall be notified in writing of any change of practicum supervisor or any other alteration, and approval shall be granted by the board before the status of the student practicum is altered.

101.4(9) The length of the student practicum shall be determined by the student's school.

101.4(10) The practicum student may, during the practicum, embalm human remains in the physical presence of the practicum supervisor and direct or assist in directing funerals under the direct supervision of the practicum supervisor.

645—101.5(147,156) Endorsement rules.

101.5(1) Any person holding a valid license as a funeral director in another state having requirements substantially equal to those in Iowa may apply for a license to practice in this state by filing an application to practice by endorsement.

101.5(2) The following shall be required:

a. An application fee.

b. Official verification of license status mailed directly from the endorsing state to the board office.

c. An official transcript of grades showing the completion of a mortuary science program accredited by the American Board of Funeral Service Education.

d. Official transcript of grades showing 60 semester hours from a regionally accredited college or university with a minimum of a 2.0 or "C" grade point average.

e. Successful passage of the Iowa law and rules examination with a score of at least 75 percent.

101.5(3) Rescinded IAB 9/9/98, effective 10/14/98.

101.5(4) All applicants for endorsement licenses shall hold original license in good standing obtained upon examination in the state from which the endorsement was received. The examination shall have covered substantially the same subjects in which an examination is required in Iowa, showing the applicant has attained a passing grade. Applicants licensed before 1980 are exempt from showing a passing grade on the national board examination. The applicant shall have met the educational requirements of the state of Iowa for a funeral director.

101.5(5) Each applicant must furnish certified evidence of two or more years of actual practice as a licensed funeral director in the state from which the applicant desires to endorse.

101.5(6) Rescinded, effective 7/1/80.

101.5(7) Licensees who were issued their initial license by endorsement within six months of their birth month will not be required to renew their license until the fifteenth day of their birth month two years later. The new licensee is exempt from meeting the continuing education requirement for the continuing education biennium in which the license was originally issued.

101.5(8) Rescinded, effective 7/1/80.

645—101.6(147) Fees. All fees are nonrefundable.

101.6(1) The application fee for a license to practice mortuary science issued upon the basis of examination or endorsement is $50.

101.6(2) Rescinded IAB 9/15/93, effective 10/20/93.

101.6(3) Fee for renewal of a funeral director's license for a biennial period is $100.

101.6(4) Penalty fee for failure to renew a funeral director's license within 30 days following its expiration is $100.

101.6(5) Penalty fee for failure to obtain required continuing education within the compliance period is $100.

101.6(6) Rescinded IAB 5/15/91, effective 6/19/91.

101.6(7) Fee for a certified statement that a licensee is licensed in this state is $10.

101.6(8) Fee for a duplicate license if the original is stolen or lost is $10.

101.6(9) Application fee for reinstatement of a funeral director's license is $50.

101.6(10) Fee for retake of the state examination is $50.

101.6(11) Fee for a board member to unofficially review a transcript prior to the individual applying for licensure in Iowa is $10.

101.6(12) Fee for returned check for insufficient funds is $15.

101.6(13) Fee for funeral establishment is $75.

101.6(14) Fee for three-year renewal of funeral establishment is $75.

101.6(15) Fee for reinstatement of a funeral establishment is $50.

101.6(16) Fee for student practicum is $25.

DISCIPLINARY PROCEDURES FOR FUNERAL DIRECTORS

645—101.7(272C) Definitions. For the purpose of these rules, the following definitions shall apply:

"Board" means the board of mortuary science examiners.

"Crematory" means any person, partnership or corporation that performs cremation and sells funeral goods.

"Funeral establishment" means a place of business as defined by the board devoted to providing any aspect of mortuary science.

"Funeral services" means any services which may be used to care for and prepare deceased human bodies for burial, cremation or other final disposition; and arrange, supervise or conduct the funeral ceremony or the final disposition of deceased human bodies.

"Licensee" means any person licensed to practice as a funeral director in the state of Iowa.

645—101.8(272C) Grounds for discipline.

101.8(1) The board may impose any of the disciplinary sanctions set forth in rule 645—13.1(272C), including civil penalties in an amount not to exceed $1000, when the board determines that the licensee is guilty of the following acts or offenses:

a. Fraud in procuring a license.

b. Professional incompetency.

c. Knowingly making misleading, deceptive, untrue or fraudulent representations in the practice of a profession or engaging in unethical conduct or practice harmful or detrimental to the public. Proof of actual injury need not be established.

d. Habitual intoxication or addiction to the use of drugs.

e. Conviction of a felony related to the profession or occupation of the licensee, or the conviction of any felony that would affect the licensee's ability to practice within a profession. A copy of the record of conviction or plea of guilty shall be conclusive evidence.

Conviction of a felony related to the profession or occupation of the licensee or the conviction of any felony that would affect the licensee's ability to practice within a profession includes, but is not limited to the conviction of a funeral director who has committed a public offense in the practice of the profession which is defined or classified as a felony in this state, another state, or the United States, which statute or law relates to the practice of mortuary science, or who has been convicted of a felonious act, which is so contrary to honesty, justice or good morals, and so reprehensible as to violate the public confidence and trust imposed upon the licensee as a funeral director in this state.

f. Fraud in representations as to skill or ability.

g. Use of untruthful or improbable statements in advertisements.

h. Willful or repeated violations of the provisions of Iowa Code chapter 147 or 156.

101.8(2) Violation of the rules promulgated by the board.

101.8(3) Personal disqualifications:

a. Mental or physical inability reasonably related to and adversely affecting the licensee's ability to practice in a safe and competent manner.

b. Involuntary commitment for treatment of mental illness, drug addiction or alcoholism.

101.8(4) Practicing the profession while the license is suspended.

101.8(5) Suspension or revocation of license by another state.

101.8(6) Negligence by the licensee in the practice of the profession, which is a failure to exercise due care including negligent delegation to or supervision of employees or other individuals, whether or not injury results; or any conduct, practice or conditions which impair the ability to safely and skillfully practice the profession.

101.8(7) Prohibited acts consisting of the following:

a. Permitting an unlicensed employee or person under the licensee's control to perform activities requiring a license.

b. Permitting another person to use the license for any purpose.

c. Practice outside the scope of a license.

d. Obtaining, possessing, or attempting to obtain or possess a controlled substance without lawful authority; or selling, prescribing, giving away, or administering controlled substances.

e. Verbally or physically abusing next of kin.

101.8(8) Unethical business practices, consisting of any of the following:

a. False or misleading advertising.

b. Betrayal of a professional confidence.

c. Falsifying business records.

101.8(9) Failure to report a change of name or address within 30 days after it occurs.

101.8(10) Submission of a false report of continuing education or failure to submit the annual report of continuing education.

101.8(11) Failure to notify the board within 30 days after occurrence of any judgment or settlement of a malpractice claim or action.

101.8(12) Failure to report to the board as provided in these rules any violation by another licensee of the reasons for disciplinary action as listed in this rule.

101.8(13) Failure to disclose the items listed in these rules mandatory disclosure.

101.8(14) Embalming or attempting to embalm a deceased human body without first having obtained authorization from a family member or representative of the deceased except where embalming is done to meet the requirements of applicable state or local law.

Notwithstanding the above provisions, a funeral director may embalm without authority when after due diligence no authorized person can be contacted and embalming is in accordance with legal or accepted standards in the community, or the licensee has good reason to believe that the family wishes embalming. The order of priority for those persons authorized to permit embalming is found in Iowa Code section 142A.2(2). If embalming is performed under these circumstances, the licensee shall not be deemed to be in violation of the prohibition in this section.

No misrepresentation as to legal needs or other requirements for embalming shall be made.

101.8(15) Failure to comply with the requirements of Iowa Code chapter 523A.

101.8(16) Violation of regulations promulgated by the Federal Trade Commission.

645—101.9(272C) Method of discipline: licensed funeral establishments and licensed cremation establishments.

101.9(1) The board has authority to impose the following disciplinary sanctions:

1. Refuse to issue or renew a license.
2. Revoke a license.
3. Restrict, cancel or suspend a license.
4. Place a license on probation.
5. Impose a penalty not to exceed $10,000.
6. Issue a reprimand.

101.9(2) The board may impose any of the sanctions if the board finds that the applicant or licensee has done any of the following:

a. Committed fraud in the procurement of an establishment license.

b. Been convicted of a felony or a misdemeanor involving moral turpitude, or if the applicant is an association, joint stock company, partnership, or corporation, that a managing officer has been convicted of a felony involving moral turpitude under the laws of this state, another state, or the United States.

c. Violated Iowa Code chapter 156 or any rule promulgated by the board or that any owner or employee of the establishment has violated Iowa Code chapter 156 or any rules promulgated by the board.

d. Knowingly aided, assisted, procured, or allowed a person to unlawfully practice mortuary science.

e. Failed to engage in or ceased to engage in the business for which the license was granted.

f. Failed to keep and maintain records as required by Iowa Code chapter 156 or rules promulgated by the board.

g. Knowingly made misleading, deceptive, untrue or fraudulent representations in the funeral practice or engaged in unethical conduct or practice harmful or detrimental to the public. Proof of actual injury need not be established.

h. Engaged in unethical business practices including false or misleading advertising, falsifying business records or failure to disclose the items.

i. Failed to comply with the requirements of Iowa Code chapter 523A.

j. Violated any of the regulations promulgated by the Federal Trade Commission.

645—101.10(272C) Disciplinary proceedings for funeral and cremation establishments. Disciplinary proceedings regarding the funeral establishment or cremation establishment license shall be initiated and conducted in conformance with Iowa Code chapter 17A and shall be initiated and conducted in accordance with the disciplinary procedures for funeral directors.

645—101.11(272C) Peer review committees.

101.11(1) Each peer review committee for the profession, if established, may register with the board of examiners within 30 days after the effective date of these rules or within 30 days after formation.

101.11(2) Each peer review committee shall report in writing within 30 days of the action, any disciplinary action taken against a licensee by the peer review committee.

101.11(3) The board may appoint peer review committees as needed consisting of not more than five persons who are licensed to practice funeral directing to advise the board on standards of practice and other matters relating to specific complaints as requested by the board. The peer review committee shall observe the requirements of confidentiality provided in Iowa Code section 272C.6.

645—101.12 to **101.99** Reserved.

CONTINUING EDUCATION FOR FUNERAL DIRECTORS

645—101.100(147) Definitions. Rescinded IAB 11/1/00, effective 12/6/00.

645—101.101(272C) Continuing education requirements. Rescinded IAB 11/1/00, effective 12/6/00.

645—101.102(272C) Standards for approval. Rescinded IAB 11/1/00, effective 12/6/00.

645—101.103(272C) Approval of sponsors, programs, and activities. Rescinded IAB 11/1/00, effective 12/6/00.

645—101.104(272C) Hearings. Rescinded IAB 11/1/00, effective 12/6/00.

645—101.105(272C) Report of licensee. Rescinded IAB 11/1/00, effective 12/6/00.

645—101.106(272C) Attendance record report. Rescinded IAB 11/1/00, effective 12/6/00.

645—101.107(272C) Disability or illness. Rescinded IAB 11/1/00, effective 12/6/00.

645—101.108(272C) Exemptions for inactive practitioners. Rescinded IAB 11/1/00, effective 12/6/00.

645—101.109(272C) Reinstatement of inactive practitioners. Rescinded IAB 11/1/00, effective 12/6/00.

645—101.110 to **101.299** Reserved.

PROCEDURES FOR USE OF CAMERAS AND
RECORDING DEVICES AT OPEN MEETINGS

645—101.300(21) Conduct of persons attending meetings. Rescinded IAB 11/1/00, effective 12/6/00.

These rules are intended to implement Iowa Code section 147.76 and chapter 272C and 2000 Iowa Acts, Senate File 2302, section 42.

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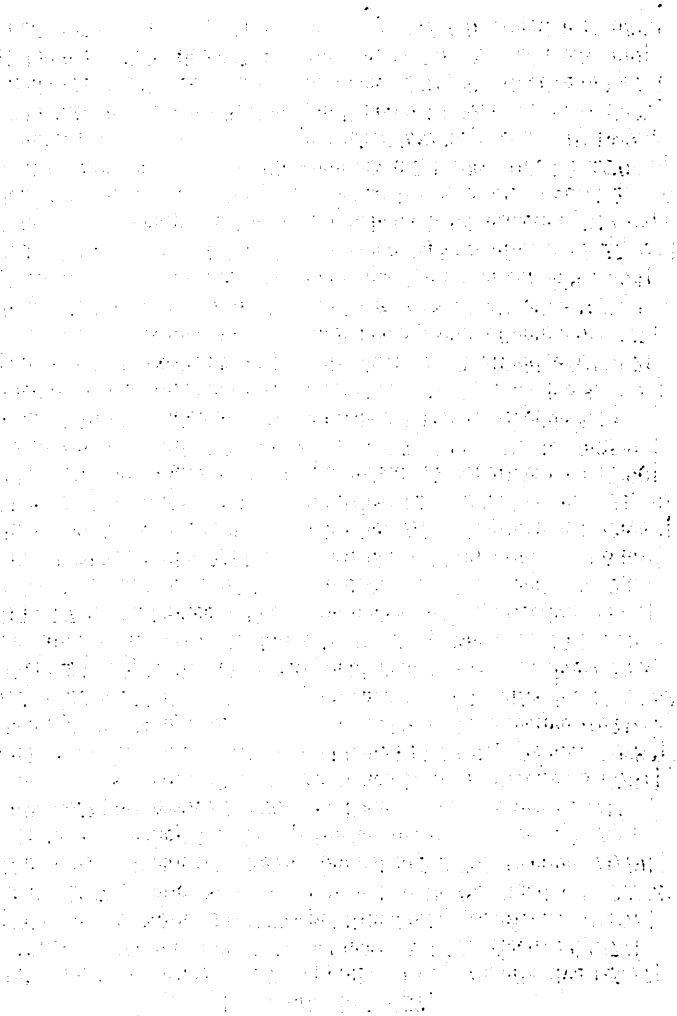

CHAPTER 102
CONTINUING EDUCATION FOR MORTUARY SCIENCE

645—102.1(272C) Definitions. For the purpose of these rules, the following definitions shall apply:

"Active license" means the license of a person who is acting, practicing, functioning, and working in compliance with license requirements.

"Administrator" means the administrator of the board of mortuary science examiners.

"Approved program/activity" means a continuing education program/activity meeting the standards set forth in these rules, which has received advance approval by the board pursuant to these rules.

"Approved sponsor" means a person or an organization sponsoring continuing education activities, that has been approved by the board as a sponsor pursuant to these rules. During the time an organization, educational institution, or person is an approved sponsor, all continuing education activities of such organization, educational institution, or person may be deemed automatically approved.

"Audit" means the selection of licensees for verification of satisfactory completion of continuing education requirements during a specified time period or the selection of providers for verification of adherence to continuing education provider requirements during a specified time period.

"Board" means the board of mortuary science examiners.

"Continuing education" means planned, organized learning acts designed to maintain, improve, or expand a licensee's knowledge and skills in order for the licensee to develop new knowledge and skills relevant to the enhancement of practice, education, or theory development to improve the safety and welfare of the public.

"Direct supervision" means under the direction and immediate supervision of a licensed funeral director.

"Full-time" means a minimum of a 35-hour work week.

"Hour of continuing education" means a clock hour spent by a licensee in actual attendance at and completion of an approved continuing education activity.

"Inactive license" means the license of a person who is not in practice in the state of Iowa.

"Lapsed license" means a license that a person has failed to renew as required, or the license of a person who failed to meet stated obligations within a stated time.

"License" means license to practice.

"Licensee" means any person licensed to practice as a funeral director in the state of Iowa.

645—102.2(272C) Continuing education requirements.

102.2(1) The biennial continuing education compliance period shall extend for a two-year period beginning on the fifteenth day of the licensee's birth month and ending on the fifteenth day of the licensee's birth month. Each biennium, each person who is licensed to practice as a licensee in this state shall be required to complete a minimum of 24 hours of continuing education approved by the board.

102.2(2) Requirements of new licensees. Those persons licensed for the first time shall not be required to complete continuing education as a prerequisite for the first renewal of their licenses. Continuing education hours acquired anytime from the initial licensing until the second license renewal may be used. The new licensee will be required to complete a minimum of 24 hours of continuing education per biennium for each subsequent license renewal.

102.2(3) Hours of continuing education credit may be obtained by attending and participating in a continuing education activity. These hours must meet the requirements herein pursuant to statutory provisions and the rules that implement them.

102.2(4) No hours of continuing education shall be carried over into the next biennium except as stated for the second renewal.

102.2(5) It is the responsibility of each licensee to finance the cost of continuing education.

645—102.3(272C) Standards for approval.

102.3(1) *General criteria.* A continuing education activity which meets all of the following criteria is appropriate for continuing education credit if it is determined by the board that the continuing education activity:

a. Constitutes an organized program of learning which contributes directly to the professional competency of the licensee;

b. Pertains to subject matters which integrally relate to the practice of the profession;

c. Is conducted by individuals who have specialized education, training and experience by reason of which said individuals should be considered qualified concerning the subject matter of the program. The application must be accompanied by a paper, manual or outline which substantively pertains to the subject matter of the program and reflects program schedule, goals and objectives. The board may request the qualifications of presenters.

d. Fulfills stated program goals, objectives, or both; and

e. Provides proof of attendance to licensees in attendance including:

(1) Date(s), location, course title, presenter(s);

(2) Number of program contact hours (One contact hour equals one hour of continuing education credit.); and

(3) Official signature or verification by program sponsor.

102.3(2) *Specific criteria.*

a. The following categories of continuing education are accepted:

(1) Public health and technical: chemistry, microbiology and public health, anatomy, pathology, restorative art, arterial and cavity embalming.

(2) Business management: accounting, funeral home management and merchandising, computer application, funeral directing, and small business management.

(3) Social sciences/humanities: psychology of grief, counseling, sociology of funeral service, history of funeral service, communication skills, and philosophy.

(4) Legal, ethical, regulatory: mortuary law; business law; ethics; Federal Trade Commission, OSHA, ADA, and EPA regulations; preneed regulation; social services; veterans affairs benefits; insurance; state and county benefits; legislative concerns.

b. Academic coursework that meets the criteria set forth in the rule is accepted. Continuing education credit equivalents are as follows:

1 academic semester hour = 10 continuing education hours

1 academic trimester hour = 8 continuing education hours

1 academic quarter hour = 7 continuing education hours

A course description and an official school transcript indicating successful completion of the course must be provided by the licensee to receive credit for an academic course if continuing education is audited.

c. Attendance at or participation in a program or course which is offered or sponsored by an approved continuing education sponsor.

d. Self-study, including television viewing, Internet, video- or sound-recorded programs, or correspondence work, or by other similar means as authorized by the board. Self-study credits must be accompanied by a certificate from the sponsoring organization that indicates successful completion of the test.

e. Presentations of a structured continuing education program or a college course that meets the criteria established in standards for approval may receive 1.5 times the number of hours granted the attendees. These hours shall be granted only once per biennium for identical presentations.

645—102.4(272C) Approval of sponsors, programs, and activities on continuing education.

102.4(1) *Approval of sponsors.* An applicant who desires approval as a sponsor of courses, programs, or other continuing education activities shall, unless exempted elsewhere in these rules, apply for approval to the board on the form designated by the board stating the applicant's educational history for the preceding two years or proposed plan for the next two years.

a. The form shall include:

(1) Date(s), location, course title(s) offered and outline of content;

(2) Total hours of instruction to be presented;

(3) Names and qualifications of instructors including résumés or vitae; and

(4) Evaluation form(s).

b. Records shall be retained by the sponsor for four years.

c. Attendance record report. The person or organization sponsoring an approved continuing education activity shall provide a certificate of attendance to the licensee providing the following information:

(1) Program date(s);

(2) Course title and presenter;

(3) Location;

(4) Number of clock hours attended and continuing education hours earned;

(5) Name of sponsor and sponsor number (if applicable);

(6) Licensee's name; and

(7) Method of presentation.

d. All approved sponsors shall maintain a copy of the following:

(1) The continuing education activity;

(2) List of enrolled licensees' names and license numbers; and

(3) Number of continuing education clock hours awarded for a minimum of four years from the date of the continuing education activity.

e. The sponsor shall submit a report of all continuing education programs conducted in the previous year during the assigned month for reporting designated by the board. The report shall include:

(1) Date(s), location, course title(s) offered and outline of content;

(2) Total hours of instruction presented;

(3) Names and qualifications of instructors including résumés or vitae;

(4) Evaluation form(s); and

(5) A summary of the evaluations completed by the licensees.

102.4(2) *Prior approval of programs/activities.* An organization or person other than an approved sponsor that desires prior approval of a course, program or other education activity or that desires to establish approval of such activity prior to attendance shall apply for approval to the board on a form provided by the board at least 60 days in advance of the commencement of the activity. The board shall approve or deny such application in writing within 30 days of receipt of such application. The application shall state:

a. The date(s);

b. Course(s) offered;

c. Course outline;

d. Total hours of instruction; and

e. Names and qualifications of speakers and other pertinent information.

The organization or person shall be notified of approval or denial by ordinary mail.

102.4(3) *Review of programs.* Continuing education programs/activities shall be reported every year at the designated time as assigned by the board. Written notice of sponsor status will be sent by the board. The board may at any time reevaluate an approved sponsor. If, after reevaluation, the board finds there is cause for revocation of the approval of an approved sponsor, the board shall give notice of the revocation to that sponsor by certified mail. The sponsor shall have the right to hearing regarding the revocation. The request for hearing must be sent within 20 days after the receipt of the notice of revocation. The hearing shall be held within 90 days after the receipt of the request for hearing. The board shall give notice by certified mail to the sponsor of the date set for the hearing at least 30 days prior to the hearing. The board shall conduct the hearing in compliance with rule 645—11.9(17A).

102.4(4) *Postapproval of activities.* A licensee seeking credit for attendance and participation in an educational activity which was not conducted by an approved sponsor or otherwise approved shall submit to the board, within 60 days after completion of such activity, the following:

a. The date(s);
b. Course(s) offered;
c. Course outline;
d. Total hours of instruction and credit hours requested;
e. Names and qualifications of speakers and other pertinent information;
f. Request for credit which includes a brief summary of the activity; and
g. Certificate of attendance or verification.

Within 90 days after receipt of such application, the board shall advise the licensee in writing by ordinary mail whether the activity is approved and the number of hours allowed. A licensee not complying with the requirements of this subrule may be denied credit for such activity.

102.4(5) *Voluntary relinquishment.* The approved sponsor may voluntarily relinquish sponsorship by notifying the board office in writing.

645—102.5(272C) Reporting continuing education by licensee. At the time of license renewal, each licensee shall be required to submit a report on continuing education to the board on a board-approved form.

102.5(1) The information on the form shall include:

a. Title of continuing education activity;
b. Date(s);
c. Sponsor of the activity;
d. Board-approved sponsor number;
e. Number of continuing education hours earned; and
f. Teaching method used.

102.5(2) Audit of continuing education report. After each educational biennium, the board will audit a percentage of the continuing education reports before granting the renewal of licenses to those being audited.

a. The board will select licensees to be audited.

b. The licensee shall make available to the board for auditing purposes a certificate of attendance or verification for all reported activities that includes the following information:

(1) Date, location, course title, schedule (brochure, pamphlet, program, presenter(s)), and method of presentation;

(2) Number of contact hours for program attended; and

(3) Certificate of attendance or verification indicating successful completion of the course.

c. For auditing purposes, the licensee must retain the above information for two years after the biennium has ended.

d. Submission of a false report of continuing education or failure to meet continuing education requirements may cause the license to lapse and may result in formal disciplinary action.

e. All renewal license applications that are submitted late (after the end of the compliance period) may be subject to audit of continuing education report.

f. Failure to receive the renewal application shall not relieve the licensee of responsibility of meeting continuing education requirements and submitting the renewal fee by the end of the compliance period.

645—102.6(272C) Reinstatement of lapsed license. Failure of the licensee to renew within 30 days after expiration date shall cause the license to lapse. A person who allows the license to lapse cannot engage in practice in Iowa without first complying with all regulations governing reinstatement as outlined in the board rules. A person who allows the license to lapse must apply to the board for reinstatement of the license. Reinstatement of the lapsed license may be granted by the board if the applicant:

1. Submits a written application for reinstatement to the board;
2. Pays all of the renewal, late and reinstatement fees then due;
3. Provides evidence of satisfactory completion of continuing education requirements during the period since the license lapsed. The total number of continuing education hours required for license reinstatement is computed by multiplying 24 by the number of bienniums since the license lapsed not to exceed 72 hours; and
4. Successfully passes the state law and rules examination with a score of at least 75 percent.

645—102.7(272C) Continuing education waiver for active practitioners. A funeral director licensed to practice as a funeral director shall be deemed to have complied with the continuing education requirements of this state during the period that the licensee serves honorably on active duty in the military services or as a government employee outside the United States as a practicing funeral director.

645—102.8(272C) Continuing education exemption for inactive practitioners. A licensee who is not engaged in practice in the state of Iowa may be granted an exemption of continuing education compliance and obtain a certificate of exemption upon written application to the board. The application shall contain a statement that the applicant will not engage in practice in Iowa without first complying with all regulations governing reinstatement after exemption. The application for a certificate of exemption shall be submitted upon forms provided by the board. The licensee shall have completed the required continuing education at the time of reinstatement.

645—102.9(272C) Continuing education waiver for disability or illness. The board may, in individual cases involving disability or illness, grant waivers of the minimum educational requirements or extension of time within which to fulfill the same or make the required reports. No waiver or extension of time shall be granted unless written application therefor is made on forms provided by the board and signed by the licensee and appropriate licensed health care practitioners. The board may grant a waiver of the minimum educational requirements for any period of time not to exceed one calendar year from the onset of disability or illness. In the event that the disability or illness upon which a waiver has been granted continues beyond the period of waiver, the licensee must reapply for an extension of the waiver. The board may, as a condition of any waiver granted, require the applicant to make up a certain portion or all of the minimum educational requirements waived by such methods as may be prescribed by the board.

645—102.10(272C) Reinstatement of inactive practitioners. Inactive practitioners who have been granted a waiver of compliance with these rules and obtained a certificate of exemption shall, prior to engaging in the practice of mortuary science in the state of Iowa, satisfy the following requirements for reinstatement.

102.10(1) Submit written application for reinstatement to the board upon forms provided by the board;

102.10(2) Submit payment of the examination fee and reinstatement fee; and

102.10(3) Furnish in the application evidence of one of the following:

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

b. Completion of 24 hours of board-approved continuing education.

102.10(4) Furnish evidence of successful completion of the state law and rules examination with a score of at least 75 percent correct conducted within one year immediately prior to the submission of the application for reinstatement.

645—102.11(272C) Hearings. In the event of denial, in whole or part, of any application for approval of a continuing education program or credit for continuing education activity, the applicant, licensee or program provider shall have the right within 20 days after the sending of the notification of denial by ordinary mail to request a hearing which shall be held within 90 days after receipt of the request for hearing. The hearing shall be conducted by the board or an administrative law judge designated by the board, in substantial compliance with the hearing procedure set forth in rule 645—11.9(17A).

These rules are intended to implement Iowa Code section 272C.2 and chapter 156.

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CHAPTER 103
PETITIONS FOR RULE MAKING
Rescinded IAB 6/30/99, effective 8/4/99

CHAPTER 104
AGENCY PROCEDURE FOR RULE MAKING
Rescinded IAB 6/30/99, effective 8/4/99

CHAPTERS 105 to 108
Reserved

CHAPTER 109
PUBLIC RECORDS AND FAIR INFORMATION PRACTICES
Rescinded IAB 6/30/99, effective 8/4/99

CHAPTERS 110 to 113
Reserved

CHAPTER 114
IMPAIRED PRACTITIONER REVIEW COMMITTEE
Rescinded IAB 6/30/99, effective 8/4/99

CHAPTER 115
CHILD SUPPORT NONCOMPLIANCE
Rescinded IAB 6/30/99, effective 8/4/99

CHAPTERS 116 to 119
Reserved

701—107.13(421,422B) Officers and partners, personal liability for unpaid tax. If a retailer or purchaser fails to pay local option sales tax when due for taxes due and unpaid on and after July 1, 1990, any officer of a corporation or association, or any partner of a partnership, who has control of, supervision of, or the authority for remitting local option sales tax payments and has a substantial legal or equitable interest in the ownership of the corporation or partnership is personally liable for payment of the tax, interest, and penalty if the failure to pay the tax is intentional. This personal liability is not applicable to local option tax due and unpaid on accounts receivable. The dissolution of a corporation, association, or partnership does not discharge a responsible person's liability for failure to pay tax. See rule 701—12.15(422,423) for a description of various criteria used to determine personal liability and for a characterization of the term "accounts receivable."

This rule is intended to implement Iowa Code section 421.26 and chapter 422B.

701—107.14(422B) Local option sales and service tax imposed by a city.

107.14(1) On or before January 1, 1998, a city may impose by ordinance of its council a local sales and service tax if all of the following circumstances exist:

a. The city's corporate boundaries include areas of two Iowa counties.

b. All the residents of the city live in one county as determined by the latest federal census preceding the election described in paragraph *"c"* immediately below. Effective May 20, 1999, at least 85 percent of the residents of the city must live in one county to qualify.

c. The county in which the city's residents reside has held an election on the questions of the imposition of a local sales and service tax and a majority of those voting on the question in the city favored its imposition. Effective May 20, 1999, the city residents must live in the county and have held an election on the question of the imposition of the local sales and service tax and a majority of those voting on the question in the city favored its imposition.

d. The city has entered into an agreement on the distribution of the sales and service tax revenues collected from the area where the city tax is imposed with the county where such area is located.

107.14(2) Imposition of the tax is subject to the following restrictions:

a. The tax shall only be imposed in the area of the city located in the county where none of its residents reside. Effective May 20, 1999, the tax shall only be imposed in the area of the city located in the county where not more than 15 percent of the city's residents reside.

b. The tax shall be at the same rate and become effective at the same time as the county tax imposed in the other area of the city.

c. The tax once imposed shall continue to be imposed until the county-imposed tax is reduced or increased in rate or repealed, and then the city-imposed tax shall also be reduced or increased in rate or repealed in the same amount and be effective on the same date.

d. The tax shall be imposed on the same basis as provided in rule 107.9(422B).

e. The city shall assist the department of revenue and finance to identify the businesses in the areas which are to collect the city-imposed tax. The process shall be ongoing as long as the city tax is imposed.

f. The agreement on the distribution of the revenue collected from the city-imposed tax shall provide that 50 percent of such revenue shall be remitted to the county in which the part of the city where the city tax is imposed is located.

This rule is intended to implement Iowa Code chapter 422B as amended by 1999 Iowa Acts, chapter 156, sections 5 and 6.

701—107.15(422B) Application of payments. Since a combined state sales and local option return is utilized by the department, all payments received will be applied to satisfy state sales tax and local option sales and service tax, which include tax, penalty and interest. Application of payments received with the tax return and any subsequent payments received will be applied based on a ratio formula, unless properly designated by the taxpayer as provided in Iowa Code section 421.60(2)*"d."* The ratio for applying all payments received with the return and all subsequent payments for the given tax period will be based upon the calculated total of state sales and local option sales and service tax due for the given tax period in relation to combined total payment of sales and local option sales and service tax actually received for that tax period.

This rule is intended to implement Iowa Code Supplement section 422B.10.

***701—107.16(422B) Recovery of fees.** Beginning on and after July 1, 2000, the department will charge all jurisdictions imposing local option sales and service taxes a fee to recover direct costs incurred by the department on and after July 1, 2000, in the administration of the local option sales and service taxes. The term "local option sales and service taxes" includes local option sales and service taxes imposed pursuant to Iowa Code chapter 422B, as implemented by 701—Chapter 107, and also includes local option school infrastructure sales and service taxes imposed pursuant to Iowa Code chapter 422E and implemented by 701—Chapter 108.

107.16(1) *How fees are determined.* Fees to be imposed on local option sales and service tax jurisdictions are for recovery of direct costs incurred by the department beginning on and after July 1, 2000, in the collection and distribution of the local option sales and service tax. "Direct costs" include, but are not limited to, costs related to taxpayer contacts and presentations, return processing, additional data entry, increased error processing, estimation, audits, and distribution of revenues. Fees do not include such indirect costs as policy and systems development, general agency administrative costs and collection costs.

107.16(2) *Computation of fees for each county.* Fees imposed to recover direct costs of administering local option sales and service taxes by the department shall be based on the number of times the county occurs on the returns processed by the department during the 2001 fiscal year. An "occurrence" is defined as an entry on a quarterly sales tax return reporting local option sales and service tax for a county. Each occurrence represents the total taxable transactions for a county for the given tax period. The department will divide the cost to be recovered into four quarterly amounts. The number of occurrences in each quarter will be divided into the quarterly cost to arrive at a cost per occurrence. This amount is multiplied by the number of occurrences for a county which will determine the amount to be charged to each county.

*At its meeting held October 9, 2000, the Administrative Rules Review Committee delayed the effective date of 107.16 from 10/25/00 until adjournment of the 2001 Session of the General Assembly.

107.16(3) *Allocation of costs to eligible jurisdictions within a county.* The department will apply charges for each eligible jurisdiction within each county against the estimated local option sales and service tax payments due each eligible jurisdiction for the months of October, January, April, and July of each fiscal year. For the purpose of this rule, an eligible jurisdiction is an area entitled to receive local option sales and service taxes. Each city or unincorporated area shall receive the same proportionate shares of the cost as received in revenues for that jurisdiction. Computation for the distribution of costs will be based on the formula used for distribution of revenues for each jurisdiction. For additional information regarding estimated payments see 701—107.10(422B).

This rule is intended to implement 2000 Iowa Acts, House File 2545, section 28.

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◊Two ARCs
*At its meeting held October 9, 2000, the Administrative Rules Review Committee delayed the effective date of 107.16 until adjournment of the 2001 Session of the General Assembly.

108.2(6) *Administration of the tax.* The local option school infrastructure sales and service tax is to be imposed on the gross receipts of sales of tangible personal property sold within the local option jurisdiction and upon the gross receipts from services rendered, furnished, or performed within the local option jurisdiction. This tax may only be imposed by a county in the manner set forth previously in this rule. The tax may not be imposed on any transaction not subject to state sales tax. Effective May 1, 1999, transactions involving the use of natural gas, natural gas services, electricity or electric service are subject to a local excise tax that is to be imposed on the same basis as the state use tax, unless the sale or use involved in such transactions is subject to a franchise fee or user fee during the period the franchise fee or user fee is imposed. Except as otherwise provided in this chapter, all references to local option school infrastructure tax also include local excise tax and all rules governing the administration and collection of local option school infrastructure tax are also applicable to local excise tax. For further details, see 701—108.5(422E). With the exception of the natural gas and electric related transactions previously mentioned, there is no local option use tax. See rule 701—14.2(422,423) for a tax table setting forth the combined rate for a state sales tax of 5 percent and the local sales tax rate of 1 percent. Frequency of deposits and quarterly reports of local option tax filed with the department of revenue and finance are governed by the retail sales tax provisions found in Iowa Code section 422.52. Local option tax collections shall not be included in the computation of the total tax to determine the frequency of the filing under Iowa Code section 422.52.

Prior to April 1, 2000, a local option school infrastructure tax cannot be imposed until 40 days after there has been a favorable election to impose the tax. All local option school infrastructure tax must be imposed January 1, April 1, July 1, or October 1. The tax can be repealed only on March 31, June 30, September 30, or December 31. However, this tax must not be repealed before the tax has been in effect for one year. For imposition and repeal date restrictions on or after April 1, 2000, see subrule 108.2(3).

This rule is intended to implement Iowa Code Supplement section 422E.2 as amended by 2000 Iowa Acts, House File 2136, section 37.

701—108.3(422E) Collection of the tax. After a majority vote favoring the imposition of the tax under this chapter, the county board of supervisors shall impose the tax at the rate specified and for a duration not to exceed ten years or less as specified on the ballot. To determine the amount of tax to be imposed on a sale, the taxable amount must not include any state gross receipts taxes or any other local option taxes. A retailer need only have a state tax permit to collect the local option sales and service tax under this chapter. This tax is to be imposed and collected in the following manner:

1. Sale of tangible personal property. This local option sales and service tax is imposed on the gross receipts from "sales" of tangible personal property in which delivery occurs within a jurisdiction imposing the tax. Department rule 701—107.3(422B), which governs transactions subject to and excluded from local option sales tax, is applicable to and governs transactions subject to tax under this chapter as well. As a result, the text of 701—107.3(422B) is incorporated by reference into this chapter.

2. The sale of enumerated services. Department rules 701—107.4(422B), 701—107.5(422B), and 701—107.6(422B), which govern transactions subject to and excluded from local option service tax, single contracts for taxable services performed partly within and partly outside of an area of a county imposing the local option service tax, and motor vehicle, recreational vehicle, and recreational boat rentals subject to local option service tax, respectively, are applicable to and govern transactions subject to tax under this chapter. As a result, the text of 701—107.4(422B), 701—107.5(422B), and 701—107.6(422B) is incorporated by reference into this chapter.

This rule is intended to implement Iowa Code section 422E.3.

701—108.4(422E) Similarities to the local option sales and service tax imposed in Iowa Code chapter 422B and 701—Chapter 107. The administration of the tax imposed under this chapter is similar to the local option tax imposed under Iowa Code chapter 422B and 701—Chapter 107. As a result, a few of the rules set forth in 701—Chapter 107 are also applicable and govern the local option sales and service school infrastructure tax as well. Accordingly, the following rules are incorporated by reference into this chapter and will govern their respective topics in relation to the local option sales and service school infrastructure tax:

1. 701—107.7(422B) Special rules regarding utility payments.
2. 701—107.8(422B) Contacts with county necessary to impose collection obligation upon a retailer.
3. 701—107.12(422B) Computation of local option tax due from mixed sales on excursion boats.
4. 701—107.13(421,422B) Officers and partners, personal liability for unpaid tax.
5. 701—107.15(422B) Application of payments.
*6. 701—107.16(422B) Recovery of fees.

This rule is intended to implement Iowa Code section 422E.3 and 2000 Iowa Acts, House File 2545, section 28.

701—108.5(422E) Sales not subject to local option tax, including transactions subject to Iowa use tax. The local option sales and service tax for school infrastructure is imposed upon the same basis as the Iowa state sales and service tax. However, like the local option sales and service tax set forth in Iowa Code chapter 422B and department rule 701—107.9(422B), there are sales and services that are subject to Iowa state sales tax, but such sales or services are not subject to local option sales and service tax. Department rule 701—107.9(422B), which governs the sales not subject to local option sales and service tax pursuant to Iowa Code section 422B.8, is incorporated by reference into this chapter and will govern the local option sales and service tax for school infrastructure tax with the following exception:

For transactions prior to May 1, 1999. The gross receipts from the sale of natural gas or electricity in a city or county which are subject to a franchise or user fee are not exempt from the local option school infrastructure sales and service tax.

Effective May 1, 1999, transactions involving the use of natural gas, natural gas services, electricity or electric service are subject to a local excise tax that is to be imposed on the same basis as the state use tax, unless the sale or use involved in such transactions is subject to a franchise fee or user fee during the period the franchise fee or user fee is imposed. Except as otherwise provided in this chapter, all references to local option school infrastructure tax also include local excise tax, and all rules governing the administration and collection of local option school infrastructure tax are also applicable to local excise tax. With the exception of the natural gas and electric related transactions previously mentioned, there is no local option use tax.

This rule is intended to implement Iowa Code section 422E.1 as amended by 1999 Iowa Acts, chapter 151, section 36, and Iowa Code section 422E.3 as amended by 1999 Iowa Acts, chapter 151, sections 37 and 38.

701—108.6(422E) Deposits of receipts. The director of revenue and finance shall credit tax receipts, interest, and penalties from the tax under this chapter. If the director is unable to determine from which county any of the receipts from this tax were collected, those receipts shall be allocated among the possible counties based on the allocation rules set forth in 701—107.11(422B).

This rule is intended to implement Iowa Code section 422E.3.

*At its meeting held October 9, 2000, the Administrative Rules Review Committee delayed the effective date of 108.4"6" from 10/25/00 until adjournment of the 2001 Session of the General Assembly.

701—108.7(422E) Local option school infrastructure sales and service tax payments to school districts. The director of revenue and finance within 15 days of the beginning of each fiscal year shall send to each school district where the local option school infrastructure sales and service tax is imposed, an estimate of the tax moneys each school district will receive for the year and for each month of the year. At the end of each month, the director may revise the estimates for the year and remaining months. The director shall remit 95 percent of the estimated monthly tax receipts for the school district to the school district on or before August 31 of the fiscal year and the last day of each month thereafter. The director shall remit a final payment of the remainder of tax money due for the fiscal year before November 10 of the next fiscal year. If an overpayment has resulted during the previous fiscal year, the first payment of the new fiscal year shall be adjusted to reflect any overpayment. Effective on or after May 20, 1999, an adjustment for an overpayment that has resulted during the previous fiscal year will be reflected beginning with the November payment.

If more than one school district or a portion of a school district is located within the county, tax receipts shall be remitted to each school district or portion of a school district in which the county tax is imposed in a pro-rata share based upon the ratio which the percentage of actual enrollment for the school district that attends school in the county bears to the percentage of the total combined actual enrollments for all school districts that attend school in the county. A student's enrollment is based on the residency of the student. The formula to compute this ratio is the following:

$$\frac{\text{actual enrollment for the school district at issue}}{\text{combined actual enrollment for the county}}$$

The combined actual enrollment for the county, for purposes of this tax, shall be determined for each county imposing the tax under this rule by the Iowa department of management based on the actual enrollment figures reported by October 1 of each year to the department of management by the department of education pursuant to Iowa Code section 257.6(1). Enrollment figures to be used for the purpose of this formula are the enrollment figures reported by the department of education for the fiscal year preceding the date of implementation of the local option school infrastructure sales and service tax.

EXAMPLE: In November of 1999, Polk County holds a valid election that results in a favorable vote to impose the local option school infrastructure sales and service tax. The tax will be implemented in Polk County on July 1, 2000. The fiscal year preceding the implementation of the tax is July 1, 1999, through June 30, 2000. To determine the proper ratio of funds to be distributed to the multiple school districts located in Polk County, the enrollment figures reported by the department of education to the department of management by October of 1999 must be obtained to compute the formula as set forth.

For additional information regarding the formula for tax revenues to be distributed to the school districts, see the department of education's rules regarding this tax under 281—Chapter 96, Iowa Administrative Code.

This rule is intended to implement Iowa Code Supplement section 422E.3.

701—108.8 (422E) Construction contract refunds. Effective May 20, 1999, and retroactively applied to July 1, 1998, construction contractors may apply to the department for a refund of local option school infrastructure tax paid on goods, wares, or merchandise if the following conditions are met:

1. The goods, wares or merchandise are incorporated into an improvement to real estate in fulfillment of a written contract fully executed prior to the date of the imposition or increase in rate of the local option school infrastructure tax. The refund shall not apply to equipment transferred in fulfillment of a mixed contract.

2. The local option school infrastructure tax must have been effective in the jurisdiction on or after July 1, 1998.

3. The contractor has paid to the department or to a retailer the full amount of the state and local option tax.

4. The claim is filed on forms provided by the department and is filed within six months of the date the tax is paid.

The refund shall be paid by the department from the appropriate school district's account in the local sales and services tax fund.

The penalty provisions contained in Iowa Code section 422B.11(3) apply regarding erroneous application for refund of tax under this chapter.

This rule is intended to implement Iowa Code section 422E.3 as amended by 1999 Iowa Acts, chapter 156, section 19.

701—108.9(422E) 28E agreements. A school district which has imposed the tax under this chapter has the authority to enter into an agreement authorized and defined in Iowa Code chapter 28E with one or more cities whose boundaries encompass all or a part of the area of the school district. Such an agreement will set forth a designated amount of revenues from the tax imposed under this chapter that a city or each city may receive. A city or cities entering into an Iowa Code chapter 28E agreement is authorized to expend its designated portion of taxes imposed under this chapter for any valid purpose permitted and defined under this chapter as a school infrastructure purpose or for any purpose authorized by the governing body of the city.

Effective May 20, 1999, and for taxes imposed under this chapter on or after July 1, 1998, a county whose boundaries encompass all or a part of an area of a school district may enter into an Iowa Code chapter 28E agreement with that school district. The terms of the Iowa Code chapter 28E agreement will designate a portion of tax revenues received from the tax imposed under this chapter that a county is entitled to receive. A county entering into an Iowa Code chapter 28E agreement with a school district in which tax under this chapter has been imposed is authorized to expend its designated portion of such tax revenues to provide property tax relief within the boundaries of the school district located in the county.

Effective May 20, 1999, and for taxes imposed under this chapter on or after July 1, 1998, a school district where local option school infrastructure tax is imposed is also authorized to enter into an Iowa Code chapter 28E agreement with another school district which is located partially or entirely in or is contiguous to the county where the tax is imposed. The school district shall only expend its designated portion of the local option school infrastructure revenues for infrastructure purposes.

This rule is intended to implement Iowa Code section 422E.4 as amended by 1999 Iowa Acts, chapter 156, section 20.

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CHAPTERS 109 to 112
Reserved

CHAPTER 113
Rescinded, effective 10/15/86

CHAPTERS 114 to 119
Reserved

◊Two ARCs
*At its meeting held October 9, 2000, the Administrative Rules Review Committee delayed the effective date of 108.4"6" until adjournment of the 2001 Session of the General Assembly.

f. Notices of intent to contest elections filed under Iowa Code chapters 61, 62 and 376.

g. Objections to nomination papers filed under Iowa Code chapters 43, 44, and 277.

h. Resignation notice by elected or appointed officials filed under Iowa Code section 69.4.

i. Requests for recounts filed under Iowa Code chapters 43 and 50.

j. Withdrawal notices by candidates filed under Iowa Code chapters 43, 44, 50.46 and 277.

k. Abstracts of votes filed with the state commissioner of elections pursuant to Iowa Code section 50.46.

21.2(2) *Original documents.* The original copy of documents submitted by facsimile machine shall also be filed. The original shall be mailed to the appropriate commissioner. The envelope bearing the original document shall be postmarked not later than the last day to file the document.

a. The filing shall be void if the original of a document filed by facsimile machine is not received within seven days after the filing deadline for the original document.

b. The filing shall be void if the postmark on the envelope containing the original document is later than the filing deadline date.

c. If a filing is voided because the original of a document submitted by facsimile machine was postmarked too late or arrives too late, the person who filed the document shall be notified immediately in writing.

21.2(3) *Documents not acceptable by facsimile.* Only the original of the following documents will be accepted for filing:

a. Absentee ballots and any affidavit required to accompany an absentee ballot under Iowa Code chapter 53.

b. Abstracts of votes filed with the state commissioner of elections pursuant to Iowa Code chapters 43 and 50, except those filed under Iowa Code section 50.46.

c. Nomination petitions filed under Iowa Code chapters 43, 45, 161A, 277, 280A, and 376.

This rule implements Iowa Code sections 43.6, 43.11, 43.16, 43.19, 43.21, 43.23, 43.24, 43.54, 43.56, 43.60, 43.67, 43.76, 43.78, 43.80, 43.88, 43.115, 43.116, 44.3, 44.4, 44.9, 44.16, 45.3, 45.4, 46.20, 47.1, 47.2, 50.30, 50.31, 50.32, 50.33, 50.46, 50.48, 53.2, 53.8, 53.11, 53.17, 53.21, 53.22, 53.40, 53.45, 54.5, 61.3, 62.5, 69.4, 161A.5, 260C.15, 277.4, 277.5, 376.4, 376.10, 376.11, and 420.130.

721—21.3(49) Voter identification documents.

21.3(1) A precinct election official may require identification from any person whom the official does not know.

21.3(2) Precinct election officials shall require identification under the following circumstances:

a. From any person offering to vote whose name does not appear on the election register as an active voter.

b. From any person offering to vote whose name is not on the election register and who wants to report a change of address from one precinct to another within the same county.

21.3(3) The identification document must currently be valid and must show a color photograph and the signature of the cardholder. Acceptable forms include:

a. Driver's license.

b. Nonoperator's identification card issued by driver services division of the department of transportation.

c. Student identification card.

d. A person who does not possess any of the identification documents required by this subrule may fulfill the requirement by having another registered voter of the county who possesses the required identification documents attest to the person's identity. Form 1-S shall be used. The form shall be filed in person by both parties. It may be filed at the polls on election day or at the office of the commissioner at any time before the special precinct board convenes to examine the qualifications of voters who cast special ballots. If the form is filed at the polls on election day, the precinct election officials may permit the voter without identification to vote without casting a special ballot.

21.3(4) A person who has been requested to provide identification and does not provide it shall vote only by special ballot pursuant to Iowa Code section 49.81.

This rule is intended to implement Iowa Code section 49.77(3).

721—21.4(49) Changes of address at the polls. An Iowa voter who has moved from one precinct to another in the county where the person is registered to vote may report a change of address at the polls on election day.

21.4(1) To qualify to vote in the election being held that day the voter shall:

a. Go to the polling place for the precinct where the voter lives on election day.

b. Complete a registration by mail form showing the person's current address in the precinct.

c. Present proof of identity as required by rule 21.3(49).

21.4(2) The officials shall require a person who is reporting a change of address at the polls to cast a special ballot if the person's registration in the county cannot be verified. Registration may be verified by:

a. Telephoning the office of the county commissioner of elections, or

b. Consulting a printed list of all registered voters who are qualified to vote in the county for the election being held that day, or

c. Consulting the county's voter registration records by use of a computer.

This rule is intended to implement Iowa Code section 49.77(3).

721—21.5(47) Election filing deadlines. Rescinded IAB 9/10/97, effective 10/15/97.

721—21.6(49) Ballot boxes. Rescinded IAB 9/10/97, effective 10/15/97.

721—21.7(49) Secrecy folders. Rescinded IAB 9/10/97, effective 10/15/97.

721—21.8(78GA,HF2330) "Vote here" signs.

1. Size. The signs shall be no smaller than 16 inches by 24 inches.

2. Exceptions. If a driveway leads away from the entrance to the voting area, or if the driveway is located in such a way that posting a "vote here" sign at the driveway entrance would not help potential voters find the voting area, no "vote here" sign shall be posted at the entrance to that driveway.

This rule is intended to implement Iowa Code section 49.21 as amended by 2000 Iowa Acts, House File 2330.

721—21.9 Reserved.

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◊Two ARCs

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EROSION
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ESCALATORS
See ELEVATORS

ESTATES
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