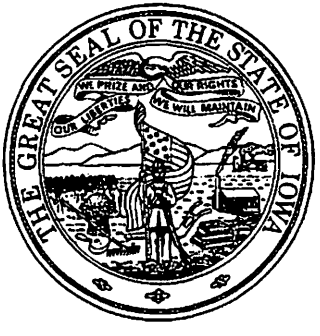
State of Iowa

Iowa Administrative Code Supplement

Biweekly
September 19, 2001



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

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

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

INSTRUCTIONS
FOR UPDATING THE
IOWA ADMINISTRATIVE CODE

Agency names and numbers in the first column below correspond to the divider tabs in the IAC binders. Obsolete pages of the IAC are listed in the "Remove Old Pages" column. New and replacement pages included in this Supplement are listed in the "Insert New Pages" column. Carefully remove and insert pages as directed.

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[Previous Supplement dated 9/5/01]

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ARRANGEMENTS

50.93(5) The issuer of the security has a class of equity securities listed on a national securities exchange registered under the Securities Exchange Act of 1934, or designated for trading on the National Association of Securities Dealers Automated Quotation System (NASDAQ), unless:

a. The issuer of the security is a unit investment trust registered under the Investment Company Act of 1940, or

b. The issuer of the security has been engaged in continuous business (including predecessors) for at least three years, or

c. The issuer of the security has total assets of at least $2 million based on an audited balance sheet as of a date within 18 months or, in the case of a reorganization or merger where the parties to the reorganization or merger had such audited balance sheet, a pro forma balance sheet.

This rule is intended to implement Iowa Code section 502.203(18).

191—50.94(502) Electronic filing with designated entity.

50.94(1) *Designation.* Pursuant to the uniform securities Act, Iowa Code section 502.302(1) as amended by 2001 Iowa Acts, Senate File 473, the administrator designates the Web-based Investment Adviser Registration Depository (IARD) operated by the National Association of Securities Dealers to receive and store filings and collect related fees from investment advisers on behalf of the administrator.

50.94(2) *Use of IARD.* Unless otherwise provided, all investment adviser applications, amendments, reports, notices, related filings and fees required to be filed with the administrator pursuant to the rules promulgated under the Act shall be filed electronically with and transmitted to IARD. The following additional conditions relate to such electronic filings:

a. *Electronic signature.* When a signature or signatures are required by the particular instructions of any filing to be made through IARD, a duly authorized signatory of the applicant, as required, shall affix the duly authorized signatory's electronic signature to the filing by typing the duly authorized signatory's name in the appropriate fields and submitting the filing to IARD. Submission of a filing in this manner shall constitute irrefutable evidence of legal signature by any individuals whose names are typed on the filing.

b. *When filed.* Solely for purposes of a filing made through IARD, a document is considered filed with the administrator when all fees are received and the filing is accepted by IARD on behalf of the state.

50.94(3) *Electronic filing.* Notwithstanding subrule 50.94(2), the electronic filing of any particular document and the collection of related processing fees shall not be required until such time as IARD provides for receipt of such filings and fees and 30 days' notice is provided by the administrator. Any documents or fees required to be filed with the administrator that are not permitted to be filed with or cannot be accepted by IARD shall be filed directly with the administrator.

50.94(4) *Hardship exemptions.* This section provides two hardship exemptions from the requirements to make electronic filings as required by the rules.

a. *Temporary hardship exemption.*

(1) Investment advisers registered or required to be registered under the Act who experience unanticipated technical difficulties that prevent submission of an electronic filing to IARD may request a temporary hardship exemption from the requirements to file electronically.

(2) To request a temporary hardship exemption, the investment adviser must:

1. File Form ADV-H [17 CFR 279.3] in paper format with the administrator where the investment adviser's principal place of business is located, no later than one business day after the filing that is the subject of the Form ADV-H was due; and

2. Submit the filing that is the subject of the Form ADV-H in electronic format to IARD no later than seven business days after the filing was due.

(3) Effective date—upon filing. The temporary hardship exemption will be deemed effective upon receipt by the administrator of the complete Form ADV-H. Multiple temporary hardship exemption requests within the same calendar year may be disallowed by the administrator.

b. Continuing hardship exemption.

(1) Criteria for exemption. A continuing hardship exemption will be granted only if the investment adviser is able to demonstrate that the electronic filing requirements of this rule are prohibitively burdensome.

(2) To apply for a continuing hardship exemption, the investment adviser must:

1. File Form ADV-H [17 CFR 279.3] in paper format with the administrator at least 20 business days before a filing is due; and

2. If a filing is due to more than one administrator, the Form ADV-H must be filed with the administrator where the investment adviser's principal place of business is located. The administrator who received the application will grant or deny the application within ten business days after the filing of Form ADV-H.

(3) Effective date—upon approval. The exemption is effective upon approval by the administrator. The time period of the exemption may be no longer than one year after the date on which the Form ADV-H is filed. If the administrator approves the application, the investment adviser must, no later than five business days after the exemption approval date, submit filings to IARD in paper format (along with the appropriate processing fees) for the period of time for which the exemption is granted.

c. Recognition of exemption. The decision to grant or deny a request for hardship exemption will be made by the administrator where the investment adviser's principal place of business is located and shall be followed by the administrator in the other state(s) where the investment adviser is registered.

This rule is intended to implement Iowa Code section 502.302 as amended by 2001 Iowa Acts, Senate File 473.

191—50.95(502) Investment adviser representative applications and renewals.

50.95(1) *Investment adviser representative applications.* An applicant for initial registration as an investment adviser representative shall file with the administrator:

a. A complete, current Form U-4 (Uniform Application for Securities Industry Registration or Transfer), manually executed by both the individual applicant and the investment adviser.

b. The fee of $30 required by Iowa Code Supplement section 502.302(2) as amended by 1998 Iowa Acts, chapter 1106, with checks made payable to the Commissioner of Insurance.

c. Any other information that the administrator determines is relevant to the application.

50.95(2) *Investment adviser representative renewals.* Every applicant for renewal of an investment adviser representative license shall annually file with the administrator, preferably between October 1 and December 1:

a. A list of investment adviser representatives to be renewed and an attestation that the documents on file are current (Iowa Investment Adviser Certification Form).

b. Amendments not previously filed pursuant to rule 50.96 (502).

c. The fee of $30 for each renewal required by Iowa Code Supplement section 502.302(2) as amended by 1998 Iowa Acts, chapter 1106, with checks made payable to the Commissioner of Insurance.

This rule is intended to implement Iowa Code chapter 502 as amended by 1998 Iowa Acts, chapter 1106.

191—50.96(502) Investment adviser applications and renewals.

50.96(1) *Investment adviser applications—required filings.* The application for initial registration as an investment adviser pursuant to the uniform securities Act, Iowa Code section 502.302(1) as amended by 2001 Iowa Acts, Senate File 473, shall be made by:

a. Completing Form ADV Part I (Uniform Application for Investment Adviser Registration) [17 CFR 279.1] in accordance with the form instructions and by filing Part I with IARD;

b. Submitting the $100 filing fee to IARD as required by the Act, Iowa Code section 502.302(3) as amended by 2001 Iowa Acts, Senate File 473;

c. Completing Form ADV Part II and by filing Part II with the administrator.

50.96(2) *Investment adviser applications—discretionary filings.* The application for initial registration may also include the following:

a. Such financial statements as set forth in rule 50.106(502), including a copy of the balance sheet for the last fiscal year, and if such balance sheet is as of a date more than 45 days from the date of filing of the application, an unaudited balance sheet prepared as set forth in rule 50.106(502);

b. A copy of the surety bond required by rule 50.107(502), if applicable, shall be made available upon request of the administrator; and

c. Any other information the administrator may reasonably require.

50.96(3) *Investment adviser renewals—required filings.* Annual renewals by investment advisers shall be made by:

a. Filing with IARD an annual renewal registration as an investment adviser;

b. Submitting the $100 filing fee to IARD as required by the uniform securities Act, Iowa Code section 502.302(3) as amended by 2001 Iowa Acts, Senate File 473.

50.96(4) *Investment adviser renewals—discretionary filings.* The administrator may require the filing of a surety bond under rule 50.107(502).

50.96(5) *Updates and amendments.*

a. An investment adviser must file with IARD, in accordance with the instructions in the Form ADV, any amendments to the investment adviser's Form ADV;

b. An amendment will be considered to be filed promptly if the amendment is filed within 30 days of the event that requires the filing of the amendment; and

c. Within 90 days of the end of the investment adviser's fiscal year, an investment adviser must file with IARD an updated Form ADV.

50.96(6) *Completion of filing.* An application for initial or renewal registration is not considered filed for purposes of the uniform securities Act, Iowa Code section 502.302(1) as amended by 2001 Iowa Acts, Senate File 473, until the required fee and all required submissions have been received by the administrator.

This rule is intended to implement Iowa Code section 502.302 as amended by 2001 Iowa Acts, Senate File 473.

191—50.97(502) Notice filing requirements for federal covered advisers.

50.97(1) *Notice filing.* The notice filing for a federal covered adviser pursuant to the uniform securities Act, Iowa Code section 502.302(2), shall be filed with IARD on an executed Form ADV (Uniform Application for Investment Adviser Registration) [17 CFR 279.1]. A notice filing of a federal covered adviser shall be deemed filed when the fee required by the Act, Iowa Code section 502.302(3) as amended by 2001 Iowa Acts, Senate File 473, and Form ADV are filed and accepted by IARD on behalf of the state.

50.97(2) *Portions of Form ADV not yet accepted by IARD.* Until IARD provides for the filing of Part II of Form ADV, the administrator will deem Part II of Form ADV filed if a federal covered adviser provides, within five days of a request, Part II of Form ADV to the administrator. A federal covered adviser is not required to submit Part II of Form ADV to the administrator unless requested.

50.97(3) *Renewal.* The annual renewal of the notice filing for a federal covered adviser pursuant to the uniform securities Act, Iowa Code section 502.302 as amended by 2001 Iowa Acts, Senate File 473, shall be filed with IARD. The renewal of the notice filing for a federal covered adviser shall be deemed filed when the fee required by the Act, Iowa Code section 502.302(3) as amended by 2001 Iowa Acts, Senate File 473, is filed with and accepted by IARD on behalf of the state.

50.97(4) *Updates and amendments.* A federal covered adviser must file with IARD, in accordance with instructions in Form ADV, any amendments to the federal covered adviser's Form ADV.

This rule is intended to implement Iowa Code section 502.302 as amended by 2001 Iowa Acts, Senate File 473.

191—50.98(502) Transition schedule for conversion to IARD.

50.98(1) *Electronic filing of Form ADV.*

a. By November 1, 2001, each investment adviser registered or required to be registered under the Act must resubmit its Form ADV electronically with IARD if it has not previously done so, unless it has been granted a hardship exemption under subrule 50.94(4).

b. If the amendment to Form ADV is made after November 1, 2001, or at an earlier date if an investment adviser has filed its Form ADV [17 CFR 279.1] (or any amendments to Form ADV) electronically with IARD, the licensee must file amendments to Form ADV required by this rule electronically with IARD, unless it has been granted a hardship exemption under subrule 50.94(4).

50.98(2) Reserved.

This rule is intended to implement Iowa Code section 502.302 as amended by 2001 Iowa Acts, Senate File 473.

191—50.99(502) Withdrawal of investment adviser registration.

50.99(1) *Investment adviser.* The application for withdrawal of registration as an investment adviser pursuant to the uniform securities Act, Iowa Code section 502.304, shall be completed by following the instructions on Form ADV-W (Notice of Withdrawal from Registration as Investment Adviser) [17 CFR 279.2] and filed upon Form ADV-W with IARD.

50.99(2) Reserved.

This rule is intended to implement Iowa Code section 502.302 as amended by 2001 Iowa Acts, Senate File 473.

191—50.100(502) Definition of investment adviser representative of a federal covered adviser.

50.100(1) The term "investment adviser representative" as used in Iowa Code chapter 502 and as employed by or associated with a federal covered adviser only includes a person who has a "place of business" in this state, as defined in 50.100(2)*"d,"* and who either:

a. Is a "supervised person," as defined in 50.100(2)*"c,"* provided the supervised person:

(1) Has clients more than 10 percent of whom are natural persons, other than "excepted persons," as defined in 50.100(2)*"a,"* or has no more than five clients who are natural persons other than "excepted persons" as defined in 50.100(2)*"a."*

(2) On a regular basis solicits, meets with, or otherwise communicates with clients of a federal covered adviser, and

(3) Does not provide only "impersonal investment advice," as defined in 50.100(2)*"b"*; or who

b. Is not a "supervised person" as that term is defined in 50.100(2)*"c,"* and solicits, offers or negotiates for the sale of or sells investment advisory services on behalf of a federal covered adviser.

50.100(2) For purposes of subrule 50.100(1):

a. "Excepted person" means a natural person who:

(1) Immediately after entering into the investment advisory contract with the investment adviser has at least $750,000 under management with the investment adviser;

(2) The investment adviser reasonably believes, immediately prior to entering into the advisory contract, has a net worth (together with assets held jointly with a spouse) of more than $1,500,000 at the time the contract is entered into;

(3) Owns not less than $5,000,000 in investments at the time the advisory contract is entered into;

(4) Is an executive officer, director, trustee, general partner or person serving in a similar capacity, of the federal covered adviser;

(5) Is an employee of the federal covered adviser (other than an employee performing solely clerical, secretarial or administrative functions with regard to the federal covered adviser) and who, in connection with the employee's regular functions or duties, participates in the investment activities of such federal covered adviser, provided that such employee has been performing such functions and duties for or on behalf of the federal covered adviser, or substantially similar functions or duties for or on behalf of another company for at least 12 months; or

(6) Is not a resident of the United States.

b. "Impersonal investment advice" means investment advisory services provided by means of written material or oral statements that do not purport to meet the objectives or needs of specific individuals or accounts.

c. "Supervised person" means any partner, officer, director (or other person occupying a similar status or performing similar functions), or employee of an investment adviser, or other person who provides investment advice on behalf of the investment adviser and is subject to the supervision and control of the investment adviser.

d. "Place of business" means:

(1) An office at which the investment adviser representative regularly provides investment advisory services, solicits, meets with, or otherwise communicates with clients, or

(2) Any other location that is held out to the general public as a location at which the investment adviser representative provides investment advisory services, solicits, meets with, or otherwise communicates with clients.

e. "Client" means

(1) A natural person and any of the following:

1. Any minor child of the natural person;

2. Any relative, spouse, or relative of the spouse of the natural person who has the same principal residence;

3. All accounts of which the natural person or the persons referred to in 50.100(2)"*e,*" or both, are the only primary beneficiaries; and

4. All trusts of which the natural person or the person referred to in 50.100(2)"*e,*" or both, are the only primary beneficiaries;

(2) A corporation, general partnership, limited partnership, limited liability company, trust (other than a trust referred to in 50.100(2)"*e*"(1)"4"), or other legal organization (any of which are referred to hereinafter as a "legal organization") that receives investment advice based on its investment objectives rather than the individual investment objectives of its shareholders, partners, limited partners, members, or beneficiaries (any of which are referred to hereinafter as an "owner"); and

(3) Two or more legal organizations referred to in 50.100(2)"*e*"(2) that have identical owners.

50.100(3) Supervised persons may rely on the definition of "client" in 50.100(2)"*e*" to identify clients for purposes of subrule 50.100(1), except that supervised persons need not count clients that are not residents of the United States.

This rule is intended to implement Iowa Code chapter 502.

191—50.101(502) Investment adviser disclosure statement.

50.101(1) Unless otherwise provided, an investment adviser, registered or required to be registered pursuant to Iowa Code section 502.301, shall furnish each advisory client and prospective advisory client with a written disclosure statement. The disclosure statement may be a copy of Part II of the adviser's Form ADV or written documents containing at least the information then required by Part II of Form ADV, or such other information as the administrator may require.

50.101(2) Except as provided in paragraph "*c*" below, an investment adviser shall deliver the written disclosure statement to an advisory client or prospective advisory client as follows:

a. Not less than 48 hours prior to entering into any investment advisory contract with the client or prospective client; or

b. At the time of entering into the contract, if the advisory client has the right to terminate the contract without penalty within five business days after entering into the contract.

c. The disclosure statement need not be delivered in connection with entering into a contract for impersonal advisory services.

50.101(3) Except as provided in paragraph *"a"* below, an investment adviser shall annually deliver, or offer in writing to deliver upon written request, the written disclosure statement to each of the adviser's advisory clients without charge.

a. The disclosure statement need not be delivered or offered to advisory clients receiving services solely pursuant to a contract for impersonal advisory services requiring a payment of less than $200.

b. With respect to an advisory client entering into a contract or receiving advisory services pursuant to a contract for impersonal advisory services which requires a payment of $200 or more, an offer of the type specified in this rule shall also be made at the time of entering into an advisory contract. The investment adviser shall deliver the written statement to the client within seven days of receiving a written request made pursuant to an offer required by this rule.

50.101(4) An investment adviser that renders substantially different types of advisory services to different advisory clients may omit information required by Part II of Form ADV from the statement furnished to an advisory client or prospective advisory client, if the omitted information applies only to a type of investment advisory service or fee which is not rendered or charged, or proposed to be rendered or charged, to that client or prospective client.

50.101(5) Nothing in this rule shall relieve any investment adviser from any obligation pursuant to any provision of Iowa Code chapter 502 or the rules thereunder or other federal or state law to disclose any information to the adviser's advisory clients or prospective advisory clients not specifically required by this rule.

50.101(6) For purposes of this rule:

a. Contract for impersonal advisory services means any contract relating solely to the provision of investment advisory services:

(1) By means of written material or oral statements which do not purport to meet the objectives or needs of specific individuals or accounts;

(2) Through the issuance of statistical information containing no expression of opinion as to the investment merits of a particular security; or

(3) Any combination of the foregoing services.

b. Entering into, in reference to an investment advisory contract, does not include an extension or renewal without material change of the contract which is in effect immediately prior to the extension or renewal.

This rule is intended to implement Iowa Code chapter 502.

191—50.102 Reserved.

191—50.103(502) Cash solicitation.

50.103(1) It shall constitute an act, practice, or course of conduct which operates as a fraud or deceit upon a person, as provided under Iowa Code section 502.401(3), for any investment adviser to pay a cash fee, directly or indirectly, to a solicitor with respect to solicitation activities unless:

a. The solicitor is not a person:

(1) Subject to an order issued by the administrator under Iowa Code section 502.304(1), or

(2) Convicted within the previous ten years of any felony or misdemeanor involving conduct described in Iowa Code section 502.304(1)*"c,"* or

(3) Who has been found by the administrator to have engaged, or has been convicted of engaging, in any of the conduct specified in Iowa Code section 502.405, 502.304(1)*"b,"* or 502.304(1)*"j,"* or has materially aided in the act of violation of 502.304(1)*"d,"* or

(4) Subject to an order, judgment, or decree described in Iowa Code section 502.304(1)*"d,"*or

(5) Described in the rules implementing Iowa Code chapter 502; and

b. Such cash fee is paid pursuant to a written agreement to which the adviser is a party; and

c. Such cash fee is paid to a solicitor:

(1) With respect to solicitation activities for the provision of impersonal advisory services only; or

(2) Who is:

1. A partner, officer, director or employee of such investment adviser, or

2. A partner, officer, director or employee of a person who controls, is controlled by, or is under common control with such investment adviser, provided that the status of such solicitor as a partner, officer, director or employee of such investment adviser or other person, and any affiliation between the investment adviser and any such other person, is disclosed to the client at the time of the solicitation or referral; or

(3) Other than a solicitor specified in 50.103(1)*"c"*(1) or 50.103(1)*"c"*(2) above if all of the following conditions are met:

1. The written agreement required by 50.103(1)*"b"*:

• Describes the solicitation activities to be engaged in by the solicitor on behalf of the investment adviser and the compensation to be received therefor;

• Contains an undertaking by the solicitor to perform the solicitor's duties under the agreement in a manner consistent with the instructions of the investment adviser and the provisions of Iowa Code chapter 502 and the rules promulgated thereunder, whichever is applicable;

• Requires that the solicitor, at the time of any solicitation activities for which compensation is paid or to be paid by the investment adviser, provide the client with a current copy of the investment adviser's written disclosure statement required by subrule 50.101(3) or SEC Rule 204-0, as applicable, and a separate written disclosure statement as described in subrule 50.103(2).

2. The investment adviser receives from the client, prior to, or at the time of, entering into any written or oral investment advisory contract with such client, a signed and dated acknowledgment of receipt of the investment adviser's written disclosure statement and the solicitor's written disclosure document.

3. The investment adviser makes a bona fide effort to ascertain whether the solicitor has complied with the agreement, and has a reasonable basis for believing that the solicitor has so complied.

50.103(2) The separate written disclosure statement required to be furnished by the solicitor to the client pursuant to 50.103(1)*"c"*(3)"2" shall contain the following information:

a. The name of the solicitor;

b. The name of the investment adviser;

c. The nature of the relationship, including any affiliation, between the solicitor and the investment adviser;

d. A statement that the solicitor will be compensated for the solicitor's solicitation services by the investment adviser;

e. The terms of such compensation arrangement, including a description of the compensation paid or to be paid to the solicitor; and

f. The amount, if any, the client will be charged for the cost of obtaining the client's account in addition to the advisory fee, and the differential, if any, among clients, with respect to the amount or level of advisory fees charged by the investment adviser, if such differential is attributable to the existence of any arrangement pursuant to which the investment adviser has agreed to compensate the solicitor for soliciting clients for, or referring clients to, the investment adviser.

(1) Nothing in this rule shall be deemed to relieve any person of any fiduciary duty or other obligation to which such person may be subject under any law.

p. Entering into, extending or renewing any investment advisory contract unless such contract is in writing and discloses, in substance, the services to be provided, the term of the contract, the advisory fee, the formula for computing the fee, the amount of prepaid fee to be returned in the event of contract termination or nonperformance, whether the contract grants discretionary power to the adviser, and that no assignment of such contract shall be made by the investment adviser without the consent of the other party to the contract.

q. Failing to establish, maintain, and enforce written policies and procedures reasonably designed to prevent the misuse of material nonpublic information as required by 16 CFR 313.

r. Entering into, extending, or renewing any advisory contract contrary to the provisions of Section 205 of the Investment Advisers Act of 1940. This provision shall apply to all advisers registered or required to be registered under Iowa Code chapter 502 notwithstanding whether such adviser would be exempt from federal registration pursuant to Section 203(b) of the Investment Advisers Act of 1940.

s. Indicating, in an advisory contract, any condition, stipulation, or provisions binding any person to waive compliance with any provision of Iowa Code chapter 502 or of the Investment Advisers Act of 1940, or any other practice contrary to the provisions of Section 215 of the Investment Advisers Act of 1940.

t. Engaging in any act, practice, or course of business which is fraudulent, deceptive, or manipulative contrary to the provisions of Section 206(4) of the Investment Advisers Act of 1940, notwithstanding the fact that such investment adviser is not registered or required to be registered under Section 203 of the Investment Advisers Act of 1940.

u. Engaging in conduct or any act, indirectly or through or by any other person, which would be unlawful for such person to do directly under the provisions of the Act or any rule or regulation thereunder.

50.104(2) The conduct set forth in subrule 50.104(1) is not inclusive. Engaging in other conduct such as nondisclosure, incomplete disclosure, or deceptive practices shall be deemed an unethical business practice. The federal statutory and regulatory provisions referenced herein shall apply to investment advisers, investment adviser representatives, and federal covered advisers to the extent permitted by the National Securities Markets Improvement Act of 1996 (NSMIA)(Pub. L. No. 104-290).

This rule is intended to implement Iowa Code chapter 502.

191—50.105(502) Custody of client funds or securities.

50.105(1) It is unlawful for an investment adviser to take or have custody of any securities or funds of any client unless:

a. The investment adviser notifies the administrator in writing that the investment adviser has or may have custody;

b. The securities of each client are segregated, marked to identify the particular client having the beneficial interest in those securities, and held in safekeeping in a place free from risk of destruction or other loss;

c. All client funds are deposited as follows:

(1) In one or more bank accounts containing only clients' funds;

(2) The account or accounts are maintained in the name of the investment adviser as agent or trustee for the clients; and

(3) The investment adviser maintains a separate record for each account showing the name and address of the bank where the account is maintained, the dates and amounts of deposits in and withdrawals from the accounts, and the exact amount of each client's beneficial interest in the account;

d. Immediately after accepting custody or possession of funds or securities from any client, the investment adviser notifies the client in writing of the place and manner in which the funds and securities will be maintained and, subsequently, if or when there is a change in the place or the manner in which the funds or securities are maintained, the investment adviser gives written notice to the client;

e. At least once every three months, the investment adviser sends to each client an itemized statement showing the client's funds and securities in the investment adviser's custody at the end of the period, and all debits, credits and transactions in the client's account during that period; and

f. At least once every calendar year, an independent certified public accountant verifies all client funds and securities by an actual examination, which shall be made at a time chosen by the accountant without prior notice to the investment adviser. A report stating that the accountant has made an examination of the client funds and securities in the custody of the investment adviser, and describing the nature and extent of the examination, shall be filed with the administrator within 30 days after each examination. The effective date of this paragraph shall be June 9, 2000.

g. For purposes of this rule, a person will be deemed to have custody if said person directly or indirectly holds client funds or securities, has any authority to obtain possession of them, or has the ability to appropriate them.

50.105(2) Reserved.

This rule is intended to implement Iowa Code chapter 502.

191—50.106(502) Minimum financial requirements for investment advisers.

50.106(1) Except as otherwise provided in subrule 50.106(7), an investment adviser registered or required to be registered under Iowa Code section 502.302 who has custody of client funds or securities shall maintain at all times a minimum net worth of $35,000, and every investment adviser registered or required to be registered under Iowa Code section 502.302 who has discretionary authority over client funds or securities but does not have custody of client funds or securities shall maintain at all times a minimum net worth of $10,000.

50.106(2) Except as otherwise provided in subrule 50.106(7), an investment adviser registered or required to be registered under Iowa Code section 502.302 who accepts prepayment of more than $500 per client and six or more months in advance shall maintain at all times a positive net worth.

50.106(3) Except as otherwise provided in subrule 50.106(7), or unless otherwise exempted, as a condition of the right to transact business in this state, every investment adviser registered or required to be registered under Iowa Code section 502.302 shall by the close of business on the next business day notify the administrator if such investment adviser's net worth is less than the minimum required. After transmitting such notice, each investment adviser shall file by the close of business on the next business day a report with the administrator of the adviser's financial condition, including the following:

a. A trial balance of all ledger accounts;

b. A statement of all client funds or securities which are not segregated;

c. A computation of the aggregate amount of client ledger debit balances; and

d. A statement as to the number of client accounts.

50.106(4) For the purposes of this rule, the term "net worth" shall mean an excess of assets over liabilities, as determined by generally accepted accounting principles, but shall not include the following as assets: prepaid expenses (except items properly classified as assets under generally accepted accounting principles), deferred charges, goodwill, franchise rights, organizational expenses, patents, copyrights, marketing rights, unamortized debt discount and expense, all other assets of intangible nature, home furnishings, automobile(s), and any other personal items not readily marketable in the case of an individual; advances or loans to stockholders and officers in the case of a corporation; and advances or loans to partners in the case of a partnership.

50.108(9) For purposes of this rule, "investment supervisory services" means the giving of continuous advice as to the investment of funds on the basis of the individual needs of each client.

50.108(10) For purposes of this rule, "discretionary power" shall not include discretion as to the price at which or the time when a transaction is or is to be effected if, before the order is given by the investment adviser, the client has directed or approved the purchase or sale of a definite amount of the particular security.

50.108(11) Any book or other record made, kept, maintained and preserved in compliance with Rules 17a-3 (17 CFR 240.17a-3 (1998)) and 17a-4 (17 CFR 240.17a-4 (1998)) under the Securities Exchange Act of 1934, which is substantially the same as the book or other record required to be made, kept, maintained and preserved under this rule, shall be deemed to be made, kept, maintained and preserved in compliance with this rule.

50.108(12) Every investment adviser that is registered or required to be registered in this state and that has the adviser's principal place of business in a state other than this state shall be exempt from the requirements of this rule, provided the investment adviser is licensed in such state and is in compliance with such state's record-keeping requirements, if any.

This rule is intended to implement Iowa Code chapter 502.

191—50.109(502) Examination requirements.

50.109(1) A person applying to be registered as an investment adviser representative under the Act shall provide the administrator with proof that the person has obtained a passing score on one of the following examination requirements:

a. The Uniform Investment Adviser Law Examination (Series 65 examination) as implemented January 1, 2000; or

b. The General Securities Representative Examination (Series 7 examination) and the Uniform Combined State Law Examination (Series 66 examination) as implemented January 1, 2000.

50.109(2) The following shall also apply:

a. Any individual who is registered as an investment adviser or investment adviser representative in any jurisdiction in the United States on or before January 19, 2000, shall not be required to satisfy the examination requirements for continued registration.

b. Any individual who is registered as an investment adviser or investment adviser representative in any jurisdiction in the United States after the effective date of these rules shall not be required to satisfy the examination requirements for continued registration, provided that the jurisdiction in which the investment adviser or investment adviser representative is registered required the passage of the examinations in subrule 50.109(1).

c. An individual who has not been registered as an investment adviser or investment adviser representative in any jurisdiction for a period of two years shall be required to comply with the examination requirements of this rule.

d. The administrator may require additional examinations for any individual found to have violated the uniform securities Act.

50.109(3) The examination requirement shall not apply to an individual who currently holds one of the following professional designations:

a. Certified Financial Planner (CFP) issued by the Certified Financial Planner Board of Standards, Inc.;

b. Chartered Financial Consultant (ChFC) awarded by The American College, Bryn Mawr, Pennsylvania;

c. Personal Financial Specialist (PFS) administered by the American Institute of Certified Public Accountants;

d. Chartered Financial Analyst (CFA) granted by the Association for Investment Management and Research;

e. Chartered Investment Counselor (CIC) granted by the Investment Counsel Association of America; or

f. Such other professional designation as the administrator may by order recognize.

This rule is intended to implement Iowa Code sections 502.302 and 502.305.

191—50.110(502) Waivers. Rescinded IAB 6/13/01, effective 7/18/01.

191—50.111 to **50.119** Reserved.

VIATICAL SETTLEMENT CONTRACTS

191—50.120(502) Advertising of viatical settlement contracts.

50.120(1) Under this rule, the term "advertisement" includes any written, electronic or printed communication or any communication by means of recorded telephone messages or transmitted on radio, television, the Internet, or similar communications media, including film strips, motion pictures, and videos, published in connection with the offer or sale of a viatical settlement contract.

50.120(2) The issuer and agent shall file all viatical settlement contract advertisements with the administrator not less than ten business days prior to the date of use or a shorter period as the administrator may permit. The administrator shall mark the advertisements with allowance for use or expressly disapprove them during this time frame. The advertisement shall not be used in Iowa until a copy thereof, marked with allowance for use, has been received from the administrator.

13. Whether the insurer who wrote the viator's underlying policy has any additional rights which could negatively affect or extinguish the investor's rights under the viatical settlement contract, what these rights are, and under what conditions these rights are activated;

14. That a viatical settlement contract is not a liquid investment and that there is no established secondary market for resale of these products by the investor;

15. That the investor will receive no returns (i.e., dividends and interest) until the viator dies; and

16. That the investor may lose all benefits or receive substantially reduced benefits if the insurer goes out of business during the term of the viatical investment.

This rule is intended to implement Iowa Code section 502.201 and Iowa Code Supplement sections 502.102 and 502.202.

191—50.123(502) Duty to disclose. Issuers and agents equally share an affirmative duty to disclose all relevant and material information to prospective investors in viatical settlement contracts. The required disclosure is the registration statement required by Iowa Code section 502.207 which has been reviewed and made effective by the administrator.

This rule is intended to implement Iowa Code section 502.201 and Iowa Code Supplement sections 502.102 and 502.202.

191—50.124(502) Waivers. Rescinded IAB 6/13/01, effective 7/18/01.

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CHAPTERS 51 to 53
Reserved

CHAPTER 77*
MULTIPLE EMPLOYER WELFARE ARRANGEMENTS

191—77.1(507A) Certificate of registration. A person shall not establish or maintain a self-insured employee welfare benefit plan which is a multiple employer welfare arrangement (hereinafter MEWA) in this state unless the MEWA obtains and maintains a certificate of registration pursuant to this rule.

This rule is intended to implement Iowa Code section 507A.4.

191—77.2(507A) Application for certificate of registration.

77.2(1) A person wishing to obtain a certificate of registration pursuant to this chapter shall register and submit a plan of operation with the commissioner. This application and plan of operation shall include the following:

a. A business plan including a copy of all contracts or other instruments which the MEWA proposes to make with or sell to its members, a copy of its plan description and the printed matter to be used in the solicitation of members.

b. Copies of all articles, bylaws, agreements, or other documents or instruments describing the rights and obligations of employers, employees, and beneficiaries with respect to the MEWA.

c. A current list of all members of the employer group or association sponsoring the MEWA and a description of the relationship among the employers which serves as the basis for the formation of the association or employer group.

d. A description of the activities of the association or group of employers on behalf of its members other than the sponsorship of the MEWA.

e. Current financial statements of the MEWA which shall include at a minimum balance sheets, income statement, cash flow statement and detailed listing of assets.

f. An actuarial opinion prepared, signed, and dated by a person who is a member of the American Academy of Actuaries which states that appropriate loss and loss adjustment reserves have been established, that adequate premiums are being charged, and that the association is operating in accordance with sound actuarial principles and in conformance with this rule.

g. A statement from an authorized representative of the applicant which certifies all of the following:

(1) The MEWA is administered by an authorized insurer or an authorized third-party administrator.

(2) The MEWA has been in existence and has provided health benefits for at least five years prior to July 1, 1997.

(3) The MEWA was established by a trade, industry, or professional association of employers that has a constitution or bylaws, and has been organized and maintained in good faith for at least ten continuous years prior to July 1, 1997.

(4) The association or group of employers sponsoring the MEWA is engaged in substantial activity for its members other than sponsorship of an employer welfare benefit plan.

(5) The association is a nonprofit entity organized or authorized to do business under applicable Iowa law.

h. A certificate from the applicant that, to the best of its knowledge and belief, the MEWA is in compliance with all applicable provisions of the Employee Retirement Income Security Act of 1974 (29 U.S.C. Section 1001 et seq.).

i. A mechanism approved by the commissioner to ensure that claims shall be paid in the event a member of the MEWA is unable to comply with the MEWA's contribution requirements.

j. A copy of the most recent Form M-1 filed by the MEWA with the U.S. Department of Labor, Pension and Welfare Benefits Administration.

k. Any additional information requested by the commissioner.

*Effective date of Chapter 77 delayed 70 days from 3/28/01 by the Administrative Rules Review Committee at its meeting held March 9, 2001.

77.2(2) The commissioner shall examine the application and supporting documents submitted by the applicant and shall have the power to conduct any investigation which the commissioner may deem necessary and to examine under oath any persons interested in or connected with the MEWA.

77.2(3) Within a reasonable time, the commissioner shall issue to the MEWA a certificate upon finding that the applicant MEWA has met all requirements, or the commissioner shall notify the applicant setting forth reasons for a denial upon finding that the applicant MEWA does not meet all the requirements. An unsuccessful applicant may file a new application for certificate of registration at any time.

77.2(4) Modifications to the plan of operation including but not limited to amendments to articles of incorporation and bylaws shall be submitted for prior approval to the commissioner.

This rule is intended to implement Iowa Code section 507A.4.

191—77.3(507A) Financial requirements.

77.3(1) *Surplus.*

a. Unless otherwise provided below or pursuant to the discretion of the commissioner, each MEWA shall deposit with an organization or trustee meeting the requirements of 191—32.4(508) cash, securities or any combination of these that is acceptable in the amount set forth below. In addition to the requirements set forth below, the commissioner may increase the amount required to be deposited based on the commissioner's written determination that such an increase is necessary to adequately secure any potential liability of the MEWA to its enrollees, subject to Iowa Code chapter 17A proceedings.

b. The surplus requirement for a MEWA shall be the greater of:

(1) $500,000; or

(2) An amount equal to 10 percent of the written premium as of the previous December 31.

77.3(2) *Reserves and stop-loss coverage.*

a. MEWAs shall have at all times aggregate excess stop-loss coverage providing the MEWA with coverage with an attachment point which is not greater than 120 percent of actuarially projected losses on a calendar-year basis.

b. MEWAs shall establish and maintain specific stop-loss coverage providing the MEWA with coverage with an attachment point which is not greater than 5 percent of annual expected claims for purposes of this subrule and shall provide for adjustments in the amount of that percentage as may be necessary to carry out the purposes of this subrule as determined by sound actuarial principles.

c. MEWAs shall establish and maintain appropriate loss and loss adjustment reserves determined by sound actuarial principles.

d. Premiums shall be set to fund at least 100 percent of the MEWA's actuarially projected losses plus all other costs of the MEWA.

e. All coverage obtained pursuant to this subrule shall contain a provision allowing for at least 90 days' notice to the commissioner upon cancellation or nonrenewal of the contract.

f. No contract or policy of per occurrence or aggregate excess insurance shall be recognized in considering the ability of an applicant to fulfill its financial obligations under this subrule, unless such contract or policy is issued by a company that is:

(1) Licensed to transact business in this state; or

(2) Authorized to do business in Iowa as an accredited reinsurer.

77.3(3) *Filing requirements.* The following reports shall be filed with the commissioner.

a. *Annual report.* A MEWA shall annually, on or before the first day of March, file with the commissioner of insurance a report which has been verified by at least two of its principal officers and which covers the preceding calendar year. The report shall be on the form designated by the commissioner. The report shall be completed using statutory accounting practices and shall include information required by the commissioner. The commissioner may request additional reports and information from a MEWA as deemed necessary.

b. Independent actuarial report. A MEWA shall annually, on or before the first day of March, file with the commissioner of insurance an independent actuarial opinion prepared in conformance with this rule. The commissioner may conduct an independent actuarial review of a MEWA in addition to the actuarial opinion required by this rule. The cost of any actuarial review shall be paid by the MEWA.

c. Certificate of compliance. A MEWA shall annually, on or before the first day of March, file a certificate of compliance, which shall be signed and dated by the appropriate official representing the MEWA and shall certify the following:

(1) That the plan meets the requirements of this rule and the applicable provisions of the Iowa statutes and regulations;

(2) That an independent actuarial opinion has been attached to the certificate which attests to the adequacy of reserves, rates, and the financial condition of the plan. The actuarial opinion must include, but is not limited to, a brief commentary about the adequacy of the reserves, rates, and other financial condition of the plan, a test of the prior year's claim reserve, a brief description of how the reserves were calculated, and whether or not the plan is able to cover all reasonably anticipated expenses. The actuarial opinion shall be prepared, signed, and dated by a person who is a member of the American Academy of Actuaries;

(3) That a written complaint procedure has been implemented. The certificate shall also list the number of complaints filed by participants under the written complaint procedure, and the percentage of participants filing written complaints in the prior calendar year; and

(4) That the MEWA has contracted with an insurer authorized to do business in this state or with a third-party administrator who holds a current certificate of registration issued by the commissioner pursuant to Iowa Code section 510.21.

This rule is intended to implement Iowa Code section 507A.4.

191—77.4(507A) Policy or contract. All contracts issued by a MEWA shall comply with the following within 12 months of March 28, 2001:

77.4(1) Notice to purchasers. Every MEWA application for insurance and every policy and certificate issued by a MEWA shall contain in ten-point type on the front page the following notice prominently displayed:

NOTICE
This policy is issued by a multiple employer welfare association (MEWA). MEWAs are not subject to all of the insurance laws and regulations of your state. State insurance insolvency guaranty funds are not available for your MEWA.

77.4(2) MEWAs must offer on a guarantee-issue basis health benefits to all individuals who qualify as members or enrollees of the association.

77.4(3) Rescinded IAB 9/19/01, effective 10/24/01.

77.4(4) MEWAs shall offer only medical, dental, optical, surgical, hospital, accident and sickness, prescription, life insurance, or disability benefits. A MEWA that offers life insurance benefits shall comply with all applicable provisions of the Iowa Code relating to life insurance and life insurance companies.

77.4(5) All contracts or policies issued by a MEWA shall conform to all the provisions of P.L. 104-191, the Health Insurance Portability and Accountability Act of 1996, including but not limited to guaranteed issue of all products, preexisting condition limitations, renewability, and portability provisions as well as the issuance of prior coverage certificates to enrollees no longer eligible for plan coverage.

This rule is intended to implement Iowa Code section 507A.4.

191—77.5(507A) Disclosure. The following disclosure shall be made to each employer member of the MEWA: The benefits and coverages described herein are provided through a self-insured trust fund established and funded in full or in part by a group of employers. It is not a licensed insurance company and it is not protected by a guaranty fund in the event of insolvency.

This rule is intended to implement Iowa Code section 507A.4.

191—77.6(507A) Filing fee. A filing fee of $100 shall accompany each application for registration as a multiple employer welfare MEWA.

This rule is intended to implement Iowa Code section 507A.4.

191—77.7(507A) Agreements and management contracts. Any agreement between the MEWA and any administrator, service company, or other entity shall be made available for review in the office of the commissioner upon request by the commissioner.

This rule is intended to implement Iowa Code section 507A.4.

191—77.8(507A) Examination.

77.8(1) Each MEWA shall be subject to examination by the commissioner in accordance with Iowa Code chapter 507. Chapter 507 shall govern all aspects of the examination.

77.8(2) The commissioner may make an examination of a MEWA as often as the commissioner considers it necessary, but not less frequently than once every five years. The expenses of the examination shall be assessed against the MEWA being examined in a manner in which expenses of examinations are assessed against an insurance company under Iowa Code chapter 507.

This rule is intended to implement Iowa Code section 507A.4.

191—77.9(507A) Trade practices. MEWAs are subject to applicable provisions of the unfair trade practices Act, Iowa Code chapter 507B.

This rule is intended to implement Iowa Code section 507A.4.

191—77.10(507A) Insolvency. The provisions of Iowa Code chapter 507C shall apply to MEWAs which shall be considered insurers for purposes of that chapter. However, a MEWA shall not be subject to Iowa Code chapter 508C.

This rule is intended to implement Iowa Code section 507A.4.

191—77.11(507A) Suspension or revocation of certificate. The commissioner may sanction a MEWA or suspend or revoke any certificate issued to a MEWA upon any of the following grounds:

1. Failure to comply with any provision of these rules or any applicable provision of the Iowa Code;
2. Failure to comply with any lawful order of the commissioner;
3. Failure to promptly pay lawful benefit claims;

4. Committing an unfair or deceptive act or practice;

5. Deterioration of financial condition adversely affecting the MEWA's ability to pay claims;

6. A finding that the application or any necessary forms that have been filed with the division contain fraudulent information or omissions;

7. A finding that the MEWA or its administrator has misappropriated, converted, illegally withheld, or refused to pay over upon proper demand any moneys that belong to a member, a participant, or a person otherwise entitled thereto and that have been entrusted to the MEWA or its administrator in its fiduciary capacity;

8. Rescinded IAB 9/19/01, effective 10/24/01.

This rule is intended to implement Iowa Code section 507A.4.

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CHAPTERS 78 and 79
Reserved

*Effective date of Chapter 77 delayed 70 days by the Administrative Rules Review Committee at its meeting held March 9, 2001.

PROFESSIONAL LICENSING AND REGULATION DIVISION[193]

Created by 1986 Iowa Acts, Chapter 1245, under the "umbrella" of the Department of Commerce[181]

CHAPTER 1
ORGANIZATION AND OPERATION

193—1.1(546) Purpose of chapter 1. This chapter describes the organization and operation of the professional licensing and regulation division (hereinafter referred to as the "division"), including the office where, and the means by which, any interested person may obtain public information and make submittals or requests.

193—1.2(546) Scope of rules. The rules for the division are promulgated under Iowa Code chapter 17A and section 546.10, and shall apply to all matters before the division. No rule shall, in any way, relieve a person affected by or subject to these rules, or any person affected by or subject to the rules promulgated by the various boards of the division from any duty under the laws of this state.

193—1.3(546) Definitions.

"Administrator" means the administrator of professional licensing and regulation, the chief administrative officer of the professional licensing and regulation division of the department of commerce.

"Board" means an examining board or commission within the professional licensing and regulation division.

"Department" means the department of commerce.

"Division" means the professional licensing and regulation division of the department of commerce.

"License" means any license, registration, certificate, or permit that may be granted by an examining board or commission within the professional licensing and regulation division.

"Licensee" means any person granted a license by an examining board or commission within the professional licensing and regulation division.

"Person" means an individual, corporation, partnership, association, professional corporation, licensee, certificate holder, or registrant.

"Staff" means employees assigned to the professional licensing and regulation division.

193—1.4(546) Purpose of division. The division exists to coordinate the administrative support for the following six professional licensing boards:

1.4(1) The engineering and land surveying examining board is a seven-member board appointed by the governor and confirmed by the senate. It is composed of four professional engineers, one land surveyor, and two public members. The board administers Iowa Code chapter 542B, Professional Engineers and Land Surveyors, and board rules published under agency number [193C]—Chapters 1 to 7, Iowa Administrative Code.

1.4(2) The accountancy examining board is an eight-member board, appointed by the governor and confirmed by the senate. The board is composed of five certified public accountants, two public members, and one licensed accounting practitioner. The board administers Iowa Code chapter 542C, Public Accountants, and board rules published under agency number [193A]—Chapters 1 to 18, Iowa Administrative Code.

1.4(3) The real estate commission is a five-member commission appointed by the governor and confirmed by the senate. It is composed of three members licensed under Iowa Code chapter 543B and two public members. The commission administers Iowa Code chapters 543B, Real Estate Brokers and Salespersons; 543C, Sales of Subdivided Land Outside of Iowa; 557A, Time-Share Act; and commission rules published under agency number [193E]—Chapters 1 to 7, Iowa Administrative Code.

1.4(4) The architectural examining board is a seven-member board appointed by the governor and confirmed by the senate. It is composed of five registered architects and two public members. The board administers Iowa Code chapter 544A, Registered Architects, and board rules published under agency number [193B]—Chapters 1 to 9, Iowa Administrative Code.

1.4(5) The landscape architectural examining board is a seven-member board appointed by the governor and confirmed by the senate. It is composed of five registered landscape architects and two public members. The board administers Iowa Code chapter 544B, Landscape Architects, and board rules published under agency number [193D]—Chapters 1 to 7, Iowa Administrative Code.

1.4(6) The real estate appraiser examining board is a seven-member board appointed by the governor and confirmed by the senate. It is composed of five certified real estate appraisers and two public members. The board administers Iowa Code chapter 543D, Real Estate Appraisals and Appraisers, and board rules published under agency number [193F]—Chapters 1 to 11, Iowa Administrative Code.

193—1.5(546) Offices and communications. Correspondence and communications with the division or the boards in the division shall be addressed or directed to their offices at 1918 S.E. Hulsizer Avenue, Ankeny, Iowa 50021. Each of the boards may be contacted through the division telephone number (515)281-5602.

193—1.6(546) Responsibilities of the boards. Each of the boards in the division retains the powers granted them pursuant to the chapters in which they are created, except for budgetary and personnel matters. Each board shall adopt rules pursuant to Iowa Code chapter 17A. Decisions by each board are final agency actions for purposes of chapter 17A.

193—1.7(546) Responsibilities of the administrator.

1.7(1) To make rules pursuant to Iowa Code chapter 17A to implement division duties except to the extent that rule-making authority is vested in the boards in the division.

1.7(2) To carry out policy making and enforcement duties assigned to the division under the law.

1.7(3) To hire, allocate, develop, and supervise members of the staff employed to perform the duties assigned to the division and the boards in the division.

1.7(4) To coordinate the development of an annual budget for the division and the boards in the division.

1.7(5) To supervise and direct personnel and other resources to accomplish duties assigned to the division by law.

1.7(6) To authorize expenditures from any appropriation or trust fund established on behalf of the division.

1.7(7) Except to the extent that decision-making authority is vested in the boards in the division or other body, decisions of the administrator are final agency actions pursuant to chapter 17A.

1.7(8) Except to the extent otherwise vested in the boards in the division, the administrator has the authority to establish fees assessed to the regulated industry.

193—1.8(546) Custodian of records, filings, and requests for public information. Unless otherwise specified by the rules of the boards in the division, the division is the principal custodian of its own divisional orders, statements of law or policy issued by the division, legal documents, and other public documents on file with the division.

Any interested party may examine all public records promulgated or maintained by the division at its offices during regular business hours. The offices of the division and the boards in the division are open from 8 a.m. until 4:30 p.m. Monday through Friday. The offices are closed Saturdays, Sundays, and official state holidays.

These rules are intended to implement Iowa Code section 546.10.

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CHAPTER 4
PROOF OF LEGAL PRESENCE

193—4.1(546) Purpose. This chapter outlines a uniform process for applicants and licensees of all boards in the division to establish proof of legal presence pursuant to the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (8 U.S.C.1621).

193—4.2(546) Applicability.

4.2(1) After July 1, 1999, applicants and licensees who are U.S. citizens or permanent resident aliens may be requested to produce evidence of their lawful presence in the United States as a condition of initial licensure or license renewal. If requested, submission of evidence will be required once. Acceptable evidence (List A) is outlined in subrule 4.3(1).

4.2(2) After July 1, 1999, applicants and licensees residing in the United States, other than those described in subrule 4.2(1) above, may be requested to provide evidence of lawful presence in the United States at the time of initial licensure and with every subsequent renewal. Acceptable evidence (List B) is outlined in subrule 4.3(2).

4.2(3) Evidence shall not be required by foreign national applicants or licensees who are not physically present in the United States.

193—4.3(546) Acceptable evidence. The division shall accept as proof of lawful presence in the United States documents outlined in Lists A and B below. The division will not routinely retain the evidence sent and will not return the evidence once submitted. Documents may be retained in computer "imaged" format. Legible copies will be accepted. Original documents will not be required unless a question arises concerning the documentation submitted.

4.3(1) *List A—acceptable documents to establish U.S. citizenship.*

a. A copy of a birth certificate issued in or by a city, county, state, or other governmental entity within the United States or its outlying possessions.

b. U.S. Certificate of Birth Abroad (FS-545, DS-135) or a Report of Birth Abroad of U.S. Citizen (FS-240).

c. A birth certificate or passport issued from:

1. Puerto Rico, on or after January 13, 1941.
2. Guam, on or after April 10, 1989.
3. U.S. Virgin Islands, on or after February 12, 1927.
4. Northern Mariana Islands after November 4, 1986.
5. American Samoa.
6. Swain's Island.
7. District of Columbia.

d. A U.S. passport (expired or unexpired).

e. Certificate of Naturalization (N-550, N-57, N-578).

f. Certificate of Citizenship (N-560, N-561, N-645).

g. U.S. Citizen Identification Card (I-79, I-197).

h. An individual Fee Register Receipt (Form G-711) that shows that the person has filed an application for a New Naturalization or Citizenship Paper (Form N-565).

i. Any other acceptable document which establishes a U.S. place of birth or indicates U.S. citizenship.

4.3(2) *List B—acceptable documents to establish alien status.*

a. An alien lawfully admitted for permanent residence under the Immigration and Naturalization Act (INA). Evidence includes:

1. INS Form I-551 (Alien Registration Receipt Card commonly known as a "green card"); or
2. Unexpired Temporary I-551 stamp in foreign passport or on INS Form I-94.

b. An alien who is granted asylum under Section 208 of the INA. Evidence includes:

1. INS Form I-94 annotated with stamp showing grant of asylum under Section 208 of the INA.
2. INS Form I-668B (Employment Authorization Card) annotated "274a.12(a)(5)."
3. INS Form I-776 (Employment Authorization Document) annotated "A5."
4. Grant Letter from the Asylum Office of INS.
5. Order of an immigration judge granting asylum.

c. A refugee admitted to the United States under Section 207 of INA. Evidence includes:

1. INS Form I-94 annotated with stamp showing admission under Section 207 of the INA.
2. INS Form I-668B (Employment Authorization Card) annotated "274a.12(a)(3)."
3. INS Form I-766 (Employment Authorization Document) annotated "A3."
4. INS Form I-571 (Refugee Travel Document).

d. An alien paroled into the United States for at least one year under Section 212(d)(5) of the INA. Evidence includes INS Form I-94 with stamp showing admission for at least one year under Section 212(d)(5) of the INA.

e. An alien whose deportation is being withheld under Section 243(h) of the INA (as in effect immediately prior to September 30, 1996) or Section 241(b)(3) of such Act (as amended by Section 305(a) of Division C of Public Law 104-2-8). Evidence includes:

1. INS Form I-668 (Employment Authorization Card) annotated "271a.12(a)(10)."
2. INS Form I-766 (Employment Authorization Document) annotated "A10."
3. Order from an immigration judge showing deportation withheld under Section 243(h) of the INA as in effect prior to April 1, 1997, or removal withheld under Section 241(b)(3) of the INA.

f. An alien who is granted conditional entry under Section 203(a)(7) of the INA as in effect prior to April 1, 1980. Evidence includes:

1. INS Form I-94 with stamp showing admission under Section 203(a)(7) of the INA.
2. INS Form I-668 (Employment Authorization Card) annotated "274a.12(a)(3)."
3. INS Form I-776 (Employment Authorization Document) annotated "A3."

g. An alien who is a Cuban or Haitian entrant (as defined in Section 501(e) of the Refugee Education Assistance Act of 1980). Evidence includes:

1. INS Form I-551 (Alien Registration Receipt Card, commonly known as a "green card") with the code CU6, CU7, or CH6.
2. Unexpired temporary I-551 stamp in foreign passport or on INS Form I-94 with code CU6 or CU7.
3. INS Form I-94 with stamp showing parole as "Cuban/Haitian Entrant" under Section 212(d)(5) of the INA.

h. An alien paroled into the United States for less than one year under Section 212(d)(5) of the INA. Evidence includes INS Form I-94 showing this status.

i. An alien who has been declared a battered alien. Evidence includes INS petition and supporting documentation.

j. Any other documentation acceptable under the INA.

These rules are intended to implement Iowa Code chapter 546.

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CHAPTER 8
DENIAL OF ISSUANCE OR RENEWAL OF LICENSE FOR NONPAYMENT OF CHILD SUPPORT OR STUDENT LOAN

193—8.1(252J) Nonpayment of child support. The board shall deny the issuance or renewal of a license upon the receipt of a certificate of noncompliance from the child support recovery unit of the department of human services according to the procedures in Iowa Code chapter 252J. In addition to the procedures set forth in chapter 252J, this rule shall apply.

8.1(1) The notice required by Iowa Code section 252J.8 shall be served upon the licensee or applicant by restricted certified mail, return receipt requested, or personal service in accordance with Rule of Civil Procedure 56.1. Alternatively, the licensee or applicant may accept service personally or through authorized counsel.

8.1(2) The effective date of the denial of the issuance or renewal of a license, as specified in the notice required by Iowa Code section 252J.8, shall be 60 days following service of the notice upon the licensee or applicant.

8.1(3) The board's executive secretary is authorized to prepare and serve the notice required by Iowa Code section 252J.8 upon the licensee or applicant.

8.1(4) Licensees and applicants shall keep the board informed of all court actions and all child support recovery unit actions taken under or in connection with Iowa Code chapter 252J and shall provide the board copies, within seven days of filing or issuance, of all applications filed with the district court pursuant to Iowa Code section 252J.9, all court orders entered in such actions, and withdrawals of certificates of noncompliance by the child support recovery unit.

8.1(5) All board fees for applications, license renewal or reinstatement must be paid by licensees or applicants, and all continuing education requirements must be met before a license will be issued, renewed or reinstated after the board has denied the issuance or renewal of a license pursuant to Iowa Code chapter 252J.

8.1(6) In the event a licensee or applicant files a timely district court action following service of a board notice pursuant to Iowa Code sections 252J.8 and 252J.9, the board shall continue with the intended action described in the notice upon the receipt of a court order lifting the stay, dismissing the action, or otherwise directing the board to proceed. For purposes of determining the effective date of the denial of the issuance or renewal of a license, the board shall count the number of days before the action was filed and the number of days after the action was disposed of by the court.

8.1(7) The board shall notify the licensee or applicant in writing through regular first-class mail, or such other means as the board deems appropriate in the circumstances, within ten days of the effective date of the denial of the issuance or renewal of a license, and shall similarly notify the licensee or applicant when the license is issued or renewed following the board's receipt of a withdrawal of the certificate of noncompliance.

193—8.2(261) Nonpayment of student loan. The board shall deny the issuance or renewal of a license upon receipt of a certificate of noncompliance from the college student aid commission according to the procedures set forth in Iowa Code chapter 261. In addition to those procedures, this rule shall apply.

8.2(1) The notice required by Iowa Code section 261.126 shall be served by restricted certified mail, return receipt requested, or by personal service in accordance with the Iowa Rules of Civil Procedure. Alternatively, the applicant or licensee may accept service personally or through authorized counsel.

8.2(2) The effective date of the denial of the issuance or renewal of a license, as specified in the notice required by Iowa Code section 261.126, shall be 60 days following service of the notice upon the applicant or licensee.

8.2(3) The board's executive secretary is authorized to prepare and serve the notice required by Iowa Code section 261.126 upon the applicant or licensee.

8.2(4) Applicants and licensees shall keep the board informed of all court actions and all college student aid commission actions taken under or in connection with Iowa Code chapter 261 and shall provide the board copies, within seven days of filing or issuance, of all applications filed with the district court pursuant to Iowa Code section 261.127, all court orders entered in such actions, and withdrawals of certificates of noncompliance by the college student aid commission.

8.2(5) All board fees required for application, license renewal or license reinstatement must be paid by applicants or licensees, and all continuing education requirements must be met before a license will be issued, renewed, or reinstated after the board has denied the issuance or renewal of a license pursuant to Iowa Code chapter 261.

8.2(6) In the event an applicant or licensee timely files a district court action following service of a board notice pursuant to Iowa Code sections 261.126 and 261.127, the board shall continue with the intended action described in the notice upon the receipt of a court order lifting the stay, dismissing the action, or otherwise directing the board to proceed. For purposes of determining the effective date of the denial of the issuance or renewal of a license, the board shall count the number of days before the action was filed and the number of days after the action was disposed of by the court.

8.2(7) The board shall notify the applicant or licensee in writing through regular first-class mail, or such other means as the board deems appropriate in the circumstances, within ten days of the effective date of the denial of the issuance or renewal of a license, and shall similarly notify the applicant or licensee when the license is issued or renewed following the board's receipt of a withdrawal of the certificate of noncompliance.

These rules are intended to implement Iowa Code chapter 252J and sections 261.126 and 261.127.

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CHAPTER 9
PETITION FOR RULE MAKING

193—9.1(17A) Petition for rule making. Any person, board or other state agency may file a petition for rule making with the board.

A petition is deemed filed when it is received by that office. The board must provide the petitioner with a file-stamped copy of the petition if the petitioner provides the board an extra copy for this purpose. The petition must be typewritten, or legibly handwritten in ink, and must substantially conform to the following form:

(NAME OF EXAMINING BOARD)

Petition by (Name of Petitioner) for the (adoption, amendment, or repeal) of rules relating to (state subject matter).	}	PETITION FOR RULE MAKING

The petition must provide the following information:

1. A statement of the specific rule-making action sought by the petitioner including the text or a summary of the contents of the proposed rule or amendment to a rule and, if it is a petition to amend or repeal a rule, a citation and the relevant language to the particular portion or portions of the rule proposed to be amended or repealed.
2. A citation to any law deemed relevant to the board's authority to take the action urged or to the desirability of that action.
3. A brief summary of petitioner's arguments in support of the action urged in the petition.
4. A brief summary of any data supporting the action urged in the petition.
5. The names and addresses of other persons, or a description of any class of persons, known by petitioner to be affected by, or interested in, the proposed action which is the subject of the petition.
6. Any request by petitioner for a meeting provided for by rule 9.4(17A).

9.1(1) The petition must be dated and signed by the petitioner or the petitioner's representative. It must also include the name, mailing address, and telephone number of the petitioner and petitioner's representative, and a statement indicating the person to whom communications concerning the petition should be directed.

9.1(2) The board may deny a petition because it does not substantially conform to the required form.

193—9.2(17A) Briefs. The petitioner may attach a brief to the petition in support of the action urged in the petition. The board may request a brief from the petitioner or from any other person concerning the substance of the petition.

193—9.3(17A) Inquiries. Inquiries concerning the status of a petition for rule making may be made to the executive secretary.

193—9.4(17A) Board consideration.

9.4(1) Upon request by petitioner in the petition, the board must schedule a brief and informal meeting between the petitioner and the board, a member of the board, or a member of the staff of the board, to discuss the petition. The board may request the petitioner to submit additional information or argument concerning the petition. The board may also solicit comments from any person on the substance of the petition. Also, comments on the substance of the petition may be submitted to the board by any person.

9.4(2) Within 60 days after the filing of the petition, or within any longer period agreed to by the petitioner, the board must, in writing, deny the petition, and notify petitioner of its action and the specific grounds for the denial, or grant the petition and notify petitioner that it has instituted rule-making proceedings on the subject of the petition. Petitioner shall be deemed notified of the denial or granting of the petition on the date when the board mails or delivers the required notification to petitioner.

9.4(3) Denial of a petition because it does not substantially conform to the required form does not preclude the filing of a new petition on the same subject that seeks to eliminate the grounds for the board's rejection of the petition.

These rules are intended to implement Iowa Code chapter 17A.

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CHAPTER 10
DECLARATORY ORDERS

193—10.1(17A) Petition for declaratory order. Any person may file a petition with the board for a declaratory order as to the applicability to specified circumstances of a statute, rule, or order within the primary jurisdiction of the board at the board's offices. A petition is deemed filed when it is received by that office. The board shall provide the petitioner with a file-stamped copy of the petition if the petitioner provides the board an extra copy for this purpose. The petition must be typewritten or legibly handwritten in ink and must substantially conform to the following form:

(NAME OF EXAMINING BOARD)

Petition by (Name of Petitioner) for Declaratory Order on (Cite provisions of law involved). }	PETITION FOR DECLARATORY ORDER

The petition must provide the following information:

1. A clear and concise statement of all relevant facts on which the order is requested.
2. A citation and the relevant language of the specific statutes, rules, policies, decisions, or orders whose applicability is questioned, and any other relevant law.
3. The questions the petitioner wants answered, stated clearly and concisely.
4. The answers to the questions desired by the petitioner and a summary of the reasons urged by the petitioner in support of those answers.
5. The reasons for requesting the declaratory order and disclosure of the petitioner's interest in the outcome.
6. A statement indicating whether the petitioner is currently a party to another proceeding involving the questions at issue and whether, to the petitioner's knowledge, those questions have been directed by, are pending determination by, or are under investigation by any governmental entity.
7. The names and addresses of other persons, or a description of any class of persons, known by petitioner to be affected by, or interested in, the questions in the petition.
8. Any request by petitioner for a meeting provided for by 10.7(17A). The petition must be dated and signed by the petitioner or the petitioner's representative. It must also include the name, mailing address, and telephone number of the petitioner and petitioner's representative, and a statement indicating the person to whom communications concerning the petition should be directed.

193—10.2(17A) Notice of petition. Within ten days after receipt of a petition for a declaratory order, the board shall give notice of the petition to all persons not served by the petitioner pursuant to 10.6(17A) to whom notice is required by any provision of law. The board may also give notice to any other persons.

193—10.3(17A) Intervention.

10.3(1) Persons who qualify under any applicable provision of law as an intervenor and who file a petition for intervention within 20 days of the filing of a petition for declaratory order shall be allowed to intervene in a proceeding for a declaratory order.

10.3(2) Any person who files a petition for intervention at any time prior to the issuance of an order may be allowed to intervene in a proceeding for a declaratory order at the discretion of the board.

10.3(3) A petition for intervention shall be filed at the board's offices. Such a petition is deemed filed when it is received by that office. The board will provide the petitioner with a file-stamped copy of the petition for intervention if the petitioner provides an extra copy for this purpose. A petition for intervention must be typewritten or legibly handwritten in ink and must substantially conform to the following form:

(NAME OF EXAMINING BOARD)

Petition by (Name of Original Petitioner) for Declaratory Order on (Cite provisions of law cited in original petition). }	PETITION FOR INTERVENTION

The petition for intervention must provide the following information:

1. Facts supporting the intervenor's standing and qualifications for intervention.
2. The answers urged by the intervenor to the question or questions presented and a summary of the reasons urged in support of those answers.
3. Reasons for requesting intervention and disclosure of the intervenor's interest in the outcome.
4. A statement indicating whether the intervenor is currently a party to any proceeding involving the questions at issue and whether, to the intervenor's knowledge, those questions have been decided by, are pending determination by, or are under investigation by any governmental entity.
5. The names and addresses of any additional persons, or a description of any additional class of persons, known by the intervenor to be affected by, or interested in, the questions presented.
6. Whether the intervenor consents to be bound by the determination of the matters presented in the declaratory order proceeding.

The petition must be dated and signed by the intervenor or the intervenor's representative. It must also include the name, mailing address, and telephone number of the intervenor and intervenor's representative, and a statement indicating the person to whom communications should be directed.

193—10.4(17A) Briefs. The petitioner or intervenor may file a brief in support of the position urged. The board may request a brief from the petitioner, any intervenor, or any other person concerning the questions raised in the petition.

193—10.5(17A) Inquiries. Inquiries concerning the status of a declaratory order may be made to the executive secretary of the board at the board's offices.

193—10.6(17A) Service and filing of petitions and other papers.

10.6(1) *When service required.* Except where otherwise provided by law, every petition for declaratory order, petition for intervention, brief, or other paper filed in a proceeding for a declaratory order shall be served upon each of the parties of record to the proceeding, and on all other persons identified in the petition for declaratory order or petition for intervention as affected by or interested in the questions presented, simultaneously with its filing. The party filing a document is responsible for service on all parties and other affected or interested persons.

10.6(2) *Filing—when required.* All petitions for declaratory orders, petitions for intervention, briefs, or other papers in a proceeding for a declaratory order shall be filed with the board at the board's offices. All petitions, briefs, or other papers that are required to be served upon a party shall be filed simultaneously with the board.

10.6(3) *Method of service, time of filing, and proof of mailing.* Method of service, time of filing, and proof of mailing shall be as provided by rule 193—7.17(17A).

193—10.7(17A) Board consideration. Upon request by petitioner, the board must schedule a brief and informal meeting between the original petitioner, all intervenors, and the board, a member of the board, or a member of the staff of the board to discuss the questions raised. The board may solicit comments from any person on the questions raised. Also, comments on the questions raised may be submitted to the board by any person.

193—10.8(17A) Action on petition.

10.8(1) Within the time allowed after receipt of a petition for a declaratory order, the board shall take action on the petition within 30 days after receipt as required by Iowa Code section 17A.9.

10.8(2) The date of issuance of an order or of a refusal to issue an order is as defined in 193—7.1(17A).

193—10.9(17A) Refusal to issue order. The board shall not issue a declaratory order where prohibited by Iowa Code section 17A.9(5) and may refuse to issue a declaratory order on some or all questions raised for the following reasons:

1. The petition does not substantially comply with the required form.
2. The petition does not contain facts sufficient to demonstrate that the petitioner will be aggrieved or adversely affected by the failure of the board to issue an order.
3. The board does not have jurisdiction over the questions presented in the petition.
4. The questions presented by the petition are also presented in current rule making, contested case, or other board or judicial proceeding that may definitively resolve them.
5. The questions presented by the petition would more properly be resolved in a different type of proceeding or by another body with jurisdiction over the matter.
6. The facts or questions presented in the petition are unclear, overbroad, insufficient, or otherwise inappropriate as a basis upon which to issue an order.
7. There is no need to issue an order because the questions raised in the petition have been settled due to a change in circumstances.
8. The petition is not based upon facts calculated to aid in the planning of future conduct but is, instead, based solely upon prior conduct in an effort to establish the effect of that conduct or to challenge a board decision already made.
9. The petition requests a declaratory order that would necessarily determine the legal rights, duties, or responsibilities of other persons who have not joined in the petition or filed a similar petition and whose position on the questions presented may fairly be presumed to be adverse to that of petitioner.
10. The petitioner requests the board to determine whether a statute is unconstitutional on its face.

10.9(1) A refusal to issue a declaratory order must indicate the specific grounds for the refusal and constitutes final board action on the petition.

10.9(2) Refusal to issue a declaratory order pursuant to this provision does not preclude the filing of a new petition that seeks to eliminate the grounds for refusal to issue an order.

193—10.10(17A) Contents of declaratory order—effective date. In addition to the ruling itself, a declaratory order must contain the date of its issuance, the name of petitioner, intervenors, the specific statutes, rules, policies, decisions, or orders involved, the particular facts upon which it is based, and the reasons for its conclusion. A declaratory order is effective on the date of issuance.

193—10.11(17A) Copies of orders. A copy of all orders issued in response to a petition for a declaratory order shall be mailed promptly to the original petitioner and all intervenors.

193—10.12(17A) Effect of a declaratory order. A declaratory order has the same status and binding effect as a final order in a contested case proceeding. It is binding on the board, the petitioner and any intervenors and is applicable only in circumstances where the relevant facts and the law involved are indistinguishable from those on which the order was based. As to all other persons, a declaratory order serves only as precedent and is not binding on the board. The issuance of a declaratory order constitutes final board action on the petition.

These rules are intended to implement Iowa Code chapter 17A.

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CHAPTER 11
SALES OF GOODS AND SERVICES

193—11.1(68B) Selling of goods or services by members of the department of commerce examining boards. The board members shall not sell, either directly or indirectly, any goods or services to individuals, associations, or corporations that are subject to the regulatory authority of the department of commerce except as authorized by this rule.

11.1(1) *Conditions of consent for members.* Consent shall be given by a majority of the members of the board. Consent shall not be given to an official to sell goods or services to an individual, association, or corporation regulated by the department of commerce unless all of the following conditions are met:

a. The official requesting consent does not have authority to determine whether consent should be given.

b. The official's duties or functions are not related to the department's regulatory authority over the individual, association or corporation to whom the goods and services are being sold, or the selling of the good or service does not affect the official's duties or functions.

c. 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 of commerce.

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

11.1(2) *Authorized sales.*

a. A member of a department of commerce examining board may sell goods or services to any individual, association, or corporation regulated by any division within the department of commerce, other than the board on which that official serves. This consent is granted because the sale of such goods or services does not affect the board member's duties or functions on the board.

b. A member of a department of commerce examining board may sell goods or services to any individual, association, or corporation regulated by the licensing board or commission of which that person is a member, if those goods or services are routinely provided to the public as part of that person's regular professional practice. This consent is granted because the sale of such goods or services does not affect the board member's duties or functions on the board. In the event a complaint is filed with the licensing board concerning the services provided by the board member to a member of the public, that board member is otherwise prohibited by law from participating in any discussion or decision by the licensing board in that case.

c. Individual application and approval are not required for the sales authorized by this rule unless there are unique facts surrounding a particular sale which would cause the sale to affect the seller's duties or functions, would give the buyer an advantage in dealing with the board, or would otherwise present a conflict of interest.

11.1(3) *Application for consent.* Prior to selling a good or service to an individual, association, or corporation subject to the regulatory authority of the department of commerce, an official must obtain prior written consent unless the sale is specifically allowed in subrule 11.1(2). The request for consent must be in writing and signed by the official requesting consent. The application must provide a clear statement of all relevant facts concerning the sale. The application should identify the parties to the sale and the amount of compensation. The application should also explain why the sale should be allowed.

11.1(4) *Limitation of consent.* Consent shall be in writing and shall be valid only for the activities and the time period specifically described in the consent. Consent can be revoked at any time by a majority vote of the members of the board upon written notice to the board. A consent provided under this rule does not constitute authorization for any activity which is a conflict of interest under common law or which would violate any other statute or rule. It is the responsibility of the official requesting consent to ensure compliance with all other applicable laws and rules.

This rule is intended to implement Iowa Code chapter 68B.

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CHAPTER 12
IMPAIRED LICENSEE REVIEW COMMITTEES

193—12.1(272C) Impaired licensee review committee. Pursuant to the authority of Iowa Code section 272C.3(1)*"k,"* all boards in the division may establish an impaired licensee review committee.

12.1(1) *Definitions.* The following definitions are applicable wherever such terminology is used in the rules regarding the impaired licensee review committee.

"Committee" means the impaired licensee review committee.

"Contract" means the written document establishing the terms for participation in the impaired licensee program prepared by the committee.

"Impairment" means an inability to practice with reasonable safety and skill as a result of alcohol or drug abuse, dependency, or addiction, or any neuropsychological or physical disorder or disability.

"Licensee" means a person licensed under Iowa Code chapter 542B, 542C, 543B, 543D, 544A or 544B.

"Self-report" means the licensee's providing written or oral notification to the board that the licensee has been or may be diagnosed as having an impairment prior to the board's receiving a complaint or report alleging the same from a second party.

12.1(2) *Purpose.* The impaired licensee review committee evaluates, assists, monitors, and, as necessary, makes reports to the board on the recovery or rehabilitation of licensees who self-report impairments.

12.1(3) *Composition of the committee.* The chairperson of each board shall appoint the members of the committee for that board. The membership of the committee includes, but is not limited to:

a. One licensee, registered under the applicable Iowa Code chapter regulated by the board;

b. One public member of the board;

c. One licensed professional with expertise in substance abuse/addiction treatment programs or other applicable impairment.

The board may, alternatively, contract with an established impaired licensee review committee of another board, inside or outside the department of commerce, if deemed in the best interest of the licensee or the public.

12.1(4) *Eligibility.* To be eligible for participation in the impaired licensee recovery program, a licensee must meet all of the following criteria:

a. The licensee must self-report an impairment or suspected impairment directly to the office of the board;

b. The licensee must not have engaged in the unlawful diversion or distribution of controlled substances, or illegal substances;

c. At the time of the self-report, the licensee must not already be under board order for an impairment or any other violation of the laws and rules governing the practice of the profession;

d. The licensee has not caused harm or injury to a client;

e. There is currently no board investigation of the licensee that the committee determines concerns serious matters related to the ability to practice with reasonable safety and skill or in accordance with the accepted standards of practice;

f. The licensee has not been subject to a civil or criminal sanction, or ordered to make reparations or remuneration by a government or regulatory authority of the United States, this or any other state or territory or foreign nation for actions that the committee determines to be serious infractions of the laws, administrative rules, or professional ethics related to the practice of the profession;

g. The licensee has provided truthful information and fully cooperated with the board or committee.

12.1(5) *Meetings.* The committee shall meet as necessary in order to review licensee compliance, develop consent agreements for new referrals, and determine eligibility for continued monitoring.

12.1(6) *Terms of participation.* A licensee shall agree to comply with the terms for participation in the impaired licensee program established in a contract. Conditions placed upon the licensee and the duration of the monitoring period shall be established by the committee and communicated to the licensee in writing.

12.1(7) *Noncompliance.* Failure to comply with the provisions of the agreement shall require the committee to make immediate referral of the matter to the board for the purpose of disciplinary action.

12.1(8) *Practice restrictions.* The committee may impose restrictions on the licensee's practice as a term of the contract until such time as it receives a report from an approved evaluator that the licensee is capable of practicing with reasonable safety and skill. As a condition of participating in the program, a licensee is required to agree to restricted practice in accordance with the terms specified in the contract. In the event that the licensee refuses to agree to or comply with the restrictions established in the contract, the committee shall refer the licensee to the board for appropriate action.

12.1(9) *Limitations.* The committee establishes the terms and monitors a participant's compliance with the program specified in the contract. The committee is not responsible for participants who fail to comply with the terms of or successfully complete the impaired licensee program. Participation in the program under the auspices of the committee shall not relieve the board of any duties and shall not divest the board of any authority or jurisdiction otherwise provided. Any violation of the statutes or rules governing the practice of the licensee's profession by a participant shall be referred to the board for appropriate action.

12.1(10) *Confidentiality.* The committee is subject to the provisions governing confidentiality established in Iowa Code section 272C.6. Accordingly, information in the possession of the board or the committee about licensees in the program shall not be disclosed to the public. Participation in the impaired licensee program under the auspices of the committee is not a matter of public record.

This rule is intended to implement Iowa Code chapter 272C.

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CHAPTER 13
PUBLIC RECORDS AND FAIR INFORMATION PRACTICES

193—13.1(17A,22) Definitions. As used in this chapter:

"Agency" in these rules means each board within the Iowa professional licensing and regulation division.

"Confidential record" in these rules means a record which is not available as a matter of right for examination and copying by members of the public under applicable provisions of law. Confidential records include records or information contained in records that the agency is prohibited by law from making available for examination by members of the public, and records or information contained in records that are specified as confidential by Iowa Code section 22.7, or other provision of law, but that may be disclosed upon order of a court, the lawful custodian of the record, or by another person duly authorized to release the record. Mere inclusion in a record of information declared confidential by an applicable provision of law does not necessarily make that entire record a confidential record.

"Custodian" in these rules means each board within the Iowa professional licensing and regulation division.

"Personally identifiable information" in these rules means information about or pertaining to an individual in a record which identifies the individual and which is contained in a record system.

"Record" in these rules means the whole or a part of a "public record," as defined in Iowa Code section 22.1, that is owned by or in the physical possession of this agency.

"Record system" in these rules means any group of records under the control of the agency from which a record may be retrieved by a personal identifier such as the name of an individual, number, symbol, or other unique retriever assigned to an individual.

193—13.2(17A,22) Statement of policy. The purpose of this chapter is to facilitate broad public access to open records. It also seeks to facilitate sound agency determinations with respect to the handling of confidential records and the implementation of the fair information practices Act. This agency is committed to the policies set forth in Iowa Code chapter 22; agency staff shall cooperate with members of the public in implementing the provisions of that chapter.

193—13.3(17A,22) Requests for access to records.

13.3(1) *Location of record.* A request for access to a record should be directed to the board which owns or is in physical possession of the record. The request shall be directed to the appropriate board at 1918 S.E. Hulsizer, Ankeny, Iowa 50021. If a request for access to a record is misdirected, agency personnel will promptly forward the request to the appropriate person within the agency.

13.3(2) *Office hours.* Open records shall be made available during all customary office hours, which are 8 a.m. to 4:30 p.m., Monday through Friday.

13.3(3) *Request for access.* Requests for access to open records may be made in writing, in person, by facsimile, E-mail, or other electronic means, or by telephone. Requests shall identify the particular records sought by name or description in order to facilitate the location of the record. Mail, electronic, or telephone requests shall include the name, address, and telephone number of the person requesting the information to facilitate the board's response. A person shall not be required to give a reason for requesting an open record. While agencies are not required by Iowa Code chapter 22 to respond to requests for public records which are not made in person, the boards will respond to such requests as reasonable under the circumstances.

13.3(4) *Response to requests.* Access to an open record shall be provided promptly upon request unless the size or nature of the request makes prompt access infeasible. If the size or nature of the request for access to an open record requires time for compliance, the custodian shall comply with the request as soon as feasible. Access to an open record may be delayed for one of the purposes authorized by Iowa Code section 22.8(4) or 22.10(4). The custodian shall promptly give notice to the requester of the reason for any delay in access to an open record and an estimate of the length of that delay and, upon request, shall promptly provide that notice to the requester in writing.

The custodian of a record may deny access to the record by members of the public only on the grounds that such a denial is warranted under Iowa Code sections 22.8(4) and 22.10(4), or that it is a confidential record, or that its disclosure is prohibited by a court order. Access by members of the public to a confidential record is limited by law and, therefore, may generally be provided only in accordance with the provisions of rule 13.4(17A,22) in this chapter and other applicable provisions of law.

13.3(5) *Security of record.* No person may, without permission from the custodian, search or remove any record from agency files. Examination and copying of agency records shall be supervised by the custodian or a designee of the custodian. Records shall be protected from damage and disorganization.

13.3(6) *Copying.* A reasonable number of copies of an open record may be made in the agency's office. If photocopy equipment is not available in the agency office where an open record is kept, the custodian shall permit its examination in that office and shall arrange to have copies promptly made elsewhere.

13.3(7) *Fees.*

a. When charged. The agency may charge fees in connection with the examination or copying of records only if the fees are authorized by law. To the extent permitted by applicable provisions of law, the payment of fees may be waived when the imposition of fees is inequitable or when a waiver is in the public interest.

b. Copying and postage costs. Price schedules for published materials and for photocopies of records supplied by the agency shall be prominently posted in agency offices. Copies of records may be made by or for members of the public on agency photocopy machines or from electronic storage systems at cost as determined and posted in agency offices by the custodian. When the mailing of copies of records is requested, the actual costs of such mailing may also be charged to the requester.

c. Supervisory fee. An hourly fee may be charged for actual agency expenses in supervising the examination and copying of requested records when the supervision time required is in excess of one-half hour. The custodian shall prominently post in agency offices the hourly fees to be charged for supervision of records during examination and copying. That hourly fee shall not be in excess of the hourly wage of an agency clerical employee who ordinarily would be appropriate and suitable to perform this supervisory function. To the extent permitted by law, a search fee may be charged to the same rate as and under the same conditions as are applicable to supervisory fees.

d. Advance deposits.

(1) When the estimated total fee chargeable under this subrule exceeds $25, the custodian may require a requester to make an advance payment to cover all or a part of the estimated fee.

(2) When a requester has previously failed to pay a fee chargeable under this subrule, the custodian may require advance payment of the full amount of any estimated fee before the custodian processes a new request from that requester.

193—13.4(17A,22) Access to confidential records. Under Iowa Code section 22.7 or other applicable provisions of law, the lawful custodian may disclose certain confidential records to one or more members of the public. Other provisions of law authorize or require the custodian to release specified confidential records under certain circumstances or to particular persons. In requesting the custodian to permit the examination and copying of such a confidential record, the following procedures apply and are in addition to those specified for requests for access to records in rule 13.3(17A,22).

13.4(1) *Proof of identity.* A person requesting access to a confidential record may be required to provide proof of identity or authority to secure access to the record.

13.4(2) *Requests.* The custodian may require a request to examine and copy a confidential record to be in writing. A person requesting access to such a record may be required to sign a certified statement or affidavit enumerating the specific reasons justifying access to the confidential record and to provide any proof necessary to establish relevant facts.

13.4(3) *Notice to subject of record and opportunity to obtain injunction.* After the custodian receives a request for access to a confidential record, and before the custodian releases such a record, the custodian may make reasonable efforts to notify promptly any person who is a subject of that record, is identified in that record, and whose address or telephone number is contained in that record. To the extent such a delay is practicable and in the public interest, the custodian may give the subject of such a confidential record to whom notification is transmitted a reasonable opportunity to seek an injunction under Iowa Code section 22.8, and indicate to the subject of the record the specific period of time during which disclosure will be delayed for that purpose.

13.4(4) *Request denied.* When the custodian denies a request for access to a confidential record, the custodian shall promptly notify the requester. If the requester indicates to the custodian that a written notification of the denial is desired, the custodian shall promptly provide such a notification that is signed by the custodian and that includes:

a. The name and title or position of the custodian responsible for the denial; and

b. A citation to the provision of law vesting authority in the custodian to deny disclosure of the record and a brief statement of the reasons for the denial to this requester.

13.4(5) *Request granted.* When the custodian grants a request for access to a confidential record to a particular person, the custodian shall notify that person and indicate any lawful restrictions imposed by the custodian on that person's examination and copying of the record.

193—13.5(17A,22) Requests for treatment of a record as a confidential record and its withholding from examination. The custodian may treat a record as a confidential record and withhold it from examination only to the extent that the custodian is authorized by Iowa Code section 22.7, another applicable provision of law, or a court order to refuse to disclose that record to members of the public.

13.5(1) *Persons who may request.* Any person who would be aggrieved or adversely affected by disclosure of a record and who asserts that Iowa Code section 22.7, another applicable provision of law, or a court order authorizes the custodian to treat the record as a confidential record may request the custodian to treat that record as a confidential record and to withhold it from public inspection.

13.5(2) *Request.* A request that a record be treated as a confidential record and be withheld from public inspection shall be in writing and shall be filed with the custodian. The request must set forth the legal and factual basis justifying such confidential record treatment for that record, and the name, address, and telephone number of the person authorized to respond to any inquiry or action of the custodian concerning the request. A person requesting treatment of a record as a confidential record may also be required to sign a certified statement or affidavit enumerating the specific reasons justifying the treatment of that record as a confidential record and to provide any proof necessary to establish relevant facts. Requests for treatment of a record as such a confidential record for a limited time period shall also specify the precise period of time for which that treatment is requested.

A person filing such a request shall, if possible, accompany the request with a copy of the record in question with those portions deleted for which such confidential record treatment has been requested. If the original record is being submitted to the agency by the person requesting such confidential treatment at the time the request is filed, the person shall indicate conspicuously on the original record that all or portions of it are confidential.

13.5(3) *Failure to request.* Failure of a person to request confidential record treatment for a record does not preclude the custodian from treating it as a confidential record. However, if a person who has submitted business information to the agency does not request that it be withheld from public inspection under Iowa Code sections 22.7(3) and 22.7(6), the custodian of records containing that information may proceed as if that person has no objection to its disclosure to members of the public.

13.5(4) *Timing of decision.* A decision by the custodian with respect to the disclosure of a record to members of the public may be made when a request for its treatment as a confidential record that is not available for public inspection is filed, or when the custodian receives a request for access to the record by a member of the public.

13.5(5) *Request granted or deferred.* If a request for such confidential record treatment is granted, or if action on such a request is deferred, a copy of the record from which the matter in question has been deleted and a copy of the decision to grant the request or to defer action upon the request will be made available for public inspection in lieu of the original record. If the custodian subsequently receives a request for access to the original record, the custodian will make reasonable and timely efforts to notify any person who has filed a request for its treatment as a confidential record that is not available for public inspection of the pendency of that subsequent request.

13.5(6) *Request denied and opportunity to seek injunction.* If a request that a record be treated as a confidential record and be withheld from public inspection is denied, the custodian shall notify the requester in writing of that determination and the reasons therefor. On application by the requester, the custodian may engage in a good faith, reasonable delay in allowing examination of the record so that the requester may seek injunctive relief under the provisions of Iowa Code section 22.8, or other applicable provision of law. However, such a record shall not be withheld from public inspection for any period of time if the custodian determines that the requester had no reasonable grounds to justify the treatment of that record as a confidential record. The custodian shall notify requester in writing of the time period allowed to seek injunctive relief or the reasons for the determination that no reasonable grounds exist to justify the treatment of that record as a confidential record. The custodian may extend the period of good faith, reasonable delay in allowing examination of the record so that the requester may seek injunctive relief only if no request for examination of that record has been received, or if a court directs the custodian to treat it as a confidential record, or to the extent permitted by another applicable provision of law, or with the consent of the person requesting access.

193—13.6(17A,22) Procedure by which additions, dissents, or objections may be entered into certain records. Except as otherwise provided by law, a person may file a request with the custodian to review, and to have a written statement of additions, dissents, or objections entered into, a record containing personally identifiable information pertaining to that person. However, this does not authorize a person who is a subject of such a record to alter the original copy of that record or to expand the official record of any agency proceeding. Requester shall send the request to review such a record or the written statement of additions, dissents, or objections to the board at 1918 S.E. Hulsizer, Ankeny, Iowa 50021. The request to review such a record or the written statement of such a record of additions, dissents, or objections must be dated and signed by requester, and shall include the current address and telephone number of the requester or the requester's representative.

193—13.7(17A,22) Consent to disclosure by the subject of a confidential record. To the extent permitted by any applicable provision of law, a person who is the subject of a confidential record may have a copy of the portion of that record concerning the subject disclosed to a third party. A request for such a disclosure must be in writing and must identify the particular record or records that may be disclosed, and the particular person or class of persons to whom the record may be disclosed and, where applicable, the time period during which the record may be disclosed. The person who is the subject of the record and, where applicable, the person to whom the record is to be disclosed, may be required to provide proof of identity. Additional requirements may be necessary for special classes of records. Appearance of counsel before the agency on behalf of a person who is the subject of a confidential record is deemed to constitute consent for the agency to disclose records about that person to the person's attorney.

This rule does not allow the subject of a record which is confidential under Iowa Code section 272C.6(4) to consent to its release.

193—13.8(17A,22) Disclosures without the consent of the subject.

13.8(1) Open records are routinely disclosed without the consent of the subject.

13.8(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 193—13.9(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.

h. To other licensing authorities inside and outside Iowa as described in Iowa Code section 272C.6(4).

13.8(3) Notwithstanding any statutory confidentiality provision, the board may share information with the child support recovery unit of the department of human services through manual or automated means for the sole purpose of identifying registrants or applicants subject to enforcement under Iowa Code chapter 252J or 598.

13.8(4) Notwithstanding any statutory confidentiality provision, the board may share information with the college student aid commission for the sole purpose of identifying applicants or registrants subject to enforcement under Iowa Code sections 261.126 and 261.127.

193—13.9(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. To the extent allowed by law, the following uses are considered routine uses of all board records:

13.9(1) Disclosure to those officers, employees, and agents of the board who have a need for the record in the performance of their duties. The custodian of the record may, upon request of any officer or employee, or on the custodian's own initiative, determine what constitutes legitimate need to use confidential records.

13.9(2) 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.

13.9(3) Disclosure to the department of inspections and appeals for matters in which it is performing services or functions on behalf of the board.

13.9(4) 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.

13.9(5) 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.

13.9(6) Any disclosure specifically authorized by the statute under which the record was collected or maintained.

13.9(7) Disclosure to the public and news media of pleadings, motions, orders, final decisions, and informal settlement filed in licensee disciplinary proceedings.

13.9(8) Transmittal to the district court of the record in a disciplinary hearing, pursuant to Iowa Code section 17A.19(6), regardless of whether the hearing was open or closed.

13.9(9) Name and address of licensees, date of licensure, type of license, status of licensure and related information are routinely disclosed to the public upon request.

13.9(10) Name and license numbers of licensees are routinely disclosed to the public upon request.

193—13.10(17A,22) Consensual disclosure of confidential records.

13.10(1) *Consent to disclosure by a subject individual.* To the extent permitted by law, the subject may consent in writing to board disclosure of confidential records as provided in rule 193—13.7(17A,22).

13.10(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 board 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.

193—13.11(17A,22) Release to subject.

13.11(1) The subject of a confidential record may file a written request to review confidential records about that person. However, the agency 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 are otherwise privileged.

c. Peace officers' investigative reports may be withheld from the subject, except as required by the Iowa Code. (Iowa Code section 22.7(5))

d. All information in licensee complaint and investigation files maintained by the board for purposes of licensee discipline are required to be withheld from the subject prior to the filing of formal charges and the notice of hearing in a licensee disciplinary proceeding.

e. Confidential personnel records of licensees and examination candidates. (Iowa Code section 22.7(11))

f. As otherwise authorized by law.

13.11(2) Where a record has multiple subjects with interest in the confidentiality of the record, the agency may take reasonable steps to protect confidential information relating to another subject.

193—13.12(17A,22,544A) Availability of records.

13.12(1) *General.* Agency records are open for public inspection and copying unless otherwise provided by rule or law.

13.12(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. Personal related information in confidential personnel records of board staff, board members and licensees. (Iowa Code section 22.7(11))

b. Personal related information in confidential personnel records of applicants for licensure. (Iowa Code section 22.7(11))

c. All information in complaint and investigation files maintained by the board for purposes of licensee discipline is confidential in accordance with Iowa Code section 272C.6(4), except that the information may be released to the licensee once a licensee disciplinary proceeding has been initiated by the filing of formal charges and a notice of hearing.

d. The record of a disciplinary hearing which is closed to the public pursuant to Iowa Code section 272C.6(1) is confidential under Iowa Code section 21.5(4). However, in the event a record is transmitted to the district court pursuant to Iowa Code section 17A.19(6) for purposes of judicial review, the record shall not be considered confidential unless the district court so orders.

e. Information relating to the examination results other than final score except for information about the results of an examination which is given to the person who took the examination. (Iowa Code sections 542B.32, 542C.16, 543B.52, 543D.8, 544A.22, 544B.8)

f. Criminal history or prior misconduct of an applicant for licensure. (Iowa Code sections 542B.32, 542C.16, 543B.52, 543D.12, 544A.27, 544B.8)

g. Information relating to the contents of an examination for licensure. (Iowa Code sections 542B.32, 542C.16, 543B.52, 543D.12, 544A.27, 544B.8)

h. Minutes and tapes of closed meetings of the board. (Iowa Code section 21.5(4))

i. Information or records received from a restricted source and any other information or records made confidential by law, such as academic transcripts or substance abuse treatment information.

j. References for examination or licensure applicants. (Iowa Code section 22.7(18))

k. Records which constitute attorney work products or attorney-client communications or which are otherwise privileged pursuant to Iowa Code sections 22.7, 272C.6(4), 622.10 or 622.11, state and federal rules of evidence or procedure, the Code of Professional Responsibility, and case law.

l. 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."*

m. Those portions of agency staff manuals, instructions or other statements issued which set forth the criteria or guidelines to be used by agency staff in auditing, making inspections, or in selecting or handling 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 board. (Iowa Code sections 17A.2 and 17A.3)

13.12(3) *Authority to release confidential records.* The agency may have discretion to disclose some confidential records which are exempt from disclosure under Iowa Code section 22.7 or other law. Any person may request permission to inspect records withheld from inspection under a statute which authorizes limited or discretionary disclosure as provided in rule 13.4(17A,22). If the agency initially determines that it will release such records, the agency may where appropriate notify interested parties and withhold the records from inspection as provided in subrule 13.4(3).

193—13.13(17A,22,544A) Personally identifiable information. This rule describes the nature and extent of personally identifiable information which is collected, maintained, and retrieved by the agency by personal identifier in record systems as defined in rule 193—13.1(17A,22). For each record system, this rule describes the legal authority for the collection of that information. Most records are stored on paper only, but information from paper records may also be stored in electronic form and some records may also be stored only in electronic form. Data regarding licensees is stored in a data processing system that permits the comparison of personally identifiable information in one record system with personally identifiable information in another system. Some information is also placed on the board Web site. The record systems maintained by the agency are:

13.13(1) Information in complaint and investigation files maintained by the board for purposes of licensee discipline. This information is required to be kept confidential pursuant to Iowa Code section 272C.6(4). However, it may be released to the licensee once a disciplinary proceeding is commenced by the filing of formal charges and the notice of hearing. Only charges and final orders are maintained electronically.

13.13(2) Information on nonlicensee investigation files maintained by the board. This information is a public record except to the extent that certain information may be exempt from disclosure under Iowa Code section 22.7(18) or other provision of law.

13.13(3) The following information regarding licensee disciplinary proceedings:

a. Formal charges and notices of hearing.

b. Complete records of open disciplinary hearings. If a hearing is closed pursuant to Iowa Code section 272C.6(1), the record is confidential under Iowa Code section 21.5(4).

c. Final written decisions, including informal stipulations and settlements.

13.13(4) Licensure. Records pertaining to licensure by examination may include:

a. Transcripts from education programs. This information is collected pursuant to Iowa Code sections 542B.13, 542C.5, 543B.15, 543D.9, 544A.8 and 544B.9.

b. Applications for examination. This information is collected pursuant to Iowa Code sections 542B.13, 542C.5, 543B.20, 543D.7, 544A.8 and 544B.9.

c. References. These may be requested from applicants pursuant to Iowa Code section 542B.13 or 544A.8.

d. Past criminal and disciplinary record. This information is collected pursuant to Iowa Code sections 542B.13, 542C.4, 543B.15, 543D.12, 544A.27 and 544B.9.

e. Examination scores. This information is collected pursuant to Iowa Code sections 542B.14, 542C.5, 543B.20, 543D.8, 544A.8 and 544B.9.

f. Social security numbers of license applicants and licensees as required by Iowa Code section 252J.8(1).

13.13(5) In addition to the above records, records pertaining to licensure by reciprocity or comity may include:

a. Disciplinary actions taken by other boards. This information is collected pursuant to Iowa Code sections 542B.21, 542C.5, 543B.15, 543D.10, 544A.8 and 544B.15.

b. Verification of licensure by another board. This information is collected pursuant to Iowa Code sections 542B.20, 542C.5, 543B.21, 543D.11, 544A.8 and 544B.10.

c. Verification of experience and other licensure qualifications.

13.13(6) Firm and business entity registrations and renewals. This information is collected pursuant to Iowa Code section 542C.18, 543B.28, and 544A.21.

13.13(7) Renewal forms. This information is collected pursuant to Iowa Code sections 542B.18, 542C.5, 543B.28, 543D.16, 544A.10 and 544B.13. Some renewal forms are only stored in data processing systems when licensees renew electronically.

13.13(8) Continuing education records. This information is collected pursuant to Iowa Code section 272C.2.

13.13(9) Trust account records. This information is obtained under the authority of Iowa Code section 543B.46, which may include records such as consents to audit trust accounts, transactional records, bank account and ledger records, examination reports, examiner exit interviews, correspondence and related records.

13.13(10) Errors and omissions insurance records. This information is obtained under the authority of Iowa Code section 543B.47.

193—13.14(22,544A) Other groups of records. This rule describes groups of records maintained by the agency other than record systems as defined in rule 193—13.1(17A,22). These records are routinely available to the public. However, the agency's files of these records may contain confidential information. In addition, the records listed in rule 13.13(17A,22) may contain information about individuals. All records are stored on paper and in automated data processing systems unless otherwise noted.

13.14(1) Rule-making records. Rule-making records may contain information about individuals making written or oral comments on proposed rules. This information is collected pursuant to Iowa Code section 17A.4. This information is not generally stored in an automated data processing system, although rule-making dockets may also be found on the board's Web site.

13.14(2) Board records. Agendas, minutes, and materials presented to the board members in preparation for board meetings are available from the office of the board, except those records concerning closed sessions which are exempt from disclosure under Iowa Code section 21.5(4). Board records contain information about people who participate in meetings. This information is collected pursuant to Iowa Code section 21.3. This information is not stored in an automated data processing system, although minutes and other information may be found on the board's Web site.

13.14(3) Publications. News releases, annual reports, project reports, agency newsletters, and other publications are available from the office of the board. Information concerning examinations and registration is available from the board office. Agency news releases, project reports, and newsletters may contain information about individuals, including agency staff or members of agency councils or committees. This information is not stored in an automated data processing system, although some board publications may be found on the board's Web site.

13.14(4) Appeal decisions and advisory opinions. All final orders, decisions and opinions are open to the public except for information that is confidential according to subrule 13.12(2), paragraphs *"c"* and *"d."* These records may contain information about individuals collected under the authority of Iowa Code sections 542B.21, 542C.22, 543B.29, 543D.17, 544A.13 and 544B.15.

13.14(5) Policy manuals. The agency employees' manual, containing the policies and procedures for programs administered by the agency, is available in the office of the agency. Subscriptions to all or part of the employees' manual are available at the cost of production and handling. Requests for subscription information should be addressed to the board's office. Policy manuals do not contain information about individuals.

13.14(6) Other records. All other records that are not exempted from disclosure by law.

13.14(7) Waivers and variances. Requests for waivers and variances, board proceedings and rulings on such requests, and reports prepared for the administrative rules committee and others.

13.14(8) Rule-making initiatives. All boards maintain both paper and electronic records on rule-making initiatives in accordance with Executive Order Numbers 8 and 9.

13.14(9) Personnel records of board staff and board members which may be confidential pursuant to Iowa Code section 22.7(11). The agency maintains files containing information about employees, families and dependents, and applicants for positions with the agency. The files may include payroll records, biographical information, medical information relating to disability, performance reviews and evaluations, disciplinary information, information required for tax withholding, information concerning employee benefits, affirmative action reports, and other information concerning the employer-employee relationship.

13.14(10) General correspondence, reciprocity agreements with other states, and cooperative agreements with other agencies.

13.14(11) Administrative records. These records include documents concerning budget, property inventory, purchasing, yearly reports, office policies for employees, time sheets, and printing and supply requisitions.

13.14(12) Subdivided land filings and related correspondence collected pursuant to Iowa Code chapter 543C.

13.14(13) Time-share filings and related correspondence collected pursuant to Iowa Code chapter 557A.

13.14(14) All other records that are not confidential by law.

193—13.15(17A,22) Data processing systems. All data processing systems used by the board permit the comparison of personally identifiable information in one record system with personally identifiable information in another record system.

193—13.16(17A,22) Applicability. This chapter does not:

1. Require the agency to index or retrieve records which contain information about individuals by a person's name or other personal identifier.
2. Make available to the general public records which would otherwise not be available under the public records law, Iowa Code chapter 22.
3. Govern the maintenance or disclosure of, notification of, or access to records in the possession of the agency which are governed by the regulations of another agency.
4. Apply to grantees, including local governments or subdivisions thereof, administering state-funded programs, unless otherwise provided by law or agreement.
5. Make available records compiled by the agency in reasonable anticipation of court litigation or formal administrative proceedings. The availability of such records to the general public or to any subject individual or party to such litigation or proceedings shall be governed by applicable legal and constitutional principles, statutes, rules of discovery, evidentiary privileges, and applicable regulations of the agency.

193—13.17(17A,22) Notice to suppliers of information. When the agency requests a person to supply information about that person, the agency shall notify the person of the use that will be made of the information, which persons outside the agency might routinely be provided this information, which parts of the requested information are required and which are optional, and the consequences of a failure to provide the information requested. This notice may be given in these rules, on the written form used to collect the information, on a separate fact sheet or letter, in brochures, in formal agreements, in contracts, in handbooks, in manuals, verbally, or by other appropriate means.

13.17(1) *License and examination applicants.* License and examination applicants are requested to supply a wide range of information depending on the qualifications for licensure or sitting for an examination, as provided by board statutes, rules and application forms. Failure to provide requested information may result in denial of the application. Some requested information, such as college transcripts, social security numbers, examination scores, and criminal histories, are confidential under state or federal law, but most of the information contained in license or examination applications is treated as public information, freely available for public examination.

13.17(2) *Home address.* License applicants and licensees are requested to provide both home and business addresses. Both are treated as open records. If a license applicant or licensee has a basis to shield a home address from public disclosure, such as a domestic abuse protective order, written notification should be provided to the board office. Absent a court order, the board may not have a basis under Iowa Code chapter 22 to shield the home address from public disclosure, but the board may refrain from placing the home address on its Web site and may notify the applicant or licensee before the home address is released to the public to provide an opportunity for the applicant or licensee to seek injunction.

13.17(3) *License renewal.* Licensees are requested to supply a wide range of information in connection with license renewal, including continuing education information, criminal history and disciplinary actions, as provided by board statutes, rules and application forms, both on paper and electronically. Failure to provide requested information may result in denial of the application. Most information contained on renewal applications is treated as public information freely available for public examination, but some information, such as criminal history, may be confidential under state or federal law.

13.17(4) *Subdivided land/time-shares.* All disclosures and other documents filed with the real estate commission in connection with Iowa Code chapter 543C (subdivided land) or 557A (time-shares) is public information freely available for public examination.

13.17(5) *Investigations.* Licensees are required to respond to board requests for information involving the investigation of disciplinary complaints against licensees. Failure to timely respond may result in disciplinary action against the licensee to whom the request is made. Information provided in response to such a request is confidential pursuant to Iowa Code section 272C.6(4), but may become public if introduced at a hearing which is open to the public, contained in a final order, or filed with a court of judicial review.

These rules are intended to implement Iowa Code chapters 22, 252J and 261.

[Filed 8/22/01, Notice 6/27/01—published 9/19/01, effective 10/24/01]

CHAPTER 9
RESTORATION OF AGRICULTURAL LANDS DURING AND AFTER PIPELINE CONSTRUCTION

199—9.1(479,479A,479B) General information.

9.1(1) *Authority.* The standards contained herein are prescribed by the Iowa utilities board pursuant to the authority granted to the board in Iowa Code sections 479.29, 479A.14, and 479B.20, relating to land restoration standards for pipelines. The requirements of this chapter do not apply to interstate natural gas pipeline projects that were both constructed between June 1, 1999, and July 1, 2000, and that also received a certificate from the Federal Energy Regulatory Commission prior to June 1, 1999. In addition, the requirements of this chapter do not apply to land located within city boundaries, unless the land is used for agricultural purposes.

9.1(2) *Purpose.* The purpose of this chapter is to establish standards for the restoration of agricultural lands during and after pipeline construction. Agricultural lands disturbed by pipeline construction shall be restored in compliance with these rules. The rules in this chapter shall constitute the minimum land restoration standards for any pipeline construction for which a project-specific plan is not required. When a project-specific land restoration plan is required, following notice and comment, the board may impose additional or more stringent standards as necessary to address issues specific to the nature and location of the particular pipeline project.

9.1(3) *Definitions.* The following words and terms, when used in these rules, shall have the meanings indicated below:

a. *"Agricultural land"* shall mean:

(1) Land which is presently under cultivation, or

(2) Land which has previously been cultivated and not subsequently developed for nonagricultural purposes, or

(3) Cleared land capable of being cultivated.

b. *"Drainage structures"* or *"underground improvements"* means any permanent structure used for draining agricultural lands, including tile systems and buried terrace outlets.

c. *"Landowner"* means a person listed on the tax assessment rolls as responsible for the payment of real estate taxes imposed on the property.

d. *"Pipeline"* means any pipe, pipes, or pipelines used for the transportation or transmission of any solid, liquid, or gaseous substance, except water, in intrastate or interstate commerce.

e. *"Pipeline company"* means any person, firm, copartnership, association, corporation, or syndicate engaged in or organized for the purpose of owning, operating, or controlling pipelines.

f. *"Pipeline construction"* means a substantial disturbance to agricultural land associated with installation, replacement, removal, operation or maintenance of a pipeline, but shall not include work performed during an emergency. Emergency means a condition where there is clear and immediate danger to life or health, or essential services, or a potentially significant loss of property. When the emergency condition ends, pipeline construction will be in accordance with these rules.

g. *"Proper notice"* to the county inspector means that the pipeline company or its contractor shall keep the person responsible for the inspection continually informed of the work schedule and any schedule changes, and shall provide at least 24 hours' written notice before trenching, permanent tile repair, or backfilling is undertaken at any specific location. The pipeline company may request that the county inspector designate a person to receive such notices.

h. *"Soil conservation practices"* means any land conservation practice recognized by federal or state soil conservation agencies including, but not limited to, grasslands and grassed waterways, hay land planting, pasture, and tree plantings.

i. *"Soil conservation structures"* means any permanent structure recognized by federal or state soil conservation agencies including but not limited to toe walls, drop inlets, grade control works, terraces, levees, and farm ponds.

j. *"Till"* means to loosen the soil in preparation for planting or seeding by plowing, chiseling, discing, or similar means. For the purposes of this chapter, agricultural land planted using no-till planting practices is also considered tilled.

k. *"Topsoil"* means the upper part of the soil which is the most favorable material for plant growth and which can ordinarily be distinguished from subsoil by its higher organic content and darker color.

199—9.2(479,479A,479B) Filing of land restoration plans. For intrastate natural gas and all hazardous liquid pipeline projects, land restoration plans shall be prepared and filed with the appropriate petition pursuant to Iowa Code section 479.29(9) or 479B.20(9) and this chapter for pipeline construction projects which require a pipeline permit from the Iowa utilities board, or for amendments to permits that propose pipeline construction or relocation. Plans for interstate natural gas pipeline construction projects requiring a certificate from the Federal Energy Regulatory Commission shall be prepared pursuant to Iowa Code section 479A.14(9) and this chapter.

9.2(1) *Content of plan.* A land restoration plan shall include but not be limited to the following:

a. A brief description of the purpose and nature of the pipeline construction project.

b. A description of the sequence of events that will occur during pipeline construction.

c. A description of how compliance with subrules 9.4(1) to 9.4(10) will be accomplished.

d. The plan should include the point of contact for landowner inquiries or claims as provided for in rule 9.5(479,479A,479B).

9.2(2) *Plan variations.* The board may by waiver accept variations from this chapter in such plans if the pipeline company is able to satisfy the standards set forth in 199 IAC 1.3(17A,474,476) and if the alternative methods would restore the land to a condition as good as or better than provided for in this chapter.

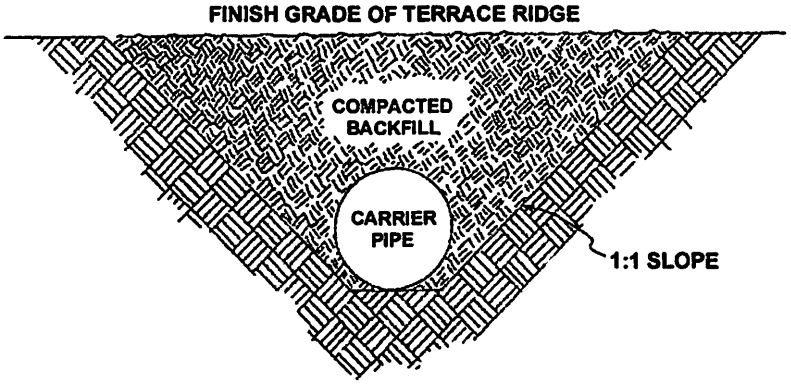
9.2(3) *Environmental impact statement, environmental assessments, and agreements.* Preparation of a separate land restoration plan for an interstate natural gas company project subject to Federal Energy Regulatory Commission authority may be waived by the board if the requirements of Iowa Code section 479A.14 are substantively satisfied in an environmental impact statement or environmental assessment, as defined in 18 CFR Section 380.2, and as accepted and modified by the Federal Energy Regulatory Commission certificate issued for the project. Preparation of a separate land restoration plan may be waived by the board if an agricultural impact mitigation or similar agreement is reached by the pipeline company and the appropriate agencies of the state of Iowa and the requirements of this chapter are substantively satisfied therein. If an environmental impact statement, environmental assessment or agreement is used to fully or partially meet the requirements of a land restoration plan, the statement or agreement shall be filed with the board and shall be considered to be, or to be part of, the land restoration plan for purposes of this chapter.

199—9.3(479,479A,479B) Procedure for review of plan.

9.3(1) An intrastate natural gas pipeline, or a hazardous liquid pipeline, that is subject to Iowa Code section 479.5 or 479B.4 shall file its proposed plan with the board at the time it files its petition for permit pursuant to 199 IAC 10.2(479) or 13.2(479B), or a petition for amendment to permit which proposes pipeline construction or relocation pursuant to 199 IAC 10.9(2) or 13.9(479B). Review of the land restoration plan will be coincident with the board's review of the application for permit, and objections to the proposed plan may be filed as part of the permit proceeding.

Drawing No. IUB PL-2

RESTORATION OF TERRACE



NOTE:

COMPACTION OF BACKFILL TO BE EQUAL TO THAT OF THE UNDISTURBED ADJACENT SOIL.

IUB PL-2

These rules are intended to implement Iowa Code sections 479.29, 479A.14, and 479B.20.

[Filed 1/4/80, Notice 10/17/79—published 1/23/80, effective 2/27/80]
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[Filed 1/18/01, Notice 6/14/00—published 2/7/01, effective 3/14/01]
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[Filed 8/31/01, Notice 7/25/01—published 9/19/01, effective 10/24/01]

INFORMATION TECHNOLOGY DEPARTMENT[471]

7.10(5) *Conditions.* The council may place any condition on a waiver that the council finds desirable to protect the public health, safety, and welfare.

7.10(6) *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 council, a waiver may be renewed if the council finds that grounds for a waiver continue to exist.

7.10(7) *Time for ruling.* The council 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 council shall grant or deny the petition no later than the time at which the final decision in that contested case is issued.

7.10(8) *When deemed denied.* Failure of the council to grant or deny a petition within the required time period shall be deemed a denial of that petition by the council. However, the council shall remain responsible for issuing an order denying a waiver.

7.10(9) *Service of order.* Within seven days of its issuance, any order issued under this chapter 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.

471—7.11(17A) 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 council is authorized or required to keep confidential. The council may accordingly edit confidential information from petitions or orders prior to public inspection.

471—7.12(17A) Summary reports. Semiannually, the information technology department 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 each rule, and a general summary of the reasons justifying the council'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 at the Information Technology Department, Hoover State Office Building, Level B, Des Moines, Iowa 50319. Copies of this report shall be provided semiannually to the administrative rules coordinator and the administrative rules review committee.

471—7.13(17A) Cancellation of a waiver. A waiver issued by the council pursuant to this chapter may be withdrawn, canceled, or modified if, after appropriate notice and hearing, the council issues an order finding any of the following:

1. 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; or
2. 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
3. The subject of the waiver order has failed to comply with all conditions contained in the order.

471—7.14(17A) 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 chapter who violates a condition of the waiver order may be subject to the same remedies or penalties as a person who violates the rule at issue.

471—7.15(17A) Defense. After the council 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.

471—7.16(17A) Judicial review. Judicial review of a council decision to grant or deny a waiver petition may be taken in accordance with Iowa Code chapter 17A.

These rules are intended to implement Iowa Code chapters 14B and 17A.

[Filed 1/19/01, Notice 11/29/00—published 2/7/01, effective 3/14/01]

CHAPTERS 8 to 11
Reserved

CHAPTER 12
INFORMATION TECHNOLOGY OPERATIONAL STANDARDS

471—12.1(14B) Definitions. As used in this chapter:

"Information technology" means computing and electronics applications used to process and distribute information in digital and other forms and includes information technology devices and information technology services.

"Information technology device" means equipment or associated software, including programs, languages, procedures, or associated documentation, used in operating the equipment which is designed for utilizing information stored in an electronic format. "Information technology device" includes but is not limited to computer systems, computer networks, and equipment used for input, output, processing, storage, display, scanning, and printing.

"Information technology services" means services designed to do any of the following:

1. Provide functions, maintenance, and support of information technology devices.
2. Provide services including, but not limited to, any of the following:

- Computer systems application development and maintenance.
- Systems integration and interoperability.
- Operating systems maintenance and design.
- Computer systems programming.
- Computer systems software support.
- Planning and security relating to information technology devices.
- Data management consultation.
- Information technology education and consulting.
- Information technology planning and standards.
- Establishment of local area network and workstation management standards.

"Nonparticipating entity" means the office of the governor or the office of an elective constitutional or statutory officer.

"Operational standards" means information technology standards, including system design, system integration, and interoperability, but not including procurement standards.

"Participating agency" means all executive branch agencies except the following:

1. The state board of regents and institutions operated under the authority of the state board of regents.
2. The public broadcasting division of the department of education.
3. The state department of transportation mobile radio network.
4. The department of public safety law enforcement communications systems.
5. The Iowa telecommunications and technology commission, established in Iowa Code chapter 8D, with respect to information technology that is unique to the Iowa communications network.

471—12.2(14B) Authority and purpose.

12.2(1) The information technology department is required to develop and implement information technology and standards through a process as set forth in this chapter. It is the intent of the general assembly that information technology standards be established for the purpose of guiding development of technology.

12.2(2) The goal of the department is to ensure compatibility and interoperability of state government information technology systems, while at the same time promoting effective technology alignment with enterprise strategies and programs.

471—12.3(14B) Application of standards to participating agencies. Operational standards established by the department, unless waived pursuant to rule 12.6(14B), shall apply to all information technology participating agencies.

471—12.4(14B) Application of standards to nonparticipating entities.

12.4(1) Nonparticipating entities are required to consult with the information technology department prior to procuring information technology.

12.4(2) Nonparticipating entities are also required to consider the operational standards recommended to agencies by the department.

12.4(3) Upon the decision by a nonparticipating entity regarding acquisition of information technology, the entity shall provide a written report to the information technology department.

471—12.5(14B) Development of operational standards.

12.5(1) *Recommendation of operational standards.* The director of the information technology department is charged with recommending standards.

12.5(2) *Implementation of operational standards.* The department shall implement information technology standards which are applicable to information technology operations by participating agencies, including but not limited to system design and systems integration and interoperability for participating agencies, pursuant to Iowa Code section 14B.102(2)"*d.*"

12.5(3) *Effective date of operational standards.* Operational standards are effective upon 24 hours of final posting unless otherwise specified.

471—12.6(14B) Waivers of operational standards. Participating agencies may apply directly to the information technology department for a waiver of a current or proposed standard. The director of the information technology department, upon the written request of a participating agency and for good cause shown, may grant a waiver from a requirement otherwise applicable to a participating agency relating to an information technology standard established by the information technology department.

471—12.7(14B) Review of operational standards by the public and period of public comment.

12.7(1) Interested members of the public may participate in the process of establishing standards by providing written comments to Director, Information Technology Department, Hoover State Office Building, Level B, Des Moines, Iowa 50319. Comments will be accepted for a period of ten days after the initial posting of the standard by the department on the department's Web site at http://www.state.ia.us/government/its/Standards%20&%20Policies/ITStandards/index.htm.

12.7(2) Interested members of the public may inquire about standards currently being considered for recommendation by the director by telephoning the information technology department, administrator of policy and planning, at (515)281-5503; in writing to Information Technology Department, Hoover State Office Building, Level B, Des Moines, Iowa 50319; or by accessing the department's Web site at http://www.state.ia.us/government/its/Standards%20&%20Policies/ITStandards/index.htm.

471—12.8(17A) Petition to initiate review of operational standards. Any interested member of the public may petition the information technology department for review of an existing or recommended standard by filing a written or electronic request with the department. The director may grant the petition if the director determines that the petition has merit. If the petitioner does not receive a response within 30 days of receipt of petition by the department, the petitioner may deem the petition denied.

These rules are intended to implement Iowa Code chapter 14B.

[Filed 8/21/01, Notice 5/30/01—published 9/19/01, effective 10/24/01]

CHAPTERS 13 and 14
Reserved

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]

CHAPTER 1
ORGANIZATION AND OPERATION

[Prior to 11/19/86, Racing Commission[693]]
[Prior to 11/18/87, Racing and Gaming Division[195]]
[Prior to 8/9/00, see also 491—Chs 6, 20 and 21]

491—1.1(99D,99F) Function. The racing and gaming commission was created by Iowa Code chapter 99D and is charged with the administration of the Iowa pari-mutuel wagering Act and excursion boat gambling Act. Iowa Code chapters 99D and 99F mandate that the commission shall have full jurisdiction over and shall supervise all race meetings and gambling operations governed by Iowa Code chapters 99D and 99F.

491—1.2(99D,99F) Organization, meetings, and procedure.

1.2(1) *Organization.*

a. The racing and gaming commission is located at 717 E. Court, Suite B, Des Moines, Iowa 50309; telephone (515)281-7352. Office hours are 8 a.m. to 4:30 p.m., Monday through Friday.

b. The racing and gaming commission consists of five members. The membership shall elect a chairperson and vice-chairperson in July of each year. No chairperson shall serve more than two consecutive one-year full terms.

1.2(2) *Meetings.*

a. The commission meets periodically throughout the year and shall meet in July of each year. Notice of a meeting is published on the commission's Web site at www3.state.ia.us/irgc/ at least five days in advance of the meeting or will be mailed to interested persons upon request. The notice shall contain the specific date, time, and place of the meeting. Agendas are available to any interested persons not less than five days in advance of the meeting.

b. Persons wishing to appear before the commission should submit a written request to the commission office not less than ten working days prior to the meeting. The administrator or commission may place a time limit on presentations after taking into consideration the number of presentations requested.

c. Special or electronic meetings may be called by the chairperson only upon a finding of good cause and shall be held in strict accordance with Iowa Code section 21.4 or 21.8.

1.2(3) *Procedure.* All meetings shall be open to the public unless a closed session is voted by four members or all members present for the reasons specified in Iowa Code section 21.5. The operation of commission meetings shall be governed by the following rules of procedure:

a. A quorum shall consist of three members.

b. When a quorum is present, a position is carried by an affirmative vote of the majority of the entire membership of the commission.

c. A commissioner, who is present at a meeting of the commission when action is taken, shall be presumed to have assented to the action unless the commissioner's dissent was requested to be entered in the minutes. A roll-call vote on any motion may be recorded in the minutes. Reconsideration of any action may only be initiated by a commissioner who voted with the prevailing side. The motion to reconsider any action may be made and seconded before the conclusion of the meeting when the action was approved, or it may be made in writing and submitted to the commission office within two business days following the meeting. Only the mover has the option to request that the motion be held in abeyance, when the motion to reconsider is offered during the same meeting. Any commissioner is eligible to call up the motion to reconsider at the next meeting of the commission. The official minutes shall record the offering of any motion to reconsider, whether placed during the meeting or by timely written submission.

d. The presiding officer may exclude any person from the meeting for behavior that disrupts or obstructs the meeting.

e. Cases not covered by this rule shall be governed by the 1990 edition of Robert's Rules of Order Newly Revised.

491—1.3(99D,99F) Administration of the commission. The commission shall appoint an administrator for the racing and gaming commission who is responsible for the day-to-day administration of the commission's activities.

491—1.4(17A,22,99F) Open records. Except as provided in Iowa Code sections 17A.2(11)"*f*" and 22.7, all public records of the commission shall be available for public inspection during business hours. Requests to obtain records may be made either by mail, telephone, or in person. Minutes of commission meetings, forms, and other records routinely requested by the public may be obtained without charge or viewed on the commission's Web site. Other records requiring more than ten copies may be obtained upon payment of the actual cost for copying. This charge may be waived by the administrator.

491—1.5(17A,99D,99F) Forms. All forms utilized in the conduct of business with the racing and gaming commission shall be available from the commission upon request. These forms include but are not limited to:

1.5(1) *Racetrack or excursion boat license application.* This form shall contain at a minimum the full name of the applicant, all ownership interests, balance sheets and profit-and-loss statements for three fiscal years immediately preceding the application, pending legal action, location and physical plant of the facility, and description of proposed operation. The form may include other information the commission deems necessary to make a decision on the license application. The qualified nonprofit corporation and the boat operator, if different than the qualified nonprofit corporation, shall pay a nonrefundable application fee to offset the commission's cost for processing the application in the amount of $25,000. The fee shall be $5,000 for each subsequent application involving the same operator and the same qualified sponsoring organization. Additionally, the applicant shall remit an investigative fee of $15,000 to the department of public safety to do background investigations as required by the commission. The department of public safety shall bill the applicant/licensee for additional fees as appropriate and refund any unused portion of the investigative fee within 90 days after the denial or operation begins.

1.5(2) *Renewal application for racing license.* This form shall contain, at a minimum, the full name of the applicant, racing dates, simulcast proposal, feasibility of racing facility, distribution to qualified sponsoring organizations, table of organization, management agreement, articles of incorporation and bylaws, lease agreements, financial statements, information on the gambling treatment program, and description of racetrack operations. The form may include other information the commission deems necessary to make a decision on the license application.

1.5(3) *Renewal application for excursion boat license.* This form shall contain, at a minimum, the full name of the applicant, annual fee, distribution to qualified sponsoring organizations, table of organization, internal controls, operating agreement, hours of operation, casino operations, Iowa resources, contracts, guarantee bond, notarized certification of truthfulness, and gambling treatment program. The form may include other information the commission deems necessary to make a decision on the license application. An annual fee to operate an excursion gambling boat shall be based on the passenger-carrying capacity including crew. The fee shall be $5 per person capacity and accompany this application.

1.5(4) *Renewal application for racetrack enclosure license.* This form shall contain, at a minimum, the full name of the applicant, annual fee, casino operations, internal controls, Iowa resources, guarantee bond, and notarized certification of truthfulness. The form may include other information the commission deems necessary to make a decision on the license application. A $1,000 application fee must accompany this license application.

1.5(5) *Occupational license application.* This form shall contain, at a minimum, the applicant's full name, social security number, residence, date of birth, and other personal identifying information that the commission deems necessary. A fee set by the commission shall apply to this application. (Refer to 491—Chapter 6 for additional information.)

1.5(6) *Application for season approvals.* This form shall contain, at a minimum, a listing of the department heads and racing officials, minimum purse, purse supplements for Iowa-breds, grading system (greyhound racing only), schedule and wagering format, equipment, security plan, certification, and any other information the commission deems necessary for approval. This request must be submitted 45 days prior to the meet. Any changes to the items approved by the commission shall be requested in writing by the licensee and subject to the written approval of the administrator or commission representative before the change occurs.

1.5(7) *Manufacturers and distributors license application.* This form shall contain at a minimum the full name of the applicant, all ownership interests, balance sheets and profit-and-loss statements for three fiscal years immediately preceding the application, pending legal action, location and physical plant of the applicant, and description of proposed operation. The form may include other information the administrator deems necessary to make a decision on the license application. (Refer to 491—Chapter 22 for additional information.)

491—1.6(99D,99F) Limitation on location and number of racetracks and excursion gambling boats.

1.6(1) The number of licenses to conduct horse racing shall be one for a racetrack located in Polk County. The number of licenses to conduct dog racing shall be two, one for a racetrack located in Dubuque County and one for a racetrack located in Pottawattamie County. The total number of licenses issued to conduct gambling games on excursion boats shall not exceed ten and shall be restricted to the counties where such boats were operating (or licensed to operate in the future) as of May 1, 1998.

1.6(2) Notwithstanding subrule 1.6(1), with the approval of the commission:

a. A licensed facility may be sold and a new license may be issued for operation in the same county.

b. A licensee may move to a new location within the same county.

c. If a license is surrendered, not renewed, or revoked, a new license may be issued for operation in the same county.

1.6(3) A licensee seeking an increase in the number of gaming machines or gaming tables must obtain prior approval from the commission. In the request for approval from the commission, a licensee shall demonstrate to the commission's satisfaction that the additional gaming equipment:

a. Will have a positive economic impact on the community in which the licensee operates;

b. Will benefit the residents of Iowa;

c. Will result in increased distributions to qualified organizations entitled to distributions under Iowa Code section 99F.6(4)"*a*";

d. Is necessary to satisfy overall excess demand in the particular market in which the licensee is located;

e. Will result in permanent improvements and land-based development in Iowa;

f. Is supported within the broader community in which the licensee operates;

g. Will not have a detrimental impact on the financial viability of other licensees operating in the market in which the licensee operates;

h. Is consistent with legislative intent concerning the purpose of excursion gambling boats or the definition of "racetrack enclosure" and the purpose of gambling games at racetrack enclosures; and

i. If for a racetrack enclosure, will benefit the horse or greyhound industries in Iowa.

The various criteria set forth may not have the same importance in each instance, and other factors may present themselves in the consideration of the increase. The criteria are not listed in any order of priority.

In addition to the foregoing criteria, a licensee requesting additional gaming machines shall demonstrate to the commission's satisfaction that the licensee is in compliance with applicable statutes, rules, and orders, has not had any material violation of any statutes, rules, or orders in the previous 12 months, and has taken sufficient steps to address the social and economic burdens of problem gambling.

491—1.7(99D,99F) Criteria for granting licenses, renewing licenses, and determining race dates. The commission sets forth the following criteria which the commission will consider when deciding whether to issue a license to conduct racing or gaming in Iowa. The various criteria may not have the same importance in each instance and other factors may present themselves in the consideration of an application or applications for a license. The criteria are not listed in order of priority. After the initial consideration for issuing a license, applicable criteria need only be considered when an applicant has demonstrated a deficiency.

1.7(1) Compliance. The commission will consider whether or not the applicant is and has been in compliance with the terms and conditions specified in Iowa Code section 99D.9 or 99F.4.

1.7(2) Revenue provided by facility. The commission will consider the amount of revenue to be provided by the proposed facility to the state and local communities through direct taxation on its operation and indirect revenues from tourism, ancillary businesses, creation of new industry, and taxes on employees and patrons.

1.7(3) Viability. The commission will consider whether the proposed operation is economically viable and properly financed.

1.7(4) Security. The commission will consider whether the proposed operation is planned in a manner that provides adequate security for all aspects of its operation and for the people working at and visiting the facility.

1.7(5) Efficient and safe operation. The commission will consider whether the proposed facility is planned in a manner that promotes efficient and safe operation of all aspects of its facility.

1.7(6) Efficient, safe, and enjoyable for patrons. The commission will consider whether the proposed facility, including, but not limited to, parking facilities, concessions, the casino/grandstand, access to cashier windows, and restrooms, is planned in a manner that promotes efficient, safe, and enjoyable use by patrons.

1.7(7) Compliance with applicable state and local laws. The commission will consider whether the proposed facility is in compliance with applicable state and local laws regarding fire, health, construction, zoning, and other similar matters.

1.7(8) Employ appropriate persons. The commission will consider whether the applicant will employ the persons necessary to operate the facility in a manner consistent with the needs, safety, and interests of all persons who will be at the facility.

1.7(9) Population. The commission will consider the population of the area to be served by a facility together with location of other facilities of whatever nature within and without the state. The commission may engage an independent firm proficient in market feasibility studies in the industry for specific analysis of any application to determine the potential market of any proposed facility as well as the impact on existing licensees.

1.7(10) Community support. The commission will consider support within the community in which a proposed facility is to be located for the promotion and continuation of racing or gaming.

1.7(11) Character and reputation. The commission will consider whether there is substantial evidence that the officers, directors, partners, or shareholders of the applicant are not of good repute and moral character. Any evidence concerning an officer's, director's, partner's, or shareholder's current or past conduct, dealings, habits, or associations relevant to that individual's character and reputation may be considered. The commission may consider all relevant facts surrounding alleged criminal or wrongful conduct resulting in the filing of criminal charges, a conviction, nolo contendere, no contest or Alford pleas entered by the applicant or operator in any court or administrative proceedings. A criminal conviction of an individual shall be conclusive evidence that the individual committed the offense for which the individual was convicted, but this does not preclude the commission from considering evidence that the individual committed additional offenses. The commission shall decide what weight and effect evidence about an officer, director, partner, or shareholder should have in the determination of whether there is substantial evidence that the individual is not of good reputation and character. Officers, directors, partners, and shareholders who have a significant interest in the management, ownership, operation, or success of an application may be held to a more stringent standard of conduct and reputation than others with a less significant interest or role in such matters.

1.7(12) Nurture the racing industry. The commission will consider whether the proposed racetrack operation would serve to nurture, promote, develop, and improve the racing industry in Iowa and provide high quality racing in Iowa.

1.7(13) Purses. The commission will consider whether the proposed racetrack operation will maximize purses.

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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**Effective date of 1.8 delayed 70 days by the Administrative Rules Review Committee at its meeting held March 10, 2000.

491—4.41(17A) Interlocutory appeals. Upon written request of a party or on its own motion, the commission may review an interlocutory order of the presiding officer. In determining whether to do so, the commission shall weigh the extent to which its granting the interlocutory appeal would expedite final resolution of the case and the extent to which review of that interlocutory order by the commission at the time it reviews the proposed decision of the presiding officer would provide an adequate remedy. Any request for interlocutory review must be filed within 14 days of issuance of the challenged order, but no later than the time for compliance with the order or the date of hearing, whichever is first.

491—4.42(17A) Final decision.

4.42(1) When the commission presides over the reception of evidence at the hearing, its decision is a final decision.

4.42(2) When the commission does not preside at the reception of evidence, the presiding officer shall make a proposed decision. The proposed decision becomes the final decision of the commission without further proceedings unless there is an appeal to, or review on motion of, the commission within the time provided in rule 491—4.43(17A).

4.42(3) The commission has the authority to deny, suspend, or revoke any license applied for or issued by the commission or to fine a licensee or a holder of an occupational license.

491—4.43(17A) Appeals and review.

4.43(1) *Appeal by party.* Any adversely affected party may appeal a proposed decision to the commission within 10 days after issuance of the proposed decision.

4.43(2) *Review.* The commission may initiate review of a proposed decision on its own motion at any time within 30 days following the issuance of such a decision.

4.43(3) *Notice of appeal.* An appeal of a proposed decision is initiated by filing a timely notice of appeal with the commission. The notice of appeal must be signed by the appealing party or a representative of that party and contain a certificate of service. The notice shall specify:

a. The parties initiating the appeal;

b. The proposed decision or order appealed from;

c. The specific findings or conclusions to which exception is taken and any other exceptions to the decision or order;

d. The relief sought;

e. The grounds for relief.

4.43(4) *Requests to present additional evidence.* A party may request the taking of additional evidence only by establishing that the evidence is material, that good cause existed for the failure to present the evidence at the hearing, and that the party has not waived the right to present the evidence. A written request to present additional evidence must be filed with the notice of appeal or, by a non-appealing party, within 14 days of service of the notice of appeal. The commission may remand a case to the presiding officer for further hearing or may itself preside at the taking of additional evidence.

4.43(5) *Scheduling.* The commission shall issue a schedule for consideration of the appeal.

4.43(6) *Briefs and arguments.* Unless otherwise ordered, briefs, if any, must be filed within five days of meeting.

491—4.44(17A) Applications for rehearing.

4.44(1) *By whom filed.* Any party to a contested case proceeding may file an application for rehearing from a final order.

4.44(2) *Content of application.* The application for rehearing shall state on whose behalf it is filed, the specific grounds for rehearing, and the relief sought. In addition, the application shall state whether the applicant desires reconsideration of all or part of the agency decision on the existing record and whether, on the basis of the grounds enumerated in subrule 4.43(4), the applicant requests an opportunity to submit additional evidence.

4.44(3) *Time of filing.* The application shall be filed with the commission within 20 days after issuance of the final decision.

4.44(4) *Notice to other parties.* A copy of the application shall be timely mailed by the applicant to all parties of record not joining therein. If the application does not contain a certificate of service, the commission shall serve copies on all parties.

4.44(5) *Disposition.* Any application for a rehearing shall be deemed denied unless the commission grants the application within 20 days after its filing.

491—4.45(17A) Stays of commission actions.

4.45(1) *When available.*

a. Any party to a contested case proceeding may petition the commission for a stay of an order issued in that proceeding or for other temporary remedies, pending review by the commission. The petition for a stay shall be filed with the notice of appeal and shall state the reasons justifying a stay or other temporary remedy. The administrator may rule on the stay or authorize the presiding officer to do so.

b. Any party to a contested case proceeding may petition the commission for a stay or other temporary remedies pending judicial review, of all or part of that proceeding. The petition for a stay shall state the reasons justifying a stay or other temporary remedy.

4.45(2) *When granted.* In determining whether to grant a stay, the presiding officer or administrator shall consider the factors listed in 1998 Iowa Acts, chapter 1202, section 23(5c).

4.45(3) *Vacation.* A stay may be vacated by the issuing authority upon application by the commission or any other party. When a stay has been vacated, the commission or the commission's designee shall implement the original order or sanction which had been stayed. The commission or the commission's designee shall have full authority to determine how the original order or sanction is to be implemented.

491—4.46(17A) No factual dispute contested cases. If the parties agree that no dispute of material fact exists as to a matter that would be a contested case if such a dispute of fact existed, the parties may present all relevant admissible evidence either by stipulation or otherwise as agreed by the parties without necessity for the production of evidence at an evidentiary hearing. If such agreement is reached, a jointly submitted schedule detailing the method and timetable for submission of the record, briefs and oral argument should be submitted to the presiding officer for approval as soon as practicable. If the parties cannot agree, any party may file and serve a motion for summary judgment pursuant to the rules governing such motions.

491—4.47(17A) Emergency adjudicative proceedings.

4.47(1) *Necessary emergency action.* To the extent necessary to prevent or avoid immediate danger to the public health, safety, or welfare, the commission, gaming representatives, or stewards may issue a written order in compliance with Iowa Code section 17A.18 to suspend a license in whole or in part, order the cessation of any continuing activity, order affirmative action, or take other action within the jurisdiction of the commission by emergency adjudicative order. Before the issuing of an emergency adjudicative order the commission shall consider factors including, but not limited to, the following:

a. Whether there has been a sufficient factual investigation to ensure that the commission is proceeding on the basis of reliable information;

b. Whether the specific circumstances which pose immediate danger to the public health, safety or welfare have been identified and determined to be continuing;

c. Whether the person required to comply with the emergency adjudicative order may continue to engage in other activities without posing immediate danger to the public health, safety or welfare;

d. Whether imposition of monitoring requirements or other interim safeguards would be sufficient to protect the public health, safety or welfare; and

e. Whether the specific action contemplated by the commission is necessary to avoid the immediate danger.

4.47(2) *Issuance.*

a. The written emergency adjudicative order shall be immediately delivered to persons who are required to comply with the order by utilizing one or more of the following procedures:

(1) Personal delivery;

(2) Certified mail, return receipt requested, to the last address on file with the commission;

(3) Certified mail to the last address on file with the commission;

(4) First-class mail to the last address on file with the commission; or

(5) Fax. Fax may be used as the sole method of delivery if the person required to comply with the order has filed a written request that commission orders be sent by fax and has provided a fax number for that purpose.

b. To the degree practicable, the commission shall select the procedure for providing written notice that best ensures prompt, reliable delivery.

4.47(3) *Oral notice.* Unless the written emergency adjudicative order is provided by personal delivery on the same day that the order issues, the commission shall make reasonable immediate efforts to contact by telephone the persons who are required to comply with the order.

4.47(4) *Completion of proceedings.* Issuance of a written emergency adjudicative order shall include notification of the date on which commission proceedings are scheduled for completion. After issuance of an emergency adjudicative order, continuance of further commission proceedings to a later date will be granted only in compelling circumstances upon application in writing.

491—4.48(17A) Contested case hearings before the commission. The commission may initiate a hearing upon its own motion, pursuant to any matter within its jurisdiction.

These rules are intended to implement Iowa Code chapters 99D and 99F and Iowa Code chapter 17A as amended by 1998 Iowa Acts, chapter 1202.

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(2) If a partnership:

1. A schedule showing the amounts and dates of capital contributions, the names and addresses of the contributors, and percentage of interest in net assets, profits, and losses held by each.

2. A record of the withdrawals of partnership funds or assets.

3. A record of salaries, wages, and other remuneration (including perquisites), direct and indirect, paid to each partner during the calendar or fiscal year.

4. A copy of the partnership agreement and certificate of limited partnership, if applicable.

(3) If a sole proprietorship:

1. A schedule showing the name and address of the proprietor and the amount and date of the original investment.

2. A record of dates and amounts of subsequent additions to the original investment and withdrawals therefrom.

3. A record of salaries, wages, and other remuneration (including perquisites), direct or indirect, paid to the proprietor during the calendar or fiscal year.

b. All records regarding ownership shall be located in a place approved by the commission.

c. If the licensee is publicly held, upon the request of the administrator, the licensee shall submit to the commission one copy of any report required to be filed by such licensee or affiliates with the Securities and Exchange Commission or other domestic or foreign securities regulatory agency. If the licensee is privately held, upon the request of the administrator, the licensee shall submit financial, ownership, or other entity records for an affiliate.

5.4(14) *Retention, storage, and destruction of books, records, and documents.*

a. Except as otherwise provided, all original books, records, and documents pertaining to the licensee's operations shall be:

(1) Prepared and maintained in a complete and accurate form.

(2) Retained at a site approved by the administrator until audited.

(3) Held immediately available for inspection by the commission during business hours of operations.

(4) Organized and indexed in such a manner as to provide immediate accessibility to the commission.

b. For the purpose of this subrule, "books, records, and documents" shall be defined as any book, record, or document pertaining to or prepared or generated by the licensee including, but not limited to, all forms, reports, accounting records, ledgers, subsidiary records, computer-generated data, internal audit records, correspondence, contracts, and personnel records.

c. All original books, records, and documents may be copied and stored on microfilm, microfiche, or other suitable media system approved by the administrator.

d. No original book, record, document, or suitable media copy may be destroyed by a licensee, for three years, without the prior approval of the administrator.

5.4(15) *Remodeling.* For any change to be made to the facility itself directly associated with racing or gaming or in the structure of the boat itself, the licensee must first submit plans to and receive the approval of the administrator.

5.4(16) *Officers, agents, and employees.* Licensees are accountable for the conduct of their officers, agents, and employees. The commission or commission representative reserves the right to impose penalties against the license holder or its officer, agent, employee, or both as the commission or commission representative determines appropriate.

491—5.5(99D) Pari-mutuel uniform requirements.

5.5(1) *Insect and rodent control.* The licensee shall provide systematic and effective insect and rodent control, including control of flies, mosquitoes, fleas, and mice, to all areas of licensee's premises at all times during a race meeting.

5.5(2) *Results boards, totalizators required.* Each licensee shall provide and maintain computerized totalizators and electronic boards showing odds, results, and other racing information located in plain view of patrons.

5.5(3) *Photo finish camera.* A licensee shall provide two electronic photo finish devices with mirror image to photograph the finish of each race and record the time of each racing animal in at least hundredths of a second. The location and operation of the photo finish device must be approved by the commission before its first use in a race. The licensee shall promptly post a photograph, on a monitor, of each photo finish for win, place or show, or for fourth place in superfecta races, in an area accessible to the public. The licensee shall ensure that the photo finish devices are calibrated before the first day of each race meeting and at other times as required by the commission. On request by the commission, the licensee shall provide, without cost, a print of a photo finish to the commission. A photo finish of each race shall be maintained by the licensee for not less than six months after the end of the race meeting, or such other period as may be requested by the commission.

5.5(4) *Electric timing device.* Any electric timing device used by the licensee shall be approved by the commission.

5.5(5) *Official scale.* The licensee shall provide and maintain in good working order official scales or other approved weighing devices. The licensee shall provide to the stewards certification of the accuracy of the scales at the beginning of each race meeting or more frequently if requested by the stewards.

5.5(6) *Lighting.* Each licensee shall provide and maintain adequate illumination in the barn/kennel area, parking area, and racetrack area.

5.5(7) *Fencing.* The stable and kennel areas should be properly fenced as defined by the commission and admission permitted only in accord with rules of the commission.

5.5(8) *Guest passes.* The licensee shall develop a policy to be approved by the stewards for the issuance of guest passes for entrance to the kennel or stable area. The guest pass is not an occupational license and does not permit the holder to work in any capacity or in any way confer the benefits of an occupational license to participate in racing. The license holder sponsoring or escorting the guest shall be responsible for the conduct of the guest pass holder.

5.5(9) *Stewards.* There shall be three stewards for each racing meet, two appointed by the commission and one nominated by the licensee for approval by the commission. The names of licensees' nominees for steward and biographical information describing the experience and qualifications of the nominees shall be submitted no later than 45 days before commencement of a race meeting. The commission may consider for appointment or approval a person who meets all of the following requirements. The person shall have:

a. Engaged in pari-mutuel racing in a capacity and for a period satisfactory to the commission.

b. Satisfactorily passed an optical examination within one year prior to approval as a steward evidencing corrected 20/20 vision and the ability to distinguish colors correctly.

c. Satisfied the commission that income, other than salary as a steward, is independent of and unrelated to patronage of or employment by any occupational licensee under the supervision of the steward, so as to avoid the appearance of any conflict of interest or suggestion of preferential treatment of an occupational licensee.

491—5.6(99F) Excursion gambling boat uniform requirements.

5.6(1) *Boat design.*

a. The minimum passenger capacity necessary for an excursion gambling boat is 250.

b. Boats must be self-propelled. A boat may contain more than one "vessel" as defined by the U.S. Coast Guard. In order to be utilized for gaming purposes, the vessel containing the casino must either contain a permanent means of propulsion or have its means of propulsion contained in an attached vessel. In the event that the vessel containing the casino is propelled by a second vessel, the boat will be considered self-propelled only when the vessels are designed, constructed, and operated as a single unit.

5.6(2) *Excursions.*

a. Length. The excursion season shall be from April 1 through October 31 of each calendar year. An excursion gambling boat must operate at least one excursion each day for 100 days during the excursion season to operate during the off-season, although a waiver may be granted by the commission in the first year of a boat's operation if construction of the boat was not completed in time for the boat to qualify. Excursions shall consist of a minimum of two hours in transit during the excursion season. The number of excursions per day is not limited. During the excursion season and the off-season, while the excursion gambling boat is docked, passengers may embark or disembark at any time during its business hours pursuant to Iowa Code section 99F.4(17).

b. Dockside completion of excursions. If, during the excursion season, the captain determines that it would be unsafe to complete any portion of an excursion, or if mechanical problems prevent the completion of any portion of an excursion, the boat may be allowed to remain at the dock or, if the excursion is underway, return to the dock and conduct the gaming portion of the excursion while dockside, unless the captain determines that passenger safety is threatened.

c. Notification. If an excursion is not completed due to reasons specified in paragraph 5.6(2)*"b,"* a commission representative shall be notified as soon as is practical.

5.6(3) *Drug testing of boat operators.* Captains, pilots, and physical operators of excursion gambling boats shall be drug tested, as permitted by Iowa Code section 730.5, on a continuous basis with no more than 60 days between tests. The testing shall be conducted by a laboratory certified by the United States Department of Health and Human Services or approved under the rules adopted by the Iowa department of public health. The facility shall report positive test results to a commission representative.

These rules are intended to implement Iowa Code chapters 99D and 99F.

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CHAPTER 6
OCCUPATIONAL AND VENDOR LICENSING

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

491—6.1(99D,99F) Definitions.

"Applicant" means an individual applying for an occupational license.

"Beneficial interest" means any and 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.

"Board" means either the board of stewards or the gaming board, as appointed by the administrator, whichever is appropriate. The administrator may serve as a board of one.

"Commission" means the Iowa racing and gaming commission.

"Commission representative" means a gaming representative, steward, or any person designated by the commission or commission administrator.

"Deceptive practice" means any deception or misrepresentation made by the person with the knowledge that the deception or misrepresentation could result in some benefit to the person or some other person.

"Facility" means an entity licensed by the commission to conduct pari-mutuel wagering or gaming operations in Iowa.

"Jockey" means a person licensed to ride a horse in a race.

"Kennel/stable name" means any type of name other than the legal name or names used by an owner or lessee and registered with the commission.

"Licensee" means a person licensed by the commission to perform an occupation which the commission has identified as requiring a license to engage in pari-mutuel, racetrack enclosure, or excursion boat gambling in Iowa.

"Owner" means a person or entity that holds any title, right or interest, whole or partial, in a racing animal.

"Rules" means the rules promulgated by the commission to regulate the racing and gaming industries.

"Theft" includes, but is not limited to:

1. The act of taking possession or control of either facility property or the property of another without the express authorization of the owner;
2. The use, disposition, or destruction of property in a manner which is inconsistent with or contrary to the owner's rights in such property;
3. Misappropriation or misuse of property the person holds in trust for another; or
4. Any act which constitutes theft as defined by Iowa Code chapter 714. No specific intent requirement is imposed by rule 6.5(99D,99F) nor is it required that there be any showing that the licensee received personal gain from any act of theft.

"Year" means a calendar year.

491—6.2(99D,99F,252J) Occupational licensing.

6.2(1) All persons participating in any capacity at a racing or gaming facility, with the exception of certified law enforcement officers while they are working for the facility as uniformed officers, are required to be properly licensed by the commission.

a. License applicants under 70 years of age may be required to furnish to the commission a set of fingerprints and may be required to be refingerprinted or rephotographed periodically.

b. License applicants must supply current photo identification and proof of their social security number and date of birth.

c. License applicants must complete and sign the application form prescribed and published by the commission. An incomplete application shall not be processed. The application shall state the full name, social security number, residence, date of birth, and other personal identifying information of the applicant that the commission deems necessary. The application shall include, in part, whether the applicant has any of the following:

(1) A record of conviction of a felony or misdemeanor;
(2) An addiction to alcohol or a controlled substance;
(3) A history of mental illness or repeated acts of violence;
(4) Military convictions;
(5) Adjudication of delinquency; or
(6) Overdue income taxes, fines, court-ordered legal obligations, or judgments.

d. License applicants for designated positions of higher responsibility may be required to complete a division of criminal investigation (DCI) background form.

e. A fee set by the commission shall be assessed to each license applicant. Once a license is issued, the fee cannot be refunded.

f. License applicants must pay an additional fee set by the Federal Bureau of Investigation (FBI) and by the department of public safety (DCI and bureau of identification) to cover the cost associated with the search and classification of fingerprints.

g. All racing and gaming commission fees for applications or license renewals must be paid by applicants or licensees before a license will be issued or renewed or, if the applicant is an employee of a facility, the commission fees will be directly billed to the facility.

h. An applicant who knowingly makes a false statement on the application is guilty of an aggravated misdemeanor.

i. Participation in racing and gaming in the state of Iowa is a privilege and not a right. The burden of proving qualifications to be issued any license is on the applicant at all times. An applicant must accept any risk of adverse public notice, embarrassment, criticism, or other action, as well as any financial loss that may result from action with respect to an application.

j. All licenses are conditional until completion of a necessary background investigation including, but not limited to, fingerprint processing through the DCI and the FBI and review of records on file with the Association of Racing Commissioners International, courts, law enforcement agencies, and the commission.

k. Any licensee who allows another person use of the licensee's license badge for the purpose of transferring any of the benefits conferred by the license may be fined, have the license suspended or revoked, or be subject to any combination of the above-mentioned sanctions. No license shall be transferable and no duplicate licenses shall be issued except upon submission of an application form and payment of the license fee.

l. It shall be the affirmative responsibility and continuing duty of each applicant to provide all information, documentation, and assurances pertaining to qualifications required or requested by the commission or commission representatives and to cooperate with commission representatives in the performance of their duties. A refusal by any person to comply with a request for information from a commission representative shall be a basis for fine, suspension, denial, revocation, or disqualification.

m. Non-U.S. citizens must supply documentation authorizing them to work in the United States or supply documentation demonstrating compliance with the North American Free Trade Agreement.

n. Portions of all completed applications accepted by the commission are confidential. The following persons have the explicit right to review all information contained on the application: the applicant, all commission officials and employees, the track steward, and DCI agents or other law enforcement officers serving in their official capacity.

o. A license may not be issued or held by an applicant who is unqualified, by experience or otherwise, to perform the duties required.

6.23(3) *Jockeys from foreign countries.* Upon making application for a license in this jurisdiction, jockeys from a foreign country shall declare that they are holders of valid licenses in their countries, not under suspension, and bound by the rules and laws of this state. To facilitate this process, the jockey shall present a declaration sheet to the commission representative in a language recognized in this jurisdiction.

491—6.24(99D) Jockey agent.

6.24(1) An applicant for a license as a jockey agent shall:

a. Provide written proof of agency with at least one jockey licensed by the commission; and

b. Be qualified, as determined by the commission representative, by reason of experience, background, and knowledge. A jockey agent's license from another jurisdiction may be accepted as evidence of experience and qualifications. Evidence of qualifications may require passing one or both of the following:

(1) A written examination.

(2) An interview or oral examination.

c. An applicant not previously licensed as a jockey agent shall be required to pass a written and oral examination.

6.24(2) A jockey agent may serve as agent for no more than two jockeys and one apprentice jockey.

491—6.25(99D) Driver. In determining eligibility for a driver's license, the board shall consider:

1. Whether the applicant has obtained the required U.S.T.A. license.
2. Evidence of driving experience and ability to drive in a race.
3. The age of the applicant. No person under 18 years of age shall be licensed by the commission as a driver.
4. Evidence of physical and mental ability.
5. Results of a written examination to determine qualifications to drive and knowledge of commission rules.
6. Record of rule violations.

491—6.26(99D) Practicing veterinarians. Every veterinarian practicing on facility premises must have an unrestricted and current license to practice veterinary science issued by the state of Iowa veterinary regulatory authority and shall be licensed by the commission in accordance with the commission rules governing occupational licensing.

6.26(1) Every veterinarian seeking to be licensed by the commission shall submit verification of a current and unrestricted license to practice veterinary science issued by the state of Iowa veterinary regulatory authority.

6.26(2) A veterinarian seeking to be licensed by the commission shall disclose in the veterinarian's application to the commission all disciplinary action taken against any licenses to practice veterinary science held by the applicant.

491—6.27(99D,99F) Alcohol and drug testing.

6.27(1) *Alcohol prohibition/preliminary breath test.* Licensees whose duties require them to be in a restricted area of a racing facility shall not have present within their systems an amount of alcohol of 0.05 percent or more. A restricted area is a designated area for sample collection, paddock, racetrack, or other area where racing officials carry out the duties of their positions.

Acting with reasonable cause, a commission representative may direct the above licensees to submit to a preliminary breath test. A licensee shall, when so directed, submit to examination.

If the results show a reading of 0.05 percent alcohol content or more, the licensee shall not be permitted to continue duties for that day. For a second violation, the licensee shall not be permitted to continue duties for that day and then shall be subject to fine or suspension by the board or commission representative. For a subsequent violation the licensee may be subject to procedures following positive chemical analysis (see 6.27(3)).

If the results show a reading of 0.10 percent alcohol content or more, the licensee is subject to fine or suspension by the board or commission representative. For a subsequent violation the licensee may be subject to procedures following positive chemical analysis (see 6.27(3)).

6.27(2) *Drug prohibition/body fluid test.* Licensees whose duties require them to be in a restricted area, as defined in subrule 6.27(1), of a racing facility shall not have present within their systems any controlled substance as listed in Schedules I to V of U.S.C. Title 21 (Food and Drug Section 812), Iowa Code chapter 124 or any prescription drug unless it was obtained directly or pursuant to valid prescription or order from a duly licensed physician who is acting in the course of professional practice. Acting with reasonable cause, a commission representative may direct the above licensees to deliver a specimen of urine or subject themselves to the taking of a blood sample or other body fluids at a collection site approved by the commission. In these cases, the commission representative may prohibit the licensee from participating in racing until the licensee evidences a negative test result. Sufficient sample should be collected to ensure a quantity for a split sample when possible. A licensee who refuses to provide the samples herein described shall be in violation of these rules and shall be immediately suspended and subject to disciplinary action by the board or commission representative. All confirmed positive test costs and any related expenses shall be paid for by the licensee. Negative tests shall be at the expense of the commission.

With reasonable cause noted, an on-duty commission representative may direct a licensee to deliver a test. The commission representative shall call the approved laboratory or hospital and provide information regarding the person who will be coming; that the licensee will have a photo ID; the name and number to call when the licensee arrives; to whom and where to mail the results; and who should be called with the results. The licensee will be directed to immediately leave the work area and proceed to an approved laboratory or hospital for testing with the following directions:

1. If under impairment, the licensee must have another person drive the licensee to the laboratory or hospital.
2. On arrival at the laboratory or hospital, the licensee must show the license to the admitting personnel for verification.
3. On arrival at the laboratory or hospital, the licensee shall be required to sign a consent for the release of information of the results to a commission representative.

6.27(3) *Procedures following positive chemical analysis.*

a. After professional evaluation, if the licensee's condition proves nonaddictive and not detrimental to the best interest of racing, and the licensee can produce a negative test result and agrees to further testing at the discretion of the commission representative to ensure unimpairment, the licensee may be allowed to participate in racing.

b. After professional evaluation, should the licensee's condition prove addictive or detrimental to the best interest of racing, the licensee shall not be allowed to participate in racing until the licensee can produce a negative test result and show documented proof of successful completion of a certified alcohol/drug rehabilitation program approved by the commission. The licensee must also agree to further testing at the discretion of the commission representative to ensure unimpairment.

c. For a second violation, a licensee shall be suspended and allowed to enroll in a certified alcohol/drug rehabilitation program approved by the administrator and to apply for reinstatement only at the discretion of the administrator.

These rules are intended to implement Iowa Code chapters 99D and 99F.

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NATURAL RESOURCES DEPARTMENT[561]

Created by 1986 Iowa Acts, chapter 1245, section 1802
Rules of divisions under this Department "umbrella" include Energy and Geological Resources[565], Environmental Protection Commission[567], Natural Resource Commission[571], and Preserves, State Advisory Board[575]

CHAPTER 9
GROUNDWATER HAZARD DOCUMENTATION

561—9.1(558) Authority, purpose and application.

9.1(1) *Authority.* Pursuant to Iowa Code section 558.69, the department is required to adopt rules pertaining to a statement to be submitted to the recorder when recording instruments transferring real property regarding the existence and location of wells, disposal sites, underground storage tanks, and hazardous wastes on the property.

9.1(2) *Purpose.* The purpose of these rules is to provide the necessary forms, instructions, and explanation of this requirement. It is the purpose of the statute to give notice to the transferee of real property of the condition of the wells, disposal sites, underground storage tanks, hazardous waste disposal, and private burial sites existing on the real estate.

9.1(3) *Applicability.* These rules shall apply to all persons, corporations, and other legal entities who are transferors or transferees of real property within the state of Iowa as well as all county recorders who are called upon to record instruments transferring real property in Iowa.

9.1(4) *Definition.* "Transferor" includes grantor or seller. "Transferor" includes a transferor in any transaction for which a declaration of value must be submitted to the county recorder. Additionally, transferor shall generally mean a person as defined in Iowa Code section 4.1(20) who voluntarily transfers a possessory interest that the person voluntarily acquired in real property. Transferor shall include a transferor in the following transactions that are exempt from the submission of a declaration of value: any proprietary subdivision plat; any recorded lease of land; any voluntary transfer or receipt of real property by governmental entities (excluded examples are transactions such as sheriff's deed, tax deed, and clerk's change of title).

561—9.2(558) Form.

9.2(1) The transferor, their agent or attorney shall sign department Form 542-0960 "Groundwater Hazard Statement," which may be obtained from the department or local county recorder. An agent or attorney may sign the form for the transferor, but in doing so the agent or attorney represents that a good faith inquiry of the transferor has been made regarding the information contained in the form, and that it is correct.

9.2(2) The form shall be submitted to the county recorder at the time that the declaration of value, deed, real estate contract, vendee's real estate contract assignment, plat, lease or other instrument of real property transfer is filed with the county recorder.

9.2(3) If the statement submitted reveals no well, disposal site, underground storage tank, or hazardous waste on the property, the county recorder shall return the original of the statement to the transferee when the recorded instrument is returned. If the statement submitted reveals that there is a well, a disposal site, an underground storage tank, or hazardous waste on the property, the form shall be filed in duplicate so that the original of the statement can be returned to the transferee when the recorded instrument is returned, and the recorder shall send the photocopy or other duplicate suitable for microfilming of all positive statements filed the preceding month to the department within 15 days after the close of each month.

9.2(4) The form shall include the name and address of both the transferor and transferee; the street address of the real estate involved; and the legal description of the real estate involved.

These rules are intended to implement Iowa Code section 558.69.

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CHAPTER 10
WAIVERS OR VARIANCES FROM ADMINISTRATIVE RULES

561—10.1(17A,455A) Applicability. This chapter outlines a uniform process for the granting of waivers or variances from rules adopted by the department. As used in this chapter, the term "director" includes the director's designee. As used in this chapter, "waiver or variance" means an action by the department which suspends in whole or in part the requirements or provisions of a rule as applied to an identified person on the basis of the particular circumstances of that person.

561—10.2(17A,455A) Authority. A waiver or variance from rules adopted by the department may be granted in accordance with this chapter if:

10.2(1) The department has exclusive rule-making authority to promulgate the rule from which waiver or variance is requested or has final decision-making authority over a contested case in which a waiver or variance is requested; and

10.2(2) The waiver or variance is consistent with any applicable statute, constitutional provision, or other provision of law. In addition, this subrule does not authorize the department to waive or vary any requirement created or duty imposed by statute.

561—10.3(17A,455A) Interpretive rules. The principles of statutory construction contained in Iowa Code chapter 4, "Construction of Statutes," shall be used when determining whether these rules apply to a specific rule.

561—10.4(17A,455A) Criteria for waiver or variance. Upon petition of any person and at the sole discretion of the department, the department may issue a waiver or variance from the requirements of a rule if the director or the department in a contested case proceeding finds, based on clear and convincing evidence, all of the following:

10.4(1) The application of the rule would pose an undue hardship on the person for whom the waiver or variance is requested.

10.4(2) The waiver or variance from the requirements of a rule in the specific case would not prejudice the substantial legal rights of any person.

10.4(3) The provisions of a rule subject to a petition for a waiver or variance are not specifically mandated by statute or another provision of law.

10.4(4) 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 or variance is requested.

561—10.5(17A,455A) Burden of persuasion. The burden of persuasion rests with the person who petitions the department for the waiver or variance of a rule. Each petition for a waiver or variance shall be evaluated by the department based on the unique, individual circumstances set out in the petition. A waiver or variance, if granted, shall be drafted by the department so as to provide the narrowest exception possible to the provisions of the rule. The department may place any condition on a waiver or a variance that the department finds desirable to protect the public health, safety, and welfare. A waiver or variance shall not be permanent unless the petitioner can show that a temporary waiver or variance would be impracticable, and, in any event, shall not exceed one year in accordance with the provisions of Iowa Code section 455B.143. If a temporary waiver or variance is granted, there is no automatic right to renewal. At the sole discretion of the department, a waiver or variance may be renewed if the department finds all of the factors set out in rule 10.4(17A,455A) remain valid.

561—10.6(17A,455A) Special waiver or variance rules not precluded. This chapter shall not preclude the department from granting waivers in other contexts or on the basis of other standards if a statute or other department rule authorizes the director to do so, and the director deems it appropriate to do so.

561—10.7(17A,455A) Administrative deadlines. When the rule from which a waiver or variance is sought establishes administrative deadlines, the department shall balance the special individual circumstances of the petitioner with the overall goal of uniform treatment of all persons governed by the particular rule.

561—10.8(17A,455A) Filing of petition. A petition for a waiver or variance shall be submitted in writing to the department as follows:

10.8(1) *Contested cases.* If the petition relates to a pending contested case, the petition shall be filed in the contested case proceeding. The department may elect not to rule on the waiver petition until the resolution of the contested case proceeding.

10.8(2) *Other.* If the petition does not relate to a pending contested case, the petition may be submitted to the director.

561—10.9(17A,455A) Contents of petition. A petition for waiver or variance shall include the following information when applicable and known to the petitioner:

10.9(1) The name, address, and telephone number of the entity or person for whom a waiver or variance is requested, and the case number of any related contested case.

10.9(2) A description and citation of the specific rule from which a waiver or variance is requested.

10.9(3) The specific waiver or variance requested, including the precise scope and operative period that the waiver or variance will extend.

10.9(4) The relevant facts that the petitioner believes would justify a waiver or variance. This statement shall include a signed statement from the petitioner attesting to the accuracy of the facts provided in the petition and a statement of reasons that the petitioner believes will justify a waiver or variance.

10.9(5) A history of any prior contacts between the department and the petitioner for the past five years, including a description of each affected permit held by the petitioner, and any notices of violation, administrative orders, contested case proceedings, and lawsuits involving the department and the petitioner.

10.9(6) Any information known to the petitioner regarding the department's treatment of similar cases.

10.9(7) The name, address, and telephone number of any public agency or political subdivision of the state or federal government which also regulates the activity in question, or which might be affected by the granting of a waiver or variance.

10.9(8) The name, address, and telephone number of any person or entity that would be adversely affected by the granting of a petition.

10.9(9) The name, address, and telephone number of any person with knowledge of relevant facts relating to the proposed waiver or variance.

10.9(10) Signed releases of information authorizing persons with knowledge regarding the request to furnish the department with information relevant to the waiver or variance.

561—10.10(17A,455A) Additional information. Prior to issuing a decision granting or denying a waiver or variance, the department 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 director may, on the director's own motion or at the petitioner's request, schedule a telephonic or in-person meeting between the petitioner and the director.

561—10.11(17A,455A) Notice. The petitioner, within 30 days of submission of the petition, shall serve by certified mail notice of the pending petition and a concise summary of its contents upon all persons to whom notice is required by any provision of law. The petitioner shall provide a written statement to the department attesting that the required notice has been provided. The department shall acknowledge a petition upon receipt and, in addition, the department may give notice to other persons.

561—10.12(17A,455A) Hearing procedures. The provisions of Iowa Code sections 17A.10 to 17A.18A regarding contested case hearings shall apply to any petition for a waiver or variance of a rule filed within a contested case and shall otherwise apply to department proceedings for a waiver or variance only when the department so provides by rule or order or is required to do so by statute.

561—10.13(17A,455A) Ruling. A decision granting or denying a waiver or variance shall be in writing and shall contain a reference to the particular person and rule or portion thereof to which the decision pertains, a statement of the relevant facts and reasons upon which the action is based, and a description of the precise scope and operative period of the waiver if one is issued.

561—10.14(17A,455A) Conditions. The department may condition the granting of the waiver or variance on such reasonable conditions as appropriate to achieve the objectives of the particular rule in question through alternative means.

561—10.15(17A,455A) Time for ruling. The department shall grant or deny a petition for a waiver or variance as soon as practicable but, in any event, shall do so within 120 days of receipt of the petition, unless the petitioner agrees to a later date. However, if a petition is filed in a contested case, the department shall grant or deny the petition no later than the time at which the final decision in that contested case is issued.

561—10.16(17A,455A) When deemed denied. Failure of the director or the department in a contested case proceeding to grant or deny a petition within the required time period shall be deemed a denial of that petition by the department.

561—10.17(17A,455A) Service of decision. Within seven days of its issuance, any decision issued under this chapter shall be transmitted to the petitioner or the person to whom the decision pertains and to any other person entitled to such notice by any provision of law.

561—10.18(17A,455A) Public availability. Subject to the provisions of Iowa Code section 17A.3(1)*"e,"* the department shall maintain a record of all decisions granting and denying waivers and variances under this chapter. All final rulings in response to requests for waivers or variances shall be indexed and available to members of the public.

561—10.19(17A,455A) Voiding or cancellation. A waiver or variance is void if the material facts upon which the request is based are not true or if material facts have been withheld. The department may at any time cancel a waiver or variance if the department finds that the facts as stated in the request are not true, material facts have been withheld, the alternative means of compliance provided in the waiver or variance have failed to achieve the objectives of the statute, or the requester has failed to comply with the conditions of the waiver or variance.

561—10.20(17A,455A) Violations. Violation of conditions of the waiver or variance approval is the equivalent of violation of the particular rule for which the waiver or variance is granted and is subject to the same remedies or penalties.

561—10.21(17A,455A) Defense. After the department issues a decision granting a waiver or variance, the decision is a defense within its terms and the specific facts indicated therein for the person to whom the decision pertains in any proceeding in which the rule in question is sought to be invoked.

These rules are intended to implement Iowa Code chapters 17A, 21, 22, and 455A.

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CHAPTERS 11 to 13
Reserved

CHAPTER 92
STATE REVOLVING FUND LOANS FOR WASTEWATER TREATMENT

CHAPTER 93
ONSITE WASTEWATER TREATMENT SYSTEM ASSISTANCE PROGRAM

CHAPTERS 94 to 99
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TITLE VIII

SOLID WASTE MANAGEMENT AND DISPOSAL

CHAPTER 100
SCOPE OF TITLE—DEFINITIONS—FORMS—RULES OF PRACTICE

CHAPTER 101
SOLID WASTE COMPREHENSIVE PLANNING REQUIREMENTS

CHAPTER 102
PERMITS

c. Class "C" waters. Waters which are designated as Class "C" are to be protected as a raw water source of potable water supply. The following criteria shall apply to all Class "C" waters designated in subrule 61.3(5).

(1) Radioactive substances.

1. The combined radium-226 and radium-228 shall not exceed 5 picocuries per liter at the point of withdrawal.

2. Gross alpha particle activity (including radium-226 but excluding radon and uranium) shall not exceed 15 picocuries per liter at the point of withdrawal.

3. The average annual concentration at the point of withdrawal of beta particle and photon radioactivity from man-made radionuclides other than tritium and strontium-90 shall not produce an annual dose equivalent to the total body or any internal organ greater than 4 millirem/year.

4. The average annual concentration of tritium shall not exceed 20,000 picocuries per liter at the point of withdrawal; the average annual concentration of strontium-90 shall not exceed 8 picocuries per liter at the point of withdrawal.

(2) All substances toxic or detrimental to humans or detrimental to treatment process shall be limited to nontoxic or nondetrimental concentrations in the surface water.

(3) The pH shall not be less than 6.5 nor greater than 9.0.

TABLE 1. Criteria for Chemical Constituents
(all values as micrograms per liter unless noted otherwise)

Human health criteria for carcinogenic parameters noted below were based on the prevention of an incremental cancer risk of 1 in 100,000. For parameters not having a noted human health criterion, the U.S. Environmental Protection Agency has not developed final national human health guideline values. For noncarcinogenic parameters, the recommended EPA criterion was selected. For Class C waters, the EPA criteria for fish and water consumption were selected using the same considerations for carcinogenic and noncarcinogenic parameters as noted above. For Class C waters for which no EPA human health criteria were available, the EPA MCL value was selected.

		Use Designations				
Parameter		B(CW)	B(WW)	B(LR)	B(LW)	C
Alachlor	MCL	—	—	—	—	2
Aluminum	Chronic	87	388	773	748	—
	Acute	1106	4539	9035	983	—
Antimony	Human Health + — F & W	—	—	—	—	14
Arsenic (III)	Chronic	200	200	1000	200	—
	Acute	360	360	1800	360	—
	Human Health — Fish	50	50	—	50	—
	Human Health — F & W	—	—	—	—	.18
Asbestos	Human Health — F & W	—	—	—	—	7[a]
Atrazine	MCL	—	—	—	—	3

Parameter		Use Designations B(CW)	B(WW)	B(LR)	B(LW)	C
Barium	Human Health + — F & W	—	—	—	—	1000
Benzene	Human Health — F & W	—	—	—	—	12
	Human Health — Fish	712.8	712.8	—	712.8	—
Benzo(a)Pyrene	Human Health — F & W	—	—	—	—	.044
Beryllium	MCL	—	—	—	—	4
Bromoform	Human Health — F & W	—	—	—	—	43
Cadmium	Chronic	1	15	25	1	—
	Acute	4	75	100	4	—
	Human Health + — Fish	168	168	—	168	—
	MCL	—	—	—	—	5
Carbofuran	MCL	—	—	—	—	40
Carbon Tetrachloride	Human Health — F & W	—	—	—	—	2.5
	Human Health — Fish	44.2	44.2	—	44.2	—
Chlordane	Chronic	.004	.004	.15	.004	—
	Acute	2.5	2.5	2.5	2.5	—
	Human Health — Fish	.006	.006	—	.006	—
	Human Health — F & W	—	—	—	—	.021
Chloride	MCL	—	—	—	—	250*
Chlorobenzene	Human Health + — Fish	20	20	—	20	—
	Human Health + — F & W	—	—	—	—	680
Chlorodibromomethane	Human Health — F & W	—	—	—	—	4.1
Chloroform	Human Health — F & W	—	—	—	—	57
Chloropyrifos	Chronic	.041	.041	.041	.041	—
	Acute	.083	.083	.083	.083	—
Chromium (VI)	Chronic	40	40	200	10	—
	Acute	60	60	300	15	—
	Human Health + — Fish	3365	3365	—	3365	—
	MCL	—	—	—	—	100

Parameter		Use Designations				
		B(CW)	B(WW)	B(LR)	B(LW)	C
Copper	Chronic	20	35	55	10	—
	Acute	30	60	90	20	—
	Human Health + — Fish	1000	1000	—	1000	—
	Human Health + — F & W	—	—	—	—	1300
Cyanide	Chronic	5	10	10	10	—
	Acute	20	45	45	45	—
	Human Health + — F & W	—	—	—	—	700
Dalapon	MCL	—	—	—	—	200
Dibromochloropropane	MCL	—	—	—	—	.2
4,4-DDT + +	Chronic	.001	.001	.029	.001	—
	Acute	.9	.8	.95	.55	—
	Human Health — Fish	.0059	.0059	—	.0059	—
	Human Health — F & W	—	—	—	—	.0059
o-Dichlorobenzene	MCL	—	—	—	—	600
para-Dichlorobenzene	Human Health + — F & W	—	—	—	—	400
	Human Health + — Fish	2.6*	2.6*	—	2.6*	—
3,3-Dichlorobenzidine	Human Health — Fish	.2	.2	—	.2	—
	Human Health — F & W	—	—	—	—	.4
Dichlorobromomethane	Human Health — F & W	—	—	—	—	5.6
1,2-Dichloroethane	Human Health — F & W	—	—	—	—	3.8
	Human Health — Fish	986	986	—	986	—
1,1-Dichloroethylene	Human Health — F & W	—	—	—	—	.57
	Human Health — Fish	32	32	—	32	—
cis-1,2-Dichloroethylene	MCL	—	—	—	—	70
trans-1,2-Dichlorethylene	Human Health + — F & W	—	—	—	—	700
Dichloromethane	MCL	—	—	—	—	5
1,2-Dichloropropane	Human Health — F & W	—	—	—	—	5.2
Di(2-ethylhexyl)adipate	MCL	—	—	—	—	400
Di(2-ethylhexyl)phthalate	Human Health — F & W	—	—	—	—	18

Parameter		Use Designations B(CW)	B(WW)	B(LR)	B(LW)	C
Dieldrin	Chronic	.056	.056	.056	.056	—
	Acute	.24	.24	.24	.24	—
	Human Health — Fish	.0014	.0014	—	.0014	—
	Human Health — F & W	—	—	—	—	.0014
Dinoseb	MCL	—	—	—	—	7
2,3,7,8-TCDD (Dioxin)	Human Health — F & W	—	—	—	—	1.3^{-7}
	Human Health — Fish	.00014†	.00014†	—	.00014†	—
Diquat	MCL	—	—	—	—	20
2,4-D	Human Health + — F & W	—	—	—	—	100
Endosulfan[(b)]	Chronic	.056	.15	.15	.15	—
	Acute	.11	.3	.3	.3	—
	Human Health + — Fish	240	240	—	240	—
	Human Health + — F & W	—	—	—	—	110
Endothall	MCL	—	—	—	—	100
Endrin	Chronic	.05	.036	.036	.036	—
	Acute	.12	.086	.086	.086	—
	Human Health + — Fish	8.1	8.1	—	8.1	—
	Human Health + — F & W	—	—	—	—	.76
Ethylbenzene	Human Health + — F & W	—	—	—	—	3100
Ethylene dibromide	MCL	—	—	—	—	.05
Fluoride	MCL	—	—	—	—	4000
Glyphosate	MCL	—	—	—	—	700
Heptachlor	Chronic	.0038	.0038	.01	.0038	—
	Acute	.38	.38	.38	.38	—
	Human Health — Fish	.002	.002	—	.002	—
	Human Health — F & W	—	—	—	—	.0021
Heptachlor epoxide	Human Health — F & W	—	—	—	—	.001
Hexachlorobenzene	Human Health — F & W	—	—	—	—	.0075

Parameter		Use Designations				
		B(CW)	B(WW)	B(LR)	B(LW)	C
y-Hexachlorocyclohexane (Lindane)	Chronic	N/A	N/A	N/A	N/A	—
	Acute	.95	.95	.95	.95	—
	Human Health — Fish	.63	.63	—	.63	—
	Human Health — F & W	—	—	—	—	.19
Hexachlorocyclo-pentadiene	Human Health — F & W	—	—	—	—	240
Lead	Chronic	3	30	80	3	—
	Acute	80	200	750	80	—
	MCL	—	—	—	—	50
Mercury (II)	Chronic	3.5	2.1	3.7	.91	—
	Acute	6.5	4.0	6.9	1.7	—
	Human Health + — Fish	.15	.15	—	.15	—
	Human Health + — F & W	—	—	—	—	.05
Methoxychlor	Human health + — F & W	—	—	—	—	100
Monochlorobenzene	MCL	—	—	—	—	100
Nickel	Chronic	350	650	750	150	—
	Acute	3250	5800	7000	1400	—
	Human Health + — Fish	4584	4584	—	4584	—
	Human Health + — F & W	—	—	—	—	610
Nitrate as N	MCL	—	—	—	—	10*
Nitrate + Nitrite as N	MCL	—	—	—	—	10*
Nitrite as N	MCL	—	—	—	—	1*
Oxamyl (Vydate)	MCL	—	—	—	—	200
Parathion	Chronic	.013	.013	.013	.013	—
	Acute	.065	.065	.065	.065	—
Pentachlorophenol (PCP)	Chronic	(d)	(d)	(d)	(d)	—
	Acute	(d)	(d)	(d)	(d)	—
	Human Health — Fish	82	82	—	82	—
	Human Health — F & W	—	—	—	—	.28
Picloram	MCL	—	—	—	—	500

Parameter		Use Designations B(CW)	B(WW)	B(LR)	B(LW)	C
Polychlorinated Biphenyls (PCBs)	Chronic	.014	.014	1	.014	—
	Acute	2	2	2	2	—
	Human Health — Fish	.0004	.0004	—	.0004	—
	Human Health — F & W	—	—	—	—	.0017
Polynuclear Aromatic Hydrocarbons (PAHs)**	Chronic	.03	.03	3	.03	—
	Acute	30	30	30	30	—
	Human Health — Fish	.3	.3	—	.3	—
	Human Health — F& W	—	—	—	—	.044
Phenols	Chronic	50	50	50	50	—
	Acute	1000	2500	2500	1000	—
	Human Health + — Fish	300	300	—	300	—
	Human Health + — F & W	—	—	—	—	21*
Selenium (VI)	Chronic	10	125	125	70	—
	Acute	15	175	175	100	—
	Human Health + — F & W	—	—	—	—	170
Silver	Chronic	N/A	N/A	N/A	N/A	—
	Acute	30	100	100	4	—
	MCL	—	—	—	—	50
2,4,5-TP (Silvex)	MCL	—	—	—	—	10
Simazine	MCL	—	—	—	—	4
Styrene	MCL	—	—	—	—	100
Tetracholorethylene	Human Health — F & W	—	—	—	—	8
Thallium	Human Health + — F & W	—	—	—	—	1.7
Toluene	Chronic	50	50	150	50	—
	Acute	2500	2500	7500	2500	—
	Human Health + — Fish	300*	300*	—	300*	—
	Human Health + — F & W	—	—	—	—	6800
Total Residual Chlorine (TRC)	Chronic	10	20	25	10	—
	Acute	35	35	40	20	—
Toxaphene	Chronic	.037	.037	.037	.037	—
	Acute	.73	.73	.73	.73	—
	Human Health — Fish	.0075	.0075	—	.0075	—
	Human Health — F & W	—	—	—	—	.0073

Parameter		Use Designations B(CW)	B(WW)	B(LR)	B(LW)	C
1,2,4-Trichlorobenzene	MCL	—	—	—	—	70
1,1,1-Trichlorethane	MCL	—	—	—	—	200
	Human Health + — Fish	173*	173*	—	173*	—
1,1,2-Trichloroethane	Human Health — F & W	—	—	—	—	6
Trichloroethylene (TCE)	Chronic	80	80	80	80	—
	Acute	4000	4000	4000	4000	—
	Human Health — Fish	807	807	—	807	—
	Human Health — F & W	—	—	—	—	27
Trihalomethanes (total)(c)	MCL	—	—	—	—	100
Vinyl Chloride	Human Health — F & W	—	—	—	—	20
	Human Health — Fish	5250	5250	—	5250	—
Xylenes (Total)	MCL	—	—	—	—	10*
Zinc	Chronic	200	450	2000	100	—
	Acute	220	500	2200	110	—
	Human Health + — Fish	5000	5000	—	5000	—
	Human Health + — F & W	—	—	—	—	9100

* units expressed as milligrams/liter

** to include the sum of known and suspected carcinogenic PAHs

† expressed as nanograms/liter

\+ represents the noncarcinogenic human health parameters

++ The concentrations of 4,4-DDT or its metabolites; 4,4-DDE and 4,4-DDD, individually shall not exceed the human health criteria.

(a) units expressed as million fibers/liter (longer than 10 micrometers)

(b) includes alpha-endosulfan, beta-endosulfan, and endosulfan sulfate in combination or as individually measured

(c) total trihalomethanes includes the sum of bromodichloromethane, dibromochloromethane, tribromomethane (bromoform), and trichloromethane (chloroform)

(d) Class B numerical criteria are for pentachlorophenol a function of pH using the equation: Criterion (μg/l) = $e^{[1.005(pH) - x]}$, where e = 2.71828 and x varies according to the following table.

	B(CW)	B(WW)	B(LR)	B(LW)
Acute	3.869	4.869	4.869	4.869
Chronic	4.134	5.134	5.134	5.134

TABLE 2. Criteria for Dissolved Oxygen
(all values expressed in milligrams per liter as N)

	B(CW)	B(WW)	B(LR)	B(LW)
Minimum value for at least 16 hours of every 24-hour period	7.0	5.0	5.0	5.0*
Minimum value at any time during every 24-hour period	5.0	5.0	4.0	5.0*

**applies only to the upper layer of stratification in lakes*

TABLE 3a. Acute Criterion for Ammonia in Iowa Streams

Acute Criterion, mg/l as N (or Criterion Maximum Concentration, CMC)		
pH	Class B(WW), B(LR) & B(LW)	Class B(CW) Cold Water
6.5	48.8	32.6
6.6	46.8	31.3
6.7	44.6	29.8
6.8	42.0	28.0
6.9	39.1	26.1
7.0	36.1	24.1
7.1	32.8	21.9
7.2	29.5	19.7
7.3	26.2	17.5
7.4	23.0	15.3
7.5	19.9	13.3
7.6	17.0	11.4
7.7	14.4	9.64
7.8	12.1	8.11
7.9	10.1	6.77
8.0	8.40	5.62
8.1	6.95	4.64
8.2	5.72	3.83
8.3	4.71	3.15
8.4	3.88	2.59
8.5	3.20	2.14
8.6	2.65	1.77
8.7	2.20	1.47
8.8	1.84	1.23
8.9	1.56	1.04
9.0	1.32	0.885

	A	B(WW)	B(LR)	B(LW)	B(CW)	C	HQ	HQR
WESTERN								
MAJOR RIVER - MISSOURI R. AND ITS TRIBUTARIES								
BIG SIOUX R. AND ITS TRIBUTARIES								
Unnamed Cr.								
88. Mouth (S5, T96N, R47W, Sioux Co.) to confluence with an unnamed tributary (S29, T97N, R47W, Sioux Co.)			X					
Unnamed Cr.								
89. Mouth (S16, T98N, R48W, Lyon Co.) to confluence with an unnamed tributary (S22, T98N, R48W, Lyon Co.)			X					

SOUTHERN IOWA RIVER BASINS

The streams or stream segments named below in alphabetical order are referenced within the Water Use Designations for the Southern Iowa River Basins. Reference numbers provided in the alphabetical list correspond to numbered stream segments in the Water Use Designations.

Bluegrass Cr. - 29
Brush Cr. - 95
Brush Cr. - 110
Brushy Cr. - 51
Camp Cr. - 24
Carter Cr. - 113
Chariton R. - 88
Chariton R. - 89
Chariton R. - 90
Chariton R. - 91
Chariton R. - 92
Chariton R. - 93
Cooper Cr. - 97
Crooked Cr. - 65
Davids Cr. - 28
Dick Cr. - 107
E. FK 102 R. - 52
E. FK 102 R. - 53
E. Nishnabotna R. - 19
E. Nishnabotna R. - 20
East Branch West Nishnabotna - 15
East Fork Grand R. - 69
East Fork Medicine Cr. - 82
East Nodaway R. - 39
East Nodaway R. - 40
East Platte R. - 60
East Tarkio Cr. - 32
Elk Cr. - 18
Elk Cr. - 73
Elkhorn Cr. - 25
Farm Cr. - 11
Fisher Cr. - 22
Fivemile Cr. - 111
Fourmile Cr. - 76
Fox R. - 115
Gard Branch - 59
Grand R. - 62
Grand R. - 63
Grand R. - 71
Grand R. - 72
Grand R. - 72a
Greybill Cr. - 12
Honey Cr. - 54
Honey Cr. - 108
Indian Cr. - 9
Indian Cr. - 23
Jackson Cr. - 103
Jim Cr. - 14
Jonathan Cr. - 81
Jordan Cr. - 13
Jordan Cr. - 102
Little R. - 78
Little Walnut Cr. - 99
Locust Cr. - 83
Long Cr. - 74
Lotts Cr. - 70
Middle Fork 102 R. -48
Middle Fork 102 R. -50
Middle Fork Grand R. - 68
Middle Nodaway R. - 41
Middle Nodaway R. - 42
Middle Platte R. - 61
Middle Silver Cr. - 8
Mill Cr. - 21
Mud Cr. - 10
Ninemile Cr. - 106
Nishnabotna R. - 1
Nodaway R. - 34
North Cr. - 86
North Fabius R. - 112
North Fox Cr. - 116
Packard Cr. - 94
Platte Branch - 55
Platte R. - 56
Platte R. - 57
Plum Cr. - 67
Rose Branch - 49
S. Shoal Cr. - 84
Sevenmile Cr. -38
Shoal Cr. - 87
Silver Cr. - 6
Silver Cr. - 7
South Cr. - 85
South Fork Chariton R. - 100
South Fox Cr. - 117
South Wyaconda R. - 114
Squaw Cr. - 66
Steel Cr. - 80
Tarkio R. - 31
Troublesome Cr. - 27
Turkey Cr. - 26
Turkey Cr. - 58
Twelvemile Cr. - 75
Unnamed Cr. - 96
Unnamed Cr. - 105
W. Jackson Cr. - 104
W. Nishnabotna R. - 2
W. Nishnabotna R. - 3
Walker Br. - 101
Walnut Cr. - 4
Walnut Cr. -5
Walnut Cr. - 64
Walnut Cr. - 98
Weldon R. - 79
West Branch 102 R. - 46
West Branch 102 R. - 47
West Branch Cr. - 77
West Fork 102 R. - 44
West Fork 102 R. - 45
West Fork Middle Nodaway - 43
West Fork West Nishnabotna - 16
West Mill Cr. - 33
West Nodaway R. - 35
West Nodaway R. - 36
West Nodaway R. - 37
West Tarkio Cr. - 30
Willow Cr. - 17
Wolf Cr. - 109

SOUTHERN	A	B(WW)	B(LR)	B(LW)	B(CW)	C	HQ	HQR
MAJOR RIVER - NISHNABOTNA R. AND ITS TRIBUTARIES								
Nishnabotna R.								
1. Iowa-Missouri state line (Fremont Co.) to confluence of the E. Nishnabotna R. and the W. Nishnabotna R. (Fremont Co.)		X						
W. NISHNABOTNA R. AND ITS TRIBUTARIES								
W. Nishnabotna R.								
2. Mouth (Fremont Co.) to confluence with W. Fk. of W. Nishnabotna R. (Shelby Co.)		X						

SOUTHERN	A	B(WW)	B(LR)	B(LW)	B(CW)	C	HQ	HQR
MAJOR RIVER - PLATTE R. AND ITS TRIBUTARIES								
Platte R.								
57. Confluence with an unnamed tributary (NE 1/4, S36, T68N, R32W, Taylor Co.) to confluence with an unnamed tributary (NE 1/4, S16, T72N, R31W, Union Co.)			X					
TURKEY CR. AND ITS TRIBUTARIES								
Turkey Cr.								
58. Mouth (Ringgold Co.) to confluence with an unnamed tributary (NE 1/4, S29, T69N, R31W, Ringgold Co.)			X					
GARD BRANCH AND ITS TRIBUTARIES								
Gard Branch								
59. Mouth (Ringgold Co.) to confluence with an unnamed tributary (SE 1/4, S20, T70N, R31W, Ringgold Co.)			X					
EAST PLATTE R. AND ITS TRIBUTARIES								
East Platte R.								
60. Mouth (S9, T70N, R31W, Ringgold Co.) to confluence with Middle Platte R. (S33, T71N, R31W, Union Co.)			X					
Middle Platte R.								
61. Mouth (S33, T71N, R31W, Union Co.) to confluence with East Branch Middle Platte R. (S16, T71N, R31W, Union Co.)			X					
MAJOR RIVER - GRAND R. AND ITS TRIBUTARIES								
Grand R.								
62. Iowa-Missouri state line (S30, T67N, R31W, Ringgold Co.) to confluence with Crooked Cr. (S5, T68N, R30W, Ringgold Co.)		X						
Grand R.								
63. Confluence with Crooked Cr. (S5, T68N, R30W, Ringgold Co.) to bridge crossing (S25/36 line, T71N, R30W, Union Co.)			X					
WALNUT CR. AND ITS TRIBUTARIES								
Walnut Cr.								
64. Mouth (Ringgold Co.) to confluence with an unnamed tributary (NE 1/4, S36, T69N, R30W, Ringgold Co.)			X					
CROOKED CR. AND ITS TRIBUTARIES								
Crooked Cr.								
65. Mouth (Ringgold Co.) to confluence with Brush Cr. (S28, T69N, R30W, Ringgold Co.)			X					
SQUAW CR. AND ITS TRIBUTARIES								
Squaw Cr.								
66. Mouth (Ringgold Co.) to confluence with an unnamed tributary (S27, T70N, R30W, Ringgold Co.)			X					
PLUM CR. AND ITS TRIBUTARIES								
Plum Cr.								
67. Mouth (Ringgold Co.) to confluence with West Plum Cr. (S18, T70N, R30W, Ringgold Co.)			X					
MAJOR RIVER - MIDDLE FORK GRAND R. AND ITS TRIBUTARIES								
Middle Fork Grand R.								
68. Iowa-Missouri state line (Ringgold Co.) to confluence with an unnamed tributary (S13, T68N, R30W, Ringgold Co.)			X					

SOUTHERN	A	B(WW)	B(LR)	B(LW)	B(CW)	C	HQ	HQR
MAJOR RIVER - EAST FORK GRAND R. AND ITS TRIBUTARIES								
East Fork Grand R.								
69. Iowa-Missouri state line (Ringgold Co.) to confluence with Goosebury Cr. (S2, T68N, R29W, Ringgold Co.)			X					
MAJOR RIVER - LOTTS CR. AND ITS TRIBUTARIES								
Lotts Cr.								
70. Iowa-Missouri state line (Ringgold Co.) to confluence with Tuckers Cr. (S12, T67N, R29W, Ringgold Co.)			X					
MAJOR RIVER - GRAND R. (AKA THOMPSON CR.) AND ITS TRIBUTUTARIES								
Grand R. (aka Thompson R.)								
71. Iowa-Missouri state line (Decatur Co.) to confluence with Long Cr. (SW 1/4, S8, T69N, R26W, Decatur Co.)	X	X						
Grand R. (aka Thompson R.)								
72. Confluence with Long Cr. (SW 1/4, S8, T69N, R26W, Decatur Co.) to U.S. Hwy. 34 (S17, T72N, R28W, Union Co.)	X		X					
Grand R. (aka Thompson R.)								
72a. U.S. Hwy. 34 (S17, T72N, R28W, Union Co.) to confluence with Marvel Cr. (S8, T75N, R30W, Adair Co.)			X					
ELK CR. AND ITS TRIBUTARIES								
Elk Cr.								
73. Mouth (S18, T68N, R26W, Decatur Co.) to confluence with an unnamed tributary (S20, T69N, R27W, Decatur Co.)			X					
LONG CR. AND ITS TRIBUTARIES								
Long Cr.								
74. Mouth (S8, T69N, R26W, Decatur Co.) to confluence with East Long Creek (S36, T71N, R27W, Clarke Co.)			X					
TWELVEMILE CR. AND ITS TRIBUTARIES								
Twelvemile Cr.								
75. Mouth (S36, T71N, R28W, Union Co.) to confluence with an unnamed tributary (NW 1/4, NE 1/4, S12, T71N, R29W, Union Co.)			X					
FOURMILE CR. AND ITS TRIBUTARIES								
Fourmile Cr.								
76. Mouth (S2, T72N, R28W, Union Co.) to confluence with an unnamed tributary (E 1/2, S23, T72N, R28W, Union Co.)			X					
WEST BRANCH CR. AND ITS TRIBUTARIES								
West Branch Cr.								
77. Mouth (S34, T74N, R29W, Madison Co.) to confluence with an unnamed tributary (E 1/2, S32, T74N, R29W, Madison Co.)			X					
MAJOR RIVER - LITTLE R. AND ITS TRIBUTARIES								
Little R.								
78. Iowa-Missouri state line (Decatur Co.) to Dam at road crossing (SE 1/2, NW 1/4, S30, T69N, R25W, Decatur Co.)			X					
MAJOR RIVER - WELDON R. AND ITS TRIBUTARIES								
Weldon R.								
79. Iowa-Missouri state line (Decatur Co.) to confluence with Mormon Pool (S28, T70N, R24W, Decatur Co.)			X					
STEEL CR. AND ITS TRIBUTARIES								
Steel Cr.								
80. Mouth (S 10/11 line, T67N, R24W, Decatur Co.) to confluence with an unnamed tributary (NE 1/4, S11, T68N, R24W, Decatur Co.)			X					

SOUTHERN	A	(BWW)	B(LR)	B(LW)	B(CW)	C	HQ	HQR
MAJOR RIVER - CHARITON R. AND ITS TRIBUTARIES								
HONEY CR. AND ITS TRIBUTARIES								
Honey Cr.								
108. Mouth (S26, T71N, R20W, Lucas Co.) to confluence with an unnamed tributary (S10, T71N, R20W, Lucas Co.)			X					
WOLF CR. AND ITS TRIBUTARIES								
Wolf Cr.								
109. Mouth (S15, T71N, R21W, Lucas Co.) to confluence with an unnamed tributary (E 1/2, NW 1/4, S8, T70N, R22W, Wayne Co.)			X					
Brush Cr.								
110. Mouth (S31, T71N, R21W, Lucas Co.) to confluence with an unnamed tributary (SW 1/4, S13, T70N, R22W, Wayne Co.)			X					
Fivemile Cr.								
111. Mouth (S35, T71N, R22W, Lucas Co.) to confluence with an unnamed tributary (S29, T71N, R22W, Lucas Co.)			X					
MAJOR RIVER - NORTH FABIUS R. AND ITS TRIBUTARIES								
North Fabius R.								
112. Iowa-Missouri state line to confluence with an unnamed tributary (Center, S33, T68N, R15W, Davis Co.)			X					
MAJOR RIVER - CARTER CR. AND ITS TRIBUTARIES								
Carter Cr.								
113. Iowa-Missouri state line to confluence with an unnamed tributary (NW 1/4, S28, T68N, R14W, Davis Co.)			X					
MAJOR RIVER - SOUTH WYACONDA R. AND ITS TRIBUTARIES								
South Wyaconda R.								
114. Iowa-Missouri state line to confluence with an unnamed tributary (NE 1/4, S19, T68N, R13W, Davis Co.)			X					
MAJOR RIVER - FOX R. AND ITS TRIBUTARIES								
Fox R.								
115. Iowa-Missouri state line to confluence with an unnamed tributary (S29, T69N, R15W, Davis Co.)			X					
NORTH FOX CR. AND ITS TRIBUTARIES								
North Fox Cr.								
116. Mouth (Davis Co.) to confluence with an unnamed tributary (S2, T69N, R15W, Appanoose Co.)			X					
SOUTH FOX CR. AND ITS TRIBUTARIES								
South Fox Cr.								
117. Mouth (SE 1/4, S28, T69N, R15W, Davis Co.) to confluence with an unnamed tributary (S5, T68N, R15W, Davis Co.)			X					

DES MOINES RIVER BASIN

Des Moines River Basin (Lower Des Moines River, Upper Des Moines River, East Fork Des Moines River, Blue Earth River, and Raccoon River Subbasins).

The streams or stream segments named below in alphabetical order are referenced within the Water Use Designations for the Des Moines River Basin. Reference numbers provided in the alphabetical list correspond to numbered stream segments in the Water Use Designations.

Badger Cr. - 59
Badger Cr. - 162
Bay Branch - 88
Bear Cr. - 20
Bear Cr. - 80
Bear Cr. - 138
Beaver Cr. - 128
Beaver Cr. - 164
Beaver Cr. - 183
Big Cr. - 136
Big Creek - 134
Big Creek - 135
Black Cat Cr. - 171
Bloody Run - 169
Blue Earth R. - 187
Bluff Cr. - 140
Boone R. - 142
Boone R. - 143
Boone R. - 144
Boone R. - 145
Brush Cr. - 19
Brush Cr. - 36
Brushy Cr. - 153
Brushy Cr. - 154
Brushy Creek - 94
Brushy Creek - 95
Buck Cr. - 147
Buck Run - 126
Buffalo Cr. - 174
Buttrick Cr. - 105
Calhoun Cr. - 37
Camp Cr. - 38
Camp Cr. - 121
Cavitt Cr. - 46
Cedar Cr. - 28
Cedar Cr. - 29
Cedar Cr. - 60
Cedar Cr. - 110
Cedar Cr. - 111
Cedar Cr. - 124
Chequest Cr. - 15
Clanton Cr. - 48
Coal Cr. - 40
Competine Cr. - 32
Cylinder Cr. - 182
D.D. 94 - 149
Dead Brier Cr. - 104
Deer Cr. - 93
Deer Cr. - 163
Des Moines R. - 1
Des Moines R. - 2
Des Moines R. - 3
Des Moines R. - 4
Des Moines R. - 5
Des Moines R. - 6
Des Moines R. - 7
Des Moines R. - 8
Des Moines R. - 9
Des Moines R. - 10
Des Moines R. - 11
Des Moines R. - 12
Des Moines R. - 12a
Ditch No. 9 & 13 - 119
E Fk. Des Moines R. - 165
E Fk. Des Moines R. - 166
E Fk. Des Moines R. - 167
Eagle Cr. - 148
East Buttrick Cr. - 107
East Cedar Cr. - 112
East Fork Des Moines R. - 168
Elk Run - 116
English Cr. - 31
Fourmile Cr. - 67
Fourmile Cr. - 68
Greenbrier Cr. - 103
Hardin Cr. - 108
Hickory Cr. - 100
Honey Cr. - 139
Howerdon Cr. - 65
Indian Cr. - 123
Indian Cr. - 180
Jack Cr. - 185
Jim Cr. - 63
Jones Cr. - 49
Lake Cr. - 117
Lake Cr. - 118
Lick Cr. - 14
Lindsey Cr. - 173
Little Beaver Cr. - 129
Little Beaver Cr. - 130
Little Cedar Cr. - 125
Little Fourmile Cr. - 69
Little Soap Cr. - 18
Little White Breast Cr. - 35
Lizard Cr. - 157
Lizard Cr. - 158
Lotts Cr. - 170
Marrowbone Cr. - 115
Middle Avery Cr. - 24
Middle Beaver Cr. - 132
Middle Branch Boone R. - 152
Middle Cr. - 58
Middle R. - 43
Middle R. - 45
Middle Raccoon R. - 81
Middle Raccoon R. - 82
Middle Raccoon R. - 83
Middle Raccoon R. - 84
Middle Raccoon R. - 85
Middle Raccoon R. - 86
Miller Cr. - 26
Mosquito Cr. - 87
Muchakinock Cr. - 27
Mud Cr. - 42
Mud Cr. - 177
N. Br. Lizard Cr. - 161
N. Raccoon R. - 96
N. Raccoon R. - 97
N. Raccoon R. - 99
North Avery Cr. - 25
North Branch North R. - 61
North Buffalo Cr. - 176
North Cedar Cr. - 30
North Fork Clanton Cr. - 51
North R. - 54
North R. - 55
North R. - 56
North R. - 57
North Raccoon River - 98
Old Channel - Des Moines - 186
Orman Cr. - 64
Otter Cr. - 41
Otter Cr. - 150
Outlet Cr. - 127
Panther Cr. - 78
Pilot Cr. - 181
Plum Cr. - 172
Plunger Cr. - 66
Prairie Cr. - 120
Prairie Cr. - 151
Prairie Cr. - 155
Prairie Cr. - 155a
Prairie Cr. - 179
Purgatory Cr. - 114
Raccoon R. - 70
Raccoon R. - 71
Raccoon R. - 72
Rock Cr. - 133
S. Br. Lizard Cr. - 159
S. Raccoon R. - 76
S. Raccoon R. - 77
Short Cr. - 109
Silver Cr. - 184
Skillet Cr. - 141
Slough Cr. - 131
Snake Cr. - 102
Soap Cr. - 16
Soap Cr. - 17
Soldier Cr. - 156
Soldier Cr. - 178
South Avery Cr. - 23
South Fork Clanton Cr. - 50
South Fork Middle R. - 53
South R. - 39
South Soap Cr. - 21
Spring Branch - 91
Spring Cr. - 160
Sugar Cr. - 13
Sugar Cr. - 75
Swan Lake Branch - 101
Tom Cr. - 62
Union Slough - 175
Union Slough Ditch - 189
Unnamed Cr. - 92
Unnamed Cr. - 113
Village Cr. - 22
W. Fk. Camp Cr. - 122
Walnut Cr. - 73
Walnut Cr. - 74
Welty Cr. - 52
West Buttrick Cr. - 106
West Fork Blue Earth R. - 188
West Panther Cr. - 79
White Breast Cr. - 33
White Breast Cr. - 34
White Fox Cr. - 146
Willey Branch - 90
Willow Cr. - 89
Wolf Cr. - 137

DES MOINES	A	B(WW)	B(LR)	B(LW)	B(CW)	C	HQ	HQR
MAJOR RIVER - LOWER DES MOINES R. AND ITS TRIBUTARIES								
DES MOINES R. AND ITS TRIBUTARIES								
Des Moines R. 1. Mouth (Lee Co.) to confluence with the Raccoon River (includes Red Rock Reservoir)	X	X						
Des Moines R. 2. Ottumwa Municipal Water Works intake						X		
MAJOR RIVER - UPPER DES MOINES R. AND ITS TRIBUTARIES								
Des Moines R. 3. Raccoon R. to Center St. Dam in Des Moines		X						
Des Moines R. 4. Center St. Dam in Des Moines to Hwy. I-80/I-35 (S17, T79N, R24W, Polk Co.)	X	X						
Des Moines R. 5. Des Moines Water Works intake, Prospect Park (NE 1/4, S28, T79N, R24W, Polk Co.)						X		
Des Moines R. 6. Hwy. I-80/I-35 to Saylorville Reservoir Dam		X						
Des Moines R. 7. Saylorville Reservoir Dam to Polk-Dallas co. line	X	X						
Des Moines R. 8. Saylorville Reservoir to Fraser Dam (S2, T84N, R27W, Boone Co.)		X						
Des Moines R. 9. Fraser Dam (Boone Co.) to W. line of S15, T88N, R28W, Webster Co.		X						X
Des Moines R. 10. West line of S15, T88N, R28W (Webster Co.) to dam of upper impoundment at Fort Dodge		X						
Des Moines R. 11. Upper impoundment at Fort Dodge	X	X						
Des Moines R. 12. Fort Dodge Upper impoundment to Humboldt impoundment (aka Lake Nakomis) Dam		X						
Des Moines R. 12a. Humboldt impoundment (aka Lake Nakomis) Dam to state line	X	X						
MAJOR RIVER - LOWER DES MOINES R. AND ITS TRIBUTARIES								
SUGAR CR. AND ITS TRIBUTARIES								
Sugar Cr. 13. Mouth (Lee Co.) to bridge crossing (S8, T67N, R6W, Lee Co.)			X					
LICK CR. AND ITS TRIBUTARIES								
Lick Cr. 14. Mouth (S19, T67N, R7W, Lee Co.) to confluence with an unnamed tributary (S32, T68N, R7W, Lee Co.)			X					
CHEQUEST CR. AND ITS TRIBUTARIES								
Chequest Cr. 15. Mouth (S27, T69N, R10W, Van Buren Co.) to confluence with North Chequest Cr. (S25, T70N, R13W, Wapello Co.)			X					

DES MOINES	A	B(WW)	B(LR)	B(LW)	B(CW)	C	HQ	HQR
MAJOR RIVER - LOWER DES MOINES R. AND ITS TRIBUTARIES								
SOAP CR. AND ITS TRIBUTARIES								
Soap Cr. 16. Mouth (S35, T71N, R12W, Jefferson Co.) to confluence with Little Soap Creek (S1, T70N, R13W, Davis Co.)		X						
Soap Cr. 17. Confluence with Little Soap Cr. (S1, T70N, R13W, Davis Co.) to confluence with an unnamed tributary (W 1/2, NE 1/4, S31, T71N, R16W, Monroe Co.)			X					
Little Soap Cr. 18. Mouth (S1, T70N, R13W, Davis Co.) to confluence with an unnamed tributary (S21, T71N, R15W, Wapello Co.)			X					
Brush Cr. 19. Mouth (S3, T70N, R14W, Davis Co.) to confluence with an unnamed tributary (E 1/2, S25, T71N, R15W, Wapello Co.)			X					
Bear Cr. 20. Mouth (S19, T70N, R14W, Davis Co.) to confluence with an unnamed tributary (E 1/2, S4, T70N, R15W, Davis Co.)			X					
South Soap Cr. 21. Mouth (S21, T70N, R15W, Davis Co.) to Lake Dam (S29, T70N, R16W, Appanoose Co.)			X					
VILLAGE CR. AND ITS TRIBUTARIES								
Village Cr. 22. Mouth (S9, T71N, R13W, Wapello Co.) to confluence with Sandy Cr. (NW 1/4, S9, T71N, R14W, Wapello Co.)			X					
SOUTH AVERY CR. AND ITS TRIBUTARIES								
South Avery Cr. 23. Mouth (S31, T73N, R14W, Wapello Co.) to confluence with an unnamed tributary (NE 1/4, S15, T72N, R15W, Wapello Co.)			X					
MIDDLE AVERY CR. AND ITS TRIBUTARIES								
Middle Avery Cr. 24. Mouth (S25, T73N, R15W, Wapello Co.) to confluence with White Ash and Little Avery Crs. (W. line, S12, T72N, R16W, Monroe Co.)			X					
North Avery Cr. 25. Mouth (S34, T73N, R15W, Wapello Co.) to confluence with an unnamed tributary (Center, S34, T73N, R16W, Monroe Co.)			X					
MILLER CR. AND ITS TRIBUTARIES								
Miller Cr. 26. Mouth (Wapello Co.) to confluence with an unnamed tributary (Sec. 29, T73N, R16W, Monroe Co.)			X					
MUCHAKINOCK CR. AND ITS TRIBUTARIES								
Muchakinock Cr. 27. Mouth (Mahaska Co.) to confluence with an unnamed tributary (NW 1/4, SW 1/4, S27, T76N, R17W, Mahaska Co.)			X					

DES MOINES	A	B(WW)	B(LR)	B(LW)	B(CW)	C	HQ	HQR
MAJOR RIVER - UPPER DES MOINES R. AND ITS TRIBUTARIES								
BOONE R. AND ITS TRIBUTARIES								
Buck Cr.								
147. Mouth (S28, T89N, R25W, Hamilton Co.) to confluence with Drainage Ditch No. 144 (S11, T88N, R25W, Hamilton Co.)			X					
Eagle Cr.								
148. Mouth (S6, T89N, R25W, Hamilton Co.) to confluence with Little Eagle Cr. (S9, T91N, R25W, Wright Co.)			X					
D.D. 94								
149. Mouth (Wright Co.) to West line of S3, T90N, R26W, Wright Co.			X					
Otter Cr.								
150. Mouth (Wright Co.) to confluence with West Otter Cr. (S31, T93N, R25W, Wright Co.)		X						
Prairie Cr.								
151. Mouth (S30, T93N, R26W, Wright Co.) to confluence with D.D. No. 116 (S24, T94N, R28W, Kossuth Co.)			X					
Middle Branch Boone R.								
152. Mouth (Hancock Co.) to confluence with an unnamed tributary (S31, T95N, R25W, Hancock Co.)		X						
BRUSHY CR. AND ITS TRIBUTARIES								
Brushy Cr.								
153. Mouth (S15, T87N, R27W, Webster Co.) to Brushy Creek Lake Dam (S34, T88N, R27W, Webster Co.)			X					
Brushy Cr.								
154. Upper extent of Brushy Creek Lake (W. line of S16, T88N, R27W) to confluence with unnamed tributary (SE 1/4, S34, T89N, R27W, Webster Co.)			X					
PRAIRIE CR. AND ITS TRIBUTARIES								
Prairie Cr.								
155. Mouth (S35, T88N, R28W, Webster Co.) to Rd. crossing center of Section 28, T88N, R28W, Webster Co.	X		X					
Prairie Cr.								
155a. Road crossing center of Section 28, T88N, R28W, Webster Co. to confluence with D.D. No. 29 (S25, T88N, R29W, Webster Co.)			X					
SOLDIER CR. AND ITS TRIBUTARIES								
Soldier Cr.								
156. Mouth (S19, T89N, R28W, Webster Co.) to confluence with unnamed tributary (S26, T90N, R28W, Webster Co.)			X					
LIZARD CR. AND ITS TRIBUTARIES								
Lizard Cr.								
157. Mouth (S19, T89N, R28W, Webster Co.) to confluence with unnamed tributary (N 1/2, S31, T90N, R30W, Webster Co.)		X						
Lizard Cr.								
158. Confluence with unnamed tributary (N 1/2, S31, T90N, R30W, Webster Co.) to confluence with Drainage Ditch No. 164 (S31, T91N, R31W, Pocahontas Co.)			X					
S. Br. Lizard Cr.								
159. Mouth (S23, T89N, R29W, Webster Co.) to confluence with unnamed tributary (S25, T90N, R32W, Pocahontas Co.)			X					
Spring Cr.								
160. Mouth (S33, T89N, R29W, Webster Co.) to confluence with Prairie Creek (S14, T88N, R30W, Webster Co.)			X					

DES MOINES MAJOR RIVER - UPPER DES MOINES R. AND ITS TRIBUTARIES LIZARD CR. AND ITS TRIBUTARIES	A	B(WW)	B(LR)	B(LW)	B(CW)	C	HQ	HQR
N. Br. Lizard Cr. 161. Mouth (S2, T91N, R31W, Pocahontas Co.) to confluence with Drainage Ditch No. 169 (S6, T91N, R31W, Pocahontas Co.)			X					
BADGER CR. AND ITS TRIBUTARIES Badger Cr. 162. Mouth (S30, T90N, R28W, Webster Co.) to Badger Lake Dam (S19, T90N, R28W, Webster Co.)			X					
DEER CR. AND ITS TRIBUTARIES Deer Cr. 163. Mouth (S13, T90N, R29W, Webster Co.) to confluence with unnamed tributary (S16, T90N, R29W, Webster Co.)			X					
BEAVER CR. AND ITS TRIBUTARIES Beaver Cr. 164. Mouth (S32, T91N, R28W, Humboldt Co.) to confluence with unnamed tributary (S28, T91N, R28W, Humboldt Co.)			X					
E. FK. DES MOINES R. AND ITS TRIBUTARIES E. Fk. Des Moines R. 165. Mouth (Humboldt Co.) to Divine bridge access Hwy. 169 (S26, T94N, R29W, Kossuth Co.)	X	X						X
E. Fk. Des Moines R. 166. Divine bridge access Hwy. 169 (S26, T94N, R29W, Kossuth Co.) to County Rd. B63 (S23, T94N, R29W, Kossuth Co.)		X						X
E. Fk. Des Moines R. 167. County Rd. B63 (Kossuth Co.) to confluence with Buffalo Cr. (Kossuth Co.)		X						
East Fork Des Moines R. 168. Confluence with Buffalo Cr. (S20, T97N, R28W, Kossuth Co.) to outlet control structure Tuttle Lake (aka Okamanpeedan Lake) (S14, T100N, R32W, Emmet Co.)		X						
Bloody Run 169. Mouth (S33, T93N, R28W, Humboldt Co.) to confluence with unnamed tributary (S1, T92N, R29W, Humboldt Co.)			X					
Lotts Cr. 170. Mouth (S17, T93N, R28W, Humboldt Co.) to confluence with D.D. No. 79 (SE 1/4, S15, T94N, R30W, Kossuth Co.)			X					
Black Cat Cr. 171. Mouth (S24, T96N, R29W, Kossuth Co.) to North line (S5, T97N, R30W, Kossuth Co.)			X					
Plum Cr. 172. Mouth (S17, T96N, R28W, Kossuth Co.) to confluence with an unnamed tributary (S16, T96N, R27W, Kossuth Co.)			X					
Lindsey Cr. 173. Mouth (S28, T96N, R28W, Kossuth Co.) to confluence with an unnamed tributary (aka D.D. No. 36) (S30, T97N, R27W, Kossuth Co.)			X					
Buffalo Cr. 174. Mouth (S20, T97N, R28W, Kossuth Co.) to confluence with D.D. No. 48 (S33, T98N, R26W, Winnebago Co.)			X					

SKUNK RIVER BASIN

The streams or stream segments named below in alphabetical order are referenced within the Water Use Designations for the Skunk River Basin. Reference numbers provided in the alphabetical list correspond to numbered stream segments in the Water Use Designations.

Ballard Cr. - 46
Bear Cr. - 49
Benjamin Cr. - 39
Big Cr. - 16
Big Cr. - 17
Big Cr. - 17a
Big Slough - 8
Brush Cr. - 18
Buckley Cr. - 37
Cedar Cr. - 22
Cedar Cr. - 23
Cedar Cr. - 54
Cherry Cr. - 38
Clear Cr. - 41
Competine Cr. - 27
Crooked Cr. - 28
Crow Cr. - 25
Dye Cr. - 44
E. Branch Indian Cr. - 43
East Fork Crooked Cr. - 29
Fish Cr. - 20
Indian Cr. - 40
Long Cr. - 14
Long Dick Cr. - 50
Lynn Cr. - 19
Middle Cr. - 56
Mississippi R. - 1
Mississippi R. - 2
Mississippi R. - 3
Mud Cr. - 15
N. Skunk R. - 51
N. Skunk R. - 52
N. Skunk R. - 53
Oakland Mills Impoundment - 10
Old South Skunk River Ch - 45
Pitman Cr. - 6
Rock Cr. - 24
Rock Cr. - 55
Rock Cr. - 58
Rock Cr. - 26
S. Skunk R. - 31
S. Skunk R. - 32
S. Skunk R. - 33
S. Skunk R. - 34
Skunk R. - 9
Skunk R. - 11
Skunk R. - 12
Skunk R. - 13
Snipe Cr. - 59
South Skunk R. - 35
South Skunk R. - 36
Squaw Cr. - 48
Sugar Cr. - 5
Sugar Cr. - 57
Unnamed Cr. - 4
W. Branch Indian Cr. - 42
W. Fk Crooked Cr. - 30
Walnut Cr. - 47
West Branch Sugar Cr. - 7
Wolf Cr. - 21

SKUNK	A	B(WW)	B(LR)	B(LW)	B(CW)	C	HQ	HQR
MAJOR RIVER - MISSISSIPPI R. AND ITS TRIBUTARIES								
MISSISSIPPI R. AND ITS TRIBUTARIES								
Mississippi R.								
1. Iowa-Missouri state line to confluence with the Skunk R.	X	X						
Mississippi R.								
2. Keokuk Municipal Water Works intakes						X		
Mississippi R.								
3. Fort Madison Municipal Water Works intakes						X		
UNNAMED CR. AND ITS TRIBUTARIES								
Unnamed Cr. (aka Labalees Cr.)								
4. Mouth (S1, T65N, R5W, Lee Co.) to confluence with an unnamed tributary (E 1/2, S35, T66N, R5W, Lee Co.)			X					

SKUNK MAJOR RIVER - MISSISSIPPI R. AND ITS TRIBUTARIES SUGAR CR. AND ITS TRIBUTARIES	A	B(WW)	B(LR)	B(LW)	B(CW)	C	HQ	HQR
Sugar Cr. 5. Mouth (S23, T67N, R5W, Lee Co.) to confluence with an unnamed tributary (S 1/2, S16, T69N, R6W, Lee Co.)			X					
Pitman Cr. 6. Mouth (S29/30 line, T68N, R5W, Lee Co.) to confluence with an unnamed tributary (S21, T68N, R5W, Lee Co.)			X					
West Branch Sugar Cr. 7. Mouth (S11/14 line, T68N, R6W, Lee Co.) to confluence with an unnamed tributary (S3, T68N, R6W, Lee Co.)			X					
BIG SLOUGH AND ITS TRIBUTARIES								
Big Slough 8. Mouth (S24, T68N, R3W, Lee Co.) to confluence with an unnamed tributary (S18, T68N, R2W, Lee Co.)		X						
SKUNK R. AND ITS TRIBUTARIES								
Skunk R. 9. Mouth to Oakland Mills Dam Skunk R.		X						
Oakland Mills Impoundment 10. Dam to N line of S14, T71N, R7W, Henry Co.	X	X						
Skunk R. 11. City of Mt. Pleasant Water Works intake						X		
Skunk R. 12. Oakland Mills Impoundment to Henry Co. Rd. (S3, T71, R7W)		X						
Skunk R. 13. Henry Co. Rd. (S3, T73N, R7W) to confluence of N. Skunk R. and S. Skunk R.		X						X
Long Cr. 14. Mouth (Des Moines Co.) to confluence with an unnamed tributary (S3, T69N, R4W, Des Moines Co.)			X					
Mud Cr. 15. Mouth (S34, T70N, R5W, Henry Co.) to confluence with an unnamed tributary (S12, T70N, R5W, Henry Co.)			X					
Big Cr. 16. Mouth (Henry Co.) to confluence with Saunders Branch (S17, T71N, R6W, Henry Co.)	X	X						
Big Cr. 17. Confluence with Saunders Branch (Henry Co.) to confluence with Brandywine Creek (S29, T72N, R6W, Henry Co.)	X		X					
Big Cr. 17a. Confluence with Brandywine Creek (S29, T72N, R6W, Henry Co.) to confluence with Lawrence Creek (S5, T71N, R5W, Henry Co.)			X					
Brush Cr. 18. Mouth (Henry Co.) to confluence with an unnamed tributary (S32, T71N, R5W, Henry Co.)			X					
Lynn Cr. 19. Mouth (Henry Co.) to confluence with an unnamed tributary (S7, T72N, R6W, Henry Co.)			X					
Fish Cr. 20. Mouth (S23, T70N, R6W, Henry Co.) to confluence with an unnamed tributary (S16, T70N, R6W, Henry Co.)			X					

SKUNK MAJOR RIVER - MISSISSIPPI R. AND ITS TRIBUTARIES SKUNK R. AND ITS TRIBUTARIES	A	B(WW)	B(LR)	B(LW)	B(CW)	C	HQ	HQR
Wolf Cr. 21. Mouth (S8, T71N, R7W, Henry Co.) to confluence with an unnamed tributary (S1, T71N, R8W, Jefferson Co.)			X					
Cedar Cr. 22. Mouth (Henry Co.) to confluence with Little Cedar Cr. (S17, T70N, R7W, Henry Co.)		X						
Cedar Cr. 23. Confluence with Little Cedar Cr. (Sec. 17, T70N, R7W, Henry Co.) to confluence with an unnamed tributary (NW 1/4, of the NE 1/4, S24, T74N, R15W, Mahaska Co.)			X					
Rock Cr. 24. Mouth (Jefferson Co.) to confluence with Jones Br. (Sec. 29, T71N, R8W, Jefferson Co.)			X					
Crow Cr. 25. Mouth (Jefferson Co.) to confluence with an unnamed tributary (NW 1/4 of SW 1/4, S31, T72N, R9W, Jefferson Co.)			X					
Rock Cr. 26. Mouth (S34, T72N, R11W, Jefferson Co.) to confluence with an unnamed tributary (NE1/4, S5, T71N, R11W, Jefferson Co.)			X					
Competine Cr. 27. Mouth (Jefferson Co.) to confluence with an unnamed tributary (S15, T73N, R12W, Wapello Co.)			X					
Crooked Cr. 28. Mouth (S1, T73N, R8W, Jefferson Co.) to confluence with East and West Fork Crooked Cr. (S24, T74N, R7W, Washington Co.)			X					
East Fork Crooked Cr. 29. Mouth (S24, T74N, R7W, Washington Co.) to confluence with Phillips Creek (S8, T73N, R5W, Henry Co.)			X					
W. Fk. Crooked Cr. 30. Mouth (Washington Co.) to confluence with an unnamed tributary (SW 1/4, S21, T76N, R9W, Washington Co.)			X					
S. Skunk R. 31. Mouth (Keokuk Co.) to Hwy. 21 (S34, T75N, R13W, (Keokuk Co.)		X						X
S. Skunk R. 32. Hwy. 21 (Keokuk Co.) to confluence with Indian Cr. (Jasper Co.)		X						
S. Skunk R. 33. At Oskaloosa						X		
S. Skunk R. 34. Confluence with Indian Creek (Jasper Co.) to Ames Water Works Dam (S36, T84N, R24W, Story Co.)			X					
South Skunk R. 35. Ames Waterworks Dam (S36, T84N, R24W, Story Co.) to North line S6, T85N, R23W, Story Co.	X	X						X
South Skunk R. 36. North line S6, T85N, R23W, Story Co. to confluence with D.D. No. 71 (S11, T86N, R24W, Hamilton Co.)			X					X

SKUNK MAJOR RIVER - MISSISSIPPI R. AND ITS TRIBUTARIES SKUNK R. AND ITS TRIBUTARIES	A	B(WW)	B(LR)	B(LW)	B(CW)	C	HQ	HQR
Buckley Cr. 37. Mouth (S27, T77N, R17W, Mahaska Co.) to confluence with The Middle Br. Buckley Cr. (S9, T77N, R17W, Mahaska Co.)			X					
Cherry Cr. 38. Mouth (Jasper Co.) to confluence with Benjamin Cr. (S20, T80N, R19W, Jasper Co.)			X					
Benjamin Cr. 39. Mouth (Jasper Co.) to confluence with an unnamed tributary (NE 1/4, S21, T80N, R19W, Jasper Co.)			X					
Indian Cr. 40. Mouth (S32, T80N, R20W, Jasper Co.) to confluence with East and West Branch Indian Crs. (S16, T82N, R22W, Story Co.)			X					
Clear Cr. 41. Mouth (S2, T80N, R21W, Jasper Co.) to confluence with an unnamed tributary (S 1/2, SW 1/4, S28, T82N, R20W, Marshall Co.)			X					
W. Branch Indian Cr. 42. Mouth (S16, T82N, R22W, Story Co.) to confluence with an unnamed tributary (S1, T83N, R23W, Story Co.)			X					
E. Branch Indian Cr. 43. Mouth (S16, T82N, R22W, Story Co.) to confluence with an unnamed tributary (S34, T85N, R22W, Story Co.)			X					
Dye Cr. 44. Mouth (S14, T83N, R22W, Story Co. to confluence with unnamed tributary (NW 1/4, S7, T83N, R21W, Story Co.)			X					
Old South Skunk River Channel 45. East line S31, T81N, R22W, Polk Co. to South line S33/34, T81N, R22W, Polk Co.				X				
Ballard Cr. 46. Mouth (Story Co.) to confluence with an unnamed tributary (S15, T82N, R24W, Story Co.)			X					
Walnut Cr. 47. Mouth (S5, T82N, R23W, Story Co.) to confluence with an unnamed tributary (SE 1/4, S34, T83N, R24W, Story Co.)			X					
Squaw Cr. 48. Mouth (S12, T83N, R24W, Story Co.) to confluence with an unnamed tributary (NW 1/4, S9, T85N, R25W, Boone Co.)			X					
Bear Cr. 49. Mouth (Story Co.) to N. line of Sec. 32, T85N, R23W, Story Co.			X					
Long Dick Cr. 50. Mouth (S18, T85N, R23W, Story Co.) to bridge crossing (North line S34, T86N, R23W, Hamilton Co.)			X					
N. Skunk R. 51. Mouth (S5, T74N, R10W, Keokuk Co.) to confluence with Cedar Cr. (S15, T75N, R12W, Keokuk Co.)		X						X

IOWA-CEDAR MAJOR RIVER - MISSISSIPPI R. AND ITS TRIBUTARIES CEDAR R. AND ITS TRIBUTARIES	A	B(WW)	B(LR)	B(LW)	B(CW)	C	HQ	HQR
Dry Run 94. Mouth (S18, T89N, R13W, Black Hawk Co.) to confluence with an unnamed tributary (S23, T89N, R14W, Black Hawk Co.)	X		X					
Beaver Cr. 95. Mouth (S34, T90N, R14W, Black Hawk Co.) to confluence with S. Beaver Cr. (S25, T90N, R17W, Butler Co.)		X						
Beaver Cr. 96. Confluence with S. Beaver Cr. (S25, T90N, R17W, Butler Co.) to confluence with an unnamed tributary (SE 1/4, S29, T90N, R19W, Franklin Co.)			X					
South Beaver Cr. 97. Mouth (S25, T90N, R17W, Butler Co.) to confluence with an unnamed tributary (NE 1/4, NE 1/4, S9, T88N, R18W, Grundy Co.)			X					
N. Beaver Cr. 98. Mouth (S23, T90N, R18W, Butler Co.) to confluence with Fockler Cr. (S18, T90N, R18W, Butler Co.)			X					
W. Fk. Cedar R. 99. Mouth (Black Hawk Co.) to confluence with Maynes Creek (Butler County, S7, T91N, R17W)		X						X
W. Fk. Cedar R. 100. Confluence with Maynes Cr. (Butler Co.) to juncture of Beaverdam and Bailey Creeks (Franklin Co.)		X						
Shell Rock R. 101. Mouth (Black Hawk Co.) to Butler County, Section 12, T91N, R15W, (south corporate limits, Shell Rock)		X						X
Shell Rock R. 102. South corporate limit of Shell Rock to confluence with the Winnebago R.		X						
Shell Rock R. 103. Winnebago R. to Iowa-Minnesota state line	X	X						
Flood Cr. 104. Mouth (S27, T93N, R16W, Butler Co.) to confluence with Beaver Cr. (S36, T95N, R17W, Butler Co.)			X					
Coldwater Cr. 105. Mouth (S29, T93N, R16W, Butler Co.) to confluence with an unnamed tributary (S26, T94N, R19W, Cerro Gordo Co.)			X					
Beaver Cr. 106. Mouth (SW 1/4, S26, T95N, R18W, Floyd Co.) to confluence with L. Beaver Cr. (center S21, T95N, R18W, Floyd Co.)			X					
Winnebago R. (aka Lime Cr.) 107. Mouth (Floyd Co.) to dam at Fertile (S34, T98N, R22W, Worth Co.)		X						
Winnebago R. 108. Mill Pond at Fertile	X	X						
Winnebago R. 109. Upper extent of Mill Pond at Fertile to confluence with Pike Run (S25, T99N, R24W, Winnebago Co.)		X						

IOWA-CEDAR MAJOR RIVER - MISSISSIPPI R. AND ITS TRIBUTARIES CEDAR R. AND ITS TRIBUTARIES	A	B(WW)	B(LR)	B(LW)	B(CW)	C	HQ	HQR
Winnebago R. 110. Confluence with Pike Run (S25, T99N, R24W, Winnebago Co.) to state line			X					
Willow Cr. 111. Mouth (S3, T96N, R20W, Cerro Gordo Co.) to confluence with Clear Cr. (S16, T96N, R21W, Cerro Gordo Co.)			X					
Calmus Cr. 112. Mouth (S34, T97N, R20W, Cerro Gordo Co.) to Cerro Gordo Co. Rd. S34 (W. line, S30, T97N, R20W, Cerro Gordo Co.)			X					
Spring Cr. 113. Mouth (S28, T97N, R20W, Cerro Gordo Co.) to confluence with Blair Cr. (S9, T97N, R20W, Cerro Gordo Co.)			X					
Wharam Cr. 114. Mouth (S29, T97N, R20W, Cerro Gordo Co.) to confluence with an unnamed tributary (S7, T97N, R20W, Cerro Gordo Co.)			X					
Winans Cr. 115. Mouth (S36, T98N, R22W, Worth Co.) to N/S road crossing S 1/2, S25, T98N, R22W, Worth Co.			X					
Beaver Cr. 116. Mouth (S34, T98N, R22W, Worth Co.) to confluence with D.D. No. 54 (S25, T98N, R23W, Winnebago Co.)			X					
Rock Falls Cr. 117. Mouth (S16, T97N, R19W, Cerro Gordo Co.) to confluence with an unnamed tributary (S4, T97N, R19W, Cerro Gordo Co.)			X					
Rose Cr. (aka Plymouth or Beaver Cr.) 118. Mouth (NW 1/4, S8, T97N, R19W, Cerro Gordo Co.) to confluence with an unnamed tributary (S35, T98N, R20W, Worth Co.)			X					
Elk Cr. 119. Mouth (S27, T99N, R20W, Worth Co.) to east line S13, T99N, R22W, Worth Co.			X					
Elk Cr. 120. East line S13, T99N, R22W, Worth Co. to confluence with unnamed tributary (S4, T99N, R22W, Worth Co.)				X				
Maynes Cr. 121. Mouth (S7, T91N, R17W, Butler Co.) to confluence with an unnamed tributary (S22, T91N, R21W, Franklin Co.)			X					
Boylan Cr. 122. Mouth (S1, T91N, R18W, Butler Co.) to confluence with unnamed tributary (NE 1/4, S31, T93N, R18W, Butler Co.)			X					
Squaw Cr. 123. Mouth (Franklin Co.) to confluence with an unnamed tributary (S29, T92N, R20W, Franklin Co.)			X					
Spring Cr. 124. Mouth (Franklin Co.) to bridge crossing at (S21/ 22, T92N, R21W, Franklin Co.) [excluding Beeds L.]			X					

NORTHEASTERN IOWA RIVER BASINS

Northeastern Iowa River Basins (Wapsipinicon River, Maquoketa River, North Fork Maquoketa River, Turkey River, Volga River, Yellow River, and Upper Iowa River Subbasins).

The streams or stream segments named below in alphabetical order are referenced within the Water Use Designations for the Northeastern Iowa River Basins. Reference numbers provided in the alphabetical list correspond to numbered stream segments in the Water Use Designations.

Ames Cr. - 19
Barber Cr. - 22
Baron Spring - 214
Bass Cr. - 257
Bass Cr. - 258
Bear Cr. - 107
Bear Cr. - 205
Bear Cr. - 206
Bear Cr. - 228
Bear Cr. - 229
Bear Cr. - 307
Bear Cr. - 308
Bear Cr. - 110
Bear Cr. - 111
Beaver Cr. - 71
Beaver Cr. - 246
Beaver Cr. - 341
Beaver Cr. - 342
Beers Cr. - 112
Bell Cr. - 250
Bloody Run - 154
Bloody Run - 273
Bloody Run Cr. - 181
Bohemian Cr. - 261
Brophy Cr. - 16
Brophy Cr. - 17
Brownfield Cr. - 195
Bruce Cr. - 131
Brush Cr. - 83
Brush Cr. - 84
Brush Cr. - 85
Brush Cr. - 225
Brush Cr. - 226
Brush Cr. - 227
Buck Cr. - 54
Buck Cr. - 118
Buck Cr. - 268
Buck Cr. - 269
Buffalo Cr. - 31
Buffalo Cr. - 32
Buffalo Cr. - 33
Buffalo Cr. - 34
Buncombe Cr. - 98
Calamus Cr. - 26
Canoe Cr. - 315
Canoe Cr. - 316
Canoe Cr. - 317
Carlan Cr. - 185
Catfish Cr. - 145
Catfish Cr. - 146
Catfish Cr. - 147
Cedar Cr. - 92
Cherry Cr. - 18
Chialk Cr. - 262
Clear Cr. - 297
Clear Cr. - 305
Cline Branch - 100
Cline Cr. - 116
Cloie Br. - 155
Cloie Br. - 156
Coffins Cr. - 124
Coon Cr. - 320
Cota Cr. - 292
Coulee Cr. - 235
Cox Cr. - 211
Cox Cr. - 212
Crane Cr. - 55
Crane Cr. - 59
Crane Cr. - 60
Crow Cr. - 9
Curran Branch - 105
D. D. 12 - 27
Deep Cr. - 80
Deep Cr. - 81
Deep Cr. - 221
Dibble Cr. - 251
Doe Cr. - 208
Dousman Cr. - 278
Dry Branch - 254
Dry Cr. - 43
Dry Mill Cr. - 240
Dry Mill Cr. - 241
Dry Run - 327
Duck Cr. - 8
Duck Cr. - 8a
Duck Cr. - 134
Durion Cr. - 106
E. Fk. Wapsipinicon R. - 56
E. Fk. Wapsipinicon R. - 57
E. Pine Cr. - 334
East Branch Buffalo Cr. - 37
East Branch Otter Cr. - 50
Elk Cr. - 62
Elk Cr. - 190
Elk R. - 191
Elk R. - 68
Elk R. - 69
Ensign Cr. - 217
Farmers Cr. - 93
Fenchel Cr. - 130
Fitzgerald Cr. - 252
Fountain Spring Cr. - 197
French Cr. - 304
Granger Cr. - 148
Grannis Cr. - 230
Hainer Cr. - 86
Harter Cr. - 44
Harts Mill Cr. - 66
Hazelton Cr. - 51
Heatons Cr. - 38
Hewett Ct. - 215
Hewitt Cr. - 108
Hickory Cr. - 109
Hickory Cr. - 281
Hickory Cr. - 282
Hogans Br. - 165
Hogans Br. - 166
Honey Cr. - 126
Honey Cr. - 209
Hunter Cr. - 49
Irish Hollow Cr. - 303
Johns Cr. - 104
Joles Cr. - 184
Kitty Cr. - 115
Kleinlein Cr. - 213
Little Maquoketa R. - 152
Little Maquoketa R. - 153
Little Mill Cr. - 137
Little Paint Cr. - 291
Little Turkey R. - 175
Little Turkey R. - 176
Little Turkey R. - 177
Little Turkey R. - 178
Little Turkey R. - 255
Little Turkey R. - 256
Little Volga R. - 236
Little Volga River - 237
Little Wapsipinicon R. - 52
Little Wapsipinicon R. - 53
Lost Cr. - 15
Lux Cr. - 144
Lytle Cr. - 94
Lytle Cr. - 95
Mad Cr. - 5
Maquoketa R. - 72
Maquoketa R. - 73
Maquoketa R. - 74
Maquoketa R. - 75
Maquoketa R. - 76
Maquoketa R. - 77
Maquoketa R. - 78
Maquoketa R. - 79
Martha Cr. - 336
Middle Bear Cr. - 311
Middle Fk. Catfish Cr. - 149
Middle Fk. Little Maquok - 158
Middle Fk. Little Maquok - 159
Mill Cr. - 29
Mill Cr. - 65
Mill Cr. - 135
Mill Cr. - 136
Mineral Cr. - 113
Miners Cr. - 266
Miners Cr. - 267
Mink Cr. - 222
Mink Cr. - 223
Minor Cr. - 338
Mississippi R. - 1
Mississippi R. - 2
Mossey Glen Cr. - 210
Mud Cr. - 23
Muscatine Slough - 3
N. Canoe Cr. - 319
N. Bear Cr. - 310
N. Cedar Cr. - 271
N. Fk. Maquoketa R. - 88
N. Fk. Maquoketa R. - 89
N. Fk. Maquoketa R. - 90
Nagel Cr. - 218
Nichols Cr. - 339
Norfolk Cr. - 284
North Branch Turkey River - 263
North Branch Volga R. - 238
North Fk. Catfish Cr. - 150
North Fk. Little Maquoke - 157
North Fork Yellow River - 287
Nutting Cr. - 253
Otter Cr. - 45
Otter Cr. - 46
Otter Cr. - 47
Otter Cr. - 48
Otter Cr. - 96
Otter Cr. - 247
Otter Cr. - 248
Ozark Spring Run - 101
Paint Cr. - 288
Paint Cr. - 289
Paint Cr. - 290
Paint Cr. - 312

Patterson Cr. - 314
Pecks Cr. - 183
Penn Cr. - 121
Pine Cr. - 6
Pine Cr. - 7
Pine Cr. - 42
Pine Cr. - 194
Pine Cr. - 318
Pine Cr. - 333
Pleasant Cr. - 132
Pleasant Cr. - 133
Plum Cr. - 28
Plum Cr. - 58
Plum Cr. - 119
Plum Cr. - 120
Plum Cr. - 167
Point Hollow Cr. - 180
Prairie Cr. - 87
Prairie Cr. - 99
Prairie Cr. - 125
Rabbit Cr. - 207
Ram Hollow - 182
Roberts Cr. - 239
Rock Cr. - 24
Rock Cr. - 64
Rogers Cr. - 259
S. Br. Fountain Spring Cr. - 198
S. Cedar Cr. - 186
S. Cedar Cr. - 187
Sand Cr. - 40
Sand Cr. - 123
Sand Hagen Cr. - 128
Schechtman Br. - 199
Schechtman Br. - 200
Schramling Cr. - 70
Silver Cr. - 20
Silver Cr. - 21
Silver Cr. - 35
Silver Cr. - 117
Silver Cr. - 242
Silver Cr. - 306
Silver Cr. - 331
Silver Cr. - 332
Silver Cr. - 337
Smith Cr. - 323
Sny Magill Cr. - 270
South Fk. Catfish Cr. - 151
South Fork Maquoketa R. - 129
Spencer Cr. - 10
Spring Br. - 61
Spring Br. - 122
Spruce Cr. - 141
Staff Cr. - 343
Steeles Br. - 193
Sugar Cr. - 82
Suttle Cr. - 279
Teeple Cr. - 285
Ten Mile Cr. - 329
Tete des Morts Cr. - 142
Tete des Morts Cr. - 143
Trout Cr. - 321
Trout Cr. - 322
Trout Cr. - 325
Trout Cr. - 324
Trout Run - 295
Tuecke Hollow - 188
Turkey R. - 168
Turkey R. - 169
Turkey R. - 170
Turkey R. - 171
Turkey R. - 172
Turkey R. - 173
Turkey R. - 174
Twin Springs Cr - 328
Twin Springs Cr. - 196
Unnamed Cr. - 4
Unnamed Cr. - 41
Unnamed Cr. - 67
Unnamed Cr. - 91
Unnamed Cr. - 97
Unnamed Cr. - 114
Unnamed Cr. - 127
Unnamed Cr. - 140
Unnamed Cr. - 160
Unnamed Cr. - 161
Unnamed Cr. - 163
Unnamed Cr. - 164
Unnamed Cr. - 216
Unnamed Cr. - 219
Unnamed Cr. - 224
Unnamed Cr. - 231
Unnamed Cr. - 232
Unnamed Cr. - 234
Unnamed Cr. - 243
Unnamed Cr. - 244
Unnamed Cr. - 245
Unnamed Cr. - 249
Unnamed Cr. - 265
Unnamed Cr. - 286
Unnamed Cr. - 313
Unnamed Cr. - 340
Unnamed Cr. - 280
Unnamed Cr. - 330
Unnamed Cr. - 179
Unnamed Cr. - 335
Unnamed Cr. - 296
Unnamed Cr. - 162
Unnamed Cr. - 138
Unnamed Cr. - 139
Unnamed Cr. - 233
Unnamed Cr. - 272
Unnamed Stream - 326
Upper Iowa R. - 298
Upper Iowa R. - 299
Upper Iowa R. - 300
Upper Iowa R. - 301
Upper Iowa R. - 302
Village Cr. - 294
Volga R. - 201
Volga R. - 202
Volga R. - 203
Volga R. - 204
W. Br. S. Cedar Cr. - 189
Walnut Cr. - 30
Walton Cr. - 39
Wapsipinicon R. - 11
Wapsipinicon R. - 12
Wapsipinicon R. - 14
Wapsipinicon R. - 13
Waterloo Cr. - 309
Watsons Cr. - 63
West Branch Buffalo Cr. - 36
West Branch Turkey River - 264
Wexford Cr. - 293
Whitewater Cr. - 102
Whitewater Cr. - 103
Williams Cr. - 283
Willow Cr. - 220
Winnebago Cr. - 302a
Wolf Cr. - 192
Wonder Cr. - 260
Yankee Run - 25
Yellow R. - 274
Yellow R. - 275
Yellow R. - 276

NORTHEASTERN	A	B(WW)	B(LR)	B(LW)	B(CW)	C	HQ	HQR
MAJOR RIVER - MISSISSIPPI R. AND ITS TRIBUTARIES								
Mississippi R.								
1. Iowa R. to the Iowa-Minnesota state line	X	X						
Mississippi R.								
2. Davenport Water Company Water Works intake						X		
MUSCATINE SLOUGH AND ITS TRIBUTARIES								
Muscatine Slough								
3. Mouth (S32, T75N, R2W, Louisa Co.) to confluence with unnamed tributary (E 1/2, S7, T76N, R2W, Muscatine Co.)		X						
Unnamed Cr.								
4. Mouth (S30, T75N, R2W, Louisa Co.) to confluence with unnamed tributary (N 1/2, S19, T75N, R2W, Louisa Co.)			X					
MAD CR. AND ITS TRIBUTARIES								
Mad Cr.								
5. Mouth (S36, T77N, R1W, Muscatine Co.) to confluence with an unnamed tributary (SE 1/4, S13, T77N, R2W, Muscatine Co.)			X					

NORTHEASTERN MAJOR RIVER - MISSISSIPPI R. AND ITS TRIBUTARIES PINE CR. AND ITS TRIBUTARIES	A	B(WW)	B(LR)	B(LW)	B(CW)	C	HQ	HQR
Pine Cr. 6. Mouth (S21, T77N, R1E, Muscatine Co.) to Old Pine Creek Mill (SE 1/4, S17, T77N, R1E, Muscatine Co.)		X						
Pine Cr. 7. Old Pine Creek Mill (SE 1/4, S17, T77N, R1E, Muscatine Co.) to confluence with an unnamed tributary (S26, T78N, R1W, Muscatine Co.)			X					
DUCK CR. AND ITS TRIBUTARIES								
Duck Cr. 8. Mouth (S27, T78N, R4E, Scott Co.) to Co. Rd. (Section 16-21, T78N, R3W, Scott. Co.)	X		X					
Duck Cr. 8a. Co. Rd. (Section 16-21, T78N, R3W, Scott Co.) to confluence with unnamed tributary (SE 1/4, S14, T78N, R2E, Scott Co.)			X					
CROW CR. AND ITS TRIBUTARIES								
Crow Cr. 9. Mouth (S24, T78N, R4E, Scott Co.) to confluence with unnamed tributary (W 1/2, S30, T79N, R4E, Scott Co.)			X					
SPENCER CR. AND ITS TRIBUTARIES								
Spencer Cr. 10. Mouth (S18, T89N, R5E, Scott Co.) to confluence with unnamed tributary (S34/35 line, T79N, R4E, Scott Co.)			X					
WAPSIPINICON R. AND ITS TRIBUTARIES								
Wapsipinicon R. 11. Mouth (Scott-Clinton Co. line) to Snyder Access	X	X						X
Wapsipinicon R. 12. Snyder Access (Section 34, T93N, R12W, Bremer Co.) to confluence with Watsons Cr. (S25, T99N, R15W, Mitchell Co.)		X						
Wapsipinicon R. 13. Confluence with Watsons Cr. (S25, T99N, R15W, Mitchell Co.) to town of McIntire			X					
Wapsipinicon R. 14. Town of McIntire to N. line of Section 20, T100N, R15W, Mitchell Co.					X		X	
Lost Cr. 15. Mouth (S15, T80N, R5E, Scott Co.) to confluence with an unnamed tributary (NW 1/4, S7, T79N, R5E, Scott Co.)			X					
Brophy Cr. 16. Mouth (Clinton Co.) to confluence with Cherry Cr. (Clinton Co.)		X						
Brophy Cr. 17. Confluence with Cherry Cr. (S17, T81N, R5E, Clinton Co.) to confluence with an unnamed tributary (S33/34 line, T82N, R5E, Clinton Co.)			X					
Cherry Cr. 18. Mouth (S17, T81N, R5E, Clinton Co.) to confluence with an unnamed tributary (W 1/2, S36, T82N, R4E, Clinton Co.)			X					
Ames Cr. 19. Mouth (S4, T80N, R4E, Clinton Co.) to confluence with an unnamed tributary (S16, T81N, R4E, ClintonCo.)			X					
Silver Cr. 20. Mouth (Clinton Cr.) to confluence with Clear Cr. (Clinton Co.)		X						

NORTHEASTERN MAJOR RIVER - MISSISSIPPI R. AND ITS TRIBUTARIES WAPSIPINICON R. AND ITS TRIBUTARIES	A	B(WW)	B(LR)	B(LW)	B(CW)	C	HQ	HQR
Silver Cr. 21. Confluence with Crystal Cr. (aka Clear Cr.) (Clinton Co.) to confluence with Nigger Cr. (aka Negro Cr.) (S27, T82N, R13W, Chickasaw Co.)			X					
Barber Cr. 22. Mouth (Clinton Co.) to bridge crossing (SW 1/4, Sec. 33, T81N, R3E, Clinton Co.)			X					
Mud Cr. 23. Mouth (S12, T80N, R2E, Scott Co.) to confluence with Hickory Cr. (S31, T80N, R2E, Scott Co.)			X					
Rock Cr. 24. Mouth (S35, T81N, R1E, Clinton Co.) to bridge crossing (S2/11 line, T80N, R1W, Cedar Co.)			X					
Yankee Run 25. Mouth (S23, T81N, R1E, Clinton Co.) to confluence with an unnamed tributary (S34, T82N, R1W, Cedar Co.)			X					
Calamus Cr. 26. Mouth (S13, T81N, R1E, Clinton Co.) to confluence with an unnamed tributary (S9, T81N, R2E, Clinton Co.)			X					
D. D. 12 (aka Unnamed Cr.) 27. Mouth (S13, T81N, R1E, Clinton Co.) to confluence with an unnamed tributary (S19, T82N, R2E, Clinton Co.)			X					
Plum Cr. 28. Mouth (S18, T82N, R1E, Clinton Co.) to confluence with an unnamed tributary (S13, T82N, R1W, Cedar Co.)			X					
Mill Cr. 29. Mouth (S28, T83N, R1W, Jones Co.) to confluence with an unnamed tributary (S14, T82N, R2W, Cedar Co.)			X					
Walnut Cr. 30. Mouth (S18, T83N, R2W, Jones Co.) to confluence with White Oak Creek (S19, T83N, R3W, Jones Co.)			X					
Buffalo Cr. 31. Mouth (Jones Co.) to the dam at Coggon (Linn Co.)		X						
Buffalo Cr. 32. Coggon Impoundment	X	X						
Buffalo Cr. 33. Upper extent of Coggon Impoundment to confluence with an unnamed tributary (N 1/2, S27, T88N, R7W, Buchanan Co.)		X						
Buffalo Cr. 34. Confluence with an unnamed tributary (N 1/2, S27, T88N, R7W, Buchanan Co.) to confluence with the East and West Branch Buffalo Creeks (S35, T90N, R8W, Buchanan Co.)			X					
Silver Cr. 35. Mouth (NE 1/4, S13, T87N, R7W, Buchanan Co.) to confluence with an unnamed tributary (NW 1/4, S5, T87N, R6W, Delaware Co.)			X					

County	Lake Name	Location R.	T.	S.	Water Uses A	B(WW)	B(LR)	B(LW)	B(CW)	C	HQ	HQR
Adair												
1	Meadow Lake	31	76	17	X			X				
2	Mormon Trail Lake	33	74	3	X			X				
3	Nodaway Lake	32	75	14	X			X		X		
4	Orient Lake	31	74	20	X			X		X		
Adams												
5	Binder Lake	34	72	25	X			X		X		
6	Lake Icaria	34	72	10	X			X		X		
7	West Lake Corning	34	72	36				X		X		
Appanoose												
8	Lower Centerville Reservoir	18	68	12	X			X		X		
9	Rathbun Reservoir (refer to Southern Iowa River Basins)											
9a	Mystic Reservoir	18	69	8	X			X		X		
10	Upper Centerville Reservoir	18	68	11	X			X		X		
Audubon												
11	Nabotna Pond	35	80	11				X				
11a	Littlefield Lake	34	78	18				X				
Benton												
12	Dudgeon Lake	10	85	9				X				
13	Hannon Lake	11	82	32	X			X				
14	Rodgers Park Lake	11	86	1	X			X				
Black Hawk												
15	Black Hawk Park Ponds	14	90	34				X				
16	Cedar Falls Impoundment (refer to Iowa-Cedar River Basin)											
17	City Park Pond (Waterloo)	13	89	15				X				
18	Fisher Lake	13	89	6				X				
19	George Wyth Lake	13	89	6	X			X				
20	Green Belt Lake	13	89	6	X			X				
21	Hope Martin Pond	13	89	27				X				
22	Meyer Lake	12	88	6	X			X				
Boone												
23	Dickcissell Lake	26	84	24				X				
24	Don Williams Lake	27	84	5	X			X				

County	Lake Name	Location R.	T.	S.	Water Uses A	B(WW)	B(LR)	B(LW)	B(CW)	C	HQ	HQR
Bremer												
25	Sweet Marsh Reservoir	12	93	34				X				
26	Sweet Marsh Seg. A	12	92	2				X				
27	Sweet Marsh Seg. B	12	93	35				X				
28	Sweet Marsh Seg. C	12	93	34				X				
29	Waverly Impoundment (refer to Iowa-Cedar River Basin)											
Buchanan												
30	Troy Mills Marsh	8	87	25				X				
Buena Vista												
31	Gustafson Lake	36	93	18	X			X				
32	Marathon City Park Pond	35	93	20	X			X				
33	Pickerel Lake	35	93	1	X			X				
34	Storm Lake (including Little Storm Lake)	37	90	14	X			X				
Butler												
35	Aplington Pits	17	90	20				X				
36	Big Marsh	17	91	25				X				
37	Lake Considine	18	91	12				X				
38	Sportsman's Pond	16	92	13				X				
Calhoun												
39	North Twin Lake	35	88	1	X			X				
40	Rockwell City City Pond	32	88	36				X				
41	South Twin Lake	33	88	1				X				
Carroll												
42	Artesian Lake	33	85	27				X				
43	Swan Lake	34	83	5	X			X				
Cass												
44	Cold Springs Lake	37	75	15	X			X				
45	Griswold Park Pond	37	75	32				X				
46	Iranistan Pond	37	75	8				X				
47	Lake Anita	34	77	32	X			X				
Cedar												
48	Bennett Lake	1	80	11				X				

County / Lake Name	Location R.	T.	S.	Water Uses A	B(WW)	B(LR)	B(LW)	B(CW)	C	HQ	HQR
Madison											
212 Badger Creek Lake	27	77	11	X			X				
213 Cedar Lake	27	76	19				X		X		
Mahaska											
214 Edmunson Pond	16	75	27				X				
215 Hawthorne Lake (aka Barnes City Lake)	14	77	10	X			X				
216 Lake Keomah	15	75	13	X			X		X		
217 White Oak Conservation Area	14	75	28	X			X				
Marion											
218 Knoxville Pond	20	75	11				X				
219 Pleasantville Pond	21	76	15				X				
220 Red Rock Reservoir (refer to Des Moines River Basin)											
221 Roberts Creek Lake	19	76	4	X			X				
222 Tower Pond	19	76	25				X				
Marshall											
223 Green Castle Lake	17	82	8	X			X				
224 Marshall County Lake	18	84	31				X				
Mills											
225 Folsom Lake	43	73	32	X			X				
226 Glenwood Lake	43	72	12				X				
227 Institutional Pond (aka Peter Pan Lake)	43	72	24				X				
228 Keg Creek Lake	43	72	32				X				
229 Malvern Pond (aka Bohner Pond)	41	72	32				X				
230 Mile Hill Lake	43	72	26				X				
231 P.J. Lake	43	72	29				X				
232 Pony Creek Lake	43	72	4				X				
233 Willow Slough	40	73	29				X				
Monona											
234 Badger Lake	46	85	29				X				
235 Blackbird Bend	47	85	28				X				
236 Blencoe Lake	45	82	31				X				
237 Blue Lake	46	84	35	X			X				
238 Decatur Lake	46	83	17	X			X				

County	Lake Name	Location R.	T.	S.	Water Uses A	B(WW)	B(LR)	B(LW)	B(CW)	C	HQ	HQR
239	Louisville Bend	46	83	7				X				
240	Lower Decatur Lake	46	83	17				X				
241	Middle Decatur Lake	46	83	16	X			X				
242	Oldham Lake	43	83	13	X			X				
243	Rabbitt Island Lake	47	85	28				X				
244	Sherman Township Access Area	45	82	8				X				
245	Whiting Woods Pond	43	85	30				X				
Monroe												
246	Albia City Reservoir	17	72	9	X			X		X		
247	Cottonwood Pits	17	71	2				X				
248	Lake Miami	17	73	20	X			X				
Montgomery												
249	Pilot Grove Lake	36	73	1				X				
250	Viking Lake	36	71	6	X			X		X		
Muscatine												
251	Cone Lake (refer to Iowa-Cedar River Basin)											
251a	Wiese Slough	2	78	19				X				
O'Brien												
252	Dog Creek (Lake)	39	94	29	X			X				
253	Douma Area Pond	41	96	5	X			X				
254	Mill Creek (Lake)	41	95	3	X			X				
255	Negus Recreation Area Pond	39	94	30				X				
Osceola												
256	Ashton Pits	42	98	11	X			X				
257	Iowa Lake	39	100	9				X				
258	May City Pits	39	98	6	X			X				
259	Ocheyedan Pits	40	99	23	X			X				
260	Peters Pit	42	100	19				X				
Page												
261	Pierce Creek Pond	39	70	29	X			X				
262	Pioneer Park Pond	38	69	28				X				
263	Schneck's Lake	36	69	6	X			X				

County		Location			Water Uses							
	Lake Name	R.	T.	S.	A	B(WW)	B(LR)	B(LW)	B(CW)	C	HQ	HQR
Wright												
373	Big Wall Lake	24	90	14				X				
374	Elm Lake	24	92	21				X				X
375	Lake Cornelia	24	92	16	X			X				
376	Morse Lake	24	93	28				X				

This rule is intended to implement Iowa Code chapter 455B, division I, and division III, part 1.

567—61.4 Rescinded.

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65.6(11) *Permit modification, suspension or revocation.* The department may modify, suspend, refuse to renew or revoke in whole or part any operation permit for cause. Cause for modification, suspension or revocation of a permit may include the following:

a. Violation of any term or condition of the permit.

b. Obtaining a permit by misrepresentation of fact or failure to disclose fully all material facts.

c. A change in any condition that requires either a temporary or permanent reduction or elimination of the permitted discharge.

d. Failure to submit the records and information that the department requires in order to ensure compliance with the operation and discharge conditions of the permit.

e. A determination by the department that the continued operation of a confinement feeding operation constitutes a clear, present and impending danger to public health or the environment.

65.6(12) *Concentrated animal feeding operation registration program.* A producer feeding animals in an open feedlot existing prior to April 1, 2001, may participate in the concentrated animal feeding operation registration program as provided in Environmental Protection Division Policy Procedure Number 5-b-15, dated March 22, 2001.

567—65.7(455B) Construction permits.

65.7(1) *Animal feeding operations required to obtain a construction permit.*

a. An animal feeding operation covered by the operation permit provisions of subrules 65.4(1) to 65.4(3) shall obtain a construction permit prior to constructing, installing, or modifying a manure control system for that operation or reopening the operation if it was discontinued for 24 months or more.

b. Except as provided in subrule 65.7(2), a confinement feeding operation beginning construction, installation or modifications after March 20, 1996, shall obtain a construction permit prior to beginning construction, installation of an animal feeding operation structure used in that operation or prior to beginning significant modifications in the volume or manner in which the manure is stored or reopening the operation if it was discontinued for 24 months or more if any of the following conditions exist:

(1) The confinement feeding operation uses an aerobic structure, anaerobic lagoon or earthen manure storage basin.

(2) The confinement feeding operation uses a formed manure storage structure and has an animal weight capacity of 625,000 pounds or more for animals other than bovine or 1,600,000 pounds or more for bovine.

(3) The confinement feeding operation structure provides for the storage of manure exclusively in a dry form and has an animal weight capacity of 1,250,000 pounds or more for animals other than bovine or 4,000,000 pounds or more for bovine.

(4) The confinement feeding operation uses an egg washwater storage structure.

(5) The confinement feeding operation contains more than one species and the sum of the total animal weight capacity for each species divided by the permit threshold for that species is greater than 1.0(100%).

(6) The confinement feeding operation is proposed for an increase in animal weight capacity which would otherwise require a construction permit, even though no physical changes or construction is necessary.

65.7(2) *Animal feeding operations not required to obtain a construction permit.*

a. A construction permit shall not be required for an animal feeding operation structure used in conjunction with a small animal feeding operation.

b. A construction permit shall not be required for an animal feeding operation structure related to research activities and experiments performed under the authority and regulations of a research college.

65.7(3) *Operations that shall not be issued construction permits.*

a. The department shall not issue a construction permit to a person if an enforcement action by the department, relating to a violation of this chapter concerning a confinement feeding operation in which the person has an interest, is pending.

b. The department shall not issue a construction permit to a person for five years after the date of the last violation committed by a person or confinement feeding operation in which the person holds a controlling interest during which the person or operation was classified as a habitual violator under Iowa Code section 455B.191.

c. The department shall not issue a construction permit to expand or modify a confinement feeding operation for one year after completion of the last construction or modification at the operation, if a permit was not required for the last construction or modification. The department, upon good cause demonstrated by the applicant, shall grant a waiver to this rule.

65.7(4) *Plan review criteria.* Review of plans and specifications shall be conducted to determine the potential of the proposed manure control system to achieve the level of manure control being required of the animal feeding operation. In conducting this review, applicable criteria contained in federal law, state law, these rules, natural resource conservation service design standards and specifications unless inconsistent with federal or state law or these rules, and department of commerce precipitation data shall be used. If the proposed facility plans are not adequately covered by these criteria, applicable criteria contained in current technical literature shall be used.

65.7(5) *Expiration of construction permits.* The construction permit shall expire if construction, as defined in rule 65.8(455B), is not begun within one year of the date of issuance. The director may grant an extension of time to begin construction if it is necessary or justified, upon showing of such necessity or justification to the director, unless a person who has an interest in the proposed operation is the subject of a pending enforcement action, or a person who has a controlling interest in the proposed operation has been classified as a habitual violator.

65.7(6) *Revocation of construction permits.* The department may revoke a construction permit or refuse to renew a permit expiring according to subrule 65.7(5) if it determines that the operation of the confinement feeding operation constitutes a clear, present and impending danger to public health or the environment.

65.7(7) *Permit prior to construction.* An applicant for a construction permit shall not begin construction at the location of a site planned for the construction of an animal feeding operation structure, including an aerobic structure, until the person has been granted a permit for the construction of the structure by the department.

567—65.8(455B) Construction. For purposes of these rules:

65.8(1) Construction of an animal feeding operation structure begins or an animal feeding operation structure is constructed when any of the following occurs:

a. Excavation for a proposed animal feeding operation structure, or excavation for footings for a proposed animal feeding operation structure.

b. Installation of forms for concrete for an animal feeding operation structure.

c. Installation of piping for movement of manure within or between animal feeding operation structures.

65.8(2) Construction does not begin upon occurrence of any of the following:

a. Removal of trees, brush, or other vegetative growth.

b. Construction of driveways or roads.

c. General earth moving for leveling or compacting at the site.

d. Installation of temporary utility services.

65.8(3) Prohibition on construction.

a. A person shall not construct or expand an animal feeding operation structure which is part of a confinement feeding operation, if the person is either of the following:

(1) A party to a pending action for a violation of this chapter concerning a confinement feeding operation in which the person has a controlling interest and the action is commenced in district court by the attorney general

(2) A habitual violator.

567—65.21(455B) Transfer of legal responsibilities or title. If title or legal responsibility for a permitted animal feeding operation and its animal feeding operation storage structure is transferred, the person to whom title or legal responsibility is transferred shall be subject to all terms and conditions of the permit and these rules. The person to whom the permit was issued and the person to whom title or legal responsibility is transferred shall notify the department of the transfer of legal responsibility or title of the operation within 30 days of the transfer. Within 30 days of receiving a written request from the department, the person to whom legal responsibility is transferred shall submit to the department all information needed to modify the permit to reflect the transfer of legal responsibility. A person who has been classified as a habitual violator under Iowa Code section 455B.191 shall not acquire legal responsibility or a controlling interest to any additional permitted confinement feeding operations for the period that the person is classified as a habitual violator. A person who has an interest in a confinement feeding operation that is the subject of a pending enforcement action shall not acquire legal responsibility or an interest to any additional permitted confinement feeding operations for the period that the enforcement action is pending.

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

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

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*Effective date of Chapter 65 [DEQ, ch 20] delayed by the Administrative Rules Review Committee until October 25, 1976, pursuant to Iowa Code section 17A.4 amended by S.F. 1288, §8.

OBJECTION

At its January 2001 meeting the Administrative Rules Review Committee voted to object to the "emergency" implementation of ARC 0348B. This filing was adopted by the Environmental Protection Commission published in IAB Vol. XXIII, No. 12 (12/13/00).*

The Committee did not question the department's authority to postpone the approval requirement, noting that Iowa Code §455B.203(2) does give the department discretion to waive the general requirement. Members felt that in this situation it was unreasonable to use the "emergency" rule-making provisions of Iowa Code §§17A.4 and 17A.5. This rule making further delays a requirement that manure management plans be approved by the department. The agency emergency adopted a similar postponement, for the year 2001, in 2000. Members felt that the use of the emergency provisions in this case was unnecessary because for months the EPC was aware that it would be unable to clear the existing backlog of manure management plans filed with the department. Because there was ample time to publish a Notice of Intended Action, members felt that it was unreasonable to wait until December to file an emergency rule.

The effect of this procedural objection is to terminate the filing 180 days following the filing of this objection. During that period the department may replace this emergency filing with a similar provision, adopted with notice and an opportunity for public participation.

*Objection filed 1/9/01.

g. Infectious waste which is generated and treated at a medical clinic, doctor's office, nursing care facility, health care facility, dentist's office or other similar facility may be placed with regular municipal solid waste and not handled in a special way if it is rendered nonpathological, does not contain free liquids, and sharps are shredded, blunted, granulated, incinerated or mechanically destroyed. The generator of the infectious waste must notify the waste hauler and the sanitary landfill that infectious waste is being placed with regular municipal solid waste and, with the notice, certify that the infectious waste is properly treated in accordance with the requirements of this subrule.

h. Applications with supporting documentation should be sent to:

Special Waste Authorizations
Solid Waste Section
Department of Natural Resources
Henry A. Wallace Building
900 East Grand Avenue
Des Moines, Iowa 50319

i. Wastes with PCB concentrations equal to or greater than 50 ppm will not be authorized for disposal at a landfill.

j. Polynuclear aromatic hydrocarbon (PAH) contaminated soil will not be authorized for disposal at a landfill if the total PAH level exceeds 500 ppm for the following compounds: Acenaphthene, Acenaphthylene, Anthracene, Benzo(a)Anthracene, Benzo(a)Pyrene, Benzo(b)Fluoranthene, Benzo(g,h,i)Perylene, Benzo(k)Fluoranthene, Chrysene, Dibenzo(a,h)Anthracene, Fluoranthene, Fluorine, Indeno(1,2,3-cd)Pyrene, Napthalene, Phenanthrene, and Pyrene or if the total carcinogenic PAH level exceeds 200 ppm for the following compounds: Benzo(a)Anthracene, Benzo(a)Pyrene, Benzo(b)Fluoranthene, Benzo(k)Flouranthene, Chrysene, Dibenzo(a,h)Anthracene, Indeno(1,2,3-cd)Pyrene, or if the cyanide level exceeds 1,000 ppm.

k. Special waste authorizations may be issued for a period not to exceed three years.

l. The department may revoke an SWA for cause at any time. Such cause may include, but is not limited to, evidence that indicates the quantity or quality of the waste varies from the authorized values; evidence that the continued disposal of the waste as authorized may pose a threat to the public health or the environment, or failure to comply with any condition in the SWA.

m. The department must be notified within 30 days of any change in the quantity or quality of the wastes being disposed.

n. The holder of an SWA must apply for a desired renewal at least 30 days prior to the expiration of the SWA.

o. The issuance of an SWA does not obligate any waste disposal facility to accept the wastes nor does it preclude the facility from imposing conditions or restrictions other than those listed in the SWA.

p. The issuance of an SWA does not exempt the party disposing of the waste from any local, state or federal laws or regulations.

102.15(3) *Sewage sludge.*

a. Sewage sludge, including unstabilized septic tank pumpings, shall not be disposed in a sanitary landfill if it meets the criteria for Class I or Class II sewage sludge in 567—Chapter 67, except for use in daily, interim or final cover according to the approved plan for the landfill. Class III sewage sludge may be disposed of at a sanitary landfill as provided in 567—Chapter 103.

b. Sewage sludge may be handled at processing facilities as provided in 567—Chapter 104.

c. Sewage sludge may be utilized for land application in accordance with 567—Chapter 67.

102.15(4) *Waste tires.* Pursuant to Iowa Code section 455D.11(2), land disposal of waste tires, as defined in 567—Chapter 117, is prohibited as of July 1, 1991, unless each tire is processed by, at a minimum, shredding, cutting or chopping each tire into pieces that are no longer than 18 inches on any side.

This rule is intended to implement Iowa Code section 455B.304.

567—102.16(455B) Emergency response and remedial action plans.

102.16(1) *Purpose.* The purpose of this rule is to implement Iowa Code section 455B.306(6)*"d"* by providing the criteria for developing a detailed emergency response and remedial action plan (ERRAP) for permitted sanitary disposal projects.

102.16(2) *Applicability.* The requirements of this rule apply to the owners or operators of all sanitary disposal projects that are permitted under 567—102.2(455B). Permitted project types include: municipal and industrial waste landfills; construction and demolition waste landfills; coal combustion residue landfills; waste storage facilities; waste processing facilities; recycling and material recovery facilities; transfer stations; composting facilities; incinerator facilities; regional collection centers; land application facilities; and any facility deemed necessary to have a project permit under sanitary disposal project definition. Centralized regional collection center ERRAP documents shall specifically address the ERRAP requirements for each of the regional collection center's satellite facilities. This rule is not applicable to waste tire management facilities.

102.16(3) *Submittal requirements.*

a. The owner or operator of facilities that are subject to this rule and have been permitted prior to October 24, 2001, shall submit a complete detailed ERRAP that meets the requirements set forth in this rule no later than December 31, 2001.

b. Applications for a new permit after October 24, 2001, shall incorporate a complete detailed ERRAP that meets the requirements set forth in this rule.

c. An updated ERRAP that meets the requirements of this rule shall be submitted at the time of each permit renewal or permit reissuance application that is due after December 31, 2001.

d. An updated ERRAP shall be included with any request for permit modification to incorporate a facility expansion or significant changes in facility operation that require modification of the currently approved ERRAP.

e. Facilities that submitted an ERRAP meeting the requirements defined under Iowa Code section 455B.306(6)*"d"* by May 1, 2001, including regional collection centers that, prior to this date, have met the contingency plan submittal requirement described in 567—Chapter 211, and were approved by the department prior to October 24, 2001, are not required to submit an updated ERRAP that meets the requirements of this rule until the next permit renewal application due date after December 31, 2001.

f. Three sets of ERRAP documents shall be submitted for department approval.

102.16(4) *Content.* The content of ERRAP documents shall be concise and readily usable as a reference manual by facility managers and operators during emergency conditions. The ERRAP document content shall address at least the following primary issues in detail, unless project conditions render the specific issue as not applicable. The rationale for exclusion of any issue areas that are determined not to be applicable must be provided in either the body of the plan or as a supplement to facilitate department review. Additional emergency response and remedial action plan requirements unique to the facility shall be addressed, as applicable.

a. Facility information.

(1) Permitted agency.

(2) DNR permit number.

(3) Facility description.

(4) Responsible official and contact information.

(5) Project location.

(6) Site and environs map.

b. Regulatory requirements.

(1) Iowa Code section 455B.306(6)*"d"* criteria citation.

(2) Reference to provisions of the permit.

c. Emergency conditions—response activities—remedial action.

(1) Failure of utilities.

1. Short-term (48 hours or less).

2. Long-term (over 48 hours).
(2) Weather-related events.
1. Tornado.
2. Windstorms.
3. Intense rainstorms and erosion.
4. Lightning strikes.
5. Flooding.
6. Event and postevent conditions.
(3) Fire and explosions.
1. Waste materials.
2. Buildings and site.
3. Equipment.
4. Fuels.
5. Utilities.
6. Facilities.
7. Working area.
8. Hot loads.
9. Waste gases.
10. Evacuation.
(4) Regulated waste spills and releases.
1. Waste materials.
2. Leachate.
3. Waste gases.
4. Waste stockpiles and storage facilities.
5. Waste transport systems.
6. Litter and airborne particulates.
7. Site drainage systems.
8. Off-site releases.
(5) Hazardous material spills and releases.
1. Load check control points.
2. Mixed waste deliveries.
3. Fuels.
4. Waste gases.
5. Site drainage systems.
6. Off-site releases.
(6) Mass movement of land and waste.
1. Earthquakes.
2. Slope failure.
3. Waste shifts.
4. Waste subsidence.
(7) Emergency and release notifications and reporting.
1. Federal agencies.
2. State agencies.
3. County and city agencies.
4. News media.
5. Public and private facilities with special populations within five miles.
6. Emergency response agencies and contact information.
7. Reporting requirements and forms.

(8) Emergency waste management procedures.
1. Communications.
2. Temporary discontinuation of services—short- and long-term.
3. Facilities access and rerouting.
4. Waste acceptance.
5. Wastes in process.
(9) Primary emergency equipment inventory.
1. Major equipment.
2. Fire hydrants and water sources.
3. Off-site equipment resources.
(10) Emergency aid.
1. Responder contacts.
2. Medical services.
3. Contracts and agreements.
(11) ERRAP training requirements.
1. Training providers.
2. Employee orientation.
3. Annual training updates.
4. Training completion and record keeping.
(12) Reference tables, figures and maps.

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PRESERVES, STATE ADVISORY BOARD FOR[575]

Former State Preserves Advisory Board [790]. 1986 Iowa Acts, Senate File 2175, placed this Board under the "umbrella" of Natural Resources, Department of [561]

CHAPTER 1
ORGANIZATION AND OPERATION

575—1.1(465C) Function. The state advisory board for preserves was created by Iowa Code chapter 465C and is charged with the responsibility of locating, identifying, evaluating, and dedicating areas as state preserves.

1.1(1) *Organization and operation location.* The state advisory board for preserves is located within the Department of Natural Resources office, Wallace State Office Building, Capitol Complex, Des Moines, Iowa 50319. Office hours are from 8 a.m. to 4:30 p.m., Monday through Friday.

1.1(2) *Membership.* The state advisory board for preserves consists of seven members, six of whom are appointed by the governor following the procedures detailed in the Code of Iowa.

575—1.2(465C) Staff. The director shall employ, upon recommendation by the board, at salaries fixed by the board, a trained ecologist and other personnel as necessary to carry out the powers and duties of the board.

575—1.3(465C) Advisors. Rescinded IAB 9/19/01, effective 10/24/01.

575—1.4(465C) Meetings. The board shall organize annually by the election of a chairperson. The board shall meet annually and at such times as it deems necessary. Meetings may be called either by the chairperson or on request to the chairperson by three board members.

All board meetings shall comply with Iowa Code chapter 21. A quorum of two-thirds of the board members must be present to transact business. Meetings follow Robert's Rules of Order. Minutes of each meeting are available from the Chairperson, State Preserves Advisory Board, Department of Natural Resources, Wallace State Office Building, Capitol Complex, Des Moines, Iowa 50319.

575—1.5(465C) Open records. All public records of the board are available for public inspection during business hours. Requests to obtain records may be made by mail, telephone, or in person to the Director's Office, Department of Natural Resources. Minutes of the board meetings may be obtained without charge. Other records requiring more than five copies may be obtained upon payment of the actual cost for copying. Information concerning the nature and location of any preserve for which the excavation, destruction, or removal of a resource contained therein may be made available to the public unless such disclosure would create a risk or harm to such resources or to the site at which such resources are located.

575—1.6(465C) Biennial reports. The state preserves advisory board shall prepare a report accounting for the number of preserves in the state preserve system and containing any other pertinent information to be presented to the governor and legislature before January 15 on odd-numbered years.

575—1.7(465C) Budget. The state preserves advisory board shall prepare a budget for inclusion in the department of natural resources budget, for appropriation from the state general fund.

575—1.8(465C) Petition for adoption of rules under Iowa Code section 17A.7. A petition under Iowa Code section 17A.7 shall be made to the State Preserves Advisory Board, Department of Natural Resources, Wallace State Office Building, Des Moines, Iowa 50319. The petition shall be submitted in writing; state the full name and address of the petitioner; set forth clearly and concisely the text of the proposed rule, or as precisely as possible the substance of the proposed rule; and state the facts, arguments, and data that favor the proposed rule. The petition must be subscribed by the petitioner, by an authorized officer of the petitioner if it be a corporation, organization, or other legal entity, or by the petitioner's attorney. The preserves board shall either initiate rule-making proceedings or deny the petition within 60 days of receipt of the petition. If the petition is denied, the preserves board shall cause a statement to be sent to the petitioner which indicates the reasons for denial.

These rules are intended to implement Iowa Code section 465C.8.

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CHAPTER 2
MANAGEMENT OF STATE PRESERVES

575—2.1(465C) General provisions.

2.1(1) *Definitions.* As used in these rules, the following definitions shall apply:

"Articles of dedication" means those terms described in Iowa Code section 465C.9.

"Board" means the state preserves advisory board.

"Commission" means the natural resource commission.

"Department" means the department of natural resources.

"Director" means director of the department of natural resources.

"Preserve" means the same as defined in Iowa Code section 465C.1.

2.1(2) *Types of preserves.* There shall be five major classes of preserves.

a. *Natural preserves.* These areas contain natural communities, habitats, native flora and fauna, or endangered, threatened, or rare organisms.

b. *Archaeological preserves.* These areas contain significant deposits left by prehistoric or early historic peoples.

c. *Historical preserves.* These are sites that contain structures or places that are of significance in studying the tenure of humans in Iowa since the advent of the first Euro-American explorers.

d. *Geological preserves.* These are areas which contain rare or distinctive landforms, fossils, stratigraphic sections, mineral deposits or examples of mining history; type or reference sections; or other special features or deposits which represent the events and processes of Iowa's earth history.

e. *Scenic preserves.* These are areas that contain scenic features of aesthetic, scientific, or educational value.

575—2.2(465C) Management provisions.

2.2(1) *Administration and management.* The administrative and management authority shall be agreed upon by the board, the property owner, and the manager.

2.2(2) *Management and use.* A specific management plan shall be prepared for each preserve and kept on file at the Wallace State Office Building. The management plan shall identify compatible and noncompatible uses.

These rules are intended to implement Iowa Code section 465C.8.

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CHAPTER 3
PUBLIC RECORDS AND FAIR INFORMATION PRACTICES

575—3.1(17A,22) Adoption by reference. The board adopts by reference 561—Chapter 2, Iowa Administrative Code.

These rules are intended to implement Iowa Code section 22.11.

[Filed emergency 9/16/88—published 10/5/88, effective 9/16/88]

FUNERAL DIRECTORS

CHAPTER 100
FUNERAL DIRECTORS

CHAPTER 101
BOARD OF MORTUARY SCIENCE EXAMINERS

CHAPTER 102
CONTINUING EDUCATION FOR MORTUARY SCIENCE

CHAPTERS 208 to 219
Reserved

PODIATRISTS

CHAPTER 220
PODIATRY EXAMINERS

CHAPTER 221
MINIMUM TRAINING STANDARDS FOR PODIATRY ASSISTANTS ENGAGING IN PODIATRIC RADIOGRAPHY

CHAPTER 222
CONTINUING EDUCATION FOR PODIATRISTS

CHAPTERS 223 to 238
Reserved

PSYCHOLOGISTS

CHAPTER 239
BOARD OF PSYCHOLOGY EXAMINERS

CHAPTER 240
LICENSURE OF PSYCHOLOGISTS

CHAPTER 241
CONTINUING EDUCATION FOR PSYCHOLOGISTS

645—65.12(272C) Discipline. Renumbered as 645—65.1(272C), IAB 2/21/01.

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CHAPTER 66
AGENCY PROCEDURE FOR RULE MAKING

Rescinded IAB 6/16/99, effective 7/21/99

CHAPTER 67
PETITIONS FOR RULE MAKING

Rescinded IAB 6/16/99, effective 7/21/99

CHAPTER 68
DECLARATORY RULINGS

Rescinded IAB 6/16/99, effective 7/21/99

CHAPTER 69
PUBLIC RECORDS AND FAIR INFORMATION PRACTICES

Rescinded IAB 6/16/99, effective 7/21/99

CHAPTER 70
CHILD SUPPORT NONCOMPLIANCE

Rescinded IAB 6/16/99, effective 7/21/99

CHAPTER 71
IMPAIRED PRACTITIONER REVIEW COMMITTEE

Rescinded IAB 6/16/99, effective 7/21/99

CHAPTERS 72 to 78
Reserved

DIETITIANS

CHAPTER 79
BOARD OF DIETETIC EXAMINERS

[Prior to 5/18/88, Health Department[470]—Ch 162]
[Prior to 9/19/01, see 645—Chapter 80]

645—79.1(152A) General 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:

1. Assessing the nutrition needs of individuals and groups and determining resources and constraints in the practice setting.
2. Establishing priorities, goals, and objectives that meet nutrition needs and are consistent with available resources and constraints.
3. Providing nutrition counseling in health and disease.
4. Developing, implementing, and managing nutrition care systems.
5. 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.

"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—79.2(152A) Availability of information.

79.2(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.

79.2(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—79.3(152A) Organization and proceedings.

79.3(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. A quorum shall consist of a majority of the members of the board.

79.3(2) A chairperson, vice chairperson and secretary shall be elected at the first meeting after April 30 of each year.

79.3(3) The board shall hold at least an annual meeting and may hold additional meetings called by the chairperson or by a majority of the board's 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 Rules of Order, Revised, at its meeting whenever any objection is made as to the manner in which it proceeds at a meeting.

645—79.4(152A,272C) Principles. The dietetic practitioner shall:

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

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

[Filed 8/30/01, Notice 5/30/01—published 9/19/01, effective 10/24/01]

CHAPTER 80
LICENSURE OF DIETITIANS

645—80.1(152A) Definitions. For purposes of these rules, the following definitions shall apply:

"Board" means the board of dietetic examiners.

"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 for renewal within a stated time.

"Licensee" means any person licensed to practice as a dietitian in the state of Iowa.

"License expiration date" means the fifteenth day of the birth month every two years following initial licensure.

"Licensure by endorsement" means the issuance of an Iowa license to practice dietetics to an applicant who is currently licensed in another state.

"Reciprocal license" means the issuance of an Iowa license to practice dietetics to an applicant who is currently licensed in another state which has a mutual agreement with the Iowa board of dietetic examiners to license persons who have the same or similar qualifications as those required in Iowa.

645—80.2(152A) Requirements for licensure. The following criteria shall apply to licensure:

80.2(1) The applicant shall complete a board-approved application packet. Application forms may be obtained from the board's Web site (http://www.idph.state.ia.us/licensure) or directly from the board office. All applications shall be sent to Board of Dietetic Examiners, Professional Licensure Division, Fifth Floor, Lucas State Office Building, Des Moines, Iowa 50319-0075.

80.2(2) The applicant shall complete the application form according to the instructions contained in the application. If the application is not completed according to the instructions, the application will not be reviewed by the board.

80.2(3) Each application shall be accompanied by the appropriate fees payable by check or money order to the Board of Dietetic Examiners. The fees are nonrefundable.

80.2(4) No application will be considered by the board until:

a. Official copies of academic transcripts have been sent directly from the school to the board;

b. A notarized copy of the Commission on Dietetic Registration (CDR) card has been received by the board; and

c. The applicant satisfactorily completes the registration examination for dietitians administered by the Commission on Dietetic Registration. The board will accept the passing score set by the Commission on Dietetic Registration.

80.2(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.

80.2(6) Licensees who were issued their initial licenses within six months prior to the renewal date shall not be required to renew their licenses until the renewal date two years later.

80.2(7) Incomplete applications that have been on file in the board office for more than two years shall be considered invalid and shall be destroyed.

645—80.3(152A) Educational qualifications.

80.3(1) The applicant shall be issued a license to practice dietetics by the board when the applicant 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.

80.3(2) Foreign-trained dietitians shall:

a. Provide an equivalency evaluation of their educational credentials by International Educational Research Foundations, Inc., Credentials Evaluation Service, P.O. Box 3665, Culver City, CA 90231-3665, telephone (310)258-9451, Web site www.ierf.org, or E-mail at info@ierf.org. The professional curriculum must be equivalent to that stated in these rules. A candidate shall bear the expense of the curriculum evaluation.

b. Provide a notarized copy of the certificate or diploma awarded to the applicant from a dietetic program in the country in which the applicant was educated.

c. Receive a final determination from the board regarding the application for licensure.

645—80.4(152A) Supervised experience. The applicant shall:

1. Complete 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;

2. Have a supervised practice experience that must be completed in the United States or its territories; and

3. Have the degree of a supervisor who obtained a doctoral degree outside of the United States or its territories validated as equivalent to the doctoral degree conferred by a U.S. regionally accredited college or university.

645—80.5(152A) Licensure by endorsement. An applicant who has been a licensed dietitian under the laws of another jurisdiction shall file an application for licensure by endorsement with the board office. The board may receive by endorsement any applicant from the District of Columbia or another state, territory, province or foreign country who:

1. Submits to the board a completed application;
2. Pays the licensure fee;
3. Shows evidence of licensure requirements that are similar to those required in Iowa;
4. Provides official copies of the academic transcripts;
5. Provides a copy of the registration card; and
6. Provides verification of licenses from other states in which the applicant has a current active license sent directly from those states to the board office.

645—80.6(152A) Licensure by reciprocal agreement. The board may enter into a reciprocal agreement with the District of Columbia or any state, territory, province or foreign country with equal or similar requirements for licensure of dietitians. The applicant shall take the examination required by the board.

645—80.7(152A) License renewal.

80.7(1) The biennial license renewal period for a license to practice dietetics shall begin on the sixteenth day of the licensee's birth month and end on the fifteenth day of the licensee's birth month two years later. All licensees shall renew on a biennial basis.

80.7(2) A renewal of license application and continuing education report form to practice dietetics 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 the biennial renewal fee(s) on or before the renewal date.

a. The licensee shall submit the completed application and continuing education report form with the renewal fee(s) to the board office before the license expiration date.

b. Individuals who were issued their initial licenses within six months of the license renewal date will not be required to renew their licenses until the next renewal two years later.

c. 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.

d. Persons licensed to practice dietetics shall keep their renewal licenses displayed in a conspicuous public place at the primary site of practice.

80.7(3) Late renewal. If the renewal fees, continuing education report and renewal application are received within 30 days after the license renewal expiration date, the late fee for failure to renew before expiration shall be charged.

80.7(4) When all requirements for license renewal are met, the licensee shall be sent a license renewal card by regular mail.

645—80.8(272C) Exemptions for inactive practitioners.

80.8(1) A licensee who is not engaged in practice in the state of Iowa may be granted a waiver of compliance and obtain a certificate of exemption upon written application to the board. The application shall contain a statement that the applicant will not engage in the practice in the state of Iowa without first complying with all regulations governing reinstatement after exemption. The application for a certificate of exemption shall be submitted by the license expiration date upon the form provided by the board. A licensee must hold a current license to apply for exempt status. The licensee shall apply for inactive status prior to the license expiration date.

80.8(2) Reinstatement of exempted, inactive practitioners. Inactive practitioners who have requested and been granted a waiver of compliance with the renewal requirements and who have obtained a certificate of exemption shall, prior to engaging in the practice of the profession in Iowa, satisfy the requirements for reinstatement as outlined in 645—81.10(152A,272C).

80.8(3) Licensees shall renew at the next scheduled renewal time. Licensees whose licenses were reinstated within six months prior to the birth month renewal date shall not be required to renew their licenses until the birth month renewal date two years later.

80.8(4) A new licensee who is on inactive status during the initial license renewal time period and reinstates before the first license expiration date will not be required to complete continuing education for that first license renewal time period only. Thirty hours of continuing education will be required for every renewal thereafter.

80.8(5) Verifications of license(s) are required from any state in which the licensee has practiced since the Iowa license became inactive.

80.8(6) Reinstatement of inactive license after exemption. The following chart illustrates the requirements for reinstatement based on the length of time a license has been inactive.

An applicant shall satisfy the following requirements:	1 renewal	2 or more renewals
Submit written application for reinstatement to the board	Required	Required
Pay the current renewal fee	$100	$100
Pay the reinstatement fee	$50	$50
Provide proof of valid dietetics license in another state of the U.S. or District of Columbia and completion of continuing education equivalent to that required in these rules	Current valid license and 30 hours	Current valid license and 60 hours
OR		
Provide evidence of completion of continuing education hours completed within the two most recent bienniums prior to the date of application for reinstatement	30 hours	60 hours
OR		
Provide evidence of successful completion, with a passing grade, of the license examination conducted within one year immediately prior to submission of application for reinstatement	Successful completion	Successful completion
Total fees and continuing education hours required for reinstatement:	$150 and 30 hours	$150 and 60 hours

645—80.9(272C) Lapsed licenses.

80.9(1) If the renewal fee(s) and continuing education report are received more than 30 days after the license renewal expiration date, the license is lapsed. An application for reinstatement must be filed with the board accompanied by the reinstatement fee, the renewal fee(s) for each biennium the license is lapsed and the late fee for failure to renew before expiration. The licensee may be subject to an audit of the licensee's continuing education report.

80.9(2) Licensees who have not fulfilled the requirements for license renewal or for an exemption in the required time frame will have a lapsed license and shall not engage in the practice of dietetics. Practicing without a license may be cause for disciplinary action.

80.9(3) In order to reinstate lapsed licenses, licensees shall comply with all requirements for reinstatement as outlined in 645—81.6(152A).

80.9(4) After the reinstatement of a lapsed license, the licensee shall renew at the next scheduled renewal cycle and complete the continuing education required for the biennium.

80.9(5) Verifications of license(s) are required from any state in which the licensee has practiced since the Iowa license lapsed.

80.9(6) Reinstatement of a lapsed license. The following chart illustrates the requirements for reinstatement based on the length of time a license has lapsed.

An applicant shall satisfy the following requirements:	30 days after expiration date up to 1 renewal	2 or more renewals
Submit written application for reinstatement	Required	Required
Pay the renewal fee(s)	$100	$200
Pay the late fee	$50	$50
Pay the reinstatement fee	$50	$50
Satisfactorily complete continuing education requirements during the period since the license lapsed	30 hours	60 hours
Total fees and continuing education hours required for reinstatement:	$200 and 30 hours	$300 and 60 hours

645—80.10(17A,147,272C) License denial.

80.10(1) An applicant who has been denied licensure by the board may appeal the denial and request a hearing on the issues related to the licensure denial by serving a notice of appeal and request for hearing upon the board not more than 30 days following the date of mailing of the notification of licensure denial to the applicant. The request for hearing as outlined in these rules shall specifically describe the facts to be contested and determined at the hearing.

80.10(2) If an applicant who has been denied licensure by the board appeals the licensure denial and requests a hearing pursuant to this rule, the hearing and subsequent procedures shall be held pursuant to the process outlined in Iowa Code chapters 17A and 272C.

These rules are intended to implement Iowa Code chapters 17A, 147, 152A and 272C.

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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 completed within the two bienniums prior to the date of application for reinstatement. 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 current renewal fee;

81.10(3) Submit the reinstatement fee;

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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CHAPTER 82
DISCIPLINE FOR DIETITIANS
[Prior to 9/19/01, see 645—80.100(152A,272C)]

645—82.1(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:

82.1(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 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.

82.1(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 failure to conform to the minimal standard of acceptable and prevailing practice of dietetics in the state of Iowa.

82.1(3) 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. 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.

82.1(4) Habitual intoxication or addiction to the use of drugs, including 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.

82.1(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 the profession. A copy of the record of conviction or plea of guilty shall be conclusive evidence.

82.1(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.

82.1(7) Willful or repeated violations of the provisions of these rules and Iowa Code chapter 147.

82.1(8) Violating a regulation or law of this state, or the United States, which relates to the practice of dietetics.

82.1(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.

82.1(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.

82.1(11) Knowingly aiding, assisting, procuring, or advising a person to unlawfully practice dietetics.

82.1(12) Failure to identify oneself as a dietitian to the public.

82.1(13) Violating a lawful order of the board, previously entered by the board in a disciplinary hearing or pursuant to informal settlement.

82.1(14) Being adjudged mentally incompetent by a court of competent jurisdiction.

82.1(15) Making suggestive, lewd, lascivious or improper remarks or advances to a patient or client.

82.1(16) Knowingly submitting a false report of continuing education or failure to submit the biennial report of continuing education.

82.1(17) Failure to comply with a subpoena issued by the board.

82.1(18) Failure to file the reports required by these rules concerning acts or omissions committed by another licensee.

82.1(19) Obtaining any fee by fraud or misrepresentation.

82.1(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.

This rule is intended to implement Iowa Code sections 147.76, 147.55(3), 272C.4 and 272C.10.

[Filed 8/30/01, Notice 5/30/01—published 9/19/01, effective 10/24/01]

CHAPTER 83
FEES

645—83.1(147,152A) License fees. All fees are nonrefundable.

83.1(1) Licensure fee for license to practice dietetics, licensure by endorsement, or licensure by reciprocity is $100.

83.1(2) Biennial license renewal fee for each biennium is $100.

83.1(3) Late fee for failure to renew before expiration is $50.

83.1(4) Reinstatement fee for a lapsed license or an inactive license is $50.

83.1(5) Duplicate license fee is $10.

83.1(6) Verification of license fee is $10.

83.1(7) Returned check fee is $15.

83.1(8) Disciplinary hearing fee is a maximum of $75.

This rule is intended to implement Iowa Code section 147.8 and Iowa Code chapters 17A, 152A and 272C.

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CHAPTERS 84 and 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

c. For auditing purposes, the licensee must retain the above information for four years.

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 the 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—261.6(152B,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 fees then due;
3. Pays all late fees, to a maximum of two bienniums, which have been assessed by the board for failure to renew;
4. Pays reinstatement fee; and
5. 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 30 by the number of bienniums since the license lapsed to a maximum of two bienniums or 60 hours of continuing education credit.

645—261.7(152B,272C) Continuing education waiver for active practitioners. A respiratory therapist licensed to practice as a respiratory therapist 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 respiratory therapist.

645—261.8(152B,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—261.9(152B,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 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—261.10(152B,272C) Reinstatement of inactive practitioners. Inactive practitioners who have been granted a waiver of compliance with these rules and obtained a certificate of waiver shall, prior to engaging in the practice of respiratory therapy in the state of Iowa, satisfy the following requirements for reinstatement.

261.10(1) Reinstatement of the inactive license may be granted by the board if the applicant:

a. Submits a written application for reinstatement to the board;

b. Pays the current renewal fee then due; and

c. Pays the reinstatement fee.

261.10(2) The applicant shall furnish in the application evidence of one of the following:

a. Full-time practice 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. Successful completion of 30 hours of approved continuing education hours; or

c. Successful completion of the approved entry-level examination conducted within one year prior to filing of the application for reinstatement; or

d. Successful completion of a minimum 75-hour refresher course from a school accredited by the Committee on Accreditation of Respiratory Care (CoARC) within one year prior to filing of the application for reinstatement.

645—261.11(152B,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 152B.

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CHAPTER 262
CHILD SUPPORT NONCOMPLIANCE

Rescinded IAB 7/14/99, effective 8/18/99

CHAPTERS 263 to 268
Reserved

CHAPTER 269
PUBLIC RECORDS AND FAIR INFORMATION PRACTICES

Rescinded IAB 7/14/99, effective 8/18/99

CHAPTERS 270 to 278
Reserved

SOCIAL WORKERS

CHAPTER 279
BOARD OF SOCIAL WORK EXAMINERS

[Prior to 5/18/88, see Health Department[470], Ch 161]
[Prior to 9/19/01, see 645—Chapter 280]

645—279.1(154C) General definitions.

"ASWB" means the Association of Social Work Boards.

"Board" means the board of social work examiners.

"Department" means the department of public health.

"License" means a license to practice social work.

"Licensee" means a person licensed to practice social work.

"LISW" means licensed independent social worker.

"Private practice" means social work practice conducted only by an LISW who is either self-employed or a member of a partnership or of a group practice providing diagnosis and treatment of mental and emotional disorders or conditions. In this context, "group practice" means an association of professionals in which an LISW is independently engaged in the practice of social work and has ongoing control of the clinical, financial, administrative, and professional arrangements between the LISW and the clients/patients of the LISW.

645—279.2(154C) Organization and proceedings.

279.2(1) The board shall consist of a total of seven members, five who are licensed to practice social work, with at least one from each of the three levels of licensure described in Iowa Code section 154C.3, subsection 1, two employed by a licensee under Iowa Code chapter 237, and two who are not licensed social workers and who shall represent the general public. A quorum shall consist of four members of the board.

279.2(2) A chairperson, vice chairperson, and secretary to the board, and delegate and alternate delegate to the Association of Social Work Boards (ASWB), shall be elected at the first meeting after April 30 of each year.

279.2(3) The board shall hold an annual meeting and at least three interim meetings and may hold additional meetings called by the chairperson or by a majority of the board's 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 Rules of Order, Revised, at its meetings whenever any objection is made as to the manner in which it proceeds at a meeting.

645—279.3(154C) Availability of information.

279.3(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.

279.3(2) Information may be obtained by writing to the Board of Social Work 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 at this address.

645—279.4(154C) Provision of services. The provision of social work services to an individual in this state through telephonic, electronic or other means, regardless of the location of the social worker, shall constitute the practice of social work and shall be subject to regulation in Iowa.

645—279.5(154C) Name change. A licensee shall submit an original or certified copy of the marriage license or name change.

These rules are intended to implement Iowa Code chapter 154C.

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CHAPTER 280
LICENSURE OF SOCIAL WORKERS

645—280.1(154C) Definitions. For purposes of these rules, the following definitions shall apply:

"ASWB" means the Association of Social Work Boards.

"Board" means the board of social work examiners.

"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 for renewal within a stated time.

"LBSW" means licensed bachelor social worker.

"Licensee" means any person licensed to practice as a social worker in the state of Iowa.

"License expiration date" means December 31 of even-numbered years.

"Licensure by endorsement" means the issuance of an Iowa license to practice social work to an applicant who is currently licensed in another state.

"LISW" means licensed independent social worker.

"LMSW" means licensed master social worker.

"Reciprocal license" means the issuance of an Iowa license to practice social work to an applicant who is currently licensed in another state and that state's board of examiners has a mutual written agreement with the Iowa board of social work examiners to license persons who have the same or similar qualifications to those required in Iowa.

645—280.2(154C) Requirements for licensure. The following criteria shall apply to licensure:

280.2(1) The applicant shall complete a board-approved application packet. Application forms may be obtained from the board's Web site (http://www.idph.state.ia.us/licensure) or directly from the board office. All applications shall be sent to Board of Social Work Examiners, Professional Licensure Division, Fifth Floor, Lucas State Office Building, Des Moines, Iowa 50319-0075.

280.2(2) The applicant shall complete the application form according to the instructions contained in the application. If the application is not completed according to the instructions, the application will not be reviewed by the board.

280.2(3) Each application shall be accompanied by the appropriate fees payable by check or money order to the Board of Social Work Examiners. The fees are nonrefundable.

280.2(4) No application shall be considered by the board until official copies of academic transcripts have been received by the board except as provided in 280.3(6).

280.2(5) The candidate shall take the examination(s) required by the board pursuant to these rules.

280.2(6) An applicant for a license as an independent social worker shall have met the requirements for supervision pursuant to 280.5(154C).

280.2(7) Each social worker who seeks to attain licensure as an independent social worker shall have been granted a master's or doctoral degree in social work and practiced at that level.

280.2(8) Notification of licensure shall be sent to the licensee by regular mail.

280.2(9) Licensees who were issued their initial licenses within six months prior to the renewal shall not be required to renew their licenses until the renewal date two years later.

280.2(10) Incomplete applications that have been on file in the board office for more than two years shall be:

a. Considered invalid and shall be destroyed; or

b. Maintained upon written request of the candidate. The candidate is responsible for requesting that the file be maintained.

645—280.3(154C) Written examination.

280.3(1) The applicant is required to take and pass the ASWB examination at the appropriate level as follows:

a. Bachelor level social worker—the basic level examination.

b. Master level social worker—the intermediate level examination.

c. Independent level social worker—the clinical level examination.

280.3(2) The electronic examination shall be scheduled with ASWB.

280.3(3) Application for any required examination will be denied or deferred by the board if the applicant lacks the required education or practice experience.

280.3(4) The applicant and the board shall be notified of the ASWB examination results, and the applicant may receive the results at the time of the examination. The board will accept only official results from the ASWB examination service that are sent directly from the examination service to the board.

280.3(5) The ASWB passing score will be utilized as the Iowa passing score.

280.3(6) An applicant may sit for the examination if the applicant meets the requirements stated in 645—280.2(154C). Upon written request of the applicant, the board may authorize a student to sit for the examination prior to the receipt of the official transcript if the student is in the last semester of an approved master of social work program. The student shall submit an application for licensure at the master's level and the fee, and, in lieu of a transcript, the student shall request that the school submit a letter directly to the board office. The letter shall state that the student is currently enrolled in a master of social work program and the student's expected date of graduation. Upon completion of degree requirements, the applicant shall have the transcript showing the date of the degree sent directly from the school to the board office at the Board of Social Work Examiners, Professional Licensure Division, Fifth Floor, Lucas State Office Building, Des Moines, Iowa 50319-0075.

645—280.4(154C) Educational qualifications.

280.4(1) Bachelor level social worker. An applicant for a license as a bachelor level social worker shall present evidence satisfactory to the board that the applicant possesses a bachelor's degree in social work from a college or university accredited by the Council on Social Work Education at the time of graduation.

280.4(2) Master level social worker. An applicant for a license as a master level social worker shall present evidence satisfactory to the board that the applicant:

a. Possesses a master's degree in social work from a college or university accredited by the Council on Social Work Education at the time of graduation; or

b. Possesses a doctoral degree in social work from a college or university approved by the board at the time of graduation.

280.4(3) Independent level social worker. An applicant for a license as an independent level social worker shall present evidence satisfactory to the board that the applicant:

a. Possesses a master's degree in social work from a college or university accredited by the Council on Social Work Education at the time of graduation; or

b. Possesses a doctoral degree in social work from a college or university approved by the board at the time of graduation.

280.4(4) Foreign-trained social workers shall:

a. Provide an equivalency evaluation of their educational credentials by International Educational Research Foundations, Inc., Credentials Evaluation Service, P.O. Box 3665, Culver City, California 90231-3665, telephone (310) 258-9451, Web site www.ierf.org or E-mail at info@ierf.org; or obtain a certificate of equivalency from the Council on Social Work Education, 1725 Duke Street, Suite 500, Alexandria, Virginia 22314-3457, telephone (703)683-8080, Web site http://www.cswe.org. The professional curriculum must be equivalent to that stated in these rules. The candidate shall bear the expense of the curriculum evaluation.

b. Provide a notarized copy of the certificate or diploma awarded to the applicant from a social work program in the country in which the applicant was educated.

c. Receive a final determination from the board regarding the application for licensure.

645—280.5(154C) Supervised professional practice for the LISW.

280.5(1) The supervised professional practice shall:

a. Be the equivalent of two years of full-time practice; or

b. Be 4,000 hours of post-master's social work degree experience over a minimum two-year and maximum six-year period;

c. Have at least 110 hours of supervision which shall be equitably distributed throughout a minimum of a two-year period; and

d. Be obtained in the following manner:

(1) Face-to-face meetings between the supervisor and the supervisee unless the board has granted an exception allowing for an alternate form of supervision, upon written request of the applicant.

(2) Group supervision obtained using the following criteria:

1. No more than 60 hours of the 110 hours of supervision may be provided in group supervision;
2. Group supervision may be composed of no more than six supervisees per group.

280.5(2) The board maintains the authority to grant waivers relevant to the time parameters of the supervised professional practice upon written request of the applicant.

280.5(3) To meet the requirements of the supervised professional practice, the supervisor must:

a. Be an Iowa-licensed independent social worker as specified in rule 280.2(154C). An individual licensed in another state and providing supervision for an Iowa LISW candidate must be licensed at a level equivalent to Iowa's LISW level.

b. Have a minimum of 2,000 hours of practice earned over a period of two years of practice beyond receipt of a license to practice independent social work in Iowa or the equivalent license from another state.

c. Establish and maintain a plan throughout the supervisory period. Such a plan must be kept by the supervisor for a period of two years and must be submitted to the board upon its request for audit within 30 days from receipt of the request. The plan for supervision shall include:

(1) The name, license number, date of licensure, address and telephone number of supervisor;

(2) The name, license number, address and telephone number of supervisee;

(3) The beginning date of clinical work experience under supervision and estimated date of completion;

(4) A plan for direct supervision hours, including frequency of supervisor/supervisee's face-to-face meetings;

(5) A plan for any group supervision;

(6) The goals and objectives for the clinical work experience; and

(7) The signatures of the supervisor and supervisee, and the dates of signatures.

d. Be responsible for supervision within the following content areas:

(1) Practice skills;

(2) Practice management skills;

(3) Skills required for continuing competence;
(4) Development of professional identity; and
(5) Ethical practice.
e. Be accountable for the following areas of supervision:
(1) Area of social work practice;
(2) Agency providing services;
(3) Legal and regulatory requirements;
(4) Ethical standards of the profession; and
(5) Acceptance of professional responsibility for the social work services provided by the supervisee.
f. Complete a supervision report sheet at the end of the supervised professional experience. This sheet shall be answered in full and signed by both the supervisor and supervisee. This report shall be submitted to the board for review and approval prior to the board's approval of the supervisee to sit for the clinical-level examination.
g. Exceptions to this rule shall be made on an individual basis. Requests for alternative supervisors must be submitted in writing, and the board must approve the supervisor prior to commencement of the supervision.
280.5(4) To meet the requirements of the supervised professional practice, the supervisee shall:
a. Obtain a written release of information for protection of client confidentiality pursuant to 645—Chapter 282, if the supervisor and supervisee are not employed by the same agency.
b. Have the following documentation for supervision of independent practice:
(1) The plan for supervision that was created at the beginning of the period of supervision and that was maintained by the supervisor. If there has been a change of supervisors, the LISW candidate has the responsibility to have a termination evaluation completed by that supervisor and to have the copy submitted to the next supervisor. All termination evaluations shall be submitted to the board with the final supervision report sheet. The supervision provided by all qualified supervisors that have a plan of supervision with the applicant can be counted toward meeting the criteria for supervision.
(2) At the end of supervision, the supervisee shall have any and all supervisors complete a supervision report sheet provided by the board of social work examiners. This report shall be answered in full and signed by both the supervisor and supervisee. This report shall be submitted to the board for review and approval prior to the board's approval of the supervisee to sit for the clinical-level examination.

645—280.6(154C) Licensure by endorsement. An applicant who has been a licensed social worker under the laws of another jurisdiction shall file an application for licensure by endorsement with the board office. The board may receive by endorsement any applicant from the District of Columbia, another state, territory, province or foreign country who:
1. Submits to the board a completed application;
2. Pays the licensure fee;
3. Shows evidence of licensure requirements that are similar to those required in Iowa;
4. Provides official copies of the academic transcripts;
5. Provides official copies of the examination score sent directly from the ASWB; and
6. Provides verification of licenses from other states that have been sent directly from those states to the board office.

645—280.7(154C) Licensure by reciprocal agreement. The board may enter into a reciprocal agreement with the District of Columbia, any state, territory, province or foreign country with equal or similar requirements for licensure of social workers.

645—280.8(154C) License renewal.

280.8(1) The biennial license renewal period for a license to practice social work shall begin on January 1 of odd-numbered years and end on December 31 of the next even-numbered year. All licensees shall renew on a biennial basis.

280.8(2) A renewal of license to practice social work application and continuing education report form 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 the biennial renewal fee on or before the renewal date.

a. The licensee shall submit the completed application and continuing education report form with the renewal fee to the board office before the license expiration date.

b. Individuals who were issued their initial licenses within six months of the license renewal date will not be required to renew their licenses until the next renewal two years later.

c. 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 27 hours of continuing education per biennium for each subsequent license renewal.

d. Persons licensed to practice social work shall keep their renewal licenses displayed in a conspicuous public place at the primary site of practice.

280.8(3) Late renewal. If the renewal fee, continuing education report and renewal application are received within 30 days after the license expiration date, the late fee for failure to renew before expiration is charged.

280.8(4) When all requirements for license renewal are met, the licensee shall be sent a license renewal card by regular mail.

645—280.9(272C) Exemptions for inactive practitioners.

280.9(1) A licensee who is not engaged in practice in the state of Iowa may be granted a waiver of compliance and obtain a certificate of exemption upon written application to the board. For an LMSW or an LISW, the application shall contain a statement that the applicant will not engage in practice in the state of Iowa without first complying with all regulations governing reinstatement after exemption. For an LBSW, the application shall contain a statement that the applicant shall not hold the applicant out to be a licensed social worker. The application for a certificate of exemption shall be submitted upon the form provided by the board. A licensee must hold a current license to apply for exempt status. The licensee may apply for inactive status prior to the license expiration date.

280.9(2) Reinstatement of exempted, inactive practitioners. Inactive practitioners who have requested and been granted a waiver of compliance with the renewal requirements and who have obtained a certificate of exemption shall, prior to engaging in the practice of the profession in Iowa, satisfy the requirements for reinstatement as outlined in 645—281.10(154C,272C).

280.9(3) Licensees shall renew at the next scheduled renewal cycle. Licensees who were issued their reinstated licenses within six months prior to the renewal shall not be required to renew their licenses until the renewal date two years later.

280.9(4) Verifications of license(s) are required from any state in which the licensee has practiced since the Iowa license became inactive.

280.9(5) A new licensee who is on inactive status during the initial license renewal time period and reinstates before the first license expiration date will not be required to complete continuing education only for that first license renewal time period. Twenty-seven hours of continuing education will be required for every renewal thereafter.

280.9(6) Reinstatement of inactive license after exemption. The following chart illustrates the requirements for reinstatement based on the length of time a license has been inactive.

An applicant shall satisfy the following requirements:	First renewal	2 renewals
Submit written application for reinstatement to the board	Required	Required
Pay the current renewal fee	$60-LBSW $100-LMSW $120-LISW	$60-LBSW $100-LMSW $120-LISW
Pay the reinstatement fee	$50	$50
Successfully complete continuing education which includes three hours of social work ethics each biennium OR Successfully complete board-approved examination as deemed necessary by the board within one year prior to application	27 hours Board-approved examination	54 hours Board-approved examination
Total fees and continuing education hours required for reinstatement:	27 hours and $110-LBSW $150-LMSW $170-LISW	54 hours and $110-LBSW $150-LMSW $170-LISW

645—280.10(272C) Lapsed licenses.

280.10(1) If the renewal fee and continuing education report are received more than 30 days after the license expiration date, the license shall be lapsed. An application for reinstatement must be filed with the board accompanied by the reinstatement fee, the renewal fee(s) for each biennium the license is lapsed and the late fee for failure to renew before expiration. The licensee may be subject to an audit of the licensee's continuing education report.

280.10(2) Licensees who have not fulfilled the requirements for license renewal or for an exemption in the required time frame will have a lapsed license and shall not engage in the practice of social work. Practicing without a license may be cause for disciplinary action.

280.10(3) In order to reinstate a lapsed license, licensees shall comply with all requirements for reinstatement of a lapsed license as outlined in 645—281.6(154C).

280.10(4) After the reinstatement of the lapsed license, the licensee shall renew at the next scheduled renewal cycle and complete the continuing education required for the biennium.

280.10(5) Verifications of license(s) are required from any state in which the licensee has practiced since the Iowa license lapsed.

280.10(6) Reinstatement of a lapsed license. The following chart illustrates the requirements for reinstatement based on the length of time a license has lapsed.

An applicant shall satisfy the following requirements:	30 days after expiration date up to 1 renewal	2 renewals	3 renewals	4 renewals
Submit written application for reinstatement	Required	Required	Required	Required
Pay renewal fee(s)	$60-LBSW $100-LMSW $120-LISW	$120-LBSW $200-LMSW $240-LISW	$180-LBSW $300-LMSW $360-LISW	$240-LBSW $400-LMSW $480-LISW
Pay late fee	$50	$50	$50	$50
Pay the reinstatement fee	$50	$50	$50	$50
Satisfactorily complete continuing education requirements during the period since the license lapsed	27 hours	54 hours	81 hours	108 hours
Successfully pass the board-approved licensure examination	NA	NA	Required	Required
Total fees and continuing education hours required for reinstatement:	27 hours and $160-LBSW $200-LMSW $220-LISW	54 hours and $220-LBSW $300-LMSW $340-LISW	81 hours and $280-LBSW $400-LMSW $460-LISW	108 hours and $340-LBSW $500-LMSW $580-LISW

645—280.11(17A,147,272C) License denial.

280.11(1) An applicant who has been denied licensure by the board may appeal the denial and request a hearing on the issues related to the licensure denial by serving a notice of appeal and request for hearing upon the board not more than 30 days following the date of mailing of the notification of licensure denial to the applicant. The request for hearing as outlined in these rules shall specifically describe the facts to be contested and determined at the hearing.

280.11(2) If an applicant who has been denied licensure by the board appeals the licensure denial and requests a hearing pursuant to this rule, the hearing and subsequent procedures shall be held pursuant to the process outlined in Iowa Code chapters 17A and 272C.

These rules are intended to implement Iowa Code chapters 17A, 147, 154C and 272C.

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CHAPTER 281
CONTINUING EDUCATION FOR SOCIAL WORKERS

645—281.1(154C) 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 social work 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 social work 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 social worker in the state of Iowa.

"Self-study course" means a form of systematic learning performed at a licensee's residence, office, or other private location including, but not limited to, viewing of videotapes, participating in studies electronically transmitted from another location, or participating in self-assessment testing (open book tests that are completed by the licensee, submitted to the provider, graded, and returned to the licensee with correct answers and an explanation of why the answer chosen by the provider was the correct answer).

645—281.2(154C) Continuing education requirements.

281.2(1) The biennial continuing education compliance period shall extend for a two-year period beginning on January 1 of each odd-numbered year and ending on December 31 of the next even-numbered year. (To implement this rule change, the continuing education period for the December 31, 2000, renewal will run from July 1, 1998, to December 31, 2000.) Each biennium, each person who is licensed to practice as a licensee in this state shall be required to complete a minimum of 27 hours of continuing education approved by the board.

281.2(2) Requirements of new licensees. Those persons licensed for the first time during the license renewal period 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 renewal may be used. The new licensee will be required to complete a minimum of 27 hours of continuing education per biennium for each subsequent license renewal.

281.2(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 or otherwise meet the requirements herein and be approved by the board pursuant to statutory provisions and the rules that implement them.

281.2(4) No hours of continuing education shall be carried over into the next biennium except as stated for the second renewal.

281.2(5) It is the responsibility of each licensee to finance the cost of continuing education.

281.2(6) The licensee shall maintain a personal file with all documentation of the continuing education credits obtained.

645—281.3(154C) Standards for approval.

281.3(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;

e. Provides proof of attendance to licensees in attendance including:

(1) Date, 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; and

f. Contains one of the following content areas:

(1) Human behavior.

1. Theories and concepts of the development of human behavior in the life cycle of individuals, families and the social environment;
2. Community and organizational theories;
3. Normal, abnormal and addictive behaviors;
4. Abuse and neglect; and
5. Effects of culture, race, ethnicity, sexual orientation and gender.

(2) Assessment and treatment.

1. Psychosocial assessment/interview;
2. Utilization of the DSM-IV TR;
3. Theoretical approaches and models of practice—individual, couple, and family therapy and group psychotherapy;
4. Establishing treatment goals and monitoring progress;
5. Techniques of social work practice; and
6. Interdisciplinary consultation and collaboration.

(3) Social work research, program evaluation, or practice evaluation.

(4) Management, administration, and social policy.

1. Organizational policies and procedures;
2. Advocacy and prevention in social work practice;
3. Management of social work staff and other personnel; and
4. Management of social work programs.

(5) Theories and concepts of social work education.

(6) Social work ethics as they pertain to the rules of conduct.

(7) An area, as demonstrated by the licensee, that directly relates to the licensee's individual practice as a social worker. The licensee shall submit for consideration by the board a specific explanation of how the program relates to the licensee's individual practice setting as a social worker.

281.3(2) *Specific criteria.* Continuing education hours of credit can be obtained by completing:

a. A minimum of three hours per biennium in social work ethics.

b. A maximum of 12 hours per biennium for self-study courses.

c. Academic coursework that meets the criteria set forth in the rules. Continuing education equivalents are as follows:

1 academic semester hour = 15 continuing education hours

1 academic quarter hour = 10 continuing education hours

d. Self-study courses that have a mentor and prior approval as defined in the rules and are accompanied by a brief paper authored by the licensee demonstrating application of the learning objectives to practice issues.

e. Programs designed for the purpose of enhancing the licensee's administrative, management or other clinical skills.

f. A program or course which is offered or sponsored by an approved continuing education sponsor.

g. Activities/programs that are sponsored/approved by ASWB Approved Continuing Education (ACE) program.

h. Pro-bono/volunteer work that meets the following criteria:

(1) A licensee may earn a maximum of 3 of the required 27 hours of continuing education for credit during one biennium by performing pro-bono/volunteer services for indigent, underserved populations, or in areas of critical need within the state of Iowa. Such services must be approved in advance by the board.

(2) A licensee shall make application for prior approval of pro-bono/volunteer services by sending a letter to the board indicating that the following requirements will be met:

1. The site for these services is identified including information about the clients, the services that will be offered, how they will be performed and the learning objectives.

2. A contract will be established between licensee and client(s), and each party will be aware that the services are being provided without charge.

3. The services will be subject to all the legal responsibilities and obligations related to the licensee's profession.

4. The licensee will keep records and files of these client services pursuant to the rules of 645—Chapter 280.

5. A representative from the site for pro-bono/volunteer services must provide a letter stating that these services are to be performed by the licensee.

6. Upon review, the licensee will receive a letter from the board indicating prior approval for these pro-bono/volunteer services that will be done for continuing education credit.

7. Following completion of such services:

- The licensee must provide the board a letter stating that the services were performed as planned.
- The representative on the site must provide a letter indicating such completion.

i. Instruction of a course at an approved college, university or graduate school of social work. A licensee may receive credit on a one-time basis not to exceed three hours of continuing education credit per biennium.

j. Instruction/presentation/moderation of continuing education programs. A licensee may receive credit on a one-time basis, not to exceed three hours of continuing education credit per biennium, for programs at which the licensee is actually in attendance for the complete program provided the licensee receives a certificate of attendance in compliance with this rule.

k. Authorship of papers, publications or books and preparation of presentations and exhibits. A presentation must be made before a professional audience. Presentations may receive credit on a one-time basis for the article, publication, book or the preparation of a presentation or exhibit, not to exceed three hours of continuing education credit per biennium.

645—281.4(154C) Approval of sponsors, programs, and activities for continuing education.

281.4(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, 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. An 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 instruction.

d. All approved sponsors shall maintain a copy of the following:

(1) The continuing education activity;

(2) A 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.

281.4(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 accreditation 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.

281.4(3) *Review of programs.* Continuing education programs/activities shall be reported every year at the designated time as assigned 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).

281.4(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.

281.4(5) *Voluntary relinquishment.* The approved sponsor may voluntarily relinquish sponsorship by notifying the board office in writing.

645—281.5(154C) 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.

281.5(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.

281.5(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; and

(3) Indication of 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—281.6(154C) 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 a 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;
3. Pays the late fee which has been assessed by the board for failure to renew;
4. Pays the reinstatement fee; 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 27 (which includes three hours of social work ethics) by the number of bienniums since the license lapsed.
6. If the license has lapsed for more than two bienniums, the applicant shall successfully pass the board-approved licensure examination.

645—281.7(154C,272C) Continuing education waiver for active practitioners. A social worker licensed to practice social work 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 social worker.

645—281.8(154C,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 an 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—281.9(154C,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 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—281.10(154C,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 social work in the state of Iowa, satisfy the following requirements for reinstatement.

281.10(1) Submit written application for reinstatement to the board upon forms provided by the board;

281.10(2) Pay the reinstatement fee;

281.10(3) Pay the current renewal fee; and

281.10(4) Furnish in the application evidence of one of the following:

a. Completion of a total number of hours of approved continuing education computed by multiplying 27 (which includes three hours of social work ethics) by the number of bienniums a certificate of exemption shall be in effect for such applicant to a maximum of two bienniums; or

b. Successful completion of any or all parts of the board-approved licensure examination as deemed necessary by the board, successfully completed within one year immediately prior to the submission of such application for reinstatement.

645—281.11(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 154C.

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[Filed 8/30/01, Notice 6/13/01—published 9/19/01, effective 10/24/01]◊

◊Two ARCs

*Effective date of 281.3(1) delayed 70 days by the Administrative Rules Review Committee at its meeting held February 9, 2001.

CHAPTER 282
DISCIPLINE FOR SOCIAL WORKERS

[Prior to 9/19/01, see 645—Chapter 280]

645—282.1(272C) Grounds for discipline. The board may impose any of the disciplinary sanctions provided 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 any of the following acts or offenses:

282.1(1) Fraud in procuring a license.

282.1(2) Professional incompetency.

282.1(3) Knowingly making misleading, deceptive, untrue or fraudulent representations in the practice of the profession or engaging in unethical conduct or practice harmful or detrimental to the public. Proof of actual injury need not be established.

282.1(4) Habitual intoxication or addiction to the use of drugs.

282.1(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 the profession. A copy of the record of conviction or plea of guilty shall be conclusive evidence.

282.1(6) Fraud in representations as to skill or ability.

282.1(7) Use of untruthful or improbable statements in advertisements.

282.1(8) Willful or repeated violations of the provisions of Iowa Code chapter 147.

282.1(9) Violation of rules promulgated by the board including the rules of conduct set out in rule 282.2(154C).

282.1(10) 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.

282.1(11) Holding oneself out as a licensed social worker when the license has been suspended or revoked.

282.1(12) Revocation, suspension, or other disciplinary action taken by a licensing authority of another state, territory, or country; or failure by the licensee to report in writing to the Iowa board of social work examiners revocation, suspension, or other disciplinary action taken by a licensing authority of another state, territory, or country.

282.1(13) 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.

282.1(14) Prohibited acts consisting of the following:

a. Permitting another person to use the license for any purpose.

b. Practice outside the scope of a license.

c. Obtaining, possessing, or attempting to obtain or possess a controlled substance without lawful authority; or selling, prescribing, giving away, or administering controlled substances.

d. Verbally or physically abusing clients.

e. Any sexual intimidation or sexual relationship between a social worker and a client.

282.1(15) Unethical business practices, consisting of any of the following:

a. False or misleading advertising.

b. Betrayal of a professional confidence.

c. Falsifying clients' records.

282.1(16) Failure to report a change of name or address within 30 days after it occurs.

282.1(17) Falsification of continuing education records.

282.1(18) Failure to notify the board within 30 days after occurrence of any judgment or settlement of malpractice claim or action.

282.1(19) Failure to comply with a subpoena issued by the board.

282.1(20) Failure to report to the board any violation by another licensee of the reasons for disciplinary action as listed in this rule.

645—282.2(154C) Rules of conduct.

282.2(1) *Misrepresentations, disclosure.* A licensee shall not:

a. Knowingly make a materially false statement, or fail to disclose a relevant material letter of reference, application, referral, report or other document.

b. Knowingly allow another person to use the licensee's license or credentials.

c. Knowingly aid or abet a person who is misrepresenting professional credentials or competencies.

d. Impersonate another person or organizational affiliation in the licensee's professional practice.

e. Further the application or make a recommendation for professional licensure of another person who is known by the licensee to be unqualified in respect to character, education, experience, or other relevant attributes.

f. Fail to notify the appropriate licensing authority of any human service professional who is practicing or teaching in violation of the laws or rules governing that person's professional discipline.

g. Engage in professional activities, including advertising, involving dishonesty, fraud, deceit, or misrepresentation.

h. Advertise services in a false or misleading manner or fail to indicate in the advertisement the name, the highest relevant degree and licensure status of the provider of services.

i. Fail to distinguish, or purposely mislead the reader/listener in public announcements, addresses, letters and reports, as to whether the statements are made as a private individual or whether they are made on behalf of an employer or organization.

j. Direct solicitation of potential clients/patients for pecuniary gain in a manner or in circumstances which constitute overreacting, undue influence, misrepresentation or invasion of privacy.

k. Misrepresent professional competency by performing, or offering to perform, services clearly inconsistent with training, education, and experience.

l. Fail to advise and explain to each client/patient or potential client/patient the joint rights, responsibilities and duties involved in the professional relationship.

m. Fail to provide each client/patient with a description of what the client/patient may expect in the way of tests, consultation, reports, fees, billing, therapeutic regimen, or schedule.

n. Fail to provide each client/patient with a description of possible effects of proposed treatment when there are clear and established risks to the client/patient.

o. Fail to inform each client/patient of any financial interests that might accrue to the licensee for referral to any other person or organization, or for the use of tests, books, or apparatus.

p. Fail to inform each client/patient that the client/patient may be entitled to the same services from a public agency, if the licensee is employed by that public agency and also offers services privately.

q. Fail to inform each client/patient of the limits of confidentiality, the purposes for which the information is obtained, and how it may be used.

r. Make claims of professional superiority which cannot be substantiated by the licensee.

s. Guarantee that satisfaction or a cure will result from the performance of professional services.

t. Claim or use any secret or special method of treatment or techniques which the licensee refuses to divulge to professional colleagues.

u. Take credit for work not personally performed whether by giving inaccurate information or failing to give accurate information.

282.2(2) *Confidentiality.* A licensee shall not:

a. Reveal a confidence or a secret of any client/patient, except:

(1) As required by law;

(2) After obtaining consent of the client/patient following full disclosure of the information to be revealed and the persons to whom the information will be revealed; or

(3) If necessary, to defend the licensee or the licensee's employees or associates against an accusation of wrongful conduct made by that client/patient.

b. Use a confidence or secret of any client/patient to the client/patient's disadvantage.

c. Use a confidence or secret of any client/patient for the advantage of the licensee or a third person without obtaining the client/patient's consent, after full disclosure of the purpose.

d. Fail to obtain written, informed consent from each client/patient or the client/patient's legal representative or representatives before electronically recording sessions with that client/patient, before permitting a third-party observation of the licensee and client/patient's activities, or before releasing information to a third party concerning a client/patient.

e. When providing any client/patient with access to that client/patient's records, fail to protect the confidences of other persons that may be recorded in that record.

f. Fail to exercise due diligence in protecting the confidences and secrets of the client/patient from disclosure by fellow employees and associates, or by other persons whose services are utilized by the licensee.

g. Fail to maintain the confidences shared by colleagues in the course of professional relationships and transactions with those colleagues.

282.2(3) *Integrity, propriety, objectivity.* A licensee shall not:

a. Make sexual advances toward, or engage in physical intimacies or sexual activities with, any client/patient or student of the licensee.

b. Continue in a professional relationship with a client/patient when the licensee has become emotionally involved with the client/patient to the extent that objectivity is no longer possible in providing the required professional services.

c. Practice in a professional relationship while intoxicated or under the influence of alcohol or drugs not prescribed by a licensed physician.

d. Practice in a professional relationship while experiencing a mental or physical impairment that adversely affects the ability of the licensee to perform professional duties in a competent and safe manner.

e. Perform professional services which have not been duly authorized by the client/patient or by the client/patient's legal representative or representatives.

f. Exercise undue influence on any client/patient or student, including promotion of the sales of services, goods, appliances or drugs in a manner that will exploit the client/patient or student, for the financial gain or personal gratification of the licensee or of a third party.

g. Continue to provide services or order tests, treatment, or use of treatment facilities not warranted by the condition of the client/patient.

h. Fail to terminate the professional relationship when it is apparent that the service no longer serves the needs of the client/patient.

i. When termination or interruption of service to the client/patient is anticipated, fail to notify the client/patient promptly and fail to seek continuation of service in relation to the client/patient's needs and preferences.

j. Abandon or neglect a client/patient under and in need of immediate professional care, without making reasonable arrangements for continuation of that care.

k. Physically or verbally abuse clients/patients or colleagues.

282.2(4) *Research.* If engaged in research, a licensee shall:

a. Consider carefully the possible consequences for human beings participating in the research.

b. Protect each participant from unwarranted physical and mental harm.

c. Ensure that the consent of the participant is voluntary and informed.

d. Treat information obtained as confidential.

e. Not knowingly report distorted, erroneous, or misleading information.

282.2(5) *Organization relationships.* A licensee shall not:

a. Directly or indirectly offer, give, solicit, receive, or agree to receive any fee or other consideration to or from a third party for the referral of the client/patient or in connection with the performance of professional services.

b. Permit any person to share in the fees for professional services, other than a partner, employee, an associate in a professional firm, or a consultant to the licensee.

c. Solicit the clients/patients of colleagues or assume professional responsibility for clients/patients of another agency or colleague without appropriate communication with that agency or colleague.

d. Abandon an agency, organization, institution, or a group practice without reasonable notice or under circumstances which seriously impair the delivery of professional care to clients/patients.

e. Fail to maintain a record for each client/patient which accurately reflects the client/patient's contact with the service provider.

f. Deliberately falsify client/patient records for personal advantage.

g. Fail to submit required reports and documents in a timely fashion to the extent that the well-being of the client/patient is adversely affected.

h. Fail to exercise appropriate supervision over persons who are authorized to practice only under the supervision of the licensee.

i. Delegate professional responsibilities to a person when the licensee knows, or has reason to know, that the person is not qualified by training, education, experience, or classification to perform the requested duties.

282.2(6) *General.* A licensee shall not:

a. Practice without receiving supervision as needed, given the licensee's level of practice, experience, and need.

b. Perform services in an incompetent manner.

c. Practice a professional discipline without an appropriate license or after expiration of the required license.

d. Practice, condone, or facilitate any form of discrimination on the basis of sex, race, color, sexual orientation, age, religion, national origin, marital status, political belief, mental or physical disability, or any other preference or personal characteristic, condition or status.

e. Make sexually harassing actions, comments, threats or enticements to clients/patients, colleagues or employees.

These rules are intended to implement Iowa Code sections 147.76, 147.55(3), 272C.4 and 272C.10.

[Filed 8/30/01, Notice 6/13/01—published 9/19/01, effective 10/24/01]

CHAPTER 283
FEES
[Prior to 9/19/01, see 645—Chapter 280]

645—283.1(147,154C) License fees. All fees are nonrefundable.

283.1(1) Licensure fee for license to practice social work is $100.

283.1(2) Biennial license renewal fee for a license at the bachelor's level is $60 each biennium; for the master's level, $100 each biennium; and independent level, $120 each biennium.

283.1(3) Late fee for failure to renew before expiration is $50.

283.1(4) Reinstatement fee for a lapsed license or an inactive license is $50.

283.1(5) Duplicate license fee is $10.

283.1(6) Verification of license fee is $10.

283.1(7) Returned check fee is $15.

283.1(8) Disciplinary hearing fee is a maximum of $75.

This rule is intended to implement Iowa Code section 147.8 and chapters 17A, 154C and 272C.

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CHAPTER 284
CHILD SUPPORT NONCOMPLIANCE
Rescinded IAB 6/16/99, effective 7/21/99*

CHAPTER 285
IMPAIRED PRACTITIONER REVIEW COMMITTEE
Rescinded IAB 6/16/99, effective 7/21/99*

CHAPTERS 286 to 288
Reserved

CHAPTER 289
PUBLIC RECORDS AND FAIR INFORMATION PRACTICES
Rescinded IAB 6/16/99, effective 7/21/99*

CHAPTERS 290 to 298
Reserved

*Effective date of ARC 9102A delayed 70 days by the Administrative Rules Review Committee at its meeting held July 13, 1999; delay lifted at the meeting held August 3, 1999, effective August 4, 1999.

SPEECH PATHOLOGISTS AND AUDIOLOGISTS

CHAPTER 299
BOARD OF SPEECH PATHOLOGY AND AUDIOLOGY EXAMINERS

[Prior to 8/24/88, see Health Department[470] Ch 155]
[Prior to 9/19/01, see 645—Chapter 300]

645—299.1(147) General definitions.

"Audiologist" means a person who engages in the application of principles, methods and procedures for measurement, testing, evaluation, prediction, consultation, counseling, instruction, habilitation, rehabilitation, or remediation related to disorders of hearing and associated communication disorders for the purpose of nonmedically evaluating, identifying, preventing, ameliorating, modifying, or remediating such disorders and conditions in individuals or groups of individuals, including the determination and use of appropriate amplification.

"Board" means the board of speech pathology and audiology examiners.

"Department" means the department of public health.

"Speech pathologist" means a person who engages in the application of principles, methods, and procedures for the measurement, testing, evaluation, prediction, consultation, counseling, instruction, habilitation, rehabilitation, or remediation related to the development and disorders of speech, fluency, voice, or language for the purposes of nonmedically evaluating, preventing, ameliorating, modifying, or remediating such disorders and conditions in individuals or groups of individuals.

645—299.2(147) Availability of information.

299.2(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.

299.2(2) Information may be obtained by writing to the Board of Speech Pathology and Audiology 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 at this address.

645—299.3(147) Organization and proceedings.

299.3(1) *Chairperson.* The chairperson of the board shall:

a. Be selected by the members of the board.

b. Preside at all meetings of the board and conduct the meeting following Robert's Rules of Order.

c. Appoint committees as is deemed necessary to study issues.

299.3(2) *Vice-chairperson.* The vice-chairperson of the board shall:

a. Be selected by the members of the board.

b. Act in capacity of chairperson in the absence of that officer.

299.3(3) *Secretary.* The secretary of the board shall:

a. Be selected by the members of the board.

b. Act in capacity of chairperson in the absence of officers representing the chairperson and vice-chairperson.

c. Keep an accurate and complete record of all transactions of the board.

299.3(4) *Quorum.* Four members of the seven-member board shall represent a quorum. Business shall not be conducted in the absence of a quorum.

645—299.4(147) General.

299.4(1) All material sent to the board for review must be submitted at least two weeks before a regularly scheduled meeting. Materials received after this time will be reviewed at the next regularly scheduled meeting of the board.

299.4(2) For those persons conducting hearing tests under the direct supervision of a licensed physician and surgeon or licensed osteopathic physician and surgeon functioning under Iowa Code section 147.152(1), "direct supervision" means the physician must order the hearing test performed on each individual patient and maintain control over the reading of the results. The person working under direct supervision of a physician must be able to show that the person did so at the direction of the physician and did nothing more than perform the hearing test. Direct supervision by a physician means the person conducting the hearing test does so in the usual location in which the physician performs medical services and sees patients. The physician must be readily available to respond to a request by a patient or the person conducting the hearing test.

These rules are intended to implement Iowa Code chapters 147 and 272C.

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CHAPTER 300
LICENSURE OF SPEECH PATHOLOGISTS AND AUDIOLOGISTS

645—300.1(147) Definitions. For purposes of these rules, the following definitions shall apply:

"ASHA" means the American Speech-Language Hearing Association.

"Assistant" means a person who works under the supervision of an Iowa-licensed speech pathologist or audiologist, does not meet the requirements to be licensed as a speech pathologist or audiologist, and meets the minimum requirements set forth in these rules.

"Board" means the board of speech pathology and audiology examiners.

"Full-time" means a minimum of 30 hours per week.

"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 for renewal within a stated time.

"Licensee" means any person licensed to practice as a speech pathologist or audiologist in the state of Iowa.

"License expiration date" means December 31 of odd-numbered years.

"Licensure by endorsement" means the issuance of an Iowa license to practice speech pathology or audiology to an applicant who is currently licensed in another state.

"Reciprocal license" means the issuance of an Iowa license to practice speech pathology or audiology to an applicant who is currently licensed in another state which has a mutual agreement with the Iowa board of speech pathology and audiology examiners to license persons that have the same or similar qualifications to those required in Iowa.

645—300.2(147) Requirements for licensure. The following criteria shall apply to licensure:

300.2(1) The applicant shall complete a board-approved application packet. Application forms may be obtained from the board's Web site (http://www.idph.state.ia.us/licensure) or directly from the board office. All applications shall be sent to Board of Speech Pathology and Audiology Examiners, Professional Licensure Division, Fifth Floor, Lucas State Office Building, Des Moines, Iowa 50319-0075.

300.2(2) The applicant shall complete the application form according to the instructions contained in the application. If the application is not completed according to the instructions, the application will not be reviewed by the board.

300.2(3) Each application shall be accompanied by the appropriate fees payable by check or money order to the Board of Speech Pathology and Audiology Examiners. The fees are nonrefundable.

300.2(4) The application shall include:

a. Official copies of the American Speech-Language Hearing Association (ASHA) certificate of clinical competence; or

b. Submission of the following:

(1) Official copies of academic transcripts sent directly from the school to the board showing proof of possession of a master's degree or its equivalent and official verification of completion of not less than 300 hours of supervised clinical training;

(2) Verification of nine months of full-time clinical experience, or equivalent, completed after the master's degree, under the supervision of a licensed speech pathologist or audiologist; and

(3) Results of the National Teacher Examination.

300.2(5) Licensees who were issued their licenses within six months prior to the renewal shall not be required to renew their licenses until the renewal date two years later.

300.2(6) Incomplete applications that have been on file in the board office for more than two years shall be considered invalid and shall be destroyed.

645—300.3(147) Educational qualifications.

300.3(1) The applicant shall possess the following:

a. A master's degree or its equivalent from an accredited school, college or university with a major in speech pathology; or

b. A master's degree or its equivalent from an accredited school, college or university with a major in audiology.

300.3(2) Foreign-trained speech pathologists and audiologists shall:

a. Provide an equivalency evaluation of their educational credentials by one of the following: International Educational Research Foundations, Inc., Credentials Evaluation Service, P.O. Box 3665, Culver City, CA 90231-3665, telephone (310)258-9451, Web site www.ierf.org or E-mail at info@ierf.org; International Credentialing Associates, Inc., 7245 Bryan Dairy Road, Bryan Dairy Business Park II, Largo, FL 33777, telephone (727)549-8555. The professional curriculum must be equivalent to that stated in these rules. A candidate shall bear the expense of the curriculum evaluation.

b. Provide a notarized copy of the certificate or diploma awarded to the applicant from a speech pathology or audiology program in the country in which the applicant was educated.

c. Receive a final determination from the board regarding the application for licensure.

645—300.4(147) Examination requirements. The examination required by the board shall be the National Teacher Examination in speech pathology or audiology. This examination is administered by the Educational Testing Service. The applicant should contact the nearest accredited college or university for the time and place of the examination.

300.4(1) The applicant has full responsibility for making arrangements to take the National Teacher Examination in speech pathology or audiology and for bearing all expenses associated with taking the examination. The applicant also has the responsibility for having the examination scores sent directly to the board from the Educational Testing Service.

300.4(2) The board shall determine the qualifying scores for both the speech pathology and audiology examinations.

645—300.5(147) Temporary clinical license. A temporary clinical license for the purpose of obtaining clinical experience as a prerequisite for licensure is valid for one year and may be renewed one time.

300.5(1) An applicant must submit the following to the board:

a. Evidence of supervision by a speech pathologist or audiologist with an active, current Iowa license in good standing;

b. An official application form provided by the board of speech pathology and audiology examiners;

c. Official copies of transcripts sent directly from the school to the board showing proof of possession of a master's degree or its equivalent;

d. Official verification of completion of not less than 300 hours of supervised clinical training in an accredited college or university; and

e. The temporary clinical license fee.

300.5(2) The plan for clinical experience shall:

a. Include at least nine months of full-time clinical experience, or equivalent;

b. Include supervision by an Iowa-licensed speech pathologist or audiologist, as appropriate;

c. Be kept by the supervisor for two years from the last date of the clinical experience; and

d. Include a completed supervised clinical experience report form that shall be submitted to the board of speech pathology and audiology examiners upon the applicant's successful completion of the nine months of full-time clinical experience. The applicant may then apply for licensure.

645—300.6(147) Temporary permit.

300.6(1) A nonresident may apply to the board for a temporary permit to practice speech pathology or audiology:

a. For a period not to exceed three months;

b. By submitting a letter to support the need for such a permit;

c. By submitting documents to show that the applicant has substantially the same qualifications as required for licensure in Iowa;

d. By submitting the documentation prior to the date the applicant intends to begin practice; and

e. By submitting the temporary permit fee.

300.6(2) The applicant shall receive a final determination from the board regarding the application for a temporary permit.

645—300.7(147) Use of assistants. A licensee shall, in the delivery of professional services, utilize assistants only to the extent provided in these rules.

300.7(1) *Duties.*

a. *Speech pathology assistant I.* A speech pathology assistant I works with an individual for whom significant improvement is expected within a reasonable amount of time.

b. *Speech pathology assistant II.* A speech pathology assistant II works with an individual for whom maintenance of present level of communication is the goal; or for whom, based on the history and diagnosis, only slow improvement is expected.

c. *Audiology assistant I.* An audiology assistant I is more broadly trained and may be given a variety of duties depending upon the individual's training.

d. *Audiology assistant II.* An audiology assistant II is trained specifically for a single task for screening.

300.7(2) *Minimum requirements.*

a. A speech pathology assistant I or II or audiology assistant I must satisfy the following minimum requirements:

(1) Reach the age of majority;

(2) Complete a high school education, or its equivalent; and

(3) Complete one of the following:

1. A three-semester-hour (or four-quarter-hour) course in introductory speech and language pathology for speech pathology assistants or in audiology for audiology assistants from an accredited educational institution and 15 hours of instruction in the specific tasks which the assistant will be performing; or

2. A minimum training period comprised of 75 clock hours on instruction and practicum experience.

b. An audiology assistant II must satisfy the following requirements:

(1) Reach the age of majority.

(2) Complete a high school education, or its equivalent.

(3) Complete a minimum of 15 clock hours of instruction and practicum experience in the specific task which the assistant will be performing.

300.7(3) *Utilization.* Utilization of a speech pathology or audiology assistant requires that a plan be developed by the licensee desiring to utilize that assistant, consisting of the following information:

a. Documentation that the assistant meets minimum requirements;

b. A written plan of the activities and supervision that must be kept by the licensee supervising the assistant. This supervision must include direct on-site observation for a minimum of 20 percent of the assistant's direct patient care for level I speech pathology and level I audiology assistants and 10 percent for level II speech pathology assistants. Level II audiology assistants must be supervised 10 percent of the time. At least half of that time must be direct on-site observation with the other portion provided as time interpreting results;

c. A listing of the facilities where the assistant will be utilized; and

d. A statement, signed by the licensee and the assistant, that the rules pertaining to assistants have been read by both.

300.7(4) *Maximum number of assistants.* A licensee may not utilize more than three assistants unless a plan of supervision is filed and approved by the board.

300.7(5) *Supervisor responsibilities.* A licensee who utilizes an assistant shall have the following responsibilities:

a. To be legally responsible for the actions of the assistant in that assistant's performance of assigned duties with a client;

b. To make all professional decisions relating to the management of a client;

c. To ensure that the assistant is assigned only those duties and responsibilities for which the assistant has been specifically trained and is qualified to perform;

d. To ensure compliance of the assistant(s) under supervision with the provisions of these rules by providing periodic direct observation and supervision of the activities of the assistant; and

e. To submit to the board of speech pathology and audiology upon request a copy of the plan of activities and supervision for each assistant and documentation of the dates each assistant was utilized by the licensee.

645—300.8(147) Licensure by endorsement. An applicant who has been a licensed speech pathologist or audiologist under the laws of another jurisdiction shall file an application for licensure by endorsement with the board office. The board may receive by endorsement any applicant from the District of Columbia or another state, territory, province or foreign country who:

1. Submits to the board a completed application;
2. Pays the licensure fee;
3. Shows evidence of an ASHA certificate or shows evidence that the National Teacher Examination scores have been sent directly from the examination service to the board;
4. Provides official copies of the academic transcripts; and
5. Provides evidence that verification of licenses from all other states have been sent directly from those states to the board office.

645—300.9(147) Licensure by reciprocal agreement. The board may enter into a reciprocal agreement with the District of Columbia or any state, territory, province or foreign country with equal or similar requirements for licensure of speech pathologists and audiologists.

645—300.10(147) License renewal.

300.10(1) The biennial license renewal period for a license to practice speech pathology or audiology shall begin on January 1 of even-numbered years and end on December 31 of each odd-numbered year. All licensees shall renew on a biennial basis.

300.10(2) A renewal of license application and a continuing education report form to practice speech pathology or audiology 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 the biennial renewal fee(s) on or before the renewal date.

a. The licensee shall submit the completed application and the continuing education report form with the renewal fee to the board office before the license expiration date.

b. Individuals who were issued their initial licenses within six months of the license renewal date will not be required to renew their licenses until the next renewal date two years later.

c. 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.

d. Persons licensed to practice speech pathology or audiology shall keep their renewal licenses displayed in a conspicuous public place at the primary site of practice.

300.10(3) Late renewal. If the renewal fee(s), continuing education report and renewal application are received within 30 days after the license expiration date, the late fee for failure to renew before expiration is charged.

300.10(4) When all requirements for license renewal are met, the licensee shall be sent a license renewal card by regular mail.

645—300.11(272C) Exemptions for inactive practitioners.

300.11(1) A licensee who is not engaged in practice in the state of Iowa may be granted a waiver of compliance and obtain a certificate of exemption upon written application to the board. The application shall contain a statement that the applicant will not engage in practice in the state of Iowa without first complying with all regulations governing reinstatement after exemption. The application for a certificate of exemption shall be submitted upon the form provided by the board. A licensee must hold a current license to apply for exempt status. The licensee shall apply for inactive status prior to the license expiration date.

300.11(2) Reinstatement of exempted, inactive practitioners. Inactive practitioners who have requested and been granted a waiver of compliance with the renewal requirements and who have obtained a certificate of exemption shall, prior to engaging in the practice of the profession in Iowa, satisfy the requirements for reinstatement as outlined in 645—303.10(147,272C).

300.11(3) Licensees shall renew at the next scheduled renewal. Licensees whose licenses were reinstated within six months prior to the renewal shall not be required to renew their licenses until the renewal date two years later.

300.11(4) A new licensee who is on inactive status during the initial license renewal time period and reinstates before the first license expiration date will not be required to complete continuing education for that first license renewal time period only. Thirty hours of continuing education will be required for every renewal thereafter.

300.11(5) Verifications of license(s) are required from any state in which the licensee has practiced since the Iowa license became inactive.

300.11(6) Reinstatement of inactive license after exemption. The following chart illustrates the requirements for reinstatement based on the length of time a license has been considered inactive.

An applicant shall satisfy the following requirements:	1 renewal	2 renewals	3 renewals
Submit written application for reinstatement to the board	Required	Required	Required
Pay the current renewal fee	$80	$80	$80
Pay the reinstatement fee	$50	$50	$50
Furnish evidence of full-time practice in another state of the U.S. or District of Columbia and completion of continuing education	Current valid license and 30 hours	Current valid license and 60 hours	Current valid license and 90 hours
OR			
Furnish evidence of completion of continuing education	30 hours	60 hours	90 hours
OR			
Furnish evidence of successful completion of the National Teacher Examination within one year immediately prior to submission of application for reinstatement	Successful completion of examination	Successful completion of examination	Successful completion of examination
Total fees and continuing education hours required for reinstatement:	$130 and 30 hours	$130 and 60 hours	$130 and 90 hours

645—300.12(272C) Lapsed licenses.

300.12(1) If the renewal fee(s) and continuing education report are received more than 30 days after the license renewal expiration date, the license is lapsed. An application for reinstatement accompanied by the reinstatement fee, the renewal fee(s) for each biennium the license is lapsed and the late fee for failure to renew before expiration must be filed with the board. The licensee may be subject to an audit of the licensee's continuing education report.

300.12(2) Licensees who have not fulfilled the requirements for license renewal or for an exemption in the required time frame will have a lapsed license and shall not engage in the practice of speech pathology or audiology. Practicing without a license may be cause for disciplinary action.

300.12(3) In order to reinstate a lapsed license, licensees shall comply with all requirements for reinstatement as outlined in 645—303.6(147).

300.12(4) After the reinstatement of a lapsed license, the licensee shall renew at the next scheduled renewal cycle and complete the continuing education required for the biennium.

300.12(5) Verifications of license(s) are required from any state in which the licensee has practiced since the Iowa license lapsed.

300.12(6) Reinstatement of a lapsed license. The following chart illustrates the requirements for reinstatement based on the length of time a license has lapsed.

An applicant shall satisfy the following requirements:	30 days after expiration date up to 1 renewal	2 renewals	3 or more renewals
Submit written application for reinstatement	Required	Required	Required
Pay the renewal fee(s)	$80	$160	$240
Pay the late fee	$50	$50	$50
Pay the reinstatement fee	$50	$50	$50
Complete continuing education requirements during the period since the license lapsed	30 hours	60 hours	90 hours
Total fees and continuing education hours required for reinstatement:	$180 and 30 hours	$260 and 60 hours	$340 and 90 hours

645—300.13(17A,147,272C) License denial.

300.13(1) An applicant who has been denied licensure by the board may appeal the denial and request a hearing on the issues related to the licensure denial by serving a notice of appeal and request for hearing upon the board not more than 30 days following the date of mailing of the notification of licensure denial to the applicant. The request for hearing as outlined in these rules shall specifically describe the facts to be contested and determined at the hearing.

300.13(2) If an applicant who has been denied licensure by the board appeals the licensure denial and requests a hearing pursuant to this rule, the hearing and subsequent procedures shall be held pursuant to the process outlined in Iowa Code chapters 17A and 272C.

These rules are intended to implement Iowa Code chapters 17A, 147 and 272C.

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645—301.5(272C) Reporting continuing education credits. Rescinded IAB 11/29/00, effective 1/3/01.

645—301.6(272C) Disability or illness. Rescinded IAB 11/29/00, effective 1/3/01.

645—301.7(272C) Hearings. Rescinded IAB 11/29/00, effective 1/3/01.

645—301.8 to **301.99** Reserved.

645—301.100(272C) Definitions. For the purpose of these rules, the following definitions shall apply:

301.100(1) *"Board"* means the board of speech pathology and audiology examiners.

301.100(2) *"Licensee"* means any person licensed to practice as a speech pathologist or audiologist or both in the state of Iowa.

These rules are intended to implement Iowa Code sections 272C.2, 272C.4, 272C.5, 272C.6, 17A.10 and 17A.17.

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CHAPTER 302
SPEECH PATHOLOGY AND AUDIOLOGY ASSISTANTS

[Prior to 8/24/88, see Health Department[470] Ch 157]
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b. Poster sessions may be approved as independent study pursuant to the rules that govern independent study in these rules.

c. All activities of an approved sponsor which are relevant to speech pathology and audiology shall be deemed automatically approved for continuing education credit.

d. A licensee may elect to take the National Teacher Examination in speech pathology or audiology in lieu of earning continuing education credits. The licensee shall have the results of the examination sent to the board by the agency administering the examination.

e. Independent study. The independent study plan must be submitted and approved before the licensee begins the study. The projected date of completion must be recorded on the board-provided application form. An independent study report must be filed within 30 days after the projected date of completion. One 30-day extension may be granted upon the condition that such a request in writing is received within 30 days of the projected date of completion. A reminder will not be sent by the board.

(1) The maximum number of hours for independent study is 16 hours.

(2) Criteria for presentations are as follows:

1. A maximum of 10 hours of the maximum 16 hours of independent study credit will be given for presenting professional programs that meet the criteria as listed in standards for approval.

2. Two hours of credit will be awarded for each hour of new presentation material.

3. A course schedule or brochure must be maintained for audit, and an independent study plan must be submitted and approved prior to the presentation.

4. An independent study report shall be filed within 30 days after the completion of the presentation.

f. A combined total of six hours per biennium may be used for the following activities:

(1) Government regulations;

(2) CPR, child abuse and dependent adult abuse; and

(3) A maximum of two hours may be used for business-related topics.

g. An applicant shall provide official transcripts indicating successful completion of academic courses which apply to the field of speech pathology and audiology in order to receive the following continuing education credits:

1 academic semester hour = 15 continuing education hours of credit

1 academic trimester hour = 12 continuing education hours of credit

1 academic quarter hour = 10 continuing education hours of credit

645—303.4(147) Approval of sponsors, programs, and activities for continuing education.

303.4(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, 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) Course 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 sponsors shall maintain a copy of the following for a minimum of four years from the date of the continuing education activity:
(1) The continuing education activity;
(2) List of enrolled licensees' names and license numbers; and
(3) Number of continuing education clock hours awarded.

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 to be 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.

303.4(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 accreditation 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.

303.4(3) *Review of programs.* Continuing education programs/activities shall be reported every year at the designated time as assigned 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).

303.4(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.

303.4(5) *Voluntary relinquishment.* The approved sponsor may voluntarily relinquish sponsorship by notifying the board office in writing.

645—303.5(147) 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.

303.5(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; or

g. The date on which and location where the licensee successfully completed the National Teacher Examination in speech pathology and audiology.

303.5(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; and

(3) Indication of the 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—303.6(147) 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 a 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 following fees to a maximum of $350:

- Renewal fees due;
- The late fee which has been assessed by the board for failure to renew; and
- The reinstatement fee which has been assessed by the board for failure to renew; and

3. Provides evidence of:

- Satisfactory completion of Iowa continuing education requirements computed by multiplying 30 times the number of bienniums since the license had lapsed to a maximum of 90 hours; or
- Successful completion of the National Teacher Examination in speech pathology or audiology within one year immediately prior to the submission of application for reinstatement.

645—303.7(147,272C) Continuing education waiver for active practitioners. A person licensed to practice speech pathology or audiology or both 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 speech pathologist or audiologist.

645—303.8(147,272C) 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—303.9(147,272C) 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 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—303.10(147,272C) 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 speech pathology or audiology or both in the state of Iowa, satisfy the following requirements for reinstatement.

303.10(1) Submit written application for reinstatement to the board upon forms provided by the board;

303.10(2) Pay the reinstatement fee;

303.10(3) Pay the current renewal fee; and

303.10(4) Furnish in the application evidence of one of the following:

a. Full-time practice 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 a total number of hours of approved continuing education computed by multiplying 30 times the number of bienniums a certificate of exemption shall be in effect for such applicant not to exceed 90 hours; or

c. Successful completion of the National Teacher Examination in speech pathology or audiology successfully completed within one year immediately prior to the submission of such application for reinstatement.

d. Rescinded IAB 9/19/01, effective 10/24/01.

645—303.11(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 147.

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CHAPTER 304
DISCIPLINE FOR SPEECH PATHOLOGISTS AND AUDIOLOGISTS

645—304.1(272C) Grounds for discipline. The board may impose any of the disciplinary sanctions set forth in 645—13.1(272C), including civil penalties in an amount not to exceed $1000, when the board determines that a licensee:

304.1(1) Is guilty of any 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 the 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 the profession. A copy of the record of conviction or plea of guilty shall be conclusive evidence.

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.

304.1(2) Is in violation of the rules promulgated by the board.

304.1(3) Is in violation of the following code of ethics:

a. Claims of expected clinical results shall be based upon sound evidence and shall accurately convey the probability and degree of expected improvement.

b. Persons served professionally or the files of such persons will be used for teaching or research purposes only after obtaining informed consent from those persons or from the legal guardians of such persons.

c. Information of a personal or professional nature obtained from persons served professionally will be released only to individuals authorized by the persons receiving professional service or to those individuals to whom release is required by law.

d. Relationships between professionals and between a professional and a client shall be based on high personal regard and mutual respect without concern for race, religious preference, sex, or age.

e. Referral of clients for additional services or evaluation and recommendation of sources for purchasing appliances shall be without any consideration for financial or material gain to the licensee making the referral or recommendation for purchase.

f. Licensees who dispense products to persons served professionally shall provide clients with freedom of choice for the source of services and products.

g. Failure to comply with Food and Drug Administration regulations 21 CFR §801.420 (April 1, 1981), "Hearing aid devices; professional and patient labeling," and 21 CFR §801.421 (April 1, 1981), "Hearing aid devices, conditions for sale."

304.1(4) Is disqualified for personal reasons:

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.

304.1(5) Is practicing or has practiced the profession while the license is suspended.

304.1(6) Has had a license suspended or revoked by another state.

304.1(7) Is negligent 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.

304.1(8) Has committed 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 licensee's license for any purpose.

c. Practicing outside the scope of a license.

d. Verbally or physically abusing clients.

304.1(9) Has committed unethical business practices, consisting of any of the following:

a. False or misleading advertising.

b. Betrayal of a professional confidence.

c. Falsifying clients' records.

d. Billing for services which were not rendered, or charging fees which are inconsistent with any prior agreements reached with the clients.

304.1(10) Has failed to report a change of name or address within 30 days after it occurs.

304.1(11) Has submitted a false report of continuing education or has failed to submit the annual report of continuing education.

304.1(12) Has failed to notify the board within 30 days after occurrence of any judgment or settlement of a malpractice claim or action.

304.1(13) Has failed to comply with a subpoena issued by the board.

This rule is intended to implement Iowa Code sections 272C.3 and 272C.4.

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CHAPTER 305
FEES

645—305.1(147) License fees. All fees are nonrefundable.

305.1(1) Licensure fee for license to practice speech pathology or audiology, temporary clinical license, licensure by endorsement, or licensure by reciprocity is $100.

305.1(2) Biennial license renewal fee for each biennium is $80.

305.1(3) Late fee for failure to renew before expiration is $50.

305.1(4) Reinstatement fee for a lapsed license or an inactive license is $50.

305.1(5) Duplicate license fee is $10.

305.1(6) Verification of license fee is $10.

305.1(7) Returned check fee is $15.

305.1(8) Disciplinary hearing fee is a maximum of $75.

305.1(9) Temporary clinical license renewal fee is $50.

305.1(10) Temporary permit fee is $25.

This rule is intended to implement Iowa Code chapters 17A, 147 and 272C.

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CHAPTER 306
CHILD SUPPORT NONCOMPLIANCE

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

CHAPTER 307
IMPAIRED PRACTITIONER REVIEW COMMITTEE

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

CHAPTER 308
Reserved

CHAPTER 309
PUBLIC RECORDS AND FAIR INFORMATION PRACTICES

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

CHAPTERS 310 to 324
Reserved

CHAPTER 17
LICENSURE OF ACUPUNCTURISTS

CHAPTERS 18 to 20
Reserved

CHAPTER 21
PHYSICIAN ELIGIBILITY TO SUPERVISE A PHYSICIAN ASSISTANT

653—13.5 Reserved.

653—13.6(79GA,HF726) Standards of practice—automated dispensing systems. A physician who dispenses prescription drugs via an automated dispensing system or a dispensing system that employs technology may delegate nonjudgmental dispensing functions to staff assistants in the absence of a pharmacist or physician provided that the physician utilizes an internal quality control assurance plan that ensures that the medication dispensed is the medication that was prescribed. The physician shall be physically present to determine the accuracy and completeness of any medication that is reconstituted prior to dispensing.

13.6(1) An internal quality control assurance plan shall include the following elements:

a. The name of the physician responsible for the internal quality assurance plan and testing;

b. Methods that the dispensing system employs, e.g., bar coding, to ensure accuracy of the patient's name and medication, dosage, directions and amount of medication prescribed;

c. Standards that the physician expects to be met to ensure the accuracy of the dispensing system and the training and qualifications of staff members assigned to dispense via the dispensing system;

d. Staff training and qualifications for dispensing via the dispensing system;

e. A list of staff members who meet the qualifications and who are assigned to dispense via the dispensing system;

f. A plan for testing the dispensing system and each staff member assigned to dispense via the dispensing system;

g. The results of testing that show compliance with the standards prior to implementation of the dispensing system and prior to approval of each staff member to dispense via the dispensing system;

h. A plan for interval testing of the accuracy of dispensing, at least annually; and

i. A plan for addressing inaccuracies, including discontinuing dispensing until the accuracy level can be reattained.

13.6(2) Those dispensing systems already in place shall show evidence of a plan and testing within two months of August 31, 2001.

13.6(3) The internal quality control assurance plan shall be submitted to the board of medical examiners upon request.

This rule is intended to implement Iowa Code section 147.107 and 2001 Iowa Acts, House File 726, section 5(10), paragraph "*i.*"

653—13.7 to **13.9** Reserved.

PROFESSIONAL ETHICS

653—13.10(147,148,272C) Principles of medical ethics. The following principles of medical ethics prepared and approved by the judicial council of the American Medical Association, which are set out in a 1977 publication entitled "Opinions and Reports of the Judicial Council," published by the American Medical Association, 535 North Dearborn Street, Chicago, Illinois 61610, are hereby adopted by the board relative to the practice of medicine and surgery in this state:

13.10(1) These principles are intended to aid physicians individually and collectively in maintaining a high level of ethical conduct. They are not laws but standards by which a physician may determine the propriety of conduct in relationship with patients, with colleagues, with members of allied professions, and with the public.

13.10(2) The principal objective of the medical profession is to render service to humanity with full respect for dignity. Physicians should merit the confidence of patients entrusted to their care, rendering to each a full measure of service and devotion.

13.10(3) Physicians should strive continually to improve medical knowledge and skill and should make available to their patients and colleagues the benefits of their professional attainments.

13.10(4) A physician should practice a method of healing founded on a scientific basis; and the physician should not voluntarily associate professionally with anyone who violates this principle.

13.10(5) The medical profession should safeguard the public and itself against physicians deficient in moral character or professional competence. Physicians should observe all laws, uphold the dignity and honor of the profession and accept its self-imposed disciplines. They should expose, without hesitation, illegal or unethical conduct of fellow members of the profession.

13.10(6) A physician may choose whom they will serve. In an emergency, however, the physician should render service to the best of their ability. Having undertaken the case of a patient, the physician may not neglect the patient; and unless the patient has been discharged they may discontinue their services only after giving adequate notice. The physician should not solicit patients.

13.10(7) A physician should not dispose of their services under terms or conditions which tend to interfere with or impair the free and complete exercise of their medical judgment and skill or tend to cause a deterioration of the quality of medical care.

13.10(8) In the practice of medicine a physician should limit the source of their professional income to medical services actually rendered by them, or under their supervision to their patients. The physician's fee should be commensurate with the services rendered and the patient's ability to pay. The physician should neither pay nor receive a commission for referral of patients. Drugs, remedies or appliances may be dispensed or supplied by the physician provided it is in the best interest of the patient.

13.10(9) A physician should seek consultation upon request; in doubtful or difficult cases; or whenever it appears that the quality of medical service may be enhanced thereby.

13.10(10) A physician may not reveal the confidences entrusted to them in the course of medical attendance, or the deficiencies they may observe in the character of patients, unless they are required to do so by law or unless it becomes necessary in order to protect the welfare of the individual or of the community.

13.10(11) The honored ideals of the medical profession imply that the responsibilities of the physician extend not only to the individual, but also to society where these responsibilities deserve the physician's interest and participation in activities which have the purpose of improving both the health and well-being of the individual and the community.

653—13.11(147,148,272C) Code of ethics of osteopathic profession. The following code of ethics published and approved by the American Osteopathic Association and published in a book entitled "1977 American Osteopathic Association Year Book and Director of Osteopathic Physicians," is hereby adopted by the board relative to the practice of osteopathic medicine and surgery or osteopathy in this state:

13.11(1) The physician shall keep in confidence whatever they may learn about a patient in the discharge of professional duties. Information shall be divulged by the physician when required by law or when authorized by the patient.

13.11(2) The physician shall give a candid account of the patient's condition to the patient or to those responsible for the patient's care.

13.11(3) A physician-patient relationship must be founded on mutual trust, cooperation, and respect. The patient, therefore, must have complete freedom to choose their physician. The physician must have complete freedom to choose patients whom they will serve. In emergencies, a physician should make their services available.

13.11(4) The physician shall give due notice to the patient or to those responsible for the patient's care when the physician withdraws from a case so that another physician may be summoned.

13.11(5) A physician is never justified in abandoning a patient.

13.11(6) A physician shall practice in accordance with the body of systematized knowledge related to the healing arts and shall avoid professional association with individuals or organizations which do not practice or conduct organization affairs in accordance with such knowledge.

13.11(7) A physician shall not be identified in any manner with testimonials for proprietary products or devices advertised or sold directly to the public.

13.11(8) A physician shall not hold forth or indicate possession of any degree recognized as the basis for licensure to practice the healing arts unless the physician is actually licensed on the basis of that degree in the state in which he practices.

13.11(9) A physician shall obtain consultation whenever requested to do so by the patient. A physician should not hesitate to seek consultation whenever the physician believes it advisable.

13.11(10) Illegal, unethical or incompetent conduct of physicians shall be revealed to the proper tribunals.

13.11(11) A physician shall not assume treatment of a patient under the care of another physician except in emergencies and only during the time that the attending physician is not available unless requested by the patient.

13.11(12) Any fee charged by a physician shall be reasonable.

13.11(13) A physician shall not pay or receive compensation for referral of patients.

13.11(14) The physician shall cooperate fully in complying with all laws and regulations pertaining to practice of the healing arts and protection of the public health.

Rules 13.10(147,148,272C) and 13.11(147,148,272C) are intended to implement Iowa Code sections 147.55 and 147.76.

653—13.12(17A,147,148,272C) Waiver or variance prohibited. Rules in this chapter are not subject to waiver or variance pursuant to IAC 653—Chapter 3 or any other provision of law.

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*Effective date of 13.2(148,272C) delayed 70 days by the Administrative Rules Review Committee at its meeting held May 14, 1996.

For tax years beginning on or after January 1, 1995, S corporations which are subject to tax on built-in gains under Section 1374 of the Internal Revenue Code or passive investment income under Section 1375 of the Internal Revenue Code are subject to Iowa corporation income tax on this income to the extent received from business carried on in this state or from sources in this state.

a. The starting point for computing the Iowa tax on built-in gains is the amount of built-in gains subject to federal tax after considering the federal income limitation. The starting point for computing the capital gains subject to Iowa tax is the amount of capital gains subject to federal tax. The starting point for computing the passive investment income subject to Iowa income tax is the amount of passive investment income subject to federal tax. To the extent that any of the above three types of income exist for federal income tax purposes, they are combined for Iowa income tax purposes.

b. No adjustment is made to the above amounts for either 50 percent of federal income tax or Iowa corporation income tax deducted in computing the federal net income of the S corporation. The 50 percent of federal income tax and Iowa corporation income tax deducted in computing federal net income are adjustments to the Iowa net income which flows through to the shareholders.

c. The allocation and apportionment rules of 701—Chapter 54 apply to nonresident shareholders if the S corporation is carrying on business within and without the state of Iowa.

d. Any net operating loss carryforward arising in a taxable year for which the corporation was a C corporation shall be allowed as a deduction against the net recognized built-in gain, capital gains, or passive investment income of the S corporation for the taxable year. For purposes of determining the amount of any such loss which may be carried to any of the 15 subsequent taxable years, after the year of the net operating loss, the amount of the net recognized built-in gain shall be treated as taxable income.

e. Except for estimated and other advance tax payments and any credit carryforward under Iowa Code section 422.33 arising in a taxable year for which the corporation was a C corporation no credits shall be allowed against the built-in gains tax or the tax on capital gains or passive investment income.

For tax years beginning after 1996, Iowa recognizes the federal election to treat subsidiaries of a parent corporation that has elected S corporation status as "qualified subchapter S subsidiaries" (QSSSs). To the extent that, for federal income tax purposes, the incomes and expenses of the QSSSs are combined with the parent's income and expenses, they must be combined for Iowa tax purposes.

52.1(6) *Exempted corporations and organizations filing requirements.*

a. *Exempt status.* An organization that is exempt from federal income tax under Section 501 of the Internal Revenue Code, unless the exemption is denied under Section 501, 502, 503 or 504 of the Internal Revenue Code, is exempt from Iowa corporation income tax except as set forth in paragraph *"e"* of this subrule. The department may, if a question arises regarding the exempt status of an organization, request a copy of the federal determination letter.

b. *Information returns.* Every corporation shall file returns of information as provided by Iowa Code sections 422.15 and 422.16 and any regulations regarding information returns.

c. *Annual return.* An organization or association which is exempt from Iowa corporation income tax because it is exempt from federal income tax is not required to file an annual income tax return unless it is subject to the tax on unrelated business income. The organization shall inform the director in writing of any revocation of or change of exempt status by the Internal Revenue Service within 30 days after the federal determination.

d. *Tax on unrelated business income for tax years beginning prior to January 1, 1988.* Where a corporation or organization is subject to the federal income tax imposed by Section 511 of the Internal Revenue Code on unrelated business income, such corporation or organization is not subject to Iowa corporation income tax on the unrelated business income. Opinion of the Attorney General, Griger to Craft, February 13, 1978.

e. Tax on unrelated business income for tax years beginning on or after January 1, 1988. A tax is imposed on the unrelated business income of corporations, associations, and organizations exempt from the general business tax on corporations by Iowa Code section 422.34, subsections 2 through 6, to the extent this income is subject to tax under the Internal Revenue Code. The exempt organization is also subject to the alternative minimum tax imposed by Iowa Code section 422.33(4).

The exempt corporation, association, or organization must file Form IA 1120, Iowa Corporation Income Tax Return, to report its income and complete Form IA 4626 if subject to the alternative minimum tax. The exempt organization must make estimated tax payments if its expected income tax liability for the year is $1,000 or more.

The tax return is due the last day of the fourth month following the last day of the tax year and may be extended for six months by filing Form IA 7004 prior to the due date. For tax years beginning on or after January 1, 1991, the tax return is due on the fifteenth day of the fifth month following close of the tax year and may be extended six months by filing Form IA 7004 prior to the due date.

The starting point for computing Iowa taxable income is federal taxable income as properly computed before deduction for net operating losses. Federal taxable income shall be adjusted as required in Iowa Code section 422.35.

If the activities which generate the unrelated business income are carried on partly within and partly without the state, then the taxpayer should determine the portion of unrelated business income attributable to Iowa by the apportionment and allocation provisions of Iowa Code section 422.33.

The provisions of 701—Chapters 51, 52, 53, 54, 55 and 56 apply to the unrelated business income of organizations exempt from the general business tax on corporations.

52.1(7) *Income tax of corporations in liquidation.* When a corporation is in the process of liquidation, or in the hands of a receiver, the income tax returns must be made under oath or affirmation of the persons responsible for the conduct of the affairs of such corporations, and must be filed at the same time and in the same manner as required of other corporations.

52.1(8) *Income tax returns for corporations dissolved.* Corporations which have been dissolved during the income year must file income tax returns for the period prior to dissolution which has not already been covered by previous returns. Officers and directors are responsible for the filing of the returns and for the payment of taxes, if any, for the audit period provided by law.

Where a corporation dissolves and disposes of its assets without making provision for the payment of its accrued Iowa income tax, liability for the tax follows the assets so distributed and upon failure to secure the unpaid amount, suit to collect the tax may be instituted against the stockholders and other persons receiving the property, to the extent of the property received, except bona fide purchasers or others as provided by law.

52.1(9) *Income tax returns for corporations storing goods in an Iowa warehouse.* For tax years beginning on or after January 1, 2001, foreign corporations are not required to file income tax returns if their only activities in Iowa are the storage of goods for a period of 60 consecutive days or less in a warehouse for hire located in Iowa, provided that the foreign corporation transports or causes a carrier to transport such goods to that warehouse and that none of these goods are delivered or shipped to a purchaser in Iowa.

The following nonexclusive examples illustrate how this subrule applies:

EXAMPLE 1: A, a foreign corporation, stores goods in a warehouse for hire in Iowa for a period of 45 consecutive days. The goods are then delivered to a purchaser outside Iowa. If this is A's only activity in Iowa, A is not required to file an Iowa income tax return.

EXAMPLE 2: B, a foreign corporation, stores goods in a warehouse for hire in Iowa for a period of 75 consecutive days. The goods are then delivered to a purchaser outside Iowa. B is required to file an Iowa income tax return because the goods were stored in Iowa for more than 60 consecutive days.

EXAMPLE 3: C, a foreign corporation, stores goods in a warehouse for hire in Iowa for a period of 30 consecutive days. One percent of these goods are shipped to a purchaser in Iowa, and the other 99 percent are shipped to a purchaser outside Iowa. C is required to file an Iowa income tax return because a portion of the goods were shipped to a purchaser in Iowa.

EXAMPLE 4: D, a foreign corporation, has retail stores in Iowa. D also stores goods in a warehouse for hire in Iowa for a period of 30 consecutive days. The goods are then delivered to a purchaser outside Iowa. D is required to file an Iowa income tax return because its Iowa activities are not limited to the storage of goods in a warehouse for hire in Iowa.

EXAMPLE 5: E, a foreign corporation, has goods delivered by a common carrier, F, into a warehouse for hire in Iowa. The goods are stored in the warehouse for a period of 40 consecutive days, and are then delivered to a purchaser outside Iowa. If this is E's only activity in Iowa, E is not required to file an Iowa income tax return. However, F is required to file an Iowa income tax return because it derives income from transportation operations in Iowa.

This rule is intended to implement Iowa Code sections 422.21, 422.32, 422.33, 422.34, 422.34A and 422.36 as amended by 2001 Iowa Acts, House File 707.

701—52.2(422) Time and place for filing return.

52.2(1) *Returns of corporations.* A return of income for all corporations must be filed on or before the due date. The due date for all corporations excepting cooperative associations as defined in Section 6072(d) of the Internal Revenue Code is the last day of the fourth month following the close of the taxpayer's taxable year, whether the return be made on the basis of the calendar year or the fiscal year; or the last day of the period covered by an extension of time granted by the director. When the due date falls on a Saturday, Sunday or a legal holiday, the return will be due the first business day following the Saturday, Sunday or legal holiday. If a return is placed in the mails, properly addressed and postage paid in ample time to reach the department on or before the due date for filing, no penalty will attach should the return not be received until after that date. Mailed returns should be addressed to Corporate Income Tax Processing, Hoover State Office Building, Des Moines, Iowa 50319.

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◊Two ARCs

* Rules **645**—chs 6–17 apply to all professional licensure boards

SOIL CONSERVATION DIVISION

*Rules **645**—chs 6–17 apply to all professional licensure boards