

61—31.1(714) Excessive prices. The charge of excessive prices for merchandise needed by victims of disasters is hereby declared to constitute an unfair practice under the Consumer Fraud Act, Iowa Code section 714.16 (1993), and is subject to all penalties provided therein. For purposes of this rule, a per se violation of the Act exists when it is shown that a person has charged an excessive price for merchandise to be provided to persons within an area declared to be a disaster area during the period of any declaration of emergency and for the subsequent recovery period. This includes, but is not limited to, the provision of water, food, medicines, sanitation supplies, utilities, building materials, and materials, goods, or services for cleanup or repair. For the purposes of this rule, the “subsequent recovery period” is that period when the disaster continues to cause market disruptions in the disaster area, but shall not exceed six months from the date of the declaration of emergency.

An “excessive price” is one that is not justified by the seller’s actual costs of acquiring, producing, selling, transporting, and delivering the actual product sold, plus a reasonable profit. In calculating the seller’s actual costs, no allowance shall be made for the replacement costs of merchandise if the seller is reasonably assured of recouping the replacement costs as a part of the price of subsequent sales of the merchandise. The existence of an excessive price shall be presumed from a substantial increase in the price of any merchandise over the price at which the merchandise was sold or offered for sale in the usual course of business immediately prior to the onset of the emergency or from a substantial increase in the markup from cost if wholesale prices or costs have increased.

This rule is intended to implement Iowa Code section 714.16(2)“a.”