



# IOWA ADMINISTRATIVE BULLETIN

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September 9, 1998

NUMBER 6  
Pages 481 to 592

## CONTENTS IN THIS ISSUE

Pages 495 to 586 include ARC 8279A to ARC 8329A

### ALL AGENCIES

Schedule for rule making .....	484
Publication procedures .....	485
Agency identification numbers .....	492

### CITATION OF ADMINISTRATIVE RULES .....

### ECONOMIC DEVELOPMENT, IOWA DEPARTMENT OF[261]

Notice, Organization; community and economic development; CEBA, 1.4, 21.2, 50.2, 53.2, 53.8, 53.9, 53.14(1), 80.1 to 80.12 ARC 8313A ..	495
Notice, School to career program, ch 11 ARC 8312A .....	497
Filed, CDBG grant, ch 23 ARC 8310A .....	546
Filed, Export trade assistance program, 68.3, 68.4 ARC 8311A .....	546

### EDUCATIONAL EXAMINERS BOARD[282]

EDUCATION DEPARTMENT[281]"umbrella" Notice, Middle school endorsement, 14.20(15) ARC 8315A .....	500
Notice, Two-year administrator exchange license, 14.25 to 14.33 ARC 8314A .....	500

### EDUCATION DEPARTMENT[281]

Notice, ICN subsidization, ch 8 ARC 8279A .....	501
Notice, Graduate teacher education programs, rescind ch 90 ARC 8283A .....	501
Notice, Local sales and services tax for school infrastructure, ch 96 ARC 8284A .....	501
Filed, General approval standards, rescind ch 11 ARC 8280A .....	547
Filed, Nonschool team participation, 36.15(7) ARC 8281A .....	547
Filed, Child development coordinating council, 64.2, 64.7, 64.8, 64.15, 64.18 ARC 8282A .....	547

### ENGINEERING AND LAND SURVEYING EXAMINING BOARD[193C]

Professional Licensing and Regulation Division[193] COMMERCE DEPARTMENT[181]"umbrella" Notice, Licensees' annual report, rescind 1.9(6) ARC 8304A .....	502
--	-----

Filed, Licensure by comity, 1.4(5)"f" ARC 8306A .....	548
Filed, Plat of survey, 2.5 ARC 8305A .....	548

### ENVIRONMENTAL PROTECTION COMMISSION[567]

NATURAL RESOURCES DEPARTMENT[561]"umbrella" Filed, Air quality—MACT, 20.2, 22.1, 23.1(4) ARC 8328A .....	549
Filed, Acid rain exemptions and NESHAP for primary aluminum reduction plants; title V operating permit application, 22.103(2), 22.105(1), 22.123, 22.124, 22.203, 22.300(8), 23.1 ARC 8329A .....	551
Filed, Ambient air quality standards, 28.1 ARC 8327A .....	552

### EXECUTIVE DEPARTMENT

Executive order number 67 (Revised) .....	587
Proclamation of emergency .....	591

### HUMAN SERVICES DEPARTMENT[441]

Notice, Maximum nursing facility rate, 81.6(16) ARC 8288A .....	503
Filed, Rehabilitative treatment and supportive services; foster care; child day care services, 7.1, 78.42, 130.1, 130.2(8), 130.3(1), 130.4(3), 130.6(1), 133.1, 152.1, 152.24, 152.25, 156.6, 156.20(1), 181.1, 181.2, 181.4(2), 182.1, 182.2, 182.4(2), 182.8(4), 185.1 to 185.8, 185.10(5), 185.24, 185.63, 185.84, 185.85, 202.2, 202.4(5), 202.6(1), 202.17 ARC 8285A ..	552
Filed, FMAP-related medical assistance; medically needy spenddown control (MNSC); child support; ICF/MR supported employment services, 9.12(2), 41.22, 41.27, 65.19(19), 65.26, 75.1, 75.25, 75.57(1), 76.1(2), 83.43(1), 83.61(1), 83.82, 95.3 ARC 8286A ....	554
Filed, Medicaid, 79.1(2), 81.6(16) ARC 8287A ...	557
Filed Emergency, Maximum nursing facility rate, 81.6(16) ARC 8289A .....	521
Filed, Lead toxicity screening, 84.3(6)"c" ARC 8290A .....	561

## PREFACE

The Iowa Administrative Bulletin is published biweekly in pamphlet form pursuant to Iowa Code chapters 2B and 17A and contains Notices of Intended Action on rules, Filed and Filed Emergency rules by state agencies.

It also contains Proclamations and Executive Orders of the Governor which are general and permanent in nature; Economic Impact Statements to proposed rules and filed emergency rules; Objections filed by Administrative Rules Review Committee, Governor or the Attorney General; and Delay by the Committee of the effective date of filed rules; Regulatory Flexibility Analyses and Agenda for monthly Administrative Rules Review Committee meetings. Other "materials deemed fitting and proper by the Administrative Rules Review Committee" include summaries of Public Hearings, Attorney General Opinions and Supreme Court Decisions.

The Bulletin may also contain Public Funds Interest Rates [12C.6]; Workers' Compensation Rate Filings [515A.6(7)]; Usury [535.2(3)"a"]; Agricultural Credit Corporation Maximum Loan Rates [535.12]; and Regional Banking—Notice of Application and Hearing [524.1905(2)].

**PLEASE NOTE:** *Italics* indicate new material added to existing rules; ~~strike through letters~~ indicate deleted material.

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	Fax:	(515)281-4424

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**Customer Service Center  
 Department of General Services  
 Hoover State Office Building, Level A  
 Des Moines, IA 50319  
 Telephone: (515)242-5120**

**HUMAN SERVICES DEPARTMENT[441] (Cont'd)**

Filed, PROMISE JOBS, 93.114(15), 94.10  
**ARC 8291A** ..... 561  
 Filed, Child support enforcement, 98.24, 98.37,  
 98.45 **ARC 8292A** ..... 562  
 Filed, Child day care, 109.6(5), 110.27, 110.35  
**ARC 8293A** ..... 564  
 Filed, Purchase of service reimbursement rates,  
 150.3(5), 150.22(7) **ARC 8294A** ..... 565  
 Filed, Funding for empowerment areas, ch 169  
**ARC 8295A** ..... 566  
 Filed, Child care assistance—waiting list, 170.2(3)  
**ARC 8296A** ..... 568

**INSURANCE DIVISION[191]**

COMMERCE DEPARTMENT[181]"umbrella"

Filed Emergency, Medicare supplement  
 insurance, 37.3, 37.8(5), 37.15(3), 37.24,  
 Appendix C **ARC 8298A** ..... 521

**NATURAL RESOURCE COMMISSION[571]**

NATURAL RESOURCES DEPARTMENT[561]"umbrella"

Notice, No-wake zones at Sabula, 40.34  
**ARC 8325A** ..... 503  
 Filed Emergency After Notice, Local  
 recreation infrastructure grants program,  
 ch 29 **ARC 8323A** ..... 540  
 Filed Emergency After Notice, State and local  
 cooperative lake rehabilitation, 30.14  
**ARC 8324A** ..... 542  
 Filed, State parks and recreation areas, 61.2 to  
 61.6, 61.22(16) **ARC 8322A** ..... 569  
 Filed Emergency After Notice, Waterfowl and  
 coot hunting seasons, 91.1 to 91.6  
**ARC 8326A** ..... 543

**PROFESSIONAL LICENSURE DIVISION[645]**

PUBLIC HEALTH DEPARTMENT[641]"umbrella"

Filed, Marital and family therapists and mental  
 health counselors, 30.1 to 30.6, 30.8 to 30.10,  
 31.1(3), 31.4(1), 31.8(4) **ARC 8321A** ..... 571  
 Filed, Mortuary science examiners, 100.9(1),  
 100.10(3), 100.11, 101.1 to 101.7, 101.98,  
 101.101 to 101.103, 101.200, 101.212 to  
 101.215 **ARC 8297A** ..... 571

**PUBLIC FUNDS—AVAILABILITY**

Public Health Department[641]  
**PRIMECARRE** ..... 494

**PUBLIC HEALTH DEPARTMENT[641]**

Notice of Public Funds Availability ..... 494  
 Notice, Renovation, remodeling, and  
 repainting—lead hazard notification process,  
 69.1 to 69.9 **ARC 8318A** ..... 504  
 Notice, Lead professional certification, 70.2,  
 70.4 to 70.9 **ARC 8319A** ..... 506  
 Notice, Domestic abuse death review team,  
 ch 91 **ARC 8317A** ..... 508

**PUBLIC HEARINGS**

Summarized list ..... 486

**RACING AND GAMING COMMISSION[491]**

INSPECTIONS AND APPEALS DEPARTMENT[481]"umbrella"

Notice, General, 1.6(4), 3.11(3), 5.1(5),  
 5.16(21), 13.13 to 13.26, 20.22(3), 26.19(5)  
**ARC 8320A** ..... 510

**REVENUE AND FINANCE DEPARTMENT[701]**

Notice, Sales and use tax, 17.30, 18.24, 18.25,  
 18.34, 18.49, 18.58(1), 18.59, 20.7, 32.4  
**ARC 8308A** ..... 512  
 Notice, Local option school infrastructure sales  
 and service tax, ch 108 **ARC 8309A** ..... 515  
 Filed, Federal tax on S corporation income;  
 credit for taxes paid to another state, 50.5,  
 50.7 **ARC 8307A** ..... 575

**USURY**

Notice ..... 518

**VETERINARY MEDICINE BOARD[811]**

Notice, Release of information to college  
 student aid commission; application for  
 licensure; examination, 5.18, 6.1, 6.2, 6.4  
 to 6.6, 6.8, 7.1, 9.1, 9.2(4), 9.3, 10.1,  
 10.4(24) **ARC 8316A** ..... 518

**WORKFORCE DEVELOPMENT BOARD/  
 SERVICES DIVISION[877]**

WORKFORCE DEVELOPMENT DEPARTMENT[871]"umbrella"

Filed, Coordinating service provider, ch 4  
**ARC 8299A** ..... 576  
 Filed, Youth affairs, 10.1 to 10.5 **ARC 8300A** .... 578  
 Filed, Work force investment program,  
 11.3 to 11.10 **ARC 8301A** ..... 581  
 Filed, Welfare-to-work program, ch 14  
**ARC 8302A** ..... 582  
 Filed, Strategic workforce development fund,  
 ch 15 **ARC 8303A** ..... 585

**CITATION of Administrative Rules**

The Iowa Administrative Code shall be cited as (agency identification number) IAC  
 (chapter, rule, subrule, lettered paragraph, or numbered subparagraph).

441 IAC 79	(Chapter)
441 IAC 79.1(249A)	(Rule)
441 IAC 79.1(1)	(Subrule)
441 IAC 79.1(1)"a"	(Paragraph)
441 IAC 79.1(1)"a"(1)	(Subparagraph)

The Iowa Administrative Bulletin shall be cited as IAB (volume), (number), (publication  
 date), (page number), (ARC number).

## Schedule for Rule Making 1998

NOTICE SUBMISSION DEADLINE	NOTICE PUB. DATE	HEARING OR COMMENTS 20 DAYS	FIRST POSSIBLE ADOPTION DATE 35 DAYS	ADOPTED FILING DEADLINE	ADOPTED PUB. DATE	FIRST POSSIBLE EFFECTIVE DATE	POSSIBLE EXPIRATION OF NOTICE 180 DAYS
Dec. 26 '97	Jan. 14 '98	Feb. 3	Feb. 18	Feb. 20	Mar. 11	Apr. 15	July 13
Jan. 9 '98	Jan. 28	Feb. 17	Mar. 4	Mar. 6	Mar. 25	Apr. 29	July 27
Jan. 23	Feb. 11	Mar. 3	Mar. 18	Mar. 20	Apr. 8	May 13	Aug. 10
Feb. 6	Feb. 25	Mar. 17	Apr. 1	Apr. 3	Apr. 22	May 27	Aug. 24
Feb. 20	Mar. 11	Mar. 31	Apr. 15	Apr. 17	May 6	June 10	Sept. 7
Mar. 6	Mar. 25	Apr. 14	Apr. 29	May 1	May 20	June 24	Sept. 21
Mar. 20	Apr. 8	Apr. 28	May 13	May 15	June 3	July 8	Oct. 5
Apr. 3	Apr. 22	May 12	May 27	May 29	June 17	July 22	Oct. 19
Apr. 17	May 6	May 26	June 10	June 12	July 1	Aug. 5	Nov. 2
May 1	May 20	June 9	June 24	June 26	July 15	Aug. 19	Nov. 16
May 15	June 3	June 23	July 8	July 10	July 29	Sept. 2	Nov. 30
May 29	June 17	July 7	July 22	July 24	Aug. 12	Sept. 16	Dec. 14
June 12	July 1	July 21	Aug. 5	Aug. 7	Aug. 26	Sept. 30	Dec. 28
June 26	July 15	Aug. 4	Aug. 19	Aug. 21	Sept. 9	Oct. 14	Jan. 11 '99
July 10	July 29	Aug. 18	Sept. 2	Sept. 4	Sept. 23	Oct. 28	Jan. 25 '99
July 24	Aug. 12	Sept. 1	Sept. 16	Sept. 18	Oct. 7	Nov. 11	Feb. 8 '99
Aug. 7	Aug. 26	Sept. 15	Sept. 30	Oct. 2	Oct. 21	Nov. 25	Feb. 22 '99
Aug. 21	Sept. 9	Sept. 29	Oct. 14	Oct. 16	Nov. 4	Dec. 9	Mar. 8 '99
Sept. 4	Sept. 23	Oct. 13	Oct. 28	Oct. 30	Nov. 18	Dec. 23	Mar. 22 '99
Sept. 18	Oct. 7	Oct. 27	Nov. 11	Nov. 13	Dec. 2	Jan. 6 '99	Apr. 5 '99
Oct. 2	Oct. 21	Nov. 10	Nov. 25	Nov. 27	Dec. 16	Jan. 20 '99	Apr. 19 '99
Oct. 16	Nov. 4	Nov. 24	Dec. 9	Dec. 11	Dec. 30	Feb. 3 '99	May 3 '99
Oct. 30	Nov. 18	Dec. 8	Dec. 23	Dec. 25	Jan. 13 '99	Feb. 17 '99	May 17 '99
Nov. 13	Dec. 2	Dec. 22	Jan. 6 '99	Jan. 8 '99	Jan. 27 '99	Mar. 3 '99	May 31 '99
Nov. 27	Dec. 16	Jan. 5 '99	Jan. 20 '99	Jan. 22 '99	Feb. 10 '99	Mar. 17 '99	June 14 '99
Dec. 11	Dec. 30	Jan. 19 '99	Feb. 3 '99	Feb. 5 '99	Feb. 24 '99	Mar. 31 '99	June 28 '99
Dec. 25	Jan. 13 '99	Feb. 2 '99	Feb. 17 '99	Feb. 19 '99	Mar. 10 '99	Apr. 14 '99	July 12 '99
Jan. 8 '99	Jan. 27 '99	Feb. 16 '99	Mar. 3 '99	Mar. 5 '99	Mar. 24 '99	Apr. 28 '99	July 26 '99

### PRINTING SCHEDULE FOR IAB

<u>ISSUE NUMBER</u>	<u>SUBMISSION DEADLINE</u>	<u>ISSUE DATE</u>
8	Friday, September 18, 1998	October 7, 1998
9	Friday, October 2, 1998	October 21, 1998
10	Friday, October 16, 1998	November 4, 1998

**PLEASE NOTE:**

Rules will not be accepted after **12 o'clock noon** on the Friday filing deadline days unless prior approval has been received from the Administrative Rules Coordinator's office.

If the filing deadline falls on a legal holiday, submissions made on the following Monday will be accepted.

## PUBLICATION PROCEDURES

TO: Administrative Rules Coordinators and Text Processors of State Agencies  
FROM: Kathleen K. Bates, Iowa Administrative Code Editor  
SUBJECT: Publication of Rules in Iowa Administrative Bulletin

The Administrative Code Division uses Interleaf 6 to publish the Iowa Administrative Bulletin and can import documents directly from most other word processing systems, including Microsoft Word, Word for Windows (Word 7 or earlier), and WordPerfect.

1. To facilitate the processing of rule-making documents, we request a 3.5" High Density (not Double Density) IBM PC-compatible diskette of the rule making. Please indicate on each diskette the following information: agency name, file name, format used for exporting, and chapter(s) amended. Diskettes may be delivered to the Administrative Code Division, 4th Floor, Lucas State Office Building or included with the documents submitted to the Governor's Administrative Rules Coordinator.

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Your cooperation helps us print the Bulletin more quickly and cost-effectively than was previously possible and is greatly appreciated.

*Guide to Rule Making, June 1995 Edition*, available upon request to the Iowa Administrative Code Division, Lucas State Office Building, Fourth Floor, Des Moines, Iowa 50319.

## To All Agencies:

The Administrative Rules Review Committee voted to request that Agencies comply with Iowa Code section 17A.4(1)“b” by allowing the opportunity for oral presentation (hearing) to be held at least **twenty** days after publication of Notice in the Iowa Administrative Bulletin.

AGENCY	HEARING LOCATION	DATE AND TIME OF HEARING
<b>ECONOMIC DEVELOPMENT, IOWA DEPARTMENT OF[261]</b>		
Organization; comprehensive community and economic development plan; CEBA, 1.4, 21.2, 50.2, 53.2, 53.8(3), 53.9(4), 53.14(1), 80.1, 80.2 IAB 9/9/98 ARC 8313A	Northwest Conference Room Second Floor 200 E. Grand Ave. Des Moines, Iowa	September 30, 1998 1:30 p.m.
Certified school to career program, ch 11 IAB 9/9/98 ARC 8312A	Main Conference Room 200 E. Grand Ave. Des Moines, Iowa	October 29, 1998 2 p.m.
<b>EDUCATIONAL EXAMINERS BOARD[282]</b>		
Middle school endorsement, 14.20(15) IAB 9/9/98 ARC 8315A	Conference Room 3 North—3rd Floor Grimes State Office Bldg. Des Moines, Iowa	October 8, 1998 10 a.m.
Two-year administrator exchange license, 14.25 to 14.33 IAB 9/9/98 ARC 8314A	Conference Room 3 North—3rd Floor Grimes State Office Bldg. Des Moines, Iowa	October 8, 1998 1 p.m.
Renewal of license, 17.5, 17.6 IAB 8/26/98 ARC 8276A	Conference Room 3 South—3rd Floor Grimes State Office Bldg. Des Moines, Iowa	September 17, 1998 10 a.m.
<b>EDUCATION DEPARTMENT[281]</b>		
Local sales and services tax for school infrastructure, ch 96 IAB 9/9/98 ARC 8284A (ICN Network)	ICN Room—2nd Floor Grimes State Office Bldg. Des Moines, Iowa	October 2, 1998 1 to 2 p.m.
	ICN Classroom Keystone AEA 1 1400 2nd St. S.W. Elkader, Iowa	October 2, 1998 1 to 2 p.m.
	State Room Northern Trails AEA 2 9184B 265th St. Clear Lake, Iowa	October 2, 1998 1 to 2 p.m.
	Lakeland AEA 3 Hwy. 18 and 2nd St. Cylinder, Iowa	October 2, 1998 1 to 2 p.m.
	Room 103 AEA 4 1382 4th Ave. N.E. Sioux Center, Iowa	October 2, 1998 1 to 2 p.m.

<b>EDUCATION DEPARTMENT[281]</b> (ICN Network) (Cont'd)	Room 204, Library Bldg., 2nd Floor Iowa Central Comm. College Campus Arrowhead AEA 5 330 Ave. M Fort Dodge, Iowa	October 2, 1998 1 to 2 p.m.
	ICN Room AEA 6 909 S. 12th St. Marshalltown, Iowa	October 2, 1998 1 to 2 p.m.
	AEA 7 3712 Cedar Heights Dr. Cedar Falls, Iowa	October 2, 1998 1 to 2 p.m.
	Louisa Room Mississippi Bend AEA 9 729 21st St. Bettendorf, Iowa	October 2, 1998 1 to 2 p.m.
	Revere Room Grant Wood AEA 10 4401 6th St. S.W. Cedar Rapids, Iowa	October 2, 1998 1 to 2 p.m.
	ICN Classroom Heartland AEA 11 6500 Corporate Dr. Johnston, Iowa	October 2, 1998 1 to 2 p.m.
	Room 209A Western Hills AEA 12 1520 Morningside Ave. Sioux City, Iowa	October 2, 1998 1 to 2 p.m.
	ICN Room Loess Hills AEA 13 24997 Hwy. 92 Council Bluffs, Iowa	October 2, 1998 1 to 2 p.m.
	Turner Room Green Valley AEA 14 1405 N. Lincoln Creston, Iowa	October 2, 1998 1 to 2 p.m.
	ICN Classroom Southern Prairie AEA 15 2814 N. Court Ottumwa, Iowa	October 2, 1998 1 to 2 p.m.
	Room 108 Great River AEA 16 1200 University Burlington, Iowa	October 2, 1998 1 to 2 p.m.

**EMPOWERMENT BOARD, IOWA[349]**

Iowa empowerment board, ch 1 IAB 8/26/98 ARC 8247A (ICN Network) (See also ARC 8248A)	ICN Room—2nd Floor Grimes State Office Bldg. Des Moines, Iowa	September 24, 1998 9 a.m. to 12 noon October 7, 1998 9 a.m. to 12 noon
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**EMPOWERMENT BOARD,  
IOWA[349]  
(ICN Network)  
(Cont'd)**

Media Center Bettendorf High School 3333 18th St. Bettendorf, Iowa	September 24, 1998 9 a.m. to 12 noon October 7, 1998 9 a.m. to 12 noon
Louisa Room Mississippi Bend AEA 9 729 21st St. Bettendorf, Iowa	September 24, 1998 9 a.m. to 12 noon October 7, 1998 9 a.m. to 12 noon
Room 108 Great River AEA 16 1200 University Burlington, Iowa	September 24, 1998 9 a.m. to 12 noon October 7, 1998 9 a.m. to 12 noon
AEA 7 3712 Cedar Heights Dr. Cedar Falls, Iowa	September 24, 1998 9 a.m. to 12 noon October 7, 1998 9 a.m. to 12 noon
Revere Room Grand Wood AEA 10 4401 6th St. Cedar Rapids, Iowa	September 24, 1998 9 a.m. to 12 noon October 7, 1998 9 a.m. to 12 noon
State Room Northern Trails AEA 2 9184B 265th St. Clear Lake, Iowa	September 24, 1998 9 a.m. to 12 noon October 7, 1998 9 a.m. to 12 noon
ICN Room Loess Hills AEA 13 24997 Hwy. 92 Council Bluffs, Iowa	September 24, 1998 9 a.m. to 12 noon October 7, 1998 9 a.m. to 12 noon
Turner Room Green Valley AEA 14 1405 N. Lincoln Creston, Iowa	September 24, 1998 9 a.m. to 12 noon October 7, 1998 9 a.m. to 12 noon
ICN Classroom Lakeland AEA 3 Hwy. 18 and 2nd St. Cylinder, Iowa	September 24, 1998 9 a.m. to 12 noon October 7, 1998 9 a.m. to 12 noon
ICN Classroom Keystone AEA 1 2310 Chaney Rd. Dubuque, Iowa	September 24, 1998 9 a.m. to 12 noon October 7, 1998 9 a.m. to 12 noon
ICN Classroom Keystone AEA 1 1400 2nd St. S.W. Elkader, Iowa	September 24, 1998 9 a.m. to 12 noon October 7, 1998 9 a.m. to 12 noon
Room 12 Fort Dodge High School 819 N. 25th St. Fort Dodge, Iowa	September 24, 1998 9 a.m. to 12 noon October 7, 1998 9 a.m. to 12 noon
ICN Classroom Heartland AEA 11 6500 Corporate Dr. Johnston, Iowa	September 24, 1998 9 a.m. to 12 noon October 7, 1998 9 a.m. to 12 noon



**EMPOWERMENT BOARD,  
IOWA[349]  
(ICN Network)  
(Cont'd)**

IPTV - 2 (East)  
Iowa Public Television  
6450 Corporate Dr.  
Johnston, Iowa

Media Center  
Manson/Northwest Webster  
High School  
1601 15th St.  
Manson, Iowa

September 24, 1998  
9 a.m. to 12 noon  
October 7, 1998  
9 a.m. to 12 noon

September 24, 1998  
9 a.m. to 12 noon  
October 7, 1998  
9 a.m. to 12 noon

ICN Room  
AEA 6  
909 S. 12th St.  
Marshalltown, Iowa

September 24, 1998  
9 a.m. to 12 noon  
October 7, 1998  
9 a.m. to 12 noon

ICN Classroom  
Southern Prairie AEA 15  
2814 N. Court St.  
Ottumwa, Iowa

September 24, 1998  
9 a.m. to 12 noon  
October 7, 1998  
9 a.m. to 12 noon

Room 103  
AEA 4  
1382 4th Ave.  
Sioux Center, Iowa

September 24, 1998  
9 a.m. to 12 noon  
October 7, 1998  
9 a.m. to 12 noon

Room 209A  
Western Hills AEA 12  
1520 Morningside Ave.  
Sioux City, Iowa

September 24, 1998  
9 a.m. to 12 noon  
October 7, 1998  
9 a.m. to 12 noon

**ENVIRONMENTAL PROTECTION COMMISSION[567]**

Waste incinerators and combustors,  
22.1(2), 22.101(2), 23.1, 25.1(10)  
IAB 8/26/98 ARC 8275A

East Conference Room  
Air Quality Bureau  
7900 Hickman Rd., Suite 1  
Urbandale, Iowa

September 25, 1998  
1 p.m.

**GENERAL SERVICES DEPARTMENT[401]**

Printing division—adjustment of  
allowable fees,  
5.21  
IAB 8/26/98 ARC 8270A  
(See also ARC 8271A)

Director's Conference Room  
Hoover State Office Bldg.  
Des Moines, Iowa

September 15, 1998  
1 p.m.

**HISTORICAL DIVISION[223]**

Western historic trails center,  
1.5  
IAB 8/26/98 ARC 8268A

Tone Board Room  
State Historical Bldg.  
600 E. Locust  
Des Moines, Iowa

September 16, 1998  
11 a.m.

**NATURAL RESOURCE COMMISSION[571]**

No-wake zones at Sabula,  
40.34  
IAB 9/9/98 ARC 8325A

Conference Room—4th Floor West  
Wallace State Office Bldg.  
Des Moines, Iowa

September 30, 1998  
1 p.m.

**PETROLEUM UST FUND BOARD, IOWA COMPREHENSIVE[591]**

Remedial or insurance claims, 11.1(3)"b"(3) IAB 8/26/98 ARC 8273A	Conference Room Insurance Division 330 E. Maple St. Des Moines, Iowa	September 15, 1998 10 a.m.
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**PHARMACY EXAMINERS BOARD[657]**

Long-term care pharmacies, ch 23 IAB 7/29/98 ARC 8212A	Conference Room Omega Place—Suite 16 8515 Douglas Ave. Des Moines, Iowa	September 14, 1998 1 p.m.
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**PROFESSIONAL LICENSURE DIVISION[645]**

Hearing aid dealers, 120.2, 120.5, 120.6, 120.9, 120.13(8) IAB 8/26/98 ARC 8272A	Training Room—Basement Lucas State Office Bldg. Des Moines, Iowa	September 15, 1998 9 to 10 a.m.
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**PUBLIC HEALTH DEPARTMENT[641]**

Renovation, remodeling, and repainting—lead hazard notification process, 69.1 to 69.9 IAB 9/9/98 ARC 8318A (ICN Network)	ICN Room—3rd Floor Lucas State Office Bldg. Des Moines, Iowa	September 29, 1998 10 a.m.
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Atlantic Public Library 507 Poplar Atlantic, Iowa	September 29, 1998 10 a.m.
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Room 7B Buena Vista University 610 W. 4th St. Storm Lake, Iowa	September 29, 1998 10 a.m.
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ICN Classroom Keystone AEA 2310 Chaney Rd. Dubuque, Iowa	September 29, 1998 10 a.m.
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Revere Room Grant Wood AEA 4401 6th St. S.W. Cedar Rapids, Iowa	September 29, 1998 10 a.m.
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Classroom 2, Careers Bldg. 128 North Iowa Area Community College 500 College Dr. Mason City, Iowa	September 29, 1998 10 a.m.
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ICN Classroom Southern Prairie AEA 2814 N. Court St. Ottumwa, Iowa	September 29, 1998 10 a.m.
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Lead professional certification, 70.2, 70.4 to 70.9 IAB 9/9/98 ARC 8319A (ICN Network)	ICN Room—3rd Floor Lucas State Office Bldg. Des Moines, Iowa	September 29, 1998 10 a.m.
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**PUBLIC HEALTH  
DEPARTMENT[641]  
(ICN Network)  
(Cont'd)**

Atlantic Public Library  
507 Poplar  
Atlantic, Iowa  
September 29, 1998  
10 a.m.

Room 7B  
Buena Vista University  
610 W. 4th St.  
Storm Lake, Iowa  
September 29, 1998  
10 a.m.

ICN Classroom  
Keystone AEA  
2310 Chaney Rd.  
Dubuque, Iowa  
September 29, 1998  
10 a.m.

Revere Room  
Grant Wood AEA  
4401 6th St. S.W.  
Cedar Rapids, Iowa  
September 29, 1998  
10 a.m.

Classroom 2, Careers Bldg. 128  
North Iowa Area Community College  
500 College Dr.  
Mason City, Iowa  
September 29, 1998  
10 a.m.

ICN Classroom  
Southern Prairie AEA  
2814 N. Court St.  
Ottumwa, Iowa  
September 29, 1998  
10 a.m.

Iowa domestic abuse death review  
team, ch 91  
IAB 9/9/98 ARC 8317A  
Room 118  
State Capitol Bldg.  
Des Moines, Iowa  
September 30, 1998  
1 to 3 p.m.

**RACING AND GAMING COMMISSION[491]**

General,  
1.6(4), 3.11(3), 5.1(5), 5.16(21),  
13.13 to 13.26, 20.22(3), 26.19(5)  
IAB 9/9/98 ARC 8320A  
IMTA Auditorium  
(next to Racing and Gaming Office)  
717 E. Court, Suite B  
Des Moines, Iowa  
September 30, 1998  
9 a.m.

**TRANSPORTATION DEPARTMENT[761]**

Adopt-a-highway program,  
121.2, 121.3  
IAB 8/26/98 ARC 8264A  
Commission Conference Room  
800 Lincoln Way  
Ames, Iowa  
September 17, 1998  
10 a.m.  
(If requested)

Specially constructed or reconstructed  
vehicles; persons with disabilities  
parking permits; removal of  
registration and plates—financial  
liability,  
400.3(10)“a,” 400.16(2), 400.21(4),  
400.35, 400.45, 400.53(3),  
400.70, 411.6, 450.2(2)  
IAB 8/26/98 ARC 8258A  
Conference Room  
Lower Level  
Park Fair Mall  
100 Euclid Ave.  
Des Moines, Iowa  
September 17, 1998  
10 a.m.  
(If requested)

Commercial air service airport  
infrastructure program,  
ch 716  
IAB 8/26/98 ARC 8259A  
Commission Conference Room  
800 Lincoln Way  
Ames, Iowa  
September 17, 1998  
1 p.m.  
(If requested)

# AGENCY IDENTIFICATION NUMBERS

Due to reorganization of state government by 1986 Iowa Acts, chapter 1245, it was necessary to revise the agency identification numbering system, i.e., the bracketed number following the agency name.

“Umbrella” agencies and elected officials are set out below at the left-hand margin in CAPITAL letters.

Divisions (boards, commissions, etc.) are indented and set out in lowercase type under their statutory “umbrellas.”

Other autonomous agencies which were not included in the original reorganization legislation as “umbrella” agencies are included alphabetically in small capitals at the left-hand margin, e.g., BEEF INDUSTRY COUNCIL, IOWA[101].

The following list will be updated as changes occur:

## AGRICULTURE AND LAND STEWARDSHIP DEPARTMENT[21]

Agricultural Development Authority[25]

Soil Conservation Division[27]

## ATTORNEY GENERAL[61]

## AUDITOR OF STATE[81]

BEEF INDUSTRY COUNCIL, IOWA[101]

BLIND, DEPARTMENT FOR THE[111]

## CITIZENS' AIDE[141]

## CIVIL RIGHTS COMMISSION[161]

## COMMERCE DEPARTMENT[181]

Alcoholic Beverages Division[185]

Banking Division[187]

Credit Union Division[189]

Insurance Division[191]

Professional Licensing and Regulation Division[193]

Accountancy Examining Board[193A]

Architectural Examining Board[193B]

Engineering and Land Surveying Examining Board[193C]

Landscape Architectural Examining Board[193D]

Real Estate Commission[193E]

Real Estate Appraiser Examining Board[193F]

Savings and Loan Division[197]

Utilities Division[199]

## CORRECTIONS DEPARTMENT[201]

Parole Board[205]

## CULTURAL AFFAIRS DEPARTMENT[221]

Arts Division[222]

Historical Division[223]

## ECONOMIC DEVELOPMENT, IOWA DEPARTMENT OF[261]

City Development Board[263]

Iowa Finance Authority[265]

## EDUCATION DEPARTMENT[281]

Educational Examiners Board[282]

College Student Aid Commission[283]

Higher Education Loan Authority[284]

Iowa Advance Funding Authority[285]

Libraries and Information Services Division[286]

Public Broadcasting Division[288]

School Budget Review Committee[289]

EGG COUNCIL[301]

## ELDER AFFAIRS DEPARTMENT[321]

## EMPLOYMENT SERVICES DEPARTMENT[341]

Job Service Division[345]

Labor Services Division[347]

EMPOWERMENT BOARD, IOWA[349]

ETHICS AND CAMPAIGN DISCLOSURE BOARD, IOWA[351]

## EXECUTIVE COUNCIL[361]

FAIR BOARD[371]

## GENERAL SERVICES DEPARTMENT[401]

HUMAN INVESTMENT COUNCIL[417]

## HUMAN RIGHTS DEPARTMENT[421]

Community Action Agencies Division[427]

Criminal and Juvenile Justice Planning Division[428]

Deaf Services Division[429]

Persons With Disabilities Division[431]

Latino Affairs Division[433]

Status of Blacks Division[434]

Status of Women Division[435]

HUMAN SERVICES DEPARTMENT[441]  
INSPECTIONS AND APPEALS DEPARTMENT[481]  
    Employment Appeal Board[486]  
    Foster Care Review Board[489]  
    Racing and Gaming Commission[491]  
    State Public Defender[493]  
INTERNATIONAL NETWORK ON TRADE (INTERNET)[497]  
LAW ENFORCEMENT ACADEMY[501]  
LIVESTOCK HEALTH ADVISORY COUNCIL[521]  
MANAGEMENT DEPARTMENT[541]  
    Appeal Board, State[543]  
    City Finance Committee[545]  
    County Finance Committee[547]  
NARCOTICS ENFORCEMENT ADVISORY COUNCIL[551]  
NATIONAL AND COMMUNITY SERVICE, IOWA COMMISSION ON[555]  
NATURAL RESOURCES DEPARTMENT[561]  
    Energy and Geological Resources Division[565]  
    Environmental Protection Commission[567]  
    Natural Resource Commission[571]  
    Preserves, State Advisory Board[575]  
PERSONNEL DEPARTMENT[581]  
PETROLEUM UNDERGROUND STORAGE TANK FUND  
    BOARD, IOWA COMPREHENSIVE[591]  
PREVENTION OF DISABILITIES POLICY COUNCIL[597]  
PUBLIC DEFENSE DEPARTMENT[601]  
    Emergency Management Division[605]  
    Military Division[611]  
PUBLIC EMPLOYMENT RELATIONS BOARD[621]  
PUBLIC HEALTH DEPARTMENT[641]  
    Substance Abuse Commission[643]  
    Professional Licensure Division[645]  
    Dental Examiners Board[650]  
    Medical Examiners Board[653]  
    Nursing Board[655]  
    Pharmacy Examiners Board[657]  
PUBLIC SAFETY DEPARTMENT[661]  
RECORDS COMMISSION[671]  
REGENTS BOARD[681]  
    Archaeologist[685]  
REVENUE AND FINANCE DEPARTMENT[701]  
    Lottery Division[705]  
SECRETARY OF STATE[721]  
SEED CAPITAL CORPORATION, IOWA[727]  
SESQUICENTENNIAL COMMISSION, IOWA STATEHOOD[731]  
SHEEP AND WOOL PROMOTION BOARD, IOWA[741]  
TELECOMMUNICATIONS AND TECHNOLOGY COMMISSION, IOWA[751]  
TRANSPORTATION DEPARTMENT[761]  
    Railway Finance Authority[765]  
TREASURER OF STATE[781]  
UNIFORM STATE LAWS COMMISSION[791]  
VETERANS AFFAIRS COMMISSION[801]  
VETERINARY MEDICINE BOARD[811]  
VOTER REGISTRATION COMMISSION[821]  
WORKFORCE DEVELOPMENT DEPARTMENT[871]  
    Labor Services Division[875]  
    Workers' Compensation Division[876]  
    Workforce Development Board and  
    Workforce Development Center Administration Division[877]

**NOTICE - AVAILABILITY OF PUBLIC FUNDS**

AGENCY	PROGRAM	SERVICE DELIVERY AREA	ELIGIBLE APPLICANTS	SERVICES	APPLICATION DUE DATE	CONTRACT PERIOD
Public Health	PRIMECARRE Community Grant Program	Statewide	Communities of 10,000 population or less.	Healthcare Provider Recruitment & Retention Efforts	October 23, 1998	November 30, 1998 through June 30, 1999

Faxed requests will be accepted.  
Request application packet from:

Margaret A. Pitiris, MS  
 PRIMECARRE Program Coordinator  
 Program Planner III  
 Center for Rural Health & Primary Care  
 Division of Family and Community Health  
 Iowa Department of Public Health  
 Lucas State Office Building  
 Des Moines, Iowa 50319-0075  
 Telephone: (515) 281-5069  
 FAX: (515) 242-6384

ARC 8313A

ECONOMIC DEVELOPMENT,  
IOWA DEPARTMENT OF [261]

Notice of Intended Action

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)“b.”

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code sections 15.104 and 15.106, the Iowa Department of Economic Development hereby gives Notice of Intended Action to amend Chapter 1, “Organization”; Chapters 21 and 50, each entitled “Division Responsibilities”; Chapter 53, “Community Economic Betterment Program”; and Chapter 80, “Additional Program Requirements,” Iowa Administrative Code.

Pursuant to 1998 Iowa Acts, House File 2164, section 14, the Community Builder Program was repealed. Section 1 of this legislation authorizes the Department to award supplementary credit for communities and other specified organizations if they have developed a comprehensive community and economic development plan. The amendments rescind the rules for the Community Builder Program, delete references to community builder plans in Chapter 53, and replace them with references to “comprehensive community and economic development plans.”

The proposed amendments update the rules that describe the Department’s organizational structure and division responsibilities in Chapters 1, 21 and 50.

Additionally, a revision of the CEBA rules is proposed. This is an administrative change to clarify, for fiscal and accounting purposes, when collection efforts may be discontinued. The amendment authorizes the discontinuance of collection efforts by IDED once a claim is referred to the Attorney General’s office for disposition.

Public comments concerning the proposed amendments will be accepted until 4:30 p.m. on September 30, 1998. Interested persons may submit written or oral comments by contacting Lane Palmer, Division of Community and Rural Development, Department of Economic Development, 200 East Grand Avenue, Des Moines, Iowa 50309; telephone (515)242-4837.

A public hearing to receive comments about the proposed amendments will be held on September 30, 1998, at 1:30 p.m. at the above address in the northwest conference room on the second floor. Individuals interested in providing comments at the hearing should contact Lane Palmer by 4 p.m. on September 29, 1998, to be placed on the hearing agenda.

These amendments are intended to implement 1998 Iowa Acts, House File 2164, and Iowa Code chapter 17A.

The following amendments are proposed.

ITEM 1. Amend rule 261—1.4(15) as follows:

Amend subrules 1.4(1) to 1.4(4) as follows:

1.4(1) General. The department’s organizational structure consists of the director, deputy director, and ~~six~~ five administrative divisions.

1.4(2) Director. The department of economic development is administered by a director appointed by the governor, who serves at the pleasure of the governor, and is subject to confirmation by the senate. The director is the chief administrative officer of the department and in that capacity administers the programs and services of the department in compliance with applicable federal and state laws and regulations. The duties of the director include preparing a budget subject to board approval, establishing an internal administrative structure and employing personnel, reviewing and submitting to the board legislative proposals, recommending rules to the board, reporting to the board on grants and contracts awarded by the department, and other actions to administer and direct the programs of the department.

The administrators of the ~~six~~ five divisions and the deputy director report to the director.

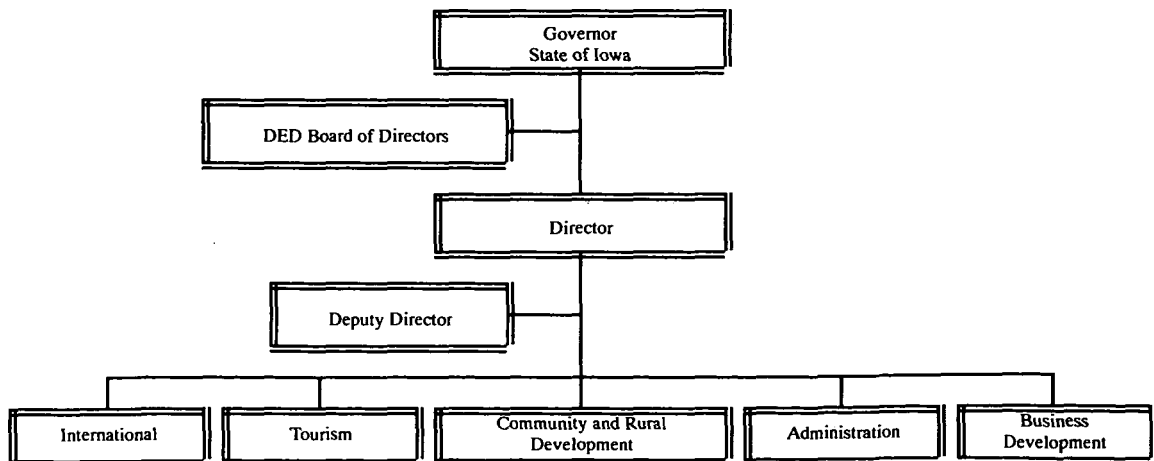
1.4(3) Deputy director. The deputy director, appointed by the director, directs and administers the department in the director’s absence. The deputy director also serves as the division administrator for the division of administration.

1.4(4) Divisions. The director has established the following administrative divisions within the department in order to most efficiently and effectively carry out the department’s responsibilities:

1. Division of administration;
- ~~2. Division of work force development;~~
- ~~3. Division of business development;~~
- ~~4. Division for community and rural development;~~
- ~~5. Division of tourism; and~~
- ~~6. International division.~~

Rescind subrule 1.4(5) and adopt the following new subrule in lieu thereof:

1.4(5) Table of organization.



## ECONOMIC DEVELOPMENT, IOWA DEPARTMENT OF[261](cont'd)

ITEM 2. Amend rule 261—21.2(15) as follows:

**261—21.2(15) Structure.** The division consists of two bureaus and the rural development program.

**21.2(1) Bureau of community ~~financing facilities and services.~~** The bureau of community ~~financing facilities and services~~ is responsible for the following federal programs: Community Development Block Grant Nonentitlement Program (CDBG); Home Investment Partnership Program (HOME); ~~Public Facilities Set Aside (PFSA);~~ and Emergency Shelter Grants Program (ESGP) *as well as the state-funded Homeless Shelter Operating Grants (HSOG) and the Local Housing Assistance Program (LHAP).* The bureau administers available federal funds for housing through the housing fund and is also responsible for developing a consolidated state plan for infrastructure and housing.

**21.2(2) Bureau of community ~~assistance~~ planning and development.** The bureau assists communities through training, grants and technical assistance to address industrial, commercial and community development issues. The programs include community outreach, the Iowa community betterment program, and main street. The city development board, which deals with corporate boundary changes, *and the Iowa rural development council* ~~is~~ *are* also staffed by this bureau.

**21.2(3) Rural development.** ~~This program provides~~ *This bureau also promotes* technical assistance and grants to rural communities and clusters of rural communities to help them address community and economic development initiatives including industrial, commercial, housing, leadership, local government, and tourism challenges. The programs include the rural enterprise fund, governmental services sharing program, rural leadership, and rural action.

ITEM 3. Amend rule 261—50.2(15) as follows:

**261—50.2(15) Structure.** The division is divided into three segments: the marketing and business expansion bureau, bureau of business finance, and the small business resource office.

**50.2(1) Marketing and business expansion bureau.** The bureau has two sections: marketing and promotion and business expansion. ~~It also includes the department's procurement outreach office.~~

a. The marketing and promotion section is responsible for promoting Iowa as a location for business site expansion. The section is responsible for implementation of the bureau's five-year marketing plan which includes marketing strategies for advertising, public relations, direct mail, trade shows, conference/seminars, and other programs aimed at recruiting new businesses and encouraging existing businesses to expand in the state.

b. The business expansion section works one-on-one with business expansion clients to identify sites, buildings and communities which meet the client's location or expansion criteria. Once communities have been identified, IDED's site location managers work with the communities to prepare customized proposals for the client.

~~e. Procurement outreach office. This office is responsible for identifying federal procurement opportunities for Iowa businesses.~~

**50.2(2) Bureau of business finance.** The bureau provides financial assistance to businesses expanding in the state of Iowa, as well as to new business start-ups and business relocations to the state. The bureau administers the community economic betterment account (CEBA) which provides financial assistance to businesses and industries that require assistance in order to create new job opportunities or retain

existing jobs which are in jeopardy. Other financial assistance programs administered by the bureau include the economic development set-aside (EDSA) program which is designed to encourage economic growth by providing financial assistance to businesses in communities of less than 50,000 in population and is aimed at providing employment opportunities for individuals from low- and moderate-income households; the value-added agricultural products and processes financial assistance program (VAAPFAP); the self-employment loan program (SELP) which is designed to encourage self-employment for disadvantaged individuals; and the targeted small business financial assistance program (TSBFAP) which fosters the entrepreneurial spirit of women and minority owners by assisting with start-ups or expansions.

**50.2(3) Small business resource office (SBRO).** The SBRO's mission is to facilitate the growth of emerging small businesses in the state by providing entrepreneurial assistance, networking opportunities, and education programs. *The SBRO is also responsible for identifying federal procurement opportunities for Iowa businesses.* The SBRO's activities focus on the following *three issues of concern to small business: procurement and marketing development, regulatory assistance, and entrepreneurial services.* *The SBRO is organized as follows:*

~~a. Small business forums program. This program is the core of the SBRO's small business activities in entrepreneurial development and education. The forums program organizes quarterly entrepreneurial education round tables at multiple sites throughout Iowa, develops education programs for emerging small businesses, and forms entrepreneurial networking groups.~~

~~b. Small business advocacy program. The advocate works with small businesses both on a case managed basis and as a referral service. The program identifies small business service providers including sources of financial assistance for emerging businesses, regulatory information including licensing and permits, management assistance sources, and other small business service providers.~~

~~c. Management assistance program. The management assistance program is responsible for identifying and developing networks of sources of managerial talent including establishing an entrepreneurial mentor program utilizing middle management volunteers, members of SCORE and other retired management executives, and other successful entrepreneurs.~~

~~d. Targeted small business program. This program promotes the growth and development of small businesses owned and operated by minorities and women. It works with state purchasing officials to increase the number of contracts awarded to targeted small businesses (TSBs), and it identifies procurement opportunities for TSBs in both public and private sectors.~~

~~a. Procurement and marketing development team. The procurement and marketing development team includes the Iowa procurement outreach center and the targeted small business marketing programs.~~

~~b. Regulatory assistance team. The regulatory assistance team focuses on providing key business, licensing and regulatory information for the management of small businesses.~~

~~c. Entrepreneurial services team. The entrepreneurial services team includes small business case management and the operation of the venture network of Iowa.~~

ITEM 4. Amend rule 261—53.2(15), Definitions, by striking the definition of "Community builder program"



## ECONOMIC DEVELOPMENT, IOWA DEPARTMENT OF [261](cont'd)

and adding the definition of "Comprehensive community and economic development plan" as follows:

~~"Community builder program" means the community builder program as defined in 261—Chapter 80.~~

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

ITEM 5. Amend paragraph 53.8(3)"d" as follows:

~~d. Certified community builder community. Maximum—10 points. A community will receive 10 points upon completion and subsequent certification by the department of a plan in accordance with 261—Chapter 80. Comprehensive community and economic development plan. Maximum—10 points. A community submitting a comprehensive community and economic development plan meeting the requirements of 261—Chapter 80 will receive 10 points.~~

ITEM 6. Amend paragraph 53.9(4)"c" as follows:

~~c. Certified community builder community (as defined in 53.8(3)"e"). Comprehensive community and economic development plan (as defined in 53.8(3)"d"). Maximum—10 points;~~

ITEM 7. Amend subrule 53.14(1) as follows:

**53.14(1)** The committee may approve negotiated settlements or the discontinuance of collection efforts by *IDED* if it determines that any of the following conditions exist:

a. The cost of collection would exceed the amount that would be recovered.

b. The claim is not legally feasible, e.g., the claim cannot be substantiated by the evidence, a statute of limitations has run, there is little likelihood of prevailing in a legal proceeding, the claim has been discharged in bankruptcy.

c. *The claim has been referred to the Iowa attorney general's office for disposition.*

e d. Other conditions exist that would not allow the recovery of funds.

ITEM 8. Amend 261—Chapter 80 by rescinding Division I, title, and rules 261—80.1(15) through 261—80.12(15) and adopting in lieu thereof the following:

## DIVISION I

## COMPREHENSIVE COMMUNITY AND ECONOMIC DEVELOPMENT PLANS

**261—80.1(77GA, HF2164) Supplementary credit.** The department shall award supplementary credit to applications submitted by cities, counties, local and regional government organizations, and local and regional economic development organizations that have developed a comprehensive community and economic development plan.

**261—80.2(77GA, HF2164) Technical assistance.** Subject to the availability of funds for this purpose, the department may provide financial assistance to cities, counties, local and regional government organizations, and local and regional economic development organizations for the purpose of developing comprehensive community and economic development plans.

These rules are intended to implement 1998 Iowa Acts, House File 2164.

ARC 8312A

ECONOMIC DEVELOPMENT,  
IOWA DEPARTMENT OF [261]

## Notice of Intended Action

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)"b."

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code sections 15.104 and 15.106, the Iowa Department of Economic Development hereby gives Notice of Intended Action to adopt a new Chapter 11, "Certified School to Career Program," Iowa Administrative Code.

The proposed rules implement a new program authorized by 1998 Iowa Acts, Senate File 2296, sections 15 to 21. The Certified School to Career Program is designed to provide a workplace context for classroom training at the postsecondary level by bringing educators and employers together to design an educational program that includes classroom training that is reinforced with on-the-job experiences. Additionally, the program assists participants in determining a career field, financing postsecondary education and accessing Iowa employment. The proposed new chapter describes eligibility requirements, sets minimum agreement terms, establishes procedures for accessing funds, and explains how participating businesses can claim the payroll expenditure refund, which is authorized by the statute.

Public comments concerning the proposed new chapter will be accepted until 4 p.m. on October 29, 1998. Interested persons may submit written or oral comments by contacting: Mary Lawyer, Workforce Development Coordinator, Department of Economic Development, 200 East Grand Avenue, Des Moines, Iowa 50309; telephone number (515) 242-4769.

A public hearing to receive comments about the proposed new chapter will be held on October 29, 1998, at 2 p.m. at the above address in the IDED main conference room. Individuals interested in providing comments at the hearing should contact Mary Lawyer by 4 p.m. on October 28, 1998, to be placed on the hearing agenda.

These rules are intended to implement 1998 Iowa Acts, Senate File 2296, sections 15 to 21.

The following chapter is proposed.

Adopt the following new chapter:

## CHAPTER 11

## CERTIFIED SCHOOL TO CAREER PROGRAM

**261—11.1(77GA, SF2296) Purpose.** The purpose of the certified school to career program is to provide an articulated sequential program of study, including secondary and postsecondary components (with the option of registered apprenticeship), resulting in a diploma, associate's degree, or other credential and utilizing paid work site internships in partnership with an employer to prepare students for specific employment. Additionally, the program assists students in preparing for a career field and provides postsecondary education financing and employment opportunities in Iowa.

## ECONOMIC DEVELOPMENT, IOWA DEPARTMENT OF[261](cont'd)

**261—11.2(77GA,SF2296) Definitions.**

“Certified school to career program” or “certified program” means a sequenced and articulated secondary and postsecondary program registered as an apprenticeship program under 29 CFR subtit. A, pt. 29, which is conducted pursuant to an agreement as provided in 1998 Iowa Acts, Senate File 2296, section 18, or a program approved by the state board of education, in conjunction with the department of economic development, as meeting the standards enumerated in 1998 Iowa Acts, Senate File 2296, section 17, that integrates a secondary school curriculum with private sector job training which places students in job internships, which is designed to continue into postsecondary education that will result in new skills and add value to the wage-earning potential of participants and increase their long-term employability in the state, and which is conducted pursuant to an agreement as provided in 1998 Iowa Acts, Senate File 2296, section 18.

“Department” means the Iowa department of economic development.

“Eligible postsecondary institution” means an institution as defined in Iowa Code section 261C.3.

“Employer” means the person or organization that agrees to provide the paid internship; provide a mentor for the on-the-job training component of the education program; participate in curriculum development that identifies knowledge, skills and behaviors needed in the workplace; oversee the trust account and payroll expenditure fund; and employ the participant for a minimum of two years after completion of the participant’s postsecondary education.

“Participant” means an individual between the ages of 16 and 24 who is enrolled in a public or private secondary school or postsecondary institution and who initiated participation in a certified school to career program as part of secondary school education.

“Payroll expenditures” means the base wages actually paid by an employer to a participant plus the amount held in trust to be applied toward the participant’s postsecondary education.

“Sponsor” means any person, association, committee, or organization operating a school to career program and in whose name the program is or will be registered or approved.

**261—11.3(77GA,SF2296) Certified program work site agreement.** The certified program shall be conducted pursuant to a signed written agreement between each participant, parent or guardian, educational institution or sponsor, as appropriate, and the employer, which contains at least the following provisions:

**11.3(1)** Employer, participant and parent/guardian signatures. The names and signatures of the participant, sponsor or employer, and the signature of a parent or guardian if the participant is a minor are required.

**11.3(2)** Educational institution or sponsor acknowledgement. The secondary school or sponsor and the eligible postsecondary institution that the participant attends or has chosen to attend must provide an acknowledgement that will be attached to the agreement. The letter of acknowledgement must detail enrollment criteria and provide an acknowledgement that it is likely the participant will be accepted into the program of choice, given that the participant meets established admission criteria.

**11.3(3)** Designation of a career field. A description of the career field in which the participant is to be trained and the beginning date and duration of the training shall be included. The corresponding program of study that the participant

plans to enter at the eligible postsecondary institution must also be designated.

**11.3(4)** Assignment of a mentor. The employer shall identify a mentor for the participant. The mentor’s occupation should be related to the participant’s selected career field.

**11.3(5)** Employer’s agreement to pay a base wage. The employer shall agree to provide paid employment, at a base wage, for the participant during the summer months after the participant’s junior and senior years in high school and after the participant’s first year of postsecondary education.

**11.3(6)** Minimum academic standards. The participant and employer shall agree upon set minimum academic standards that must be maintained through the participant’s secondary and postsecondary education.

**11.3(7)** Compliance with workplace laws and regulations. The base wage paid to the participant for hours worked shall not be less than the minimum wage prescribed by Iowa law or the federal Fair Labor Standards Act, whichever is applicable at the time the work is performed. The program shall also comply with all state and federal laws pertaining to the workplace, including equal employment opportunity and accident and liability insurance requirements.

**11.3(8)** Additional amount to be held in an Employee Retirement Income Security Act (ERISA) fund to pay for postsecondary tuition. ERISA is described in Title 19 of the United States Code, Chapter 18.

a. In addition to the base wage paid to the participant, the employer shall pay an additional sum to be held in trust and applied toward the participant’s postsecondary education required for completion of the certified program. The additional amount must be not less than an amount determined by the department to be sufficient to provide payment of tuition expenses toward completion of not more than two academic years of the required postsecondary education component of the certified program at an Iowa community college or an Iowa public or private college or university. The additional amount specified in this paragraph may include other related postsecondary educational expenses at the discretion of the employer.

b. The eligible postsecondary institution that is identified in the agreement shall compute the anticipated tuition amount for the first two years for the postsecondary program of study identified in the agreement. If the postsecondary program of study is shorter than two years in length, the entire tuition amount shall be identified. Any financial aid in the form of grants, and excluding loans, that is anticipated or has already been granted to the participant may be subtracted from the program tuition costs computed by the eligible postsecondary institution. The resulting tuition costs shall be divided by the number of hours that the participant is anticipated to work for the employer over the three summer internships to determine the hourly amount that the employer must pay in addition to the base wage. The amount set aside for postsecondary tuition may be renegotiated at any time during the certified program based upon additional information that is obtained about the tuition costs, financial aid or other items that will affect the amount of funding needed to cover two years of postsecondary tuition, or all tuition expenses for programs shorter than two years in length, in the selected program. If, for circumstances at the discretion of the participant and beyond the control of the employer, the participant misses hours of work that cannot be made up, the employer is not responsible for funding the entire two years of postsecondary tuition.

## ECONOMIC DEVELOPMENT, IOWA DEPARTMENT OF[261](cont'd)

c. This additional amount shall be held in trust by the employer for the benefit of the participant. Payment into an ERISA-approved fund for the benefit of the participant shall satisfy this requirement. The specific fund shall be specified in the agreement.

d. Payment of postsecondary tuition expenses from the ERISA fund established through this program shall be made directly to the postsecondary institution unless otherwise designated in the certified program agreement.

e. The certified program work site agreement shall specify any tax implications that the participant may encounter as a result of the accumulation of ERISA funds.

**11.3(9) Participant's agreement to work for the employer.** The participant must agree to work for the employer for at least two years following the completion of the participant's postsecondary education as required by the certified program. However, the agreement may provide for additional education and work commitments beyond the two years. This agreement may be contingent upon the employer's willingness to provide full-time, nonseasonal employment with industry standard wages and benefits.

**11.3(10) Repayment of tuition funding.** If the participant does not complete the two-year employment obligation, the participant's agreement to repay to the employer the amount paid by the employer toward the participant's postsecondary education expenses pursuant to subrule 11.3(8) shall provide that:

a. If a participant does not complete the certified program identified by the agreement after entering the postsecondary component of the school to career education program, any unexpended funds being held in trust for the participant's postsecondary education shall be paid back to the employer. In addition, the participant must repay to the employer amounts paid from the trust which were expended on the participant's behalf for postsecondary education.

b. If a participant selects a different career field and chooses not to complete the certified program identified in the agreement prior to entering the postsecondary component of the education program, one-half of the moneys being held in trust for the participant's postsecondary education shall be paid to a postsecondary education institution as defined in Iowa Code section 261C.3 of the participant's choice to pay tuition or expenses of the participant. The other one-half of the trust moneys shall be paid back to the employer. Any moneys to be transferred for the benefit of the participant which are not transferred within five years for purposes of education at the designated postsecondary institution shall be paid back to the employer.

c. If the participant elects to change the participant's postsecondary education choice, but agrees to fulfill the training and employment conditions in the certified program work site agreement, the program agreement shall be modified by consent of the participant, sponsor, parent or guardian, if applicable, employer representative and representatives of the newly selected postsecondary educational entity.

d. If the employer does not offer full-time, permanent employment in the career field designated in the agreement that is consistent with industry standard wages and benefits, the participant shall not be required to make repayment to the employer.

e. If a participant terminates full-time, permanent employment that offers a wage and benefit package consistent with industry standards prior to the two-year time period, the participant shall repay postsecondary education expenses to the employer in whole or in part.

f. If the employer permanently terminates employment of the participant and unemployment insurance is awarded,

no repayment of the tuition assistance funds shall be required.

**11.3(11) Additional tuition allowance.** Employers may, at their discretion, pay participants an additional amount that will cover more than two years of postsecondary tuition.

**11.3(12) Documentation of certified program.** Documentation of the internship being part of registered apprenticeship program under 29 CFR subtit. A, pt. 29 which is conducted pursuant to an agreement as provided in 1998 Iowa Acts, Senate File 2296, section 18, or a program approved by the state board of education must be part of the agreement.

**11.3(13) Certified program work site agreement submittal.** The certified program work site agreement must be submitted to the department for approval prior to the beginning of the internship. The department shall review the agreement and provide a letter of approval or denial within 30 days of receipt of the agreement.

**261—11.4(77GA,SF2296) Payroll expenditure refund.**

**11.4(1) Eligible Iowa payroll expenditure refund.** An Iowa employer who employs a participant in a certified school to career program may claim a refund of 20 percent of the employer's payroll expenditures for each participant in the certified program. The refund is limited to the first 400 hours of payroll expenditures per participant for each calendar year the participant is in the certified program, not to exceed three years per participant. In order to receive the refund, an employer must submit a finalized certified program work site agreement to the department and receive approval for the program prior to the participant's beginning work for the business.

**11.4(2) Claim submittal process.** To receive a refund under subrule 11.4(1) for a calendar year, the employer shall file the claim by July 1 of the following calendar year. Claims that are not received by July 1 of the calendar year following the payroll expenditure shall not receive a refund. The claim shall be filed on forms provided by the department of economic development and the employer shall provide such information regarding the employer's participation in a certified school to career program as the department may require. If the amount appropriated to the certified school to career program in any given fiscal year is insufficient to pay all of the refund claims for the applicable calendar year, each claimant shall receive a proportion of the claimant's refund equal to the ratio of the amount appropriated to the total amount of refund claims. Any unpaid portion of a claim shall not be paid from a subsequent fiscal year appropriation. The participant's social security number will be required for purposes of program evaluation.

These rules are intended to implement 1998 Iowa Acts, Senate File 2296, sections 15 to 21.

## ARC §315A

EDUCATIONAL EXAMINERS  
BOARD[282]

## Notice of Intended Action

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)“b.”

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code section 272.2, the Board of Educational Examiners hereby gives Notice of Intended Action to amend Chapter 14, “Issuance of Practitioner’s Licenses and Endorsements,” Iowa Administrative Code.

The proposed amendments clarify the wording for middle school endorsement in subrule 14.20(15) and remove the expiration date thereby allowing this endorsement to continue to be available after December 31, 1998.

The middle school endorsement was created for holders of a general elementary endorsement or a secondary endorsement. The middle school endorsement encourages preparation of middle school level teachers in the unique characteristics and needs of the middle school age student and continues to facilitate interdisciplinary teaching in the middle school.

The Board has reviewed the impact of this middle school endorsement and finds that it is an effective and needed endorsement that should continue to be available to practitioners; therefore, the Board proposes to clarify the wording in this endorsement and to remove the expiration date of December 31, 1998.

There will be a public hearing on the proposed amendments on October 8, 1998, at 10 a.m. in Conference Room 3 North, Third Floor, Grimes State Office Building, East 14th and Grand Avenue, Des Moines, Iowa. Persons may present their views at the public hearing orally or in writing. Persons who wish to make oral presentation at the public hearing may contact the Executive Director, Board of Educational Examiners, Grimes State Office Building, East 14th and Grand Avenue, Des Moines, Iowa 50319-0147, or at (515) 281-5849 prior to the date of the public hearing.

Any interested person may make written comments or suggestions on the proposed amendments through 4:30 p.m., October 9, 1998. Written comments and suggestions should be addressed to Dr. Anne E. Kruse, Executive Director, Board of Educational Examiners, at the above address.

These amendments are intended to implement Iowa Code chapter 272.

The following amendments are proposed.

Amend subrule 14.20(15) as follows:

Amend paragraph “b,” subparagraph (2), numbered paragraph “2,” as follows:

2. Three semester hours of coursework in middle school curriculum design, and instruction, and curriculum including, but not limited to, instruction in interdisciplinary teaming, pedagogy, and methods in addition to related studies completed as part of the professional education core in 14.19(3).

Strike the final paragraph as follows:

~~The provision of this subrule will expire on December 31, 1998.~~

## ARC §314A

EDUCATIONAL EXAMINERS  
BOARD[282]

## Notice of Intended Action

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)“b.”

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code section 272.2, the Board of Educational Examiners hereby gives Notice of Intended Action to amend Chapter 14, “Issuance of Practitioner’s Licenses and Endorsements,” Iowa Administrative Code.

The proposed amendment adds provisions for a two-year administrator exchange license, which is similar to the two-year exchange license currently provided for instructional staff.

There will be a public hearing on the proposed amendment on October 8, 1998, at 1 p.m. in Conference Room 3 North, Third Floor, Grimes State Office Building, East 14th and Grand Avenue, Des Moines, Iowa. Persons may present their views at the public hearing orally or in writing. Persons who wish to make oral presentation at the public hearing may contact the Executive Director, Board of Educational Examiners, Grimes State Office Building, East 14th and Grand Avenue, Des Moines, Iowa 50319-0147, or telephone (515) 281-5849 prior to the date of the public hearing.

Any interested person may make written comments or suggestions on the proposed amendment through 4:30 p.m., October 9, 1998. Written comments and suggestions should be addressed to Dr. Anne E. Kruse, Executive Director, Board of Educational Examiners, at the above address.

This amendment is intended to implement Iowa Code chapter 272.

The following amendment is proposed.

Adopt new rule 282—14.25(272) as follows and renumber existing rules 282—14.25(272) to 282—14.32(272) as 282—14.26(272) to 282—14.33(272).

282—14.25(272) Two-year administrator exchange license.

14.25(1) A two-year nonrenewable exchange license may be issued to an individual under the following conditions. The individual:

a. Has completed a state-approved teacher education program in a college or university approved by the state board of education or the state board of educational examiners in the individual’s home state.

b. Has completed a state-approved administrator education program in a college or university approved by the state board of education or the state board of educational examiners in the individual’s home state.

c. Holds a valid regular administrative certificate or license.

d. Is not subject to any pending disciplinary proceedings in any state.

e. Meets the experience requirements for the administrative endorsements. Verified successful completion of five years of full-time teaching and administrative experience in other states, on a valid license, shall be considered equivalent experience necessary for the principal endorsement. Veri-

## EDUCATIONAL EXAMINERS BOARD[282](cont'd)

fied successful completion of eight years of full-time teaching and administrative experience in other states, on a valid license, shall be considered equivalent experience for the superintendent endorsement provided that three years were as a building principal or other PK-12 districtwide or area education agency administrator.

14.25(2) Each exchange license shall be limited to the area(s) and level(s) of administration as determined by an analysis of the application, the transcripts, and the license or certificate held in the state in which the basic preparation for the administrative licensure was completed.

14.25(3) Each individual receiving the two-year exchange license will have to complete any identified licensure deficiencies in order to be eligible for a regular educational and administrative license in Iowa.

## ARC §279A

## EDUCATION DEPARTMENT[281]

## Notice of Intended Action

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)"b."

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code section 256.7(5), the Iowa State Board of Education hereby gives Notice of Intended Action to rescind Chapter 8, "ICN Subsidization Reimbursement Procedures," Iowa Administrative Code.

This chapter is being rescinded since the \$2.5 million disbursement to the ICN never occurred, making these rules obsolete.

Since this process does not affect the public, no public hearing will be held. Written comments may be submitted to Ann Molis, Consultant, Department of Education, Grimes State Office Building, Des Moines, Iowa 50319, on or before September 29, 1998.

This amendment is intended to implement Iowa Code section 256.11.

The following amendment is proposed.

Rescind and reserve 281—Chapter 8.

## ARC §283A

## EDUCATION DEPARTMENT[281]

## Notice of Intended Action

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)"b."

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code section 256.7(5), the Iowa State Board of Education hereby gives Notice of Intended Action to rescind Chapter 90, "Standards for Graduate Teacher Education Programs," Iowa Administrative Code.

This chapter was replaced by Chapter 78 in 1993.

Since this process does not affect the public, no public hearing will be held. However, written comments will be accepted on or before September 29, 1998, and may be directed to Ann Molis, Department of Education, Grimes State Office Building, Des Moines, Iowa 50319-0146.

This amendment is intended to implement Iowa Code section 256.7(3).

The following amendment is proposed.

Rescind and reserve 281—Chapter 90.

## ARC §284A

## EDUCATION DEPARTMENT[281]

## Notice of Intended Action

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)"b."

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code section 256.7(5), the Iowa State Board of Education hereby proposes a new Chapter 96, "Local Sales and Services Tax for School Infrastructure," Iowa Administrative Code.

This new chapter defines the enrollment count that will be reported by school districts located in a county that adopts a local sales and services tax for school district infrastructure.

Any interested person may make written suggestions or comments on this proposed chapter on or before October 2, 1998. Such written comments should be directed to the attention of Lee Tack, Department of Education, Grimes State Office Building, Des Moines, Iowa 50319; fax (515) 242-5988.

A public hearing will be held on October 2, 1998, from 1 to 2 p.m. in the ICN Room, Department of Education, Second Floor, Grimes State Office Building, Des Moines, Iowa 50319-0146, and on the Iowa Communications Network at the following sites:

Keystone AEA 1, ICN Classroom, 1400 2nd St. SW, Elkader, IA 52043

Northern Trails AEA 2, State Room, 9184B 265th Street, Clear Lake, IA 50428

Lakeland AEA 3, Highway 18 and 2nd Street, Cylinder, IA 50528

AEA 4, 1382 4th Avenue NE, Room 103, Sioux Center, IA 51250

Arrowhead AEA 5, Iowa Central Community College, Library Building, 2nd Floor, Room 204, 330 Avenue M, Fort Dodge, IA 50501

AEA 6, 909 South 12th Street, ICN Room, Marshalltown, IA 50158

AEA 7, 3712 Cedar Heights Drive, Cedar Falls, IA 50613  
Mississippi Bend AEA 9, Louisa Room, 729 21st St., Bettendorf, IA 52722

Grant Wood AEA 10, Revere Room, 4401 Sixth Street SW, Cedar Rapids, IA 52404

AEA 11 (Origination), Department of Education, Grimes State Office Building, 2nd Floor, Des Moines, IA 50319  
Heartland AEA 11, ICN Classroom, 6500 Corporate Drive, Johnston, IA 50131

Western Hills AEA 12, Room 209A, 1520 Morningside Avenue, Sioux City, IA 51106

## EDUCATION DEPARTMENT[281](cont'd)

Loess Hills AEA 13, ICN Room, 24997 Highway 92, Council Bluffs, IA 51502

Green Valley AEA 14, Turner Room, 1405 North Lincoln, Creston, IA 50801

Southern Prairie AEA 15, ICN Classroom, 2814 North Court, Ottumwa, IA 52501-1194

Great River AEA 16, 1200 University, Room 108, Burlington, IA 52601

Persons who wish to convey their views orally or in writing may do so on September 29, 1998, from 1 to 2 p.m. in the State Board Room, Department of Education, Grimes State Office Building, Des Moines, Iowa 50319-0146, or by calling (515)281-5293.

Persons who intend to attend a public hearing and have special requirements such as hearing or mobility impairments should contact the Department of Education and advise of specific needs.

This chapter is intended to implement 1998 Iowa Acts, House File 2282.

The following chapter is proposed.

Adopt the following new chapter:

**CHAPTER 96  
LOCAL SALES AND SERVICES TAX  
FOR SCHOOL INFRASTRUCTURE**

**281—96.1(77GA, HF2282) Definitions.** For purposes of these rules, the following definitions shall apply:

“Actual enrollment” means the number of students each school district certifies to the department by October 1 of each year in accordance with Iowa Code section 257.6, subsection 1.

“Base year” means the school year ending during the calendar year in which the budget is certified.

“Combined actual enrollment” means the sum of the students in each school district located in whole or in part in a county imposing a sales tax who are residents of that county as determined by rule 96.2(77GA, HF2282).

“Department” means the state department of education.

“Nonresident student” means a student enrolled in a school district who does not meet the requirements of a resident as defined in Iowa Code section 282.1.

“Resident student” means a student enrolled in a school district and meeting the requirements of a resident as defined in Iowa Code section 282.1.

“Sales tax” means a local option sales and services tax for school infrastructure imposed in accordance with 1998 Iowa Acts, House File 2282.

“School district” means a public school district in Iowa accredited by the state department of education.

**281—96.2(77GA, HF2282) Reports to the department.** Each school district located in whole or in part in a county where a sales tax has been imposed shall report the following to the department on forms and in the manner prescribed by the department.

**96.2(1) First year of taxation.** Within ten days after an election in a county where a sales tax has been adopted, each school district within the county shall report to the department the actual enrollment of the school district in the year prior to the base year. The department shall forward the actual enrollment to the department of management within 15 days of receipt.

**96.2(2) Second and subsequent years of taxation.** In the second and subsequent years of taxation, each school district shall, by October 1, annually report the school district’s actu-

al enrollment by the student’s county of residency according to the following:

a. County of residency. The county of residency for each of the following students shall be the county of residency of the student’s parent or guardian:

(1) Resident students who were enrolled in the school district in grades kindergarten through 12 and including pre-kindergarten students enrolled in special education programs;

(2) Full-time equivalent resident students of high school age for which the school district pays tuition to attend an Iowa community college;

(3) Shared-time and part-time students of school age enrolled in the school district;

(4) Eleventh and twelfth grade nonresident students who were residents of the school district during the preceding school year and are enrolled in the school district until the students graduate;

(5) Resident students receiving competent private instruction from a licensed practitioner provided through a public school district pursuant to Iowa Code chapter 299A; and

(6) Resident students receiving competent private instruction under dual enrollment pursuant to Iowa Code chapter 299A.

b. Emancipated minor. The county of residency for an emancipated minor attending the school district shall be the county in which the emancipated minor is living.

c. County of residency unknown. If a school district cannot determine an enrolled student’s county of residency, the county of residency shall be the county in which the school district certifies its budget.

**281—96.3(77GA, HF2282) Combined actual enrollment.** By March 1, annually, the department shall forward to the department of management the actual enrollment and the actual enrollment by the student’s county of residency for each school district located in whole or in part in a county where a sales tax has been imposed, and the combined actual enrollment for that county.

These rules are intended to implement 1998 Iowa Acts, House Files 2282.

**ARC 8304A**

**ENGINEERING AND LAND  
SURVEYING EXAMINING  
BOARD[193C]**

**Notice of Intended Action**

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)“b.”

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code section 542B.6, the Engineering and Land Surveying Examining Board hereby gives Notice of Intended Action to amend Chapter 1, “Administration,” Iowa Administrative Code.

This amendment is necessary because the Board’s requirement to print an annual report for licensees was eliminated effective July 1, 1998.

## ENGINEERING AND LAND SURVEYING EXAMINING BOARD[193C](cont'd)

Any interested person may make written or oral suggestions or comments on this proposed amendment on or before September 29, 1998. Comments should be directed to Glean Coates, Executive Secretary, Iowa Engineering and Land Surveying Examining Board at 1918 S.E. Hulsizer Road, Ankeny, Iowa 50021, or by telephoning (515) 281-7360.

This amendment is intended to implement Iowa Code section 542B.10.

The following amendment is proposed.

Amend rule 193C—1.9(542B) by rescinding subrule 1.9(6).

**ARC 8288A****HUMAN SERVICES  
DEPARTMENT[441]****Notice of Intended Action**

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)"b."

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code section 249A.4 and 1997 Iowa Acts, chapter 208, section 28, subsection 13, and section 37, the Department of Human Services proposes to amend Chapter 81, "Nursing Facilities," appearing in the Iowa Administrative Code.

This amendment changes the basis for the maximum nursing facility rate from December 31, 1996, cost reports to December 31, 1997, cost reports, retroactive to January 1, 1998. This effectively increases the maximum rate from \$71.70 to \$73.21 per day. Effective July 1, 1998, the maximum nursing facility rate was set at \$76.69 based on June 30, 1998, cost reports.

The Seventy-seventh General Assembly in 1997 Iowa Acts, chapter 208, section 28, subsection 1, paragraph "f," directed that if funds were available, the maximum reimbursement rate for nursing facilities should be adjusted effective January 1, 1998. It has now been determined that funding will be available to make this adjustment. The state cost for providing this increase for the last six months of state fiscal year 1998 is estimated at approximately \$3.6 million (state share \$1.3 million) based on the \$73.21 maximum daily rate.

The substance of this amendment is also Adopted and Filed Emergency and is published herein as **ARC 8289A**. The purpose of this Notice is to solicit comment on that submission, the subject matter of which is incorporated by reference.

Consideration will be given to all written data, views, and arguments thereto received by the Bureau of Policy Analysis, Department of Human Services, Hoover State Office Building, Des Moines, Iowa 50319-0114, on or before September 30, 1998.

This amendment is intended to implement Iowa Code section 249A.4 and 1997 Iowa Acts, chapter 208, section 28, subsection 1, paragraph "f."

**ARC 8325A****NATURAL RESOURCE  
COMMISSION[571]****Notice of Intended Action**

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)"b."

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code subsection 455A.5(6), the Natural Resource Commission hereby gives Notice of Intended Action to amend Chapter 40, "Boating Speed and Distance Zoning," Iowa Administrative Code.

These amendments would expand two existing no-wake zones on the Mississippi River at Sabula, in Jackson County. Zone 1 is an area at the north boat ramp and Zone 3 is within an area known as South Sabula Lake and has a public campground, boat ramp and a number of docks located along the shoreline. The City of Sabula is requesting this amendment in an effort to provide better shoreline and facility protection from wave action and increased water safety for public recreation.

Any interested person may make written suggestions or comments on the proposed amendments prior to September 30, 1998. Such written materials should be directed to the Law Enforcement Bureau, Department of Natural Resources, Wallace State Office Building, Des Moines, Iowa 50319-0034; fax (515)281-6794. Persons who wish to convey their views orally should contact the Law Enforcement Bureau at (515)281-4515 or at the enforcement offices on the fourth floor of the Wallace State Office Building.

There will be a public hearing on September 30, 1998, at 1 p.m. in the Fourth Floor West Conference Room of the Wallace State Office Building, at which time persons may present their views either orally or in writing. At the hearing, persons will be asked to give their names and addresses for the record and to confine their remarks to the subject of the rule.

Any persons who intend to attend a public hearing and have special requirements such as hearing or mobility impairments should contact the Department of Natural Resources and advise of specific needs.

These amendments are intended to implement Iowa Code section 462A.26.

The following amendments are proposed.

ITEM 1. Amend subrule 40.34(1) as follows:

**40.34(1) Zone 1.** Zone 1 shall extend 200 feet from shore and begin at a point ~~100 feet above~~ *250 feet upstream of* the north Sabula city boat ramp and ending at a point downstream where Bank Street intersects the river bank.

ITEM 2. Amend subrule 40.34(3) as follows:

**40.34(3) Zone 3.** Zone 3 shall extend 200 feet into ~~Lower~~ *South Sabula Lake* from the county boat ramp and 100 feet to the ~~left west~~ *west* of the ramp and ~~100 600~~ *600* feet to the ~~right east~~ *east* of the ramp.

## ARC 8318A

PUBLIC HEALTH  
DEPARTMENT[641]

## Notice of Intended Action

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)"b."

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code Supplement section 135.105C, the Department of Public Health hereby gives Notice of Intended Action to amend Chapter 69, "Renovation, Remodeling, and Repainting—Lead Hazard Notification Process," Iowa Administrative Code.

This chapter implements a program to require individuals who perform renovation, remodeling, and repainting of target housing for compensation to provide an approved lead hazard information pamphlet to the owner and occupant of the housing prior to commencing the work. In order to receive authorization from the U.S. Environmental Protection Agency (EPA), the Department of Public Health must establish a program that will be considered as protective as the U.S. EPA rules contained in Subpart E and Subpart Q of 40 CFR Part 745 of the Code of Federal Regulations. The final rules for the federal program were published in the Federal Register on June 1, 1998, and will become effective on June 1, 1999. The effective date of Iowa's rules must be changed to correspond with the effective date of the federal regulations. In addition, the final federal regulations are more flexible than the draft federal regulations. Therefore, some changes can be made to Iowa's rules to make them more flexible. The Department of Public Health must submit an application asking for this program to be approved. The U.S. EPA must approve or disapprove this application. If this application is not approved, the U.S. EPA will enforce the federal regulations in Iowa beginning on June 1, 1999.

Consideration will be given to all written suggestions or comments on the proposed amendments received on or before September 29, 1998. Such written materials should be sent to the Lead Poisoning Prevention Program, Department of Public Health, Lucas State Office Building, Des Moines, Iowa 50319, fax (515)281-4529.

Also, there will be a public hearing on September 29, 1998, at 10 a.m. (local Iowa time) over the Iowa Communications Network (ICN) at which time persons may present their views. The sites for the public hearing are as follows: Atlantic Public Library, 507 Poplar, Atlantic; Buena Vista University, Room 7B, 610 West Fourth Street, Storm Lake; Keystone Area Education Agency, ICN Classroom, 2310 Chaney Road, Dubuque; Grant Wood Area Education Agency, Revere Room, 4401 Sixth Street SW, Cedar Rapids; North Iowa Area Community College, Classroom 2, Careers Building 128, 500 College Drive, Mason City; Southern Prairie Area Education Agency, ICN Classroom, 2814 North Court Street, Ottumwa; and Iowa Department of Public Health ICN Room, Third Floor, Lucas State Office Building, Des Moines.

This chapter is intended to implement Iowa Code Supplement section 135.105C.

The following amendments are proposed.

Amend 641—Chapter 69 as follows:

## CHAPTER 69

RENOVATION, REMODELING, AND REPAINTING—  
LEAD HAZARD NOTIFICATION PROCESS

**641—69.1(135) Applicability.** This chapter applies to all persons who perform renovation, remodeling, and repainting for compensation in target housing.

**641—69.2(135) Definitions.**

*"Certificate of mailing"* means certified mail with return receipt or its equivalent.

*"Common area"* means a portion of the building that is generally accessible to all occupants. This includes, but is not limited to, hallways, stairways, laundry and recreational rooms, playgrounds, community centers, garages, and boundary fences.

*"Components"* means specific design or structural elements or fixtures of a building, residential dwelling, or child-occupied facility that are distinguished from each other by form, function, and location. These include, but are not limited to, interior components such as ceilings, crown moldings, walls, chair rails, doors, door trim, floors, fireplaces, radiators and other heating units, shelves, shelf supports, stair treads, stair risers, stair stringers, newel posts, railing caps, balustrades, windows and trim (including sashes, window heads, jambs, sills or stools and troughs), built-in cabinets, columns, beams, bathroom vanities, countertops, and air conditioners; and exterior components such as painted roofing, chimneys, flashing, gutters and downspouts, ceilings, soffits, fascias, rake boards, cornerboards, bulkheads, doors and door trim, fences, floors, joists, latticework, railings and railing caps, siding, handrails, stair risers and treads, stair stringers, columns, balustrades, windowsills or stools and troughs, casing, sashes and wells, and air conditioners.

*"Department"* means the Iowa department of public health.

*"Dwelling unit"* means a single, unified combination of rooms designed for use as a dwelling by one family.

*"Emergency renovation, remodeling, and repainting"* means renovation, remodeling, and repainting activities necessitated by nonroutine failures of equipment that were not planned but result from a sudden, unexpected event that, if not immediately attended to, presents a safety or public health hazard or threatens equipment or property with significant damage.

*"Lead-based paint"* means paint or other surface coatings that contain lead equal to or in excess of 1.0 milligram per square centimeter or more than 0.5 percent by weight.

*"Lead-based paint hazard"* means any condition that causes exposure to lead from lead-contaminated dust, lead-contaminated soil, or lead-based paint that is deteriorated or present in accessible surfaces, friction surfaces, and impact surfaces that would result in adverse human health effects.

*"Living area"* means any area of a residential dwelling used by at least one child six years of age or less including, but not limited to, living rooms, kitchen areas, dens, playrooms, and children's bedrooms.

*"Multifamily dwelling"* means a structure that contains more than one separate residential dwelling unit, which is used or occupied, or is intended to be used or occupied, in whole or in part, as the home or residence of one or more persons.

*"Renovation, remodeling, repainting"* means modifying any existing structure or portion of a structure where painted surfaces are disturbed, unless the activity fits the criteria of lead abatement as defined in 641—70.2(135) and is per-



## PUBLIC HEALTH DEPARTMENT[641](cont'd)

formed by a certified lead abatement contractor as defined in 641—70.2(135). This includes, but is not limited to, removing walls, ceilings, and other painted building components; window replacement; floor refinishing; and sanding, scraping, stripping, water blasting, or otherwise removing paint.

“Residential dwelling” means (1) a detached single-family dwelling unit, including the surrounding yard, attached structures such as porches and stoops, and detached buildings and structures including, but not limited to, garages, farm buildings, and fences, or (2) a single-family dwelling unit in a structure that contains more than one separate residential dwelling unit, which is used or occupied, or intended to be used or occupied, in whole or part, as the home or residence of one or more persons.

“Target housing” means housing constructed prior to 1978 with the exception of housing for the elderly or for persons with disabilities, unless at least one child, six years of age or less, resides or is expected to reside in the housing, and housing which does not contain a bedroom.

**641—69.3(135) Notification required.** Beginning on August June 1, 1999, individuals who perform renovation, remodeling, and repainting of target housing for compensation, except for emergency renovation, remodeling, and repainting of target housing for the purpose of preventing significant property damage or threats to public safety or health, must do the following *no more than 60 days* prior to commencing the work:

**69.3(1)** Provide the pamphlet, Lead Poisoning: How to Protect Iowa Families, to the owner and *adult* occupant of each dwelling unit where renovation, remodeling, and repainting will be performed.

**69.3(2)** Obtain a signed, dated acknowledgment from the owner and known *adult* occupant of each dwelling unit where renovation, remodeling, and repainting will be performed affirming that they have received the pamphlet and are aware of the potential health hazards from remodeling, renovating, or repainting housing containing lead-based paint. *If a written acknowledgement cannot be obtained from an adult occupant, the individual must certify in writing that the pamphlet has been delivered to the dwelling and that a written acknowledgement could not be obtained from an adult occupant. Such certification must include the address of the unit to be remodeled, renovated, or repainted, the date of method of delivery of the pamphlet, name of the person delivering the pamphlet, reason for lack of acknowledgement (e.g., occupant refuses to sign, no adult occupant available), the signature of the person conducting the renovating, remodeling, or repainting, and the date of signature.*

a. to e. No change.

**69.3(3)** *In lieu of delivering the pamphlet and written acknowledgement, the person conducting the renovating, remodeling, or repainting may obtain a certificate of mailing the pamphlet and written acknowledgement at least seven days prior to beginning the work.*

**69.3(3) 69.3(4)** If the general nature, location, and expected starting and ending dates of the planned renovation, remodeling, and repainting change after the initial notification has been conducted, the individual conducting the renovation, remodeling, and repainting shall provide further notification to the owners and occupants providing revised information on the ongoing or planned activities. *This subsequent notification must be provided before the individual conducting the renovation, remodeling, or repainting initiates work beyond that which was described in the original notice.*

**641—69.4(135) Notification required in multifamily housing.** Beginning on August June 1, 1999, individuals who perform renovation, remodeling, and repainting of common areas for compensation, except for emergency renovation, remodeling, and repainting of target housing for the purpose of preventing significant property damage or threats to public safety or health, must do the following *no more than 60 days* prior to commencing the work:

**69.4(1)** No change.

**69.4(2)** Obtain a signed, dated acknowledgment from the owner of the multifamily target housing where renovation, remodeling, and repainting will be performed affirming that the owner has received the pamphlet and is aware of the potential health hazards from remodeling, renovating, or repainting housing containing lead-based paint.

a. to e. No change.

f. Notify each ~~owner and~~ occupant of the multifamily housing, in writing, of the intended remodeling, repainting, or renovation, and make the pamphlet, Lead Poisoning: How to Protect Iowa Families, available upon request. At a minimum, this notification shall be accomplished by distributing written notice to each ~~owner and~~ occupant of the target housing. The notice shall describe:

(1) to (3) No change.

g. No change.

h. ~~If the owner performs the notification activities on behalf of the individual planning to perform the renovation, remodeling, and repainting, then the~~ *The individual planning to perform the renovation, remodeling, and repainting must retain prepare, sign, and date a statement signed and dated by the owner of the dwelling describing the steps performed to notify all occupants of the intended renovation, remodeling, and repainting, and to provide the pamphlet, Lead Poisoning: How to Protect Iowa Families, at no charge upon request. Regardless of who performs the notification activities required in this subrule, the individual planning to conduct the renovation, remodeling, and repainting shall be responsible for ensuring compliance with this subrule and shall be liable for any failures to comply with the notification requirements in this subrule.*

**69.4(3)** *In lieu of delivering the pamphlet and written acknowledgement to the owner, the person conducting the renovating, remodeling, or repainting may obtain a certificate of mailing the pamphlet and written acknowledgement at least seven days prior to beginning the work.*

**69.4(3) 69.4(4)** If the general nature, location, and expected starting and ending dates of the planned renovation, remodeling, and repainting change after the initial notification has been conducted, the individual conducting the renovation, remodeling, and repainting shall provide further notification to the owners and occupants providing revised information on the ongoing or planned activities. *This subsequent notification must be provided before the individual conducting the renovation, remodeling, or repainting initiates work beyond that which was described in the original notice.*

**641—69.5(135) Emergency renovation, remodeling, and repainting.** Beginning on August June 1, 1999, individuals who perform emergency renovation, remodeling, and repainting of target housing for compensation for the purpose of preventing significant property damage or threats to public safety or health must do the following:

**69.5(1) and 69.5(2)** No change.

**69.5(3)** These activities shall be conducted by the individual performing the renovation, remodeling, and repainting, or by the owner on behalf of this individual. ~~If the owner performs the notification activities on behalf of the individu-~~

## PUBLIC HEALTH DEPARTMENT[641](cont'd)

~~al planning to perform the renovation, remodeling, and repainting, then the~~ The individual planning to perform the renovation, remodeling, and repainting must ~~retain~~ *prepare, sign, and date* a statement signed and dated by the owner of the dwelling describing the steps performed to notify all occupants of the intended renovation, remodeling, and repainting, and to provide the pamphlet, Lead Poisoning: How to Protect Iowa Families, at no charge upon request. Regardless of who performs the notification activities required in this subrule, the individual conducting the renovation, remodeling, and repainting shall be responsible for ensuring compliance with this rule and shall be liable for any failures to comply with the notification requirements in this rule.

**641—69.6(135) Certification of attempted delivery.** *When an adult occupant is unavailable for signature or refuses to sign the acknowledgment of receipt of the pamphlet, the individual conducting the renovating, remodeling, or repainting is permitted by subrule 69.3(2) to certify delivery for each instance. The certification shall include the address of the unit undergoing renovation, remodeling or repainting, the date and method of delivery of the pamphlet, names of the persons delivering the pamphlet, reason for lack of acknowledgment (e.g., occupant refuses to sign, no adult occupant available), the signature of the individual conducting the renovation, remodeling, and repainting, and the date of signature.*

**69.6(1) Unavailable for signature.**

a. *If an adult occupant is unavailable for signature, the certification shall contain the following language:*

*I certify that I have made a good faith effort to deliver the pamphlet, Lead Poisoning: How to Protect Iowa Families, to the unit listed below at the dates and times indicated, and that an adult occupant was unavailable to sign the acknowledgment. I further certify that I have left a copy of the pamphlet at the unit with the occupant.*

b. *Below the statement, the certification shall require the printed name and signature of the individual conducting the renovating, remodeling, or repainting, the address of the unit, the attempted delivery dates and times, and the date of signature.*

**69.6(2) Refused to sign.**

a. *If the occupant refuses to sign the acknowledgment, the certification shall contain the following language:*

*I certify that I have made a good faith effort to deliver the pamphlet, Lead Poisoning: How to Protect Iowa Families, to the unit listed below at the dates and times indicated, and that the occupant refused to sign the acknowledgment. I further certify that I have left a copy of the pamphlet at the unit by sliding it under the door.*

b. *Below the statement, the certification shall require the printed name and signature of the individual conducting the renovating, remodeling, or repainting, the address of the unit, the attempted delivery dates and times, and the date of signature.*

**641—69.7(135) Exemption.** *Renovation, remodeling, and repainting in target housing in which a lead inspector or elevated blood lead (EBL) inspector certified pursuant to 641—Chapter 70 has made a written determination that the components affected by the renovation are free of lead-based paint and where the person conducting the renovation, remodeling, or repainting has obtained a copy of the written determination are exempt from the provisions of 641—Chapter 69.*

**641—69.6(135) 641—69.8(135) Record-keeping requirements.** Beginning on August 1, 1999, individuals who con-

duct renovation, remodeling, and repainting for compensation in target housing shall retain all records necessary to demonstrate compliance with this chapter for a minimum of three years following completion of the renovation, remodeling, and repainting. The records shall include:

~~69.6(1) 69.8(1)~~ The address or location of the target housing where remodeling, renovation, or repainting was conducted.

~~69.6(2) 69.8(2)~~ A list of all known occupants of the dwelling units where renovation, remodeling, or repainting was conducted at the commencement of the work.

~~69.6(3) 69.8(3)~~ Copies of signed, dated acknowledgments as required by subrule 69.3(2) from each owner and occupant of a dwelling unit where renovation, remodeling, or repainting was conducted.

~~69.6(4) 69.8(4)~~ Copies of signed, dated acknowledgments as required by subrule 69.4(2) from each owner of multifamily target housing where renovation, remodeling, or repainting was conducted in common areas.

~~69.6(5) 69.8(5)~~ Copies of all signed, dated statements of notification, as well as copies of all notification materials to all owners and occupants as required by acknowledgments as required by subrule 69.4(2) from each owner and occupant of multifamily target housing where renovation, remodeling, or repainting was conducted in common areas.

~~69.8(6) Reports showing that a lead inspector or elevated blood lead (EBL) inspector certified pursuant to 641—Chapter 70 has made a written determination that the components affected by the renovation are free of lead-based paint.~~

~~69.8(7) Certifications of attempted delivery as described in 641—69.6(135).~~

~~69.8(8) Certificates of mailing as described in subrules 69.3(3) and 69.4(3).~~

**641—69.7(135) 641—69.9(135) Enforcement.**

~~69.7(1) 69.9(1)~~ The department may enter the place of business of an individual who conducts renovation, remodeling, and repainting for the purpose of enforcing the notification required by this chapter.

~~69.7(2) 69.9(2)~~ The following are considered to be in violation of this chapter:

a. Failure or refusal to comply with any requirements of this chapter.

b. Failure or refusal to establish, maintain, provide, copy, or permit access to records or reports as required by this chapter.

c. Failure or refusal to permit entry or inspection as described in subrule ~~69.7(4) 69.9(1)~~.

These rules are intended to implement Iowa Code Supplement section 135.105C.

## ARC 8319A

### PUBLIC HEALTH DEPARTMENT[641]

#### Notice of Intended Action

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)"b."

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code section 135.105A, the Department of Public Health hereby gives Notice of In-

## PUBLIC HEALTH DEPARTMENT[641](cont'd)

tended Action to amend Chapter 70, "Lead Professional Certification," Iowa Administrative Code.

Iowa Code section 135.105A directs the Department of Public Health to establish a program for the training and certification of lead inspectors and lead abaters and states that a person shall not perform lead abatement or lead inspections unless the person has completed a training program approved by the Department and has obtained certification. Property owners are required to be certified only if the property in which they will perform lead inspections or lead abatement is occupied by a person other than the owner or a member of the owner's immediate family while the measures are being performed. A person may be certified as both a lead inspector and a lead abater. However, a person who is certified as both shall not provide both inspection and abatement services at the same site unless a written consent or waiver, following full disclosure by the person, is obtained from the owner or manager of the site. The legislation establishing this Iowa Code section stated that this section could take effect only after the Department of Public Health obtained certification from the U.S. Environmental Protection Agency (EPA) as an accredited program to train and certify lead inspectors and abaters. However, the legislation also stated that the Department could establish a temporary program for the voluntary certification of lead inspectors and lead abaters during the period prior to obtaining certification as an accredited program from the U.S. EPA. Since the Department of Public Health certification program has not yet received authorization from the U.S. EPA, certification of lead professionals is still voluntary.

In order to receive authorization from the U.S. EPA, the Department of Public Health must establish a program for the mandatory certification of lead professionals that will be considered as protective as the U.S. EPA rules contained in Subpart L and Subpart Q of 40 CFR Part 745 of the Code of Federal Regulations. Under 40 CFR Part 745, approval of training programs will become mandatory on March 1, 1999, and certification of lead professionals will become mandatory on August 31, 1999. The Department of Public Health must submit an application asking for this program to be approved. The U.S. EPA must approve or disapprove this application. If this application is not approved, the U.S. EPA will enforce the federal regulations in Iowa beginning on March 1, 1999. The U.S. EPA has reviewed a draft of Iowa's application and recommended that the rules be amended as shown in this Notice of Intended Action.

Consideration will be given to all written suggestions or comments on the proposed amendments on or before September 29, 1998. Such written materials should be sent to the Lead Poisoning Prevention Program, Department of Public Health, Lucas State Office Building, Des Moines, Iowa 50319; fax (515)281-4529.

Also, there will be a public hearing on September 29, 1998, at 10 a.m. (local Iowa time) over the Iowa Communications Network (ICN) at which time persons may present their views. The sites for the public hearing are the following: Atlantic Public Library, 507 Poplar, Atlantic; Buena Vista University, Room 7B, 610 West Fourth Street, Storm Lake; Keystone Area Education Agency, ICN Classroom, 2310 Chaney Road, Dubuque; Grant Wood Area Education Agency, Revere Room, 4401 Sixth Street SW, Cedar Rapids; North Iowa Area Community College, Classroom 2, Careers Building 128, 500 College Drive, Mason City; Southern Prairie Area Education Agency, ICN Classroom, 2814 North Court Street, Ottumwa; and Iowa Department of Public

Health ICN Room, Third Floor, Lucas State Office Building, Des Moines.

These amendments are intended to implement Iowa Code section 135.105A.

The following amendments are proposed.

ITEM 1. Amend rule **641—70.2(135)** as follows:

Add the following **new** definitions in alphabetical order: "Certified project designer" means a person who has met the requirements of 641—70.5(135) and who has been certified by the department.

"Firm" means a company, partnership, corporation, sole proprietorship, association, or other business entity that performs or offers to perform lead-based paint activities.

Amend the following definitions:

"Hazardous waste" means any waste as defined in 40 CFR ~~2561.3~~ 261.3.

"Target housing" means housing constructed prior to 1978 with the exception of housing for the elderly or for persons with disabilities, ~~unless at least one child, six years of age or less, resides or is expected to reside in the housing,~~ and housing which does not contain a bedroom, ~~unless at least one child, six years of age or less, resides or is expected to reside in the housing for the elderly or persons with disabilities or housing which does not contain a bedroom.~~

ITEM 2. Amend subrule **70.4(1)**, paragraph "e," as follows:

e. The training manager shall maintain the validity and integrity of the hands-on skills assessment to ensure that it accurately evaluates the trainees' performance of the work practices and procedures associated with the course topics contained in subrules 70.4(3) to ~~70.4(8)~~ 70.4(9).

ITEM 3. Amend subrule **70.4(2)**, paragraph "k," as follows:

k. A *nonrefundable* fee of \$200.

ITEM 4. Amend rule 641—70.4(135) by adding the following **new** subrule 70.4(8) and renumbering subrules **70.4(8)** to **70.4(10)** as **70.4(9)** to **70.4(11)**:

**70.4(8)** To be approved for the training of project designers, a course must be at least 48 instructional training hours with a minimum of 12 hours devoted to hands-on activities and shall cover at least the following subjects (requirements ending in an asterisk (\*) indicate areas that require hands-on activities as an integral component of the course):

a. Role and responsibilities of a lead abatement contractor.

b. Background information on lead and its adverse health effects, how children and adults are exposed to lead, and how to prevent lead exposure in children and adults.

c. Background information on federal, state, and local regulations and guidance that pertain to lead-based paint and lead-based paint activities.

d. Liability and insurance issues relating to lead-based paint abatement.

e. Identification of lead-based paint and lead-based paint hazards.\*

f. Interpretation of lead inspection reports.\*

g. Development and implementation of an occupant protection plan and abatement report.

h. Respiratory protection and protective clothing.\*

i. Employee information and training.

j. Approved methods for conducting lead-based paint abatement and interim controls.\*

k. Prohibited methods for conducting lead-based paint abatement and interim controls.

## PUBLIC HEALTH DEPARTMENT[641](cont'd)

- l. Interior dust abatement and cleanup.\*
- m. Soil and exterior dust abatement and cleanup.\*
- n. Clearance standards and testing, including random sampling.
- o. Cleanup and waste disposal.
- p. Record keeping.
- q. Role and responsibilities of a project designer.
- r. Development and implementation of an occupant protection plan for large-scale abatement projects.
- s. Lead-based paint abatement and lead-based paint hazard reduction methods, including restricted practices for large-scale abatement projects.
- t. Interior dust abatement/cleanup or lead hazard control and reduction methods for large-scale abatement projects.
- u. Clearance standards and testing for large-scale abatement projects.
- v. Integration of lead-based paint abatement methods with modernization and rehabilitation projects for large-scale abatement projects.
- w. The course shall conclude with a course test and, if applicable, a hands-on skills assessment. The student must achieve a score of at least 80 percent on the examination and successfully complete the hands-on skills assessment to successfully complete the course.

ITEM 5. Amend renumbered subrule 70.4(9), paragraph "a," as follows:

- a. A review of the curriculum topics of the initial certification course for the appropriate discipline as listed in subrules 70.4(3) to ~~70.4(7)~~ 70.4(8).

ITEM 6. Amend renumbered subrule 70.4(10), paragraph "e," as follows:

- e. A *nonrefundable* fee of \$200.

ITEM 7. Amend subrule 70.5(2), paragraph "a," as follows:

a. Lead inspectors and elevated blood lead (EBL) inspectors must meet one of the following requirements:

(1) Bachelor's degree *and one year of related experience* (e.g., lead, environmental health, public health, housing inspection, building trades).

(2) Associate's degree and ~~one year~~ *two years* of related experience (e.g., lead, environmental health, public health, housing inspection, building trades).

(3) High school diploma and ~~two~~ *three* years of related experience (e.g., lead, environmental health, public health, housing inspection, building trades).

(4) Certification as an industrial hygienist, professional engineer, registered architect, registered sanitarian, registered environmental health specialist, or registered nurse.

ITEM 8. Amend subrule 70.5(2) by adding the following new paragraph "e":

e. Project designers must meet one of the following requirements:

(1) Bachelor's degree in engineering, architecture, or a related profession, and one year of experience in building construction and design or a related field.

(2) Four years of experience in building construction and design or a related field.

ITEM 9. Amend subrule 70.6(2), paragraph "d," subparagraph (6), as follows:

(6) Name, signature, and certification number of each certified lead inspector or certified elevated blood lead inspector conducting the investigation;

ITEM 10. Amend subrule 70.6(4), paragraph "h," introductory paragraph and subparagraph (6), as follows:

h. A certified lead inspector or a certified elevated blood lead inspector shall prepare a written report for each residential dwelling or child-occupied facility where a lead hazard screen is conducted and shall provide a copy of this report to the person requesting the lead hazard screen. A certified lead inspector or a certified elevated blood lead inspector shall maintain a copy of each written report for no fewer than three years. The report shall include, at least:

(6) Name, signature, and certification number of each certified lead inspector or certified elevated blood lead inspector conducting the investigation;

ITEM 11. Amend subrule 70.6(6), paragraph "d," as follows:

d. A certified lead abatement contractor or a certified project designer shall develop an occupant protection plan for all lead abatement projects prior to starting lead abatement and shall implement the occupant protection plan during the lead abatement project. The occupant protection plan shall be unique to each residential dwelling or child-occupied facility. The occupant protection plan shall describe the measures and management procedures that will be taken during the abatement to protect the building occupants from exposure to any lead-based paint hazards.

ITEM 12. Amend subrule 70.6(6), paragraph "i," introductory paragraph, as follows:

i. The certified lead abatement contractor or a certified project designer shall prepare an abatement report containing the following information:

ITEM 13. Amend subrule 70.6(7), paragraph "c," subparagraph (6), as follows:

(6) Name, signature, and certification number of each certified visual assessor, certified lead inspector, or certified elevated blood lead (EBL) inspector conducting the visual risk assessment;

ITEM 14. Adopt the following new rule 641—70.7(135) and renumber rule 641—70.7(135) as 641—70.8(135):

**641—70.7(135) Firms.** Firms that perform or offer to perform lead-based paint activities shall employ only appropriately certified employees to conduct lead-based paint activities, and the firm and its employees shall follow the work practice standards in 641—70.6(135) for conducting lead-based paint activities.

ITEM 15. Renumber rule 641—70.8(135) as 641—70.9(135).

ARC 8317A

PUBLIC HEALTH  
DEPARTMENT[641]

Notice of Intended Action

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)"b."

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of 1998 Iowa Acts, Senate File 2280, section 5, subsection 4(10), the Iowa Department of

## PUBLIC HEALTH DEPARTMENT[641](cont'd)

Public Health proposes to adopt Chapter 91, "Iowa Domestic Abuse Death Review Team," Iowa Administrative Code.

The proposed chapter creates a domestic abuse death review team pursuant to 1998 Iowa Acts, Senate File 2280, section 5, subsection 4(10). The purpose of the team is to aid in the reduction of the incidence of domestic abuse deaths by identifying the cause and manner of deaths occurring from domestic violence and to make recommendations for changes in policy and practice to improve community interventions for preventing domestic abuse deaths.

Any interested person may make written suggestions or comments on the proposed rules on or before September 29, 1998. Such written materials should be directed to Binnie LeHew, Bureau of Disability and Injury Prevention, Iowa Department of Public Health, Lucas State Office Building, Des Moines, Iowa 50319-0075; fax (515)281-4535.

Also, there will be a public hearing from 1 to 3 p.m. on September 30, 1998, in Room 118, State Capitol Building, Des Moines, Iowa. Persons may present their views either orally or in writing. At the hearing, persons will be asked to give their names and addresses for the record and to confine their remarks to the subject of the rules.

Any persons who intend to attend the public hearing and have special requirements such as hearing or mobility impairments should contact the Department of Public Health and advise of specific needs.

These rules are intended to implement 1998 Iowa Acts, Senate File 2280, section 5, subsection 4(10).

The following new chapter is proposed:

## CHAPTER 91

## IOWA DOMESTIC ABUSE DEATH REVIEW TEAM

**641—91.1(77GA,SF2280) Purpose.** The purpose of the domestic abuse death review team is to aid in the reduction of the incidence of domestic abuse deaths by accurately identifying the cause and manner of deaths occurring from domestic violence and by making recommendations for changes in policy and practice to improve community interventions for preventing domestic abuse deaths.

**641—91.2(77GA,SF2280) Definitions.**

"Team" means the Iowa domestic abuse death review team.

"Unexcused absence" means failure by a team member to notify the chairperson of an anticipated absence from a team meeting.

**641—91.3(77GA,SF2280) Agency.** The Iowa domestic abuse death review team is established as an independent agency of state government. The Iowa department of public health shall provide staffing and administrative support to the team.

**641—91.4(77GA,SF2280) Membership.** The membership of the team is subject to the provisions of Iowa Code sections 69.16 and 69.16A, relating to political affiliation and gender balance. Team members who are not designated by another appointing authority shall be appointed by the director of public health. Membership terms shall be for three years. One-third of the initial members shall serve for three years, one-third of the initial members shall serve for two years, and one-third of the initial members shall serve for one year, as designated by the appointing authority.

**91.4(1)** The team shall include the following:

- a. The state medical examiner or the state medical examiner's designee.
- b. A licensed physician who is knowledgeable concerning domestic abuse deaths, suicide, and child deaths by homicide.
- c. A licensed mental health professional who is knowledgeable concerning domestic abuse.
- d. A representative of the Iowa coalition against domestic violence.
- e. A certified or licensed professional who is knowledgeable concerning substance abuse.
- f. A law enforcement investigator experienced in domestic abuse investigation.
- g. A prosecuting attorney experienced in prosecuting domestic abuse cases.
- h. A clerk of the district court appointed by the chief justice of the supreme court.
- i. A department of correctional services' employee who is assigned batterer's treatment program responsibilities.
- j. A former victim of domestic abuse.
- k. A family member of a decedent whose death resulted from domestic abuse.

**91.4(2)** Vacancies shall be filled in the same manner in which the original appointments were made. An appointment shall complete the original member's term.

**91.4(3)** Three consecutive unexcused absences shall be grounds for the director to consider dismissal of the team member and to appoint another. The chairperson of the team is charged with providing notification of absences.

**641—91.5(77GA,SF2280) Officers.** Officers of the team shall be a chairperson and a vice chairperson and shall be elected at the first meeting of each fiscal year unless designated at the time of appointment. Vacancy in the office of chairperson shall be filled by elevation of the vice chairperson. Vacancy in the office of vice chairperson shall be filled by election at the next meeting after the vacancy occurs. The chairperson shall preside at all meetings of the team, appoint such subcommittees as deemed necessary, and designate the chairperson of each subcommittee. If the chairperson is absent or unable to act, the vice chairperson shall perform the duties of the chairperson. When so acting, the vice chairperson shall have all the powers of and be subject to all restrictions upon the chairperson. The vice chairperson shall also perform such other duties as may be assigned by the chairperson.

**641—91.6(77GA,SF2280) Meetings.** The team shall meet upon the call of the chairperson, upon the request of a state agency, or as determined by the team. Robert's Rules of Order shall govern all meetings.

**641—91.7(77GA,SF2280) Expenses of team members.** The members of the team are eligible for reimbursement of actual and necessary expenses incurred in the performance of their official duties.

**641—91.8(77GA,SF2280) Team responsibilities.** The team shall perform the following responsibilities.

1. Collect, review, and analyze death certificates and death data, including investigative reports, medical and counseling records, victim service records, child abuse reports, or other confidential information concerning domestic abuse deaths, survivor interviews and surveys, and other information deemed by the team as necessary and appropriate concerning the causes and manner of domestic abuse deaths.

## PUBLIC HEALTH DEPARTMENT[641](cont'd)

2. Prepare an annual report to the governor, supreme court, attorney general, and the general assembly concerning the contributing factors of domestic abuse deaths.

3. Recommend community interventions to prevent domestic abuse deaths based on an analysis of the contributing factors to such deaths.

4. Recommend to the agencies represented on the review team and to other agencies changes which may prevent domestic abuse deaths.

5. Maintain the confidentiality of any patient records or other confidential information reviewed.

6. The team may establish subcommittees to which the team may delegate some or all of the team's responsibilities set out in this rule.

**641—91.9(77GA,SF2280) Liaisons.** The following individuals shall each designate a liaison to assist the team in fulfilling its responsibilities.

1. Director of public health.
2. Director of human services.
3. Commissioner of public safety.
4. Director of corrections.
5. Attorney general.
6. Director of education.
7. State court administrator.

**641—91.10(77GA,SF2280) Confidentiality and disclosure of information.** The team and liaisons shall maintain the confidentiality of all information and records used in the review and analysis of domestic abuse deaths, including disclosure of information which is confidential under Iowa Code chapter 22 or any other provisions of state law. No information on individual deaths contained in the records described in this rule shall be disclosed except for the purposes of the team, committee or subcommittee meeting, and no confidential information received in preparation for or during the course of such meeting shall be removed from the meeting room except for further review as authorized by the team chairperson.

In preparation for review of an individual death by the team or its authorized committee or subcommittee, the chairperson of the team or the chairperson's designee is authorized to gather all information pertinent to the review. This information may include, but is not limited to, hospital records, physician's records, school records, day-care records, autopsy records, child abuse registry, investigation or assessment records, state public assistance records, traffic records, public safety records, law enforcement records, fire marshal's records, birth records, death records, and other relevant records necessary to conduct a complete review.

A person in possession or control of medical, investigative or other information pertaining to a domestic abuse death and domestic abuse death review shall allow the inspection and reproduction of the information by the department upon the request of the department to be used only in the administration and for the duties of the Iowa domestic abuse death review team. Information and records which are confidential under Iowa Code section 22.7 and chapter 235A, and information or records received from the confidential records, remain confidential under this rule. A person does not incur legal liability by reason of releasing information to the department as required under and in compliance with this rule.

**641—91.11(77GA,SF2280) Immunity and liability.** Review team members and their agents are immune from any liability, civil or criminal, which might otherwise be incurred or imposed as a result of any act, omission, proceeding, deci-

sion, or determination undertaken or performed, or recommendation made as a review team member or agent provided that the review team members or agents acted in good faith and without malice in carrying out their official duties in their official capacity. A complainant bears the burden of proof in establishing malice or lack of good faith in an action brought against review team members involving the performance of their duties and powers.

These rules are intended to implement 1998 Iowa Acts, Senate File 2280, section 5, subsection 4(10).

## ARC 8320A

RACING AND GAMING  
COMMISSION[491]

## Notice of Intended Action

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)"b."

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code sections 99D.7 and 99F.4, the Iowa Racing and Gaming Commission hereby gives Notice of Intended Action to amend Chapter 1, "Organization and Operation," Chapter 3, "Public Records and Fair Information Practices," Chapter 5, "Applications for Track Licenses and Racing Dates," Chapter 13, "Occupational and Vendor Licensing," Chapter 20, "Application Process for Excursion Boats and Racetrack Enclosure Gaming License," and Chapter 26, "Rules of the Games," Iowa Administrative Code.

Item 1 allows the use of a satellite terminal, if it results in a debit to a customer asset account, in nongambling areas of a racing or gaming facility as approved by the Commission.

Item 2 allows the Commission the ability to share information with the College Student Aid Commission.

Items 3 and 6 outline what the licensees must include in their requests to the Commission for additional gaming machines or gaming tables.

Item 4 requires a person to wear a safety vest when exercising a horse on association grounds.

Item 5 establishes rules for denial of an occupational license upon receipt of a certificate of noncompliance from the College Student Aid Commission.

Item 7 requires poker proposals for rules, permissible wager, shuffling and cutting procedures, payout odds and pay tables to be submitted in writing and approved by the administrator.

Any person may make written suggestions or comments on the proposed amendments on or before September 30, 1998. Written material should be directed to the Racing and Gaming Commission, 717 E. Court, Suite B, Des Moines, Iowa 50309. Persons who wish to convey their views orally should contact the Commission office at (515)281-7352.

Also, there will be a public hearing on September 30, 1998, at 9 a.m. in the IMTA auditorium located next to the Racing and Gaming Commission Office, 717 E. Court, Suite B, Des Moines, Iowa. Persons may present their views at the public hearing either orally or in writing.

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

## RACING AND GAMING COMMISSION[491](cont'd)

The following amendments are proposed.

ITEM 1. Amend subrule 1.6(4) by adding a **new** unnumbered paragraph to the end as follows:

Satellite terminals, as defined in Iowa Code section 527.2, or any other devices or arrangements by which cash is dispensed to a licensee's customer through use of an access device that results in a debit to a customer asset account shall be located in nongambling areas of the licensee's facility as approved by the commission.

ITEM 2. Amend subrule 3.11(3) as follows:

**3.11(3) Sharing information.** Notwithstanding any statutory confidentiality provision, the agency may share information with the child support recovery unit *and the college student aid commission* through manual or automated means for the sole purpose of identifying licensees or applicants subject to enforcement under Iowa Code chapter 252J, 261 or 598.

ITEM 3. Amend subrule 5.1(5) by adding a **new** paragraph "c" as follows:

c. A licensee seeking an increase in the number of gaming machines at a racetrack enclosure 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 machines:

- (1) Will have a positive economic impact on the community in which the licensee operates;
- (2) Will benefit the residents of Iowa;
- (3) Will result in increased distributions to qualified organizations entitled to distributions under Iowa Code section 99F.6(4)"a";
- (4) Are necessary to satisfy overall excess demand in the particular market in which the licensee is located;
- (5) Will result in permanent improvements and land-based development in Iowa;
- (6) Are supported within the broader community in which the licensee operates;
- (7) Will not have a detrimental financial impact on other licensees operating in the market in which the licensee operates;
- (8) Are consistent with legislative intent concerning the definition of "racetrack enclosure" and the purpose of gambling games at racetrack enclosures; and
- (9) 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 (1) the licensee is in compliance with applicable statutes, rules and orders and has not had any material violation of any statutes, rules or orders in the previous 12 months; and (2) the licensee has taken sufficient steps to address the social and economic burdens of problem gambling.

ITEM 4. Amend subrule 5.16(21) as follows:

**5.16(21) Helmets and vests.** The association shall not allow any person to exercise any horse on association grounds unless that person is wearing a protective helmet *and safety vest* of a type approved by the commission.

ITEM 5. Amend 491—Chapter 13 by adding the following **new** rule and renumbering existing rules **491—13.13(99D,99F)** through **491—13.25(99D)** as **491—13.14(99D,99F)** through **491—13.26(99D)**:

**491—13.13(99D,99F,261) Issuance or renewal of a certificate of registration—denial.** The administrator or commission representative shall deny the issuance or renewal of a license upon receipt of a certificate of noncompliance from the college student aid commission according to the procedures set forth in 1998 Iowa Acts, Senate File 2170, sections 1 to 7. In addition to the procedures contained in those sections, the following shall apply.

**13.13(1)** The notice required by 1998 Iowa Acts, Senate File 2170, section 6, shall be served by restricted certified mail, return receipt requested, or by personal service in accordance with the Iowa Rules of Civil Procedure. Alternatively, the applicant or registrant may accept service personally or through authorized counsel.

**13.13(2)** The effective date of the revocation or suspension of a license, or denial of the issuance or renewal of a license, as specified in the notice required by 1998 Iowa Acts, Senate File 2170, section 6, shall be 60 days following service of the notice upon the licensee or applicant.

**13.13(3)** It is the responsibility of the administrator or commission representative to issue the notice required by 1998 Iowa Acts, Senate File 2170, section 6.

**13.13(4)** Licensees and license applicants shall keep the agency informed of all court actions and all college student aid commission actions taken under or in connection with 1998 Iowa Acts, Senate File 2170, and shall provide the agency copies, within seven days of filing or issuance, of all applications filed with the district court pursuant to 1998 Iowa Acts, Senate File 2170, section 6, all court orders entered in such actions, and withdrawals of certificates of non-compliance by the college student aid commission.

**13.13(5)** All commission fees for applications, license renewal or reinstatement must be paid by licensees or applicants before a license will be issued, renewed or reinstated after the agency has denied the issuance or renewal of a license or has suspended or revoked a license pursuant to 1998 Iowa Acts, Senate File 2170.

**13.13(6)** In the event a licensee or applicant timely files a district court action following service of a notice pursuant to 1998 Iowa Acts, Senate File 2170, sections 6 and 7, the commission representative shall continue with the intended action described in the notice upon the receipt of a court order lifting the stay, dismissing the action, or otherwise directing the commission representative to proceed. For purposes of determining the effective date of revocation or suspension, or denial of the issuance or renewal of a license, the commission representative shall count the number of days before the action was filed and the number of days after the action was disposed of by the court.

**13.13(7)** The commission representative shall notify the licensee or license applicant in writing through regular first-class mail, or such other means as the commission representative deems appropriate in the circumstances, within ten days of the effective date of the denial of the license, and shall similarly notify the licensee or applicant when the license is issued or renewed following the commission representative's receipt of a withdrawal of the certificate of non-compliance.

ITEM 6. Amend rule 491—20.22(99F) by adding the following **new** subrule:

## RACING AND GAMING COMMISSION[491](cont'd)

**20.22(3)** A licensee seeking an increase in the number of gaming tables or gaming machines on an excursion gambling boat must obtain prior approval from the commission. In the request for approval, a licensee shall demonstrate to the commission's satisfaction that the additional gaming tables and gaming machines:

- 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. Are 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. Are supported within the broader community in which the licensee operates;
- g. Will not have a detrimental financial impact on other licensees operating in the market in which the licensee operates;
- h. Are consistent with legislative intent concerning the purpose of excursion gambling boats; and
- i. Will not have a detrimental impact on the horse and 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 tables or gaming machines shall demonstrate to the commission's satisfaction that (1) the licensee is in compliance with applicable statutes, rules and orders and has not had any material violation of any statutes, rules or orders in the previous 12 months; and (2) the licensee has taken sufficient steps to address the social and economic burdens of problem gambling.

ITEM 7. Amend rule 491—26.19(99F) by adding the following new subrule:

**26.19(5)** Operator-funded payouts. Poker games where winning wagers are paid according to specific payout odds or pay tables are permitted. Proposals for rules, permissible wagers, shuffling and cutting procedures, payout odds, and pay tables must be submitted in writing and approved by the administrator prior to the operator's conducting any game. Changes in rules, wagers, payout odds, or pay tables must be submitted in writing and approved by the administrator prior to implementation.

**ARC 8308A****REVENUE AND FINANCE  
DEPARTMENT[701]****Notice of Intended Action**

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)"b."

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code sections 421.14, 422.68, and 423.23, the Iowa Department of Revenue and

Finance hereby gives Notice of Intended Action to amend Chapter 17, "Exempt Sales," Chapter 18, "Taxable and Exempt Sales Determined by Method of Transaction or Usage," Chapter 20, "Foods for Human Consumption, Prescription Drugs, Insulin, Hypodermic Syringes, Diabetic Testing Materials, Prosthetic, Orthotic or Orthopedic Devices," and Chapter 32, "Receipts Exempt from Use Tax," Iowa Administrative Code.

The amendments are intended to implement 1998 Iowa Acts, House File 2374, House File 2513, House File 2541, House File 2560, and Senate File 2288.

The 1998 regular session of the Iowa Legislature enacted a number of changes in the sales and use tax laws. New exemptions were created for sales to statewide nonprofit organ procurement organizations and nonprofit hospitals licensed under Iowa Code chapter 135B. Sales of optional service or warranty contracts providing computer software maintenance or support were also exempted from tax either entirely or on 50 percent of gross receipts, depending on circumstances. The exemptions applicable to sales of aircraft, aircraft parts, and services performed on aircraft were also expanded. Finally, the definition of "Manufacturer" in the industrial machinery, equipment, and computer exemption was expanded to include certain activities of commercial enterprises engaged in quarrying and mining.

The proposed amendments will not necessitate additional expenditures by political subdivisions or agencies and entities which contract with political subdivisions.

The Department has determined that these proposed amendments may have an impact on small business. The Department has considered the factors listed in Iowa Code section 17A.31(4). The Department will issue a regulatory flexibility analysis as provided in Iowa Code sections 17A.31 to 17A.33 if a written request is filed by delivery or by mailing postmarked no later than September 29, 1998, to the Policy Section, Compliance Division, Iowa Department of Revenue and Finance, Hoover State Office Building, P.O. Box 10457, Des Moines, Iowa 50306. The request may be made by the Administrative Rules Review Committee, the Governor, a political subdivision, at least 25 persons who qualify as a small business under Iowa Code sections 17A.31 to 17A.33, or an organization of small businesses representing at least 25 persons which is registered with this agency under Iowa Code sections 17A.31 to 17A.33.

Any interested person may make written suggestions or comments on these proposed amendments on or before October 9, 1998. Such written comments should be directed to the Policy Section, Compliance Division, Iowa Department of Revenue and Finance, Hoover State Office Building, P.O. Box 10457, Des Moines, Iowa 50306.

Persons who want to orally convey their views should contact the Policy Section, Compliance Division, Iowa Department of Revenue and Finance, at (515)281-4250 or at the Department of Revenue and Finance offices on the fourth floor of the Hoover State Office Building.

Requests for a public hearing must be received by October 2, 1998.

These amendments are intended to implement 1998 Iowa Acts, House File 2374, House File 2513, House File 2541, House File 2560, and Senate File 2288.

The following amendments are proposed.

ITEM 1. Amend 701—Chapter 17 by adding a new rule as follows:

**701—17.30(422,423) Nonprofit organ procurement organizations.** On and after July 1, 1998, the gross receipts



## REVENUE AND FINANCE DEPARTMENT[701](cont'd)

from sales of tangible personal property to, or from services rendered, furnished, or performed for, a statewide, nonprofit organ procurement organization are exempt from tax.

An "organ procurement organization" is an organization which performs or coordinates the activities of retrieving, preserving, or transplanting organs, which maintains a system of locating prospective recipients for available organs, and which is registered with the United Network for Organ Sharing and designated by the United States Secretary of Health and Human Services pursuant to 42 CFR § 485, subpt. D.

This rule is intended to implement Iowa Code section 422.45 as amended by 1998 Iowa Acts, House File 2513.

## ITEM 2. Amend rule 701—18.24(422,423) as follows:

Amend the introductory paragraph as follows:

**701—18.24(422,423) Hospitals, infirmaries and sanitariums.** Hospitals, infirmaries, sanitariums, and like institutions are engaged primarily in rendering services. These facilities shall not be subject to tax on their purchases of items of tangible personal property exempt under 701—Chapter 20 when the items would be exempt if purchased by the individual and if the item is used substantially for the tax-exempt purpose. *See rule 18.59(422,423) for an exemption applicable to sales of goods and furnishing of services on and after July 1, 1998, to a nonprofit hospital.*

Amend the implementation clause as follows:

This rule is intended to implement Iowa Code ~~chapters 422 and 423~~ section 422.45 as amended by 1998 Iowa Acts, House File 2513, and chapter 423.

## ITEM 3. Amend rule 701—18.25(422,423) as follows:

Amend subrule 18.25(3) as follows:

**18.25(3) Optional warranties.** For periods after June 30, 1981.

a. The sale of optional service or warranty contracts which provide for the furnishing of labor and materials and require the furnishing of any taxable service enumerated under Iowa Code section 422.43 is considered a sale of tangible personal property the gross receipts from which are subject to tax at the time of sale except as described below.

b. On and after July 1, 1995, the sale of a residential service contract regulated under Iowa Code chapter 523C is not considered to be the sale of tangible personal property, and gross receipts from the sales of these service contracts are no longer subject to tax, and the gross receipts from taxable services performed for the providers of residential service contracts are now subject to tax. See the examples below for more detailed explanation. A "residential service contract" is defined in Iowa Code subsection 523C.1(8) to be: a contract or agreement between a residential customer and a service company which undertakes, for a predetermined fee and for a specified period of time, to maintain, repair, or replace all or any part of the structural components, appliances, or electrical, plumbing, heating, cooling, or air-conditioning systems of residential property containing not more than four dwelling units.

EXAMPLE A. John Jones purchases a residential service contract for \$3,000 on July 1, 1994. He pays \$150 of Iowa state sales tax. On December 1, 1994, his furnace malfunctions. The service company which sold Mr. Jones the contract pays Smith Furnace Repair \$700 to fix the furnace. No sales tax is due on the \$700 charge.

EXAMPLE B. Bob Jones purchases a residential service contract for \$3,000 on July 1, 1995. No sales tax is owing or paid. On December 1, 1995, his furnace becomes inoperable. The service company which sold Mr. Jones the contract

pays Smith Furnace Repair \$900 to fix Mr. Jones' furnace. Sales tax of \$45 is due based on the \$900.

c. *On and after July 1, 1998, if an optional service or warranty contract is a computer software maintenance or support service contract and the contract provides for the furnishing of technical support services only and not for the furnishing of any materials, then no tax is imposed on the furnishing of those services under this subrule. If a computer software maintenance or support service contract provides for the performance of nontaxable services and the taxable transfer of tangible personal property, and no separate fee is stated for either the performance of the service or the transfer of the property, then state sales tax of 5 percent shall be imposed on 50 percent of the gross receipts from the sale of the contract. If a charge for the performance of the nontaxable service is separately stated, see subrule 18.25(5) below.*

Amend the implementation clause as follows:

This rule is intended to implement Iowa Code sections 422.42, 422.43 and 423.2 and Iowa Code Supplement section 422.43 as amended by 1998 Iowa Acts, Senate File 2288.

## ITEM 4. Amend rule 701—18.34(422,423) as follows:

Amend subrule 18.34(2), paragraph "j," as follows:

j. Maintenance contracts. Maintenance contracts sold in connection with the sale or lease of canned software generally provide that the purchaser will be entitled to receive storage media on which prewritten program improvements have been recorded. The maintenance contract may also provide that the purchaser will be entitled to receive certain services, including error corrections and telephone or on-site consultation services.

(1) Nonoptional maintenance contract. If the maintenance contract is required as a condition of the sale or rental of canned software, it will be considered as part of the sale or rental of the canned software, and the gross sales price is subject to tax whether or not the charge for the maintenance contract is separately stated from the charge for software.

(2) Optional maintenance ~~contract~~ *contracts prior to July 1, 1998.* If the maintenance contract is optional to the purchaser of canned software, then only the portion of the contract fee representing improvements delivered on storage media is subject to sales tax if the fee for other services, including consultation services and error corrections, is separately stated. If the fee for other services, including consultation services and error corrections, is not separately stated from the fee for improvements delivered on storage media, the entire charge for the maintenance contract is subject to sales tax.

(3) *Optional maintenance contracts on and after July 1, 1998. If an optional software maintenance or support contract provides for technical support services only, then no tax is imposed on the gross receipts from the performance of those services. If an optional software maintenance or support contract separately states the charges which represent improvements delivered on storage media from charges which represent other services, including consultation services and error correction, then only that portion of the contract fee representing improvements delivered on the storage media is subject to sales tax. If an optional software maintenance or support contract provides for the taxable transfer of tangible personal property and the provision of nontaxable services, and there is no separately stated charge for the taxable transfer of property or for the nontaxable service, then state sales tax of 5 percent shall be imposed on 50 percent of the gross receipts from the sale of such contracts. See 701—paragraph 18.25(3) "c" for more information.*

## REVENUE AND FINANCE DEPARTMENT[701](cont'd)

Amend the implementation clause as follows:

This rule is intended to implement Iowa Code sections 422.42, 422.43, 422.45 and 423.2 and Iowa Code Supplement section 422.43 as amended by 1998 Iowa Acts, Senate File 2288.

ITEM 5. Amend rule 701—18.49(422,423) as follows:

**701—18.49(422,423) Aircraft sales, rental, component parts, and services exemption exemptions.**

**18.49(1)** For the purposes of this ~~rule~~ *subrule* only, an "aircraft" is any contrivance known or hereafter invented which is designed for navigation of or flight in the air and is used in a scheduled interstate Federal Aviation Administration certified air carrier operation.

**18.49(1) a.** Exempt aircraft sales. As of July 1, 1988, gross receipts from the sale of any aircraft are exempt from tax. The limitations on refunds set out in ~~subrule 18.49(5) paragraph "e" below~~ are not applicable to sales of aircraft occurring under this ~~rule~~ *subrule*.

**18.49(2) b.** Exempt rental of aircraft. Effective May 1, 1995, and retroactive to July 1, 1988, the taxable rental (see rule 701—26.74(422,423)) of aircraft, as defined in the introductory paragraph of this ~~rule~~ *subrule*, is exempt from tax.

**18.49(3) c.** Exempt sale or rental of aircraft parts. Effective May 1, 1995, and retroactive to July 1, 1988, gross receipts from the sale or rental of any tangible personal property permanently affixed to any aircraft as a component part of that aircraft are exempt from tax. The term "component parts" includes, but is not limited to, repair or replacement parts and materials.

**18.49(4) d.** Exempt performance of services. Effective May 1, 1995, and retroactive to July 1, 1988, gross receipts from the rendering, furnishing, or performing of services in connection with the repair, remodeling, or maintenance of aircraft (including aircraft engines and component materials or parts) are exempt from tax.

**18.49(5) e.** Limitations on retroactivity. For the retroactive exemption described in ~~subrules 18.49(2), 18.49(3), and 18.49(4) paragraphs "b," "c," and "d" of this subrule~~, refunds of tax, interest, or penalty are applicable to transactions occurring between July 1, 1988, and June 30, 1995, and will not be paid unless a claim for refund is filed prior to October 1, 1995. For the period ending June 30, 1995, refunds are limited to \$25,000 in the aggregate. If the amount of claims totals more than \$25,000 in the aggregate, the department will prorate the \$25,000 among all claimants in relation to the amount of a valid claim in relation to the total amount of all valid claims.

**18.49(2)** For the purposes of this *subrule* only, an "aircraft" is any aircraft used in a nonscheduled interstate Federal Aviation Administration certified air carrier operation conducted under 14 CFR ch. 1, pt. 135. On and after July 1, 1998, the gross receipts from the sale or rental of tangible personal property permanently affixed or permanently attached as a component part of any aircraft, including but not limited to repair or replacement materials or parts, are exempt from tax. Also exempt, on and after that date, are the gross receipts from the performance of any service used for aircraft repair, remodeling, or maintenance when the service is performed on an aircraft, aircraft engine, or aircraft component material or part. Gross receipts from the sale or rental of any aircraft are not exempt from tax under this *subrule*.

**18.49(3)** For the purposes of this *subrule* only, an "aircraft" is any contrivance known or hereafter invented which is designed for navigation of or flight in the air. On and after

July 1, 1998, the gross receipts from the sale of an aircraft to an aircraft dealer who rents or leases the aircraft to another are exempt from tax if all of the following circumstances exist:

a. The aircraft is kept in the inventory of the dealer for sale at all times.

b. The dealer reserves the right to immediately take the aircraft from the renter or lessee when a buyer is found.

c. The renter or lessee is aware that the dealer will immediately take the aircraft when a buyer is found.

As soon as an aircraft, the sale of which is exempt under this *subrule*, is used for any purpose other than leasing or renting, or the conditions set out in paragraphs "a," "b," and "c" are not continuously met, the dealer claiming the exemption is liable for the tax which would have been due but for the exemption set out in this *subrule*. Tax will be computed on the original purchase price paid by the dealer.

This rule is intended to implement Iowa Code section 422.45, subsections 38 and 38A, and Iowa Code Supplement section 422.45 as amended by 1998 Iowa Acts, House File 2560.

ITEM 6. Amend subrule 18.58(1), definition of "Manufacturer," as follows:

"Manufacturer" means any person, firm, or corporation that purchases, receives, or holds personal property for the purpose of adding to its value by any process of manufacturing, refining, purifying, combining of different materials, or by packing of meats with an intent to sell at a gain or profit. Those who are in the business of printing, newspaper publication, bookbinding, lumber milling, and production of drugs and agricultural supplies are illustrative, nonexclusive examples of manufacturers. Construction contracting; ~~quarrying~~; remanufacture or rebuilding of tangible personal property (such as automobile engines); provision of health care; farming; transportation for hire; ~~mining~~; and the activities of restaurateurs, hospitals, medical doctors, and those who merely process data are illustrative, nonexclusive examples of businesses which are not manufacturers. See associated General Contractors of Iowa v. State Tax Commission, 255 Iowa 673, 123 N.W.2d 922 (1963) and River Products Co. v. Board of Review of Washington County, 332 N.W.2d 116 (Iowa Ct. App. 1982). The term "manufacturer" includes a contract manufacturer. Ordinarily, the word does not include those commercial enterprises engaged in quarrying or mining. However, effective July 1, 1998, a commercial enterprise, the principal business of which is quarrying or mining, is a manufacturer with respect to activities in which it engages subsequent to quarrying or mining. These subsequent activities include, by way of nonexclusive example, crushing, washing, sizing, and blending of aggregate materials.

EXAMPLE: Company A owns and operates a gravel pit. It sells the gravel extracted from the pit to others who use the gravel for surfacing roads and as an ingredient in concrete manufacture. Company A removes overlay and raw gravel from the pit. It then transports the gravel to a plant where washing and sizing of the gravel take place. Company A is a manufacturer, but only with respect to those activities which occur after it severs the gravel from the ground.

ITEM 7. Amend 701—Chapter 18 by adding the following new rule:

**701—18.59(422,423) Exempt sales to nonprofit hospitals.** On and after July 1, 1998, the gross receipts from sales or rentals of tangible personal property to and from the rendering, furnishing, or performing of services for a nonprofit hos-

## REVENUE AND FINANCE DEPARTMENT[701](cont'd)

pital licensed under Iowa Code chapter 135B are exempt from tax if the property or service purchased is used in the operation of the hospital. A hospital is not entitled to claim a refund for tax paid by a contractor on the sale or use of tangible personal property or the performance of services in the fulfillment of a written construction contract with the hospital.

For the purposes of this rule, the word "hospital" means a place which is devoted primarily to the maintenance and operation of facilities for diagnosis, treatment, or care, over a period exceeding 24 hours, of two or more nonrelated individuals suffering from illness, injury, or a medical condition (such as pregnancy). The word "hospital" includes general hospitals, specialized hospitals (e.g., pediatric, mental, and orthopedic hospitals, and cancer treatment centers), sanatoriums, and other hospitals licensed under Iowa Code chapter 135B. Also included are institutions, places, buildings, or agencies in which any accommodation is primarily maintained, furnished, or offered for the care, over a period exceeding 24 hours, of two or more nonrelated aged or infirm persons requiring or receiving chronic or convalescent care. Excluded from the meaning of the term "hospital" are institutions for well children; day nursery and child care centers; foster boarding homes and houses; homes for handicapped children; homes, houses, or institutions for aged persons which limit their function to providing food, lodging, and provide no medical or nursing care, and house no bedridden person; dispensaries or first-aid stations maintained for the care of employees, students, customers, members of any commercial or industrial plant, educational institution, or convent; freestanding hospice facilities which operate a hospice program in accordance with 42 CFR § 418 and freestanding clinics which do not provide diagnosis, treatment, or care for periods exceeding 24 hours. This list of inclusions and exclusions is not exclusive. For additional information see 481—Chapter 51.

This rule is intended to implement Iowa Code section 422.45 as amended by 1998 Iowa Acts, House File 2513.

ITEM 8. Amend subrule 20.7(1), paragraph "c," first Example A, to read as follows:

EXAMPLE A: Hospital X purchases a new type of device which scans the inside of the human body to uncover diseased organs. The device can be used only on the order of a practitioner. The device is prescribed, but since, by its very nature, the device cannot be dispensed to an ultimate user, its sale is not exempt from tax. *However, see rule 701—18.59(422,423) for a description of an exemption applicable to all purchases made on or after July 1, 1998, by nonprofit hospitals licensed under Iowa Code chapter 135B.*

ITEM 9. Amend subrule 20.7(5), introductory paragraph, to read as follows:

20.7(5) Prescription drugs and devices purchased by hospitals for resale. Hospitals have purchased prescription drugs or devices for resale to patients and not for use or consumption in providing hospital services only if the following circumstances exist: (1) the drug or device is actually transferred to the patient; (2) the drug or device is transferred in a form or quantity capable of a fixed or definite price value; (3) the hospital and the patient intend the transfer to be a sale; and (4) the sale is evidenced in the patient's bill by a separate charge for the identifiable drug or device. See rule 701—18.31(422,423) for a discussion generally of sales for resale by persons performing a service. *Also see rule 701—18.59(422,423) for an exemption applicable to all purchases of goods and services purchased on or after July 1, 1998, by*

*a nonprofit hospital licensed under Iowa Code chapter 135B.*

ITEM 10. Amend rule 701—32.4(423) as follows:

Add the following new paragraphs after the first unnumbered paragraph:

For assessments issued pursuant to this rule on and after July 1, 1998, if a vehicle meets the requirement that 25 percent of the miles operated accrue in states other than Iowa in each year of the first four-year period of operation, the exemption from use tax shall continue until the vehicle is sold or transferred. If a vehicle is found not to have met the exemption requirements of this paragraph in its first four years of operation, or the exemption was revoked, the value of the vehicle upon which use tax shall be imposed is the book or market value, whichever is less, at the time the exemption requirements first were not met or at the time the exemption was revoked. However, if exemption from use tax is claimed for a vehicle under this paragraph and that vehicle is, subsequently, never used in an exempt fashion, then the purchase price of the vehicle is the value upon which any assessed tax shall be computed.

EXAMPLE: Company A purchases a vehicle stating that its future use will be in interstate commerce; 25 percent of its miles traveled accrue outside the state of Iowa. In fact, the vehicle is never driven outside the state of Iowa. Use tax is computed on the purchase price of the vehicle paid by Company A.

Amend the implementation clause as follows:

This rule is intended to implement Iowa Code section 423.4(10) as amended by 1998 Iowa Acts, House File 2541.

## ARC 8309A

REVENUE AND FINANCE  
DEPARTMENT[701]

## Notice of Intended Action

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)"b."

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code sections 421.17, 422.53, and 422.68, the Iowa Department of Revenue and Finance hereby gives Notice of Intended Action to adopt Chapter 108, "Local Option School Infrastructure Sales and Service Tax," Iowa Administrative Code.

The purpose of this new chapter is to implement 1998 Iowa Acts, House File 2282, which authorizes a county or a school district to impose a local option sales and service tax of up to 1 percent solely for school infrastructure needs.

The proposed rules will not necessitate additional expenditures by political subdivisions or agencies and entities which contract with political subdivisions.

The Department has determined that these proposed rules may have an impact on small business. The Department has considered the factors listed in Iowa Code section 17A.31(4). The Department will issue a regulatory flexibility analysis as provided in Iowa Code sections 17A.31 to 17A.33 if a written request is filed by delivery or by mailing postmarked no later than September 29, 1998, to the Policy Section, Compliance Division, Iowa Department of Revenue and Finance, Hoover State Office Building, P.O. Box

## REVENUE AND FINANCE DEPARTMENT[701](cont'd)

10457, Des Moines, Iowa 50306. The request may be made by the Administrative Rules Review Committee, the Governor, a political subdivision, at least 25 persons who qualify as a small business under Iowa Code sections 17A.31 to 17A.33, or an organization of small businesses representing at least 25 persons which is registered with this agency under Iowa Code sections 17A.31 to 17A.33.

Any interested person may make written suggestions or comments on these proposed rules on or before October 9, 1998. Such written comments should be directed to the Policy Section, Compliance Division, Iowa Department of Revenue and Finance, Hoover State Office Building, P.O. Box 10457, Des Moines, Iowa 50306.

Persons who want to orally convey their views should contact the Policy Section, Compliance Division, Iowa Department of Revenue and Finance, at (515)281-4250 or at the Department of Revenue and Finance offices on the fourth floor of the Hoover State Office Building.

Requests for a public hearing must be received by October 2, 1998.

These rules are intended to implement 1998 Iowa Acts, House File 2282.

The following new chapter is proposed.

## CHAPTER 108

LOCAL OPTION SCHOOL INFRASTRUCTURE  
SALES AND SERVICE TAX

**701—108.1(77GA, HF2282) Definitions.** The following words and terms are used in the administration of the local option school infrastructure sales and service tax:

“County” means an involuntary political or civil division of the state, created by general statute, to aid in the administration of government and is simply a governmental auxiliary. *Shirkey v. Keokuk County*, 275 N.W. 706, 712, 225 Iowa 1159 (1938). A county is generally known to include a designated geographic area which may comprise municipalities, cities, or towns.

“Department” means the Iowa department of revenue and finance.

“Director” means the director of the Iowa department of revenue and finance.

“Sale” means the same as defined in 701—107.1(422B).

“School district” means a school corporation that has exclusive jurisdiction in all school matters over a designated geographic area. See Iowa Code section 274.1.

“School infrastructure” means those activities for which a school district is authorized to contract indebtedness and issue general obligation bonds under Iowa Code section 296.1. Qualifying activities include construction, reconstruction, repair, purchasing, or remodeling of schoolhouses, stadiums, gyms, fieldhouses, or bus garages. School infrastructure activities also include the procurement of schoolhouse construction sites and making site improvements. Additional qualifying activities include the payment or retirement of outstanding bonds previously issued for school infrastructure purposes as defined in this rule and the payment or retirement of such bonds.

However, “school infrastructure” does not include activities related to a teacher’s or superintendent’s home or homes.

This rule is intended to implement 1998 Iowa Acts, House File 2282.

**701—108.2(77GA, HF2282) Authorization, rate of tax, imposition, use of revenues, and administration.**

**108.2(1) Authorization and imposition.** Effective April 20, 1998, a local option school infrastructure sales and ser-

vice tax will only be imposed after an election in which a majority of those voting on the question favors the imposition of the tax. A local option school tax that has been approved by an election will be applied to all incorporated and unincorporated areas of that county. A request for the local option school tax may be made either by the county or a school district which contains at least 50 percent of the county population in which it is located. Each type of request has specific requirements for proposing the tax under this chapter. The requirements are set forth as follows:

a. **Imposition by county.** A petition must be submitted to a county board of supervisors requesting imposition of a local school infrastructure sales and service tax. To qualify, the petition must be signed by eligible voters of the whole county in a number equal to 5 percent of the persons in the whole county who voted in the last preceding state general election. Within 30 days of receiving the petition, the county board of supervisors must inform the county commissioner of elections to submit the question of imposing the tax to the registered voters of the whole county.

b. **Imposition by school district.** A motion or motions requesting the question of imposing a local option school infrastructure sales and service tax may be proposed and adopted by the governing body of a school district or school districts located within a county. To qualify for imposing this tax, a school district located within a county must contain a total, or a combined total in the case of more than one school district, of at least 50 percent of the population of the county. Upon adoption of the motion, the governing body of a school district must notify the county board of supervisors of the adoption of the motion. A motion is no longer valid at the time of the regular election of members of the governing body which adopted the motion. The county board of supervisors must then submit the motion to the county commissioner of elections, who will publish the notice of the ballot proposition regarding the local option school infrastructure sales and service tax.

**108.2(2) Ballot proposition—procedure for imposition of the tax whether by county or the school district.** A county commissioner for elections must submit the question for imposing the tax under this chapter at a state general election or a special election held at any time other than the time of a city regular election. The election cannot be sooner than 60 days after publication of the notice of the ballot proposition. The ballot proposition must be in the form established by the state commissioner of elections. For additional information regarding the form and content of the ballot proposition, see 721—21.803(77GA, HF2282).

**108.2(3) Tax rate, election, and repeal.** The maximum rate of tax imposed under this rule shall be 1 percent. The tax shall be imposed without regard to any other local sales and service tax authorized under the Iowa Code. The rate of tax may be increased up to 1 percent, decreased, or repealed after an election in which a majority of those voting are in favor of the question of rate change or repeal of the tax. However, the tax cannot be repealed before the tax has been in effect for one year.

The election for a change in the tax rate or repeal of the tax may be called and held under the same conditions as previously set forth for the election imposing the tax. The election may be held not sooner than 60 days following the publication of the notice of the ballot proposition.

Local option school infrastructure sales and service tax is automatically repealed at the expiration of ten years from the date of imposition or a shorter period provided in the ballot proposition.

## REVENUE AND FINANCE DEPARTMENT[701](cont'd)

A local option school infrastructure sales and service tax cannot be repealed or reduced in rate if bond obligations are outstanding unless sufficient funds to pay the principal, interest, and premium, if any, on the outstanding obligation at and prior to maturity have been properly set aside and pledged for that purpose.

**108.2(4) Use of revenues.** Local option sales and service tax revenues received under this chapter shall be used for infrastructure purposes as defined in rule 701—108.1(77GA, HF2282). In addition, certain cities may obtain revenues from the local option school tax. A school district in a county that has imposed this tax may enter into an Iowa Code chapter 28E agreement with a city or cities whose boundaries encompass all or a part of the school district, then the city may receive a portion of the revenues from this tax as determined by the 28E agreement. A city may utilize revenues from this tax for school infrastructure purposes or any valid purposes authorized by the governing board of the city.

**108.2(5) Notice of election results.** The county board of supervisors must give written notice by certified mail to the director of the results of an election in which a majority of those voting on the question favors the imposition, repeal, or change in the rate of the tax, within ten days of the date of the election.

**108.2(6) Administration of the tax.** The local option school infrastructure sales and service tax is to be imposed on the gross receipts of sales of tangible personal property sold within the local option jurisdiction and upon the gross receipts from services rendered, furnished, or performed within the local option jurisdiction. This tax may only be imposed by a county in the manner set forth previously in this rule. The tax may not be imposed on any transaction not subject to state sales tax. For further details, see 701—108.5(77GA, HF2282). There is no local option use tax. See rule 701—14.2(422,423) for a tax table setting forth the combined rate for a state sales tax of 5 percent and the local sales tax rate of 1 percent. Frequency of deposits and quarterly reports of local option tax filed with the department of revenue and finance are governed by the retail sales tax provisions found in Iowa Code section 422.52. Local option tax collections shall not be included in the computation of the total tax to determine the frequency of the filing under Iowa Code section 422.52.

A local option school infrastructure tax cannot be imposed until 40 days after there has been a favorable election to impose the tax. All local option school infrastructure tax must be imposed either January 1, April 1, July 1, or October 1. The tax can be repealed only on March 31, June 30, September 30, or December 31. However, this tax must not be repealed before the tax has been in effect for one year.

This rule is intended to implement 1998 Iowa Acts, House File 2282, sections 1 and 2.

**701—108.3(77GA, HF2282) Collection of the tax.** After a majority vote favoring the imposition of the tax under this chapter, the county board of supervisors shall impose the tax at the rate specified and for a duration not to exceed ten years or less as specified on the ballot. To determine the amount of tax to be imposed on a sale, the taxable amount must not include any state gross receipts taxes or any other local option taxes. A retailer need only have a state tax permit to collect the local option sales and service tax under this chapter. This tax is to be imposed and collected in the following manner:

1. Sale of tangible personal property. This local option sales and service tax is imposed on the gross receipts from "sales" of tangible personal property in which delivery occurs within a jurisdiction imposing the tax. Department rule

701—107.3(422B), which governs transactions subject to and excluded from local option sales tax, is applicable to and governs transactions subject to tax under this chapter as well. As a result, the text of 701—107.3(422B) is incorporated by reference into this chapter.

2. The sale of enumerated services. Department rules 701—107.4(422B), 701—107.5(422B), and 701—107.6(422B), which govern transactions subject to and excluded from local option service tax, single contracts for taxable services performed partly within and partly outside of an area of a county imposing the local option service tax, and motor vehicle, recreational vehicle, and recreational boat rentals subject to local option service tax, respectively, are applicable to and govern transactions subject to tax under this chapter. As a result, the text of 701—107.4(422B), 701—107.5(422B), and 701—107.6(422B) is incorporated by reference into this chapter.

This rule is intended to implement 1998 Iowa Acts, House File 2282, section 3.

**701—108.4(77GA, HF2282) Similarities to the local option sales and service tax imposed in Iowa Code chapter 422B and 701—Chapter 107.** The administration of the tax imposed under this chapter is similar to the local option tax imposed under Iowa Code chapter 422B and 701—Chapter 107. As a result, a few of the rules set forth in 701—Chapter 107 are also applicable and govern the local option sales and service school infrastructure tax as well. Accordingly, the following rules are incorporated by reference into this chapter and will govern their respective topics in relation to the local option sales and school infrastructure tax:

1. 701—107.7(422B) Special rules regarding utility payments.

2. 701—107.8(422B) Contacts with county necessary to impose collection obligation upon a retailer.

3. 701—107.12(422B) Computation of local option tax due from mixed sales on excursion boats.

4. 701—107.13(421,422B) Officers and partners, personal liability for unpaid tax.

This rule is intended to implement 1998 Iowa Acts, House File 2282.

**701—108.5(77GA, HF2282) Sales not subject to local option tax, including transactions subject to Iowa use tax.** The local option sales and service tax for school infrastructure is imposed upon the same basis as the Iowa state sales and service tax. However, like the local option sales and service tax set forth in Iowa Code chapter 422B and department rule 701—107.9(422B), there are sales and services that are subject to Iowa state sales tax, but such sales or services are not subject to local option sales and service tax. Department rule 701—107.9(422B), which governs the sales not subject to local option sales and service tax pursuant to Iowa Code section 422B.8, is incorporated by reference into this chapter and will govern the local option sales and service tax for school infrastructure tax with the following exception:

The gross receipts from the sale of natural gas or electricity in a city or county which are subject to a franchise or user fee are not exempt from the local option school infrastructure sales and service tax.

This rule is intended to implement 1998 Iowa Acts, House File 2282, section 3.

**701—108.6(77GA, HF2282) Deposits of receipts.** The director of revenue and finance shall credit tax receipts, interest, and penalties from the tax under this chapter. If the director is unable to determine from which county any of the receipts from this tax were collected, those receipts shall be al-

## REVENUE AND FINANCE DEPARTMENT[701](cont'd)

located among the possible counties based on the allocation rules set forth in 701—107.11(422B).

This rule is intended to implement 1998 Iowa Acts, House File 2282, section 3.

**701—108.7(77GA, HF2282) Local option school infrastructure tax payments to school districts.** The director of revenue and finance within 15 days of the beginning of each fiscal year shall send to each school district where the local option school infrastructure tax is imposed, an estimate of the tax moneys each school district will receive for the year and for each month of the year. At the end of each month, the director may revise the estimates for the year and remaining months. The director shall remit 95 percent of the estimated monthly tax receipts for the school district to the school district on or before August 31 of the fiscal year and the last day of each month thereafter. The director shall remit a final payment of the remainder of tax money due for the fiscal year before November 10 of the next fiscal year. If an overpayment has resulted during the previous fiscal year, the first payment of the new fiscal year shall be adjusted to reflect any overpayment.

If more than one school district or a portion of a school district is located within the county, tax receipts shall be remitted to each school district or portion of a school district in which the county tax is imposed in a pro-rata share based upon the ratio which the percentage of actual enrollment for the school district that attends school in the county bears to the percentage of the total combined actual enrollments for all school districts that attend school in the county. A student's enrollment is based on the residency of the student. The formula to compute this ratio would be the following:

$$\frac{\text{actual enrollment for the school district at issue}}{\text{actual combined enrollment for the county}}$$

The combined actual enrollment for the county, for purposes of this tax, shall be determined for each county imposing the tax under this rule by the Iowa department of management based on the actual enrollment figures reported by October 1 of each year to the department of management by the department of education pursuant to Iowa Code section 257.6(1). Enrollment figures to be used for the purpose of this formula are the enrollment figures reported by the department of education for the year preceding the favorable vote by a county to implement the local option school infrastructure sales and service tax.

**EXAMPLE:** In November of 1998, Polk County holds a valid election that results in a favorable vote to impose the local option school infrastructure tax. To determine the proper ratio of funds to be distributed to the multiple school districts located in Polk County, the enrollment figures reported by the department of education to the department of management by October of 1997 must be obtained to compute the formula as set forth.

For additional information regarding the formula for tax revenues to be distributed to the school districts, see the department of education's rules regarding this tax under 281—Chapter 96, Iowa Administrative Code.

This rule is intended to implement 1998 Iowa Acts, House File 2282, section 3.

## NOTICE—USURY

In accordance with the provisions of Iowa Code section 535.2, subsection 3, paragraph "a," the Superintendent of

Banking has determined that the maximum lawful rate of interest shall be:

August 1, 1997 — August 31, 1997	8.50%
September 1, 1997 — September 30, 1997	8.25%
October 1, 1997 — October 31, 1997	8.25%
November 1, 1997 — November 30, 1997	8.25%
December 1, 1997 — December 31, 1997	8.00%
January 1, 1998 — January 31, 1998	8.00%
February 1, 1998 — February 28, 1998	7.75%
March 1, 1998 — March 31, 1998	7.50%
April 1, 1998 — April 30, 1998	7.50%
May 1, 1998 — May 31, 1998	7.75%
June 1, 1998 — June 30, 1998	7.75%
July 1, 1998 — July 31, 1998	7.75%
August 1, 1998 — August 31, 1998	7.50%
September 1, 1998 — September 30, 1998	7.50%

**ARC 8316A**

## VETERINARY MEDICINE BOARD[811]

### Notice of Intended Action

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)“b.”

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code section 169.5, the Iowa Board of Veterinary Medicine hereby gives Notice of Intended Action to amend Chapter 5, “Public Records and Fair Information Practices,” Chapter 6, “Application for Licensure,” Chapter 7, “Examinations,” Chapter 9, “Temporary Permits,” and Chapter 10, “Discipline,” Iowa Administrative Code.

These amendments remove references to the State Board Examination as a requirement for licensure, rescind the fee for taking the examination, establish a fee for licensure in lieu of the examination fee, and implement 1998 Iowa Acts, Senate File 2170.

The Board of Veterinary Medicine unanimously agreed, during a telephone conference on May 20, 1998, to discontinue the State Board Examination as a requirement for Veterinary licensure in Iowa. 1998 Iowa Acts, Senate File 2170, effective July 1, 1998, mandates the references to the College Student Aid Commission.

Any interested person may make written suggestions or comments on or before September 29, 1998. Such written material or comments shall be directed to Dr. Walter D. Felker, State Veterinarian, Wallace State Office Building, Des Moines, Iowa 50319.

These amendments are intended to implement Iowa Code chapter 169 and Iowa Code chapter 261 as amended by 1998 Iowa Acts, Senate File 2170.

The following amendments are proposed.

ITEM 1. Adopt new rule 811—5.18(17A,22,169,261) as follows:

**811—5.18(17A,22,169,261) Release of information to the college student aid commission.** Notwithstanding any statutory confidentiality provisions, the board may share information with the college student aid commission for the sole

## VETERINARY MEDICINE BOARD[811](cont'd)

purpose of identifying applicants or registrants subject to enforcement under Iowa Code chapter 261.

ITEM 2. Amend subrule 6.1(1) as follows:

**6.1(1)** Application to take examination. Any person desiring to take the National Board Examination (NBE), or the Clinical Competency Test, or the state board examination for a license to practice veterinary medicine shall make application 60 days before the date set for the examination to: Bureau of Animal Industry, Board of Veterinary Medicine, Iowa Department of Agriculture and Land Stewardship, Wallace State Office Building, East 9th and Grand Avenue, Des Moines, Iowa 50319 on forms to be provided by the board. The application form shall be completely filled out. The completed application shall include two current passport size and quality photographs of the applicant. Incomplete applications shall be returned to the applicant along with the tendered fee and a written statement setting forth the reasons for such rejections.

The application shall be accompanied by satisfactory evidence of having graduated from an accredited or approved school of veterinary medicine. However, applications for either the NBE or CCT may be accepted without evidence of graduation if the applicant provides satisfactory evidence that the applicant is expected to graduate within six months of the date of the examination. ~~Applications for the state board examination may be accepted without evidence of graduation if the applicant provides satisfactory evidence that the applicant is expected to graduate within 60 days of the date of the examination.~~

Applications to take the NBE or CCT will not be accepted from any person who has previously taken and passed that examination in any jurisdiction, except on case-by-case petition to the board for good cause shown or other order of the board. ~~In addition, applications to take the NBE or CCT will not be accepted from any person who does not apply to take the state board examination or who has not previously passed the state board examination, unless the applicant provides evidence of expected graduation within six months of the examination, or as provided in rule 6.4(169).~~

ITEM 3. Amend subrule 6.1(2) as follows:

**6.1(2)** License requirements. ~~An application to take the state board examination is deemed to be an application for licensure in this state.~~ Prior to the issuance of a license, the applicant shall:

- a. Successfully complete the NBE and CCT as provided in rule 811—7.1(169);
- b. ~~Successfully complete the state board examination;~~
- c. to e. No change.
- f. *Submit evidence of having completed at least an average of 20 hours of approved continuing education for each year of the previous three years.*

Upon payment of the prorated *triennial* license fee, a license issued upon completion of these requirements is valid through June 30 of the next triennium year.

ITEM 4. Amend the fee schedule in rule **811—6.2(169)** by striking the entry which reads "State board examination...\$50" and inserting "License—application fee...\$50".

ITEM 5. Amend rule **811—6.4(169)**, second paragraph, as follows:

Graduates of foreign schools which are not AVMA-Approved but are AVMA-Listed will not be considered for licensing ~~or allowed to take the state board examination for licensure~~ until they have received the certificate granted by

the Educational Commission for Foreign Veterinary Graduates. ~~However, an application to take the state board examination may be accepted prior to the issuance of the certificate if the applicant provides satisfactory evidence that the applicant is completing the ECFVG program and is expected to complete the ECFVG program within 60 days of the date of the examination. A letter from the supervisor of the applicant's ECFVG program will be considered satisfactory evidence. A license will not be issued to an applicant who passes the state board examination until the applicant submits a copy of the applicant's ECFVG certificate.~~

ITEM 6. Amend subrule 6.5(1), introductory paragraph, as follows:

**6.5(1)** A license by endorsement may be granted by the board pursuant to either Iowa Code section 169.10(1) or 169.10(2). An applicant shall make application for a license by endorsement on a form provided by the board. The application fee and triennial license fee shall accompany the application, ~~as well as the fee for the state board examination for those persons applying under section 169.10(1).~~ In addition to the information specified in section 169.10, the applicant shall supply all of the following:

ITEM 7. Amend subrule 6.5(2) as follows:

**6.5(2)** If the non-Iowa license of an applicant under Iowa Code section 169.10(1) was issued after January 1, 1965, the applicant shall have successfully completed the NBE. If the applicant's non-Iowa license was issued after January 1, 1980, the applicant shall have successfully completed the NBE and CCT according to rule 811—7.1(169). ~~The board, on a case-by-case basis, may require an applicant to successfully complete the state board examination.~~

ITEM 8. Amend subrule **6.6(1)** by rescinding and reserving paragraph "b."

ITEM 9. Adopt **new** rule 811—6.8(169,261) as follows:

**811—6.8(169,261)** Issuance or renewal of a license to practice veterinary medicine—denial. The board shall deny the issuance or renewal of a license to practice veterinary medicine upon receipt of a certificate of noncompliance from the college student aid commission according to the procedures set forth in 1998 Iowa Acts, Senate File 2170. In addition to the procedures contained therein, the following shall apply.

**6.8(1)** The notice required by 1998 Iowa Acts, Senate File 2170, section 6, shall be served by restricted certified mail, return receipt requested, or by personal service in accordance with the Iowa Rules of Civil Procedure. Alternatively, the applicant may accept service personally or through authorized counsel.

**6.8(2)** The effective date of the denial of the issuance of the license or renewal of a license, as specified in the notice required by 1998 Iowa Acts, Senate File 2170, section 6, shall be 60 days following service of the notice upon the applicant.

**6.8(3)** The board's executive secretary is authorized to prepare and serve the notice required by 1998 Iowa Acts, Senate File 2170, section 6, upon the applicant.

**6.8(4)** Applicants 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 1998 Iowa Acts, Senate File 2170, section 7, all court orders entered in such actions, and withdrawals of cer-

## VETERINARY MEDICINE BOARD[811](cont'd)

tificates of noncompliance by the college student aid commission.

**6.8(5)** All board fees required for application or renewal must be paid by 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 261.

**6.8(6)** In the event an applicant timely files a district court action following service of a board notice pursuant to 1998 Iowa Acts, Senate File 2170, sections 6 and 7, 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 court action was disposed of by the court.

**6.8(7)** The board shall notify the 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 applicant when the license is issued or renewed following the board's receipt of a withdrawal of the certificate of noncompliance.

ITEM 10. Amend rule 811—7.1(169), introductory paragraph, as follows:

**811—7.1(169) Examination procedure.** In order to successfully complete the National Board Examination, an applicant shall achieve a minimum converted score of 70. In addition, in order to successfully complete the CCT, the applicant shall obtain a minimum converted score of 75. ~~The state board examination shall be prepared, given, and judged by the professional members of the Iowa Board.~~ The National Board Examination and the CCT are prepared by the Professional Examination Service for use by the state board of veterinary examiners.

ITEM 11. Amend subrule 7.1(1) as follows:

**7.1(1)** ~~The state and national board examinations shall be given in conjunction with each other.~~ Examinations shall be given in April and December each year. The dates for the examination shall be those set by the National Board Examination Committee. Examinations shall be held at a site to be determined by the board at least 30 days before the date of the examination.

ITEM 12. Rescind and reserve subrule **9.1(1)**.

ITEM 13. Amend subrule **9.1(2)** by rescinding and reserving paragraph "b."

ITEM 14. Amend subrule 9.2(4) as follows:

**9.2(4)** The temporary permit fee and the application fee shall accompany the application. ~~An applicant under subrule 9.1(1) who has not previously made application for full licensure shall submit that application and the appropriate fees with the application for the temporary permit.~~

ITEM 15. Amend rule 811—9.3(169) as follows:

**811—9.3(169) Supervision.** Permit holders under ~~either subrule 9.1(1) or 9.1(2)~~ shall establish and maintain an association with a person currently holding an Iowa license in good standing. The association may be either as an employee, employer, or formal partnership. The licensed veterinarian shall be in a position to regularly observe the activities of the permit holder. The permit holder shall provide accu-

rate and current information to the board as to this association in order to maintain the temporary permit.

ITEM 16. Amend rule 811—10.1(169,258A) as follows:

**811—10.1(169,258A,261) General.** The board has authority to impose discipline for any violation of Iowa Code chapters 169 and, 258A, and 261 or the rules promulgated thereunder.

ITEM 17. Adopt new subrule 10.4(24) as follows:

**10.4(24)** The board shall suspend or revoke a license to practice veterinary medicine upon receipt of a certificate of noncompliance from the college student aid commission according to the procedures set forth in 1998 Iowa Acts, Senate File 2170. In addition to the procedures contained therein, the following shall apply.

a. The notice required by 1998 Iowa Acts, Senate File 2170, section 6, shall be served by restricted certified mail, return receipt requested, or by personal service in accordance with the Iowa Rules of Civil Procedure. Alternatively, the applicant may accept service personally or through authorized counsel.

b. The effective date of revocation or suspension of a license, as specified in the notice required by 1998 Iowa Acts, Senate File 2170, section 6, shall be 60 days following service of the notice upon the applicant.

c. The board's executive secretary is authorized to prepare and serve the notice required by 1998 Iowa Acts, Senate File 2170, section 6, and is directed to notify the licensee that the license will be suspended, unless the license is already suspended on other grounds. In the event a license is on suspension, the executive secretary shall notify the licensee of the board's intention to revoke the license.

d. 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 1998 Iowa Acts, Senate File 2170, section 7, all court orders entered in such actions, and withdrawals of certificates of noncompliance by the college student aid commission.

e. All board fees required for renewal or reinstatement must be paid by the applicants and all continuing education requirements must be met before a license will be renewed or reinstated after the board has denied the renewal or reinstatement of a license pursuant to Iowa Code chapter 261.

f. In the event a licensee timely files a district court action following service of a board notice pursuant to 1998 Iowa Acts, Senate File 2170, sections 6 and 7, 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 renewal, or reinstatement of a license, the board shall count the number of days before the court action was disposed of by the court.

g. The board shall notify the 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 suspension or revocation of a license and shall similarly notify the applicant when the license is reinstated following the board's receipt of a withdrawal of the certificate of noncompliance.



**ARC 8289A****HUMAN SERVICES  
DEPARTMENT[441]****Adopted and Filed Emergency**

Pursuant to the authority of Iowa Code section 249A.4 and 1997 Iowa Acts, chapter 208, section 28, subsection 13, and section 37, the Department of Human Services hereby amends Chapter 81, "Nursing Facilities," appearing in the Iowa Administrative Code.

This amendment changes the basis for the maximum nursing facility rate from December 31, 1996, cost reports to December 31, 1997, cost reports, retroactive to January 1, 1998. This effectively increases the maximum rate from \$71.70 to \$73.21 per day. Effective July 1, 1998, the maximum nursing facility rate was set at \$76.69 based on June 30, 1998, cost reports.

The Seventy-seventh General Assembly in 1997 Iowa Acts, chapter 208, section 28, subsection 1, paragraph "f," directed that if funds were available, the maximum reimbursement rate for nursing facilities should be adjusted effective January 1, 1998. It has now been determined that funding will be available to make this adjustment. The state cost for providing this increase for the last six months of state fiscal year 1998 is estimated at approximately \$3.6 million (state share \$1.3 million) based on the \$73.21 maximum daily rate.

In compliance with Iowa Code section 17A.4(2), the Department of Human Services finds that notice and public participation are unnecessary because this amendment implements 1997 Iowa Acts, chapter 208, section 28, subsection 13, and section 37, which authorize the Department to adopt rules without notice and public participation.

The Department also finds, pursuant to Iowa Code section 17A.5(2)"b"(1), that the normal effective date of this amendment should be waived and this amendment be made effective August 12, 1998, as authorized by 1997 Iowa Acts, chapter 208, section 37.

This amendment is also published herein under Notice of Intended Action as **ARC 8288A** to allow for public comment.

The Council on Human Services adopted this amendment August 12, 1998.

This amendment is intended to implement Iowa Code section 249A.4 and 1997 Iowa Acts, chapter 208, section 28, subsection 1, paragraph "f."

This amendment became effective August 12, 1998.

The following amendment is adopted.

Amend subrule **81.6(16)**, paragraph "e," as follows:

e. *Effective January 1, 1998, the basis for establishing the maximum reimbursement rate for non-state-owned nursing facilities shall be the seventieth percentile of participating facilities' per diem rates as calculated from the December 31, 1997, report of "unaudited compilation of various costs and statistical data."*

Beginning July 1, 1998, the basis for establishing the maximum reimbursement rate for non-state-owned nursing facilities shall be the seventieth percentile of participating

facilities' per diem rates as calculated from the June 30, 1998, report of "unaudited compilation of various costs and statistical data."

[Filed Emergency 8/12/98, effective 8/12/98]

[Published 9/9/98]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 9/9/98.

**ARC 8298A****INSURANCE DIVISION[191]****Adopted and Filed Emergency**

Pursuant to the authority of Iowa Code section 514D.5, the Insurance Commissioner amends Chapter 37, "Medicare Supplement Insurance Minimum Standards," Iowa Administrative Code.

Changes by the federal government in the Balanced Budget Act of 1997 (P.L. 105-33) necessitate the following Medicare Supplement rule changes. Because the federal changes became effective July 1, 1998, it is necessary that these amendments be Adopted and Filed Emergency.

The amendments provide that issuers of Medicare Supplement insurance must give credit against the six-month preexisting exclusion for any creditable coverage as defined by the federal Health Insurance Portability and Accountability Act of 1996. Companies must guarantee issue policies A, B, C or F to individuals under certain conditions.

A state has one year to amend rules following changes to the National Association of Insurance Commissioners Model Regulations.

In compliance with Iowa Code section 17A.4(2), the Division finds that notice and public participation are unnecessary because Medicare Supplement policies are standardized under federal requirements.

The Division also finds, pursuant to Iowa Code section 17A.5(2)"b"(1), that the normal effective date of the amendments should be waived and these amendments should be made effective upon filing on August 18, 1998, because the federal statute so provides.

These amendments became effective on August 18, 1998.

These amendments are intended to implement Iowa Code section 514D.5 and the Balanced Budget Act of 1997, P.L. 105-33.

The following amendments are adopted.

ITEM 1. Amend rule **191—37.3(514D)** by adopting the following new definitions in alphabetical order:

"Bankruptcy" means that a Medicare+Choice organization that is not an issuer has filed, or has had filed against it, a petition for declaration of bankruptcy and has ceased doing business in the state.

"Continuous period of creditable coverage" means the period during which an individual was covered by creditable coverage, if during the period of the coverage the individual had no breaks in coverage greater than 63 days.

"Creditable coverage" means, with respect to an individual, coverage of the individual provided under any of the following:

## INSURANCE DIVISION[191](cont'd)

1. A group health plan;
2. Health insurance coverage;
3. Part A or Part B of Title XVIII of the Social Security Act (Medicare);
4. Title XIX of the Social Security Act (Medicaid), other than coverage consisting solely of benefits under Section 1928;
5. Chapter 55 of Title 10, United States Code (CHAMPUS);
6. A medical care program of the Indian Health Service or of a tribal organization;
7. A state health benefits risk pool;
8. A health plan offered under Chapter 89 of Title 5 United States Code (Federal Employees Health Benefits Program);
9. A public health plan as defined in federal regulation; and
10. A health benefit plan under Section 5(e) of the Peace Corps Act (22 United States Code 2504(e)).

11. An organized delivery system.  
 12. Short-term limited durational policy.  
 "Creditable coverage" shall not include one or more, or any combination of, the following:

1. Coverage only for accident or disability income insurance, or any combination thereof;
2. Coverage issued as a supplement to liability insurance;
3. Liability insurance, including general liability insurance and automobile liability insurance;
4. Workers' compensation or similar insurance;
5. Automobile medical payment insurance;
6. Credit-only insurance;
7. Coverage for on-site medical clinics; and
8. Other similar insurance coverage, specified in federal regulations, under which benefits for medical care are secondary or incidental to other insurance benefits.

"Creditable coverage" shall not include the following benefits if they are provided under a separate policy, certificate or contract of insurance or are otherwise not an integral part of the plan:

1. Limited scope dental or vision benefits;
2. Benefits for long-term care, nursing home care, home health care, community-based care, or any combination thereof; and
3. Such other similar, limited benefits as are specified in federal regulations.

"Creditable coverage" shall not include the following benefits if offered as independent, noncoordinated benefits:

1. Coverage only for a specified disease or illness; and
2. Hospital indemnity or other fixed indemnity insurance.

"Creditable coverage" shall not include the following if it is offered as a separate policy, certificate or contract of insurance:

1. Medicare supplemental health insurance as defined under Section 1882(g)(1) of the Social Security Act;
2. Coverage supplemental to the coverage provided under Chapter 55 of Title 10, United States Code; and
3. Similar supplemental coverage provided to coverage under a group health plan.

"Employee welfare benefit plan" means a plan, fund or program of employee benefits as defined in 29 U.S.C. Section 1002 (Employee Retirement Income Security Act).

"Insolvency" means that an issuer, licensed to transact the business of insurance in this state, has had a final order of liquidation entered against it with a finding of insolvency by a

court of competent jurisdiction in the issuer's state of domicile.

"Medicare+Choice plan" means a plan of coverage for health benefits under Medicare Part C (as defined in Section 1859 found in Title IV, Subtitle A, Chapter 1 of P.L. 105-33), and includes:

1. Coordinated care plans which provide health care services, including but not limited to health maintenance organization plans (with or without a point-of-service option), plans offered by provider-sponsored organizations, and preferred provider organization plans;
2. Medical savings account plans coupled with a contribution into a Medicare+Choice medical savings account; and
3. Medicare+Choice private fee-for-service plans.

"Secretary" means the Secretary of the United States Department of Health and Human Services.

ITEM 2. Amend subrule 37.8(5) by adopting new paragraphs "k" and "l" as follows:

k. Standardized Medicare supplement benefit high deductible plan "F" shall include only the following: 100 percent of covered expenses following the payment of the annual high deductible plan "F" deductible. The covered expenses include the Core Benefit as defined in subrule 37.7(2), plus the Medicare Part A Deductible, Skilled Nursing Facility care, the Medicare Part B Deductible, 100 percent of the Medicare Part B Excess Charges, and Medically Necessary Emergency Care in a Foreign Country as defined in 37.7(3)"a," "b," "c," "e," and "h," respectively. The annual high deductible plan "F" deductible shall consist of out-of-pocket expenses, other than premiums, for services covered by the Medicare supplement plan "F" policy, and shall be in addition to any other specific benefit deductibles. The annual high deductible plan "F" deductible shall be \$1500 for 1998 and 1999, and shall be based on the calendar year. It shall be adjusted annually thereafter by the Secretary to reflect the change in the consumer price index for all urban consumers for the 12-month period ending with August of the preceding year, and rounded to the nearest multiple of \$10.

l. Standardized Medicare supplement benefit high deductible plan "J" shall consist only of the following: 100 percent of covered expenses following the payment of the annual high deductible plan "J" deductible. The covered expenses include the Core Benefit as defined in 37.7(2), plus the Medicare Part A Deductible, Skilled Nursing Facility Care, Medicare Part B Deductible, 100 percent of the Medicare Part B Excess Charges, Extended Outpatient Prescription Drug Benefit, Medically Necessary Emergency Care in a Foreign Country, Preventive Medical Care Benefit and At-Home Recovery Benefit as defined in 37.7(3)"a," "b," "c," "e," "g," "h," "i," and "j," respectively. The annual high deductible plan "J" deductible shall consist of out-of-pocket expenses, other than premiums, for services covered by the Medicare supplement plan "J" policy, and shall be in addition to any other specific benefit deductibles. The annual deductible shall be \$1500 for 1998 and 1999, and shall be based on a calendar year. It shall be adjusted annually thereafter by the Secretary to reflect the change in the consumer price index for all urban consumers for the 12-month period ending with August of the preceding year, and rounded to the nearest multiple of \$10.

ITEM 3. Amend subrule 37.15(3), paragraph "d," the plan outlines, as follows:

INSURANCE DIVISION[191](cont'd)

Rescind the "Outline of Medicare Supplement Coverage—Cover Page" and adopt the following new cover page in lieu thereof:

[COMPANY NAME]

Outline of Medicare Supplement Coverage—Cover Page:

Benefit Plans \_\_\_\_\_ [insert letters of plans being offered]

Medicare supplement insurance can be sold in only ten standardized plans plus two high deductible plans. The chart shows the benefits in each plan. Every company must make available Plan "A." Some plans may not be available in Iowa.

Basic Benefits: Included in All Plans.

Hospitalization: Part A coinsurance plus coverage for 365 additional days after Medicare benefits end.

Medical Expenses: Part B coinsurance (generally 20% of Medicare-approved expenses).

Blood: First three pints of blood each year.

A	B	C	D	E	F   F*	G	H	I	J   J*
Basic Benefits	Basic Benefits	Basic Benefits	Basic Benefits	Basic Benefits	Basic Benefits	Basic Benefits	Basic Benefits	Basic Benefits	Basic Benefits
		Skilled Nursing Coinsurance	Skilled Nursing Coinsurance	Skilled Nursing Coinsurance	Skilled Nursing Coinsurance	Skilled Nursing Coinsurance	Skilled Nursing Coinsurance	Skilled Nursing Coinsurance	Skilled Nursing Coinsurance
	Part A Deductible	Part A Deductible	Part A Deductible	Part A Deductible	Part A Deductible	Part A Deductible	Part A Deductible	Part A Deductible	Part A Deductible
		Part B Deductible			Part B Deductible				Part B Deductible
					Part B Excess (100%)	Part B Excess (80%)		Part B Excess (100%)	Part B Excess (100%)
		Foreign Travel Emergency	Foreign Travel Emergency	Foreign Travel Emergency	Foreign Travel Emergency	Foreign Travel Emergency	Foreign Travel Emergency	Foreign Travel Emergency	Foreign Travel Emergency
			At-Home Recovery			At-Home Recovery		At-Home Recovery	At-Home Recovery
							Basic Drugs (\$1,250 Limit)	Basic Drugs (\$1,250 Limit)	Extended Drugs (\$3,000 Limit)
				Preventive Care					Preventive Care

\*Plans F and J also have an option called a high deductible plan F and a high deductible plan J. These high deductible plans pay the same or offer the same benefits as Plans F and J after one has paid a calendar year [\$1500] deductible. Benefits from high deductible plans F and J will not begin until out-of-pocket expenses are [\$1500]. Out-of-pocket expenses for this deductible are expenses that would ordinarily be paid by the policy. These expenses include the Medicare deductibles for Part A and Part B, but do not include, in Plan J, the plan's separate prescription drug deductible or, in Plans F and J, the plan's separate foreign travel emergency deductible.

PREMIUM INFORMATION

We [insert issuer's name] can only raise your premium if we raise the premium for all policies like yours in this State. [If the premium is based on the increasing age of the insured, include information specifying when premiums will change.]

DISCLOSURES

Use this outline to compare benefits and premiums among policies.

READ YOUR POLICY VERY CAREFULLY

This is only an outline describing your policy's most important features. The policy is your insurance contract. You must read the policy itself to understand all of the rights and duties of both you and your insurance company.

RIGHT TO RETURN POLICY

If you find that you are not satisfied with your policy, you may return it to [insert issuer's address]. If you send the policy back to us within 30 days after you receive it, we will treat the policy as if it had never been issued and return all of your payments.

INSURANCE DIVISION[191](cont'd)

POLICY REPLACEMENT

If you are replacing another health insurance policy, do NOT cancel it until you have actually received your new policy and are sure you want to keep it.

NOTICE

This policy may not fully cover all of your medical costs.

[for agents:]

Neither [insert company's name] nor its agents are connected with Medicare.

[for direct response:]

[insert company's name] is not connected with Medicare.

This outline of coverage does not give all the details of Medicare coverage. Contact your local Social Security Office or consult "The Medicare Handbook" for more details.

COMPLETE ANSWERS ARE VERY IMPORTANT

When you fill out the application for the new policy, be sure to answer truthfully and completely all questions about your medical and health history. The company may cancel your policy and refuse to pay any claims if you leave out or falsify important medical information. [If the policy or certificate is guaranteed issue, this paragraph need not appear.]

Review the application carefully before you sign it. Be certain that all information has been properly recorded.

[Include for each plan prominently identified in the cover page, a chart showing the services, Medicare payments, plan payments and insured payments for each plan, using the same language, in the same order, using uniform layout and format as shown in the charts below. No more than four plans may be shown on one chart. For purposes of illustration, charts for each plan are included in this regulation. An issuer may use additional benefit plan descriptions on these charts pursuant to 37.8(4).]

[Include an explanation of any innovative benefits on the cover page and in the chart, in a manner approved by the commissioner.]

\*\*\*\*

Rescind Plan E and adopt the following new Plan E in lieu thereof:

PLAN E

MEDICARE (PART A)—HOSPITAL SERVICES—PER BENEFIT PERIOD

\* A benefit period begins on the first day you receive service as an inpatient in a hospital and ends after you have been out of the hospital and have not received skilled care in any other facility for 60 days in a row.

Services	Medicare Pays	Plan Pays	You Pay
<b>HOSPITALIZATION*</b> Semiprivate room and board, general nursing and miscellaneous services and supplies First 60 days 61 <sup>st</sup> thru 90 <sup>th</sup> day 91 <sup>st</sup> day and after; —While using 60 lifetime reserve days —Once lifetime reserve days are used: —Additional 365 days —Beyond the additional 365 days	All but \$[764] All but \$[191] a day  All but \$[382] a day  \$0 \$0	\$[764] (Part A deductible) \$[191] a day  \$[382] a day  100% of Medicare-eligible expenses \$0	\$0 \$0  \$0  \$0 All costs
<b>SKILLED NURSING FACILITY CARE*</b> You must meet Medicare's requirements, including having been in a hospital for at least 3 days and entered a Medicare-approved facility within 30 days after leaving the hospital. First 20 days 21 <sup>st</sup> thru 100 <sup>th</sup> day 101 <sup>st</sup> day and after	All approved amounts All but \$[95.50] a day \$0	\$0 Up to \$[95.50] a day \$0	\$0 \$0 All costs
<b>BLOOD</b> First 3 pints Additional amounts	\$0 100%	3 pints \$0	\$0 \$0
<b>HOSPICE CARE</b> Available as long as your doctor certifies you are terminally ill and you elect to receive these services	All but very limited coinsurance for outpatient drugs and inpatient respite care	\$0	Balance

INSURANCE DIVISION[191](cont'd)

**MEDICARE (PART B)—HOSPITAL SERVICES—PER BENEFIT PERIOD**

\* Once you have been billed \$100 of Medicare-Approved amounts for covered services (which are noted with an asterisk), your Part B deductible will have been met for the calendar year.

Services	Medicare Pays	Plan Pays	You Pay
<b>MEDICAL EXPENSES—IN OR OUT OF THE HOSPITAL AND OUTPATIENT HOSPITAL TREATMENT</b> , such as Physician's services, inpatient and outpatient medical and surgical services and supplies, physical and speech therapy, diagnostic tests, durable medical equipment, First \$100 of Medicare-Approved Amounts* Remainder of Medicare-Approved Amounts Part B Excess Charges (Above Medicare-Approved Amounts)	\$0 Generally 80% \$0	\$0 Generally 20% \$0	\$100 (Part B deductible) \$0 All costs
<b>BLOOD</b> First 3 pints Next \$100 of Medicare-Approved Amounts* Remainder of Medicare Approved Amounts	\$0 \$0 80%	All costs \$0 20%	\$0 \$100 (Part B deductible) \$0
<b>CLINICAL LABORATORY SERVICES—BLOOD TESTS FOR DIAGNOSTIC SERVICES</b>	100%	\$0	\$0

**PARTS A & B**

Services	Medicare Pays	Plan Pays	You Pay
<b>HOME HEALTH CARE</b> <b>MEDICARE-APPROVED SERVICES</b> —Medically necessary skilled care services and medical supplies —Durable medical equipment First \$100 of Medicare-Approved Amounts* Remainder of Medicare-Approved Amounts*	100% \$0 80%	\$0 \$0 20%	\$0 \$100 (Part B deductible) \$0

**OTHER BENEFITS—NOT COVERED BY MEDICARE**

Services	Medicare Pays	Plan Pays	You Pay
<b>FOREIGN TRAVEL—NOT COVERED BY MEDICARE</b> Medically necessary emergency care services beginning during the first 60 days of each trip outside the USA First \$250 each calendar year Remainder of Charges	\$0 \$0	\$0 80% to a lifetime maximum benefit of \$50,000	\$250 20% and amounts over the \$50,000 lifetime maximum
<b>*PREVENTIVE MEDICAL CARE BENEFIT—NOT COVERED BY MEDICARE</b> Some annual physical and preventive tests and services such as: digital rectal exam, hearing screening, dipstick urinalysis, diabetes screening, thyroid function test, tetanus and diphtheria booster and education, administered or ordered by your doctor when not covered by Medicare First \$120 each calendar year Additional charges	\$0 \$0	\$120 \$0	\$0 All costs

\*Medicare benefits are subject to change. Please consult the latest Guide to Health Insurance for People with Medicare.

Adopt new Plan F or High Deductible Plan F as follows:

**PLAN F or HIGH DEDUCTIBLE PLAN F****MEDICARE (PART A)—HOSPITAL SERVICES—PER BENEFIT PERIOD**

\*A benefit period begins on the first day you receive service as an inpatient in a hospital and ends after you have been out of the hospital and have not received skilled care in any other facility for 60 days in a row.

\*\*This high deductible plan pays the same or offers the same benefits as Plan F after one has paid a calendar year [\$1500] deductible. Benefits from the High Deductible Plan F will not begin until out-of-pocket expenses are [\$1500]. Out-of-pocket expenses for this deductible are expenses that would ordinarily be paid by the policy. This includes the Medicare deductibles for Part A and Part B, but does not include the plan's separate foreign travel emergency deductible.

## INSURANCE DIVISION[191](cont'd)

SERVICES	MEDICARE PAYS	AFTER YOU PAY \$1500 DEDUCTIBLE,** PLAN PAYS	IN ADDITION TO \$1500 DEDUCTIBLE, ** YOU PAY
<b>HOSPITALIZATION*</b> Semiprivate room and board, general nursing and miscellaneous services and supplies First 60 days 61 <sup>st</sup> thru 90 <sup>th</sup> day 91 <sup>st</sup> day and after: —while using 60 lifetime reserve days —Once lifetime reserve days are used: —Additional 365 days  —Beyond the additional 365 days	All but \$[764] All but \$[191] a day  All but \$[382] a day  \$0  \$0	\$[764] (Part A deductible) \$[191] a day  \$[382] a day  100% of Medicare eligible expenses  \$0	\$0 \$0  \$0  \$0  All costs
<b>SKILLED NURSING FACILITY CARE*</b> You must meet Medicare's requirements, including having been in a hospital for at least 3 days and entered a Medicare-approved facility within 30 days after leaving the hospital First 20 days 21 <sup>st</sup> thru 100 <sup>th</sup> day 101 <sup>st</sup> day and after	All approved amounts All but \$[95.50] a day \$0	\$0 Up to \$[95.50] a day \$0	\$0 \$0 All costs
<b>BLOOD</b> First 3 pints Additional amounts	\$0 100%	3 pints \$0	\$0 \$0
<b>HOSPICE CARE</b> Available as long as your doctor certifies you are terminally ill and you elect to receive these services	All but very limited coinsurance for outpatient drugs and inpatient respite care	\$0	Balance

## MEDICARE (PART B)—MEDICAL SERVICES—PER CALENDAR YEAR

\*Once you have been billed \$100 of Medicare-Approved amounts for covered services (which are noted with an asterisk), your Part B deductible will have been met for the calendar year.

\*\*This high deductible plan pays the same or offers the same benefits as Plan F after one has paid a calendar year [\$1500] deductible. Benefits from the High Deductible Plan F will not begin until out-of-pocket expenses are [\$1500]. Out-of-pocket expenses for this deductible are expenses that would ordinarily be paid by the policy. This includes the Medicare deductibles for Part A and Part B, but does not include the plan's separate foreign travel emergency deductible.

SERVICES	MEDICARE PAYS	AFTER YOU PAY \$1500 DEDUCTIBLE,** PLAN PAYS	IN ADDITION TO \$1500 DEDUCTIBLE, ** YOU PAY
<b>MEDICAL EXPENSES—IN OR OUT OF THE HOSPITAL AND OUTPATIENT HOSPITAL TREATMENT,</b> such as physician's services, inpatient and outpatient medical and surgical services and supplies, physical and speech therapy, diagnostic tests, durable medical equipment, First \$100 of Medicare-Approved Amounts* Remainder of Medicare-Approved Amounts Part B excess charges (Above Medicare-Approved Amounts)	\$0 Generally 80%  \$0	\$100 (Part B deductible) Generally 20%  100%	\$0 \$0  \$0
<b>BLOOD</b> First 3 pints Next \$100 of Medicare-Approved Amounts* Remainder of Medicare-Approved Amounts	\$0 \$0 80%	All costs \$100 (Part B deductible) 20%	\$0 \$0 \$0
<b>CLINICAL LABORATORY SERVICES—BLOOD TESTS FOR DIAGNOSTIC SERVICES</b>	100%	\$0	\$0

INSURANCE DIVISION[191](cont'd)

PARTS A & B

SERVICES	MEDICARE PAYS	AFTER YOU PAY \$1500 DEDUCTIBLE,** PLAN PAYS	IN ADDITION TO \$1500 DEDUCTIBLE, ** YOU PAY
<b>HOME HEALTH CARE MEDICARE-APPROVED SERVICES</b> —Medically necessary skilled care services and medical supplies —Durable medical equipment First \$100 of Medicare-Approved Amounts* Remainder of Medicare-Approved Amounts	100% \$0 80%	\$0 \$100 (Part B deductible) 20%	\$0 \$0 \$0

OTHER BENEFITS—NOT COVERED BY MEDICARE

SERVICES	MEDICARE PAYS	AFTER YOU PAY \$1500 DEDUCTIBLE,** PLAN PAYS	IN ADDITION TO \$1500 DEDUCTIBLE, ** YOU PAY
<b>FOREIGN TRAVEL - NOT COVERED BY MEDICARE</b> Medically necessary emergency care services beginning during the first 60 days of each trip outside the USA First \$250 each calendar year Remainder of Charges	\$0 \$0	\$0 80% to a lifetime maximum benefit of \$50,000	\$250 20% and amounts over the \$50,000 lifetime maximum

Adopt new Plan J or High Deductible Plan J as follows:

PLAN J or HIGH DEDUCTIBLE PLAN J  
MEDICARE (PART A)—HOSPITAL SERVICES—PER BENEFIT PERIOD

\* A benefit period begins on the first day you receive service as an inpatient in a hospital and ends after you have been out of the hospital and have not received skilled care in any other facility for 60 days in a row.  
\*\* This high deductible plan pays the same or offers the same benefits as Plan J after one has paid a calendar year [\$1500] deductible. Benefits from High Deductible Plan J will not begin until out-of-pocket expenses are [\$1500]. Out-of-pocket expenses for this deductible are expenses that would ordinarily be paid by the policy. This includes the Medicare deductibles for Part A and Part B, but does not include the plan's separate prescription drug deductible or the plan's separate foreign travel emergency deductible.

SERVICES	MEDICARE PAYS	AFTER YOU PAY \$1500 DEDUCTIBLE,** PLAN PAYS	IN ADDITION TO \$1500 DEDUCTIBLE, ** YOU PAY
<b>HOSPITALIZATION*</b> Semiprivate room and board, general nursing and miscellaneous services and supplies First 60 days 61 <sup>st</sup> thru 90 <sup>th</sup> day 91 <sup>st</sup> day and after: —While using 60 lifetime reserve days —Once lifetime reserve days are used: —Additional 365 days  —Beyond the additional 365 days	All but \$[764] All but \$[191] a day  All but \$[382] a day  \$0 \$0	\$[764] (Part A deductible) \$[191] a day  \$[382] a day  100% of Medicare eligible expenses \$0	\$0 \$0  \$0  \$0 All costs
<b>SKILLED NURSING FACILITY CARE*</b> You must meet Medicare's requirements, including having been in a hospital for at least 3 days and entered a Medicare-approved facility within 30 days after leaving the hospital First 20 days 21 <sup>st</sup> thru 100 <sup>th</sup> day 101 <sup>st</sup> day and after	All approved amounts All but \$[95.50] a day \$0	\$0 Up to \$[95.50] a day \$0	\$0 \$0 All costs

## INSURANCE DIVISION[191](cont'd)

SERVICES	MEDICARE PAYS	AFTER YOU PAY \$1500 DEDUCTIBLE,** PLAN PAYS	IN ADDITION TO \$1500 DEDUCTIBLE, ** YOU PAY
<b>BLOOD</b> First 3 pints Additional amounts	\$0 100%	3 pints \$0	\$0 \$0
<b>HOSPICE CARE</b> Available as long as your doctor certifies you are terminally ill and you elect to receive these services	All but very limited coinsurance for outpatient drugs and inpatient respite care	\$0	Balance

**MEDICARE (PART B)—MEDICAL SERVICES—PER CALENDAR YEAR**

\* Once you have been billed \$100 of Medicare-Approved amounts for covered services (which are noted with an asterisk), your Part B deductible will have been met for the calendar year.

\*\*This high deductible plan pays the same or offers the same benefits as Plan J after one has paid a calendar year [\$1500] deductible. Benefits from High Deductible Plan J will not begin until out-of-pocket expenses are [\$1500]. Out-of-pocket expenses for this deductible are expenses that would ordinarily be paid by the policy. This includes the Medicare deductibles for Part A and Part B, but does not include the plan's separate prescription drug deductible or the plan's separate foreign travel emergency deductible.

SERVICES	MEDICARE PAYS	AFTER YOU PAY \$1500 DEDUCTIBLE,** PLAN PAYS	IN ADDITION TO \$1500 DEDUCTIBLE, ** YOU PAY
<b>MEDICAL EXPENSES—IN OR OUT OF THE HOSPITAL AND OUTPATIENT HOSPITAL TREATMENT</b> , such as physician's services, inpatient and outpatient medical and surgical services and supplies, physical and speech therapy, diagnostic tests, durable medical equipment, First \$100 of Medicare-Approved Amounts* Remainder of Medicare-Approved Amounts Part B Excess Charges (Above Medicare-Approved Amounts)	\$0 Generally 80% \$0	\$100 (Part B deductible) Generally 20% 100%	\$0 \$0 \$0
<b>BLOOD</b> First 3 pints Next \$100 of Medicare-Approved Amounts* Remainder of Medicare-Approved Amounts	\$0 \$0 80%	All Costs \$100 (Part B deductible) 20%	\$0 \$0 \$0
<b>CLINICAL LABORATORY SERVICES—BLOOD TESTS FOR DIAGNOSTIC SERVICES</b>	100%	\$0	\$0

**PARTS A & B**

SERVICES	MEDICARE PAYS	AFTER YOU PAY \$1500 DEDUCTIBLE,** PLAN PAYS	IN ADDITION TO \$1500 DEDUCTIBLE, ** YOU PAY
<b>HOME HEALTH CARE</b> <b>MEDICARE-APPROVED SERVICES</b> —Medically necessary skilled care services and medical supplies —Durable medical equipment First \$100 of Medicare-Approved Amounts* Remainder of Medicare-Approved Amounts	100% \$0 80%	\$0 \$100 (Part B deductible) 20%	\$0 \$0 \$0
<b>HOME HEALTH CARE (cont'd)</b> <b>AT-HOME RECOVERY SERVICES—NOT COVERED BY MEDICARE</b> Home care certified by your doctor, for personal care during recovery from an injury or sickness for which Medicare approved a Home Care Treatment Plan —Benefit for each visit  —Number of visits covered (Must be received within 8 weeks of last Medicare-Approved visit)  —Calendar year maximum	\$0 \$0 \$0	Actual charges to \$40 a visit Up to the number of Medicare-Approved visits, not to exceed 7 each week \$1,600	



INSURANCE DIVISION[191](cont'd)

OTHER BENEFITS—NOT COVERED BY MEDICARE

SERVICES	MEDICARE PAYS	AFTER YOU PAY \$1500 DEDUCTIBLE,** PLAN PAYS	IN ADDITION TO \$1500 DEDUCTIBLE,** YOU PAY
<b>FOREIGN TRAVEL—NOT COVERED BY MEDICARE</b> Medically necessary emergency care services beginning during the first 60 days of each trip outside the USA First \$250 each calendar year Remainder of Charges	\$0 \$0	\$0 80% to a lifetime maximum benefit of \$50,000	\$250 20% and amounts over the \$50,000 lifetime maximum
<b>EXTENDED OUTPATIENT PRESCRIPTION DRUGS—NOT COVERED BY MEDICARE</b> First \$250 each calendar year Next \$6,000 each calendar year  Over \$6,000 each calendar year	\$0 \$0  \$0	\$0 50%—\$3,000 calendar year maximum benefit \$0	\$250 50%  All costs
<b>***PREVENTIVE MEDICAL CARE BENEFIT—NOT COVERED BY MEDICARE</b> Some annual physical and preventive tests and services such as: digital rectal exam, hearing screening, dipstick urinalysis, diabetes screening, thyroid function test, tetanus and diphtheria booster and education, administered or ordered by your doctor when not covered by Medicare First \$150 each calendar year Additional charges	\$0 \$0	\$120 \$0	\$0 All costs

\*\*\* Medicare benefits are subject to change. Please consult the latest Guide to Health Insurance for People with Medicare.

ITEM 4. Amend 191—Chapter 37 by adopting the following new rule:

191—37.24(514D) **Guaranteed issue for eligible persons.**

37.24(1) Eligible persons are those individuals described in subrule 37.24(2) who apply to enroll under the policy not later than 63 days after the date of the termination of enrollment described in subrule 37.24(2), and who submit evidence of the date of termination or disenrollment with the application for a Medicare supplement policy.

With respect to eligible persons, an issuer shall not deny or condition the issuance or effectiveness of a Medicare supplement policy described in subrule 37.24(3) that is offered and is available for issuance to new enrollees by the issuer, shall not discriminate in the pricing of such a Medicare supplement policy because of health status, claims experience, receipt of health care, or medical condition, and shall not impose an exclusion of benefits based on a preexisting condition under such a Medicare supplement policy.

37.24(2) An eligible person is an individual described in any of the following paragraphs:

a. The individual is enrolled under an employee welfare benefit plan that provides health benefits that supplement the benefits under Medicare; and the plan terminates, or the plan ceases to provide some or all such supplemental health benefits to the individual;

b. The individual is enrolled with a Medicare+Choice organization under a Medicare+Choice plan under Part C of Medicare, and there are circumstances permitting discontinuance of the individual's election of the plan under the first sentence of Section 1851(e)(4) of the federal Social Security Act, which consists of the following:

“Effective as of January 1, 2002, an individual may discontinue an election of a Medicare+Choice plan offered by a

Medicare+Choice organization other than during an annual, coordinated election period [under Medicare] and make a new election under this section if:

“(1) The organization's or plan's certification [under this part] has been terminated or the organization has terminated or otherwise discontinued providing the plan in the area in which the individual resides;

“(2) The individual is no longer eligible to elect the plan because of a change in the individual's place of residence or other change in circumstances specified by the Secretary, but not including termination of the individual's enrollment on the basis described in Section 1851(g)(3)(B) of the federal Social Security Act (where the individual has not paid premiums on a timely basis or has engaged in disruptive behavior as specified in standards under Section 1856), or the plan is terminated for all individuals within a residence area;

“(3) The individual demonstrates, in accordance with guidelines established by the Secretary, that:

“1. The organization offering the plan substantially violated a material provision of the organization's contract under this part in relation to the individual, including the failure to provide an enrollee on a timely basis medically necessary care for which benefits are available under the plan or the failure to provide such covered care in accordance with applicable quality standards; or

“2. The organization, or agent or other entity acting on the organization's behalf, materially misrepresented the plan's provisions in marketing the plan to the individual; or

“(4) The individual meets such other exceptional conditions as the Secretary may provide.”

c. The individual is enrolled with:

(1) An eligible organization under a contract under Section 1876 (Medicare risk or cost); or

## INSURANCE DIVISION[191](cont'd)

(2) A similar organization operating under demonstration project authority, effective for periods before April 1, 1999; or

(3) An organization under an agreement under Section 1833(a)(1)(A) (Health care prepayment plan); or

(4) An organization under a Medicare Select policy; and

(5) The enrollment ceases under the same circumstances that would permit discontinuance of an individual's election of coverage under the first sentence of Section 1851(3)(4) of the federal Social Security Act as delineated above in paragraph 37.24(2)"b."

d. The individual is enrolled under a Medicare supplement policy and the enrollment ceases because:

(1) Of the insolvency of the issuer or bankruptcy of the nonissuer organization; or

Of other involuntary termination of coverage or enrollment under the policy;

(2) The issuer of the policy substantially violated a material provision of the policy; or

(3) The issuer, or an agent or other entity acting on the issuer's behalf, materially misrepresented the policy's provisions in marketing the policy to the individual;

e.(1) The individual was enrolled under a Medicare supplement policy and terminated enrollment and subsequently enrolls, for the first time, with any Medicare+Choice organization under a Medicare+Choice plan under Part C of Medicare, any eligible organization under a contract under Section 1876 (Medicare risk or cost), any similar organization operating under demonstration project authority, an organization under an agreement under Section 1833(a)(1)(A) (health care prepayment plan), or a Medicare Select policy; and

(2) The subsequent enrollment under subparagraph "e"(1) terminated by the enrollee during any period within the first 12 months of such subsequent enrollment (during which the enrollee is permitted to terminate such subsequent enrollment under Section 1851(e) of the federal Social Security Act); or

f. The individual, upon first becoming enrolled for benefits under Part B of Medicare at age 65 or older enrolls in a Medicare+Choice plan under Part C of Medicare, and disenrolls from the plan by not later than 12 months after the effective date of enrollment.

37.24(3) Products to which eligible persons are entitled. The Medicare supplement policy to which eligible persons are entitled under:

a. Subrule 37.24(2), paragraphs "a," "b," "c," and "d," is a Medicare supplement policy which has a benefit package classified as Plan A, B, C, or F offered by any issuer.

b. Paragraph 37.24(2)"e" is the same Medicare supplement policy in which the individual was most recently previously enrolled, if available from the same issuer, or, if not so available, a policy described in paragraph 37.24(3)"a."

c. Paragraph 37.24(2)"f" shall include any Medicare supplement policy offered by any issuer.

37.24(4) Notification provisions.

a. At the time of an event described in subrule 37.24(2) because of which an individual loses coverage or benefits due to the termination of a contract or agreement, policy, or plan, the organization that terminates the contract or agreement, the issuer terminating the policy, or the administrator of the plan being terminated, respectively, shall notify the individual of the individual's rights under this subrule, and of the obligations of issuers of Medicare supplement policies under subrule 37.24(1). Such notice shall be communicated contemporaneously with the notification of termination.

b. At the time of an event described in subrule 37.24(2) because of which an individual ceases enrollment under a contract or agreement, policy, or plan, the organization that offers the contract or agreement, regardless of the basis for the cessation of enrollment, the issuer offering the policy, or the administrator of the plan, respectively, shall notify the individual of the individual's rights under this subrule, and of the obligations of issuers of Medicare supplement policies under subrule 37.24(1). Such notice shall be communicated within ten working days of the issuer receiving notification of disenrollment.

ITEM 5. Rescind 191—Chapter 37, Appendix C, and adopt the following new appendix in lieu thereof:

## APPENDIX C

## DISCLOSURE STATEMENTS

Instructions for Use of the Disclosure Statements for  
Health Insurance Policies Sold to Medicare Beneficiaries  
that Duplicate Medicare

1. Section 1882 (d) of the federal Social Security Act [42 U.S.C. 1395ss] prohibits the sale of a health insurance policy (the term policy includes certificate) to Medicare beneficiaries that duplicates Medicare benefits unless it pay benefits without regard to a beneficiary's other health coverage and it includes the prescribed disclosure statement on or together with the application for the policy.

2. All types of health insurance policies that duplicate Medicare shall include one of the attached disclosure statements, according to the particular policy type involved, on the application or together with the application. The disclosure statement may not vary from the attached statements in terms of language or format (type size, type proportional spacing, bold character, line spacing, and usage of boxes around text).

3. State and federal law prohibits insurers from selling a Medicare supplement policy to a person that already has a Medicare supplement policy except as a replacement policy.

4. Property/casualty and life insurance policies are not considered health insurance.

5. Disability income policies are not considered to provide benefits that duplicate Medicare.

6. Long-term care insurance policies that coordinate with Medicare and other health insurance are not considered to provide benefits that duplicate Medicare.

7. The federal law does not preempt state laws that are more stringent than the federal requirements.

INSURANCE DIVISION[191](cont'd)

8. The federal law does not preempt existing state form filing requirements.

9. Section 1882 of the federal Social Security Act was amended in Subsection (d)(3)(A) to allow for alternative disclosure statements. The disclosure statements already in Appendix C remain. Carriers may use either disclosure statement with the requisite insurance product. However, carriers should use either the original disclosure statements or the alternative disclosure statements and not use both simultaneously.

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[Original disclosure statement for policies that provide benefits for expenses incurred for an accidental injury only.]

**IMPORTANT NOTICE TO PERSONS ON MEDICARE  
THIS INSURANCE DUPLICATES SOME MEDICARE BENEFITS**

This is not Medicare Supplement Insurance

This insurance provides limited benefits, if you meet the policy conditions, for hospital or medical expenses that result from accidental injury. It does not pay your Medicare deductibles or coinsurance and is not a substitute for Medicare Supplement insurance.

This insurance duplicates Medicare benefits when it pays:

- Hospital or medical expenses up to the maximum stated in the policy

Medicare generally pays for most or all of these expenses.

Medicare pays extensive benefits for medically necessary services regardless of the reason you need them. These include:

- Hospitalization
- Physician services
- Other approved items and services

**Before You Buy This Insurance**

- ✓ Check the coverage in all health insurance policies you already have.
- ✓ For more information about Medicare and Medicare Supplement insurance, review the Guide to Health Insurance for People with Medicare, available from the insurance company.
- ✓ For help in understanding your health insurance, contact your state insurance department or state senior insurance counseling program.

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[Original disclosure statement for policies that provide benefits for specified limited services.]

**IMPORTANT NOTICE TO PERSONS ON MEDICARE  
THIS INSURANCE DUPLICATES SOME MEDICARE BENEFITS**

This is not Medicare Supplement Insurance

This insurance provides limited benefits, if you meet the policy conditions, for expenses relating to the specific services listed in the policy. It does not pay your Medicare deductibles or coinsurance and is not a substitute for Medicare Supplement insurance.

This insurance duplicates Medicare benefits when:

- Any of the services covered by the policy are also covered by Medicare.

INSURANCE DIVISION[191](cont'd)

Medicare pays extensive benefits for medically necessary services regardless of the reason you need them. These include:

- Hospitalization
- Physician services
- Other approved items and services

Before You Buy This Insurance

- ✓ Check the coverage in all health insurance policies you already have.
- ✓ For more information about Medicare and Medicare Supplement insurance, review the Guide to Health Insurance for People with Medicare, available from the insurance company.
- ✓ For help in understanding your health insurance, contact your state insurance department or state senior insurance counseling program.

\*\*\*\*\*

[Original disclosure statement for policies that reimburse expenses incurred for specified diseases or other specified impairments. This includes expense-incurred cancer, specified disease and other types of health insurance policies that limit reimbursement to named medical conditions.]

**IMPORTANT NOTICE TO PERSONS ON MEDICARE  
THIS INSURANCE DUPLICATES SOME MEDICARE BENEFITS**

This is not Medicare Supplement Insurance

This insurance provides limited benefits, if you meet the policy conditions, for hospital or medical expenses only when you are treated for one of the specific diseases or health conditions listed in the policy. It does not pay your Medicare deductibles or coinsurance and is not a substitute for Medicare Supplement insurance.

This insurance duplicates Medicare benefits when it pays:

- Hospital or medical expenses up to the maximum stated in the policy

Medicare generally pays for most or all of these expenses.

Medicare pays extensive benefits for medically necessary services regardless of the reason you need them. These include:

- Hospitalization
- Physician services
- Hospice
- Other approved items and services

Before You Buy This Insurance

- ✓ Check the coverage in all health insurance policies you already have.
- ✓ For more information about Medicare and Medicare Supplement insurance, review the Guide to Health Insurance for People with Medicare, available from the insurance company.
- ✓ For help in understanding your health insurance, contact your state insurance department or state senior insurance counseling program.

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INSURANCE DIVISION[191](cont'd)

[Original disclosure statement for policies that pay fixed dollar amounts for specified diseases or other specified impairments. This includes cancer, specified disease, and other health insurance policies that pay a scheduled benefit or specific payment based on diagnosis of the conditions named in the policy.]

**IMPORTANT NOTICE TO PERSONS ON MEDICARE  
THIS INSURANCE DUPLICATES SOME MEDICARE BENEFITS**

This is not Medicare Supplement Insurance

This insurance pays a fixed amount, regardless of your expenses, if you meet the policy conditions, for one of the specific diseases or health conditions named in the policy. It does not pay your Medicare deductibles or coinsurance and is not a substitute for Medicare Supplement insurance.

This insurance duplicates Medicare benefits when it pays:

- Hospital or medical expenses up to the maximum stated in the policy

Medicare pays extensive benefits for medically necessary services regardless of the reason you need them. These include:

- Hospitalization
- Physician services
- Hospice
- Other approved items and services

**Before You Buy This Insurance**

- ✓ Check the coverage in all health insurance policies you already have.
- ✓ For more information about Medicare and Medicare Supplement insurance, review the Guide to Health Insurance for People with Medicare, available from the insurance company.
- ✓ For help in understanding your health insurance, contact your state insurance department or state senior insurance counseling program.

\*\*\*\*\*

[Original disclosure statement for indemnity policies and other policies that pay a fixed dollar amount per day, excluding long-term care policies.]

**IMPORTANT NOTICE TO PERSONS ON MEDICARE  
THIS INSURANCE DUPLICATES SOME MEDICARE BENEFITS**

This is not Medicare Supplement Insurance

This insurance pays a fixed dollar amount, regardless of your expenses, for each day you meet the policy conditions. It does not pay your Medicare deductibles or coinsurance and is not a substitute for Medicare Supplement insurance.

This insurance duplicates Medicare benefits when:

- Any expenses or services covered by the policy are also covered by Medicare.

Medicare generally pays for most or all of these expenses.

Medicare pays extensive benefits for medically necessary services regardless of the reason you need them. These include:

- Hospitalization
- Physician services

INSURANCE DIVISION[191](cont'd)

- Hospice
- Other approved items and services

**Before You Buy This Insurance**

- ✓ Check the coverage in all health insurance policies you already have.
- ✓ For more information about Medicare and Medicare Supplement insurance, review the Guide to Health Insurance for People with Medicare, available from the insurance company.
- ✓ For help in understanding your health insurance, contact your state insurance department or state senior insurance counseling program.

\*\*\*\*\*

[Original disclosure statement for policies that provide benefits upon both an expense-incurred and fixed indemnity basis.]

**IMPORTANT NOTICE TO PERSONS ON MEDICARE  
THIS INSURANCE DUPLICATES SOME MEDICARE BENEFITS**

This is not Medicare Supplement Insurance

This insurance pays a fixed limited reimbursement for expenses if you meet the conditions listed in the policy. It also pays a fixed amount, regardless of your expenses, if you meet other policy conditions. It does not pay your Medicare deductibles or coinsurance and is not a substitute for Medicare Supplement insurance.

This insurance duplicates Medicare benefits when:

- Any expenses or services covered by the policy are also covered by Medicare, or
- It pays the fixed dollar amount stated in the policy and Medicare covers the same event

Medicare generally pays for most or all of these expenses.

Medicare pays extensive benefits for medically necessary services regardless of the reason you need them. These include:

- Hospitalization
- Physician services
- Hospice
- Other approved items and services

**Before You Buy This Insurance**

- ✓ Check the coverage in all health insurance policies you already have.
- ✓ For more information about Medicare and Medicare Supplement insurance, review the Guide to Health Insurance for People with Medicare, available from the insurance company.
- ✓ For help in understanding your health insurance, contact your state insurance department or state senior insurance counseling program.

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[Original disclosure statement for policies that provide benefits upon both an expense-incurred and fixed indemnity basis.]

**IMPORTANT NOTICE TO PERSONS ON MEDICARE  
THIS INSURANCE DUPLICATES SOME MEDICARE BENEFITS**

INSURANCE DIVISION[191](cont'd)

**This is not Medicare Supplement Insurance**

This insurance pays limited reimbursement for expenses if you meet the conditions listed in the policy. It also pays a fixed amount, regardless of your expenses, if you meet other policy conditions. It does not pay your Medicare deductibles or coinsurance and is not a substitute for Medicare Supplement insurance.

This insurance duplicates Medicare benefits when:

- Any expenses or services covered by the policy are also covered by Medicare, or
- It pays the fixed dollar amount stated in the policy and Medicare covers the same event

Medicare generally pays for most or all of these expenses.

Medicare pays extensive benefits for medically necessary services regardless of the reason you need them. These include:

- Hospitalization
- Physician services
- Hospice
- Other approved items and services

<b>Before You Buy This Insurance</b>
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- ✓ Check the coverage in all health insurance policies you already have.
- ✓ For more information about Medicare and Medicare Supplement insurance, review the Guide to Health Insurance for People with Medicare, available from the insurance company.
- ✓ For help in understanding your health insurance, contact your state insurance department or state senior insurance counseling program.

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[Original disclosure statement for other health insurance policies not specifically identified in the preceding statements.]

<b>IMPORTANT NOTICE TO PERSONS ON MEDICARE THIS INSURANCE DUPLICATES SOME MEDICARE BENEFITS</b>
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**This is not Medicare Supplement Insurance**

This insurance pays limited benefits if you meet the conditions listed in the policy. It does not pay your Medicare deductibles or coinsurance and is not a substitute for Medicare Supplement insurance.

This insurance duplicates Medicare benefits when:

- The benefits stated in the policy and coverage for the same event is provided by Medicare

Medicare generally pays for most or all of these expenses.

Medicare pays extensive benefits for medically necessary services regardless of the reason you need them. These include:

- Hospitalization
- Physician services
- Hospice
- Other approved items and services

<b>Before You Buy This Insurance</b>
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- ✓ Check the coverage in all health insurance policies you already have.

## INSURANCE DIVISION[191](cont'd)

- ✓ For more information about Medicare and Medicare Supplement insurance, review the Guide to Health Insurance for People with Medicare, available from the insurance company.
- ✓ For help in understanding your health insurance, contact your state insurance department or state senior insurance counseling program.

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[Alternative disclosure statement for policies that provide benefits for expenses incurred for an accidental injury only.]

**IMPORTANT NOTICE TO PERSONS ON MEDICARE  
THIS IS NOT MEDICARE SUPPLEMENT INSURANCE**

Some health care services paid for by Medicare may also trigger the payment of benefits from this policy.

This insurance provides limited benefits, if you meet the policy conditions, for hospital or medical expenses that result from accidental injury. It does not pay your Medicare deductibles or coinsurance and is not a substitute for Medicare Supplement insurance.

Medicare generally pays for most or all of these expenses.

Medicare pays extensive benefits for medically necessary services regardless of the reason you need them. These include:

- Hospitalization
- Physician services
- Other approved items and services

This policy must pay benefits without regard to other health benefit coverage to which you may be entitled under Medicare or other insurance.

**Before You Buy This Insurance**

- ✓ Check the coverage in all health insurance policies you already have.
- ✓ For more information about Medicare and Medicare Supplement insurance, review the Guide to Health Insurance for People with Medicare, available from the insurance company.
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[Alternative disclosure statement for policies that provide benefits for specified limited services.]

**IMPORTANT NOTICE TO PERSONS ON MEDICARE  
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Some health care services paid for by Medicare may also trigger the payment of benefits from this policy.

This insurance provides limited benefits, if you meet the policy conditions, for expenses relating to the specific services listed in the policy. It does not pay your Medicare deductibles or coinsurance and is not a substitute for Medicare Supplement insurance.

Medicare pays extensive benefits for medically necessary services regardless of the reason you need them. These include:

- Hospitalization
- Physician services
- Other approved items and services



INSURANCE DIVISION[191](cont'd)

This policy must pay benefits without regard to other health benefit coverage to which you may be entitled under Medicare or other insurance.

**Before You Buy This Insurance**

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- ✓ For help in understanding your health insurance, contact your state insurance department or state senior insurance counseling program.

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[Alternative disclosure statement for policies that reimburse expenses incurred for specified diseases or other specified impairments. This includes expense-incurred cancer, specified disease and other types of health insurance policies that limit reimbursement to named medical conditions.]

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THIS IS NOT MEDICARE SUPPLEMENT INSURANCE**

Some health care services paid for by Medicare may also trigger the payment of benefits from this policy. Medicare generally pays for most or all of these expenses.

This insurance provides limited benefits, if you meet the policy conditions, for hospital or medical expenses only when you are treated for one of the specific diseases or health conditions listed in the policy. It does not pay your Medicare deductibles or coinsurance and is not a substitute for Medicare Supplement insurance.

Medicare generally pays for most or all of these expenses.

Medicare pays extensive benefits for medically necessary services regardless of the reason you need them. These include:

- Hospitalization
- Physician services
- Hospice
- Other approved items and services

This policy must pay benefits without regard to other health benefit coverage to which you may be entitled under Medicare or other insurance.

**Before You Buy This Insurance**

- ✓ Check the coverage in all health insurance policies you already have.
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[Alternative disclosure statement for policies that pay fixed dollar amounts for specified diseases or other specified impairments. This includes cancer, specified disease, and other health insurance policies that pay a scheduled benefit or specific payment based on diagnosis of the conditions named in the policy.]

**IMPORTANT NOTICE TO PERSONS ON MEDICARE  
THIS IS NOT MEDICARE SUPPLEMENT INSURANCE**

INSURANCE DIVISION[191](cont'd)

Some health care services paid for by Medicare may also trigger the payment of benefits from this policy.

This insurance pays a fixed amount, regardless of your expenses, if you meet the policy conditions, for one of the specific diseases or health conditions named in the policy. It does not pay your Medicare deductibles or coinsurance and is not a substitute for Medicare Supplement insurance.

Medicare pays extensive benefits for medically necessary services regardless of the reason you need them. These include:

- Hospitalization
- Physician services
- Hospice
- Other approved items and services

This policy must pay benefits without regard to other health benefit coverage to which you may be entitled under Medicare or other insurance.

Before You Buy This Insurance

- ✓ Check the coverage in all health insurance policies you already have.
- ✓ For more information about Medicare and Medicare Supplement insurance, review the Guide to Health Insurance for People with Medicare, available from the insurance company.
- ✓ For help in understanding your health insurance, contact your state insurance department or state senior insurance counseling program.

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[Alternative disclosure statement for indemnity policies and other policies that pay a fixed dollar amount per day, excluding long-term care policies.]

**IMPORTANT NOTICE TO PERSONS ON MEDICARE  
THIS IS NOT MEDICARE SUPPLEMENT INSURANCE**

Some health care services paid for by Medicare may also trigger the payment of benefits from this policy.

This insurance pays a fixed dollar amount, regardless of your expenses, for each day you meet the policy conditions. It does not pay your Medicare deductibles or coinsurance and is not a substitute for Medicare Supplement insurance.

Medicare generally pays for most or all of these expenses.

Medicare pays extensive benefits for medically necessary services regardless of the reason you need them. These include:

- Hospitalization
- Physician services
- Other approved items and services

This policy must pay benefits without regard to other health benefit coverage to which you may be entitled under Medicare or other insurance.

Before You Buy This Insurance

- ✓ Check the coverage in all health insurance policies you already have.
- ✓ For more information about Medicare and Medicare Supplement insurance, review the Guide to Health Insurance for People with Medicare, available from the insurance company.
- ✓ For help in understanding your health insurance, contact your state insurance department or state senior insurance counseling program.

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INSURANCE DIVISION[191](cont'd)

[Alternative disclosure statement for policies that provide benefits upon both an expense-incurred and fixed indemnity basis.]

**IMPORTANT NOTICE TO PERSONS ON MEDICARE  
THIS IS NOT MEDICARE SUPPLEMENT INSURANCE**

Some health care services paid for by Medicare may also trigger the payment of benefits from this policy.

This insurance pays limited reimbursement for expenses if you meet the conditions listed in the policy. It also pays a fixed amount, regardless of your expenses, if you meet other policy conditions. It does not pay your Medicare deductibles or coinsurance and is not a substitute for Medicare Supplement insurance.

Medicare generally pays for most or all of these expenses.

Medicare pays extensive benefits for medically necessary services regardless of the reason you need them. These include:

- Hospitalization
- Physician services
- Hospice care
- Other approved items and services

This policy must pay benefits without regard to other health benefit coverage to which you may be entitled under Medicare or other insurance.

**Before You Buy This Insurance**

- ✓ Check the coverage in all health insurance policies you already have.
- ✓ For more information about Medicare and Medicare Supplement insurance, review the Guide to Health Insurance for People with Medicare, available from the insurance company.
- ✓ For help in understanding your health insurance, contact your state insurance department or state senior insurance counseling program.

\*\*\*\*\*

[Alternative disclosure statement for other health insurance policies not specifically identified in the preceding statements.]

**IMPORTANT NOTICE TO PERSONS ON MEDICARE  
THIS IS NOT MEDICARE SUPPLEMENT INSURANCE**

Some health care services paid for by Medicare may also trigger the payment of benefits from this policy.

This insurance provides limited benefits, if you meet the conditions listed in the policy. It does not pay your Medicare deductibles or coinsurance and is not a substitute for Medicare Supplement insurance.

Medicare generally pays for most or all of these expenses.

Medicare pays extensive benefits for medically necessary services regardless of the reason you need them. These include:

- Hospitalization
- Physician services
- Hospice
- Other approved items and services

This policy must pay benefits without regard to other health benefit coverage to which you may be entitled under Medicare or other insurance.

INSURANCE DIVISION[191](cont'd)

<b>Before You Buy This Insurance</b>
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- ✓ Check the coverage in all health insurance policies you already have.
- ✓ For more information about Medicare and Medicare Supplement insurance, review the Guide to Health Insurance for People with Medicare, available from the insurance company.
- ✓ For help in understanding your health insurance, contact your state insurance department or state senior insurance counseling program.

[Filed Emergency 8/18/98, effective 8/18/98]  
 [Published 9/9/98]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 9/9/98.

**ARC 8323A****NATURAL RESOURCE COMMISSION[571]****Adopted and Filed Emergency After Notice**

Pursuant to the authority of Iowa Code subsection 455A.5(6), the Natural Resource Commission hereby adopts Chapter 29, "Local Recreation Infrastructure Grants Program," Iowa Administrative Code.

Chapter 29 relates to application procedures, grant limits, project eligibility, project evaluation criteria and other matters of project administration.

Notice of Intended Action was published in the Iowa Administrative Bulletin on June 17, 1998, as **ARC 8083A**.

A public hearing was held on July 7, 1998. Four letters of comment were received, and 16 persons attended the public meeting, with two providing additional comments and suggestions.

Changes made in response to public comments received will accomplish the following:

1. Require that private entities making application must show they are acting on behalf of a public entity.
2. Establish prevailing wage rates in the vicinity of the project as basis for establishing value of donated labor or services.
3. Provide for "letters of intent" accompanying applications, indicating that the city, county, organization or association making application by September 1, will have funds in its budget by March 15.
4. Add a sixth member to the project review committee to represent the vertical infrastructure industry.
5. Establish three categories of projects stemming from committee review and commission approval: those approved for immediate funding; those approved for funding but placed on a reserve list; and those which are disapproved and returned to the applicant.
6. Simplify project amendment provisions.
7. Clarify project start-up date and project completion dates, and allow for the director to approve extensions.
8. Require applicants to state an expected project life and authorize the director to seek recovery of remaining value of the grant if the project ceases to be used for public recreation before the stated project life is reached.
9. Make other minor clarifying amendments.

Pursuant to Iowa Code section 17A.5(2)"b"(2) and (3), this chapter shall become effective upon filing on August 21, 1998. The Department finds that this chapter confers a bene-

fit upon recreational providers and users in Iowa and, by expeditiously implementing the cost-sharing program, potential grantees will be in a better position to implement projects during the 1999 construction season.

These rules are intended to implement Iowa Code section 8.57(5c).

These rules became effective upon filing on August 21, 1998.

The following new chapter is adopted:

**CHAPTER 29****LOCAL RECREATION INFRASTRUCTURE GRANTS PROGRAM**

**571—29.1(8) Purpose.** The purpose of the local recreation infrastructure grants program is to provide state cost sharing to communities, counties, organizations and associations for the restoration or construction of recreational complexes or facilities.

The Iowa department of natural resources, hereinafter referred to as the department, will administer the local recreation infrastructure grants program.

**571—29.2(8) Definitions.**

"Commission" means the natural resource commission created in Iowa Code section 455A.5.

"Department" means the department of natural resources created in Iowa Code section 455A.2.

"Director" means the director of the department of natural resources.

"Infrastructure" is defined in Iowa Code section 8.57(5c) as "vertical infrastructure" and includes only land acquisition and construction, major renovation and major repair of buildings, all appurtenant structures, utilities, site developments, and recreational trails.

**571—29.3(8) Eligibility requirements.** Grants shall be awarded to local political subdivisions of the state and to any other established organization or association which is duly authorized and charged with responsibilities for construction, maintenance and operation of public recreation complexes and facilities. Private entities making application must demonstrate that they are acting on behalf of a public entity.

**571—29.4(8) Assistance ceiling and cost share.** Grants to any individual project shall not exceed \$100,000. Local project sponsors must provide local funding at the rate of two local dollars for each state grant dollar. Up to 50 percent of the local share may be a "soft match" in the form of donated labor, materials or land value. An appraisal must be approved by the department to serve as the basis for establishing the value of real property if used to provide soft match. Prevailing wage rates in the vicinity of the project shall serve as the basis for establishing the value of donated labor or services.

## NATURAL RESOURCE COMMISSION[571](cont'd)

**571—29.5(8) Minimum grant amount.** Applications for assistance totaling less than \$2,500 will not be considered.

**571—29.6(8) Grant application submission.**

**29.6(1) Form of application.** Grant applications shall be on forms and shall follow guidelines provided by the department. Completed applications shall provide sufficient detail as to clearly describe the scope of the project.

**29.6(2) Application timing.** Grant applications (one original and six copies) must be received in acceptable form by the Iowa Department of Natural Resources, Wallace State Office Building, Des Moines, Iowa 50319-0034, by the close of business on the first business day of September.

**29.6(3) Local funding.** An applicant shall certify that it has committed its share of project costs before the 90 percent up-front grant payment will be made. A "letter of intent" signed by the mayor, chairperson of the board of supervisors, chairperson of the county conservation board, or the CEO or chief financial officer of an agency or organization and submitted with the application showing intent to include funds in finalized budgets by March 15 will be accepted as proof of commitment. Applicants must forward proof of budgeting by April 1 or be removed from the list of approved projects.

**29.6(4) Similar development projects.** A single application for a development project grant may include development on more than one area if that development is of a like type.

**571—29.7(8) Project review and selection.**

**29.7(1) Review and selection committee.** A review and selection committee, hereinafter referred to as the committee, comprised of six members appointed by the director, two representing cities, two representing counties, one representing other organizations or associations, and one having expertise in the vertical infrastructure industry shall review and evaluate project applications and shall develop funding recommendations to be forwarded to the natural resource commission for approval.

**29.7(2) Conflict of interest.** If a project is submitted to the review and selection committee by a city, county or other eligible sponsor, one of whose members or employees is on the review and selection committee, that individual shall not participate in discussion and shall not vote on that particular project.

**29.7(3) Consideration withheld.** The committee will not consider any application which, on the date of the selection session, is not complete or for which additional pertinent information has been requested and not received.

**29.7(4) Application rating system.** The committee will apply a numerical rating system to each grant application which is considered for fund assistance. The criteria, with a weight factor for each, shall include the following:

- a. Public demand or need—weight factor of 2.
- b. Quality of site or project—weight factor of 3.
- c. Urgency of proposed project—weight factor of 2.
- d. Multiple benefits provided—weight factor of 2.
- e. Relationship to statewide plans/priorities—weight factor of 1.
- f. Conformance with local/regional plans—weight factor of 2.
- g. Economic benefits to local economies—weight factor of 1.
- h. Geographic distribution—weight factor of 1.

Each criterion shall be given a score from 1 to 10, which is then multiplied by the weight factor.

**571—29.8(8) Rating system not used.** If total grant requests are less than the allotment available, the rating system

will not be applied. All applications will be reviewed by the review and selection committee for eligibility to ensure they conform with the purpose of the program.

**571—29.9(8) Applications not approved for funding.** Applications which have been considered but not approved for immediate funding or placed on the reserve list shall be returned to the applicants.

**571—29.10(8) Commission review.** The commission will review all committee recommendations as well as recommendations from the director and staff of the department at the first commission meeting following the review session. The commission may make alterations to the recommended priorities of projects and may reject any application recommended for funding or may approve any application not recommended by the committee or the director and staff. Reasons for change or rejection of any recommended project must be included in the motion to change the order or to reject any project. Commission action will result in three categories of projects: (1) approved for immediate funding; (2) approved for funding but placed on a reserve list to be funded from current funding cycle in the event that higher ranking projects fail to be implemented; and (3) disapproved for funding.

**571—29.11(8) Grant amendments.** Project amendments may be made upon request by the applicant, subject to the availability of funds, and approval by the director.

**571—29.12(8) Timely commencement of projects.** Grant recipients are expected to carry out their projects in an expeditious manner. The project agreement signed by the sponsor and the director will include anticipated start-up and completion dates. Projects shall be initiated no later than July 1 following their approval by the commission and shall be completed within one year. Extensions must be approved by the director. Failure to initiate projects in a timely manner may be cause for termination of the agreement and cancellation of the grant.

**571—29.13(8) Payments.** Ninety percent of approved grant amounts may be paid to project sponsors when requested, but not earlier than start-up of the project. Ten percent of the grant total shall be withheld by the department, pending successful completion and final site inspection, or until any irregularities discovered as a result of a final site inspection have been resolved.

**571—29.14(8) Record keeping and retention.** Grant recipients shall keep adequate records relating to the administration of a project, particularly relating to all incurred expenses. These records shall be available for audit by representatives of the department and the state auditor's office. All records shall be retained in accordance with state laws.

**571—29.15(8) Eligible projects.** Grants under this program are directed toward "vertical infrastructure" as defined in Iowa Code section 8.57(5c).

**571—29.16(8) Project life and recovery of funds.** Applicants shall state an expected project life which will become part of the project agreement. Should the funded project cease to be used for public recreation before the stated project life, the director may seek to recover the remaining value of the grant award in the project.

**571—29.17(8) Unlawful use of funds.** Whenever any property, real or personal, acquired or developed with grants under this program passes from the control of the grantee or is

## NATURAL RESOURCE COMMISSION[571](cont'd)

used for purposes other than the approved project purpose, it will be considered an unlawful use of the funds.

**571—29.18(8) Remedy.** Funds used without authorization, for purposes other than the approved project purpose, or unlawfully must be returned to the department for deposit in the account supporting this program. In the case of diversion of personal property, the grantee shall remit to the department funds in the amount of the original purchase price of the property. The grantee shall have a period of two years after notification by the department in which to correct the unlawful use of funds. The remedy provided in this rule is in addition to others provided by law.

**571—29.19(8) Ineligibility.** Whenever the director determines that a grantee is in violation of these rules, that grantee shall be ineligible for further assistance until the matter has been resolved to the satisfaction of the commission.

These rules are intended to implement Iowa Code section 8.57(5c).

[Filed Emergency After Notice 8/21/98, effective 8/21/98]  
[Published 9/9/98]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 9/9/98.

**ARC 8324A****NATURAL RESOURCE  
COMMISSION[571]****Adopted and Filed Emergency After Notice**

Pursuant to the authority of Iowa Code subsection 455A.5(6), the Natural Resource Commission hereby amends Chapter 30, "Water Recreation Access Cost-Share Program," Iowa Administrative Code.

This rule defines application procedures, grant limits, project eligibility, application evaluation procedures and criteria and other matters of project administration for a pilot program of lake rehabilitation pursuant to a special legislative appropriation.

Notice of Intended Action was published July 1, 1998, as **ARC 8130A** and a public hearing was held on July 21, 1998. No public comments were received on the proposed rule. The amendment is identical to the Notice of Intended Action.

Pursuant to Iowa Code section 17A.5(2)"b"(1) and (2), this amendment shall become effective upon filing with the Administrative Rules Coordinator on August 24, 1998. The Commission finds that emergency adoption of this rule is necessary in order to establish authority for the Department to award funds to local project sponsors in a timely manner.

This rule is intended to implement 1998 Iowa Acts, Senate File 2381.

The amendment became effective August 24, 1998.

The following amendment is adopted.

Amend 571—Chapter 30 by adopting the following new rule:

**571—30.14(77GA,SF2381) Implementation of pilot program for state and local cooperative lake rehabilitation.** This rule provides for implementing a pilot program of state and local cooperative lake rehabilitation, funded with a spe-

cial appropriation from the general assembly by 1998 Iowa Acts, Senate File 2381, and applies only to that special appropriation or subsequent appropriations made for the same purpose.

**30.14(1) Program goal.** The goal of this program shall be to improve or protect the quality of public inland lakes through state and local cooperative efforts that include compilation of scientific data on lakes and their watersheds of this state and assessment of experimental and innovative techniques of lake rehabilitation and protection.

**30.14(2) Definitions.** As used in this rule, unless the context otherwise requires:

"Lake rehabilitation" means the improvement or restoration of lakes and watersheds from an undesirable or degraded condition to a former, less deteriorated condition or to a condition of greater usefulness.

"Local project sponsor" means recreational lake districts established pursuant to Iowa Code chapter 357E, local units of government, incorporated lake protection or improvement associations or other associations of persons directly affected by the deteriorated condition of lakes and willing to assist financially in alleviating those deteriorated conditions.

"Plan" means a plan for lake and watershed restoration, rehabilitation or enhancement that prescribes specific measures, judged feasible and cost-effective, and endorsed by the department.

"Public lake" or "lake" means a natural water body or impoundment within the boundaries of the state that is accessible to the public by way of contiguous public lands or easements giving public access and does not include federal flood control impoundments.

"Study" means a lake diagnostic feasibility study of a methodology and design approved by the department.

**30.14(3) Availability of funding and application procedures.** Funding appropriated by the legislature for this program shall be available for grants to local project sponsors. Application for funding shall be made in a format and on a date announced by the department.

**30.14(4) Project review, selection and approval.** Applications for funding shall be reviewed by the committee established pursuant to rule 30.7(452A). The committee shall make recommendations to the director for project funding. Projects in which the state grant exceeds \$25,000 shall be presented to the natural resource commission for approval.

**30.14(5) Cost-share provisions.** Local project sponsors shall match each state dollar provided from this program with three dollars of local project money raised. Federal funds, other nonstate public funds, in-kind contributions and private funds raised by local project sponsors may be combined to meet the local match requirement, subject to approval of the department.

**30.14(6) Eligible projects.** Projects eligible for funding include studies of public lakes that include gathering data on the lake, its drainage basin, sources of pollution or nutrients, or other information necessary to determine the causes of degradation and remedial courses of action to prevent continued degradation or to determine potential causes of degradation and preventive courses of action. Preparation of a lake protection and rehabilitation plan developed under the direction of the department is also eligible for funding.

**30.14(7) Retroactivity.** Expenses and activities related to diagnostic feasibility studies occurring prior to the effective date of these rules may be eligible for funding if they are part of a project approved for funding and if the expenses and activities were necessary to record data or monitor lake condi-

## NATURAL RESOURCE COMMISSION[571](cont'd)

tions that are affected by seasonal changes or other natural cycles.

**30.14(8)** Project agreements and disbursement of funds. Upon approval of grant projects, the department and local project sponsor shall enter a project agreement on a form prescribed by the department. The duration, amount of funding and timing of disbursement of grant funds shall be stipulated in the agreement.

[Filed Emergency After Notice 8/21/98, effective 8/24/98]  
[Published 9/9/98]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 9/9/98.

## ARC 8326A

NATURAL RESOURCE  
COMMISSION[571]

## Adopted and Filed Emergency After Notice

Pursuant to the authority of Iowa Code subsection 455A.5(6), the Natural Resource Commission hereby amends Chapter 91, "Waterfowl and Coot Hunting Seasons," Iowa Administrative Code.

These rules give the regulations for hunting waterfowl and coot and include season dates, bag limits, possession limits, shooting hours, and areas open to hunting.

State hunting seasons on migratory birds must be set within frameworks established annually by the Fish and Wildlife Service, U.S. Department of the Interior. These frameworks specify shooting hours, bag limits and possession limits, as well as season lengths and outside dates. These frameworks were finalized by the Service in late July. Therefore, adoption of a final rule by the Department could not take place prior to this time.

Notice of Intended Action was published in the March 11, 1998, Iowa Administrative Bulletin as **ARC 7874A**. A public hearing was held April 17, 1998. Several changes have been made as a result of changes in the federal framework. The changes are as follows:

1. The bag and possession limits for pintail in 91.1(481A) have been reduced to one and two, respectively.
2. The daily bag limit for Canada geese has been changed in 91.3(481A).
3. In the Notice of Intended Action, Item 5 added a new paragraph to 91.4(2). That item has been deleted.
4. The statement "(including the right-of-way)" was added in four instances in subrule 91.4(2).
5. In 91.6(481A), coots and Canada geese will now be legal during the youth hunt and the word "duck" has been changed to "waterfowl".

The Department finds, pursuant to Iowa Code section 17A.5(2)"b"(2), that these amendments confer a benefit on a segment of the public by becoming effective immediately and that the usual effective date of these amendments would unnecessarily restrict the public by delaying the opening of the waterfowl and coot seasons. Therefore these amendments became effective upon filing with the Administrative Rules Coordinator on August 21, 1998.

These amendments are intended to implement Iowa Code sections 481A.38, 481A.39 and 481A.48.

The following amendments are adopted.

ITEM 1. Amend rule 571—91.1(481A) as follows:

**571—91.1(481A) Ducks (split season).** Open season for hunting ducks shall be September 20 19 to September 24 23, 1997 1998; October 11 10 to December 4 3, 1997 1998, in that portion of the state lying north of a line beginning on the Nebraska-Iowa border at State Highway 175, southeast to State Highway 37, east to U.S. Highway 59, south to I-80 and along I-80 east to the Iowa-Illinois border; and September 20 19 to September 24 23, 1997 1998; October 18 17 to December 11 10, 1997 1998, in that portion of the state lying south of a line beginning on the Nebraska-Iowa border at State Highway 175, southeast to State Highway 37, east to U.S. Highway 59, south to I-80 and along I-80 east to the Iowa-Illinois border. Shooting hours are one-half hour before sunrise to sunset each day.

**91.1(1) Bag limit.** The daily bag limit of ducks is 6, and may include no more than 4 mallards (no more than 2 of which may be females), 1 black duck, 2 wood ducks, 3 1 pintail, 3 mottled ducks, 2 redhead and 1 canvasback. The daily bag limit of mergansers is 5, only 1 of which may be a hooded merganser.

**91.1(2) Possession limit.** The possession limit is twice the daily bag limit.

ITEM 2. Amend rule 571—91.2(481A), introductory paragraph, as follows:

**571—91.2(481A) Coots (split season).** *Same as duck season dates and shooting hours.* Open season for hunting coots shall be September 20 to September 24, 1997; October 11 to December 4, 1997, in that portion of the state lying north of a line beginning on the Nebraska-Iowa border at State Highway 175, southeast to State Highway 37, east to U.S. Highway 59, south to I-80 and along I-80 east to the Iowa-Illinois border; and September 20 to September 24, 1997; October 18 to December 11, 1997, in that portion of the state lying south of a line beginning on the Nebraska-Iowa border at State Highway 175, southeast to State Highway 37, east to U.S. Highway 59, south to I-80 and along I-80 east to the Iowa-Illinois border. Shooting hours are one-half hour before sunrise to sunset each day.

ITEM 3. Amend rule 571—91.3(481A) as follows:

**571—91.3(481A) Geese.** The north goose hunting zone is that part of Iowa north of a line beginning on the Nebraska-Iowa border at State Highway 175, east to State Highway 37, southeast to U.S. Highway 59, south to I-80 and along I-80 to the Iowa-Illinois border. The south goose hunting zone is the remainder of the state. The open season for hunting Canada geese only is September 13 12 and 14 13, 1997 1998, west of State Highway 63 in the north goose hunting zone only, except on the Big Marsh Wildlife Area where the season will remain closed. The open season for hunting Canada geese, white-fronted geese and brant is October 4 3 to December 12 11, 1997 1998, in the north goose hunting zone and October 4 3 to October 12 11 and October 18 17 to December 17 16, 1997 1998, in the south goose hunting zone. The open season for hunting snow geese is October 4 3 to December 31 29, 1997 1998, statewide, and will reopen statewide from February 21 20 to March 10, 1998 1999. Shooting hours are one-half hour before sunrise to sunset each day.

**91.3(1) Bag limit.** Daily bag limit is 2 Canada geese, 2 white-fronted geese, 2 brant, and 10 20 snow geese, and 2 Canada geese through October 31 and 1 Canada goose thereafter, except in the south zone where the daily bag limit is 2 Canada geese beginning December 1.

**91.3(2) Possession limit.** Possession limit is 4 Canada geese, 4 white-fronted geese, 4 brant and 30 no possession limit on snow geese.

## NATURAL RESOURCE COMMISSION[571](cont'd)

ITEM 4. Amend subrule 91.4(2), paragraphs "d," "e," "i," and "l," as follows:

d. Area four. Portions of Winnebago and Worth Counties bounded as follows: Beginning at a point ~~four~~ *two and one-half* miles east of Lake Mills, Iowa, at the junction of State Highway 105 and County Road ~~S16~~ *S10* (also named ~~Dogwood Bluebill Ave.~~); thence south along ~~said county road~~ *County Road S10 (including the right-of-way)*, i.e., ~~Dogwood Bluebill Ave., one and one-half miles three-fourths mile to 440th St.; east two miles to Finch Ave.; thence south one mile to 430th St.; thence west one-half mile thence east three-fourths mile on 448th St. to Cardinal Ave.; thence south one-fourth mile to 445th St.; thence east one-fourth mile to Cedar Ave.; thence south one-half mile on Cedar Ave. to 440th St.; thence east three-fourths mile on 440th St. to Dove Ave.; thence south on Dove Ave. one-half mile to 435th St.; thence east one-fourth mile on 435th St. to Dove Ave.; thence south on Dove Ave. to County Road A34; thence east one mile on County Road A34 (including the right-of-way) to Evergreen Ave.; thence south two miles to County Road A38 (also named 410th St.); thence west eight and one-half miles along County Road A38 including the right-of-way; thence north four miles along County Road R72 (also named 210th Ave.) (including the right-of-way); thence east along State Highway 69 approximately one mile (including the right-of-way) to the intersection with the State Highway 105; thence east along State Highway 105 (including the right-of-way) five miles to the point of beginning.~~

e. Area five. On any federal or state-owned lands or waters of the Rathbun Reservoir Project *west of State Highway 142* in Appanoose, Lucas, Monroe, and Wayne Counties, including all federal, state, and county roads through or immediately adjacent thereto.

i. Area nine. Portions of Monona and Woodbury Counties bounded as follows: Beginning at the Iowa-Nebraska state line along the Missouri River in Monona County at the southwest corner of the NW¼ of section 18, township 82 north, range 45 west; extending one and one-half miles east along an unnumbered county road to the center of section 17, township 82 north, range 45 west; then north one mile along county road to the center of section 8, township 82 north, range 45 west; thence east one mile along county road to the intersection of Monona County Roads K45 and E60; thence north and northwest approximately 20 miles along Monona County Road K45 to the junction with State Highway 970 in Woodbury County; thence continuing northwest along State Highway 970 *(including the right-of-way)* approximately ~~one and one-half~~ *13* miles to the intersection with ~~Woodbury County Road K42; thence northerly approximately 11 miles along County Road K42 to the intersection with 220th Street; thence west along 220th Street about 6 miles to the junction with State Highway 970; thence continuing west approximately 3 miles along the Sergeant Bluff Drainage Ditch to the Iowa-Nebraska state line along the Missouri River; thence southerly along the state line approximately 43 miles to the point of beginning.~~

l. Area twelve. Portions of Polk, Warren, Jasper, and Marion Counties bounded as follows: Beginning at the junction of County Road G40 and Iowa Highway 14 in Marion County; thence north along Highway 14 to Iowa Highway 163 in Jasper County; thence north and west along Highway 163 to ~~Iowa Highway 46 in Polk County~~ *State Highway 316*; thence south and east along Highway ~~46~~ *316 (including the right-of-way)* to Iowa Highway 5 in Polk County; thence south and east along Highway 5 to County Road G40 in Mar-

ion County; thence east along County Road G40 to the point of beginning.

ITEM 5. Amend subrule 91.5(1) as follows:

91.5(1) Ruthven, Kettleson-Hogsback, Ingham Lake and Rice Lake closed area areas.

a. Purpose. ~~This~~ *The experimental* hunting of Canada geese in the ~~Ruthven closed area areas~~ *is being undertaken to evaluate the feasibility of allowing* allow landowners or tenants who farm in the ~~these closed area areas~~ to hunt Canada geese on land they own or farm in the closed area.

b. Criteria.

(1) Landowners and tenants who own or farm land in the closed area areas will be permitted to hunt Canada geese in the closed area areas for three years. This experimental hunting opportunity will be evaluated by the landowners and the DNR following each season, at which time changes may be made.

(2) Landowners and those individuals named on the permit according to the criteria specified in paragraph (9) of this subrule will be permitted to hunt in the closed area. Tenants may obtain a permit instead of the landowner if the landowner transfers this privilege to the tenant. Landowners may choose, at their discretion, to include the tenant and those individuals of the tenant's family specified in paragraph (9) of this subrule on their permit. Landowners may assign the permit for their land to any landowner or tenant who owns or farms at least eight acres inside the closed area. *Assigned permits must be signed by both the permittee and the landowner assigning the permit.*

(3) Landowners must hold title to, or tenants must farm by a rent/share/lease arrangement, at least eight acres inside the closed area to qualify for a permit.

(4) No more than one permit will be issued to corporations, estates, or other legal associations that jointly own land in the closed area. No individual may obtain more than two permits nor may an individual be named as a participant on more than two permits.

(5) Persons holding a permit can hunt with those individuals named on their permit as specified in paragraph (9) of this subrule on any property they own (or rent/share/lease in the case of tenants) in the closed area provided their activity complies with all other regulations governing hunting. Nothing herein shall permit the hunting of Canada geese on public property within the closed area.

(6) Persons hunting under this permit must adhere to all municipal, county, state and federal regulations that are applicable to hunting and specifically applicable to Canada goose hunting including, but not limited to: daily limits, possession limits, shooting hours, methods of take, and transportation. Hunting as authorized by this rule shall not be used to stir or rally waterfowl.

(7) Hunting within the closed area will be allowed through October 15.

(8) Permit holders will be allowed to take eight Canada geese per year in the closed area.

(9) Permits will be issued only to individual landowners or tenants; however, permit holders must specify, when requesting a permit, the names of all other individuals qualified to hunt on the permit. Individuals qualified to hunt on the permit shall include the landowners or tenants and their spouses, children, children's spouses, grandchildren, siblings and siblings' spouses only.

c. Procedures.

(1) Permits can be obtained from the local conservation officer at the ~~Ruthven~~ wildlife unit headquarters *within the closed area* at announced times, but no later than 48 hours



## NATURAL RESOURCE COMMISSION[571](cont'd)

before the *first Canada goose* season opens. The permit will be issued to an individual landowner or tenant and must list the names of all individuals that may hunt with the permittee. The permit will also contain a description of the property covered by the permit. The permit must be carried by a member of the hunting party whose name is listed on the permit. Conservation officers will keep a record of permittees and locations of properties that are covered by permits.

(2) Eight consecutively numbered tags will be issued with each permit. Geese will be tagged around the leg immediately upon being reduced to possession and will remain tagged until delivered to the person's abode. Within one week of the close of hunting within the closed area, unused tags ~~are to~~ *must* be turned in at the ~~Ruthven~~ wildlife unit headquarters *within the closed area by the permittee or the permittee must report the number of geese killed. Failure to turn in unused tags or report the number of geese killed within the specified time period may result in the permittee's forfeiting the opportunity to hunt within the closed area the following year.*

(3) No one may attempt to take Canada geese under this permit unless ~~they possess the person possesses~~ an unused tag *for the current year.*

(4) No landowner or tenant shall be responsible or liable for violations committed by other individuals listed on the permit issued to the landowner or tenant.

ITEM 6. Amend rule 571—91.6(481A) as follows:

**571—91.6(481A) Youth duck waterfowl hunt.** A special youth ~~duck waterfowl~~ hunt will be held statewide on September ~~27 26, 1997~~ *1998*. Youth hunters must be 15 years old or younger. Each youth hunter must be accompanied by an adult 18 years old or older. The youth hunter does not need to have a hunting license or stamps. The adult must have a valid hunting license and habitat stamp if normally required to have them to hunt and a state waterfowl stamp. Only the youth hunter may shoot ducks, *coots and Canada geese*. The adult may hunt for any other game birds for which the season is open. The daily bag ~~limit~~ *limits is are* the same as for the regular ~~duck waterfowl~~ season, as defined in subrule 91.1(1), *except the season for snow geese will not be open*. The possession limit is the same as the daily bag limit. All other hunting regulations in effect for the regular ~~duck waterfowl~~ season apply to the youth hunt.

[Filed Emergency After Notice 8/21/98, effective 8/21/98]

[Published 9/9/98]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 9/9/98.

## ARC 8310A

ECONOMIC DEVELOPMENT,  
IOWA DEPARTMENT OF [261]

## Adopted and Filed

Pursuant to the authority of Iowa Code sections 15.104 and 15.106, the Iowa Department of Economic Development adopts a new Chapter 23, "Iowa Community Development Block Grant," Iowa Administrative Code.

Notice of Intended Action was published in the Iowa Administrative Bulletin as ARC 8137A on July 15, 1998. The IDED Board adopted the new chapter on August 20, 1998.

The rules consolidate and clarify program requirements and set out new application procedures and review processes.

A public hearing was held on August 3, 1998. No comments concerning the proposed rules were received from the public. The final rules are identical to those published under Notice of Intended Action.

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

These rules will become effective on October 14, 1998.

EDITOR'S NOTE: Pursuant to recommendation of the Administrative Rules Review Committee published in the Iowa Administrative Bulletin, September 10, 1986, the text of these rules [Ch 23] is being omitted. These rules are identical to those published under Notice as ARC 8137A, IAB 7/15/98.

[Filed 8/20/98, effective 10/14/98]  
[Published 9/9/98]

[For replacement pages for IAC, see IAC Supplement 9/9/98.]

## ARC 8311A

ECONOMIC DEVELOPMENT,  
IOWA DEPARTMENT OF [261]

## Adopted and Filed

Pursuant to the authority of Iowa Code sections 15.104 and 15.106, the Iowa Department of Economic Development adopts amendments to Chapter 68, "Iowa Export Trade Assistance Program," Iowa Administrative Code.

Notice of Intended Action was published in the Iowa Administrative Bulletin as ARC 8138A on July 15, 1998. The IDED Board adopted the amendments on August 20, 1998.

Existing program rules do not authorize reimbursement for the costs of interpreters. Numerous companies have requested that this be changed, and the Department agrees that such an expense is essential for the success of Iowa companies attending international trade events. This amendment permits eligible businesses to be reimbursed for the costs of an interpreter. The second amendment adds a criterion that a company must satisfy before receiving trade assistance under the ETAP program. To be eligible, a company must provide proof of deposit or payment of the trade show or trade mission participation fee. These amendments also update the reference to the implementing legislation.

A public hearing was held on August 4, 1998. No comments concerning the proposed amendments were received

from the public. The final amendments are identical to those published under Notice of Intended Action.

These amendments are intended to implement 1998 Iowa Acts, Senate File 2296, section 1, subsection 4, paragraph "b."

These amendments will become effective on October 14, 1998.

The following amendments are adopted:

ITEM 1. Amend 261—Chapter 68 by striking "(77GA, HF655)" and inserting "(77GA, SF2296)" wherever it appears.

ITEM 2. Amend rule 261—68.3(77GA, HF655) as follows:

**261—68.3(77GA, HF655) (77GA, SF2296) Eligible applicants.** The export trade assistance program is available to Iowa firms producing products or providing services in the state of Iowa. To be eligible to receive trade assistance, applicants must meet all ~~three~~ *four* of the following criteria:

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

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

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

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

ITEM 3. Amend 261—68.4(77GA, HF655) as follows:

**261—68.4(77GA, HF655) (77GA, SF2296) Eligible reimbursements.** The department's reimbursement to approved applicants for assistance shall not exceed 75 percent of the expenses directly attributed to the applicant's cost of participation in a trade show or trade mission. Total reimbursement shall not exceed \$4000 per event. Payments will be made by the department on a reimbursement basis upon submission of proper documentation and approval by the department of paid receipts to ~~the bureau~~ *received by the division*. Reimbursement is limited to the following types of expenses:

**68.4(1) Trade shows.**

a. Space rental.

b. Booth construction at show site.

c. Booth equipment or furniture rental.

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

e. Booth utility costs.

f. *Interpreter fees.*

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

**68.4(2) No change.**

ITEM 4. Amend the implementation clause at the end of 261—Chapter 68 as follows:

These rules are intended to implement 1997 Iowa Acts, House File 655, section 1, subsection 4, paragraph "c." 1998

## ECONOMIC DEVELOPMENT, IOWA DEPARTMENT OF[261](cont'd)

*Iowa Acts, Senate File 2296, section 1, subsection 4, paragraph "b."*

[Filed 8/20/98, effective 10/14/98]  
[Published 9/9/98]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 9/9/98.

**ARC 8280A****EDUCATION DEPARTMENT[281]****Adopted and Filed**

Pursuant to the authority of Iowa Code section 256.7(5), the Iowa State Board of Education hereby rescinds Chapter 11, "General Approval Standards," Iowa Administrative Code.

This chapter was replaced by Chapter 12 in 1989.

Since this process does not affect the public, no public hearing was held and no written comments were received.

Notice of Intended Action was published in the Iowa Administrative Bulletin on April 8, 1998, as **ARC 7941A**. The adopted amendment is identical to that published under Notice.

This amendment will become effective on October 14, 1998.

This amendment is intended to implement Iowa Code section 256.11.

The following amendment is adopted.

Rescind and reserve **281—Chapter 11**.

[Filed 8/10/98, effective 10/14/98]  
[Published 9/9/98]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 9/9/98.

**ARC 8281A****EDUCATION DEPARTMENT[281]****Adopted and Filed**

Pursuant to the authority of Iowa Code section 256.7(5), the Iowa State Board of Education hereby adopts an amendment to Chapter 36, "Extracurricular Interscholastic Competition," Iowa Administrative Code.

This amendment removes a particularly harsh consequence for violation of the subrule and provides boards of education the authority and responsibility to address non-school team participation through local board policy.

Notice of Intended Action was published on May 6, 1998, in the Iowa Administrative Bulletin as **ARC 7977A**. A public hearing was held on May 26, 1998. No written or oral comments were received. This amendment is identical to that published under Notice.

This amendment was adopted on August 6, 1998, by the State Board of Education.

This amendment will become effective October 14, 1998.

This amendment is intended to implement Iowa Code section 280.13.

The following amendment is adopted.

Rescind subrule 36.15(7) and adopt in lieu thereof the following new subrule:

**36.15(7)** Nonschool team participation. The local school board shall by policy determine whether or not participation in nonschool athletic events during the same season is permitted and provide penalties for students who may be in violation of the board's policy.

[Filed 8/10/98, effective 10/14/98]  
[Published 9/9/98]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 9/9/98.

**ARC 8282A****EDUCATION DEPARTMENT[281]****Adopted and Filed**

Pursuant to the authority of Iowa Code section 256.7(5), the Iowa State Board of Education hereby adopts amendments to Chapter 64, "Child Development Coordinating Council," Iowa Administrative Code.

These amendments comply with guidelines established by federal programs and establish consistent time frames and guidelines for new programs to achieve accreditation.

Notice of Intended Action was published in the April 8, 1998, Iowa Administrative Bulletin as **ARC 7943A**. The adopted amendments are identical to those published under Notice.

A public hearing was held on April 28, 1998, and no comments were received.

These amendments will become effective on October 14, 1998.

These amendments are intended to implement Iowa Code chapters 256A and 279.

The following amendments are adopted.

ITEM 1. Amend rule **281—64.2(256A,279)**, definition of "Low-income family," as follows:

"Low-income family" means a family ~~whose total income is or is projected to be equal to or less than 125 percent of the federally established poverty guidelines who meets the financial eligibility criteria for free meals offered under the child nutrition program.~~

ITEM 2. Amend rule **281—64.7(256A,279)**, catchwords, as follows:

**281—64.7(256A,279) Eligibility Primary eligibility.**

ITEM 3. Amend rule **281—64.7(256A,279)** by adding a new subrule as follows:

**64.7(3)** Enrollment criteria. Applicants must document the number of children enrolled under primary eligibility and the criteria used for enrollment.

ITEM 4. Amend rule **281—64.8(256A,279)** as follows:

**281—64.8(256A,279) Secondary eligibility.**

**64.8(1) Criteria.** Up to 20 percent of the available funded child development enrollment slots for at-risk may be filled by children who are three or four years of age on or before September 15 or public school enrollment slots by children who are three, four, or five years of age on or before September 15; are above the income eligibility guidelines provided that they are served on a sliding fee schedule determined at

## EDUCATION DEPARTMENT[281](cont'd)

the local level; and are eligible according to one or more of the following criteria if the child:

1. Is functioning below chronological age in two or more developmental areas, one of which may be English proficiency, as determined by an appropriate professional;

2. Was born at biological risk, such as low birth weight (under 1500 grams—approximately three pounds) or with a diagnosed medical disorder, such as spina bifida or Down's syndrome;

3. Was born to a parent who was under the age of 18; or

4. Resides in a household where one or more of the parents or guardian:

Has not completed high school;

Has been identified as a substance abuser;

Has been identified as chronically mentally ill;

Is illiterate;

Is incarcerated; or

Is a child or spouse abuser.

5. Has other special circumstances, such as foster care or being homeless.

The program may include children not at risk, provided they are at full pay and meet other age requirements.

**64.8(2) Enrollment criteria.** Applicants must document the number of children enrolled under secondary eligibility and the criteria used for enrollment.

ITEM 5. Amend rule **281—64.15(256A,279)**, numbered paragraph "5," as follows:

5. Continuation programs shall participate in the Self-Study and Accreditation Program of the National Academy of Early Childhood Programs. ~~Continuation programs not able to attain accreditation by April 15, 1995, and every April thereafter, may apply for a waiver of accreditation by March 15, 1995, and every March thereafter. Programs shall have two years from the date of initial funding to complete the self-study process. Programs shall have three years from the date of initial funding to attain accreditation. Programs unable to attain accreditation by the end of the three-year period may apply for a waiver of accreditation by March 15 of the third year.~~ Waivers shall be awarded at the discretion of the council. Programs not attaining accreditation or not receiving a waiver of accreditation will be terminated.

ITEM 6. Amend rule **281—64.18(256A,279)** as follows:

**281—64.18(256A,279) Contract revisions and budget revisions.** The grantee shall immediately inform the department of any revisions in the project budget. The department and the grantee may negotiate a revision to the contract to allow for expansion or modification of services but shall not increase the total amount of the grant. The council shall approve revised contracts if the revision is in excess of 10 percent of a budget category. *Grantees who revert 3 percent or more of their program budget at the end of the 1998 budget year, and every budget year thereafter, will have that dollar amount permanently deducted from all subsequent grant awards.*

[Filed 8/10/98, effective 10/14/98]

[Published 9/9/98]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 9/9/98.

## ARC 8306A

## ENGINEERING AND LAND SURVEYING EXAMINING BOARD[193C]

### Adopted and Filed

Pursuant to the authority of Iowa Code section 542B.6, the Engineering and Land Surveying Examining Board hereby adopts an amendment to Chapter 1, "Administration," Iowa Administrative Code.

This amendment will simplify the requirements to become licensed by comity.

This amendment is identical to the Notice of Intended Action published as **ARC 8181A** July 15, 1998.

This amendment is intended to implement Iowa Code section 542B.14.

This amendment will become effective on October 14, 1998.

The following amendment is adopted.

Amend subrule **1.4(5)**, paragraph "f," as follows:

f. If a comity applicant did not have the required *four years of experience* before writing the professional examination, the board may ~~offer the applicant an oral examination in lieu of retaking the written examination if the applicant has 12 or more years' experience acceptable to the board. A comity applicant with 25 or more years' experience acceptable to the board may be considered for licensure even if that applicant lacked the required experience before writing the professional examination~~ *approve the application for licensure if the applicant satisfies all other conditions of licensure, the applicant has not been disciplined in any other jurisdiction, and the applicant has had at least five years of practical engineering experience of a character satisfactory to the board since initial licensure.*

[Filed 8/20/98, effective 10/14/98]

[Published 9/9/98]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 9/9/98.

## ARC 8305A

## ENGINEERING AND LAND SURVEYING EXAMINING BOARD[193C]

### Adopted and Filed

Pursuant to the authority of Iowa Code sections 355.3 and 542B.6, the Engineering and Land Surveying Examining Board hereby adopts an amendment to Chapter 2, "Minimum Standards for Property Surveys," Iowa Administrative Code.

This amendment will further delineate the elements of a plat of survey.

This amendment is identical to the Notice of Intended Action published as **ARC 8182A** July 15, 1998.

This amendment is intended to implement Iowa Code section 542B.2.

This amendment will become effective on October 14, 1998.

## ENGINEERING AND LAND SURVEYING EXAMINING BOARD[193C](cont'd)

The following amendment is adopted.

Amend subrules 2.5(5) and 2.5(6) as follows:

**2.5(5)** The plat shall show ~~documentation~~ that record title boundaries, centerlines, and other boundary lines were retraced to monuments found or placed by the surveyor. *The surveyor shall retrace the exterior lines of a section to determine acreage for assessment and taxation purposes.*

**2.5(6)** The plat shall show that the survey is tied to a physically monumented land line which is identified by two United States public land survey system corners or by two physically monumented corners of a recorded subdivision. *The plat shall show a distance relationship measured by the surveyor between the two corners on the physically monumented land line.* The physically monumented land line shall be germane to the survey of the lot, parcel, or tract.

[Filed 8/20/98, effective 10/14/98]

[Published 9/9/98]

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## ARC 8328A

### ENVIRONMENTAL PROTECTION COMMISSION[567]

#### Adopted and Filed

Pursuant to the authority of Iowa Code section 455B.133, the Environmental Protection Commission hereby amends Chapter 20, "Scope of Title—Definitions—Forms—Rules of Practice," Chapter 22, "Controlling Pollution," and Chapter 23, "Emission Standards for Contaminants," Iowa Administrative Code.

This rule making implements 40 CFR Sections 63.40 through 63.44, as mandated by Section 112(g) of the Clean Air Act. This section of the Act requires case-by-case maximum available control technology (MACT) determinations to be made for facilities proposing to construct or reconstruct major sources of hazardous air pollutants (HAP), unless a HAP emission standard for the source category has been promulgated under 40 CFR Part 63. For facilities considering constructing or reconstructing such a source, this rule making would require the submittal of a MACT determination application in addition to the air construction permit application.

Notice of Intended Action was published in the Iowa Administrative Bulletin on June 17, 1998, as **ARC 8084A**. These amendments were simultaneously Adopted and Filed Emergency as **ARC 8085A**. A public hearing was held July 17, 1998.

Three changes have been made as a result of comments received during the public comment period. The first adds a reference to 40 CFR Section 63.2 in Items 2 and 5. This incorporates additional definitions. The second change is a minor revision for clarification, and the third adds language to Item 5, so that electric utility steam-generating units and research and development sources are exempt from the case-by-case MACT requirements.

These amendments may impact small businesses.

These amendments shall become effective on October 14, 1998, at which time the Adopted and Filed Emergency amendments are hereby rescinded.

These amendments are intended to implement Iowa Code section 455B.133.

The following amendments are adopted.

ITEM 1. Amend rule **567—20.2(455B)** by adding the following new definitions in alphabetical order:

"Maximum achievable control technology (MACT)" means the following regarding regulated hazardous air pollutant sources:

1. For existing sources, the emissions limitation reflecting the maximum degree of reduction in emissions that the administrator or the department, taking into consideration the cost of achieving such emission reduction, and any non-air quality health and environmental impacts and energy requirements, determines is achievable by sources in the category of stationary sources, that shall not be less stringent than the MACT floor.

2. For new sources, the emission limitation which is not less stringent than the emission limitation achieved in practice by the best-controlled similar source and which reflects the maximum degree of reduction in emissions that the administrator or the department, taking into consideration the cost of achieving such emission reduction, and any non-air quality health and environmental impacts and energy requirements, determines is achievable by the affected source.

"Maximum achievable control technology (MACT) floor" means the following:

1. For existing sources, the average emission limitation achieved by the best 12 percent of the existing sources in the United States (for which the administrator or the department has or could reasonably obtain emissions information), excluding those sources that have, within 18 months before the emission standard is proposed or within 30 months before such standard is promulgated, whichever is later, first achieved a level of emission rate or emission reduction which complies, or would comply if the source is not subject to such standard, with the lowest achievable emission rate applicable to the source category and prevailing at the time, for categories and subcategories of stationary sources with 30 or more sources in the category or subcategory, or the average emission limitation achieved by the best-performing five sources in the United States (for which the administrator or the department has or could reasonably obtain emissions information), for a category or subcategory of stationary sources with fewer than 30 sources in the category or subcategory.

2. For new sources, the emission limitation achieved in practice by the best-controlled similar source.

ITEM 2. Amend subrule 22.1(1) as follows:

**22.1(1)** Permit required. Unless exempted in subrule 22.1(2), no person shall construct, install, reconstruct or alter any equipment, control equipment or anaerobic lagoon without first obtaining a construction permit, or conditional permit, or permit pursuant to 22.8(455B), or permits required pursuant to 22.4(455B) and 22.5(455B) as required in this subrule. A permit shall be obtained prior to the initiation of construction, installation or alteration of any portion of the stationary source or anaerobic lagoon. ~~Existing sources built prior to September 23, 1970, are not subject to this subrule, unless they have been modified, reconstructed, or altered on or after September 23, 1970.~~

a. *Existing sources. Sources built prior to September 23, 1970, are not subject to this subrule, unless they have been modified, reconstructed, or altered on or after September 23, 1970.*

## ENVIRONMENTAL PROTECTION COMMISSION[567](cont'd)

*b. New or reconstructed major sources of hazardous air pollutants. No person shall construct or reconstruct a major source of hazardous air pollutants, as defined in 40 CFR 63.2 and 40 CFR 63.41 as amended through December 27, 1996, unless a construction permit has been obtained from the department, which requires maximum achievable control technology for new sources to be applied. The permit shall be obtained prior to the initiation of construction or reconstruction of the major source.*

ITEM 3. Amend subrule 22.1(3), paragraph "b," by adding a **new** subparagraph as follows:

(8) Application for a case-by-case MACT determination. If the source meets the definition of construction or reconstruction of a major source of hazardous air pollutants, as defined in paragraph 22.1(1)"b," then the owner or operator shall submit an application for a case-by-case MACT determination, as required in 567—subparagraph 23.1(4)"b"(1), with the construction permit application. In addition to this paragraph, an application for a case-by-case MACT determination shall include the following information:

1. The hazardous air pollutants (HAP) emitted by the constructed or reconstructed major source, and the estimated emission rate for each HAP, to the extent this information is needed by the permitting authority to determine MACT;

2. Any federally enforceable emission limitations applicable to the constructed or reconstructed major source;

3. The maximum and expected utilization of capacity of the constructed or reconstructed major source, and the associated uncontrolled emission rates for that source, to the extent this information is needed by the permitting authority to determine MACT;

4. The controlled emissions for the constructed or reconstructed major source in tons/yr at expected and maximum utilization of capacity to the extent this information is needed by the permitting authority to determine MACT;

5. A recommended emission limitation for the constructed or reconstructed major source consistent with the principles set forth in 40 CFR Part 63.43(d) as amended through December 27, 1996;

6. The selected control technology to meet the recommended MACT emission limitation, including technical information on the design, operation, size, estimated control efficiency of the control technology (and the manufacturer's name, address, telephone number, and relevant specifications and drawings, if requested by the permitting authority);

7. Supporting documentation including identification of alternative control technologies considered by the applicant to meet the emission limitation, and analysis of cost and non-air quality health environmental impacts or energy requirements for the selected control technology;

8. An identification of any listed source category or categories in which the major source is included.

ITEM 4. Amend subrule 23.1(4), introductory paragraph, as follows:

**23.1(4)** Emission standards for hazardous air pollutants for source categories. The federal standards for emissions of hazardous air pollutants for source categories, 40 Code of Federal Regulations Part 63 as amended through August 11, 1997, are adopted by reference, except 40 CFR §§ 63.12, 63.14, 63.15, ~~63.40 through 63.44~~, 63.40(a), 63.42(a), (b), 63.43(c), (f)-(m), ~~63.50~~, 63.560 (b), (e)(2), (3), and 63.562 (c), (d), and shall apply to the following affected facilities.

The corresponding 40 CFR Part 63 Subpart designation is in parentheses. *40 CFR Part 63 Subpart B incorporates the requirements of Clean Air Act Sections 112(g) and 112(j) and does not adopt standards for a specific affected facility.* Test methods (Appendix A), sources defined for early reduction provisions (Appendix B), and determination of the fraction biodegraded ( $F_{bio}$ ) in the biological treatment unit (Appendix C) of Part 63 also apply to the affected activities or facilities. For the purpose of this subrule "Hazardous air pollutant" has the same meaning found in 567—22.100(455B). For the purposes of this subrule a "major source" means any stationary source or group of stationary sources located within a contiguous area and under common control that emits or has the potential to emit considering controls, in the aggregate, 10 tons per year or more of any hazardous air pollutant or 25 tons per year or more of any combination of hazardous air pollutants, unless a lesser quantity is established, or in the case of radionuclides, where different criteria are employed. For the purposes of this subrule an "area source" means any stationary source of hazardous air pollutants that is not a major stationary source as defined in this paragraph. Paragraph 23.1(4)"a," general provisions (Subpart A) of Part 63, shall apply to owners or operators who are subject to subsequent subparts of 40 CFR 63 (except when otherwise specified in a particular subpart or in a relevant standard) as adopted by reference below.

ITEM 5. Amend subrule 23.1(4), paragraph "b," as follows:

b. Requirements for control technology determinations for major sources in accordance with Clean Air Act Sections 112(g) and 112(j). (*Subpart B*)

(1) *Section 112(g) requirements.* For the purposes of this subparagraph, the definitions shall be the same as the definitions found in 40 CFR 63.2 and 40 CFR 63.41 as amended through December 27, 1996. *The owner or operator of a new or reconstructed major source of hazardous air pollutants must apply maximum achievable control technology (MACT) for new sources to the new or reconstructed major source. If the major source in question has been specifically regulated or exempted from regulation under a standard issued pursuant to Section 112(d), Section 112(h), or Section 112(j) of the Clean Air Act and incorporated in another subpart of 40 CFR Part 63, excluded in 40 CFR 63.40 (e) and (f), or the owner or operator of such major source has received all necessary air quality permits for such construction or reconstruction project before June 29, 1998, then the major source in question is not subject to the requirements of this subparagraph. The owner or operator of an affected source shall apply for a construction permit as required in 567—paragraph 22.1(1)"b."* The construction permit application shall contain an application for a case-by-case MACT determination for the major source.

(2) *Section 112(j) requirements.* The owner or operator of a new or existing major source of hazardous air pollutants which includes one or more stationary sources included in a source category or subcategory for which the U.S. Environmental Protection Agency has failed to promulgate an emission standard within 18 months of the deadline established under 112(d) must submit an application for a Title V permit or an application for a significant permit modification or for an administrative amendment, whichever is applicable. The application must be made in accordance with procedures established under Title V, by the Section 112(j) deadline. In

## ENVIRONMENTAL PROTECTION COMMISSION[567](cont'd)

addition, the owner or operator of a new emission unit may submit an application for a Notice of MACT Approval before construction. (Subpart B)

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## ARC 8329A

ENVIRONMENTAL PROTECTION  
COMMISSION[567]

## Adopted and Filed

Pursuant to the authority of Iowa Code section 455B.133, the Environmental Protection Commission hereby amends Chapter 22, "Controlling Pollution," and Chapter 23, "Emission Standards for Contaminants," Iowa Administrative Code.

This rule making adopts by reference the new and revised acid rain exemptions and the national emission standard for hazardous air pollutant (NESHAP) for primary aluminum reduction plants. It also reestablishes the original compliance dates for submittal of the Title V, voluntary, and small source operating permit applications.

Item 1 corrects an internal citation.

Item 2 reestablishes the original compliance date for submittal of the Title V operating permit application.

Item 3 rescinds the former acid rain new unit exemption and adopts by reference acid rain exemptions for new unit exemption, retired unit exemptions, and industrial utility-unit exemption. The revisions to the new unit and retired unit exemptions made the exemption process more automatic by making the exemption effective for the entire year in which the petition was submitted. The revisions also streamline the petition for exemption process by eliminating the requirement for public notification on the petition. The industrial utility-unit exemption is new. The U.S. Environmental Protection Agency had stated that no allowances would be allocated to industrial utility-units under Section 405 of the Clean Air Act of 1990. Because of this they promulgated a limited exemption for industrial utility-units that served, at any time starting in 1985, a generator that produced electricity for sale.

Item 4 rescinds the former acid rain retired unit exemption. The revised retired unit exemption was adopted by reference in Item 3.

Item 5 reestablishes the original compliance date for submittal of the voluntary operating permit application.

Item 6 revises language to exclude violations of the requirement to obtain a Title V operating permit from the compliance certification for voluntary operating permits.

Item 7 reestablishes the original compliance date for submittal of the small source operating permit application.

Item 8 adds language for clarification.

Item 9 adopts the NESHAP for primary aluminum reduction plants by reference. This adoption establishes standards for each new or existing potline, paste production plant, and anode bake furnace associated with a primary aluminum reduction plant, and for each new pitch storage tank associated with a primary aluminum production plant.

The Notice of Intended Action was published in the Iowa Administrative Bulletin on June 17, 1998, as ARC 8087A. A public hearing was held July 17, 1998. One change has been made to the Notice of Intended Action as a result of a comment received during the public comment period. Additional language was added to Item 9 for clarification.

These amendments may impact small business.

These amendments are intended to implement Iowa Code section 455B.133.

These amendments shall become effective October 14, 1998.

The following amendments are adopted.

ITEM 1. Amend subrule 22.103(2), paragraph "a," subparagraph (2), as follows:

(2) A storage tank which contains no volatile organic compounds above a vapor pressure of 0.75 pounds per square inch at the normal operating temperature of the tank when other emissions from the tank do not exceed the levels in ~~paragraph 22.103(2) "b."~~ subparagraph 22.103(2) "a" (1).

ITEM 2. Amend subrule 22.105(1), paragraph "a," as follows:

a. Timely application. Each source applying for a Title V permit shall submit an application:

(1) *By November 15, 1994, if source was existing on or before April 20, 1994, for the first time submittals of Title V permit applications. However, a source may choose to defer submittal of Part 2 of the permit application until December 31, 1995. The department will mail notice of the deadline for Part 2 of the permit application to all applicants who have filed Part 1 of the application by October 17, 1995.*

(1) (2) At least 6 months but not more than 18 months prior to the date of permit expiration if the application is for a permit renewal.

(2) (3) *By January 1, 1996, (for sulfur dioxide) or by January 1, 1998, (for nitrogen oxides) if the application is for an initial Phase II acid rain permit.*

(3) (4) At least 6 months prior to any planned significant modification of a Title V permit. See rule 22.113(455B).

(4) (5) Within 12 months of commencing operation for a source subject to 112(g) of the Act or subject to rule 22.4(455B) (prevention of significant deterioration permitting) or subject to rule 22.5(455B) (nonattainment area permitting). Where an existing Title V permit would prohibit such construction or change in operation, the source must obtain a Title V permit revision before commencing operation.

(5) (6) Within 12 months of becoming subject to this rule for a new source or a source which has become subject to the Title V permit requirement after April 20, 1994.

ITEM 3. Rescind rule 567—22.123(455B) and adopt the following new rule in lieu thereof:

**567—22.123(455B) Acid rain exemptions.**

**22.123(1)** New unit exemption. The new unit exemption, as specified in 40 CFR §72.7, as amended through October 24, 1997, except for 40 CFR §72.7(c)(1)(i), is adopted by reference. This exemption applies to new utility units.

**22.123(2)** Retired unit exemption. The retired unit exemption, as specified in 40 CFR §72.8, as amended through October 24, 1997, is adopted by reference. This exemption applies to any affected unit that is permanently retired.

**22.123(3)** Industrial utility-unit exemption. The industrial utility-unit exemption, as specified in 40 CFR §72.14, as amended through October 24, 1997, is adopted by reference. This exemption applies to any noncogeneration utility unit.

## ENVIRONMENTAL PROTECTION COMMISSION[567](cont'd)

## ITEM 4. Rescind and reserve rule 567—22.124(455B).

ITEM 5. Amend subrule 22.203(1), paragraph "a," as follows:

a. Timely application. Each source applying for a voluntary operating permit shall submit an application:

(1) *By July 1, 1996, if the source is existing on or before July 1, 1995, unless otherwise required to obtain a Title V permit under rule 22.101(455B);*

(1) (2) At least 6 months but not more than 12 months prior to the date of expiration if the application is for renewal;

(2) (3) Within 12 months of becoming subject to this rule 22.101(455B) for a new source or a source which would otherwise become subject to the Title V permit requirement after July 1, 1995.

ITEM 6. Amend subrule 22.203(2), paragraph "e," subparagraph (1), as follows:

(1) Certification of compliance for the prior year with all applicable requirements with an exception for violations of subrule 22.1(1) and 22.105(1);

ITEM 7. Amend subrule 22.300(8), paragraph "a," subparagraph (1), as follows:

(1) Timely registration. Each source registering for an operating permit by rule for small sources shall submit a registration form:

1. *By August 1, 1996, if the source became subject to rule 22.101(455B) on or before August 1, 1995, unless otherwise required to obtain a Title V permit under rule 22.101(455B).*

2. *Within within 12 months of becoming subject to rule 22.101(455B) (the requirement to obtain a Title V operating permit) for a new source or a source which would otherwise become subject to the Title V permit requirement after August 1, 1995.*

ITEM 8. Amend subrule 23.1(1) as follows:

23.1(1) In general. The federal standards of performance for new stationary sources (new source performance standards) shall be applicable as specified in subrule 23.1(2). The federal standards for hazardous air pollutants (national emission standards for hazardous air pollutants) shall be applicable as specified in subrule 23.1(3). *The federal standards for hazardous air pollutants for source categories (national emission standards for hazardous air pollutants for source categories) shall be applicable as specified in subrule 23.1(4). The federal emission guidelines (emission guidelines) shall be applicable as specified in subrule 23.1(5).* Compliance with emission standards specified elsewhere in this chapter shall be in accordance with 567—Chapter 21.

ITEM 9. Amend subrule 23.1(4) by adding the following new paragraph:

p. Emission standards for primary aluminum reduction plants. These standards apply to each new or existing potline, paste production plant, or anode bake furnace associated with a primary aluminum reduction plant, and for each new pitch storage tank associated with a primary aluminum production plant, except existing furnaces not located on the same site as the primary aluminum reduction plant. (Subpart LL)

[Filed 8/21/98, effective 10/14/98]

[Published 9/9/98]

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ARC 8327A

## ENVIRONMENTAL PROTECTION COMMISSION[567]

## Adopted and Filed

Pursuant to the authority of Iowa Code section 455B.133, the Environmental Protection Commission hereby amends Chapter 28, "Ambient Air Quality Standards," Iowa Administrative Code.

This amendment adopts by reference the new federal PM<sub>2.5</sub> and revised PM<sub>10</sub> and ozone National Ambient Air Quality Standards (NAAQS), which became effective on September 16, 1997. The U.S. Environmental Protection Agency amended the existing NAAQS for ozone and promulgated a new annual and 24-hour PM<sub>2.5</sub> NAAQS to better protect public health, especially the health of those at higher risk, such as children, the elderly, and individuals with pre-existing heart or lung diseases. Revisions were also made which relaxed the current PM<sub>10</sub> NAAQS. The federal Clean Air Act requires that each NAAQS be reviewed and possibly revised to reflect the most recent health information available.

Notice of Intended Action was published in the Iowa Administrative Bulletin on June 17, 1998, as ARC 8086A. Three public hearings were held. At the request of the Commission, a sentence was added to clarify implementation of these rules.

This amendment may impact small businesses.

This amendment is intended to implement Iowa Code section 455B.133.

This amendment will become effective October 14, 1998.

The following amendment is adopted.

Amend rule 567—28.1(455B) as follows:

**567—28.1(455B) Statewide standards.** The state of Iowa ambient air quality standards shall be the National Primary and Secondary Ambient Air Quality Standards as published in 40 Code of Federal Regulations Part 50 (1972) and as amended at 38 Federal Register 22384 (September 14, 1973), 43 Federal Register 46258 (October 5, 1978), and 44 Federal Register 8202, 8220 (February 9, 1979), and 52 Federal Register 24634-24669 (July 1, 1987), and 62 Federal Register 38651-38760, 38855-38896 (July 18, 1997). *The department shall implement these rules in a time frame and schedule consistent with implementation schedules in federal laws, regulations and guidance documents.*

[Filed 8/21/98, effective 10/14/98]

[Published 9/9/98]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 9/9/98.

ARC 8285A

## HUMAN SERVICES DEPARTMENT[441]

## Adopted and Filed

Pursuant to the authority of Iowa Code sections 217.6, 234.6, and 249A.4, and 1998 Iowa Acts, Senate File 2410, section 12, subsection 3, section 15, subsection 18, section



## HUMAN SERVICES DEPARTMENT[441](cont'd)

32, subsection 14, and section 80, the Department of Human Services hereby amends Chapter 7, "Appeals and Hearings," Chapter 78, "Amount, Duration and Scope of Medical and Remedial Services," Chapter 130, "General Provisions," Chapter 133, "IV-A Emergency Assistance Program," Chapter 152, "Contracting," Chapter 156, "Payments for Foster Care and Foster Parent Training," Chapter 181, "Family Preservation Supportive and Nonrehabilitative Treatment Services," Chapter 182, "Family-Centered Services," Chapter 185, "Rehabilitative Treatment Services," Chapter 201, "Subsidized Adoptions," and Chapter 202, "Foster Care Services," appearing in the Iowa Administrative Code.

These amendments combine three Notices of Intended Action.

The Seventy-seventh General Assembly in 1998 Iowa Acts, Senate File 2410, directed the Department to develop a new rehabilitative treatment and supportive services authorization model, including a toll-free telephone number for preauthorization on or before November 1, 1998. Notwithstanding 1997 Iowa Acts, chapter 208, section 12, subsection 18, which required the Department to eliminate the current Clinical Assessment and Consultation Teams (CACT), the Department was given authority to extend the existence of the current CACT until October 31, 1998.

The legislation further required that the new model be developed and implemented in a manner so as to streamline the authorization process, to reduce paperwork and other information requirements to the minimum level necessary for compliance with federal requirements, and to ensure timely response to authorization requests.

The amendments noticed as ARC §122A revise the authorization process for Rehabilitative Treatment and Supportive Services as follows. In addition, various incorrect rule references are updated for clarity.

- The Clinical Assessment and Consultation Teams are replaced by a "review organization" which is designated by the Department to complete service authorizations. The Department has designated the Iowa Foundation for Medical Care (IFMC) as its review organization at this time. Effective August 15, 1998, IFMC will begin taking requests for authorization from some referral workers. Transition to the new authorization process will be completed statewide by November 1, 1998.

- The new authorization process requires the referral worker to telephone the review organization and relay oral information instead of transferring the needed information in documents. The review organization is required to provide an immediate decision at the time of the telephone contact by the referral worker. If additional information is required for the authorization, the review organization is required to process the authorization within one day of receipt of the additional information requested from the referral worker.

- Specific criteria for eligibility and authorization denials have been added to be consistent with the minimum federal requirements and provide specific information about the basis of approval or denial by the review organization. The review organization is required to maintain documentation at the minimum level necessary for compliance with federal requirements.

- After-hours authorization by the review organization is eliminated and supervisory approval prior to initiating family preservation is required when there is imminent risk of placement or an emergency protective need. The referral worker must then contact the review organization for approval on the next business day.

- The appeal process is changed to include reconsideration by the review organization prior to filing an appeal.

The amendments noticed as ARC §102A raise financial eligibility for child day care services from 125 to 140 percent of the federal poverty guidelines except as set forth below and update income guidelines and the fees parents pay for child day care services based on their monthly gross income to be consistent with the federal poverty guidelines for 1998.

The financial eligibility for families with children with special needs is increased from 155 to 175 percent of the federal poverty level. The financial eligibility for families who have received Transitional Child Care for 24 consecutive months is established at 155 percent of the federal poverty level. Children requiring protective child day care are eligible without regard to income.

The amendments noticed as ARC §098A implement the following changes mandated by the Seventy-seventh General Assembly:

- The maximum foster family basic monthly maintenance rate and the maximum adoption subsidy rate for children remain at 70 percent of the United States Department of Agriculture's estimate of the cost to raise a child in the Midwest with a cost-of-living increase added for Fiscal Year 1999.

The daily foster family care and adoption payment rates are increased as follows: for a child aged 0 through 5 from \$13.01 to \$13.45, for a child aged 6 through 11 from \$13.77 to \$14.25, for a child aged 12 through 15 from \$15.48 to \$15.96, and for a child aged 16 and over from \$15.47 to \$15.96.

- The regional budget target for children in group care is revised to reflect the new appropriation amount of \$30,923,872 and the amount of \$1,392,457 to be targeted to provision of 50 highly structured juvenile program beds.

- The formula for allocating a portion of the statewide budget target for group care services to each of the Department's regions is revised to adjust one factor used in the formula.

- Responsibility for working with the Department to ensure that a region's group care expenditures shall not exceed allocated funds is changed from the court to juvenile court services.

- A provision is added to require the Department and juvenile court services to review all group care placements in a region to identify those which might be appropriate for termination if annualization of the region's expenditures for group care indicates the region will exceed its allocated amount for group care by more than 5 percent.

The Council on Human Services adopted these amendments August 12, 1998.

The amendments noticed as ARC §122A in the July 1, 1998, Iowa Administrative Bulletin were previously Adopted and Filed Without Notice and published in the July 1, 1998, Iowa Administrative Bulletin as ARC §123A.

The amendments noticed as ARC §098A and ARC §102A in the July 1, 1998, Iowa Administrative Bulletin were previously Adopted and Filed Emergency and published in the July 1, 1998, Iowa Administrative Bulletin as ARC §099A and ARC §103A, respectively.

The amendments noticed as ARC §098A and ARC §122A are identical to those published under Notice of Intended Action.

The following revision was made to the amendments noticed as ARC §102A:

Subrule 130.3(1), paragraph "d," subparagraph (2), was revised to agree with changes to the waiting list priorities

## HUMAN SERVICES DEPARTMENT[441](cont'd)

(see **ARC 8296A** herein) which will be effective November 1, 1998, and to correct rule references.

These amendments are intended to implement Iowa Code sections 234.6, 234.38, and 249A.4 and 1998 Iowa Acts, Senate File 2410, section 12, subsection 3, section 15, subsection 2, paragraphs "a," "b," "d," and "e," and subsection 18, and section 32, subsection 4.

These amendments shall become effective November 1, 1998, at which time the Adopted and Filed Without Notice and the Adopted and Filed Emergency amendments are hereby rescinded.

**EDITOR'S NOTE:** Pursuant to recommendation of the Administrative Rules Review Committee published in the Iowa Administrative Bulletin, September 10, 1986, the text of these amendments [amendments to Chs 7, 78, 130, 133, 152, 156, 181, 182, 185, 201, 202] is being omitted. With the exception of the change noted above, these amendments are identical to those published under notice as **ARC 8098A**, **ARC 8102A**, and **ARC 8122A**, IAB 7/1/98.

[Filed 8/12/98, effective 11/1/98]  
[Published 9/9/98]

[For replacement pages for IAC, see IAC Supplement 9/9/98.]

**ARC 8286A****HUMAN SERVICES  
DEPARTMENT[441]****Adopted and Filed**

Pursuant to the authority of Iowa Code sections 234.6 and 249A.4, and 1998 Iowa Acts, Senate File 2410, section 5, subsection 5, section 7, subsection 13, and sections 9 and 80, and House File 2517, section 14, the Department of Human Services hereby amends Chapter 9, "Public Records and Fair Information Practices," Chapter 41, "Granting Assistance," Chapter 65, "Administration," Chapter 75, "Conditions of Eligibility," Chapter 76, "Application and Investigation," Chapter 83, "Medicaid Waiver Services," and Chapter 95, "Collections," appearing in the Iowa Administrative Code.

The Council on Human Services adopted these amendments August 12, 1998. These amendments combine three Notices of Intended Action. Notices of Intended Action regarding these amendments were published in the Iowa Administrative Bulletin on June 17, 1998, as **ARC 8067A**, and on July 1, 1998, as **ARC 8110A** and **ARC 8118A**.

The amendments noticed as **ARC 8110A** and **ARC 8118A** were previously Adopted and Filed Emergency and published in the July 1, 1998, Iowa Administrative Bulletin as **ARC 8111A** and **ARC 8119A**, respectively.

- The amendments noticed as **ARC 8067A** restore a current Medically Needy policy that was inadvertently deleted from the rules at the time the Medicaid rules were rewritten to delink from the Family Investment Program, allow an adjustment to spenddown when an unpaid Medicaid-covered service has been used to meet spenddown and a paid claim is subsequently received, allow a Medicaid claim to be submitted to the fiscal agent up to 12 months after the certification period ended, revise the definition for "Break in assistance," change FIP-related or ADC-related to FMAP-related in several rules that were previously overlooked, and update form numbers.

The client will be able to request an adjustment when an unpaid claim was used to meet spenddown so that a paid claim can be used. This will allow an unpaid claim to be paid by Medicaid rather than be used to meet spenddown. This will help the client and the provider. This situation happens when an unpaid claim is entered into the Medically Needy Spenddown Control (MNSC) system and is used to meet spenddown before the paid claim is received.

Consultec will be operating the MNSC system in the future. Providers currently may submit claims to Consultec to be used for spenddown. When Consultec takes over the spenddown system, a provider may submit a claim that will be used for spenddown and if there is a remaining amount after spenddown is met, the remaining amount will be paid. It will not be necessary for the provider to submit the claim again for payment. Providers have up to one year to submit claims. Therefore, providers should also be allowed up to one year to submit claims for meeting spenddown.

- The amendments noticed as **ARC 8118A** eliminate the requirement that the first \$50 of assigned, current monthly child support collected and retained by the Department be paid to the FIP participant and provide Medicaid coverage under the Mothers and Children (MAC) coverage group to children, up to the age of 19, living in families with incomes that do not exceed 133 percent of the federal poverty level.

FIP participants will no longer get the payment (called "rebate") from assigned child support collected and retained for the month of July 1998 or any month thereafter. However, FIP participants who are currently eligible to receive rebates will be entitled to a rebate based on assigned support collected and retained for the month of June 1998 or earlier even though the payment may not be authorized until July 1 or later.

There is no change in the treatment of support received and retained by a FIP applicant or participant. The Department will not count the first \$50 for FIP eligibility or benefits, as is done under current FIP rules. This promotes consistency between the FIP- and FMAP-related medical programs.

Elimination of the rebate payment began July 1, 1997, as required by 1997 Iowa Acts, chapter 208, section 3, subsection 5. (See **ARC 7321A** in the July 2, 1997, Iowa Administrative Bulletin.) However, chapter 208 affected only those households which were approved for FIP on or after July 1, 1997. Households active on FIP on June 30, 1997, remained eligible for rebates until their FIP eligibility stopped. They could not get the rebate again if they later reapplied and were approved for FIP.

Consequently, these amendments affect only those households which have remained active on FIP since June 1997 and are thus eligible for rebates.

Increasing the income limit to 133 percent of the federal poverty level for all children up to the age of 19 will greatly simplify the Medicaid program and provide coverage to children who do not currently qualify for coverage. The current Medicaid income guidelines for children are based on the child's age and the family income. As a result of differing income thresholds for children, depending on their age, some children in a family may be eligible for Medicaid while others are not.

These amendments also clarify household composition issues created by increasing the income limit for all children up to the age of 19.

- The amendments noticed as **ARC 8110A** remove the requirement that an individual must have previously resided in a nursing facility or an intermediate care facility for persons with mental retardation (ICF/MR) in order to receive

## HUMAN SERVICES DEPARTMENT[441](cont'd)

supported employment services under the home- and community-based waivers for persons with mental retardation or a brain injury.

This change is possible because the federal government lifted the requirement to have residency in a nursing facility or ICF/MR and the Seventy-seventh General Assembly mandated the change contingent upon federal approval.

These amendments are identical to those placed under Notice of Intended Action.

These amendments are intended to implement Iowa Code sections 234.12, 239B.6, 249A.4, and 252B.3, and 1998 Iowa Acts, Senate File 2410, section 5, subsection 5, section 7, subsection 13, and House File 2517, section 9, subsection 1.

These amendments shall become effective November 1, 1998, at which time the Adopted and Filed Emergency amendments are hereby rescinded.

The following amendments are adopted.

ITEM 1. Amend subrule 9.12(2), paragraph "b," subparagraph (8), as follows:

(8) A list of applicants for and recipients of the family investment program (FIP), *the family medical assistance program (FMAP)*, ~~FIP FMAP-related Medicaid program medical assistance~~, and the food stamp program is matched with records on Iowa motor vehicle registration files to assist in the identification of countable resources.

ITEM 2. Amend rule 441—41.22(239B) as follows:

Amend subrule 41.22(6), paragraph "b," subparagraph (4), as follows:

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

Amend subrule 41.22(7) by rescinding and reserving paragraph "b."

ITEM 3. Amend rule 441—41.27(239B) as follows:

Amend subrule 41.27(1), paragraph "h," subparagraph (1), as follows:

(1) Any nonexempt cash support payment, for a member of the eligible group, made while the application is pending, shall be treated as unearned income and deducted from the initial assistance grant(s). Any ~~nonexempt~~ cash support payment, for a member of the eligible group, except as described at 41.27(7) "p" and "q," received by the recipient after the date of decision as defined in 441—subrule 40.24(4), shall be refunded to the child support recovery unit.

Amend subrule 41.27(6), paragraph "u," as follows:

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

ITEM 4. Amend subrule 65.19(19) as follows:

65.19(19) Certification periods. Households in which all members are receiving family investment program (FIP) cash assistance, ~~or a family medical assistance program (FMAP)~~, or FIP FMAP-related medical assistance program will be assigned certification periods of 6 to 12 months. However, a certification period of less than 6 months may be assigned at application or recertification to match the food stamp recertification date and the public assistance review date.

Households in which one or more members are not receiving FIP cash assistance, or FMAP or FIP FMAP-related

medical assistance, and which are not required to file a monthly report will be assigned certification periods of one to six months based on the predictability of the household's circumstances except when the adult members are all 60 years of age or older with very stable income such as social security, supplemental security income, pensions or disability payments. These households shall be certified for up to 12 months.

ITEM 5. Rescind and reserve rule 441—65.26(234).

ITEM 6. Amend rule 441—75.1(249A) as follows:

Amend subrule 75.1(15), paragraph "a," subparagraph (6), as follows:

(6) When a person is residing in a household in which some members are receiving FMAP under the provisions of subrule 75.1(14) or MAC under the provisions of subrule 75.1(28), and when the person is not included in the FMAP or MAC eligible group, the family size shall consist of the person and all other family members as defined above except those in the FMAP or MAC eligible group.

Amend subrule 75.1(28), introductory paragraph, as follows:

75.1(28) Pregnant women, infants and children (Mothers and Children (MAC)). Medicaid shall be available to all pregnant women, infants (under one year of age) and children ~~who were born after September 30, 1983, and who have not attained the age of 19 if the following criteria are met:~~

Further amend subrule 75.1(28), paragraph "a," subparagraph (1), as follows:

(1) Family income shall not exceed 185 percent of the federal poverty level for pregnant women when establishing initial eligibility under these provisions and for infants (under one year of age) when establishing initial and ongoing eligibility. Family income shall not exceed 133 percent of the federal poverty level for children who have attained one year of age but who have not attained ~~six 19~~ years of age. ~~Family income shall not exceed 100 percent of the federal poverty level for children who have attained six years of age but who have not attained 19 years of age.~~ Income to be considered in determining eligibility for pregnant women, infants, and children shall be determined according to family medical assistance program (FMAP) methodologies except that the three-step process for determining initial eligibility and the two-step process for determining ongoing eligibility, as described at rule 441—75.57(249A), shall not apply. Family income is the income remaining after disregards and deductions have been applied in accordance with the provisions of rule 441—75.57(249A).

Further amend subrule 75.1(28), paragraph "a," by adding the following new subparagraphs (3), (4), and (5):

(3) Unless otherwise specified, when the person under the age of 19 is living with a parent or parents, the family size shall consist of all family members as defined by the family medical assistance program.

Application for Medicaid shall be made by the parents when the person is residing with them. A person shall be considered to be living with the parents when the person is temporarily absent from the parent's home as defined in subrule 75.53(4). If the person under the age of 19 is married or has been married, the needs, income and resources of the person's parents and any siblings in the home shall not be considered in the eligibility determination unless the marriage was annulled.

## HUMAN SERVICES DEPARTMENT[441](cont'd)

(4) When a person under the age of 19 is living with a spouse, the family size shall consist of that person, the spouse, and any of their children.

(5) Siblings under the age of 19 who live together shall be considered in the same filing unit for the purpose of establishing eligibility under this subrule unless one sibling is married or has been married, in which case the married sibling shall be considered separately unless the marriage was annulled.

Further amend subrule 75.1(28), paragraphs "f," "h," and "j," as follows:

f. An infant shall be eligible through the month of the first birthday unless the birthday falls on the first day of the month. A child shall be eligible through the month in which the child reaches the age of the maximum duration of eligibility allowed under this subrule of the nineteenth birthday unless the birthday falls on the first day of the month.

h. ~~The~~ When determining eligibility under this coverage group, the deprivation requirements as specified at subrule 75.54(3), living with a specified relative as specified at subrule 75.54(2), and the student provisions specified in subrule 75.54(1) do not apply to children in this coverage group.

j. If an infant loses eligibility under this coverage group at the time of the first birthday due to an inability to meet the income limit for children or if a child loses eligibility at the time of the sixth nineteenth birthday due to an inability to meet the income limit for children under this subrule, but the infant or child is receiving inpatient services in a medical institution, Medicaid shall continue under this coverage group for the duration of the time continuous inpatient services are provided.

Amend subrule 75.1(35) as follows:

Amend paragraph "f" as follows:

f. Verification of medical expenses to be used in spenddown calculation. The applicant or recipient shall submit evidence of medical expenses that are for noncovered Medicaid services and for covered services incurred prior to the certification period on the Medical Expense Verification, Form ~~MA-4069~~ 470-1932, which shall be completed by the medical provider. In cases where the provider is uncooperative or where returning to the provider would constitute an unreasonable requirement on the applicant or recipient, the form shall be completed by the worker. Verification of medical expenses for the applicant or recipient that are covered Medicaid services and occurred during the certification period shall be submitted by the provider to the fiscal agent on a claim form. The applicant or recipient shall inform the provider of the applicant's or recipient's spenddown obligation at the time services are rendered or at the time the applicant or recipient receives notification of a spenddown obligation. Verification of allowable expenses incurred for transportation to receive medical care as specified in rule 441-78.13(249A) shall be verified on Form ~~MA-3032-1~~ 470-0394, Medical Transportation Claim.

Applicants who have not established that they met spenddown in the current certification period shall be allowed 35 days 12 months following the end of the certification period to submit medical expenses for that period or 12 months following the date of the notice of decision when the certification period had ended prior to the notice of decision.

Amend paragraph "g," subparagraph (2), first paragraph, as follows:

(2) Order of deduction. Spenddown shall be adjusted when a bill for a Medicaid-covered service incurred during the certification period has been applied to meet spenddown if ~~the~~ a bill for a covered service incurred prior to the certifi-

cation period is subsequently received. Spenddown shall also be adjusted when a bill for a noncovered Medicaid service is subsequently received with a service date prior to the Medicaid-covered service is subsequently received. Spenddown shall be adjusted when an unpaid bill for a Medicaid-covered service incurred during the certification period has been applied to meet spenddown if a paid bill for a covered service incurred in the certification period is subsequently received with a service date prior to the date of the notice of spenddown status.

ITEM 7. Amend rule 441-75.25(249A), definition of "Break in assistance," as follows:

"Break in assistance" for medically needy shall mean the lapse of more than three months from the end of the medical-needy certification period to the beginning of the next current certification period.

~~EXCEPTION: An unemployed parent determination as described at paragraph 75.54(3) "e" shall be completed when the lapse is one month or more.~~

ITEM 8. Amend subrule 75.57(1), paragraph "e," introductory paragraph, as follows:

e. Support payments in cash shall be considered as unearned income in determining initial and continuing eligibility. ~~The first \$50 of assigned child support collected periodically which represents monthly support payments made by a legally responsible individual shall be paid to the client without affecting eligibility during the month.~~

ITEM 9. Amend subrule 76.1(2) as follows:

76.1(2) Date and method of filing application. An application is considered filed on the date an identifiable application, Form ~~PA-1107-0~~ 470-0442, ~~PA-2207-0~~ 470-0462, ~~PA-2230-0~~ 470-0466 (Spanish), 470-2927, or Form 470-3112 or 470-3122 (Spanish), is received and date-stamped: (1) in any local or area office of the department, or (2) by an income maintenance worker in any satellite office of the department, or (3) by a designated worker in a disproportionate share hospital, federally qualified health center, or other facility in which outstationing activities are provided. An identifiable application, Form 470-2927, which is filed to apply for FIP FMAP or FMAP-related Medicaid at a WIC office, well child health clinic, maternal health clinic, or the office of a qualified provider for presumptive eligibility for pregnant women shall be considered filed on the date received and date-stamped in one of these offices. An application so received shall be forwarded within two working days to the department office responsible for completion of the eligibility determination. A faxed application is considered filed on the date the faxed application is received in one of the places described above, if the fax is received during normal business hours. If the fax is received after normal business hours, such as evenings, weekends or holidays, the faxed application shall be considered received on the next normal business day. Before the faxed application can be approved, the original application with the applicant's original signature must be received by the department.

An identifiable application is an application containing a legible name, address and signature. If an authorized representative signed the application on behalf of an applicant, the original signature of the applicant or the responsible person must be on the application before the application can be approved. For FIP FMAP and FIP FMAP-related Medicaid, the original signature of each and every parent or stepparent in the home must be on the application before the application can be approved.

## HUMAN SERVICES DEPARTMENT[441](cont'd)

ARC §287A

HUMAN SERVICES  
DEPARTMENT[441]

## Adopted and Filed

## ITEM 10. Amend subrule 83.43(1) as follows:

83.43(1) Application for HCBS AIDS/HIV waiver services. ~~An~~ *The application for FIP-related Medicaid or SSI-related Medicaid shall follow the process as specified in rules 441—76.1(249A) to 441—76.6(249A) shall be followed.*

## ITEM 11. Amend rule 441—83.61(249A) as follows:

Amend subrule 83.61(1), paragraph "b," as follows:

b. Be eligible for Medicaid under SSI, SSI-related, ~~ADC~~ *FMAP*, or ~~ADC~~ *FMAP*-related coverage groups; eligible under the special income level (300 percent) coverage group; or become eligible through application of the institutional deeming rules or would be eligible for Medicaid if in a medical institution.

Amend subrule 83.61(1), paragraph "g," by rescinding and reserving subparagraph (2).

## ITEM 12. Amend rule 441—83.82(249A) as follows:

Amend subrule 83.82(1), paragraph "b," as follows:

b. Be eligible for Medicaid under SSI, SSI-related, ~~FIP~~ *FMAP*, or ~~FIP~~ *FMAP*-related coverage groups; eligible under the special income level (300 percent) coverage group consistent with a level of care in a medical institution; or be eligible for medically needy.

Amend subrule 83.82(2) by rescinding and reserving paragraph "b."

## ITEM 13. Amend rule 441—95.3(252B) as follows:

Amend subrule 95.3(1), paragraph "d," as follows:

d. Recipients of family investment assistance who ~~are~~ *were* approved to receive assistance prior to July 1, 1997, shall ~~continue to be eligible to receive support rebates until they are no longer eligible for the family investment program, but shall not be eligible to receive support rebates upon reapplication and subsequent receipt of family investment program assistance only if the payment was collected for June 1998 or an earlier month based upon the date of collection as described in paragraphs "a" to "c" above and received after July 1, 1998. Recipients of family investment assistance approved on or after July 1, 1997, are not eligible to receive support rebates.~~ *The child support recovery unit shall authorize and terminate payment of support rebates based upon eligibility and reapplication approval determinations by for the family investment program by the income maintenance unit.*

Amend subrule 95.3(4) as follows:

95.3(4) If a recipient is entitled to a support rebate ~~as allowed in 95.3(1) "d,"~~ *payment of up to \$50 in assigned support to the family investment program recipient shall occur in the month in which the support collected equals or exceeds \$50 of assigned support. If less than \$50 is collected, payment shall be made in the month following the month in which the monthly support obligation is applied to the child support account.*

Amend the implementation sentence following rule 441—95.3(252B) as follows:

This rule is intended to implement Iowa Code sections 252B.3, 252B.4, and 252B.11 and 1997 Iowa Acts, House File 715, section 3, subsection 5 1998 Iowa Acts, Senate File 2410, section 5, subsection 5.

[Filed 8/12/98, effective 11/1/98]

[Published 9/9/98]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 9/9/98.

Pursuant to the authority of Iowa Code section 249A.4 and 1998 Iowa Acts, Senate File 2410, section 32, subsection 14, and section 80, the Department of Human Services hereby amends Chapter 79, "Other Policies Relating to Providers of Medical and Remedial Care," and Chapter 81, "Nursing Facilities," appearing in the Iowa Administrative Code.

These amendments implement the following changes to the Medicaid program mandated by the Seventy-seventh General Assembly:

- All of the reimbursement rates for the following non-institutional providers are increased by 2 percent: ambulances, area education agencies, audiologists, birth centers, certified registered nurse anesthetists, family planning clinics, family or pediatric nurse practitioners, genetic consultation clinics, lead inspection agencies, maternal health centers, nurse-midwives, opticians, optometrists, orthopedic shoe dealers, physical therapists, podiatrists, psychologists, rehabilitation agencies, and screening centers.

- The reimbursement rates for chiropractors; dentists; durable medical equipment, prosthetic devices, and medical supply dealers; hearing aid dealers; and physicians will be increased a total of 2 percent. The Department will decide which procedure codes will be increased in consultation with provider representatives, placing a priority on primary and preventive care.

Dentists will also receive another 2 percent increase in January of 1999.

- Clinic rates will increase by 2 percent based on increases in the physician fee schedule.

- Community mental health centers rates will increase by 18.85 percent to the level paid by Medicare and private third-party payors.

- Home health agency providers, including Home- and Community-Based Service (HCBS) waiver home health providers, will be paid the maximum Medicare rate not to exceed the rate in effect on June 30, 1998, plus 2 percent. No other waiver providers will receive an increase.

- Independent laboratories will receive the maximum Medicare rate.

- Intermediate Care Facility for the Mentally Retarded (ICF/MR) rates will be established at the eightieth percentile of costs based on data from the December 31, 1997, cost reports.

- The reimbursement rate for skilled nursing care providers is increased by 2 percent subject to the maximum payment rate for the type of facility.

- The reimbursement rate for psychiatric medical institutions for children is increased by 2 percent.

- The maximum reimbursement rate for nursing facilities is increased by changing the maximum from the seventieth percentile of facility costs based on 1997 cost reports to the same percentile based on 1998 cost reports.

The Seventy-seventh General Assembly in 1998 Iowa Acts, Senate File 2410, section 32, subsection 1, paragraph "f," directed that the maximum reimbursement rate for nursing facilities should be adjusted effective July 1, 1998. The maximum Medicaid nursing facility rate is increased from \$71.70 to \$76.69 effective July 1, 1998.

## HUMAN SERVICES DEPARTMENT[441](cont'd)

The Council on Human Services adopted these amendments August 12, 1998.

These amendments were previously Adopted and Filed Emergency and published in the July 1, 1998, Iowa Administrative Bulletin as **ARC 8114A**. Notice of Intended Action to solicit comments on that submission was published in the July 1, 1998, Iowa Administrative Bulletin as **ARC 8113A**.

Subrule 81.16(16), paragraph "e," was revised to incorporate changes Adopted and Filed Emergency effective August 12, 1998. (See **ARC 8289A**, herein.)

These amendments are intended to implement Iowa Code section 249A.4 and 1998 Iowa Acts, Senate File 2410, section 32, subsection 1, paragraphs "a," "e," "f," "h," "i," and "j," and subsection 11.

These amendments shall become effective November 1, 1998, at which time the Adopted and Filed Emergency rules are hereby rescinded.

The following amendments are adopted.

ITEM 1. Amend subrule **79.1(2)**, Basis of reimbursement provider categories of "Ambulance," "Area education

agencies," "Audiologists," "Birth centers," "Certified registered nurse anesthetists," "Chiropractors," "Community mental health centers," "Dentists," "Durable medical equipment, prosthetic devices and medical supply dealers," "Family planning clinics," "Family or pediatric nurse practitioner," "Genetic consultation clinics," "HCBS AIDS/HIV home health aide waiver service providers," "HCBS elderly home health aide waiver service providers," "HCBS ill and handicapped home health aide waiver service providers," "HCBS MR home health aide waiver service providers," "Hearing aid dealers," "Home health agencies," "Independent laboratories," "Intermediate care facilities for the mentally retarded," "Lead inspection agency," "Maternal health centers," "Nurse-midwives," "Nursing facilities," "Opticians," "Optometrists," "Orthopedic shoe dealers," "Physical therapists," "Physicians," "Podiatrists," "Psychiatric medical institutions for children," "Psychologists," "Rehabilitation agencies," and "Screening centers," as follows:

<u>Provider category</u>	<u>Basis of reimbursement</u>	<u>Upper limit</u>
Ambulance	Fee schedule	Ground ambulance: Fee schedule in effect <del>6/30/90</del> 6/30/98 plus 2%. Air ambulance: A base rate of \$200 \$204 plus <del>\$7.50</del> \$7.65 per mile for each mile the patient is carried.
Area education agencies	Fee schedule	Fee schedule in effect <del>6/30/90</del> 6/30/98 plus 2%
Audiologists	Fee schedule	Fee schedule in effect <del>6/30/90</del> 6/30/98 plus 2%
Birth centers	Fee schedule	Fee schedule in effect <del>6/30/90</del> 6/30/98 plus 7.44% 2% for obstetrical service
Certified registered nurse anesthetists	Fee schedule	Fee schedule in effect <del>6/30/90</del> 6/30/98 plus 1.6% 2%
Chiropractors	Fee schedule	Fee schedule in effect <del>4/1/98</del> 6/30/98 plus targeted increases*
Community mental health centers	Fee schedule	Reimbursement rate for center in effect <del>6/30/90</del> 6/30/98 plus 2% 18.85%
Dentists	Fee schedule	Fee schedule in effect <del>6/30/90</del> 6/30/98 plus 2% and 2% effective 1/1/99*
Durable medical equipment, prosthetic devices and medical supply dealers	Fee schedule. See 79.1(4)	Fee schedule in effect <del>6/30/90</del> 6/30/98 plus up to 6.4% targeted increases*
Family planning clinics	Fee schedule	Fees as determined by the physician fee schedule in effect 6/30/98 plus 2%
Family or pediatric nurse practitioner	Fee schedule	Fee schedule in effect <del>6/30/94</del> 6/30/98 with the exception that screening services are fee schedule in effect <del>6/30/94</del> plus 5% 2%
Genetic consultation clinics	Fee schedule	Reimbursement rate for clinic in effect <del>6/30/90</del> 6/30/98 plus 2%
HCBS AIDS/HIV waiver service providers, including:		

## HUMAN SERVICES DEPARTMENT[441](cont'd)

<u>Provider category</u>	<u>Basis of reimbursement</u>	<u>Upper limit</u>
2. Home health aide	<del>Agency's financial and statistical cost report and Medicare percentage rate per visit</del> Retrospective cost-related	<del>Cannot exceed Medicare percentage rate per visit</del> Maximum Medicare rate in effect on 6/30/98 plus 2%
HCBS elderly waiver service providers, including:		
3. Home health aides	Retrospective cost-related	Maximum Medicare rate in effect on 6/30/98 plus 2%
HCBS ill and handicapped waiver service providers, including:		
2. Home health aides	<del>Agency's financial and statistical cost report and Medicare percentage rate per visit</del> Retrospective cost-related	<del>Cannot exceed Medicare percentage rate per visit</del> Maximum Medicare rate in effect on 6/30/98 plus 2%
HCBS MR waiver service providers, including:		
5. Home health aides	Retrospective cost-related	Maximum Medicare rate in effect on 6/30/98 plus 2%
Hearing aid dealers	Fee schedule plus product acquisition cost	Reimbursement rate for provider in effect 6/30/90 plus 2% plus up to 3.2% for materials Fee schedule in effect 6/30/98 plus targeted increases*
Home health agencies		
(Encounter services-intermittent services)	Retrospective cost-related	Maximum Medicare rate in effect on 6/30/98 plus 2%
(Private duty nursing or personal care and VCF vaccine administration for persons aged 20 and under)	Interim fee schedule with retrospective cost settling based on Medicare methodology	Retrospective cost settling according to Medicare methodology not to exceed the rate in effect on 6/30/98 plus 2%
Independent laboratories	Fee schedule. See 79.1(6)	Fee Medicare fee schedule in effect 6/30/90 plus 2%. See 79.1(6)
Intermediate care facilities for the mentally retarded	Prospective reimbursement. See 441—82.5(249A)	Eightieth percentile of facility costs as calculated from 12/31/93 12/31/97 cost reports
Lead inspection agency	Fee schedule	Fee schedule in effect 6/30/98 plus 2%
Maternal health centers	Reasonable cost per procedure on a prospective basis as determined by the department based on financial and statistical data submitted annually by the provider group	Reasonable cost in effect 6/30/91 as determined by the department Fee schedule in effect 6/30/98 plus 2%
Nurse-midwives	Fee schedule	Fee schedule in effect 6/30/95 6/30/98 plus 5% 2%
Nursing facilities:		
1. Nursing facility care	Prospective reimbursement. See 441—subrule 81.10(1) and 441—81.6(249A)	Seventieth percentile of facility costs as calculated from 6/30/97 6/30/98 cost reports
2. Skilled nursing care providers, including:		
Hospital-based facilities	Prospective reimbursement. See 79.1(9)	Facility base rate per diems used on 6/30/97 6/30/98 inflated by 3.3% 2% subject to maximum payment rate at the sixtieth percentile of costs of all hospital-based skilled facilities

## HUMAN SERVICES DEPARTMENT[441](cont'd)

<u>Provider category</u>	<u>Basis of reimbursement</u>	<u>Upper limit</u>
Freestanding facilities	Prospective reimbursement. See 79.1(9)	Facility base rate per diems used on 6/30/97 6/30/98 inflated by 3.3% 2% subject to maximum payment rate at the sixty-ninth percentile of costs of all freestanding skilled facilities
Opticians	Fee schedule. Fixed fee for lenses and frames; other optical materials at product acquisition cost	Reimbursement rate for provider in effect 6/30/90 6/30/98 for professional services plus 2% plus up to 3.2% for optometric products*
Optometrists	Fee schedule. Fixed fee for lenses and frames; other optical materials at product acquisition cost	Reimbursement rate for provider in effect 6/30/90 6/30/98 for professional services plus 2% plus up to 3.2% for optometric products*
Orthopedic shoe dealers	Fee schedule	Reimbursement rate for provider in effect 6/30/90 6/30/98 plus 2% plus up to 3.2% for materials*
Physical therapists	Fee schedule	Fee schedule in effect 6/30/90 6/30/98 plus 2%
Physicians (doctors of medicine or osteopathy)	Fee schedule. See 79.1(7)	Fee schedule in effect 6/30/90 6/30/98 plus 1.6% with the exception of obstetrical services as defined by the department and pediatric primary care services as defined by the department. targeted increases* Pediatric services will receive a 10% increase over the fee schedule in effect on 6/30/92. Obstetrical services will receive a 5% increase over the rates in effect 6/30/95. EPSDT screening services will receive a 5% increase over the rates in effect 6/30/94. The department may revise the fee schedule.
Podiatrists	Fee schedule	Fee schedule in effect 6/30/90 6/30/98 plus 2%
Psychiatric medical institutions for children (Inpatient)	Prospective reimbursement	Reimbursement rate for provider in effect 6/30/97 6/30/98 plus 3% 2% to a maximum of \$131.12 \$133.74 per day
(Outpatient day treatment)	Fee schedule	Fee schedule in effect 6/01/93 6/30/98 plus 2%
Psychologists	Fee schedule	Reimbursement rate for provider in effect 6/30/90 6/30/98 plus 2%
Rehabilitation agencies	Retrospective cost-related	Reimbursement rate for agency in effect 6/30/90 6/30/98 plus 2%
Screening centers	Fee schedule	Reimbursement rate for center in effect 6/30/94 6/30/98 plus 5% 2%

Further amend subrule 79.1(2) by rescinding the footnote at the end of the chart and inserting the following new footnote:

\*As required by 1998 Iowa Acts, Senate File 2410, section 32, subsection 1, paragraph "j," the department, in consultation with provider representatives, shall allocate to targeted services the 2 percent increase in overall rates paid to

chiropractors, dentists, durable medical equipment dealers, and physicians, placing a priority on primary and preventative care. The department will also allocate to targeted services the 2 percent increase in rates for hearing aid dealers provided by 1998 Iowa Acts, Senate File 2410, section 32, subsection 1, paragraph "i," placing a priority on primary and preventative care.



## HUMAN SERVICES DEPARTMENT[441](cont'd)

ITEM 2. Amend subrule 81.6(16), paragraph "e," as follows:

e. *Effective January 1, 1998, the basis for establishing the maximum reimbursement rate for non-state-owned nursing facilities shall be the seventieth percentile of participating facilities' per diem rates as calculated from the December 31, 1997, report of "unaudited compilation of various costs and statistical data."*

Beginning July 1, 1997 1998, the basis for establishing the maximum reimbursement rate for non-state-owned nursing facilities shall be the seventieth percentile of participating facilities' per diem rates as calculated from the June 30, 1997 1998, report of "unaudited compilation of various costs and statistical data."

[Filed 8/12/98, effective 11/1/98]  
[Published 9/9/98]

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## ARC 8290A

HUMAN SERVICES  
DEPARTMENT[441]

Adopted and Filed

Pursuant to the authority of Iowa Code section 249A.4, the Department of Human Services hereby amends Chapter 84, "Early and Periodic Screening, Diagnosis, and Treatment," appearing in the Iowa Administrative Code.

The Council on Human Services adopted this amendment August 12, 1998. Notice of Intended Action regarding this amendment was published in the Iowa Administrative Bulletin on June 17, 1998, as ARC 8068A.

This amendment revises the schedule for the lead toxicity screening under the Early and Periodic Screening, Diagnosis, and Treatment (EPSDT) program to provide that the initial screening be conducted on children at 12 months, rather than 6 months of age.

This revision is being made to comply with a revised federal Medicaid policy directive. Medicaid policy on lead screening has historically been based on the recommendations and guidance from the Centers for Disease Control and Prevention. This change will prevent unnecessary testing of young children.

This amendment is identical to that published under Notice of Intended Action.

This amendment is intended to implement Iowa Code section 249A.4.

This amendment shall become effective November 1, 1998.

The following amendment is adopted.

Amend subrule 84.3(6), paragraph "c," as follows:

c. Lead toxicity screening for all children aged 6 to 12 to 72 months.

[Filed 8/12/98, effective 11/1/98]  
[Published 9/9/98]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 9/9/98.

## ARC 8291A

HUMAN SERVICES  
DEPARTMENT[441]

Adopted and Filed

Pursuant to the authority of Iowa Code Supplement section 239B.4(3), the Department of Human Services hereby amends Chapter 93, "PROMISE JOBS Program," and Chapter 94, "Iowa Transitional Assistance for Direct Education Costs Program," appearing in the Iowa Administrative Code.

These amendments increase the time in which PROMISE JOBS participants are considered eligible to receive postsecondary educational funding from 24 to 36 consecutive months as mandated by the Seventy-seventh General Assembly in 1998 Iowa Acts, Senate File 2410, section 5, subsection 1, paragraph "g." This change is effective for family investment agreements entered into on or after July 1, 1996. Prior to this change, participants could lose eligible months of potential funding because they were allowed only 24 consecutive months to use up 24 months of funding eligibility. Therefore, participants who had to miss a semester of school due to family emergencies or who could not attend summer school could find themselves unable to complete their training program.

In addition, these amendments update statutory references.

The Council on Human Services adopted these amendments August 12, 1998.

These amendments were previously Adopted and Filed Emergency and published in the July 1, 1998, Iowa Administrative Bulletin as ARC 8109A. Notice of Intended Action to solicit comments on that submission was published in the July 1, 1998, Iowa Administrative Bulletin as ARC 8108A.

These amendments are identical to those published under Notice of Intended Action.

These amendments are intended to implement Iowa Code Supplement sections 239B.17 to 239B.22 and 1998 Iowa Acts, Senate File 2410, section 5, subsection 1, paragraph "g."

These amendments shall become effective November 1, 1998, at which time the Adopted and Filed Emergency amendments are hereby rescinded.

The following amendments are adopted.

ITEM 1. Amend 441—Chapter 93 by changing the parenthetical implementation statutes "239" and "249C" to "239B" wherever they appear.

ITEM 2. Amend subrule 93.114(15) as follows:

93.114(15) Maximum limit on PROMISE JOBS funding. Notwithstanding subrules 93.114(1) through 93.114(14), any participant who develops one or more FIAs on or after July 1, 1996, that include approvable postsecondary vocational classroom training shall be eligible for consideration for PROMISE JOBS expenses allowable under these rules for no more than 24 consecutive months within a 36-consecutive-month period. Except for this funding limit, all other policies at subrules 93.114(1) to 93.114(14) apply, including the established time frames described in 93.114(3) and 93.114(14)"g," for including postsecondary vocational classroom training in the FIA, without requiring other FIA activities.

a. For purposes of this subrule, an FIA is considered to be developed when it is signed by a FIP participant who has

## HUMAN SERVICES DEPARTMENT[441](cont'd)

never before signed an FIA or who must sign another FIA because FIP eligibility has been reestablished after FIP reapplication with a break in FIP assistance of more than one month.

b. The period of 24 36 consecutive months begins with the first month that the participant is eligible for consideration for PROMISE JOBS expense allowances. It is not altered by breaks in FIP assistance or breaks from the postsecondary vocational classroom training activity.

c. *The period of 24 months of eligibility for PROMISE JOBS expense allowances under these rules begins with the first month that the participant is eligible for consideration for PROMISE JOBS expense allowances.* A month is considered funded even if no allowance is issued ~~due to educational financial awards policies as described at paragraph 93.114(10)“c” or~~ because the client has no expense in a month.

ITEM 3. Amend the implementation sentence following **441—Chapter 93** as follows:

These rules are intended to implement ~~1997 Iowa Acts, Senate File 516, sections 18 to 23 Iowa Code Supplement sections 239B.17 to 239B.22.~~

ITEM 4. Amend **441—Chapter 94** by changing the parenthetical implementation statutes “77GA,SF516” and “249C” to “239B” wherever they appear.

ITEM 5. Amend rule 441—94.10(77GA,SF516) as follows:

**441—94.10(239B) Maximum limit on ITADEC funding.** FIP participants eligible for ITADEC who developed one or more PROMISE JOBS FIAs on or after July 1, 1996, shall be eligible for consideration for allowances for direct education costs allowable under these rules for no more than 24 ~~consecutive~~ months *within a 36-consecutive-month period* of PROMISE JOBS and ITADEC combined.

For purposes of this rule, an FIA is considered to be developed when it is signed by a FIP participant who has never before signed an FIA or who must sign another FIA because FIP eligibility has been reestablished after FIP reapplication with a break in FIP assistance of more than one month.

The period of 24 36 consecutive months begins with the first month that the participant was eligible for consideration for PROMISE JOBS expense allowances. It is not altered by breaks in FIP assistance or breaks from the postsecondary vocational classroom training activity.

*The period of 24 months of eligibility for ITADEC or PROMISE JOBS expense allowances under these rules begins with the first month that the participant is eligible for consideration for PROMISE JOBS expense allowances.* A month is considered ITADEC-funded or PROMISE JOBS-funded even if no allowance is issued because the client has no expense in a month or due to educational financial awards policies as described at rule ~~441—94.4(77GA,SF516) 441—94.5(239B)~~ above or similar policies previously in effect under the PROMISE JOBS program.

ITEM 6. Amend the implementation sentence following **441—Chapter 94** as follows:

These rules are intended to implement ~~1997 Iowa Acts, Senate File 516, sections 18 to 23 Iowa Code Supplement sections 239B.17 to 239B.22.~~

[Filed 8/12/98, effective 11/1/98]

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EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 9/9/98.

**ARC 8292A**

## HUMAN SERVICES DEPARTMENT[441]

### Adopted and Filed

Pursuant to the authority of Iowa Code section 252D.22 and 1998 Iowa Acts, Senate File 2313, section 45, the Department of Human Services hereby amends Chapter 98, “Support Enforcement Services,” appearing in the Iowa Administrative Code.

These amendments lower the percentage withheld for a child support delinquency from 50 percent of the current support obligation to 20 percent for support orders entered or modified on or after July 1, 1998, and for support orders entered or modified prior to July 1, 1998, for which no income withholding order has been filed by an Iowa Child Support Recovery Unit (CSRU) prior to July 1, 1998. In addition, rounding up to the nearest dollar is removed from the income withholding process.

The Seventy-seventh General Assembly, in 1998 Iowa Acts, Senate File 2313, required the Department to decrease the amount of income withheld for the payment of delinquent support on a prospective basis from the current level of 50 percent of the current support obligation.

Before deciding on the change to 20 percent, CSRU looked at different options, including different percentages, a sliding scale based upon the income of the obligor, and a sliding scale based upon the obligation of the obligor. It was determined that a flat percentage was the best method of collection. A sliding scale based upon the obligation would be very complicated to maintain accurately. A sliding scale based upon the income of the obligor would place the burden of determining the amount to withhold for the payment on the arrears entirely upon the employer, and monitoring employer compliance would be very difficult.

This change will allow CSRU to bring the total amount of the income withholding order to a lower, more affordable amount for the obligor. Forty percent of all current income withholding orders containing arrearage provisions are collected at a rate from 95 percent to 125 percent of the current support. This is strong evidence of the amount obligors are able to pay. This change should encourage obligors to remain at jobs longer rather than “job hop” or move to the underground economy, where attachment of wages is very difficult. Therefore, it is projected that the net amount of support paid to families will increase. In addition, CSRU will be reviewing the underlying support award at the same time the income withholding reduction is implemented, and it is anticipated that a number of awards will increase.

## HUMAN SERVICES DEPARTMENT[441](cont'd)

Obligors who receive a new income withholding order for the collection of delinquency on or after July 1, 1998, shall pay 20 percent of current support toward liquidation of the delinquency rather than the current rate of 50 percent. Already existing income withholding orders shall be adjusted only when CSRU initiates a review of the obligation on the case. Upon completion of the review, CSRU may adjust any existing income withholding order for both current and arrears to the new amounts, even if a new obligation amount is not set. CSRU will adjust the income withholding order amounts if the obligor requests a review and there is an adjustment in the underlying obligation. If the obligor requests a review and there is no change in the underlying support amount, the income withholding order shall remain at the 50 percent level.

The removal of the rounding provision contained in the rules was done at the request of both obligors and obligees who have expressed frustration in having and receiving amounts withheld that are different from the underlying support award.

The Council on Human Services adopted these amendments August 12, 1998.

These amendments were previously Adopted and Filed Emergency and published in the July 1, 1998, Iowa Administrative Bulletin as **ARC 8107A**. Notice of Intended Action to solicit comments on that submission was published in the July 1, 1998, Iowa Administrative Bulletin as **ARC 8106A**.

The following revision was made to the Notice of Intended Action:

The revision to subrule 98.45(1) was deleted. This revision would have provided that a change in the amount of child support paid due to emancipation of a minor is not subject to a review. Removing this exception streamlines the process for consumers and staff. A further review of operational issues showed that this provision created a situation where a manual review of an otherwise highly automated process was necessary and could create confusion for obligees and obligors.

These amendments are intended to implement Iowa Code chapter 252D and 1998 Iowa Acts, Senate File 2313, section 45.

These amendments shall become effective November 1, 1998, at which time the Adopted and Filed Emergency rules are hereby rescinded.

The following amendments are adopted.

ITEM 1. Amend rule **441—98.24(252D)** as follows:

Amend subrule 98.24(1), introductory paragraph, as follows:

**98.24(1)** Current support obligation exists. When a current support obligation exists, the amount withheld shall be an amount equal to the current support obligation, and an additional amount equal to 50 percent of the current support obligation (~~rounded up to the nearest dollar~~) to be applied toward the liquidation of any delinquency.

*Effective July 1, 1998, the amount withheld to be applied toward the liquidation of any delinquency shall be 20 percent of the current support obligation for any support order entered or modified on or after July 1, 1998, or for any support order entered or modified prior to July 1, 1998, for which no income withholding order has been filed by an Iowa CSRU prior to July 1, 1998.*

Amend subrule **98.24(1)**, paragraph "c," subparagraph (1), as follows:

(1) The obligor's gross yearly income shall be divided by 200 percent of the established yearly gross poverty level income for one person. That amount shall be multiplied by .5. The resulting figure will be the percent of the current support order (~~rounded up to the nearest whole number~~) which shall be withheld for payment on the arrearage.

Further amend subrule **98.24(1)**, paragraph "c," by adding the following new subparagraph (3):

(3) If criteria for withholding 20 percent toward liquidation of any delinquency are also met, the lesser of 20 percent or hardship is to be withheld.

Amend subrule 98.24(2), introductory paragraph, as follows:

**98.24(2)** Current obligation ended. When the current support obligation has ended or has been suspended, the income withholding order shall remain in effect until any delinquency has been satisfied. The amount withheld shall be equal to the amount of the most recent prior current support obligation which is greater than zero. Hardship criteria shall be applied in accordance with subrule 98.24(1). However, in the following circumstances, the amount withheld shall be 50 20 percent of the amount owed for current support at the time the obligation ended or was suspended; and, if hardship criteria are met, this amount shall be one-half of the amount established under the guidelines in subrule 98.24(1):

Amend subrule **98.24(2)**, paragraph "d," as follows:

d. In a foster care case, the order for parental liability ended when the child left placement, or an order ending the liability has been entered and the child in foster care has returned to the home of a parent ordered to pay parental liability. In this situation, the amount withheld shall be reduced to 50 20 percent of the current support amount when the obligation ended, but only for the parent with whom the child resides.

ITEM 2. Amend 441—Chapter 98, Division II, Part B, by adding the following new rule:

**441—98.37(252D) Immediate income withholding amounts when current support has ended.** When the child support obligation has ended, the amounts to be withheld shall be in accordance with subrule 98.24(2).

ITEM 3. Amend rule 441—98.45(252D) as follows:

Amend subrule 98.45(3) as follows:

**98.45(3)** Past due support paid. Any past due support debt has been paid in full. The withholding order shall be modified to require that only the current support obligation be withheld from the income of the obligor. Should a delinquency later accrue, the withholding order may again be modified to secure an additional payment toward the delinquency. The amount of the arrears payment shall be set ~~according to rule 441—98.24(252D)~~ at 20 percent of the current support amount.

Further amend rule 441—98.45(252D) by adding the following new subrules:

**98.45(4)** Income withholding order and determination of controlling orders. An obligation amount different than what CSRU has been enforcing is established upon the determination of controlling order as allowed in Iowa Code section 252K.207. Upon the change to the new obligation amount, the amount withheld to be applied toward the liquidation of any delinquency shall be 20 percent.

**98.45(5)** Income withholding order and review and adjustment of orders. If CSRU has initiated a review and adjustment of the obligation pursuant to 441—Chapter 99, Division IV, CSRU shall modify the amount withheld to be ap-

## HUMAN SERVICES DEPARTMENT[441](cont'd)

plied toward the liquidation of any delinquency to 20 percent upon completion of the process.

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EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 9/9/98.

**ARC 8293A****HUMAN SERVICES  
DEPARTMENT[441]****Adopted and Filed**

Pursuant to the authority of Iowa Code section 234.6 and Iowa Code Supplement section 237A.3, the Department of Human Services hereby amends Chapter 109, "Child Care Centers," and Chapter 110, "Family and Group Day Care Homes," appearing in the Iowa Administrative Code.

These amendments implement revisions to day care center policy involving unpaid volunteers and to the child day care home pilot program as mandated by the Seventy-seventh General Assembly in 1998 Iowa Acts, Senate File 2312.

Volunteers in child day care facilities who are included in the staff ratio count are mandatory reporters of child abuse. Current policy requires those volunteers to obtain certification showing completion of a minimum of two hours of Iowa's training for mandatory reporting of child abuse within six months from the initial date the person served as a volunteer or substitute. Persons who volunteer or substitute two times or less in a calendar year are exempt from the two-hour training requirement and shall sign a statement indicating they have been informed of their responsibilities as a mandatory reporter.

1998 Iowa Acts, Senate File 2312, requires that a person who serves as an unpaid volunteer in a child day care facility shall not be required to complete training as a mandatory reporter. These amendments remove the certification requirement but continue to require volunteers who are included in the staff ratio to sign a statement indicating they have been informed of their responsibilities as a mandatory reporter.

The child day care home pilot program is a four-level system of registration for family or group day care homes operating in Delaware and Scott counties. The revisions to the pilot program are as follows:

- Qualified providers may be registered at Level II, III, or IV even though the amount of space required to be available for the maximum number of children authorized for that level exceeds the actual amount of space available in that child care home. The total number of children authorized for the child care home at that level of registration shall be limited by the amount of space available per child. The basic number of children permitted for each age group may not be exceeded.

- The number of children who can be in the home before a second person must be present who meets the individual qualifications for child care home registration is increased from seven to eight.

- A transition period from April 20, 1998, through April 19, 2000, is allowed for providers seeking to become registered in the pilot project for the first time. The number of infants and school-age children allowed to be in care at one time is lower for the pilot project than for the statewide

program. The transition period will permit providers in the pilot project area to allow the numbers of infants and school-age children to drop from the program through natural attrition rather than having to drop children immediately to become registered.

The Council on Human Services adopted these amendments August 12, 1998.

These amendments were previously Adopted and Filed Emergency and published in the July 1, 1998, Iowa Administrative Bulletin as **ARC 8105A**. Notice of Intended Action to solicit comments on that submission was published in the July 1, 1998, Iowa Administrative Bulletin as **ARC 8104A**.

These amendments are identical to those published under Notice of Intended Action.

These amendments are intended to implement Iowa Code Supplement chapter 237A and 1998 Iowa Acts, Senate File 2312, sections 1 to 4.

These amendments shall become effective November 1, 1998, at which time the Adopted and Filed Emergency rules are hereby rescinded.

The following amendments are adopted.

ITEM 1. Amend subrule **109.6(5)**, paragraph "**b**," subparagraph (3), as follows:

~~(3) Obtain certification showing completion of a minimum of two hours of Iowa's training for mandatory reporting of child abuse within six months from the initial date the person served as a volunteer or substitute. Persons who volunteer or substitute two times or less in a calendar year shall be exempt from the two-hour training requirement and shall sign a statement indicating they have the volunteer or substitute has been informed of their the volunteer's or substitute's responsibilities as a mandatory reporter.~~

ITEM 2. Amend rule 441—110.27(237A) as follows:

Amend subrule **110.27(4)**, paragraph "**a**," subparagraph (1), as follows:

(1) Except as otherwise provided in this paragraph, not more than 12 children shall be present at any one time. If more than 7-8 children are present, a second person must be present who meets the individual qualifications for child care home registration.

Adopt the following **new** subrule 110.27(5):

**110.27(5)** Exception to total numbers. A child day care home may be registered at Level II, III, or IV if the provider is qualified even though the amount of space required to be available for the maximum number of children authorized for that level exceeds the actual amount of space available in that child care home. The total number of children authorized for the child care home at that level of registration shall be limited by the amount of space available per child. The basic number of children permitted for each age group may not be exceeded.

ITEM 3. Amend 441—Chapter 110 by adopting the following **new** rule 441—110.35(237A):

**441—110.35(237A) Transition exception.** The exception provisions of this rule are applicable to child care homes registering under Iowa Code Supplement section 237A.3A during a transition period beginning April 20, 1998, and ending April 19, 2000. During the transition period, the following provisions shall apply, notwithstanding the previous specific rules:

**110.35(1) Infant care.** A child care home provider who is providing child day care to four infants at the time of registration in the pilot project at Level I, II, or III may continue to provide care to those four infants. However, when the child

## HUMAN SERVICES DEPARTMENT[441](cont'd)

care home no longer provides care to one or more of the infants or one or more of the infants reaches the age of 24 months, the transition period exception authorized in this rule shall no longer apply. The overall limitation on the number of children authorized for the level of care remains applicable.

**110.35(2) Care of school-age children.** A child care home provider who at the time of registration in the pilot project at Level I, II, or III is providing child day care to school-age children in excess of the number of school-age children authorized for the registration level may continue to provide care for those children. The child care home provider may exceed the total number of children authorized for the level of registration by the number of school-age children in excess of the number authorized for the registration level. This transition period exception is subject to all of the following:

a. The provider must comply with the other requirements as to the number of children which is applicable to that registration level.

b. The maximum number of children attributable to the authorization for school-age children at the applicable registration level is five.

c. If more than eight children are present at any one time, the provider shall be assisted by a responsible person who is at least 14 years of age.

d. If the child care home no longer provides care to an individual school-age child who was receiving care at the time of the registration, the excess number of children allowed under the transition period exception shall be reduced accordingly.

ITEM 4. Amend the implementation clause following 441—Chapter 110 as follows:

These rules are intended to implement Iowa Code *Supplement* chapter 237A as amended by 1997 Iowa Acts, Senate File 541 1998 Iowa Acts, Senate File 2312.

[Filed 8/12/98, effective 11/1/98]

[Published 9/9/98]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 9/9/98.

## ARC §294A

HUMAN SERVICES  
DEPARTMENT[441]

## Adopted and Filed

Pursuant to the authority of Iowa Code section 234.6 and 1998 Iowa Acts, Senate File 2410, section 32, subsection 14, and section 80, the Department of Human Services hereby amends Chapter 150, "Purchase of Service," appearing in the Iowa Administrative Code.

These amendments implement revisions in purchase of service reimbursement rates mandated by the Seventy-seventh General Assembly. These revisions increase the maximum daily reimbursement rate for shelter care from \$76.61 to \$78.14; the maximum reimbursement rate for adoption and independent living services by 2 percent over the rates in effect on June 30, 1998; and the rates for adult residential, sheltered work, and work activity by 3 percent over the rates in effect on June 30, 1998.

Purchase of service rates have been frozen by the legislature since 1991 except for adult residential rates which were

increased in state fiscal year 1996 and sheltered work and work activity rates which were increased in 1997. Counties which rely on the Department to establish rates for providers of adult residential, sheltered work, and work activity services will experience increased costs.

The Council on Human Services adopted these amendments August 12, 1998.

These amendments were previously Adopted and Filed Emergency and published in the July 1, 1998, Iowa Administrative Bulletin as ARC §101A. Notice of Intended Action to solicit comments on that submission was published in the July 1, 1998, Iowa Administrative Bulletin as ARC §100A.

These amendments are identical to those published under Notice of Intended Action.

These amendments are intended to implement Iowa Code section 234.6 and 1998 Iowa Acts, Senate File 2410, section 32, subsections 5 and 8.

These amendments shall become effective November 1, 1998, at which time the Adopted and Filed Emergency rules are hereby rescinded.

The following amendments are adopted.

ITEM 1. Amend subrule 150.3(5), paragraph "p," as follows:

Amend subparagraph (1) as follows:

(1) Unless otherwise provided for in 441—Chapter 156, rates for shelter care shall not exceed ~~\$76.61~~ \$78.14 per day based on a 365-day year.

Amend subparagraph (2), introductory paragraph, and numbered paragraph "1," first paragraph, as follows:

(2) For the fiscal year beginning July 1, ~~1997~~ 1998, the maximum reimbursement rates for services provided under a purchase of social service agency contract (adoption; local purchase services including adult day care, adult support, adult residential, community supervised apartment living arrangement, sheltered work, work activity, and transportation; shelter care; family planning; and independent living) shall be the same as the rates in effect on June 30, ~~1997~~ 1998, except under any of the following circumstances:

1. If a new service was added after June 30, ~~1997~~ 1998, the initial reimbursement rate for the service shall be based upon actual and allowable costs. A new service does not include a new building or location or other changes in method of service delivery for a service currently provided under the contract.

Renumber subparagraphs (3) and (4) as numbered paragraphs "3" and "4," respectively, under subparagraph (2).

Further amend subparagraph (2), renumbered paragraphs "3" and "4," as follows:

3. For the fiscal year beginning July 1, ~~1997~~ 1998, the combined service and maintenance reimbursement rate paid to a shelter care provider shall be based on the financial and statistical report submitted to the department. The maximum reimbursement rate shall be ~~\$76.61~~ \$78.14 per day. If the department reimburses the provider at less than the maximum rate, but the provider's cost report justifies a rate of at least ~~\$76.61~~ \$78.14, the department shall readjust the provider's reimbursement rate to the actual and allowable cost plus the inflation factor or ~~\$76.61~~ \$78.14, whichever is less.

4. For the fiscal year beginning July 1, ~~1997~~ 1998, the purchase of service reimbursement rate for *adult residential*, sheltered workshops, and work activity services shall be increased by ~~1~~ 3 percent of the reimbursement rate in effect on June 30, ~~1997~~ 1998.

Further amend subparagraph (2) by adding the following new numbered paragraph "5":

HUMAN SERVICES DEPARTMENT[441](cont'd)

5. For the fiscal year beginning July 1, 1998, the purchase of service reimbursement rate for adoption and independent living services shall be increased by 2 percent of the rates in effect on June 30, 1998.

ITEM 2. Amend subrule 150.22(7), paragraph "p," as follows:

Amend subparagraph (1), introductory paragraph, and numbered paragraph "1," first paragraph, as follows:

(1) For the fiscal year beginning July 1, 1997 1998, the maximum reimbursement rates for local purchase services, including adult day care, adult support, adult residential, community supervised apartment living arrangement, sheltered work, work activity, and transportation shall be the same as the rates in effect on June 30, 1997 1998, except under any of the following circumstances:

1. If a new service was added after June 30, 1997 1998, the initial reimbursement rate for the service shall be based upon actual and allowable costs. A new service does not include a new building or location or other changes in method of service delivery for a service currently provided under the contract.

Amend subparagraph (2) as follows:

(2) For the fiscal year beginning July 1, 1997 1998, the purchase of service reimbursement rate for adult residential, sheltered work, and work activity services shall be increased by ± 3 percent of the reimbursement rate in effect on June 30, 1997 1998.

[Filed 8/12/98, effective 11/1/98]

[Published 9/9/98]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 9/9/98.

ARC 8295A

HUMAN SERVICES DEPARTMENT[441]

Adopted and Filed

Pursuant to the authority of Iowa Code section 217.6, the Department of Human Services hereby adopts Chapter 169, "Funding for Empowerment Areas," Iowa Administrative Code.

These rules define and structure the Department of Human Services' child care funding for empowerment areas. Funds are provided to community empowerment areas receiving a school-ready children grant pursuant to 1998 Iowa Acts, Senate File 2406, to develop and improve local child care capacity to better enable low-income parents to obtain or retain employment. These rules establish conditions and procedures for the disbursement, use, and administration of funds. This grants program is administered by the Department in conjunction with the Iowa Empowerment Board.

Community empowerment areas are intended to enable local communities to improve, coordinate, and reduce duplication of effort for education, health, and human service programs with an initial emphasis on families with young children. Senate File 2406 sets forth the requirements and responsibilities of local community empowerment areas, including the establishment and duties of community empowerment area boards. Each county and school district in the state has the option of participating in a community empowerment area.

Senate File 2406 provides for the creation of a state Iowa Empowerment Board, its membership and functions, and rule-making authority for carrying out its functions. The Iowa Empowerment Board consists of 11 voting members, 8 citizens appointed by the Governor, subject to confirmation by the Senate, and the directors of the Departments of Education, Human Services, and Public Health. In addition, six legislators sit on the Board as nonvoting members.

1998 Iowa Acts, Senate File 2410, appropriates funding from the federal Temporary Assistance for Needy Families (TANF) Block Grant. The Department may transfer TANF funding into child care to be granted to eligible communities for implementing child care strategies. Senate File 2410 establishes minimum eligibility criteria for community empowerment areas seeking a grant; identifies eligible activities for using funds; and specifies maximum funding levels for community empowerment areas. To receive funding, an area must be approved as a community empowerment area by the Iowa Empowerment Board.

The General Assembly appropriated \$3,800,000 to the Department of Human Services for funding of these grants. The maximum funding amount a community empowerment area is eligible to receive shall be determined by applying the area's percentage of the state's average monthly Family Investment Program population in the preceding fiscal year to the total amount appropriated for the grant program. If the community empowerment board's request for funding is received by the Iowa Empowerment Board on or after August 1, 1998, the maximum funding amount shall be prorated for the fiscal year and rounded up to the nearest full month.

The Iowa Empowerment Board is responsible for developing criteria for determining which community empowerment areas shall receive funding and how much funding they shall receive and notifying the area board and the Department of their decision.

The Council on Human Services adopted these rules August 12, 1998.

These rules were previously Adopted and Filed Emergency and published in the July 1, 1998, Iowa Administrative Bulletin as ARC 8097A. Notice of Intended Action to solicit comments on that submission was published in the July 1, 1998, Iowa Administrative Bulletin as ARC 8096A.

The following revision was made to the Notice of Intended Action:

Subrule 169.4(1) was revised to remove language dealing with federal funding and to substitute language from 1998 Iowa Acts, Senate File 2410, section 2, subsection 1, paragraph "d" in response to an objection from the Administrative Rules Review Committee.

These rules shall become effective on November 1, 1998, at which time the Adopted and Filed Emergency rules are hereby rescinded.

These rules are intended to implement 1998 Iowa Acts, Senate File 2410, section 2.

The following rules are adopted.

Adopt the following new chapter:

CHAPTER 169

FUNDING FOR EMPOWERMENT AREAS

PREAMBLE

These rules define and structure the department of human services' child care funding for empowerment areas. Funds are provided to community empowerment areas receiving a school-ready children grant pursuant to 1998 Iowa Acts, Senate File 2406, to develop and improve local child care ca-

## HUMAN SERVICES DEPARTMENT[441](cont'd)

capacity to better enable low-income parents to obtain or retain employment. These rules establish conditions and procedures for the disbursement, use, and administration of these funds. This grants program is administered by the department in conjunction with the Iowa empowerment board, according to conditions set forth in 1998 Iowa Acts, Senate File 2410.

**441—169.1(77GA,SF2410) Definitions.**

"Applicant" means an entity seeking funding under these rules.

"Community empowerment area" or "area" means an entity as defined in 1998 Iowa Acts, Senate File 2406, and as further defined by any administrative rules implemented by the Iowa empowerment board pursuant to Senate File 2406.

"Department" means the department of human services.

"Iowa empowerment board" or "board" means the entity as defined in 1998 Iowa Acts, Senate File 2406.

"Low-income families" means families at or below 185 percent of the federal poverty level.

"Temporary Assistance for Needy Families (TANF)" means a federal funding stream, for which the state is eligible under Public Law 104-103, for use in welfare reform and related activities.

**441—169.2(77GA,SF2410) Use of funds.** Funds shall be used in compliance with federal law and shall be used only for enhancing quality child care capacity in support of parent capability to obtain or retain employment. The funds shall be used with a primary emphasis on low-income families with children from birth to age five.

**169.2(1) Eligible activities.** Funds shall be used to implement strategies identified by communities that may include, but are not limited to:

a. Developing capacity for regular child care, sick child care, night shift child care, and emergency child care.

b. Enhancing linkages between the Head Start program, the Early Head Start program, early childhood development programs, and child care assistance programs.

c. Implementing other strategies that enhance access to child care.

d. Supporting ongoing activities related to paragraphs "a" through "c."

**169.2(2) Limitations on using funds.** Funds shall not be used for any purposes precluded by federal law. The Iowa empowerment board may establish additional limitations on the use of funds.

**169.2(3) Administrative costs.** Community empowerment areas may use up to 5 percent of funding for administrative costs in administering the grant, provided those expenditures are directly related to the project. Administrative costs shall be as defined in 45 CFR 98.52 as amended to October 1, 1997.

**441—169.3(77GA,SF2410) Eligibility for funding.**

**169.3(1) Eligible entities.** Eligible entities are those designated as a community empowerment area by the Iowa empowerment board and approved by the board for a school-ready children grant.

**169.3(2) Applications.** The community empowerment area shall submit an application for funding to the Iowa empowerment board. Actions on the application will be made by the board based on criteria set forth by the board.

**441—169.4(77GA,SF2410) Funding availability.** The availability of funds is subject to the following parameters:

**169.4(1) Total funding available.** Total funding available in each state fiscal year shall be the amount set pursuant to

enacted legislative appropriations, less any other obligations that the legislation creates. The availability of funding is subject to changes in federal requirements and amendments to Iowa law.

**169.4(2) Administration of funds.** These funds do not reside in the Iowa empowerment fund but are administered by the department. Upon the award of funding by the Iowa empowerment board, funds shall be disbursed to the community empowerment area by the department pursuant to a negotiated payment schedule that complies with state and federal law. Funds received by a community empowerment area shall be administered through a fiscal agent which is a public entity.

**169.4(3) Obligated funds.** Funds that have been applied for by and awarded to a community empowerment area prior to June 30 of each state fiscal year shall be considered obligated. These funds do not revert, but shall remain available to the area, regardless of whether the funding has yet been spent, if paid to the area by August 31 following the close of the state fiscal year in which the funds were obligated.

**169.4(4) Unobligated funds.** Funds that have not been obligated or paid pursuant to the preceding subrule shall revert and do not remain available to the area in a subsequent state fiscal year.

**169.4(5) Eligible funding for area.** In determining a community empowerment area's eligible funding, total funds available for the state fiscal year shall be prorated according to the following:

a. A community empowerment area's maximum eligible funding is the percentage of the total available funding which is equal to the area's percentage of average monthly statewide family investment program cases in the preceding state fiscal year, as reported to the Iowa empowerment board by the department.

b. The maximum eligible funding for a community empowerment area shall be prorated by the number of months remaining in the state fiscal year. If an area's application is approved by the Iowa empowerment board without revision, then the proration shall be from the date the application was received by the board. If the area's application required substantive revision, then the proration shall be from the date that the revised application which is approvable was received by the board. The board may fund the area retroactive to the original application receipt date if it determines that required revisions were not substantive. The month of the date of receipt as established herein shall be considered a full month.

c. The Iowa empowerment board may award a lesser amount than calculated pursuant to this subrule based on the nature of the community empowerment area's request.

**441—169.5(77GA,SF2410) Community empowerment areas' responsibilities.**

**169.5(1) Fiscal agent.** The community empowerment area shall designate a public agency as a fiscal agent and ensure that appropriate and adequate accounting mechanisms are in place through the fiscal agent to deposit, disburse and account for funds received, including tracking of the timing and purpose of any financial transaction.

**169.5(2) Grant agreement.** A grant agreement shall be entered into by the community empowerment area, the department, and the Iowa empowerment board.

**169.5(3) Spending funds.** The community empowerment area shall spend funds according to its application as approved by the Iowa empowerment board and grant agreement.

## HUMAN SERVICES DEPARTMENT[441](cont'd)

169.5(4) Reporting and audit requirements. The community empowerment area shall meet federal reporting and audit requirements. The Iowa empowerment board may establish other audit and reporting requirements.

441—169.6(77GA,SF2410) Iowa empowerment board's responsibilities.

169.6(1) Application review. The Iowa empowerment board shall review applications and act upon them in a timely manner.

169.6(2) Amount of funding. The Iowa empowerment board shall determine the amount of funding to be awarded, up to the eligible amount as defined in subrule 169.4(5).

169.6(3) Notification. The Iowa empowerment board shall notify the community empowerment area and the department of its decision.

169.6(4) Negotiating grant agreements. The Iowa empowerment board shall participate in negotiation of a grant agreement tha. includes:

- a. The amount awarded.
- b. How the funds will be used and the timing of disbursements from the department to the community empowerment area.
- c. Expected results and reports on progress toward those results, including results for children from birth to age five.
- d. An agreement by the community empowerment area to comply with federal reporting and audit requirements.
- e. Other conditions mutually agreed to by the community empowerment area and the Iowa empowerment board.

169.6(5) Review. The Iowa empowerment board shall review the status and progress of grantees.

441—169.7(77GA,SF2410) Department of human services' responsibilities.

169.7(1) Disbursement of funds. The department shall disburse funds to community empowerment areas under grant agreements.

169.7(2) Technical assistance. The department shall, upon request of the board, provide technical assistance and other support to the Iowa empowerment board and community empowerment areas.

169.7(3) Negotiations and review. The department shall assist the Iowa empowerment board in negotiating grant agreements and, upon request, assist the Iowa empowerment board in reviewing the status and progress of grantees.

441—169.8(77GA,SF2410) Revocation of funding. Notwithstanding other portions of these rules, funding may be revoked under the following conditions.

169.8(1) Failure to comply.

a. Either the Iowa empowerment board or the department may revoke funds if the community empowerment area is failing to comply with federal reporting or audit requirements or is using funds for other than an allowable purpose. The revocation shall be prospective, and may also be retroactive if the failure to comply or use of funding is such that the federal funds already expended are in jeopardy of being recovered by the federal government.

b. The Iowa empowerment board may revoke funds if the community empowerment area is not complying with other conditions agreed to by the board and the area, or if the board determines that the area is not performing pursuant to their approved application or grant agreement or is not making satisfactory progress toward results. The revocation shall be prospective only and may include unexpended funds already obligated to the area.

169.8(2) Corrective action plan. Prior to notice of revocation, either the department or the Iowa empowerment board may first work with the community empowerment area to develop and implement a corrective action plan if in the discretion of the department or the Iowa empowerment board such a plan has a reasonable chance of success.

169.8(3) Subsequent application. A community empowerment area which has had its funding revoked may submit a subsequent application, which shall be considered a new application and eligible for prospective funding only. Applications submitted subsequent to a revocation of funding must also address how the matters leading to a previous revocation have been addressed in order to prevent problems from occurring again.

441—169.9(77GA,SF2410) Appeals. Applicants which are an approved community empowerment area with an approved school-ready children grant may file an appeal with the director of the department of human services as follows:

169.9(1) Appealable actions. Issues that can be appealed include disbursement of funds and revocation of funding if initiated by the department.

169.9(2) Nonappealable actions. The denial or rejection of a grant application, the amount of a grant award, and other actions taken by the Iowa empowerment board are not appealable to the director of the department of human services. These actions are subject to appeal procedures set forth by the Iowa empowerment board.

169.9(3) Letter of appeal. The letter of appeal must be submitted within five working days of the action of the department and must clearly and fully identify all issues being contested.

The director of the department shall review the appeal request and issue a decision within ten days of the request or within ten days of receipt by the department of any follow-up information requested from the appellant.

These rules are intended to implement 1998 Iowa Acts, Senate File 2410, section 2.

[Filed 8/12/98, effective 11/1/98]

[Published 9/9/98]

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ARC 8296A

HUMAN SERVICES  
DEPARTMENT[441]

Adopted and Filed

Pursuant to the authority of Iowa Code section 234.6, the Department of Human Services hereby amends Chapter 170, "Child Day Care Services," appearing in the Iowa Administrative Code.

The Council on Human Services adopted this amendment August 12, 1998. Notice of Intended Action regarding this amendment was published in the Iowa Administrative Bulletin on June 17, 1998, as ARC 8069A.

This amendment revises the priority levels on the waiting list for applications for state child care assistance to correspond with revisions in eligibility requirements as mandated by the Seventy-seventh General Assembly. At the current time, the waiting list is not being used as funding is available to serve all families meeting the eligibility requirements.



## HUMAN SERVICES DEPARTMENT[441](cont'd)

This amendment is identical to that published under Notice of Intended Action.

This amendment is intended to implement Iowa Code section 234.6 and 1998 Iowa Acts, Senate File 2410, section 12, subsection 4.

This amendment shall become effective November 1, 1998.

The following amendment is adopted.

Amend subrule 170.2(3) as follows:

Amend paragraphs "a," "d," and "e," as follows:

a. Families ~~who are~~ *with an income* at or below 100 percent of the federal poverty guidelines and in which the parents are employed at least ~~30~~ 28 hours per week or are under the age of 21 and participating in an educational program leading to a high school diploma or equivalent.

d. Families ~~who are above~~ *with an income of more than* 100 percent but at or below ~~125~~ *not more than 140* percent of the federal poverty guidelines and in which the parents ~~whose members~~ are employed at least ~~30~~ 28 hours per week.

e. Families ~~who are~~ *with an income* at or below ~~155~~ 175 percent of the federal poverty guidelines ~~who have~~ *whose members are employed at least 28 hours per week with a special needs child as a member of the family.*

Rescind paragraph "g."

[Filed 8/12/98, effective 11/1/98]

[Published 9/9/98]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 9/9/98.

## ARC 8322A

NATURAL RESOURCE  
COMMISSION[571]

## Adopted and Filed

Pursuant to the authority of Iowa Code subsection 455A.5(6), the Natural Resource Commission hereby adopts amendments to Chapter 61, "State Parks and Recreation Areas," Iowa Administrative Code.

These amendments accomplish the following:

1. Amend the definition of "Person with physical disability."
2. Rescind subrule 61.3(6).
3. Amend the times when reservations for lodges, cabins, open shelters and group camps will be taken.
4. Amend the time frame when cabins can be rented for only two nights.
5. Add a new subrule on reservation and damage deposits.
6. Add a new subrule allowing use of certain types of motorized vehicles in state parks and recreation areas by persons with physical disabilities.
7. Add a new subrule restricting access in and out of the recreation area portion of Wapsipinicon State Park.
8. Amend the name of Viking Lake.

Notice of Intended Action was published in the Iowa Administrative Bulletin on June 17, 1998, as ARC 8081A. No public comments were received. The following additions to the Notice of Intended Action were originally included in the amendments approved by the Natural Resource Commissioners on May 14, 1998, but were inadvertently omitted

from the Notice published as ARC 8081A. Therefore, they are being added here for publication.

1. The word "open" has been added to modify "shelters" in the reservation policy.

2. A new item is added that changes the name of Viking Lake State Park to Viking Lake State Recreation Area.

3. Two minor clarifying amendments were made in 61.4(5)"b"(7).

These amendments are intended to implement Iowa Code sections 461A.3, 461A.44, 461A.46, 461A.51, and 461A.57.

These amendments will become effective on October 14, 1998.

The following amendments are adopted.

ITEM 1. Amend rule 571—61.2(461A), definition of "Person with physical disability," as follows:

~~"Person with physical disability" means a person who requires a wheelchair as sole means of mobility and requires assistance with personal care needs an individual commonly termed a paraplegic or quadriplegic, with paralysis or a physical condition of the lower half of the body with the involvement of both legs, usually due to disease or injury to the spinal cord; a person who is a single or double amputee of the legs; or a person with any other physical affliction which makes it impossible to ambulate successfully in park or recreation area natural surroundings without the use of a motorized conveyance.~~

ITEM 2. Rescind and reserve subrule 61.3(6).

ITEM 3. Amend subrule 61.4(2), paragraphs "b," "d," and "m," as follows:

b. Telephone and walk-in reservations will not be accepted until the ~~second~~ first business day following November 1 of each year for the heated cabins and the ~~second~~ first business day after January 1 of each year for all other cabins, group camps, open and enclosed shelters or lodges.

d. Walk-in and telephone requests on or after the ~~second business day in January or November~~ the first business day following January 1 or November 1 will be handled on a first-come, first-served basis after all mail-in requests have been handled. Walk-in and telephone requests after the first business day following January 1 or November 1 will be handled on a first-come, first-served basis.

m. Prior to ~~May 1~~ the Monday before the national Memorial Day holiday and after Labor Day week, two-night reservations may be made in advance for cabin use. Such reservations must be received by the Tuesday preceding the desired weekend.

ITEM 4. Amend rule 571—61.4(461A) by adding the following new subrule:

61.4(5) Reservation and damage deposits for rental facilities.

a. Reservation deposit.

(1) All cabin and group camp reservation requests must be accompanied by a reservation deposit equivalent to one day of the daily rate for that rental unit as provided in 61.3(2) and 61.3(4) (no sales tax shall be included). The deposit shall be required for each rental unit and rental period requested. The reservation deposit will be applied toward the total rental fee when the rental fee is due. Reservations made by telephone will be tentatively scheduled and held for seven working days. If written confirmation and reservation deposit are not received by the end of the seventh working day, the reservation will be canceled.

(2) Requests for enclosed shelter/lodge rental shall be accompanied by the full rental fee including tax with no reser-

## NATURAL RESOURCE COMMISSION[571](cont'd)

vation deposit required. Reservations made by telephone will be tentatively scheduled and held for seven working days. If written confirmation and reservation deposit are not received by the end of the seventh working day, the reservation will be canceled.

(3) Requests for open shelter rental shall be accompanied by the full rental fee including tax with no reservation deposit required.

b. Rental fee and damage deposit payment.

(1) Upon arrival for the cabin rental period, a damage deposit in the amount of \$50 and the remainder of the applicable rental fee, including all sales tax, shall be paid in full. This damage deposit shall be paid by use of a separate financial instrument (e.g., check, money order, or cash) from the rental fee.

(2) Upon arrival for the group camp rental period, a damage deposit of \$50 shall be paid in full. The remainder of the applicable rental fee, including all sales tax, shall be paid in full when the rental period is over and the area is ready to be vacated.

(3) Upon arrival for the enclosed shelter/lodge rental period, a damage deposit of \$50 shall be paid in full.

(4) Damage deposits will be refunded only after inspection by authorized personnel to ensure the facility and furnishings are in satisfactory condition.

(5) If it is necessary for department personnel to clean up the facility or repair any damage beyond ordinary wear and tear, a log of the time spent in such cleanup or repair shall be kept. The damage deposit refund shall be reduced by an amount equivalent to the applicable hourly wage of the employees for the time necessary to clean the area or repair the damage and the cost of any furnishing repairs.

(6) The deposit is not to be construed as a limit of liability for damage to state property. The department may take legal action necessary to recover additional damage.

(7) Individuals wishing to cancel a reservation must do so at least 30 calendar days prior to the rental date in order to receive a full refund of the reservation deposit or any rental fees paid in advance. If it is necessary to cancel a reservation after the 30-day allowance, a refund may be made only under the following conditions:

1. Inclement weather prohibits arrival at or entrance to the state park cabin, group camp, open or enclosed shelter or lodge area.

2. Personal emergency prevents arrival or requires departure prior to the end of the rental period. Personal emergency is defined to include a death, serious illness or accident involving immediate family. Rental fees may be refunded on a prorated basis in the case of early departure due to personal emergency.

ITEM 5. Amend rule 571—61.5(461A) by adding the following new subrule:

**61.5(15) Motor vehicle restrictions.**

a. Except as provided in these rules, motor vehicles are prohibited on state parks, recreation areas and preserves except on constructed and designated roads, parking lots and campgrounds.

b. Persons with physical disabilities. Persons with physical disabilities may use certain motor vehicles on state parks, recreation areas and preserves, according to restrictions set out in this rule, in order that they might enjoy such uses as are available to others.

(1) Definition. For purposes of this subrule, the following definition shall apply. "Motor vehicles" means any self-propelled vehicle, electric or gas, having at least three wheels, but no more than six, and that is limited in engine displacement to less than 800 cubic centimeters and in total dry weight to less than 1,450 pounds.

(2) Permits.

1. Each person with a physical disability must have a permit issued by the director in order to use motor vehicles on state parks, recreation areas, and preserves. Such permits will be issued without charge. Applicants must submit certificates from their doctors stating that the applicants meet the criteria describing a person with physical disabilities. One nonhandicapped companion of a permit holder is covered under the condition of this permit.

2. Existing permits. Those persons possessing a valid permit for use of a motorized vehicle on game management areas as provided in 571—51.7(461A) may use a motor vehicle to gain access to recreational opportunities and facilities within state parks, recreation areas and preserves.

(3) Approved areas. A permit holder must contact the park ranger or natural resource technician of the specific area that the permit holder wishes to use on each visit. The park ranger or technician will determine which areas or portions of areas will not be open to use by permittees, in order to protect the permittee from hazards or to protect certain natural resources of the area. The park ranger or technician may assist by arranging access to the areas within their jurisdiction and by designating specific sites or trails on the area where the motor vehicle may be used and where it may not be used. The park ranger or technician will provide a map of the park or recreation area showing sites where use is permitted and bearing the signature of the ranger or technician.

(4) Exclusive use. The issuance of a permit does not imply that the permittee has exclusive use of an area. Permittees shall take reasonable care so as not to unduly interfere with the use of the area by others.

(5) Prohibited acts and restrictions.

1. Except as provided in 61.5(15)"a," the use of a motor vehicle on any park, recreation area or preserve by a person without a valid permit or at any site not approved on a signed map is prohibited. Permits and maps must be carried by the permittee at any time the permittee is using a motor vehicle on a park, recreation area or preserve and must be exhibited to any department employee or law enforcement official upon request.

2. The speed limit for an approved motor vehicle off roadways will be no more than 15 mph. Permittees found exceeding the speed limit will have the permit revoked.

3. Any person found causing damage to cultural and natural features or abusing the privilege of riding off-road within the park will have the permit revoked.

(6) Employees exempt. Restrictions in subrule 61.5(15) shall not apply to department personnel, law enforcement officials, or other authorized persons engaged in research, management or enforcement when in performance of their duties.

ITEM 6. Amend rule 571—61.6(461A) by adding the following new subrule:

**61.6(10) Wapsipinicon State Park, Jones County.** The recreation area portion of the park is closed to the public from 10:30 p.m. to 4 a.m.

## NATURAL RESOURCE COMMISSION[571](cont'd)

ITEM 7. Amend subrule 61.22(16) as follows:

**61.22(16)** Viking Lake State Park Recreation Area, Montgomery County. The embankment of the dam from the parking area located southeast of the dam area northwesterly across the dam structure to its intersection with the natural shoreline of the lake.

[Filed 8/21/98, effective 10/14/98]

[Published 9/9/98]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 9/9/98.

**ARC 8321A****PROFESSIONAL LICENSURE  
DIVISION[645]****BOARD OF BEHAVIORAL SCIENCE EXAMINERS****Adopted and Filed**

Pursuant to the authority of Iowa Code section 147.76, the Board of Behavioral Science Examiners hereby amends Chapter 30, "Licensure of Marital and Family Therapists and Mental Health Counselors," and Chapter 31, "Continuing Education and Disciplinary Process," Iowa Administrative Code.

These amendments specify the requirements for mandatory licensure, limit the time applications will be kept on file, change the continuing education compliance period to cover the same time as the renewal compliance period, clarify the requirements for reinstatement of a lapsed license, and establish a fee for reinstatement of a lapsed license.

Notice of Intended Action was published in the Iowa Administrative Bulletin on July 15, 1998, as **ARC 8155A**. A public hearing was held on August 4, 1998, from 8 to 10 a.m. in the Fourth Floor Conference Room, Iowa Department of Public Health, Lucas State Office Building, Des Moines, Iowa 50319-0075. Public comment was received from Dr. Harvey Joanning. The adopted amendments are unchanged from those published under Notice of Intended Action.

The amendments were adopted by the Board of Behavioral Science Examiners on August 21, 1998.

These amendments will become effective October 14, 1998.

These amendments are intended to implement Iowa Code chapters 154D and 272C.

EDITOR'S NOTE: Pursuant to recommendation of the Administrative Rules Review Committee published in the Iowa Administrative Bulletin, September 10, 1986, the text of these rules [30.1 to 30.6, 30.8 to 30.10, 31.1(3), 31.4(1), 31.8(4)] is being omitted. These rules are identical to those published under Notice as **ARC 8155A**, IAB 7/15/98.

[Filed 8/21/98, effective 10/14/98]

[Published 9/9/98]

[For replacement pages for IAC, see IAC Supplement 9/9/98.]

**ARC 8297A****PROFESSIONAL LICENSURE  
DIVISION[645]****BOARD OF MORTUARY SCIENCE EXAMINERS****Adopted and Filed**

Pursuant to the authority of Iowa Code section 147.76, the Board of Mortuary Science Examiners hereby amends Chapter 100, "Funeral Directors," and Chapter 101, "Board of Mortuary Science Examiners," Iowa Administrative Code.

The amendments revise licensing, renewal and continuing education requirements. Fees are established or adjusted for establishment renewals, returned checks, and reinstatement of a funeral director's license. The date of renewing a license is changed to the licensee's birth month.

Notice of Intended Action was published in the Iowa Administrative Bulletin on May 6, 1998, as **ARC 7988A**. A public hearing was held on May 27, 1998, from 3:00 to 4:30 p.m., in the Fourth Floor Conference Room, Side 1, Lucas State Office Building, Des Moines, Iowa. A letter was received from the Iowa Funeral Directors Association.

The following changes have been made from the Notice of Intended Action:

- In Item 3, paragraph 100.11(4)"b," the phrase "to another" has been stricken and the paragraph will now read as follows:

If the authorizing person is not available to execute the cremation authorization form in person, the authorizing person may execute the authorization form in writing, facsimile transmission, or telegram.

- In Item 41, subrule 101.101(7), the chart which showed the prorating of continuing education has been eliminated. This change enables the licensees to transition to the birth month renewal more easily.

- In Item 43, subrule 101.102(4), last sentence, the phrase "and will be accepted only if approved by the board" has not been adopted and the sentence will now read as follows:

Self-study credits must be accompanied by a certificate of testing and successful completion from the sponsoring organization.

The Board has determined that the amendments will have no impact on small business within the meaning of Iowa Code section 17A.31.

These amendments were adopted by the Board of Mortuary Science Examiners at the August 13, 1998, Board meeting.

These amendments will become effective October 14, 1998.

The amendments are intended to implement Iowa Code chapters 135, 142, 144, 147, 156, and 272C.

The following amendments are adopted.

ITEM 1. Amend subrule 100.9(1) as follows:

**100.9(1)** Funeral establishment or cremation establishment license, or both. Any person or any corporation, partnership, joint venture, voluntary organization or any other entity doing business in this state may erect, maintain, and operate a funeral establishment or cremation establishment, or both, provided the necessary appliances and facilities for the care, preparation and disposition of human remains are in place. An establishment license must be obtained and maintained. *The establishment license is not transferable.*

## PROFESSIONAL LICENSURE DIVISION[645](cont'd)

ITEM 2. Amend subrule 100.10(3) as follows:

**100.10(3)** Renewal fees shall be received by the board on or before the end of the last month of the renewal period. Whenever renewal fees are not received as specified, the license lapses. In addition thereto a penalty fee of \$50 shall be assessed. ~~\$5 shall be paid for each and every day the establishment remains delinquent. Delinquent days will be based on the postmark on the renewal envelope.~~

*A licensee who allows an establishment license to lapse by failing to renew it within 60 days of renewal date may apply for reinstatement as follows:*

1. *Submit a completed application for reinstatement of a license for an establishment.*
2. *Pay the renewal fee(s), penalty fee(s) and reinstatement fee.*

ITEM 3. Amend paragraph 100.11(4)"b" as follows:

b. If the authorizing person is not available to execute the cremation authorization form in person, ~~that person the authorizing person may execute that authority the authorization form to another~~ in writing, facsimile transmission, or telegram.

ITEM 4. Amend paragraph 100.11(5)"b" as follows:

b. No crematory shall cremate human remains when it has actual knowledge that the human remains contain a pacemaker, ~~have been subjected to nuclear therapy,~~ or have any other implants or materials which will present a health hazard to those performing the cremation and processing and pulverizing the cremated remains.

ITEM 5. Amend paragraph 100.11(5)"f" as follows:

f. Under no circumstances shall an alternative container or casket be opened at the cremation establishment ~~except for verification to verify identity, to facilitate proper cremation, or to confirm that no health hazard implants or materials are present.~~

ITEM 6. Amend paragraphs 101.1(3)"a" and 101.1(3)"b" as follows:

a. A minimum of 60 semester hours as indicated on the transcript ~~in from~~ a regionally accredited college or university with a minimum of a 2.0 or "C" grade point average. *The 60 semester hours shall not include any technical mortuary science courses;* and

b. A course in mortuary science from a school accredited by the American Board of Funeral Service Education.

~~The 60 semester hours shall not include any technical or vocational mortuary science courses.~~

ITEM 7. Amend rule 645—101.2(147,156), catchwords, and subrules 101.2(1) and 101.2(2) as follows:

**645—101.2(147,156) Examinations. Requirements for licensure.**

**101.2(1)** All applications for ~~examination licensure~~ must be made upon the official forms supplied by the Department of Public Health, Lucas Building, Des Moines, Iowa 50319-0075.

**101.2(2)** These completed applications shall be filed with the department of public health, together with satisfactory evidence of completion of the educational requirements. The ~~examination~~ application fee must be enclosed with the application, and the fee and application must be filed with the department of public health before beginning the internship.

ITEM 8. Rescind and reserve subrule 101.2(4).

ITEM 9. Amend subrule 101.2(5), introductory paragraph and paragraphs "a" and "b," as follows:

**101.2(5)** ~~The embalming and funeral directing examination shall consist of three sections.~~

a. The board of mortuary science examiners shall accept a certificate of examination issued by the *National International Conference of Funeral Service Examining Boards, Inc.* indicating a passing score for the ~~written and oral sections of on~~ the examination as prescribed at Iowa Code sections 156.4(4) and 156.13.

b. Applicants will be required to pass an examination covering the *Iowa law and rules* for mortuary science ~~board rules and state laws~~ prior to being licensed in Iowa. A 75 percent score shall be required for passing of this examination.

ITEM 10. Rescind paragraph 101.2(5)"c."

ITEM 11. Amend subrule 101.2(10) as follows:

**101.2(10)** An applicant detected seeking or giving help during the hours of examination will be dismissed and the applicant's papers canceled, but the applicant will be entitled to return for examination ~~within 14 after 12 months from the examination date.~~

ITEM 12. Rescind subrule 101.2(11) and adopt the following new subrule in lieu thereof:

**101.2(11)** Applications for licensure shall be retained by the board office for two years from the date the application was received. To keep the application active beyond two years, the applicant must submit a written request to the board 60 days prior to expiration.

ITEM 13. Adopt new subrule 101.2(12) as follows:

**101.2(12)** License renewal. Beginning July 1, 1999, a license to practice as a funeral director shall expire every two years on the fifteenth day of the licensee's birth month. Continuing education requirements shall be completed within the same renewal period for each license holder. An application and a continuing education report form for renewal of license to practice as a funeral director shall be mailed to the licensee at least 60 days prior to the expiration of the license. Failure to receive the renewal application shall not relieve the license holder of the obligation to pay biennial renewal fees on or before the renewal date.

ITEM 14. Adopt new subrule 101.2(13) as follows:

**101.2(13)** Beginning July 1, 1999, the continuing education requirements will coincide with the renewal compliance period. The licensee shall submit to the board office 30 days before licensure expiration the application and continuing education report form with the renewal fee as specified in rule 101.98(147). Licensees who were issued their initial license within six months of their birth month will not be required to renew their license until the fifteenth day of their birth month two years later. The new licensee is exempt from meeting the continuing education requirement for the continuing education biennium in which the license was originally issued. Licensees will be required to report 24 hours of continuing education for every renewal thereafter.

ITEM 15. Adopt new subrule 101.2(14) as follows:

**101.2(14)** If the renewal fees are received by the board within 30 days after the renewal expiration date, a penalty fee is charged. If renewal fees are received more than 30 days after the renewal expiration date, the license is lapsed. An application for reinstatement must be filed with the board with the reinstatement fee, the renewal fee and the penalty fee as outlined in rule 101.98(147). Licensees who fail to submit the renewal application and complete documentation

## PROFESSIONAL LICENSURE DIVISION[645](cont'd)

of continuing education hours shall be required to pay a penalty fee and shall be subject to an audit of their continuing education report.

ITEM 16. Adopt new subrule 101.2(15) as follows:

101.2(15) Funeral directors who have not fulfilled the requirements for license renewal or an exemption in the required time frame will have a lapsed license and shall not engage in the practice of mortuary science.

ITEM 17. Amend paragraph 101.3(1)"c" as follows:

c. ~~Before being eligible to take the practical portion of the mortuary science examination, for licensure, the intern must have filed the 25 completed embalming and funeral directing case reports and a 6-month and a 12-month evaluation form with the department of public health.~~

ITEM 18. Amend paragraph 101.3(1)"e" as follows:

e. ~~No licensed funeral director or firm of funeral directors licensed funeral establishment shall have more than one intern funeral director for the first 100 human remains embalmed or funerals conducted per year, and with a maximum of two interns per firm funeral establishment.~~

ITEM 19. Rescind and reserve paragraph 101.3(1)"g."

ITEM 20. Amend paragraph 101.3(2)"a" as follows:

a. ~~Beginning July 1, 1995, to be eligible to serve as a preceptor, such~~ A prospective preceptor must have a valid preceptor certificate. *A preceptor must have completed a training course within five years of accepting an intern. If the certification is older than five years, the director must recertify as specified by the board.*

ITEM 21. Rescind and reserve paragraph 101.3(2)"e."

ITEM 22. Rescind and reserve subparagraph 101.3(2)"f"(1).

ITEM 23. Amend subrule 101.4(1) as follows:

101.4(1) Any person holding a valid license as a funeral director in another state having requirements substantially equal to those in Iowa, may apply for a license to practice in this state by filing an application to practice by endorsement. ~~All applications for endorsement licenses shall be made on the official forms supplied by the Department of Public Health, Lucas Building, Des Moines, Iowa 50319-0075.~~

ITEM 24. Amend subrule 101.4(2) as follows:

101.4(2) ~~All applicants for endorsement licenses will be required to pass the oral and practical examination before this board. The following shall be required:~~

- a. An application fee.
- b. Official verification of license status mailed directly from the endorsing state to the board office.
- c. An official transcript of grades showing the completion of a mortuary science program accredited by the American Board of Funeral Service Education.
- d. Official transcript of grades showing 60 semester hours from a regionally accredited college or university with a minimum of a 2.0 or "C" grade point average.
- e. Successful passage of the Iowa law and rules examination with a score of at least 75 percent.

ITEM 25. Rescind and reserve subrule 101.4(3).

ITEM 26. Amend subrule 101.4(4) as follows:

101.4(4) All applicants for endorsement licenses shall hold original license in good standing obtained upon examination in the state from which the endorsement was received. The examination shall have covered substantially

the same subjects in which an examination is required in Iowa, showing the applicant has attained a ~~grade of at least 70 percent in each subject with a minimum of 75 percent overall average passing grade.~~ *Applicants licensed before 1980 are exempt from showing a passing grade on an examination.* The applicant shall have met the educational requirements of the state of Iowa for a funeral director.

ITEM 27. Amend subrule 101.4(5) as follows:

101.4(5) Each applicant must furnish certified evidence of two or more years of actual practice *as a licensed funeral director* in the state from which the applicant desires to endorse ~~immediately preceding the filing of the application for endorsement and must be vouched for by the board of mortuary science examiners of that state.~~

ITEM 28. Rescind subrule 101.4(7) and adopt the following new subrule in lieu thereof:

101.4(7) Licensees who were issued their initial license by endorsement within six months of their birth month will not be required to renew their license until the fifteenth day of their birth month two years later. The new licensee is exempt from meeting the continuing education requirement for the continuing education biennium in which the license was originally issued.

ITEM 29. Rescind and reserve paragraph 101.5(1)"c."

ITEM 30. Amend paragraph 101.5(1)"d" as follows:

d. Provide evidence of completion of 12 hours of continuing education for each lapsed year, ~~not to exceed 72 hours. Hours need not exceed 72 hours if obtained within the past two years, except when there is a demonstrated deficiency for specialized education as determined by the board through a personal interview.~~

(1) ~~The board may grant an extension of time of up to one year to allow compliance with continuing education requirements for reinstatement.~~

(2) ~~An exemption from the required reporting of continuing education for the purpose of renewal of an active practitioner may be granted by the board in accordance with rule 101.107(272C).~~

ITEM 31. Adopt new paragraph 101.5(1)"e" as follows:

e. Must successfully pass the state law and rules examination with a score of at least 75 percent.

ITEM 32. Rescind and reserve subrule 101.5(2).

ITEM 33. Adopt new rule 645—101.6(147,272C) as follows:

645—101.6(147,272C) Inactive practitioners.

101.6(1) Exemptions. A licensee who is not engaged in the practice of mortuary science 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 of mortuary science in Iowa without first complying with all regulations governing reinstatement after exemption. The application for a certificate of exemption shall be submitted upon the form provided by the board.

101.6(2) Reinstatement of inactive practitioners. Inactive practitioners who have been granted a waiver of compliance with these rules and have obtained a certificate of exemption shall, prior to engaging in the practice of mortuary science in the state of Iowa, satisfy the following requirements for reinstatement:

- a. Submit a written application for reinstatement on a form provided by the board with the reinstatement fee.

PROFESSIONAL LICENSURE DIVISION[645](cont'd)

b. Furnish, in addition to the application, evidence of one of the following:

(1) The full-time practice of mortuary science in another state of the United States or 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

(2) Completion of 24 hours of board-approved continuing education and successful completion of the state law and rules examination administered by the board.

ITEM 34. Rescind and reserve rule 645—101.7(17A).

ITEM 35. Amend subrule 101.98(3) as follows:

101.98(3) Fee for renewal of a funeral director's license for a biennial period is \$100. *Biennial renewal fee for a license to practice mortuary science for the 1999 renewal cycle only is as follows:*

<i>Birth Month</i>	<i>Prorated Fee</i>
July 1999	\$100
August 1999	\$104
September 1999	\$108
October 1999	\$112
November 1999	\$117
December 1999	\$121
January 2000	\$125
February 2000	\$129
March 2000	\$133
April 2000	\$137
May 2000	\$142
June 2000	\$146

ITEM 36. Amend subrule 101.98(9) as follows:

101.98(9) Application fee for reinstatement of a funeral director's license is \$100 \$50. ~~Examination fee for reinstatement of a funeral director's license is \$100.~~

ITEM 37. Adopt new subrules 101.98(12) to 101.98(15) as follows:

101.98(12) Fee for returned check for insufficient funds is \$15.

101.98(13) Fee for funeral establishment is \$75.

101.98(14) Fee for three-year renewal of funeral establishment is \$75.

101.98(15) Fee for reinstatement of a funeral establishment is \$50.

ITEM 38. Rescind subrule 101.101(2) and adopt the following new subrule in lieu thereof:

101.101(2) The continuing education compliance period shall be each biennium beginning the fifteenth day of the licensee's birth month and ending two years later on the fifteenth day of the birth month. Approved continuing education programs attended during this time period shall be used as evidence of fulfilling continuing education requirements.

ITEM 39. Amend subrule 101.101(4) as follows:

101.101(4) Carryover credit of continuing education hours will not be permitted. *Continuing education credit will only be allowed once for the same course in the renewal cycle.*

ITEM 40. Rescind subrule 101.101(6) and adopt the following new subrule in lieu thereof:

101.101(6) When an initial license is issued via examination, the new licensee is exempt from meeting the continuing education requirement for the continuing education biennium in which the license was originally issued.

ITEM 41. Adopt new subrule 101.101(7) as follows:

101.101(7) For the 1999 renewal cycle only, 30 hours of continuing education will be due. Continuing education hours will return to 24 hours each biennium at the end of this prorated compliance period.

ITEM 42. Amend subrule 101.102(2) as follows:

101.102(2) It pertains to common subjects or other subject matters which integrally relate to the practice of mortuary science; *The course shall fall into one of the categories outlined below, and the course shall be applicable for funeral service practitioners. These categories are consistent with those recommended by the American Board of Funeral Service Education. The following categories are accepted:*

a. *Public health and technical: chemistry, microbiology and public health, anatomy, pathology, restorative art, arterial and cavity embalming.*

b. *Business management: accounting, funeral home management and merchandising, computer application, funeral directing, small business management.*

c. *Social sciences/humanities: psychology of grief, counseling, sociology of funeral service, history of funeral service, communication skills, philosophy.*

d. *Legal, ethical, regulatory: mortuary law, business law, ethics, federal trade commission, OSHA, ADA, EPA, preneed regulation, social services, veterans affairs benefits, insurance, state and county burial benefits, legislative concerns; and*

ITEM 43. Amend subrule 101.102(4) as follows:

101.102(4) Except as may be allowed pursuant to rule 645—101.107(272C), ~~no~~ a licensee ~~shall~~ *may* receive credit ~~exceeding 10 percent of~~ for the total biennium required continuing education hours in the form of self-study, including television viewing, *Internet*, video- or sound-recorded programs, or correspondence work, or by other similar means as authorized by the board. *Self-study credits must be accompanied by a certificate of testing and successful completion from the sponsoring organization.*

ITEM 44. Adopt new subrules 101.102(5) and 101.102(6) as follows:

101.102(5) Successfully completed college courses that fall into the general categories delineated in 101.102(2) shall be accepted.

1. One semester credit = 10 hours of continuing education credit.

2. One trimester credit = 8 hours of continuing education credit.

3. One quarter credit = 7 hours of continuing education credit.

A course description and an official school transcript indicating successful completion of the course must be provided by the licensee to receive credit for an academic course if continuing education is audited.

101.102(6) Presenters of a structured continuing education program or college course that meets the criteria established in 101.102(2) may receive 1.5 times the number of hours granted the attendees. These hours shall be granted only once per biennium for identical presentations.

ITEM 45. Amend subrule 101.103(2) as follows:

101.103(2) Prior approval of activities. An organization or person other than an accredited sponsor, which desires prior approval of a course, program or other continuing education activity, or who desires to establish accreditation of an activity prior to attendance thereat, shall apply for approval to the board at least ~~60~~ *30* days in advance of the commencement of the activity on a form provided by the board.

## PROFESSIONAL LICENSURE DIVISION[645](cont'd)

The board shall approve or deny the application in writing within 60-30 days of receipt of the application. The application shall state the dates, subjects offered, total hours of instruction, names and qualifications of speakers and other pertinent information.

ITEM 46. Amend rule 645—101.200(272C) by adopting the following new definitions in alphabetical order:

"Crematory" means any person, partnership or corporation that performs cremation and sells funeral goods.

"Funeral establishment" means a place of business as defined by the board devoted to providing any aspect of mortuary science.

ITEM 47. Amend rule 645—101.212(272C), catchwords, as follows:

**645—101.212(272C) Method of discipline: licensed funeral director.**

ITEM 48. Adopt new rules 645—101.213(272C) and 645—101.214(272C) as follows and renumber existing rule 645—101.213(272C) as 645—101.215(272C):

**645—101.213(272C) Method of discipline: licensed funeral establishments and licensed cremation establishments.**

**101.213(1)** The board has authority to impose the following disciplinary sanctions:

1. Refuse to issue or renew a license.
2. Revoke a license.
3. Restrict, cancel or suspend a license.
4. Place a license on probation.
5. Impose a penalty not to exceed \$10,000.
6. Issue a reprimand.

**101.213(2)** The board may impose any of the sanctions if the board finds that the applicant or licensee has done any of the following:

- a. Committed fraud in the procurement of an establishment license.
- b. Been convicted of a felony or a misdemeanor involving moral turpitude, or if the applicant is an association, joint stock company, partnership, or corporation, that a managing officer has been convicted of a felony involving moral turpitude under the laws of this state, another state, or the United States.
- c. Violated Iowa Code chapter 156 or any rule promulgated by the board or that any owner or employee of the establishment has violated Iowa Code chapter 156 or any rules promulgated by the board.
- d. Knowingly aided, assisted, procured, or allowed a person to unlawfully practice mortuary science.
- e. Failed to engage in or ceased to engage in the business for which the license was granted.
- f. Failed to keep and maintain records as required by Iowa Code chapter 156 or rules promulgated by the board.
- g. Knowingly made misleading, deceptive, untrue or fraudulent representations in the funeral practice or engaged in unethical conduct or practice harmful or detrimental to the public. Proof of actual injury need not be established.
- h. Engaged in unethical business practices including false or misleading advertising, falsifying business records or failure to disclose the items.
- i. Failed to comply with the requirements of Iowa Code chapter 523A.
- j. Violated any of the regulations promulgated by the Federal Trade Commission.

**645—101.214(272C) Disciplinary proceedings for funeral and cremation establishments.** Disciplinary proceed-

ings regarding the funeral establishment or cremation establishment license shall be initiated and conducted in conformance with Iowa Code chapter 17A and shall be initiated and conducted in accordance with the disciplinary procedures for funeral directors.

[Filed 8/18/98, effective 10/14/98]

[Published 9/9/98]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 9/9/89.

**ARC 8307A**

## REVENUE AND FINANCE DEPARTMENT[701]

### Adopted and Filed

Pursuant to the authority of Iowa Code sections 421.17(19) and 422.68, the Iowa Department of Revenue and Finance hereby adopts amendments to Chapter 50, "Apportionment of Income for Resident Shareholders of S Corporations," Iowa Administrative Code.

Notice of Intended Action was published in IAB, Volume XXI, Number 2, on July 15, 1998, page 125, as **ARC 8167A**.

Item 1 amends rule 701—50.5(422) to remove references to line numbers on the 1996 federal individual income tax return.

Item 2 amends rule 701—50.7(422) to remove references to value-added S corporations which are no longer needed.

These amendments are identical to those published under Notice of Intended Action.

These amendments will become effective October 14, 1998, after filing with the Administrative Rules Coordinator and publication in the Iowa Administrative Bulletin.

These amendments are intended to implement Iowa Code section 422.8.

The following amendments are adopted.

ITEM 1. Amend rule 701—50.5(422) to read as follows:

**701—50.5(422) Computation of federal tax on S corporation income.** The amount of federal income tax related to the items of income, losses, and expenses from an S corporation is to be computed by dividing the sum of the items of income, losses, and expenses by federal adjusted gross income, and the result multiplied times the sum of the federal income tax ~~line 38~~ and the federal alternative minimum tax ~~line 46, of the 1996 federal individual income tax return or the appropriate lines from the current year's return.~~ This resulting tax figure is to be reduced by the *nonrefundable federal tax credits* ~~on lines 39 through 42 of the federal individual income tax return or the appropriate lines from the current year's return~~ relating to the S corporation income which are a reduction in tax rather than a payment of tax. A noninclusive list of credits that are deemed to be a payment of tax are backup withholding on interest, dividends and other types of income, and credit for motor vehicle fuel taxes.

This rule is intended to implement Iowa Code section 422.8, subsection 2.

ITEM 2. Amend rule 701—50.7(422) to read as follows:

**701—50.7(422) Credit for taxes paid to another state.** If a taxpayer ~~takes elects to take~~ advantage of the apportionment provisions for a resident shareholder of a ~~value-added an S~~

## REVENUE AND FINANCE DEPARTMENT[701](cont'd)

corporation, then the taxpayer may not take a credit against Iowa income tax for income taxes or taxes measured by income paid to another state or foreign country on the value-added S corporation income.

This rule is intended to implement Iowa Code section 422.8 as amended by 1996 Iowa Acts, chapter 1197.

[Filed 8/20/98, effective 10/14/98]

[Published 9/9/98]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 9/9/98.

## ARC §299A

WORKFORCE DEVELOPMENT  
BOARD/SERVICES DIVISION[§77]

## Adopted and Filed

Pursuant to the authority of Iowa Code sections 84A.1B(9) and 96.11, the Department of Workforce Development adopts Chapter 4, "Coordinating Service Provider," Iowa Administrative Code.

Notice of Intended Action was published in the Iowa Administrative Bulletin as ARC §161A on July 15, 1998. These rules were simultaneously Adopted and Filed Emergency as ARC §162A.

Changes to the Notice of Intended Action are as follows: The definition of "Local elected official" has been added to rule 4.2(84A,84B) to ensure consistency of terms with the Job Training Partnership Act program. Rule 4.7(84A,84B), numbered paragraph "3," was deleted. Discussions are still in progress with the Attorney General's Office on the correct way to handle leases for the Department. The changes were based upon comments from both the public and Department staff.

The new chapter provides guidance to local workforce development service providers, regional advisory boards and other interested parties on the formation of a coordinating service provider in each workforce development region, its function, and the services provided by workforce development centers.

The Workforce Development Board adopted the new chapter on August 19, 1998.

These rules will become effective on October 14, 1998, at which time the Adopted and Filed Emergency rules are hereby rescinded.

These rules are intended to implement Iowa Code section 84A.5(8) and chapter 84B.

The following new chapter is adopted.

CHAPTER 4  
COORDINATING SERVICE PROVIDER

**§77—4.1(84A,84B) Purpose.** A coordinating service provider will be established in each region to manage the workforce development centers, design products and services, integrate them into a seamless delivery system, and accept responsibility for the performance of the workforce development system.

**§77—4.2(84A,84B) Definitions.**

"Coordinating service provider" means the entity that will be responsible for ensuring that all workforce development services are delivered throughout the region.

"Department" means the department of workforce development.

"JTPA grantee" means any organization, agency, or unit of government that is designated by the private industry council to receive and administer Job Training Partnership Act funds within a region.

"Local elected official" means an official as defined in 877—Chapter 12, Iowa Administrative Code.

"Participating provider" means a member organization of the coordinating service provider that is not the department of workforce development or Job Training Partnership Act grantee.

"Regional advisory board" means an advisory board as defined in 877—Chapter 6, Iowa Administrative Code.

"Service provider" means an agency or organization in a region that provides direct services to customers and receives funding directly from the department of workforce development. The coordinating service provider is also a service provider.

"Vendor" means an agency or organization in a region that provides direct services to customers and receives funding from the coordinating service provider.

**§77—4.3(84A,84B) Regional advisory boards.** The regional advisory board in each region initiates the formation of the coordinating service provider by convening a meeting of all workforce development service providers and other interested parties. Each regional advisory board conducts a regional needs assessment and analysis plan, which the coordinating service provider shall utilize in designing its annual service delivery plan. The regional advisory board approves the 28E agreement that creates the coordinating service provider and the regional customer service plan before they are submitted to the state workforce development board for final approval. The regional advisory board also provides oversight and guidance to the coordinating service provider on service delivery and the performance of the regional system.

**§77—4.4(84A,84B) Membership.** All interested public and private workforce development organizations in the region are encouraged to be members of the coordinating service provider.

**4.4(1) Member requirements.** Each participating provider shall:

a. Be a corporation duly organized, validly existing and in good standing under the laws of the state of Iowa or another state and have the full power and authority to carry on its business in Iowa as now conducted;

b. Demonstrate, to the satisfaction of the department, that it has sufficient funds to participate in the coordinating service provider and to satisfy potential liabilities arising from its participation in the agreement;

c. Integrate products and services agreed to be offered through the region's workforce development system;

d. Use and share customer information through the department's integrated customer service system;

e. Accept financial responsibility and liability for its actions related to financial and audit matters, personal injury, property damage, performance outcomes, employment matters, and all other matters arising out of its respective performance in the agreement; and

f. Actively participate in the management of the delivery of workforce development services.

**4.4(2) Additional members.** After the original formation of the coordinating service provider, organizations wishing to join the coordinating service provider and meeting the eligibility criteria may do so with the approval of the coordinat-



## WORKFORCE DEVELOPMENT BOARD/SERVICES DIVISION[877](cont'd)

ing service provider and regional advisory board on July 1 of each year.

**4.4(3) Member contributions.** Each member organization is expected to contribute resources to the regional workforce development system (for example, funds, staff, equipment or office space).

**877—4.5(84A,84B) 28E agreement.** The coordinating service provider will be formed through the execution of a 28E agreement. The format of the 28E agreement shall be provided by the department, must meet the requirements of Iowa Code chapter 28E, and be approved by the attorney general's office. The 28E agreement shall also be approved by the regional advisory board and the state workforce development board before final execution. The fully executed 28E agreement will be filed by the department with the county recorder in Polk County and with the secretary of state.

**877—4.6(84A,84B) Responsibilities.** The coordinating service provider is responsible for:

1. Developing a budget and approving the expenditure of funds received by the fiscal agent on behalf of the coordinating service provider.
2. Coordinating the delivery of workforce development services, the design and implementation of integrated products and services, and the management of the workforce development center system.
3. Utilizing the department's integrated customer service system.
4. Marketing and maintaining the identity of the regional workforce development center system.
5. Developing and implementing a regional workforce development customer service plan based upon the results of the regional assessment and analysis, product and service priorities established by the department and the regional advisory board, and developing and implementing a service redesign process.
6. Deciding how best to deliver its products and services and allocating available funds for the delivery of products and services subject to all applicable laws and restrictions.
7. Having the authority to enter into contracts necessary to deliver approved products and services subject to all applicable laws and restrictions. Any such contracts must be in a form satisfactory to counsel for the department. The coordinating service provider shall also have authority to purchase personal property subject to applicable law and regulations.
8. Providing reports to the department, the workforce development board, the regional advisory board, local elected officials, and the private industry council as required.

**877—4.7(84A,84B) Fiscal agent.** Each coordinating service provider shall select an entity to serve as the fiscal agent to receive and disburse funds on behalf of the coordinating service provider. If the fiscal agent selected is not a member of the coordinating service provider, a competitive process must be used to select the fiscal agent. In order to be a fiscal agent, an organization must be a legal entity that meets the following criteria annually:

1. Its most recent audit report including a statement of financial position and an operating statement must substantiate the financial capability and viability of the organization; and
2. At the time of entering into a contract with the department, the organization has a successful preaward survey completed by the state auditor's office or has a successful preaward survey on file with the state auditor's office. Community colleges and political subdivisions of the state of

Iowa are exempt from this requirement. In accordance with the state workforce development board's authority to review grants and contracts, an organization shall not be denied a contract if the state auditor is not timely in completing the preaward survey.

**877—4.8(84A,84B) Workforce development centers.** The purpose of workforce development centers is to provide a one-stop career center within each region of the state to deliver an integrated network of information resources and workforce development services to job seekers, businesses, employees, students, schools and colleges, and the public at large.

**4.8(1) Core services.** The following services shall be provided in each workforce development center in the state:

1. Individual career and employment consulting.
2. Employment readiness training.
3. Occupational skill development.
4. Basic skills development.
5. Individual income and support services.
6. Business employment consulting.
7. Employment networking and placement.
8. Labor market information services.
9. Special assistance with plant closings and layoffs.
10. Community workforce development consulting.

**4.8(2) Optional services.** Other services may be offered in a workforce development center by the coordinating service provider based upon needs identified by each regional advisory board.

**4.8(3) Satellite centers.** In addition to a full-service workforce development center in each region, full-time or part-time satellite offices may be established to provide ease of customer access.

**4.8(4) Electronic access.** Workforce development services may be accessed electronically via the Internet and other means.

**4.8(5) Service coverage.** Every county in each region must have access to services either through electronic means or through a satellite office or workforce development center.

**4.8(6) Accessibility.** All locations must meet the requirements of the Americans with Disabilities Act. All locations are also encouraged to provide office hours which meet customers' needs for accessibility.

**4.8(7) Other service providers.** Other public and private workforce development vendors are encouraged, but not required, to locate within the workforce development centers to expand services available to the public. Organizations locating within the centers will be required to share the cost of the lease and maintenance of the building and their share of actual secretarial and other required support costs.

**4.8(8) Training assistance.** Training assistance shall not be provided in occupations for which there is a current oversupply of trained persons or in subjects which are considered as general life improvement, as compared to educational, job-keeping, job-retention, or skill improvement.

**877—4.9(84A,84B) Performance measures.** The coordinating service provider will be required to meet performance measures issued periodically, but not more than annually, by the department.

**877—4.10(84A,84B) Supervision of department staff.** If a member organization of the coordinating service provider is responsible for the supervision of department staff within the region, the supervision must be in accordance with department personnel policies, state collective bargaining contract provisions, and the administrative rules of the depart-

## WORKFORCE DEVELOPMENT BOARD/SERVICES DIVISION[877](cont'd)

ment of personnel. In addition, the member organization and the department shall enter into a separate 28E agreement specifically detailing the responsibilities of the supervision of department staff.

**§77—4.11(§4A,§4B) Rules and regulations.** The coordinating service provider shall comply with federal and state laws, regulations, rules, and policies for the Job Training Partnership Act programs, Wagner-Peyser programs, veterans services programs, unemployment insurance programs, food stamps employment and training program, PROMISE JOBS, Iowa welfare-to-work program, the strategic workforce development fund, and other programs deemed appropriate and contained in the coordinating service provider guide.

**§77—4.12(§4A,§4B) Contract.** The department shall issue a contract to the fiscal agent authorized by each coordinating service provider in the provider's 28E agreement. The contract is a financial contract and is contingent upon the annual receipt of federal and state appropriations. The contract shall be modified each year to reflect changes in budget, performance and customer satisfaction measures and other federal and state requirements.

**§77—4.13(§4A,§4B) Vendors.** Organizations which are not a part of the coordinating service provider but receive funding for services from the coordinating service provider shall be selected through a procurement process. In most cases, a competitive bidding process shall be required, but, when appropriate, sole source selection is allowable. Examples of allowable sole source selection include, but are not limited to, procuring on-the-job training providers and classroom training courses for a single participant.

**§77—4.14(§4A,§4B) Incentives and sanctions.** If the coordinating service provider meets all of its performance outcome requirements and a required level of customer satisfaction, incentives consistent with federal and state laws and regulations could be given. In the event the coordinating service provider does not meet performance outcome requirements, the department will assist the coordinating service provider to improve its performance. If a coordinating service provider does not meet performance outcome requirements for two consecutive years, a new coordinating service provider shall be selected using a competitive process.

**§77—4.15(§4A,§4B) Planning process.** The planning process should be conducted to allow opportunity for employers, labor organizations, communities, community-based organizations and the public to provide input into the plan. At a minimum, one public hearing shall be conducted and a public notice of the planning process issued no later than ten days prior to the public hearing.

**4.15(1) Public notice.** The public notice describes the region's planning process, location of where and how the draft and final regional plan may be obtained, and how to provide input into the planning process. The notice also includes a federal funds contribution statement, including the percentage of total cost of programs which will be financed with federal funds, dollar amounts of federal funds for each program, and the percentage and dollar amounts of the total cost of each program that will be financed from nongovernmental sources.

**4.15(2) Legislative notice.** Ten days prior to the submittal of the plan to the regional advisory board and local elected officials for review and approval, the proposed plan shall be made available to each house of the state legislature. Copies should be sent to the Secretary of the Senate, State Capitol,

Des Moines, Iowa 50319, and the Chief Clerk of the House, State Capitol, Des Moines, Iowa 50319.

**4.15(3) Education notice.** Ten days prior to the submittal of the plan to the regional advisory board and local elected officials for review and approval, the proposed plan shall be made available to the primary area education agency of the region, the primary community college, and the local vocational area planning council.

**4.15(4) Labor notice.** Ten days prior to the submittal of the plan to the regional advisory board and local elected officials for review and approval, the proposed plan shall be made available to local labor unions and local labor-management committees.

**4.15(5) Final plan.** The final plan shall be submitted to the regional advisory board and local elected officials for review and approval. After their joint approval, the plan shall be submitted to the department by June 1 of each year for review and approval by the state workforce development board. If the regional advisory board and local elected officials are unable to agree on the approval of the plan, the department will facilitate a process for agreement to be reached locally.

**§77—4.16 to 4.25 Reserved.**

These rules are intended to implement Iowa Code section 84A.5(8) and chapter 84B.

[Filed 8/19/98, effective 10/14/98]

[Published 9/9/98]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 9/9/98.

ARC §300A

## WORKFORCE DEVELOPMENT BOARD/SERVICES DIVISION[877]

Adopted and Filed

Pursuant to the authority of Iowa Code sections 84A.1B(9) and 96.11, the Department of Workforce Development adopts amendments to Chapter 10, "Youth Affairs," Iowa Administrative Code.

Notice of Intended Action was published in the Iowa Administrative Bulletin as ARC §163A on July 15, 1998. These amendments were simultaneously Adopted and Filed Emergency as ARC §164A.

Subrule 10.3(2) has been changed from the Notice to allow the flexibility of selecting participating providers for the In-School Component from providers from previous years or members of the region's coordinating service providers. This will ensure that the In-School Component will be able to provide service to eligible youth when school starts in late August.

The amendments provide for higher local matching contributions required in 1998 Iowa Acts, Senate File 2296; change the percent of funds that must be spent for youth wages and fringe benefits; change the authority for the selection of sponsoring agencies from the Department of Workforce Development to the 15 regional advisory boards; and make other minor technical changes.

The Workforce Development Board adopted the amendments on August 19, 1998.

These amendments will become effective on October 14, 1998, at which time the Adopted and Filed Emergency amendments are hereby rescinded.

## WORKFORCE DEVELOPMENT BOARD/SERVICES DIVISION[877](cont'd)

The amendments are intended to implement Iowa Code section 84A.7 and 1998 Iowa Acts, Senate File 2296, section 9(5).

The following amendments are adopted.

ITEM 1. Amend rule 877—10.1(84A), introductory paragraph, as follows:

~~877—10.1(84A) Iowa conservation corps. The department of workforce development is responsible for administering the Iowa conservation corps. The purpose of the Iowa conservation corps (ICC) is to provide meaningful and productive public service jobs for the young, the unemployed, and the handicapped, and the elderly.~~

ITEM 2. Amend subrule 10.1(1) as follows:

~~10.1(1) Components. The Iowa conservation corps consists of four three program components: an in-school public service employment program for disadvantaged and handicapped youth; a summer employment program for youth from all social and economic classifications; a year-round volunteer program; and a program for unemployed young adults.~~

ITEM 3. Amend subrule 10.2(2) as follows:

~~10.2(2) Participating agencies. Nonprofit private and public agencies will be chosen to operate summer employment programs through a request for proposal process. For fiscal year 1999, regional advisory boards have the option of selecting participating agencies from the agencies that have been participating agencies of this component from previous fiscal years using sole source procurement procedures. Sole source procurement will ensure the timely implementation of the program during the summer of 1998. The request for proposal, application form, and selection criteria are available upon request in writing or orally from the Department of Workforce Development, 150 Des Moines Street, Des Moines, Iowa 50309. Selection criteria for participating agencies will follow 10.2(3). Each participating agency is required to provide 35 percent of its total project costs as the local matching requirement. Of the 35 percent, no more than 10 percent may be in-kind services. The remaining 25 percent shall be in the form of cash.~~

ITEM 4. Amend subrule 10.2(3) as follows:

~~10.2(3) Selection system. Before applications are rated for funding, the department of workforce development will review the applications for the following five mandatory items:~~

- ~~a. Thirty-five percent of the total project costs shall be provided from local sources with a minimum of 25 percent cash and a maximum of 10 percent in-kind services;~~
- ~~b. Proposed objectives shall be related to the goals of the summer component of the Iowa Conservation Corps;~~
- ~~c. An environmental awareness component is included in the proposed program;~~
- ~~d. A health and safety plan for staff and participants is outlined;~~
- ~~e. The description of proposed work projects demonstrates the applicant's understanding of the program's goals. Deletion of any one of the five items will automatically disqualify the application from consideration.~~

~~After the applications are screened for the five mandatory items, three persons designated by the director of the department of workforce development will independently score each application using a 100-point system. The three scores will then be averaged and the applications ranked from highest to lowest average score. The applications receiving the highest scores will be awarded contracts for a summer pro-~~

~~gram of the Iowa conservation corps. A maximum of 25 points will be given for budget factors (includes, for example, accuracy of budget calculations, budget detail provided, allowability of costs, firm commitments of local match); 50 points for program design factors (includes, for example, variety and quality of work projects, quality of environmental program, comprehensiveness of health and safety program, equitability and fairness of recruiting and selection system, completeness of responses); and 25 points for training and education; degree to which the proposal provides enrollees with work skills, job retention skills, job search techniques and work ethics. Each regional advisory board shall develop a regional request for proposal (RFP), including at a minimum the RFP selection criteria, work projects and environmental awareness activities to be conducted, health and safety plan, staff roles and responsibilities, and a detailed budget. The RFP will be widely distributed throughout the region to potential participating agencies.~~

ITEM 5. Amend subrule 10.2(6) as follows:

~~10.2(6) Local contribution. Thirty-five~~ Fifty percent of the total project cost shall be provided from local sources. Up to a maximum of ~~40~~ 25 percent of the total project costs may be in the form of in-kind services.

ITEM 6. Amend subrule ~~10.2(7)~~, paragraph "h," as follows:

~~h. All sponsoring agencies are required to conduct an audit performed by a certified public accountant within 90 days following the termination date of the contract.~~

~~If an agency conducts an agencywide audit in accordance with the federal OMB Circular A-128 A-133, the audit shall be due within 90 days of the end of the agency's fiscal year. In the case of agencies utilizing the state auditor, the audit will be required 30 days after the state auditor issues the audit report.~~

ITEM 7. Amend subrule ~~10.2(8)~~, paragraph "a," as follows:

~~a. Enrollee wages based on the minimum wage for an average of 32 hours per week. Youth leaders may be paid an additional 25 cents per hour. A minimum of 55~~ 85 percent of the ~~budget state funds awarded~~ shall be allocated to enrollee wages and benefits.

ITEM 8. Rescind and reserve subrule 10.2(9).

ITEM 9. Amend subrule 10.2(10) as follows:

~~10.2(10) Program reporting. Sponsoring agencies shall submit monthly financial reports and a final performance report as required by the department and the regional advisory board. The format and due dates of the reports shall be specified by the department of workforce development. All contractors shall report the amount of grant funds expended for wages and fringe benefits for all minority youth employed.~~

ITEM 10. Amend subrule 10.3(2) as follows:

~~10.3(2) Participating agencies. Nonprofit private and public agencies will be chosen to operate in-school programs through a request for proposal process. For fiscal year 1999, regional advisory boards have the option of selecting participating agencies from the agencies that have been participating agencies of this component from previous fiscal years or a member of the region's coordinating service provider using sole source procurement procedures. Sole source procurement will ensure the timely implementation of the program during the fall of 1998. The request for proposal, application form and selection criteria are available upon request in writing or orally from the Department of Workforce~~

## WORKFORCE DEVELOPMENT BOARD/SERVICES DIVISION[877](cont'd)

Development, 150 Des Moines Street, Des Moines, Iowa 50309. Selection criteria for participating agencies are specified in 10.3(3). Applicant agencies may apply to serve youth in a school district, a county, a planning area as designated in 10.3(11), or a combination of counties.

ITEM 11. Amend subrule 10.3(3) as follows:

**10.3(3)** Selection system. Only applicants who meet the program procedures and requirements, as found in the request for proposal package, will be funded. In order to be considered for funding, each proposal shall satisfy the following four items:

a. Thirty-five percent of the total project costs shall be provided from local sources as the agency's match with a minimum of 25 percent cash and a maximum of 10 percent in-kind services;

b. Proposed objectives shall be related to the goals of the in-school component of the Iowa conservation corps;

c. Proposed project shall include work experience, support services and project administration components;

d. The description of the proposed job slots will demonstrate the applicant's understanding of the program goals.

After the applications are screened for the four mandatory items, three persons designated by the director of the workforce development department shall independently score each application using a 100-point system. The three scores will then be averaged and the applications ranked from highest to lowest average score for each school district, county or area served. Contracts for each school district, county, counties or planning areas will be awarded to the applicant agencies scoring the highest point average. A maximum of 25 points will be given for budget factors (includes, for example, accuracy of budget calculations, budget detail provided, allowability of costs, firm commitments of local match); 50 points for program design factors (includes, for example, variety and quality of work projects, quality of support services program, comprehensiveness of program, completeness of responses); and 25 points for training and education; degree to which enrollees are provided with work skills, job retention skills, job search techniques, and work ethics. Each regional advisory board shall develop a regional request for proposal (RFP), including at a minimum the RFP selection criteria, participant work sites, career awareness activities to be conducted, staff roles and responsibilities, and a detailed budget. The RFP will be widely distributed throughout the region to potential participating agencies.

ITEM 12. Amend subrule 10.3(6) as follows:

**10.3(6)** Local contribution. ~~Thirty-five~~ Fifty percent of the total project costs shall be provided from local sources. Up to a maximum of 20 percent of the total project costs may be in the form of in-kind services.

ITEM 13. Amend subrule 10.3(8), paragraph "d," as follows:

d. Notes to the financial statements and comments on questioned costs and accounting systems weaknesses.

If the audit of the contract is included as a part of an annual agencywide audit conducted in accordance with the federal OMB Circular A-128 A-133, the audit will meet the requirements of the subrule. The audit report shall be due within 90 days of the end of the agency's fiscal year, rather than 90 days within the end of the contract. In the case of agencies utilizing the state auditor, the audit will be required 30 days after the state auditor issues the audit report.

ITEM 14. Amend subrule 10.3(9), paragraph "c," as follows:

c. Administrative costs. Administrative costs including those for support services may not exceed 20 percent of the total project budget, unless a higher amount, not to exceed 30 percent, is specifically allowed in writing by the department of workforce development regional advisory board based on adequate justification submitted by the contractor.

Allowable administrative costs are limited to: project management (job development, placement, supervision, recruitment, certification), bookkeeping, payroll activities, travel, consumable supplies, printing, audit, postage, telephone, and rent. Every effort should be made to share costs with other programs and agencies to minimize administrative expenses.

Where extreme circumstances exist and the contractor receives specific written permission from the department of workforce development, interest on commercial bank 30-day loans is allowable.

Travel reimbursements shall not exceed mileage, meals and lodging allowed for state employees.

ITEM 15. Amend subrule 10.3(10) as follows:

**10.3(10)** Funds allocation. One-fourth of the state funds available for operation in the in-school component of the Iowa conservation corps shall be allocated to each county based on that county's share of the total number of dropouts in the state, as shown by the most recent department of education statistics; one-fourth shall be allocated to each county based on that county's share of the total number of youth aged 16 to 21 in the state, as shown by the most current available census data; one-fourth shall be allocated to each county based on that county's share of the total number of persons living at or below the poverty level in the state as most recently reported by the Iowa department of revenue and finance; and the final one-fourth shall be allocated to each county based on that county's share of the state's total number of persons unemployed, as shown by the most recent department of workforce development report. Money allocated to counties in which no in-school component operates shall be reallocated to counties in which in-school projects do operate. Regional advisory boards will determine funds available for this component on an annual basis.

ITEM 16. Rescind and reserve subrule 10.3(11).

ITEM 17. Rescind and reserve rule 877—10.4(84A).

ITEM 18. Amend subrule 10.5(2) as follows:

**10.5(2)** Participating agencies. Nonprofit private and public agencies will be chosen to operate programs through a request for proposal process. The request for proposal, application form, and selection criteria are available upon request from the Department of Workforce Development, 150 Des Moines Street, Des Moines, Iowa 50309. Selection criteria for participating agencies are stated in subrule 10.5(3). Each participating agency is required to provide 35 percent of the total project costs as the local matching requirement. Of the 35 percent, no more than 10 percent may be in-kind services. The remaining 25 percent shall be in the form of cash. For fiscal year 1999, regional advisory boards have the option of selecting participating agencies from the agencies that have been participating agencies of this component from previous fiscal years using sole source procurement procedures. Sole source procurement will ensure the timely implementation of the program during the summer of 1998.

ITEM 19. Amend subrule 10.5(3) as follows:

**10.5(3)** Selection system. Three persons designated by the director of the department of workforce development will independently score each application using a 100-point

WORKFORCE DEVELOPMENT BOARD/SERVICES DIVISION[877](cont'd)

ARC 8301A

WORKFORCE DEVELOPMENT BOARD/SERVICES DIVISION[877]

Adopted and Filed

system. The scores will be averaged and the applications receiving the highest scores will be recommended for funding. The director will review the recommendations and issue a final decision based on various factors, such as, for example, geographical distribution of the projects, and economic impact. A maximum of 25 points will be given for budget factors (includes, for example, accuracy of budget calculations, budget detail provided, allowability of costs, and firm commitments of local match); 50 points for program design factors (includes variety and quality of work projects, comprehensiveness of health and safety program, equitability and fairness of recruiting and selection system, completeness of responses, degree to which the proposal provides corps members with work skills, job retention skills, job search techniques, and work ethics); and 25 points for demonstrated need for the project. Each regional advisory board shall develop a regional request for proposal (RFP), including at a minimum the RFP selection criteria, work projects and environmental awareness activities to be conducted, health and safety plan, staff roles and responsibilities, and a detailed budget. The RFP will be widely distributed throughout the region to potential participating agencies.

Pursuant to the authority of Iowa Code sections 84A.1B(9) and 96.11, the Department of Workforce Development adopts amendments to Chapter 11, "Work Force Investment Program," Iowa Administrative Code.

Notice of Intended Action was published in the Iowa Administrative Bulletin as ARC 8159A on July 15, 1998. These amendments were simultaneously Adopted and Filed Emergency as ARC 8160A.

Subrule 11.3(6) was changed from the Notice to allow the Regional Advisory Boards (RABs) to select project operators from project operators of previous years or a member of the region's coordinating service provider to provide service under this chapter this fiscal year only. The RABs did not feel they had enough time from the passage of the legislation to the beginning of the fiscal year to develop a request for proposal and select new service providers without denying or delaying needed services to current participants.

The amendments provide for a local matching contribution required in 1998 Iowa Acts, Senate File 2296; change the authority for the selection of sponsoring agencies from the Department of Workforce Development to the 15 regional advisory boards; and make other minor technical changes.

The Workforce Development Board adopted the amendments on August 19, 1998.

These amendments will become effective on October 14, 1998, at which time the Adopted and Filed Emergency amendments are hereby rescinded.

These amendments are intended to implement Iowa Code section 84A.8 and 1998 Iowa Acts, Senate File 2296, section 9(5).

The following amendments are adopted.

ITEM 1. Amend subrule 11.3(3) as follows:

11.3(3) Required inclusions in the proposal. ~~DWD, in consultation with the WDB,~~ The regional advisory board will determine the required elements of the proposal which will be published in the request for proposal. Required inclusions may include, but are not limited to: identification of the target group(s) to be served, statement of financial need, signatures of project collaborators verifying coordination and collaboration efforts, proposed budget, description of the program design, goals and expected outcomes, evaluation of performance methods, past performance information, and signature of authorized official.

ITEM 2. Amend subrule 11.3(5) as follows:

11.3(5) Selection process. Selection of projects to be funded will be made by the director of the DWD or the director's designee the regional advisory board after the proposals have been scored and recommended by an a three-person evaluation team appointed by the regional advisory board.

a. Each reviewer on the evaluation team will evaluate each proposal independently for acceptability and will assign a numerical score to each proposal using the review criteria and point values listed in the request for proposal.

b. All reviewers' scores for each proposal will be averaged to obtain the final average score for the proposal.

c. A project must obtain a final average score of at least 70 out of a maximum of 100 points to be considered for funding.

ITEM 20. Amend subrule 10.5(6) as follows:

10.5(6) Local contribution. ~~Thirty-five~~ Fifty percent of the total project cost shall be provided from local sources. Twenty-five percent shall be in the form of cash and 40 25 percent may be in the form of in-kind services directly to the operation of the project.

ITEM 21. Amend subrule 10.5(7), paragraph "g," as follows:

g. All participating agencies are required to conduct an audit performed by a certified public accountant within 90 days following the termination date of the contract. If an agency conducts an agencywide audit in accordance with the federal OMB Circular A-28 A-133, the audit shall be due within 90 days of the end of the agency's fiscal year. In the case of agencies utilizing the state auditor, the audit will be required 30 days after the state auditor issues the audit report.

ITEM 22. Amend subrule 10.5(8), paragraph "a," as follows:

a. Corps members' wages based on the minimum wage for an average of 40 hours per week. ~~A minimum of 55 percent of the budget~~ One hundred percent of state funds awarded shall be allocated to corps members' wages and fringe benefits.

ITEM 23. Rescind and reserve subrule 10.5(9).

ITEM 24. Amend subrule 10.5(10) as follows:

10.5(10) Program reporting. Participating agencies shall submit monthly financial reports and a final performance report as required by the department and the regional advisory board. ~~The format will be provided by the department of workforce development. All contractors shall report the amount of grant funds expended for wages and fringe benefits for all minority youth employed.~~

[Filed 8/19/98, effective 10/14/98]

[Published 9/9/98]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 9/9/98.

## WORKFORCE DEVELOPMENT BOARD/SERVICES DIVISION[877](cont'd)

ITEM 3. Amend subrule 11.3(6) as follows:

**11.3(6)** Continuing projects. ~~DWD~~ *The regional advisory board reserves the right to designate, in consultation with the WDB, the amount of funds available for continuing projects. For fiscal year 1999, regional advisory boards have the option of selecting project operators from the agencies that have operated projects in previous years or a member of the region's coordinating service provider using sole source procurement procedures. Sole source procurement will ensure the timely implementation of the program.*

ITEM 4. Amend rule 877—11.4(84A) as follows:

**877—11.4(84A) Maximum grant amounts.** ~~DWD in consultation with the WDB~~ *The regional advisory board will set maximum grant amounts and publish the limitations in the request for proposal.*

ITEM 5. Rescind and reserve rule **877—11.5(84A)**.

ITEM 6. Amend subrule 11.6(1) as follows:

**11.6(1)** Allowable training activities and support services. The allowable training activities and support services under this program will be determined by ~~DWD in consultation with the WDB~~ *the regional advisory board and published in the request for proposal.*

ITEM 7. Amend rule 877—11.7(84A), introductory paragraph, as follows:

**877—11.7(84A) Eligible participants.** The target groups for this program will be established by ~~DWD in consultation with the WDB~~ *the regional advisory board.* The list of target groups and the definition of each will be published in the request for proposal.

ITEM 8. Amend subrule 11.7(3) as follows:

**11.7(3)** JTPA definition used. The JTPA definitions of the target groups will be used whenever possible. If no JTPA definition exists for a target group, ~~DWD~~ *the regional advisory board will develop the definition in consultation with the WDB and publish it in the request for proposal.*

ITEM 9. Amend rule 877—11.8(84A) as follows:

**877—11.8(84A) Displaced homemaker set-aside.** Funds will be set aside for displaced homemaker projects as prescribed by legislation, or if not prescribed by law, as determined by ~~DWD in consultation with the WDB~~ *the regional advisory board.*

ITEM 10. Amend subrule 11.9(1) as follows:

**11.9(1)** Contracts. Upon selection of a proposal for funding, the DWD will issue a contract *to the fiscal agent of the appropriate coordinating service provider.* These rules and applicable federal and state laws and regulations become a part of the contract by reference.

ITEM 11. Amend rule 877—11.10(84A) as follows:

**877—11.10(84A) Redistribution of funds.** ~~DWD~~ *The regional advisory board reserves the right to recapture and redistribute funds based upon projected expenditures, if it appears that funds will not be expended in accordance with the proposed budget for a project.*

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**ARC 8302A**

**WORKFORCE DEVELOPMENT  
BOARD/SERVICES DIVISION[877]**

**Adopted and Filed**

Pursuant to the authority of Iowa Code sections 84A.1B(9) and 96.11, the Department of Workforce Development adopts Chapter 14, "Iowa Welfare-to-Work Program," Iowa Administrative Code.

Notice of Intended Action was published in the Iowa Administrative Bulletin as **ARC 8165A** on July 15, 1998. These rules were simultaneously Adopted and Filed Emergency as **ARC 8166A**.

Changes from the Notice of Intended Action were the deletion of all references to the regional advisory boards in rules 14.3(84A,PL105-33), 14.4(84A,PL105-33), and 14.8(84A,PL105-33). According to federal rules and regulations for the Welfare-to-Work Program, only private industry councils have the authority to approve and oversee local welfare-to-work plans and program operators.

The new chapter provides guidance to county officials, private industry councils, workforce development program administrators, and welfare recipients on the implementation and operation of the federally authorized Welfare-to-Work Program. The purpose of the program, planning guidelines, programmatic requirements, and eligible services are described.

The Workforce Development Board adopted the new chapter on August 19, 1998.

These rules will become effective on October 14, 1998, at which time the Adopted and Filed Emergency rules are hereby rescinded.

These rules are intended to implement Iowa Code chapter 84A and P.L.105-33.

The following new chapter is adopted.

**CHAPTER 14**

**IOWA WELFARE-TO-WORK PROGRAM**

**877—14.1(84A,PL105-33) Designation of responsibility.** The department of workforce development was designated by the governor as the department responsible for activities and services under the Welfare-to-Work Program authorized by the Balanced Budget Act of 1997 (P.L.105-33).

**877—14.2(84A,PL105-33) Purpose.** The purpose of the Iowa welfare-to-work program is to provide transitional assistance which moves welfare recipients into unsubsidized employment providing good career potential for achieving economic self-sufficiency. In addition, the program is intended to assist the state and local communities to achieve welfare reform goals and to meet the requirements of the Personal Responsibility and Work Opportunity Reconciliation Act (P.L.104-193).

**877—14.3(84A,PL105-33) Definitions.**

"Coordinating service provider" means an organization formed through a 28E agreement to deliver workforce development products and services within a service delivery area.

"Department" means the department of workforce development.

"Private industry council" means a council as defined in 877—Chapter 12, Iowa Administrative Code.

## WORKFORCE DEVELOPMENT BOARD/SERVICES DIVISION[877](cont'd)

"Program operator" means an entity designated by the private industry council to directly receive funds and administer a welfare-to-work program in a service delivery area.

"Service delivery area" means a region within the state designated by the state workforce development board for the purposes of the Job Training Partnership Act.

"Subrecipient" means an entity that receives funds from a program operator to deliver direct client services.

**877—14.4(84A,PL105-33) Private industry council.** In each region that is to receive funding, the private industry council approves a welfare-to-work proposal which designates a local program operator(s) to serve as the grantee to receive and expend welfare-to-work funds. In addition to proposal approval, the private industry council is responsible for the local oversight of the implementation of the welfare-to-work program.

**877—14.5(84A,PL105-33) Certifications.** All program operators must certify, as a condition to receive funding, compliance with the following laws and implementing regulations:

1. Title IV, Part A of the Social Security Act, as amended by the Balanced Budget Act of 1997 (P.L. 105-33).
2. U.S. Department of Labor (DOL) implementing regulations as described in 20 CFR Part 645.
3. DOL Administrative regulations (20 CFR Parts 31, 32 and 34).
4. Age Discrimination Act of 1975 (P.L. 90-202) and DOL implementing regulations.
5. Civil Rights Act of 1964 (P.L. 88-352) and DOL implementing regulations (29 CFR Part 31).
6. Americans with Disabilities Act of 1990 (P.L. 101-336) and Department of Justice implementing regulations (8 CFR 274a).
7. Section 504 of the Rehabilitation Act of 1975 (P.L. 93-651).
8. DOL nonprocurement, debarment, and suspension regulations (49 CFR Part 29).
9. Iowa civil rights Act of 1965, as amended.
10. OMB Circulars on Uniform Administrative Requirements (29 CFR Parts 95 and 97).
11. Fair Labor Standards Act of 1938 as amended (P.L. 95-151) and DOL implementing regulations (29 CFR 570-580).
12. Other relevant regulations as noted in the Iowa welfare-to-work handbook.

**877—14.6(84A,PL105-33) Regional allocation formula.** Eighty-five percent of welfare-to-work funds received by the state shall be allocated to the service delivery areas based upon a formula. The remaining 15 percent shall be retained by the department for competitive projects to help long-term recipients of family investment program (FIP) funds and noncustodial parents enter unsubsidized jobs approved by the state workforce development board; purchases of hardware and software to track program participation; expenditures to integrate the welfare-to-work program into the department's integrated customer service system; and administrative program oversight, including staff training and technical assistance.

The service delivery area formula shall be calculated using the following factors: the percentage of persons in poverty above 7.5 percent in an area; the number of adult recipients of public assistance for 30 months or more in an area; and the number of unemployed persons in an area. The formula must base at least 50 percent of the allocation on the number of persons in poverty.

If an area receives less than \$100,000 under the formula, the state workforce development board has the option to allocate 15 percent of the funds to increase an area's allocation to the \$100,000 threshold or deny funds to the area and use the funds allocated to the area for activities authorized for the 15 percent pool.

**877—14.7(84A,PL105-33) Eligible program operators.** To be designated as a program operator, an organization must be a member of the region's coordinating service provider or be willing to join the region's coordinating service provider.

**877—14.8(84A,PL105-33) Proposal requirements.** Each regional welfare-to-work proposal shall contain the following elements:

1. Designation of a program operator(s) to receive and expend the welfare-to-work funds.
2. Identification of how funds may be targeted to serve specific groups within the eligible population.
3. Description of the types of services to be provided.
4. Description of how program services will be coordinated with the PROMISE JOBS program, the Iowa department of human services, and other regional employment and training activities and support services available in the service delivery area.
5. Description of how the welfare-to-work program will be integrated into the regional workforce development center services.

After appropriate approval by the private industry council, the proposal shall be incorporated into the region's workforce development customer service plan.

The approved proposal must be submitted to the department for review and approval of the state workforce development board. The regional proposals will be the basis of the department's submittal of a state plan for welfare-to-work required by the Department of Labor.

**877—14.9(84A,PL105-33) Matching requirements.** As a condition of receiving welfare-to-work state funds, each program operator must provide an appropriate match in the form of either cash or in-kind services. In-kind services must be necessary expenses related to the program's operation and allowable under state and federal regulations. Specific matching requirements will be issued with the annual planning instructions.

**877—14.10(84A,PL105-33) Service requirements.** At least 70 percent of the grant funds must be spent on individuals who face two of three specific labor market deficiencies and who are long-term welfare recipients; or who face termination from Temporary Assistance for Needy Families (TANF) within 12 months; or who are noncustodial parents of minors whose custodial parents meet these criteria. Labor market deficiencies include a lack of a high school diploma or graduate equivalency degree and low reading or math skills; substance abuse treatment prior to employment; and a poor work history.

Up to 30 percent of grant funds may be spent on individuals who are "recent" TANF recipients or noncustodial parents who have characteristics associated with long-term welfare dependence (for example, being a high school dropout, having experienced a teenage pregnancy, or having a poor work history).

**877—14.11(84A,PL105-33) Eligible activities.** Activities conducted with grant funds must be designed with the idea of moving welfare recipients into work first, then providing employment-based activities to allow them to secure and re-

## WORKFORCE DEVELOPMENT BOARD/SERVICES DIVISION[877](cont'd)

tain unsubsidized employment. The following activities are allowable services using welfare-to-work grant funds.

14.11(1) Job readiness activities may be provided by the program operator or financed through job vouchers or through contracts with public or private providers, including training for individuals starting their own businesses.

14.11(2) Employment activities include community service programs, work experience programs, job creation through public or private sector employment wage subsidies, on-the-job training, and job placement services. Contracts or vouchers for job placement must include a provision that at least one-half of the payment occurs after the individual has been placed in the workforce for six months.

14.11(3) Postemployment services may be provided by the program operator or financed through job vouchers or contracts with subrecipients. Postemployment services include, but are not limited to, basic educational skills training, occupational skills training, English as a second language, and mentoring. These services are only designed for persons who are placed in employment activities, working in subsidized or unsubsidized jobs, self-employed, or participating in a registered apprenticeship program.

14.11(4) Job retention services and support services can be provided to all participants engaged in job readiness and employment activities or in any subsidized or unsubsidized job. Allowable services include, but are not limited to, transportation, substance abuse treatment (not medical treatment), child care assistance, and emergency or short-term housing. These services may be provided by welfare-to-work funds only if the services are not otherwise available through other funding sources, such as PROMISE JOBS, state child care assistance, substance abuse prevention and treatment block grants, or other state or local funds.

14.11(5) Each participant will receive an orientation, assessment, and service agreement after enrollment in the program.

**877—14.12(84A,PL105-33) Grant agreements.** Each program operator will receive a financial agreement for the administration of welfare-to-work grant funds. The service delivery area's welfare-to-work proposal will be incorporated into the agreement.

**877—14.13(84A,PL105-33) Performance standards.** Performance standards for program operators will be issued annually, and progress will be reviewed monthly. At a minimum, the performance standards will include the following:

1. Increase the percentage of family investment program (FIP) participants with earned income.
2. Increase the statewide average wage level of those leaving FIP.
3. Increase the percentage of persons not returning to FIP.
4. Increase the amount of child support paid to children of FIP participants through the participation of noncustodial parents in the welfare-to-work program.

**877—14.14(84A,PL105-33) Grant reporting and compliance review.** Program operators are required to submit a monthly financial report, quarterly progress reports and a final financial and performance report to the department.

Compliance review will be conducted through three types of review: quarterly performance reviews, program compliance reviews, and financial management compliance reviews.

14.14(1) Quarterly performance review. The review includes a review of enrollment activity and demographics of participants, actual expenditures compared to planned expenditures, required match, allowable cost categories, and performance achievement.

14.14(2) Annual compliance review. The review is conducted on site in each service delivery area by a state welfare-to-work coordinator. The comprehensive review includes a review of participant files to confirm participant eligibility, compliance with policies on program activities and services, a review of the management information system, local monitoring activities, compliance with local plans, and a review of local administrative procedures.

14.14(3) Financial management compliance review. The review is conducted on site twice a year by a budget analyst of the department. The review includes all aspects of local financial management, fiscal controls and accountability, adherence to cost limitations and requirements, and appropriateness of local match.

**877—14.15(84A,PL105-33) Program operator sanctions.** Failure to meet performance or financial management standards may result in sanctions. Sanctions are progressive in severity depending on the willfulness, severity or flagrancy of the violation. If all efforts to correct deficiencies fail, the department may seek an alternative program operator(s) for the service delivery area. Sanctions that may be imposed are listed below.

1. Disallowance of costs associated with the particular violation or deficiency and repayment of the disallowed costs.
2. Discontinuation of fund drawdowns until the violation or deficiency has been corrected.
3. Prohibition of the use of certain subrecipients.
4. Revocation of all or any part of the grant agreement affected.

**877—14.16(84A,PL105-33) Financial management.** Program operators must comply with the financial management standards outlined in rule 877—12.13(7B,PL97-300,PL102-367), Iowa Administrative Code.

**877—14.17(84A,PL105-33) Auditing.** Program operators must comply with the auditing standards outlined in rule 877—12.14(7B,PL97-300,PL102-367), Iowa Administrative Code.

**877—14.18(84A,PL105-33) Debt collection procedures.** Program operators must comply with the debt collection procedures outlined in rule 877—12.15(7B,PL97-300,PL102-367), Iowa Administrative Code.

**877—14.19(84A,PL105-33) Complaint procedures.** Program operators must comply with the complaint procedures outlined in rules 877—12.19(7B,PL97-300,PL102-367) to 12.21(7B,PL97-300,PL102-367), Iowa Administrative Code.

These rules are intended to implement Iowa Code chapter 84A and P.L.105-33.

[Filed 8/19/98, effective 10/14/98]

[Published 9/9/98]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 9/9/98.



## ARC 8303A

### WORKFORCE DEVELOPMENT BOARD/SERVICES DIVISION[877]

#### Adopted and Filed

Pursuant to the authority of Iowa Code sections 84A.1B(9) and 96.11, the Department of Workforce Development adopts Chapter 15, "Strategic Workforce Development Fund," Iowa Administrative Code.

Notice of Intended Action was published in the Iowa Administrative Bulletin as **ARC 8157A** on July 15, 1998. These rules were simultaneously Adopted and Filed Emergency as **ARC 8158A**. These rules are identical to those published under the Notice of Intended Action and Adopted and Filed Emergency.

The new chapter provides guidance to the regional advisory boards and other interested parties on the purpose, allowable activities and administrative procedures for the Strategic Workforce Development Fund established by the 1998 Iowa Acts, Senate File 2296, section 9(5).

The Workforce Development Board adopted the new chapter on August 19, 1998.

These rules will become effective on October 14, 1998, at which time the Adopted and Filed Emergency rules are hereby rescinded.

These rules are intended to implement 1998 Iowa Acts, Senate File 2296, section 9(5).

The following new chapter is adopted.

#### CHAPTER 15

#### STRATEGIC WORKFORCE DEVELOPMENT FUND

**877—15.1(77GA,SF2296) Purpose.** The purpose of the strategic workforce development fund is to provide workforce development regions with funding for the development and maintenance of a workforce sufficient in size and skill to meet occupational demands and for workforce development programs, including the Iowa conservation corps, work force investment program, and statewide mentoring program.

**877—15.2(77GA,SF2296) Definitions.**

"Coordinating service provider" means an organization formed through a 28E agreement to deliver workforce development products and services within a workforce development region.

"Department" means the department of workforce development.

"Regional advisory board" means an advisory board as defined in 877—Chapter 6, Iowa Administrative Code.

"Workforce development region" means a region of the state designated by the state workforce development board as required by Iowa Code section 84B.2.

**877—15.3(77GA,SF2296) Regional advisory board.** The regional advisory board approves all projects and grants to be funded from the region's allocation of strategic workforce development funds. Approved projects and grants must relate to the purposes of the strategic workforce development fund and meet a regional workforce development need identified in the regional needs assessment or similar needs assessment conducted by the regional advisory board.

**877—15.4(77GA,SF2296) Regional allocation formula.** Allocation of funds to each region will be based on the population of each region as compared to the state's total population. Funds contracted for eligible activities, but not yet expended at the end of a fiscal year, may be carried forward into the next fiscal year, if nonreversion authority has been granted by the Iowa general assembly.

**877—15.5(77GA,SF2296) Youth requirements.** A portion of the region's funding allocation must be spent on youth programs. The actual percentage and amount will be provided to each region in writing annually and will be based upon the amount designated for this purpose in the department's annual appropriations from the Iowa general assembly.

**877—15.6(77GA,SF2296) Matching requirements.** As a condition of receiving strategic workforce development funds, each region must provide a matching contribution equal to the amount of strategic workforce development funds received.

**877—15.7(77GA,SF2296) Eligible activities.** Activities conducted with grant funds must be related to the purpose of the fund and meet a need identified through the regional needs assessment or similar needs assessment conducted by the regional advisory board. The following activities are allowable services using strategic workforce development funds:

**15.7(1) Youth activities.** All youth activities must be conducted according to the administrative rules contained in 877—Chapter 10, Iowa Administrative Code.

**15.7(2) Work force investment program.** Projects may be conducted which conform to the administrative rules in 877—Chapter 11, Iowa Administrative Code.

**15.7(3) State mentoring program.** Mentoring activities are allowable that provide participants with assistance in transitioning into the workforce.

**15.7(4) Other activities.** Additional activities which relate to the purpose of the fund and meet an identified regional need are allowable.

**877—15.8(77GA,SF2296) Services plan.** All proposed services must be described in the region's annual customer service plan or submitted as an amendment to the customer service plan. The description of each project to be funded shall include the purpose of the project; activities to be accomplished; participants to be served, if any; the service providers and how they were selected; time period of the project; and a detailed budget.

**877—15.9(77GA,SF2296) Grant agreements.** All grant funds will be contracted to each region through the fiscal agent identified by the coordinating service provider. For fiscal year 1999 only, youth grant recipients, approved by the regional advisory boards, will receive a contract for services directly from the department. This will allow for the timely operation of summer programs during the summer of 1998.

**877—15.10(77GA,SF2296) Grant reporting and compliance review.** Fiscal agents are required to submit a monthly financial report detailing fund expenditures. Coordinating service providers shall submit a quarterly progress report to the department detailing progress in accomplishing the goals and objectives of each activity funded with strategic workforce development funds. At the termination of each activity,

**WORKFORCE DEVELOPMENT BOARD/SERVICES DIVISION[877](cont'd)**

a final financial and performance report must be submitted to the department within 45 days of termination.

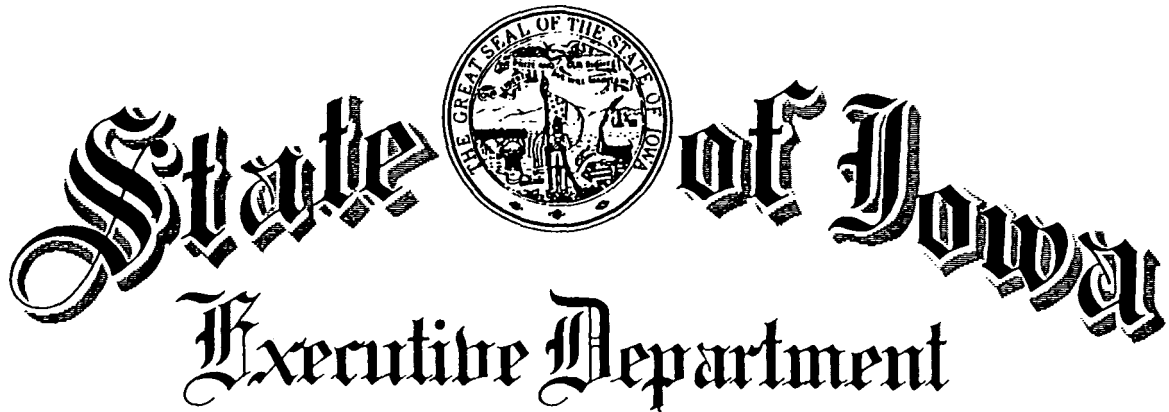
Compliance reviews of strategic workforce development funds will be conducted by the department in conjunction with compliance and financial reviews of the overall operations of the coordinating service provider.

These rules are intended to implement 1998 Iowa Acts, Senate File 2296, section 9(5).

[Filed 8/19/98, effective 10/14/98]

[Published 9/9/98]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 9/9/98.



# State of Iowa

## Executive Department

IN THE NAME AND BY THE AUTHORITY OF THE STATE OF IOWA

### REVISED EXECUTIVE ORDER NUMBER 67

- WHEREAS,** education is Iowa's most fundamental asset for its economic success; and
- WHEREAS,** research shows teacher qualifications, such as licensing examination scores, education and experience, are the single largest influence in student achievement other than home and family factors; and
- WHEREAS,** well-qualified teachers are five times more important than class size when it comes to influencing student achievement; and
- WHEREAS,** nearly one-third of Iowa's teachers are eligible to retire in the next five years; and
- WHEREAS,** more than 30 percent of beginning teachers leave the profession in their first five years; and
- WHEREAS,** there are fewer applications and candidates for administrators for Iowa's schools; and
- WHEREAS,** without change, fewer candidates of higher quality will want to teach; and
- WHEREAS,** there is strong evidence in Iowa of a looming teacher shortage caused by retirement, dissatisfaction, and salary competition from other states; and
- WHEREAS,** education graduates from Iowa colleges and universities are being vigorously recruited by states that offer higher beginning average salaries; and

- WHEREAS,** 70.4 percent of Iowa teachers who leave the profession do so because of dissatisfaction, noncompetitive salary, or career change, compared to the 50.2 percent national average; and
- WHEREAS,** teachers with fewer years of experience teach in rural Iowa schools and student achievement scores in these rural schools are indicating a trend in lower test scores; and
- WHEREAS,** there is nearly a \$12,000 salary differential between teachers in rural schools and their urban counterparts; and
- WHEREAS,** with a competitive job market in Iowa, attracting and retaining teachers in schools is difficult, especially in the areas of science, math and technology, which currently are teacher shortage areas in Iowa and the nation; and
- WHEREAS,** it is in the best interest for the State of Iowa:

To support quality teaching of Iowa's children by preparing, recruiting and retaining effective teachers and to make teaching an increasingly valued profession; to embark on reform efforts for education that allow for innovation and recognize performance; and to create opportunities for educational excellence in the 21<sup>st</sup> Century.

To provide recognition to highly skilled teachers and administrators through the establishment of new models for compensation, including both team and individual incentives.

To recognize and reward teachers and administrators for outstanding leadership, performance, and service.

To encourage and reinforce masterful teaching and leadership.

To provide intensive personal support to teachers and administrators who are experiencing outstanding results in their work with students.

To complement the teacher and administrator assistance programs specified in Chapter 279.14A and 279.14B.

**NOW, THEREFORE,** I, Terry E. Branstad, Governor of the State of Iowa, by the virtue of the authority vested in me by the Laws and Constitution of the State of Iowa, do hereby order that:

The Council for Continuous Improvement in Education is established to facilitate statewide efforts to prepare, recruit, induct, and retain effective education professionals in Iowa's pre-K-12 schools.

1. The Council will initiate the design, development, and evaluation of new concepts to help schools support, assess and compensate these professionals to meet the demand for a quality education workforce for the 21<sup>st</sup> Century.
2. The Council for Continuous Improvement in Education will evaluate and make recommendations to the Governor, the General Assembly, stakeholders and state agencies on new models for teacher compensation, using consulting services and the best research available, to develop models and pilot demonstrations of these models.
3. The Council shall include members appointed by the Governor and will represent teachers, administrators, school board members, parents, legislators, colleges and universities, the business community, and the general public.
4. The Council shall forward its recommendations to the Governor, the General Assembly, the State Board of Education, and the Board of Educational Examiners annually.
5. The Council for Continuous Improvement in Education shall:
  - a. Advise the State Board of Education, the Iowa Board of Regents, and the Board of Educational Examiners on new models of compensation and policies to attract and retain quality, competent new candidates, including:
    - i) Recommendations for the design of a competency-based portfolio assessment program and implementation of demonstration models. Monetary awards will be established for educators who voluntarily participate and who meet objective criteria on recognized set of core teaching standards; and
    - ii) Advising the Department of Education and the Board of Educational Examiners on implementation of the National Board Certification Award in section 256.44; and
    - iii) Advising the Department of Education, the Board of Educational Examiners and the Iowa Board of Regents on issues that relate to implementation of a beginning teachers induction program; and
    - iv) Advising the Iowa Board of Regents on issues that relate to the implementation of a teacher internship program; and

- v) Ongoing review, evaluation and continuous improvement of a competency-based practitioner education program for all teacher and administrator preparation programs in Iowa, building upon the joint task force recommendations of the State Board of Education and Board of Educational Examiners.
- b. Develop recommendations for a performance-based compensation program to provide financial rewards to all employees in individual attendance centers where students show growth in student achievement.
- c. Develop recommendations to the General Assembly for funding programs to study and develop new models for district level educator compensation.
- d. The Council is responsible for establishing a Foundation to secure private-sector funding to implement these initiatives.




IN TESTIMONY WHEREOF, I have hereunto subscribed my name and caused the Great Seal of the State of Iowa to be affixed. Done at Des Moines this 21st day of August in the year of our Lord one thousand nine hundred and ninety-eight.

ATTEST:

*Paul P. Pate*  
 \_\_\_\_\_  
 SECRETARY OF STATE

*Terry E. Branstad*  
 \_\_\_\_\_  
 GOVERNOR



# State of Iowa

## Executive Department

IN THE NAME AND BY THE AUTHORITY OF THE STATE OF IOWA

### PROCLAMATION OF EMERGENCY

WHEREAS, on Monday, August 24, 1998, a severe storm and hurricane system was moving towards the southeast coasts of the United States; and

WHEREAS, this storm system is expected to be severe in nature and may cause significant damages in affected areas; and

WHEREAS, a request has been received from the Compact Coordinator with the National Emergency Manager's Association to make preparations under the Interstate Emergency Management Assistance Compact for the deployment of equipment and personnel to affected states; and

WHEREAS, Iowa is a member of the Interstate Emergency Management Assistance Compact as authorized by Code of Iowa, section 29C.21;

NOW, THEREFORE, I, Terry E. Branstad, Governor of the State of Iowa, do hereby proclaim a state of emergency and authorize agencies of the State government to render good and sufficient aid to assist these areas in their time of need.



IN TESTIMONY WHEREOF, I have hereunto subscribed my name and caused the Great Seal of the State of Iowa to be affixed. Done at Des Moines this 26th day of August in the year of our Lord one thousand nine hundred and ninety-eight.

*Terry E. Branstad*  
GOVERNOR

ATTEST:

*Paul P. Pate*  
SECRETARY OF STATE

**IOWA ADMINISTRATIVE BULLETIN**

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