



IOWA ADMINISTRATIVE BULLETIN

Published Biweekly

VOLUME XXXII
February 24, 2010

NUMBER 18
Pages 2043 to 2108

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PREFACE

The Iowa Administrative Bulletin is published biweekly pursuant to Iowa Code chapters 2B and 17A and contains Notices of Intended Action and rules adopted by state agencies.

It also contains Proclamations and Executive Orders of the Governor which are general and permanent in nature; Regulatory Analyses; effective date delays and objections filed by the Administrative Rules Review Committee; Agenda for monthly Administrative Rules Review Committee meetings; and other materials deemed fitting and proper by the Administrative Rules Review Committee.

The Bulletin may also contain public funds interest rates [12C.6]; workers' compensation rate filings [515A.6(7)]; usury rates [535.2(3)"a"]; and agricultural credit corporation maximum loan rates [535.12].

PLEASE NOTE: Underscore indicates new material added to existing rules; ~~strike through~~ indicates deleted material.

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STEPHANIE A. HOFF, Deputy Editor		(515)281-8157
	Fax:	(515)281-5534

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	(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).

IAB Vol. XII, No. 23 (5/16/90) p. 2050, ARC 872A

NOTE: In accordance with Iowa Code section 7.17, a rule number within the Iowa Administrative Code includes a reference to the statute which the rule is intended to implement: 441—79.1(249A).

Schedule for Rule Making 2010

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. 23 '09	Jan. 13 '10	Feb. 2 '10	Feb. 17 '10	Feb. 19 '10	Mar. 10 '10	Apr. 14 '10	July 12 '10
Jan. 8	Jan. 27	Feb. 16	Mar. 3	Mar. 5	Mar. 24	Apr. 28	July 26
Jan. 22	Feb. 10	Mar. 2	Mar. 17	Mar. 19	Apr. 7	May 12	Aug. 9
Feb. 5	Feb. 24	Mar. 16	Mar. 31	Apr. 2	Apr. 21	May 26	Aug. 23
Feb. 19	Mar. 10	Mar. 30	Apr. 14	Apr. 16	May 5	June 9	Sep. 6
Mar. 5	Mar. 24	Apr. 13	Apr. 28	Apr. 30	May 19	June 23	Sep. 20
Mar. 19	Apr. 7	Apr. 27	May 12	May 14	June 2	July 7	Oct. 4
Apr. 2	Apr. 21	May 11	May 26	***May 26***	June 16	July 21	Oct. 18
Apr. 16	May 5	May 25	June 9	June 11	June 30	Aug. 4	Nov. 1
Apr. 30	May 19	June 8	June 23	***June 23***	July 14	Aug. 18	Nov. 15
May 14	June 2	June 22	July 7	July 9	July 28	Sep. 1	Nov. 29
May 26	June 16	July 6	July 21	July 23	Aug. 11	Sep. 15	Dec. 13
June 11	June 30	July 20	Aug. 4	Aug. 6	Aug. 25	Sep. 29	Dec. 27
June 23	July 14	Aug. 3	Aug. 18	Aug. 20	Sep. 8	Oct. 13	Jan. 10 '11
July 9	July 28	Aug. 17	Sep. 1	***Sep. 1***	Sep. 22	Oct. 27	Jan. 24 '11
July 23	Aug. 11	Aug. 31	Sep. 15	Sep. 17	Oct. 6	Nov. 10	Feb. 7 '11
Aug. 6	Aug. 25	Sep. 14	Sep. 29	Oct. 1	Oct. 20	Nov. 24	Feb. 21 '11
Aug. 20	Sep. 8	Sep. 28	Oct. 13	Oct. 15	Nov. 3	Dec. 8	Mar. 7 '11
Sep. 1	Sep. 22	Oct. 12	Oct. 27	***Oct. 27***	Nov. 17	Dec. 22	Mar. 21 '11
Sep. 17	Oct. 6	Oct. 26	Nov. 10	***Nov. 10***	Dec. 1	Jan. 5 '11	Apr. 4 '11
Oct. 1	Oct. 20	Nov. 9	Nov. 24	***Nov. 24***	Dec. 15	Jan. 19 '11	Apr. 18 '11
Oct. 15	Nov. 3	Nov. 23	Dec. 8	***Dec. 8***	Dec. 29	Feb. 2 '11	May 2 '11
Oct. 27	Nov. 17	Dec. 7	Dec. 22	***Dec. 22***	Jan. 12 '11	Feb. 16 '11	May 16 '11
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Nov. 24	Dec. 15	Jan. 4 '11	Jan. 19 '11	Jan. 21 '11	Feb. 9 '11	Mar. 16 '11	June 13 '11
Dec. 8	Dec. 29	Jan. 18 '11	Feb. 2 '11	Feb. 4 '11	Feb. 23 '11	Mar. 30 '11	June 27 '11
Dec. 22	Jan. 12 '11	Feb. 1 '11	Feb. 16 '11	Feb. 18 '11	Mar. 9 '11	Apr. 13 '11	July 11 '11

PRINTING SCHEDULE FOR IAB

<u>ISSUE NUMBER</u>	<u>SUBMISSION DEADLINE</u>	<u>ISSUE DATE</u>
20	Friday, March 5, 2010	March 24, 2010
21	Friday, March 19, 2010	April 7, 2010
22	Friday, April 2, 2010	April 21, 2010

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.

*****Note change of filing deadline*****

The Administrative Rules Review Committee will hold its regular, monthly meeting on Monday, March 8, 2010, at 7:45 a.m. in Room 116, State Capitol, Des Moines, Iowa. The following rules will be reviewed:

AGING, DEPARTMENT ON[17]

Elder abuse prevention initiative and dependent adult abuse mandatory reporter training,
rescind chs 12, 15; adopt ch 15 Filed **ARC 8553B** 2/24/10

AGRICULTURE AND LAND STEWARDSHIP DEPARTMENT[21]

Nonchemical pest control devices, 45.19 Notice **ARC 8523B** 2/10/10

EDUCATION DEPARTMENT[281]

Student performance data in the evaluation of teachers, 83.4(1), 83.4(7)“a,” 83.6(1)
Notice **ARC 8509B** 2/10/10

ENVIRONMENTAL PROTECTION COMMISSION[567]

NATURAL RESOURCES DEPARTMENT[561]“umbrella”

Wastewater discharge from well drilling sites, 64.3(1), 64.4(2), 64.6, 64.15(6), 64.16(5)
Filed **ARC 8520B** 2/10/10

Hearing procedures regarding preliminary decisions on construction permit applications,
65.10 Filed **ARC 8517B** 2/10/10

Satellite facilities and regional collection centers, amendments to chs 123, 211 Filed **ARC 8518B** 2/10/10

HOMELAND SECURITY AND EMERGENCY MANAGEMENT DIVISION[605]

PUBLIC DEFENSE DEPARTMENT[601]“umbrella”

Local emergency management—allocation of funds, 7.7(3)“a” Filed Without Notice **ARC 8543B** 2/24/10

HUMAN SERVICES DEPARTMENT[441]

Eligibility for FIP, food assistance or Medicaid, amendments to chs 40, 41, 65, 75, 76, 92
Filed Emergency After Notice **ARC 8500B** 2/10/10

Food assistance work requirements, 65.28 Notice **ARC 8535B** 2/24/10

Adoption assistance, HIPP program, 75.1, 75.2(1), 75.21 Filed Emergency After Notice **ARC 8503B** 2/10/10

Documentation of citizenship and identity, 75.11(2)“e,” “i” Notice **ARC 8552B** 2/24/10

Medicaid coverage, 78.1(16), 78.10(2)“d,” 78.28(1)“g” Notice **ARC 8538B** 2/24/10

Remedial services, 78.12 Filed **ARC 8504B** 2/10/10

IowaCare—citizenship and documentation requirements, 92.2(2), 92.2(4) Filed **ARC 8505B** 2/10/10

Juvenile detention home—eligible costs for reimbursement, 167.1, 167.3, 167.5 Notice **ARC 8527B** 2/10/10

Child care assistance, 170.1 to 170.5 Filed Emergency After Notice **ARC 8506B** 2/10/10

Aftercare services eligibility; PAL program eligibility and stipend, 187.2(3), 187.11(4),
187.12 Notice **ARC 8536B** 2/24/10

Foster care—-independent living program, 202.11(7) Notice **ARC 8537B** 2/24/10

IOWA FINANCE AUTHORITY[265]

Low-income tax credit program compliance monitoring manual, 12.3, 12.4 Notice **ARC 8508B** 2/10/10

Housing assistance retention agreement for persons affected by the natural disasters of 2008,
29.6(5) Filed **ARC 8546B** 2/24/10

Qualified midwestern disaster area bond allocation, 30.3(1)“b,” 30.3(2), 30.4, 30.6
Notice **ARC 8549B**, also Filed Emergency **ARC 8548B** 2/24/10

Iowa jobs program application procedure, 32.4(6) Filed **ARC 8545B** 2/24/10

Water quality financial assistance program, 33.4(1), 33.5
Notice **ARC 8511B**, also Filed Emergency **ARC 8510B** 2/10/10

Affordable housing assistance grant fund allocation plan, 35.1 Filed **ARC 8547B** 2/24/10

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OSHA—inspections, acetylene standards, 3.5(1), 10.20 Filed **ARC 8522B** 2/10/10

MEDICINE BOARD[653]

PUBLIC HEALTH DEPARTMENT[641]“umbrella”

Licensure of acupuncturists, amendments to chs 8, 17 Notice **ARC 8524B** 2/10/10

Discipline—surgical or invasive procedure error, 23.1(42) Filed **ARC 8525B** 2/10/10

PHARMACY BOARD[657]

PUBLIC HEALTH DEPARTMENT[641]"umbrella"

- Patient counseling by pharmacist about new prescriptions—posted notice required, 6.14
 Filed **ARC 8540B** 2/24/10
- Maintenance of pharmacy records more than 12 months old, 6.16, 8.9, 10.34 Filed **ARC 8539B** 2/24/10

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PUBLIC HEALTH DEPARTMENT[641]"umbrella"

- Cosmetology arts and sciences, amend chs 60, 61, 64, 65; adopt ch 63 Filed **ARC 8515B** 2/10/10

PUBLIC HEALTH DEPARTMENT[641]

- Plumbing and mechanical systems board—administrative and regulatory authority, ch 27
 title, 27.1 to 27.4, 27.6(1) Filed **Emergency After Notice ARC 8528B** 2/24/10
- Plumbing and mechanical systems board—licensure fees, ch 28 title, 28.1
 Filed **Emergency After Notice ARC 8529B** 2/24/10
- Plumbing and mechanical systems board—application, licensure, and examination,
 amendments to ch 29 Filed **Emergency After Notice ARC 8530B** 2/24/10
- Plumbing and mechanical systems board—licensee discipline, ch 32
 Filed **Emergency After Notice ARC 8531B** 2/24/10
- Plumbing and mechanical systems board—complaints and investigations, ch 34
 Filed **Emergency After Notice ARC 8532B** 2/24/10
- Plumbing and mechanical systems board—licensure of nonresident applicant—reciprocity,
 ch 35 Filed **Emergency After Notice ARC 8533B** 2/24/10
- Plumbing and mechanical systems board—petitions for rule making, ch 36
 Filed **Emergency After Notice ARC 8534B** 2/24/10
- Renovation, remodeling, and repainting—lead hazard notification process, amendments to
 ch 69 Filed **Emergency After Notice ARC 8501B** 2/10/10
- Lead-based paint activities, amendments to ch 70 Filed **Emergency After Notice ARC 8502B** 2/10/10
- Qualifications of county medical examiner investigators, 127.7(2)“e” Filed **ARC 8526B** 2/10/10

PUBLIC SAFETY DEPARTMENT[661]

- Smoke detectors, 210.1 to 210.5 Filed **ARC 8550B** 2/24/10
- Weather safe rooms, ch 315 Notice **ARC 8521B** 2/10/10

REAL ESTATE APPRAISER EXAMINING BOARD[193F]

Professional Licensing and Regulation Bureau[193]

COMMERCE DEPARTMENT[181]"umbrella"

- AQB-approved core curriculum for associate and certified appraisers, 4.1(4), 5.2(3), 6.2(3)
 Notice **ARC 8507B** 2/10/10

REAL ESTATE COMMISSION[193E]

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COMMERCE DEPARTMENT[181]"umbrella"

- Permitted activities of unlicensed support personnel, 7.13(4) Filed **ARC 8519B** 2/10/10

REVENUE DEPARTMENT[701]

- Interest rate for calendar year 2010, 10.2(29) Filed **ARC 8551B** 2/24/10
- Adjustments to computed tax and tax credits, amend 38.17(3), 40.16(5), 41.5, ch 52 title,
 52.7, ch 58 title, 89.8(11)“b”; adopt ch 42 Notice **ARC 8512B** 2/10/10
- Assessment practices—determination of agricultural factor, 71.3 Filed **ARC 8542B** 2/24/10

SECRETARY OF STATE[721]

- Form of primary and general election ballots; counting absentee ballots, 21.202, 21.203,
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COMMERCE DEPARTMENT[181]"umbrella"

- Rescission of outage notification requirements for telecommunications providers, 22.2(8)
 Filed **ARC 8516B** 2/10/10

ADMINISTRATIVE RULES REVIEW COMMITTEE MEMBERS

Regular, statutory meetings are held the second Tuesday of each month at the seat of government as provided in Iowa Code section 17A.8. A special meeting may be called by the Chair at any place in the state and at any time.

EDITOR'S NOTE: Terms ending April 30, 2011.

Senator Merlin Bartz
2081 410th Street
Grafton, Iowa 50440

Senator Thomas Courtney
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Burlington, Iowa 52601

Senator Wally Horn
101 Stoney Point Road, SW
Cedar Rapids, Iowa 52404

Senator John P. Kibbie
P.O. Box 190
Emmetsburg, Iowa 50536

Senator James Seymour
901 White Street
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Representative Marcella R. Frevert
P.O. Box 324
Emmetsburg, Iowa 50536

Representative David Heaton
510 East Washington
Mt. Pleasant, Iowa 52641

Representative Tyler Olson
P.O. Box 2389
Cedar Rapids, Iowa 52406

Representative Nathan Reichert
1155 Iowa Avenue
Muscatine, Iowa 52761

Representative Linda Upmeyer
2175 Pine Avenue
Garner, Iowa 50438

James Larew
Administrative Rules Coordinator
Governor's Ex Officio Representative
Capitol, Room 11
Des Moines, Iowa 50319
Telephone (515)281-0208

AGRICULTURE AND LAND STEWARDSHIP DEPARTMENT[21]

Nonchemical pest control devices, 45.19 IAB 2/10/10 ARC 8523B	Second Floor Conference Room Wallace State Office Bldg. Des Moines, Iowa	March 2, 2010 2 p.m.
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EDUCATION DEPARTMENT[281]

Student performance data in the evaluation of teachers, 83.4, 83.6(1) IAB 2/10/10 ARC 8509B	Second Floor, State Board Room Grimes State Office Bldg. Des Moines, Iowa	March 2, 2010 3 to 4 p.m.
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ENVIRONMENTAL PROTECTION COMMISSION[567]

Water quality standards—lake criteria, 61.3(4) IAB 2/24/10 ARC 8544B (See ARC 8397B , IAB 12/16/09)	Falcon Civic Center 1305 5th Ave. NE Independence, Iowa	March 18, 2010 10 a.m.
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Public Library 115 W. Washington St. Washington, Iowa	March 18, 2010 4 p.m.
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HUMAN SERVICES DEPARTMENT[441]

Juvenile detention home—eligible costs for reimbursement, 167.1, 167.3, 167.5 IAB 2/10/10 ARC 8527B	Auditorium Wallace State Office Bldg. Des Moines, Iowa	March 5, 2010 10 to 11 a.m.
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MEDICINE BOARD[653]

Licensure of acupuncturists, amendments to ch 8, 17 IAB 2/10/10 ARC 8524B	Board Office 400 SW 8th St., Suite C Des Moines, Iowa	March 2, 2010 11:30 a.m.
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PUBLIC SAFETY DEPARTMENT[661]

Weather safe rooms, ch 315 IAB 2/10/10 ARC 8521B	First Floor Conference Room 125 Public Safety Headquarters Bldg. 215 E. 7th St. Des Moines, Iowa	March 2, 2010 10 a.m.
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REAL ESTATE APPRAISER EXAMINING BOARD[193F]

AQB-approved core curriculum for associate and certified appraisers, 4.1(4), 5.2(3), 6.2(3) IAB 2/10/10 ARC 8507B	Second Floor Professional Licensing Conference Room 1920 SE Hulsizer Rd. Ankeny, Iowa	March 2, 2010 9 a.m.
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The following list will be updated as changes occur.

“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 are included alphabetically in SMALL CAPITALS at the left-hand margin.

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CIVIL REPARATIONS TRUST FUND

Pursuant to Iowa Administrative Code 361—subrule 12.2(1), the Executive Council gives Notice that the Civil Reparations Trust Fund balance as of December 31, 2009, is approximately \$13,335.00. Money in the Civil Reparations Trust Fund is available for use for indigent civil litigation programs or insurance assistance programs. Application forms are available in the office of the State Treasurer by contacting GeorgAnna Madsen, Executive Secretary, State Capitol Room 114, Des Moines, Iowa 50319; telephone (515)281-5368. Applications must be filed on the thirtieth day after the date of publication of this Notice in the Iowa Administrative Bulletin, or on the thirtieth day after the date affixed to the Notice sent by first-class mail, whichever is later. Any person/company that would like to receive future notices should make request in writing to the above-mentioned contact. Rules regarding the Civil Reparations Trust Fund can be found at 361 IAC Chapter 12.

ARC 8544B

ENVIRONMENTAL PROTECTION COMMISSION[567]

Amended Notice of Intended Action

Pursuant to the authority of Iowa Code sections 455B.105 and 455B.173, the Environmental Protection Commission gives notice that the comment period for the Notice of Intended Action published in the December 16, 2009, Iowa Administrative Bulletin as **ARC 8397B** has been extended. Due to weather conditions, two public hearings regarding Notice **ARC 8397B** were canceled. Notice is hereby given that public hearings will be held on Thursday, March 18, 2010, at the following times and locations:

March 18, 2010	10 a.m.	Falcon Civic Center 1305 5th Avenue NE Independence, Iowa
March 18, 2010	4 p.m.	Washington Public Library 115 W. Washington Street Washington, Iowa

Persons are invited to present oral or written comments at the rescheduled public hearings.

Additional information on Iowa's water quality standards and the Department's rules can be found on the Department's Web site at <http://www.iowadnr.com/water/standards/index.html>.

Any person may submit written suggestions or comments on the proposed amendments through March 18, 2010. Such written material should be submitted to Chuck Corell, Iowa Department of Natural Resources, Wallace State Office Building, 502 East 9th Street, Des Moines, Iowa 50319-0034; fax (515)281-8895; or by E-mail to chuck.corell@dnr.iowa.gov.

ARC 8535B

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 234.6, the Department of Human Services proposes to amend Chapter 65, “Food Assistance Program Administration,” Iowa Administrative Code.

HUMAN SERVICES DEPARTMENT[441](cont'd)

Iowa's Food Assistance employment and training program rules currently mandate participation by certain categories of Food Assistance recipients and provide for penalties for failure to participate as prescribed by federal regulations. The employment and training program is a federal program operated by states under the umbrella of the federal Supplemental Nutrition Assistance Program.

Federal regulations provide an option for an all-volunteer employment and training program. The proposed amendments implement that option. States are required to submit an annual employment and training state plan to the USDA Food and Nutrition Service for approval before implementing the volunteer plan. Upon plan approval and negotiation of administrative contracts, notice of program availability will be mailed to Food Assistance recipients with instructions to request services through the Iowa Workforce Development Department or a participating community college.

A volunteer program will help Food Assistance recipients who truly want help to become employed and those who need more education or vocational training to compete in the current job market and become employed. Volunteers are also likely to be more successful participants than those who simply participate to avoid being disqualified from the Food Assistance program. This change will allow the program to focus on Food Assistance recipients who can most benefit and will make the best use of the limited funding that is available to provide services.

These amendments do not provide for waivers in specified situations because the amendments remove restrictions on participation and Food Assistance eligibility. Requests for the waiver of any rule may be submitted under the Department's general rule on exceptions at 441—1.8(17A,217).

Any interested person may make written comments on the proposed amendments on or before March 16, 2010. Comments should be directed to Mary Ellen Imlau, Bureau of Policy Analysis and Appeals, Department of Human Services, Hoover State Office Building, 1305 East Walnut Street, Des Moines, Iowa 50319-0114. Comments may be sent by fax to (515)281-4980 or by E-mail to policyanalysis@dhs.state.ia.us.

These amendments are intended to implement Iowa Code section 234.12 and 2009 Iowa Acts, chapter 182, section 6.

The following amendments are proposed.

ITEM 1. Amend subrules 65.28(6) and 65.28(7) as follows:

65.28(6) *Work registrant requirements.* ~~Work registrants shall:~~ respond to a request from the department for supplemental information regarding employment status or availability for work.

- ~~a. Participate in an assigned employment and training program.~~
- ~~b. Respond to a request from the department or its designee for supplemental information regarding employment status or availability for work.~~
- ~~c. Report to an employer to whom referred by the department or its designee if the potential employment meets the suitability requirements described in subrule 65.28(15).~~
- ~~d. Accept a bona fide offer of suitable employment at a wage not less than the federal minimum wage.~~

65.28(7) *Employment and training programs program.* ~~Persons required to register for work and not exempted by subrule 65.28(9) from placement in a component shall be subject to employment and training requirements. If all nonexempt mandatory registrants cannot be served because minimum federal participation standards have been met, registrants will be randomly selected for referral up to the minimum standard. Requirements may vary among participants.~~

- a. The employment and training program for food assistance recipients is designed to assist:
 - (1) Persons who have lost jobs or are underemployed and who need new skills in order to reenter the workplace because there are no jobs available for which the persons are trained.
 - (2) Persons who have been out of the workforce for a period of time to regain licensure or certification in an area in which they are already trained.
 - (3) Persons who wish to upgrade their employment for better wages and benefits.
- b. The department or its designee shall serve as the provider of employment and training services for nonexempt registrants food assistance recipients who wish to volunteer, except for those who are

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also recipients of family investment program (FIP) benefits. Federal law prohibits FIP recipients from participating in any food assistance employment and training program.

c. The program offers a range of services from basic skills to advanced training in order to accommodate persons with various levels of need and abilities. The department or its designee can may require participants a volunteer to engage in vocational testing activities when deemed necessary to determine if a component is appropriate for improving the volunteer's opportunity for employment.

~~Participants shall report for all scheduled employment interviews and accept bona fide offers of suitable employment as defined in subrule 65.28(15).~~

~~Participants who, for any reason, are absent from any scheduled employment and training appointment shall be required to reschedule a like appointment. Absence includes missing more than 30 minutes of a scheduled appointment.~~

ITEM 2. Rescind subrule 65.28(8) and adopt the following **new** subrule in lieu thereof:

65.28(8) Employment and training components. Employment and training components include individual job search, job club, educational services, and job retention services. The department or its designee shall offer employment and training components subject to the availability of sufficient funding to cover program costs. Availability of components may vary among the areas where employment and training are offered.

a. Individual job search. The individual job search shall be modeled after the family investment program's PROMISE JOBS individual job search component, as described at 441—subrule 93.6(2).

b. Job club. The employment and training job club shall be modeled after the family investment program's PROMISE JOBS job club, as described at 441—subrule 93.6(1).

c. Educational services. Educational services offered shall include general educational development (GED), adult basic education (ABE), English as a second language (ESL), and vocational training or educational opportunities limited to a two-year college degree. Educational services may include, but are not limited to, obtaining continuing education credit hours needed for a recipient to become recertified or to renew licensure for a profession.

d. Job retention services. Job retention services are intended to provide needed assistance with costs associated with beginning employment. Services are available only to persons who have received employment or training services under this subrule. Job retention services will be offered up to 90 days after the person secures employment. Services may include payment of:

- (1) A transportation allowance of \$50 per month for round-trip travel of 50 miles or less or \$100 per month for round-trip travel of 51 miles or more.
- (2) The cost of testing, certification, licensing, bonding, or legal services required for employment.
- (3) The cost of equipment, tools, uniforms, or other special clothing required by the job.
- (4) Other reasonable and necessary costs related to starting and retaining employment.

ITEM 3. Rescind and reserve subrules **65.28(9)** and **65.28(10)**.

ITEM 4. Amend subrules 65.28(11) to 65.28(14) as follows:

65.28(11) Participation allowance and dependent care reimbursements Supportive services. Program participants shall be provided with services necessary to complete an employment and training component to the extent allowable under federal regulations at 7 CFR 237.7(e)(4) as amended to January 1, 2009, and to the extent there is sufficient funding to cover the costs.

a. The department shall provide participants in employment and training ~~programs~~ components an allowance for costs of transportation or other costs (~~other than dependent care costs~~) reasonably necessary and directly related to participation in the components as follows: of a minimum of \$25 to a maximum of \$50 for each four-week component in which the participant is placed. The amount of the allowance is dependent on sufficient state and federal funding to cover the costs.

~~EXCEPTION: Participation in WIA (65.28(8), paragraph "c") does not entitle the person to a participation allowance. The department shall authorize the employment and training service provider to provide the allowance on the first day of each component in which the person participates. The department shall authorize the employment and training service provider to provide the allowance~~

HUMAN SERVICES DEPARTMENT[441](cont'd)

~~only once per component in each federal fiscal year. Participation in educational services (65.28(8), paragraph "b") is considered participation in two consecutive four-week components.~~

~~(1) A transportation allowance of \$50 per month for round-trip travel of 50 miles or less or \$100 per month for round-trip travel of 51 miles or more.~~

~~(2) Reasonable and necessary costs of attending a specific course of study, such as tuition, books, fees, training manuals, tools, equipment, uniforms and special clothing, safety items, and other items that all students in the course are required to have.~~

~~b. The department shall may authorize the employment and training service provider to reimburse the provider of care directly for the actual costs of dependent care expenses that the employment and training service provider determines to be necessary for the participation of a person in the components.~~

~~(1) Reimbursement for dependent care shall not exceed \$200 for each child under two years of age and \$175 for each other dependent per four-week component. be authorized only to the extent that another source is not available to provide the care at no cost to the employment and training program and shall be based on the child care assistance program reimbursement rates as described at 441—paragraph 170.4(7) "a." The employment and training service provider shall only reimburse a person not included in the food assistance household. The employment and training service provider shall only reimburse participants in the IJS component during the regular school term to the extent that the contacts required in this component cannot be made while dependent children who attend school are in school. The employment and training service provider shall defer a person from participation in a component if the dependent care expenses exceed the dependent care reimbursement. Deferment shall continue until a suitable component is available or circumstances change and monthly dependent care expenses no longer exceed the reimbursement amount. Reimbursement is dependent on sufficient state and federal funding to cover the costs.~~

~~(2) Exception: The caretaker relative of a dependent in a family receiving FIP is not eligible for the dependent care reimbursement. Participation in WIA (65.28(8), paragraph "c") does not entitle the person to a dependent care reimbursement. The department shall authorize the employment and training service provider to provide the reimbursement after the last day of each component in which the person participates upon presentation of proof of the expense incurred and hours of care for each dependent. The department shall authorize the employment and training service provider to provide reimbursement only once per component in each federal fiscal year. Participation in educational services (65.28(8), paragraph "b") is considered participation in two consecutive four-week components.~~

~~**65.28(12) Failure to comply.** This subrule does not apply applies only to persons electing to participate in the employment and training components of educational services and WIA (see paragraphs 65.28(8) "b" and "e") who are mandatory work registrants as required by subrule 65.28(1).~~

~~a. When a person has refused or failed without good cause to comply with the work registration or employment and training requirements in this rule, that person shall be ineligible to participate in the food assistance program as follows:~~

~~(1) to (3) No change.~~

~~b. No change.~~

~~c. Participants shall be notified of probation status in writing. Probation shall last for the duration of the component. In addition to other work requirements in this chapter, employment and training participants are subject to the following specific requirements:~~

~~(1) Participants who are absent without good cause shall be placed on probation. A second absence without good cause shall result in disqualification.~~

~~(2) Participants who are absent without good cause at the time they are scheduled to present their job search documentation shall be disqualified.~~

~~(3) Participants who fail to make the required number of employer contacts without good cause shall be disqualified. Participants who fail to complete the required number of job contacts with good cause shall be excused from completion of the job search requirements for that component.~~

~~(4) Participants who exhibit disruptive behavior shall be placed on probation; a second offense shall result in disqualification. Disruptive behavior means the participant hinders the performance of other participants or staff, refuses to follow instructions, or uses abusive language.~~

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~~(5) Participants will be allowed an additional two weeks to make up employer contacts which have been disallowed by employment services. Qualifying job contacts are defined in paragraph 65.28(8) "e." Failure to make up employer contacts will result in disqualification. Employment services will disallow employer contacts when it has been determined that the participant failed to make a face-to-face contact or the requirements of the job applied for far exceed the applicant's level of experience, education, or abilities.~~

~~(6) Participants who make physical threats to other participants or staff shall be disqualified.~~

65.28(13) *Noncompliance with comparable requirements.* The department shall treat a mandatory work registrant's failure to comply with an unemployment compensation requirement that is comparable to a food assistance work registration ~~or employment and training~~ requirement as a failure to comply with the corresponding food assistance requirement. Disqualification procedures in subrule 65.28(12) shall be followed.

65.28(14) *Ending disqualification.* Following the end of the disqualification periods for noncompliance and as provided in rules 441—65.27(234) and 441—65.28(234), participation may resume.

a. No change.

b. A disqualified individual who is a member of a currently participating eligible household shall be added to the household after the minimum disqualification period has been served and the person has complied with the failed requirement as follows:

(1) No change.

~~(2) If the member failed or refused to respond to a request from the department or its designee requiring supplemental information regarding employment status or availability for work, the member must comply with the request.~~

~~(3) If the member failed or refused to report to an employer to whom referred, the member must report to that employer if work is still available or report to another employer to whom referred.~~

~~(4) If the member failed or refused to accept a bona fide offer of suitable employment to which referred, the member must accept the employment if still available to the participant, or secure other employment which yields earnings per week equivalent to the refused job, or secure any other employment of at least 30 hours per week or secure employment of less than 30 hours per week but with weekly earnings equal to the federal minimum wage multiplied by 30 hours.~~

~~(5) If the member failed or refused to attend a scheduled employment and training interview, the member must arrange and attend a scheduled interview.~~

~~(6) If the member failed or refused to participate in instruction, training or testing activities, the member must participate in the activities.~~

~~(7) If the member failed or refused to complete assigned job search requirements, the member must complete the job search requirements.~~

~~(8) Rescinded IAB 2/9/00, effective 4/1/00.~~

~~(9) (2)~~ If the member voluntarily quit a job, the individual member must obtain a job comparable to the one quit.

~~(10) (3)~~ If the member voluntarily reduced hours of employment to less than 30 hours per week, the individual member must start working 30 or more hours per week.

c. No change.

ARC 8552B**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, the Department of Human Services proposes to amend Chapter 75, “Conditions of Eligibility,” Iowa Administrative Code.

The proposed amendments allow individuals claiming to be United States citizens to:

- Have their citizenship and identity verified through a data match with the Social Security Administration for the purposes of qualifying for Medicaid instead of through production of documentation such as a birth certificate and a government-issued photo identification; and
- Receive Medicaid benefits for a period of 90 days while the Department is awaiting confirmation of their citizenship and identity.

Documentation of citizenship and identity has been required for Medicaid eligibility since implementation of the Deficit Reduction Act of 2005, Public Law 109-171. This requirement has posed a barrier to many United States citizens who for various reasons are unable to produce copies of satisfactory documentation. As of October 2009, almost 14,000 Iowans had Medicaid benefits denied or canceled for failure to verify citizenship but subsequently gained or regained Medicaid eligibility when satisfactory documentation was finally obtained. More than 22,000 Iowans whose Medicaid benefits were denied or canceled for this reason remained ineligible.

In order to address this issue, the Children’s Health Insurance Program Reauthorization Act of 2009 (CHIPRA), Public Law 111-3, authorizes states to verify individuals’ citizenship through an automated data match with the Social Security Administration. Other provisions of this legislation require states to approve Medicaid eligibility for a “reasonable period” for persons who meet all other requirements while proof of their citizenship and identity is pending.

The Social Security Administration estimates that 90 percent of requests for citizenship verification will be substantiated through the data match. These amendments provide that persons whose citizenship is not substantiated through this process will have 90 days to resolve the inconsistency in the records that prevents the match or to provide other satisfactory proof of citizenship and identity.

These amendments do not provide for waivers in specified situations because the amendments benefit the persons affected. Requests for the waiver of any rule may be submitted under the Department’s general rule on exceptions at 441—1.8(17A,217).

Any interested person may make written comments on the proposed amendments on or before March 16, 2010. Comments should be directed to Mary Ellen Imlau, Bureau of Policy Analysis and Appeals, Department of Human Services, Hoover State Office Building, 1305 East Walnut Street, Des Moines, Iowa 50319-0114. Comments may be sent by fax to (515)281-4980 or by E-mail to policyanalysis@dhs.state.ia.us.

These amendments are intended to implement Iowa Code section 249A.3 and Public Law 111-3.

The following amendments are proposed.

ITEM 1. Amend paragraph **75.11(2)“c”** as follows:

c. Except as provided in paragraph “*f*,” applicants or members for whom an attestation of United States citizenship has been made pursuant to paragraph “*b*” shall present satisfactory documentation of citizenship or nationality as defined in paragraph “~~*d*~~” or “~~*e*~~” “*d*,” “*e*,” or “*i*.” A reference to a form in paragraph “*d*” or “*e*” includes any successor form. An applicant or member shall have a reasonable period to obtain and provide ~~proof~~ required documentation of citizenship or nationality.

HUMAN SERVICES DEPARTMENT[441](cont'd)

(1) For the purposes of this requirement, the “reasonable period” begins on the date a written request ~~to obtain and provide proof for documentation or a notice pursuant to subparagraph 75.11(2) “i”~~(2) is issued to an applicant or member, whichever is later, and continues ~~to the date when the proof is provided or the date when the department establishes that the applicant or member is no longer making a good-faith effort to obtain the proof, whichever is earlier~~ for 90 days.

(2) Medicaid eligibility shall ~~be approved for new applicants and continue for members during the reasonable period not previously required to provide documentation of citizenship or nationality until the end of the reasonable period to obtain and provide required documentation of citizenship or nationality. However, the receipt of Medicaid shall not be approved for applicants until acceptable documentary evidence is provided.~~ or HAWK-I benefits pending documentation of citizenship or nationality is limited to one reasonable period of up to 90 days under either program for each individual. Medicaid shall not be approved for an applicant or continued for a member who has already received benefits during a reasonable period until satisfactory documentation is provided.

(3) ~~A reference to a form in paragraph “d” or “e” includes any successor form. Retroactive eligibility pursuant to 441—subrule 76.5(1) is available only after documentation of citizenship or nationality has been provided pursuant to paragraph “d,” “e,” or “i.” The retroactive months are outside the “reasonable period” during which Medicaid coverage may be provided without required documentation of citizenship or nationality.~~

ITEM 2. Adopt the following **new** paragraph **75.11(2)“i”**:

i. In lieu of a document listed in paragraph “d” or “e,” satisfactory documentation of citizenship or nationality may also be presented pursuant to this paragraph.

(1) Provision of an individual’s name, social security number, and date of birth to the department shall constitute satisfactory documentation of citizenship and identity if submission of the name, social security number, and date of birth to the Social Security Administration produces a response that substantiates the individual’s citizenship.

(2) If submission of the name, social security number, and date of birth to the Social Security Administration does not produce a response that substantiates the individual’s citizenship, the department shall issue a written notice to the applicant or member giving the applicant or member 90 days to correct any errors in the name, social security number, or date of birth submitted, to correct any errors in the Social Security Administration’s records, or to provide other documentation of citizenship or nationality pursuant to paragraph “d” or “e.”

ARC 8538B

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, the Department of Human Services proposes to amend Chapter 78, “Amount, Duration and Scope of Medical and Remedial Services,” Iowa Administrative Code.

These amendments change Medicaid coverage requirements to eliminate the need for some exceptions to policy that are routinely approved.

- Item 1 allows use of another state’s Medicaid sterilization consent form in lieu of the Iowa Medicaid form. Iowa Medicaid members who live near state borders often receive services in the bordering state. Since the content of the sterilization consent is detailed in federal Medicaid regulations, these forms are

HUMAN SERVICES DEPARTMENT[441](cont'd)

very similar across states. Denying a claim if the consent meets all requirements except the Iowa form number is not a cost-effective action.

- Items 2 and 3 remove the requirement that a member report the results of a trial use of an enclosed bed before requesting prior authorization for an enclosed bed. Enclosed beds are not available on a rental basis for a trial period, and the alternative of overnight hospitalization for observation of a trial is not cost-effective.

These amendments do not provide for waivers in specified situations because they benefit the members affected. Requests for the waiver of any rule may be submitted under the Department's general rule on exceptions at 441—1.8(17A,217).

Any interested person may make written comments on the proposed amendments on or before March 16, 2010. Comments should be directed to Mary Ellen Imlau, Bureau of Policy Analysis and Appeals, Department of Human Services, Hoover State Office Building, 1305 East Walnut Street, Des Moines, Iowa 50319-0114. Comments may be sent by fax to (515)281-4980 or by E-mail to policyanalysis@dhs.state.ia.us.

These amendments are intended to implement Iowa Code section 249A.4.

The following amendments are proposed.

ITEM 1. Amend paragraphs **78.1(16)“b,” “f” and “h”** as follows:

b. The sterilization shall be performed as the result of a voluntary request for the services made by the person on whom the sterilization is performed. The person's consent for sterilization shall be documented on:

- (1) Form 470-0835 or 470-0835(S), Consent Form, or
- (2) An official sterilization consent form from another state's Medicaid program that contains all information found on the Iowa form and complies with all applicable federal regulations.

f. At least 30 days and not more than 180 days shall have elapsed following the signing of the informed consent except in the case of premature delivery or emergency abdominal surgery which occurs not less than 72 hours after the informed consent was signed. The informed consent shall have been signed at least 30 days prior to before the expected delivery date for premature deliveries. ~~Consent shall be obtained on Form 470-0835 or 470-0835(S), Consent Form, and shall be attached to the claim for payment.~~

h. ~~Form 470-0835 or 470-0835(S), Consent Form,~~ The consent form described in paragraph 78.1(16)“b” shall be attached to the claim for payment and shall be signed by:

- (1) ~~the individual~~ The person to be sterilized,
- (2) ~~the~~ The interpreter, when one was necessary,
- (3) ~~the~~ The physician, and
- (4) ~~the~~ The person who provided the required information.

ITEM 2. Amend subparagraph **78.10(2)“d”(1)** as follows:

(1) Enclosed beds. Payment for an enclosed bed will be approved when prescribed for a patient who meets all of the following conditions:

1. The patient has a diagnosis-related cognitive or communication impairment that results in risk to safety.
2. The patient's mobility puts the patient at risk for injury.
3. The patient has suffered injuries when getting out of bed.
4. ~~The patient has had a successful trial with an enclosed bed.~~

ITEM 3. Rescind subparagraph **78.28(1)“g”(4)**.

ARC 8536B**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 234.6, the Department of Human Services proposes to amend Chapter 187, “Aftercare Services and Supports,” Iowa Administrative Code.

The proposed amendments:

- Expand the definition of “foster care experience” used to determine eligibility for the aftercare services program, which assists youth leaving foster care in their successful transition to adulthood.
- Lower the employment requirements for aftercare eligibility from 25 hours per week to 80 hours per month. This requirement matches the federal guidelines for foster care eligibility for youth over the age of 18 and will provide for a smoother transition should the Department choose to expand eligibility for foster care.
- Exclude nonrecurring lump-sum payments from consideration in determining a youth’s eligibility for a preparation for adult living (PAL) stipend. Such payments include refunds of security deposits or retroactive payment of benefits such as Supplemental Security Income or unemployment insurance.
- Require recoupment of PAL benefits that are continued pending an appeal of a decision to reduce or cancel the stipend if the Department’s decision is upheld, and provide for recoupment through reduction of any future stipends. These provisions mirror those in effect for other cash assistance programs.

Under these amendments, youth who are at least 16 years old when they leave foster care for subsidized guardianship or for adoption would be eligible for aftercare services when they reach the age of 18. A psychiatric medical institution for children (PMIC) would also be a qualifying foster care placement for aftercare services eligibility. Aftercare services may include development of an individual self-sufficiency plan, life skills training, vendor payments to meet direct expenses necessary in order for the youth to meet the goals of the plan, follow-up by program staff, ongoing assessment, and case management.

These amendments do not provide for waivers in specified situations. Requests for the waiver of any rule may be submitted under the Department’s general rule on exceptions at 441—1.8(17A,217).

Any interested person may make written comments on the proposed amendments on or before March 16, 2010. Comments should be directed to Mary Ellen Imlau, Bureau of Policy Analysis and Appeals, Department of Human Services, Hoover State Office Building, 1305 East Walnut Street, Des Moines, Iowa 50319-0114. Comments may be sent by fax to (515)281-4980 or by E-mail to policyanalysis@dhs.state.ia.us.

These amendments are intended to implement Iowa Code section 234.6 and Public Law 110-351, the Fostering Connections to Success and Increasing Adoptions Act of 2008.

The following amendments are proposed.

ITEM 1. Amend subrule 187.2(3) as follows:

187.2(3) Foster care experience.

a. The youth must leave foster care ~~either~~:

- (1) On or after the youth’s eighteenth birthday; or
- (2) Between the ages of 17½ and 18 after being in foster care continuously for at least six months;

or

(3) For placement in a subsidized guardianship arrangement on or after October 7, 2008, and on or after the youth’s sixteenth birthday; or

(4) Due to adoption on or after October 7, 2008, and on or after the youth’s sixteenth birthday.

HUMAN SERVICES DEPARTMENT[441](cont'd)

b. and *c.* No change.

d. Foster care may include, but is not limited to, placement in:

(1) to (7) No change.

(8) A psychiatric medical institution for children (PMIC).

e. No change.

ITEM 2. Amend subrule 187.11(4) as follows:

187.11(4) Activity. ~~The youth must be engaged in or actively pursuing full-time activity comprised of meet~~ one or more of the following criteria:

a. ~~Enrollment~~ Be enrolled in or actively pursuing enrollment in a postsecondary educational education or training program or work training;

b. ~~Employment~~ Be employed for an average of 25 80 hours or more per week month or be actively seeking that level of employment; or

c. ~~School or program attendance~~ Be attending an accredited school full-time pursuing a course of study leading to a high school diploma or GED; or

d. Be attending an instructional program leading to a high school equivalency diploma.

ITEM 3. Amend subrules 187.12(1) and 187.12(2) as follows:

187.12(1) Need. The amount of the PAL stipend shall be based on the needs of the youth as documented in the youth's self-sufficiency plan. Eligibility and the stipend amount shall be based on the best estimate of the youth's income, as determined at least quarterly.

a. All earned and unearned income received by the youth during the 30 days before the determination shall be used to project future income.

(1) If the 30-day period is not indicative of future income, income from a longer period or verification of anticipated income from the income source may be used to project future income.

(2) Nonrecurring lump-sum payments are excluded as income. Nonrecurring lump-sum payments include but are not limited to one-time payments received for such things as income tax refunds, rebates, credits, refunds of security deposits on rental property or utilities, and retroactive payments for past months' benefits such as SSI, unemployment insurance, or public assistance.

b. and *c.* No change.

d. Recoupment shall be made for any overpayment due to failure to timely report a change in income or for benefits paid during an administrative appeal if the department's action is ultimately upheld. Recoupment shall be done through a reasonable reduction of any future stipends.

e. No change.

187.12(2) Amount of monthly stipend. The maximum monthly stipend shall be \$574.

a. The stipend shall be prorated based on the date of entry.

b. Effect of income.

(1) and (2) No change.

(3) A youth receiving Supplemental Security Income payments is not eligible for a stipend.

ARC 8537B

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 234.6, the Department of Human Services proposes to amend Chapter 202, “Foster Care Placement and Services,” Iowa Administrative Code.

HUMAN SERVICES DEPARTMENT[441](cont'd)

This amendment defines eligibility and components of Iowa's independent living program, which provides transition assistance to youth leaving foster care. The program is based on Public Law 106-169, the Foster Care Independence Act of 1999, which created the John H. Chafee Foster Care Independence Program. The amendment is needed to define the population on which the Department is required to report for the National Youth in Transition Database.

Beginning in October 2010, the Department is required to report on the population receiving independent living services as well as on a baseline population of all youth in foster care who reach their seventeenth birthday in the federal fiscal year. For federal reporting purposes, children in foster care include all children placed away from their parents for whom the Department has placement and care responsibility. This includes children in unlicensed and unpaid placements with relatives. Eventually, a follow-up report will be required on youth who were part of the baseline population report and reach their twenty-first birthday during the federal fiscal year.

Independent living services may be provided to youth aged 16 to 21 who are in foster care, who were adopted or placed in subsidized guardianship from foster care after reaching the age of 16, or who are participating in the aftercare services program. The independent living program offers a life skills assessment, development of a transition plan, and provision of transition services. Transition services may include education or employment services or services to develop the youth's physical or mental health skills, housing and money management skills, or supportive relationship skills.

This amendment does not provide for waivers in specified situations. Requests for the waiver of any rule may be submitted under the Department's general rule on exceptions at 441—1.8(17A,217).

Any interested person may make written comments on the proposed amendment on or before March 16, 2010. Comments should be directed to Mary Ellen Imlau, Bureau of Policy Analysis and Appeals, Department of Human Services, Hoover State Office Building, 1305 East Walnut Street, Des Moines, Iowa 50319-0114. Comments may be sent by fax to (515)281-4980 or by E-mail to policyanalysis@dhs.state.ia.us.

This amendment is intended to implement Iowa Code section 234.6(6)“b.”

The following amendment is proposed.

Adopt the following **new** subrule 202.11(7):

202.11(7) Independent living program. The purpose of the independent living program is to provide supports and services that assist children currently or formerly in foster care in acquiring skills and abilities necessary for successful adult living. The independent living program offers a life skills assessment, transition plan development, and transition services.

a. Eligibility. To be eligible for the independent living program, a child must be under the age of 21, must be or have been in foster care as defined by rule 441—202.1(234) or 45 Code of Federal Regulations 1355.20 as amended to October 1, 2008, and must meet at least one of the following eligibility requirements:

- (1) Is currently in foster care and is 16 years of age or older.
- (2) Was adopted from foster care on or after October 7, 2008, and was at least 16 years of age at the time of adoption.
- (3) Was placed in a subsidized guardianship arrangement from foster care on or after October 7, 2008, and was at least 16 years of age at the time of placement.
- (4) Was formerly in foster care and is eligible for and participating in Iowa's aftercare services program as described at 441—Chapter 187.

b. Assessment. A life skills assessment shall be administered to all children in foster care who are aged 16 or older. An assessment shall be available upon request to any child who has been discharged from foster care but meets the eligibility requirements in paragraph “a.” The assessment is designed to evaluate the child's strengths and needs in areas including, but not limited to:

- (1) Education,
- (2) Physical and mental health,
- (3) Employment,
- (4) Housing and money management, and

HUMAN SERVICES DEPARTMENT[441](cont'd)

(5) Supportive relationships.

c. Transition plan development. A transition plan shall be completed for all children in foster care who are aged 16 or older, as provided in Iowa Code section 232.2(4)“f.” Transition plan development shall also be available upon request to any child who has been discharged from foster care but meets the eligibility requirements in paragraph “a,” but the transition plan will not be part of a case permanency plan.

(1) The transition plan shall be personalized at the direction of the child and shall be developed and reviewed by the department in collaboration with a child-centered transition team, honoring the goals and concerns of the child.

(2) The transition plan shall address the strengths and needs identified in the assessment; detail the steps, services, supports and referrals needed to implement the plan to best assist the child in preparing for adulthood; and document the membership of the transition team and the meeting dates for the team.

(3) The transition plan shall be reviewed and updated at each case review after the plan’s initial development; within 90 days before the child’s eighteenth birthday; and within 90 days before the child is expected to leave foster care if the child remains in care after reaching the age of 18.

d. Transition services. Children shall be offered services, supports, and referrals within some or all of the five areas described below according to the child’s strengths and needs as documented by the transition plan.

(1) Education skills increase the child’s chances of completing high school or obtaining a GED and of entering a satisfying career. Services may include assistance in academic advising and guidance, secondary and postsecondary educational support, records transfer coordination, tutoring, financial aid planning, career exploration, mentoring, and career advising. Education financial assistance may be available to eligible children.

(2) Physical and mental health skills promote healthy physical, mental and emotional functioning. Health education services may include guidance on risk prevention, how to be healthy and fit, how to self-advocate for health care needs, how to select medical professionals, and how to make informed decisions regarding treatment, lifestyle considerations, spirituality, and recreation.

(3) Employment skills enable children to prepare for, seek, and maintain gainful career employment. Services may include employment programs or vocational training, employment search resources, career advising, résumé writing, interview skills, workplace etiquette, and on-the-job training.

(4) Housing and money management skills prepare a child to select, manage, and maintain safe and stable housing. Services may include lessons on the physical maintenance and cleaning of a house and guidance on managing personal finances, such as financial decisions, budgeting, bill paying, use of credit, and financing. Financial assistance for room and board may be available to children who meet the eligibility criteria of the preparation for adult living program pursuant to 441—Chapter 187.

(5) Supportive relationships skills promote the healthy development and maintenance of rewarding, lasting relationships. Services may include family support and healthy marriage education, mentoring opportunities, and guidance on how to recognize the needs of others, how to identify and understand personal motivations, how to ensure personal safety, and how to communicate effectively.

ARC 8549B**IOWA FINANCE AUTHORITY[265]****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 17A.3(1)“b” and 16.5(1)“r,” the Heartland Disaster Tax Relief Act of 2008, and Executive Order Number 9, the Iowa Finance Authority hereby proposes to amend Chapter 30, “Qualified Midwestern Disaster Area Bond Allocation,” Iowa Administrative Code.

The purpose of the proposed amendments is to implement a per-applicant cap on allotments and to provide a set-aside to the Iowa Department of Economic Development for directing allotments of Midwestern Disaster Area bonds issued and sold pursuant to the Heartland Disaster Tax Relief Act of 2008.

The Authority does not intend to grant waivers under the provisions of any of these rules, other than as may be allowed under the Authority’s general rules concerning waivers.

The Authority will receive written comments on the proposed amendments until 4:30 p.m. on March 16, 2010. Comments may be addressed to Mark Thompson, Iowa Finance Authority, 2015 Grand Avenue, Des Moines, Iowa 50312. Comments may also be faxed to Mark Thompson at (515)725-4901 or E-mailed to mark.thompson@iowa.gov.

The Authority anticipates that it may make changes to the proposed amendments based on comments received from the public.

The amendments were also Adopted and Filed Emergency and are published herein as **ARC 8548B**. The purpose of this Notice is to solicit comment on that submission, the subject matter of which is incorporated by reference.

These amendments are intended to implement Iowa Code section 16.5(1)“r,” the Heartland Disaster Tax Relief Act of 2008, and Executive Order Number 9.

ARC 8541B**SECRETARY OF STATE[721]****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 47.1 and 17A.3, the Secretary of State hereby gives Notice of Intended Action to amend Chapter 21, “Election Forms and Instructions,” and Chapter 22, “Voting Systems,” Iowa Administrative Code.

These proposed amendments are necessary due to legislative changes made to Iowa’s election laws during the 2009 legislative session. These amendments provide security procedures for general elections in which county commissioners are required to or decide to count absentee ballots on the day before the election as now permitted by Iowa Code section 53.23, subsection 3, paragraph “c,” as amended by 2009 Iowa Acts, House File 670. In addition, these amendments prescribe the form of the official ballot as required by 2009 Iowa Code Supplement sections 43.31 and 49.57A [2009 Iowa Acts, House File 475, sections 6 and 32].

SECRETARY OF STATE[721](cont'd)

Any interested person may make written suggestions or comments on these proposed amendments on or before March 16, 2010. Written suggestions and comments should be directed to Sarah Reisetter, Elections Director, Office of the Secretary of State, First Floor, Lucas State Office Building, Des Moines, Iowa 50319.

Persons who want to convey their views orally should contact the Secretary of State's office on the first floor of the Lucas State Office Building. Requests for a public hearing must be received by 4:30 p.m. on Tuesday, March 16, 2010.

These amendments are intended to implement Iowa Code chapters 39A, 43, 49 and 53 as amended by 2009 Iowa Acts, House Files 475 and 670.

The following amendments are proposed.

ITEM 1. Adopt the following **new** rule 721—21.202(43,52):

721—21.202(43,52) Form of primary election ballot. All primary election ballots shall meet the following formatting requirements:

21.202(1) Required information. In addition to other requirements listed in the Iowa Code, primary election ballots shall also include the following information:

- a. The name of the election.
- b. The name of the party, which shall be printed at the top of the ballot in at least 24-point type.
- c. The name of the county.
- d. Instructions for how to mark the ballot.

21.202(2) Headings and lines. Federal offices, state offices and county offices printed on the ballot shall be preceded by a heading identifying the offices as “Federal Offices,” “State Offices,” and “County Offices.” Each heading shall be separated from the previous section of the ballot by a distinct line.

21.202(3) Office titles and order of offices. Each office printed on the ballot shall be preceded by an office title. The order of offices on the primary election ballot shall be as follows:

a. In gubernatorial election years, the order of office titles on the primary election ballot shall be listed as follows:

- (1) U.S. Senator (if any).
- (2) U.S. Representative, District ____.
- (3) Governor.
- (4) Secretary of state.
- (5) Auditor of state.
- (6) Treasurer of state.
- (7) Secretary of agriculture.
- (8) Attorney general.
- (9) State senator, district ____ (if any).
- (10) State representative, district ____.
- (11) Board of supervisors (if plan II or plan III, then board of supervisors, district ____).
- (12) Treasurer.
- (13) Recorder.
- (14) County attorney.

b. In presidential election years, the order of office titles on the primary election ballot shall be listed as follows:

- (1) U.S. Senator (if any).
- (2) U.S. Representative, District ____.
- (3) State senator, district ____ (if any).
- (4) State representative, district ____.
- (5) Board of supervisors (if plan II or plan III, then board of supervisors, district ____).
- (6) Auditor.
- (7) Sheriff.

c. If an office is printed on the primary election ballot followed by the words “To Fill Vacancy,” that office shall be listed after the other offices under the appropriate heading. If the office followed by

SECRETARY OF STATE[721](cont'd)

the words “To Fill Vacancy” is the board of supervisors, that office shall appear after the other board of supervisors office(s).

21.202(4) *Vote for number.* Under each office title, the number of choices a voter may make in the race shall be printed in the following form: “Vote for no more than ____.” The number of choices the voter may make for each race is the number of individuals to be elected to the office at the general election.

21.202(5) *Write-in vote targets.* After the candidates’ names for each office (if any), a target shall be placed next to a line for voters to write in a nominee for the office. The number of write-in targets and lines printed under each office shall match the vote for number referenced in subrule 21.202(4). Under each write-in line, the following words shall be printed: “Write-in vote, if any.”

21.202(6) *Font size.* Candidates’ names shall be printed in upper and lower case letters, and the font size shall be no less than 10-point type.

21.202(7) *Two-sided ballots.* If a primary election ballot must be printed on two sides, the words “Turn the ballot over” shall be printed on both sides of the ballot, at the bottom.

This rule is intended to implement 2009 Iowa Code Supplement section 43.31 [2009 Iowa Acts, House File 475, section 6].

ITEM 2. Adopt the following **new** rule 721—21.203(49,52):

721—21.203(49,52) Form of general election ballot. All general election ballots shall meet the following formatting requirements:

21.203(1) *Required information.* In addition to other requirements listed in the Iowa Code, general election ballots shall also include the following information:

- a. The name of the election.
- b. The name of the county.
- c. Instructions for how to mark the ballot, including instructions for voting on judicial retentions and constitutional amendments or public measures and instructions for straight-party voting.
- d. Ballot location of the judges’ names and any constitutional amendment(s).

21.203(2) *Headings and lines.* Straight-party voting, other political organizations, federal offices, state offices, county offices, judges and public measures printed on the ballot shall be preceded by a heading identifying the sections, offices or questions as “Straight Party Voting,” “Other Political Organizations,” “Federal Offices,” “State Offices,” “County Offices,” “Judges,” and “Public Measures.” Each heading shall be separated from the previous section of the ballot by a distinct line.

21.203(3) *Office titles, order of offices and public measures.* Each office printed on the ballot shall be preceded by an office title. The order of offices and public measures listed on the general election ballot shall be as follows:

a. In gubernatorial election years, the order of office titles and public measures on the general election ballot shall be listed as follows:

- (1) U.S. Senator (if any).
- (2) U.S. Representative, District ____.
- (3) Governor and lieutenant governor.
- (4) Secretary of state.
- (5) Auditor of state.
- (6) Treasurer of state.
- (7) Secretary of agriculture.
- (8) Attorney general.
- (9) State senator, district ____ (if any).
- (10) State representative, district ____.
- (11) Board of supervisors (if plan II or plan III, then board of supervisors, district ____).
- (12) Treasurer.
- (13) Recorder.
- (14) County attorney.
- (15) Township trustee (if any).
- (16) Township clerk (if any).

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- (17) County public hospital trustee (if any).
- (18) Soil and water conservation district commissioner.
- (19) County agricultural extension council member.
- (20) Other nonpartisan offices (if any).
- (21) Supreme court justice (if any).
- (22) Court of appeals judge (if any).
- (23) District court judge (if any).
- (24) District court associate judge (if any).
- (25) Associate juvenile judge (if any).
- (26) Associate probate judge (if any).
- (27) Public measures (if any). Under the public measures heading, measures shall be listed in the

following order:

- 1. Constitutional amendment (if any).
- 2. State public measure (if any).
- 3. County public measure (if any).
- 4. City public measure (if any).

b. In presidential election years, the order of office titles on the general election ballot shall be listed as follows:

- (1) President and Vice President.
- (2) U.S. Senator (if any).
- (3) U.S. Representative, District ____.
- (4) State senator, district ____ (if any).
- (5) State representative, district ____.
- (6) Board of supervisors (if plan II or plan III, then board of supervisors, district ____).
- (7) Auditor.
- (8) Sheriff.
- (9) Township trustee (if any).
- (10) Township clerk (if any).
- (11) County public hospital trustee (if any).
- (12) Soil and water conservation district commissioner.
- (13) County agricultural extension council member.
- (14) Other nonpartisan offices (if any).
- (15) Supreme court justice (if any).
- (16) Court of appeals judge (if any).
- (17) District court judge (if any).
- (18) District court associate judge (if any).
- (19) Associate juvenile judge (if any).
- (20) Associate probate judge (if any).
- (21) Public measures (if any). Under the public measures heading, measures shall be listed in the

following order:

- 1. Constitutional amendment (if any).
- 2. State public measure (if any).
- 3. County public measure (if any).
- 4. City public measure (if any).

c. If an office is printed on the general election ballot followed by the words "To Fill Vacancy," that office shall be listed after the other offices under the appropriate heading. If the office followed by the words "To Fill Vacancy" is the board of supervisors, that office shall appear after the other board of supervisors office(s).

21.203(4) *Vote for number.* Under each office title, the number of choices a voter may make in the race shall be printed in the following form: "Vote for no more than ____". The number of choices the voter may make for each race is the number of individuals to be elected to the office at the general election. Under the "President and Vice President" office title, "Vote for no more than one team" shall be printed

SECRETARY OF STATE[721](cont'd)

on the ballot. Under the “Governor and Lt. Governor” office title, “Vote for no more than one team” shall be printed on the ballot.

21.203(5) Write-in vote targets. After the candidates’ names for each office (if any), a target shall be placed next to a line for voters to write in a nominee for the office. The number of write-in targets and lines printed under each office shall match the vote for number referenced in subrule 21.203(4). Under each write-in line, the following words shall be printed: “Write-in vote, if any”. For the offices of President and Vice President, there shall be one write-in target printed to the left of two write-in lines. Under the write-in lines, the commissioner shall print the following: “Write-in vote for President, if any” and “Write-in vote for Vice President, if any”. For the offices of governor and lieutenant governor, there shall be one write-in target printed to the left of two write-in lines. Under the write-in lines, the commissioner shall print the following: “Write-in vote for governor, if any” and “Write-in vote for Lt. governor, if any”.

21.203(6) Font size. Candidates’ names shall be printed in upper and lower case letters, and the font size shall be no less than 10-point type.

21.203(7) Two-sided ballots. If a general election ballot must be printed on two sides, the words “Turn the ballot over” shall be printed on both sides of the ballot, at the bottom.

This rule is intended to implement 2009 Iowa Code Supplement section 49.57A [2009 Iowa Acts, House File 475, section 32].

ITEM 3. Adopt the following new rule 721—22.343(39A,53):

721—22.343(39A,53) Counting absentee ballots on the day before the general election. When absentee ballots are tabulated on the day before the election as permitted or required by Iowa Code section 53.23 as amended by 2009 Iowa Acts, House File 670, the absentee and special voters precinct board and county commissioner shall implement the following security precautions:

22.343(1) Seal and label voted ballot envelopes with date of tabulation. The precinct election officials shall seal all ballots tabulated on the day before the election in a voted ballot envelope labeled with the date of tabulation. The precinct election officials shall seal and sign the envelope in a manner that will make it evident if the envelope is opened.

22.343(2) Ensure secure storage of all ballots. Before adjourning for the day, the precinct election officials shall transfer custody of all absentee ballots to the commissioner. The commissioner shall ensure all absentee ballots are stored in a secure location until tabulation is resumed on election day.

22.343(3) Ensure memory card security. Before the absentee and special voters precinct board adjourns for the day, the memory card used in the tabulator(s) on the day before the election shall be secured by the precinct election officials in one of the following ways:

a. The memory card may be left in the tabulator when a tamper-evident seal is affixed over the memory card in a manner that will make it evident if the seal is removed.

b. The memory card may be removed from the tabulator and placed in an envelope. The precinct election officials shall seal the envelope in a manner that will make it evident if the envelope is opened.

22.343(4) Ensure security of the tabulator(s). Before adjourning for the day, the precinct election officials shall ensure the security of the tabulator(s). The tabulator(s) must be stored in a secure location until the absentee and special voters precinct board resumes tabulation on election day.

22.343(5) No results tape printing on the day before the election. No results tapes may be printed from the tabulator(s) on the day before the election.

22.343(6) No upload of results to tabulating software until election day. No results may be uploaded or input into tabulating software on the day before the election.

22.343(7) Verify no tampering before resuming tabulation on election day. Before tabulation resumes on election day, the absentee and special voters precinct board shall verify the tabulator(s), memory card(s) and memory card port(s) have not been obviously tampered with overnight.

22.343(8) Resume tabulation. The absentee and special voters precinct board shall resume tabulation using one of the following methods:

a. Using the same memory card(s) used on the day before the election and resuming tabulation.

SECRETARY OF STATE[721](cont'd)

b. Using a new memory card(s) and compiling the results contained on the memory card(s) used on election day and on the day before the election.

22.343(9) Print audit logs. After the election, the audit logs must be printed and be available for public inspection.

This rule is intended to implement Iowa Code section 39A.5, section 1, paragraph “a,” subparagraph (3), and Iowa Code section 53.23 as amended by 2009 Iowa Acts, House File 670.

TREASURER OF STATE

Notice—Public Funds Interest Rates

In compliance with Iowa Code chapter 74A and section 12C.6, the committee composed of Treasurer of State Michael L. Fitzgerald, Superintendent of Credit Unions James E. Forney, Superintendent of Banking Thomas B. Gronstal, and Auditor of State David A. Vaudt have established today the following rates of interest for public obligations and special assessments. The usury rate for February is 5.50%.

INTEREST RATES FOR PUBLIC OBLIGATIONS AND ASSESSMENTS

74A.2 Unpaid Warrants	Maximum 6.0%
74A.4 Special Assessments	Maximum 9.0%

RECOMMENDED Rates for Public Obligations (74A.3) and School District Warrants (74A.7). A rate equal to 75% of the Federal Reserve monthly published indices for U.S. Government securities of comparable maturities. All Iowa Banks and Iowa Savings Associations as defined by Iowa Code section 12C.1 are eligible for public fund deposits as defined by Iowa Code section 12C.6A.

The rate of interest has been determined by a committee of the state of Iowa to be the minimum interest rate that shall be paid on public funds deposited in approved financial institutions. To be eligible to accept deposits of public funds of the state of Iowa, a financial institution shall demonstrate a commitment to serve the needs of the local community in which it is chartered to do business. These needs include credit services as well as deposit services. All such financial institutions are required to provide the committee with a written description of their commitment to provide credit services in the community. This statement is available for examination by citizens.

New official state interest rates, effective February 9, 2010, setting the minimums that may be paid by Iowa depositories on public funds are listed below.

TIME DEPOSITS

7-31 days	Minimum 0.05%
32-89 days	Minimum 0.05%
90-179 days	Minimum 0.05%
180-364 days	Minimum 0.20%
One year to 397 days	Minimum 0.45%
More than 397 days	Minimum 1.05%

These are minimum rates only. The one year and less are four-tenths of a percent below average rates. Public body treasurers and their depositories may negotiate a higher rate according to money market rates and conditions.

Inquiries may be sent to Michael L. Fitzgerald, Treasurer of State, State Capitol, Des Moines, Iowa 50319.

ARC 8548B

IOWA FINANCE AUTHORITY[265]

Adopted and Filed Emergency

Pursuant to the authority of Iowa Code sections 17A.3(1)“b” and 16.5(1)“r,” the Heartland Disaster Tax Relief Act of 2008, and Executive Order Number 9, the Iowa Finance Authority hereby amends Chapter 30, “Qualified Midwestern Disaster Area Bond Allocation,” Iowa Administrative Code.

The purpose of these amendments is to implement a per-applicant cap on allotments and to provide a set-aside to the Iowa Department of Economic Development for directing allotments of Midwestern Disaster Area bonds issued and sold pursuant to the Heartland Disaster Tax Relief Act of 2008.

The Authority does not intend to grant waivers under the provisions of any of these rules, other than as may be allowed under the Authority’s general rules concerning waivers.

Pursuant to Iowa Code section 17A.4(3), the Authority finds that notice and public participation are impracticable and contrary to the public interest in that assistance to victims of the natural disasters is needed as soon as possible, recent federal guidance has clarified permitted uses of the authority to issue Midwestern Disaster Area bonds, and the normal notice and public participation process would delay implementation of these amendments.

The Authority finds that these amendments confer a benefit on the persons affected, namely, the persons and businesses adversely affected by the natural disasters of 2008, in that the amendments provide a form of financial assistance and ease and speed the administration of an important federal remedy benefiting those persons and should be implemented as soon as feasible in order to facilitate the recovery of the affected areas. Therefore, these amendments are filed pursuant to Iowa Code section 17A.5(2)“b”(2), and the normal effective date of these amendments is waived.

The Authority adopted these amendments on February 3, 2010.

These amendments are also published herein under Notice of Intended Action as **ARC 8549B** to allow for public comment.

These amendments became effective February 4, 2010.

These amendments are intended to implement Iowa Code section 16.5(1)“r,” the Heartland Disaster Tax Relief Act of 2008, and Executive Order Number 9.

The following amendments are adopted.

ITEM 1. Amend paragraph **30.3(1)“b”** as follows:

b. Is a person ~~designated for purposes of Section 1400N(a) of the Internal Revenue Code by the governor as a person carrying on a trade or business~~ replacing a trade or business with respect to which another person suffered such a loss.

ITEM 2. Amend subrule 30.3(2) as follows:

30.3(2) In the case of a project relating to public utility property (as defined in Section 168(i)(10) of the Internal Revenue Code), to be eligible for an allotment, the applicant must certify that the project involves repair or reconstruction of public utility property damaged by the disasters.

ITEM 3. Amend rule 265—30.4(16) as follows:

265—30.4(16) Formula for allocation Allocation limit and Iowa department of economic development set-aside.

30.4(1) Pro rata allocation. Per-applicant cap; set-aside.

a. Through December 31, ~~2009~~ 2011, allotments shall be limited to not more than \$200 million per applicant, with any related party, as defined under Section 267 of the Internal Revenue Code, being included within the meaning of applicant for the application of subrule 30.4(1). ~~allocated by the governor’s designee on a pro rata basis among projects located in Iowa counties affected by the disasters. Projects in each county so affected shall be eligible, collectively, to receive in the aggregate a pro rata percentage (based on the percentage of housing assistance received by each county from the Federal Emergency Management Agency), as set forth on Schedule A at the end of this chapter, of \$2~~

IOWA FINANCE AUTHORITY[265](cont'd)

~~billion of allotments. During such period, all remaining portions of the total aggregate face amount of MDA bonds permitted under the Act, beyond the \$2 billion referenced above, shall be available to all eligible projects, without regard to proration.~~

b. Through December 31, 2011, an amount of \$300 million shall be set aside and made available to applicants selected by the Iowa department of economic development. The director of the Iowa department of economic development shall notify the authority in writing of the name of each applicant that is to receive an allotment under subrule 30.4(1) and the amount allotted to each applicant. Promptly upon receipt of this written notice, the authority shall award the designated allotment to said applicant.

~~b. c. Following December 31, 2009 2011, all remaining unallocated allotments under paragraph 30.4(1) "b" shall be available to all eligible projects, without regard to proration. Following December 31, 2011, the per-applicant cap set forth in paragraph 30.4(1) "a" shall not apply.~~

30.4(2) to 30.4(5) No change.

ITEM 4. Amend rule 265—30.6(16) as follows:

265—30.6(16) Certification of allocation. Upon receipt of a completed application, the governor's designee shall promptly certify to the applicant the amount of the allotment allocated to the project for which the application was submitted. ~~The Subject to subrule 30.4(1),~~ the governor's designee shall continue to allocate allotments for eligible projects until the allotments allocated equal the maximum aggregate face amount that may be designated as MDA bonds under the Act or until there are no more applications, whichever occurs first. If the remaining allotment capacity is not sufficient to fully fund an application which is next in order for allocation, the governor's designee shall notify the applicant of the amount that is available and the applicant shall have the option to take what is available within five calendar days of receiving notice of availability. If the applicant does not notify the governor's designee of its decision to take the available allocation within five calendar days of receiving notice of that option, an allotment shall be offered to the next application on the list under the same conditions ~~to the applicant whose application is next on the list.~~ If the partial allocation is accepted, the applicant shall submit a new application for an additional allotment and that application will be added to the bottom of the list in the chronological order of its receipt. If the bonds are issued and delivered prior to the expiration date of the allocation, then the applicant or the applicant's attorney shall within ten days following the issuance and delivery of the bonds notify the governor's designee by filing the form captioned "Notice of Issuance and Delivery of Bonds."

ITEM 5. Rescind Schedule A at the end of **265—Chapter 30.**

[Filed Emergency 2/4/10, effective 2/4/10]

[Published 2/24/10]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 2/24/10.

ARC 8528B

PUBLIC HEALTH DEPARTMENT[641]

Adopted and Filed Emergency After Notice

Pursuant to the authority of Iowa Code section 105.4, the Iowa Plumbing and Mechanical Systems Board hereby amends Chapter 27, "Plumbing and Mechanical Systems Examining Board—Administrative and Regulatory Authority," Iowa Administrative Code.

The rules in Chapter 27 describe the purpose and organization of the Plumbing and Mechanical Systems Board. These amendments reflect the changes mandated by 2009 Iowa Acts, chapter 151.

Notice of Intended Action was published in the Iowa Administrative Bulletin on December 2, 2009, as **ARC 8360B**. A public hearing was held on December 22, 2009. No comments were received pertaining to Chapter 27. However, the Board did receive comments on other rule makings affecting plumbing and mechanical systems professionals. As a result of those comments, the Board has elected to remove

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all references to the geothermal license to allow additional time for interested parties to work with the Board on resolving their differences; therefore, the only changes made were to remove references to geothermal licenses.

The Board finds, pursuant to Iowa Code section 17A.5(2)“b”(2), that the normal effective date of the amendments should be waived and these amendments should be made effective upon filing, as they confer a benefit to regulated parties by implementing the changes mandated by 2009 Iowa Acts, chapter 151.

The Plumbing and Mechanical Systems Board adopted these amendments on January 19, 2010.

These amendments became effective January 26, 2010.

These amendments are intended to implement Iowa Code chapter 105 and 2009 Iowa Acts, chapter 151.

The following amendments are adopted.

ITEM 1. Amend **641—Chapter 27**, title, as follows:
PLUMBING AND MECHANICAL SYSTEMS EXAMINING BOARD—ADMINISTRATIVE AND REGULATORY AUTHORITY

ITEM 2. Amend rule **641—27.1(17A,105)**, definitions of “Board,” “License” and “Licensee,” as follows:

“*Board*” means the plumbing and mechanical systems ~~examining~~ board.

“*License*” means a license to operate as a contractor or work in the plumbing trade, HVAC trade, refrigeration trade, or hydronic trade disciplines or work as a certified medical gas system installer or work in the specialty license disciplines developed by the board.

“*Licensee*” means a person or entity licensed to operate as a contractor or work in the plumbing trade, HVAC trade, refrigeration trade, or hydronic trade disciplines or work as a certified medical gas system installer or work in the specialty license disciplines developed by the board.

ITEM 3. Rescind the definition of “Overpayment” in rule **641—27.1(17A,105)**.

ITEM 4. Amend rule 641—27.2(17A,105) as follows:

641—27.2(17A,105,83GA,ch151) Purpose of board. The purpose of the board is to administer and enforce the provisions of Iowa Code chapters 17A and 105 with regard to the licensing and regulation of plumbers, ~~and mechanical professionals, and contractors.~~ The mission of the board is to protect the public health, safety and welfare by licensing qualified individuals who provide services to consumers and by fair and consistent enforcement of the statutes and regulations of the licensure board. Responsibilities include, but are not limited to:

27.2(1) Licensing of qualified applicants to operate as a contractor or work in the plumbing trade, HVAC trade, refrigeration trade, or hydronic trade disciplines or work as a certified medical gas system installer or work in the specialty license disciplines developed by the board by examination, renewal, endorsement, and reciprocity.

27.2(2) and **27.2(3)** No change.

ITEM 5. Amend subrule 27.3(1) as follows:

27.3(1) The board shall be composed of 11 members appointed by the governor ~~and confirmed by the senate.~~ The board members identified in subrule 27.3(2), paragraphs “c” to “i,” are subject to confirmation by the senate.

ITEM 6. Amend paragraph **27.3(8)“e”** as follows:

e. Investigate alleged violations of statutes or rules that relate to operation as a contractor; work in the plumbing trade, HVAC trade, refrigeration trade, or hydronic trade disciplines; work as a certified medical gas system installer; or work in the specialty license disciplines developed by the board upon receipt of a complaint or upon the board’s own initiation. The investigation will be based on information or evidence received by the board.

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ITEM 7. Amend rule 641—27.4(17A,105) as follows:

641—27.4(17A,105) Official communications.

27.4(1) All official communications, including submissions and requests, may be addressed to the Plumbing and Mechanical Systems Examining Board, Lucas State Office Building, 321 E. 12th Street, Des Moines, Iowa 50319-0075.

27.4(2) and **27.4(3)** No change.

ITEM 8. Amend subrule 27.6(1) as follows:

27.6(1) At every regularly scheduled board meeting, time will be designated for public comment. During the public comment period, any person may speak for up to two minutes. ~~Requests to speak for two minutes per person later in the meeting when a particular topic comes before the board should be made at the time of the public comment period and may be granted at the discretion of the chairperson. No more than ten minutes will be allotted for public comment at any one time unless the chairperson stipulates otherwise. Any additional time allowances will be at the discretion of the chairperson or acting chairperson.~~

[Filed Emergency After Notice 1/26/10, effective 1/26/10]

[Published 2/24/10]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 2/24/10.

ARC 8529B

PUBLIC HEALTH DEPARTMENT[641]

Adopted and Filed Emergency After Notice

Pursuant to the authority of Iowa Code section 105.4, the Iowa Plumbing and Mechanical Systems Board hereby amends Chapter 28, "Plumbing and Mechanical Systems Licensure Fees," Iowa Administrative Code.

The rules in Chapter 28 describe the fees applicable to the various licenses issued by the Plumbing and Mechanical Systems Board. These amendments reflect the changes mandated by 2009 Iowa Acts, chapter 151.

Notice of Intended Action was published in the Iowa Administrative Bulletin on December 2, 2009, as **ARC 8361B**. A public hearing was held on December 22, 2009. Two comments were received pertaining to the amendments to Chapter 28. One was general in nature and the other referenced the geothermal installer license. The Board has elected to remove all references to the geothermal license to allow additional time for the interested parties to work with the Board on resolving their differences; the only changes made to this rule were to remove references to the geothermal licenses.

The Board finds, pursuant to Iowa Code section 17A.5(2)"b"(2), that the normal effective date of the amendments should be waived and these amendments should be made effective upon filing, as implementation of the changes mandated by 2009 Iowa Acts, chapter 151, confers a benefit to regulated parties.

The Plumbing and Mechanical Systems Board adopted these amendments on January 19, 2010.

These amendments became effective January 26, 2010.

These amendments are intended to implement Iowa Code chapter 105 and 2009 Iowa Acts, chapter 151.

The following amendments are adopted.

ITEM 1. Amend **641—Chapter 28**, title, as follows:

PLUMBING AND MECHANICAL SYSTEMS BOARD—LICENSURE FEES

ITEM 2. Amend subrule 28.1(1) as follows:

28.1(1) License fee for:

a. to *c.* No change.

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- ~~d.~~ A combined license is the sum total of each of the separate license fees.
- ~~e.~~ d. A medical gas pipe certificate as defined in 641—29.3(105) is \$50.
- ~~f.~~ e. An inactive license as defined in 641—~~subrule 29.2(4)~~ subrules 29.2(5) and 29.2(6) is \$50.
- f. A contractor license as defined in 641—subrule 29.2(4) is \$250.
- g. A special restricted license as defined in 641—subrules 29.2(8), 29.2(9), 29.2(10), and 29.2(11) is \$50.

ITEM 3. Rescind paragraphs **28.1(2)“d”** and **“e.”**

ITEM 4. Amend subrule 28.1(3) as follows:

28.1(3) Renewal license fee for:

a. to c. No change.

- ~~d.~~ A combined license is the sum total of each of the separate license fees.
- ~~e.~~ d. A medical gas pipe certificate as defined in 641—29.3(105) is \$50.
- ~~f.~~ e. An inactive license as defined in 641—~~subrule 29.2(4)~~ subrules 29.2(5) and 29.2(6) is \$50.
- f. A contractor license as defined in 641—subrule 29.2(4) is \$250.
- g. A special restricted license as defined in 641—subrules 29.2(8), 29.2(9), 29.2(10), and 29.2(11) is \$50.

ITEM 5. Amend paragraph **28.1(5)“c”** as follows:

c. A licensee who allows a license to lapse for more than two months is required to retake and pass the applicable licensing examination and pay the appropriate renewal of license fee in order to obtain reinstatement. A licensee whose license has lapsed continues to hold the privilege of licensure in Iowa, but may not work as a plumbing or mechanical professional or contractor in Iowa until the license is renewed. A licensee who works as a plumbing or mechanical professional, including under a special restricted license, or operates as a contractor in the state of Iowa with a lapsed license may be subject to disciplinary action by the board, injunctive action pursuant to Iowa Code section 147.83, criminal sanctions pursuant to Iowa Code section 147.86, and other available legal remedies.

ITEM 6. Adopt the following **new** subrule 28.1(11):

28.1(11) Combined license.

- a. For purposes of this subrule, “combined license” shall mean more than one active master or journeyman license under subrules 28.1(1) through 28.1(3) in one or multiple disciplines.
- b. A license fee for a combined license shall be the sum total of each of the separate license fees reduced by 30 percent.
- c. In order to be eligible for the combined license fee reduction, all individual licenses must be purchased in a single transaction.

[Filed Emergency After Notice 1/26/10, effective 1/26/10]

[Published 2/24/10]

EDITOR’S NOTE: For replacement pages for IAC, see IAC Supplement 2/24/10.

ARC 8530B

PUBLIC HEALTH DEPARTMENT[641]

Adopted and Filed Emergency After Notice

Pursuant to the authority of Iowa Code section 105.4, the Iowa Plumbing and Mechanical Systems Board hereby amends Chapter 29, “Plumbing and Mechanical Systems Professionals—Application, Licensure, and Examination,” Iowa Administrative Code.

The rules in Chapter 29 define the types of licenses and the requirements for licensure. Guidelines are provided for applicants to follow when they apply for the initial license, apply for renewal, or apply for examination. The rules also outline procedures to follow when licensure is denied. These amendments reflect the changes mandated by 2009 Iowa Acts, chapter 151.

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Notice of Intended Action was published in the Iowa Administrative Bulletin on December 2, 2009, as **ARC 8362B**. A public hearing was held on December 22, 2009. Twelve comments were received pertaining to the amendments to Chapter 29. One comment pointed out a typographical error for the reference to North American Technician Excellence; the Board corrected the reference. Five other comments were questions or general comments that did not result in substantive changes. The remaining six comments raised opposing concerns regarding the geothermal discipline licensing requirements. As a result, the Board has elected to remove all references to the geothermal license to allow additional time for the interested parties to work with the Board on resolving their differences in order to provide licensure for those individuals who are working in the geothermal discipline in Iowa. In addition, nonsubstantive technical corrections were made for clarity.

The Board finds, pursuant to Iowa Code section 17A.5(2)“b”(2), that the normal effective date of the amendments should be waived and these amendments should be made effective upon filing, as they confer a benefit to regulated parties by providing contractor licenses and specialty licensing and by implementing the other changes mandated by 2009 Iowa Acts, chapter 151.

The Plumbing and Mechanical Systems Board adopted these amendments on January 19, 2010.

These amendments became effective January 26, 2010.

These amendments are intended to implement Iowa Code chapter 105 and 2009 Iowa Acts, chapter 151.

The following amendments are adopted.

ITEM 1. Amend **641—Chapter 29**, title, as follows:

**PLUMBING AND MECHANICAL SYSTEMS PROFESSIONALS BOARD—
APPLICATION, LICENSURE, AND EXAMINATION**

ITEM 2. Amend rule **641—29.1(105)**, definitions of “Board,” “HVAC,” “Hydronic,” “Inactive license,” “Licensee” and “Routine maintenance,” as follows:

“*Board*” means the plumbing and mechanical systems ~~examining~~ board.

“*HVAC*” means heating, ventilation, ~~and~~ air conditioning, ~~in and~~ ducted systems. “HVAC” includes all natural, propane, liquid propane, or other gas lines associated with any component of an HVAC system.

“*Hydronic*” means a heating or cooling system that transfers heating or cooling by circulating fluid through a closed system, including boilers, pressure vessels, refrigerated equipment in connection with chilled water systems, all steam piping, hot or chilled water piping together with all control devices and accessories, installed as part of, or in connection with, any comfort heating or comfort cooling system or appliance using a liquid, water, or steam as the heating or cooling media. “Hydronic” includes all low-pressure and high-pressure systems and all natural, propane, liquid propane, or other gas lines associated with any component of a hydronic system.

“*Inactive license*” means a license that is available for a plumbing, HVAC, refrigeration, or hydronic professional who is not actively engaged in running a business or working in the business in the corresponding discipline, ~~in cases such as a retirement, military deployment, or medical leave at that license level.~~

“*Licensee*” means a person or entity licensed by the board as an apprentice, journey person, or master who provides services to operate as a contractor or work in the plumbing, HVAC, refrigeration, or hydronics hydronic disciplines or work as a certified medical gas system installer or work in the specialty license disciplines developed by the board.

“*Routine maintenance*,” ~~as the term applies in Iowa Code section 105.11(9), is the regular upkeep of plumbing, HVAC, refrigeration, and hydronic systems and equipment, including recurring, preventive and ongoing maintenance necessary to delay or prevent failure, for which no changes in original design or construction are made. Examples of routine maintenance include replacing wax seals, gaskets, washers, air filters, or belts; oiling a blower motor; cleaning a condensing coil; and repairing damaged ductwork.~~ “Routine maintenance” shall not be interpreted to allow the repair or replacement of furnaces, condensing units, blower motors, boilers, chillers, ductwork systems, water heaters, water pipe systems, waste and vent systems or similar work means the maintenance, repair, or replacement of existing fixtures or parts

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of plumbing, HVAC, refrigeration, or hydronic systems in which no changes in original design are made. Fixtures or parts do not include smoke and fire dampers or water, gas or steam piping permanent repairs except for traps or strainers. Routine maintenance shall include emergency repairs. "Routine maintenance" does not include the replacement of furnaces, boilers, cooling appliances, or water heaters more than 100 gallons in size.

ITEM 3. Adopt the following **new** definitions in rule **641—29.1(105)**:

"Disconnect/reconnect plumbing technician specialty license" means a sublicense under a plumbing license to perform work from the appliance shutoff valve or fixture shutoff valve to the appliance or fixture and any part or component of the appliance or fixture, including the disconnection and reconnection of the existing appliance or fixture to the water or sewer piping and the installation of a shutoff valve no more than 3 feet from the appliance or fixture.

"Emergency repairs" means the repair of water pipes to prevent imminent damage to property.

"Hearth systems specialty license" means a sublicense under an HVAC license to perform work in the installation of gas burning and solid fuel appliances that offer a decorative view of the flames, from the connector pipe to the shutoff valve located within 3 feet of the appliance. This sublicense is further allowed to perform work in the venting systems, log lighters, gas log sets, fireplace inserts, and freestanding stoves.

"Service technician HVAC specialty license" means a sublicense under an HVAC license to perform work from the appliance shutoff valve to the appliance and any part and component of the appliance, including the disconnection and reconnection of the existing appliance to the gas piping and the installation of a shutoff valve no more than 3 feet away from the appliance.

"Surety bond" means a performance bond written by an entity licensed to do business in this state which guarantees that a contractor will fully perform the contract and which guarantees against breach of that contract.

ITEM 4. Rescind rule 641—29.2(105) and adopt the following **new** rule in lieu thereof:

641—29.2(105) Available licenses and general requirements. Subject to the general requirements set forth herein and the minimum qualifications for licensure set forth in rule 641—29.4(105), the following licenses are available:

29.2(1) Apprentice license. An applicant for an apprentice license shall:

- a. File an application and pay application fees in accordance with 641—29.5(105).
- b. Be enrolled in an applicable apprentice program which is registered with the United States Department of Labor Office of Apprenticeship.
- c. Certify that the applicant will work under the supervision of a licensed journeyman or master in the applicable discipline by providing the department with the United States Department of Labor Office of Apprenticeship identification number and sponsor identification number.

29.2(2) Journeyman license.

- a. An applicant for a journeyman license shall:
 - (1) File an application and pay application fees in accordance with rule 641—29.5(105).
 - (2) Pass the state journeyman licensing examination in the applicable discipline.
 - (3) Provide the board with evidence that the applicant has completed at least four years of practical experience as an apprentice. Commencing January 1, 2010, the four years of practical experience required by this paragraph must be an apprenticeship training program registered by the United States Department of Labor Office of Apprenticeship. Documentation must be submitted on a form provided by the board.

b. Notwithstanding the journeyman licensure requirements set forth in paragraph 29.2(2) "a," an applicant who possesses a master level license and who seeks a journeyman license in the same discipline shall file an application and pay application fees in accordance with rule 641—29.5(105).

29.2(3) Master license. An applicant for a master license shall:

- a. File an application and pay application fees in accordance with rule 641—29.5(105).
- b. Pass the state master licensing examination for the applicable discipline.

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- c. Provide the board with evidence that the applicant:
- (1) Has previously been licensed as a master in the applicable discipline; or
 - (2) Has previously been licensed as a journeyperson in the applicable discipline and has at least two years of journeyperson experience in the applicable discipline.

29.2(4) Contractor license. An applicant for a contractor license shall:

- a. File an application and pay application fees in accordance with rule 641—29.5(105).
- b. Provide the applicant's Iowa workforce development contractor registration number.
- c. Provide the board with evidence that the applicant maintains a permanent place of business.
- d. Provide the board with evidence of a public liability insurance policy issued by an entity licensed to do business in this state with a minimum coverage amount of \$500,000 and:
 - (1) If the applicant operates the contractor business as a sole proprietorship, provide the board with evidence that the applicant personally obtained the policy, or
 - (2) If the applicant operates the contractor business as an employee or owner of a legal entity, provide the board with evidence that the insurance policy is obtained by the entity and that the insurance covers all plumbing or mechanical work performed by the entity.
- e. Provide the board with evidence of a surety bond issued by an entity licensed to do business in this state in a minimum amount of \$5,000 and:
 - (1) If the applicant operates the contractor business as a sole proprietorship, provide the board with evidence that the applicant personally obtained the surety bond, or
 - (2) If the applicant operates the contractor business as an employee or owner of a legal entity, provide the board with evidence that the surety bond was obtained by the entity and that the surety bond covers all plumbing or mechanical work performed by the entity.
- f. Provide a certificate to the board that the public liability insurance policy required under paragraph 29.2(4)“d” and the surety bond required under paragraph 29.2(4)“e” shall not be canceled without the entity first giving 15 days' written notice to the board.

g. Provide the board with evidence that the applicant holds an active master license or employs at least one person who holds an active master license issued under Iowa Code chapter 105.

29.2(5) Active journeyperson license/inactive master license combination. An applicant for an active journeyperson license and an inactive master license in the same discipline shall:

- a. File an application and pay application fees for both an active journeyperson license and an inactive master license in accordance with rule 641—29.5(105).
- b. Provide the board with evidence that the applicant meets the requirements for master licensure under subrule 29.2(3).
- c. Provide evidence that the applicant is not performing plumbing, HVAC, refrigeration, or hydronic work for which a master license is required.
- d. Acknowledge awareness that the applicant is unable to perform any plumbing, HVAC, refrigeration, or hydronic work for which a master license is required so long as the applicant's master license is held in inactive status.

29.2(6) Inactive license. An applicant for an inactive license that does not fall within subrule 29.2(5) shall:

- a. File an application and pay application fees in accordance with rule 641—29.5(105).
- b. Provide the board with evidence that the applicant meets the requirements for licensure under rule 641—29.2(105) at the applicable licensure level.
- c. Provide the board with evidence that the applicant is not actively engaged working in the plumbing, HVAC, refrigeration, or hydronic disciplines for which licensure is required.
- d. Acknowledge awareness that the applicant is unable to perform any plumbing, HVAC, refrigeration, or hydronic work for which licensure is required so long as the applicant's license is held in inactive status.

29.2(7) Service technician HVAC specialty license. An applicant for a service technician HVAC specialty license shall:

- a. File an application and pay application fees in accordance with rule 641—29.5(105).
- b. Provide the board with evidence that:

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(1) The applicant possesses a valid certification from North American Technician Excellence, Inc. or an equivalent authority approved by the board, or

(2) The applicant completed a Service Technician Associate degree or equivalent educational or similar training approved by the board.

29.2(8) Disconnect/reconnect plumbing technician specialty license. An applicant for a disconnect/reconnect plumbing technician specialty license shall:

a. File an application and pay application fees in accordance with rule 641—29.5(105).

b. Provide the board with evidence that:

(1) The applicant is receiving or has previously received industry training to perform work covered under this specialty license, or

(2) The applicant completed a Service Technician Associate degree or equivalent educational or similar training approved by the board.

29.2(9) Private school or college routine maintenance specialty license. An applicant for a private school or college routine maintenance specialty license shall:

a. File an application and pay application fees in accordance with rule 641—29.5(105).

b. Provide the board with evidence that the applicant is currently employed by a private school or college.

c. Provide the board with evidence that the applicant is performing routine maintenance within the scope of employment with the private school or college.

29.2(10) Hearth systems specialty license. An applicant for a hearth systems specialty license shall:

a. File an application and pay application fees in accordance with rule 641—29.5(105).

b. Provide the board with evidence that the applicant possesses a valid certification issued by the National Fireplace Institute or equivalent authority approved by the board.

ITEM 5. Amend rule 641—29.3(105), introductory paragraph, as follows:

641—29.3(105) Medical gas piping certification. ~~For the plumbing discipline, the~~ The following certification is required for a person who performs work as a medical gas system installer. An applicant for a medical gas certificate shall:

ITEM 6. Rescind subrule **29.4(4)**.

ITEM 7. Amend paragraph **29.5(1)“b”** as follows:

b. Applications ~~should~~ can be completed on-line since ~~paper applications will incur an additional processing fee or on a paper application.~~ However, paper Paper applications are available to download at <http://www.idph.state.ia.us/eh/plumbing.asp> or ~~to request~~ from the board office by writing to: Plumbing and Mechanical Systems ~~Examining~~ Board, Iowa Department of Public Health, 312 E. 12th Street, 5th Floor, Des Moines, Iowa 50319-0075, or by calling 1-866-280-1521.

ITEM 8. Amend paragraph **29.5(2)“b”** as follows:

b. A paper application shall be accompanied by the appropriate fees payable by check or money order to the Iowa Plumbing and Mechanical Systems ~~Examining~~ Board.

ITEM 9. Amend subrule 29.5(3) as follows:

29.5(3) If the applicant is notified that the application is incomplete, the applicant must contact the board office within 90 days. The board may be contacted at: Plumbing and Mechanical Systems ~~Examining~~ Board, Iowa Department of Public Health, 312 E. 12th Street, 5th Floor, Des Moines, Iowa 50319, or by calling 1-866-280-1521.

ITEM 10. Amend subrule 29.5(5) as follows:

29.5(5) Complete applications shall be filed with the plumbing and mechanical systems ~~examining~~ board. Incomplete applications shall be considered invalid and after 90 days shall be destroyed.

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ITEM 11. Amend subrule 29.6(1), introductory paragraph, as follows:

29.6(1) An applicant for licensure as a plumbing or mechanical system professional ~~shall that requires a state licensing examination must~~ successfully pass the licensing examination for the discipline.

ITEM 12. Rescind paragraph **29.6(1)“c.”**

ITEM 13. Amend paragraph **29.6(3)“b”** as follows:

~~b. Examination applications should~~ can be completed on-line ~~since paper applications will incur an additional processing fee or on a paper application. However, paper~~ Paper applications are available to download at <http://www.idph.state.ia.us/eh/plumbing.asp> or to request from the board office by writing to: Plumbing and Mechanical Systems Examining Board, Iowa Department of Public Health, 312 E. 12th Street, 5th Floor, Des Moines, Iowa 50319-0075, or by calling 1-866-280-1521.

ITEM 14. Amend subparagraph **29.6(3)“c”(2)** as follows:

(2) A paper examination application shall be accompanied by the appropriate fees payable by check or money order to the Iowa Plumbing and Mechanical Systems Examining Board.

ITEM 15. Amend paragraph **29.6(3)“f”** as follows:

~~f. If the applicant is notified that the application is incomplete, the applicant must contact the board office within 90 days. The board may be contacted at: Plumbing and Mechanical Systems Examining Board, Iowa Department of Public Health, 312 E. 12th Street, 5th Floor, Des Moines, Iowa 50319, or by calling 1-866-280-1521.~~

ITEM 16. Amend paragraph **29.6(3)“k”** as follows:

~~k. A master examination applicant shall be licensed with the state of Iowa as a journey person in the discipline for a minimum of two years prior to application for examination. not receive permission to sit for a master examination unless the applicant establishes that the applicant:~~

~~(1) Has previously been licensed as a master in the applicable discipline; or~~

~~(2) Has previously been licensed as a journey person in the applicable discipline and has at least two years of journey person experience in the applicable discipline.~~

ITEM 17. Amend paragraph **29.6(3)“l”** as follows:

~~l. A journey person examination applicant may apply to sit for the examination up to 60 days prior to completion of the 48 months of required apprentice credit, which shall include the granting of advanced standing or credit for previously acquired experience, training, or skills. The application for licensure will not be processed until all required criteria are complete and the certificate of completion from the United States Department of Labor Office of Apprenticeship has been issued.~~

ITEM 18. Amend subrule 29.7(1), introductory paragraph, as follows:

29.7(1) The period of licensure to ~~practice as an apprentice, journey person, or master in the plumbing, HVAC, refrigeration, or hydronics disciplines~~ operate as a contractor or work as a master, journey person or apprentice in the plumbing, HVAC, refrigeration, or hydronic disciplines or work as a certified medical gas system installer or work in the specialty license disciplines developed by the board shall be biennial (every two years).

ITEM 19. Amend subparagraph **29.7(2)“a”(1)** as follows:

(1) Meet the continuing education requirements, ~~at least eight classroom hours of instruction during each two-year licensing term~~ as set forth in rule 641—30.2(105). A licensee whose license was reactivated during the current renewal compliance period may use continuing education credit earned during the compliance period for the first renewal following reactivation; and

ITEM 20. Adopt the following **new** subparagraph **29.7(2)“a”(3)**:

(3) Provide evidence that the licensee continues to meet the general requirements for licensure under rule 641—29.2(105).

PUBLIC HEALTH DEPARTMENT[641](cont'd)

ITEM 21. Amend paragraph **29.7(2)“b,”** introductory paragraph, as follows:

b. Failure to renew a license within ~~a reasonable time~~ two months after the expiration of the license shall not invalidate the license, but a reasonable penalty may be assessed as adopted by rule, in addition to the license renewal fee, to allow reinstatement of the license.

ITEM 22. Amend subparagraphs **29.7(2)“c”(2)** and **(3)** as follows:

(2) A licensee whose license is lapsed may not ~~practice as a plumbing or mechanical professional~~ operate as a contractor or work in the plumbing, HVAC, refrigeration, or hydronic disciplines or work as a certified medical gas system installer or work in the specialty license disciplines developed by the board until the license is reinstated and renewed.

(3) A licensee who ~~practices as a plumbing or mechanical professional~~ operates as a contractor or works in the plumbing, HVAC, refrigeration, or hydronic disciplines or works as a certified medical gas system installer or works in the specialty license disciplines developed by the board in the state of Iowa with a lapsed license may be subject to disciplinary action by the board, injunctive action pursuant to Iowa Code chapter 105, criminal sanctions pursuant to Iowa Code chapter 105, and other available legal remedies.

ITEM 23. Rescind and reserve rule **641—29.8(105)**.

[Filed Emergency After Notice 1/26/10, effective 1/26/10]

[Published 2/24/10]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 2/24/10.

ARC 8531B

PUBLIC HEALTH DEPARTMENT[641]

Adopted and Filed Emergency After Notice

Pursuant to the authority of Iowa Code section 105.4, the Iowa Plumbing and Mechanical Systems Board hereby adopts new Chapter 32, “Plumbing and Mechanical Systems Board—Licensee Discipline,” Iowa Administrative Code.

The rules in Chapter 32 describe the Iowa Plumbing and Mechanical Systems Board’s grounds and method for discipline. The chapter also identifies civil penalties, unlawful practices, investigations, subpoenas, requests for hearings, factors the Board may consider, enforcement options and judicial review.

Notice of Intended Action was published in the Iowa Administrative Bulletin on December 2, 2009, as **ARC 8363B**. A public hearing was held on December 22, 2009. One comment pertaining to Chapter 32 was received; however, it was not substantive in nature. The adopted rules are identical to those published under Notice.

The Board finds, pursuant to Iowa Code section 17A.5(2)“b”(2), that the normal effective date of these rules should be waived and these rules should be made effective upon filing, as they confer a benefit on the public and licensees by providing the guidelines and information needed to understand the grounds and method for discipline and to minimize a chance of noncompliance with Iowa Code requirements.

The Plumbing and Mechanical Systems Board adopted these rules on January 19, 2010.

These rules became effective January 26, 2010.

PUBLIC HEALTH DEPARTMENT[641](cont'd)

These rules are intended to implement Iowa Code chapter 272C and chapter 105 as amended by 2009 Iowa Acts, chapter 151.

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 32] is being omitted. These rules are identical to those published under Notice as **ARC 8363B**, IAB 12/2/09.

[Filed Emergency After Notice 1/26/10, effective 1/26/10]

[Published 2/24/10]

[For replacement pages for IAC, see IAC Supplement 2/24/10.]

ARC 8532B**PUBLIC HEALTH DEPARTMENT[641]****Adopted and Filed Emergency After Notice**

Pursuant to the authority of Iowa Code section 105.4, the Iowa Plumbing and Mechanical Systems Board hereby adopts Chapter 34, "Plumbing and Mechanical Systems Board—Complaints and Investigations," Iowa Administrative Code.

The rules in Chapter 34 describe how to submit a complaint to the Iowa Plumbing and Mechanical Systems Board. The rules also detail how an investigation will be conducted and how the review process will proceed.

Notice of Intended Action was published in the Iowa Administrative Bulletin on December 2, 2009, as **ARC 8364B**. A public hearing was held on December 22, 2009. No comments were received pertaining to Chapter 34. The adopted rules are identical to those published under Notice.

The Board finds, pursuant to Iowa Code section 17A.5(2)"b"(2), that the normal effective date of these rules should be waived and these rules should be made effective upon filing, as the rules confer a benefit on licensees by providing a means for submitting a complaint and understanding the process that will be followed during the investigation.

The Plumbing and Mechanical Systems Board adopted these rules on January 19, 2010.

These rules became effective January 26, 2010.

These rules are intended to implement Iowa Code chapters 17A, 105, 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 [Ch 34] is being omitted. These rules are identical to those published under Notice as **ARC 8364B**, IAB 12/2/09.

[Filed Emergency After Notice 1/26/10, effective 1/26/10]

[Published 2/24/10]

[For replacement pages for IAC, see IAC Supplement 2/24/10.]

ARC 8533B**PUBLIC HEALTH DEPARTMENT[641]****Adopted and Filed Emergency After Notice**

Pursuant to the authority of Iowa Code section 105.4, the Iowa Plumbing and Mechanical Systems Board hereby adopts Chapter 35, "Plumbing and Mechanical Systems Board—Licensure of Nonresident Applicant—Reciprocity," Iowa Administrative Code.

The rules in Chapter 35 describe how an out-of-state applicant would apply for a license issued by the Iowa Plumbing and Mechanical Systems Board.

Notice of Intended Action was published in the Iowa Administrative Bulletin on December 2, 2009, as **ARC 8365B**. A public hearing was held on December 22, 2009. No comments were received pertaining to Chapter 35. The adopted rules are identical to those published under Notice.

PUBLIC HEALTH DEPARTMENT[641](cont'd)

The Board finds, pursuant to Iowa Code section 17A.5(2)“b”(2), that the normal effective date of these rules should be waived and these rules should be made effective upon filing, as they confer a benefit on licensees who reside outside the state of Iowa by permitting the Board to establish reciprocity with states whose licensing regulations meet the criteria outlined in the rules.

The Plumbing and Mechanical Systems Board adopted these rules on January 19, 2010.

These rules became effective January 26, 2010.

These rules are intended to implement Iowa Code chapter 105.

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 35] is being omitted. These rules are identical to those published under Notice as **ARC 8365B**, IAB 12/2/09.

[Filed Emergency After Notice 1/26/10, effective 1/26/10]

[Published 2/24/10]

[For replacement pages for IAC, see IAC Supplement 2/24/10.]

ARC 8534B**PUBLIC HEALTH DEPARTMENT[641]****Adopted and Filed Emergency After Notice**

Pursuant to the authority of Iowa Code section 105.4, the Iowa Plumbing and Mechanical Systems Board hereby adopts Chapter 36, “Plumbing and Mechanical Systems Board—Petitions for Rule Making,” Iowa Administrative Code.

The rules in Chapter 36 describe the process for filing a petition for rule making with the Iowa Plumbing and Mechanical Systems Board.

Notice of Intended Action was published in the Iowa Administrative Bulletin on December 2, 2009, as **ARC 8366B**. A public hearing was held on December 22, 2009. No comments were received pertaining to Chapter 36. The adopted rules are identical to those published under Notice.

The Board finds, pursuant to Iowa Code section 17A.5(2)“b”(2), that the normal effective date of these rules should be waived and these rules should be made effective upon filing, as they confer a benefit on the public by providing a means to petition the Board for rule making.

The Plumbing and Mechanical Systems Board adopted these rules on January 19, 2010.

These rules became effective January 26, 2010.

These rules are intended to implement Iowa Code chapters 17A and 105.

The following amendment is adopted.

Adopt the following new 641—Chapter 36:

CHAPTER 36

PLUMBING AND MECHANICAL SYSTEMS BOARD—PETITIONS FOR RULE MAKING

The Iowa plumbing and mechanical systems board hereby adopts the petitions for rule making segment of the Uniform Rules on Agency Procedure which are printed in the first volume of the Iowa Administrative Code, with the following amendments:

641—36.1(17A) Petition for rule making. In lieu of the words “(designate office)”, insert “Iowa Plumbing and Mechanical Systems Board.” A request for access to a record should be addressed to the Iowa Plumbing and Mechanical Systems Board, Lucas State Office Building, 321 E. 12th Street, Des Moines, Iowa 50319-0075.

In lieu of the words “(AGENCY NAME)”, the heading of the Petition should read:

“BEFORE THE IOWA PLUMBING AND MECHANICAL SYSTEMS BOARD”

PUBLIC HEALTH DEPARTMENT[641](cont'd)

641—36.3(17A) Inquiries. In lieu of the words “(designate official by full title and address)”, insert “Iowa Plumbing and Mechanical Systems Board, Lucas State Office Building, 321 E. 12th Street, Des Moines, Iowa 50319-0075.”

These rules are intended to implement Iowa Code section 17A.7.

[Filed Emergency After Notice 1/26/10, effective 1/26/10]

[Published 2/24/10]

EDITOR’S NOTE: For replacement pages for IAC, see IAC Supplement 2/24/10.

ARC 8553B

AGING, DEPARTMENT ON[17]

Adopted and Filed

Pursuant to the authority of Iowa Code sections 231.56A and 235B.16 and chapter 249H and Title VII of the federal Older Americans Act, the Department on Aging hereby rescinds Chapter 12, "Elder Abuse, Neglect or Exploitation Prevention and Awareness and Mandatory Reporter Training," and Chapter 15, "Elder Abuse Initiative, Emergency Shelter and Support Services Projects," and adopts new Chapter 15, "Elder Abuse Prevention Initiative and Dependent Adult Abuse Mandatory Reporter Training," Iowa Administrative Code.

The new chapter provides for the enhanced prevention, detection, and reporting of elder abuse, local advocacy, and service coordination for the protection of older individuals and establishes criteria for certifying trainers to provide dependent adult abuse mandatory reporter training. Chapter 15 also establishes standards for those services and includes a severability rule.

New Chapter 15 includes all Department rules related to elder abuse prevention, intervention, awareness, and mandatory reporter training. Chapter 12 is rescinded as a result of its rules being combined into new Chapter 15.

Notice of Intended Action was published in the Iowa Administrative Bulletin on December 30, 2009, as **ARC 8427B**. The public comment period on the Notice of Intended Action ended January 19, 2010.

Five comments regarding new Chapter 15 were received. One requested the addition of a definition for "mandatory reporter." The Department added a reference in rule 17—15.2(231) to cite the definition provided in Iowa Code section 235B.3(2).

The second comment requested that the face-to-face visit required to occur within 24 hours in Priority 1 cases be changed to occur within one working day. The Department made this change in subrule 15.8(1).

The third comment suggested that the designated coordinator should have four years of experience in human services and gerontology. The Department made this change in paragraph 15.4(1)"a" and added language that allows a contractor to apply to the Department in writing for an exception if the requirement presents a hardship for a coordinator hired after April 1, 2010.

The fourth comment recommended that, if a contractor subcontracts assessments, the subcontractor staff should meet the same educational and experience requirements as the designated coordinator. The Department added "and subcontractor" to clarify this requirement in subrule 15.4(1).

The fifth comment expressed concern related to release of information and noted that, if the client needs the provision of guardian or conservator services, the client may not have the capacity to give consent and will not have a legal representative to provide consent. The Department made no changes related to this comment. Under Iowa law, an individual has the right to sign documents until a court determines that the individual is incompetent; therefore, contractors should comply with the law even in cases where they believe a client lacks capacity.

The Commission adopted these amendments during a special meeting on February 5, 2010.

These amendments will become effective March 31, 2010.

These amendments are intended to implement Iowa Code sections 231.56A and 235B.16 and chapter 249H and Title VII of the federal Older Americans Act.

The following amendments are adopted.

ITEM 1. Rescind and reserve **17—Chapter 12**.

ITEM 2. Rescind 17—Chapter 15 and adopt the following **new** chapter in lieu thereof:

CHAPTER 15

ELDER ABUSE PREVENTION INITIATIVE AND DEPENDENT ADULT ABUSE
MANDATORY REPORTER TRAINING

AGING, DEPARTMENT ON[17](cont'd)

17—15.1(231) Purpose. This chapter establishes the elder abuse prevention initiative as a method of providing prevention, intervention, detection, and reporting of abuse, neglect, and exploitation of older individuals and of providing service options for at-risk older adults. This chapter also establishes criteria for certifying trainers to provide dependent adult abuse mandatory reporter training.

17—15.2(231) Definitions. Words and phrases used in this chapter are as defined in 17 IAC 1 unless the context of the rule indicates otherwise. The following definitions also apply to this chapter:

“*Abuse*” means the willful infliction of injury, unreasonable confinement, intimidation, or cruel punishment with resulting physical harm, pain, or mental anguish; or the deprivation by a person, including a caregiver, of goods or services that are necessary to avoid physical harm, mental anguish, or mental illness in an older individual.

“*Adequate food, shelter, clothing, or other care*” means food, shelter, clothing, or other care which, if not provided, would constitute denial of critical care.

“*Assessment*” means a document designated by the department to be completed by a contractor to determine service needs and address the safety of the client.

“*Assessment intake*” means the process by which a contractor receives and records reports of suspected elder abuse.

“*At-risk older individual*” or “*client*” means a person aged 60 or older who is at risk for or experiencing abuse, neglect, self-neglect, or exploitation.

“*Caregiver*” means an individual who has the responsibility for the care of an older individual, either voluntarily, by contract, by receipt of payment for care, or as a result of the operation of law. “*Caregiver*” also means a family member or other individual who provides compensated or uncompensated care to an older individual.

“*Case*” means a referral of suspected elder abuse that has been accepted for assessment and services.

“*Contractor*” means the contract recipient.

“*Coordinator*” means the contractor’s designee who is responsible for coordinating elder abuse prevention initiative services and who is the central point of contact for case files, subcontractors, and care providers.

“*Department*” means the department on aging.

“*Elder abuse*” means abuse of an older individual and may consist of abuse, neglect, self-neglect, or exploitation.

“*Exploitation*” means an individual’s, including a caregiver’s or legal representative’s, use of the resources of an older individual for monetary or personal benefit, profit, or gain that results in depriving an older individual of rightful access to, or use of, benefits, resources, belongings, or assets.

“*Immediate danger to health and safety*” means a situation in which death or severe bodily injury could reasonably be expected to occur without intervention.

“*Legal representative*” means a person appointed by the court to act on behalf of a client.

“*Mandatory reporter*” means a person defined in Iowa Code section 235B.3(2).

“*Neglect*” means the failure of a caregiver or legal representative to provide the goods or service necessary to maintain the health or safety of an older individual.

“*Older individual*” means a person aged 60 or older.

“*Physical harm*” means bodily injury, impairment, or disease.

“*Purchase of service form*” means the mechanism used to document and request approval for the purchase of a specific service on behalf of a client.

“*Referral*” means any information received by a contractor from any source that identifies an individual aged 60 or older as experiencing, or at risk of, abuse, neglect, or exploitation.

“*Self-neglect*” means an older individual’s inability, due to physical or mental impairment or diminished capacity, to perform essential self-care tasks, including obtaining essential food, clothing, shelter, and medical care; obtaining goods and services necessary to maintain physical health, mental health, or general safety; or managing one’s own financial affairs.

“*Service provider*” means a provider receiving funds from a contractor.

AGING, DEPARTMENT ON[17](cont'd)

17—15.3(231) Project administration. In any year in which funds are available for the elder abuse prevention initiative, the department shall contract with local agencies or organizations to administer available funds and to study and evaluate community-based projects and educational programs for the prevention of elder abuse. The contractors shall utilize the funds to provide community-based services for older individuals who have been the subject of suspected elder abuse or for the provision of educational programs to raise awareness about elder abuse. Agencies or organizations that receive elder abuse prevention initiative funds shall submit a proposal to the department one month prior to the commencement of the fiscal year. Proposals shall contain the following:

1. Project summary, including issues the project will address;
2. Projection of the number of older individuals to be served;
3. Description of services to be provided;
4. Description of community support for the project;
5. Designation of evaluation and audit mechanisms;
6. Project budget; and
7. Evaluation plan.

17—15.4(231) Contractor responsibilities.

15.4(1) A contractor or subcontractor shall have a designated coordinator to administer elder abuse prevention initiative funds and services who meets all of the following qualifications:

- a. A bachelor's degree in a human services field and a minimum of four years of experience in a human services and gerontology field. A contractor may submit a request in writing to the department for an exception to this requirement for any coordinator hired after April 1, 2010;
- b. Completion of dependent adult abuse mandatory reporter training requirements in accordance with Iowa Code section 235B.16 prior to direct client contact;
- c. Completion of orientation and training provided by the department prior to direct client contact related to utilization of the assessment tool; service coordination and monitoring; performance measures and outcome evaluation; advocacy and public awareness training; and
- d. Eight hours of annual training related to dependent adult or elder abuse.

15.4(2) Staff members utilized by a contractor or subcontractor to provide services shall meet all of the following qualifications:

- a. A minimum of two years of experience in the human services field;
- b. Completion of dependent adult abuse mandatory reporter training requirements in accordance with Iowa Code section 235B.16 prior to direct client contact; and
- c. Completion of orientation and training provided by the department related to utilization of the assessment tool; service coordination and monitoring; performance measures and outcome evaluation; advocacy and public awareness training prior to direct client contact.

15.4(3) A contractor shall utilize the assessment forms, purchase of services forms, procedures, and software systems specified by the department.

15.4(4) A contractor shall ensure that:

- a. Record checks have been conducted for any coordinator, staff member, volunteer, or other person who performs duties under a contract or subcontract who:
 - (1) Has direct responsibility for the client, or
 - (2) Has access to a client when the client is alone.
- b. The record checks shall be conducted to determine whether the person:
 - (1) Has any founded child abuse reports;
 - (2) Has any founded dependent adult abuse reports;
 - (3) Has any criminal convictions; or
 - (4) Has been placed on the sex offender registry.

17—15.5(231) Funding restrictions. The use of funding is restricted as follows:

AGING, DEPARTMENT ON[17](cont'd)

1. A contractor shall determine that the client is not eligible to receive services under another funding source prior to authorizing the use of elder abuse prevention initiative funds and shall document this in the assessment.
2. Services funded shall reduce or eliminate abuse, neglect, self-neglect, exploitation, or risk of the same.
3. The funds shall be utilized for one-time expenditures but may be used for ongoing or monthly expenditures if no other funding source is available and the client would otherwise remain in an abusive situation.

17—15.6(231) Reallocation of funds. The contractor shall report, in writing, any projected underexpenditure of funds prior to the completion of the contract. The department may reallocate such funds to other contractors for the same purpose or to the department's elder abuse prevention efforts.

17—15.7(231) Eligibility. If funding is available, an older individual shall be eligible for assistance under the elder abuse prevention initiative if all of the following criteria are met:

15.7(1) If abuse, neglect, exploitation, or self-neglect exists, or there is risk of same. Abuse, neglect, exploitation, or self-neglect includes the deprivation of the minimum food, shelter, clothing, supervision, physical care, mental health care, or other care necessary to maintain the older individual in an independent living arrangement.

15.7(2) The older individual is not a resident in a nursing facility as defined in Iowa Code section 135C.1(13). Exceptions may be granted by the department on a case-by-case basis.

17—15.8(231) Assessment intake. A contractor shall accept all referrals for at-risk older individuals who may be experiencing abuse, neglect, self-neglect, or exploitation. The primary purpose of intake is to obtain available and pertinent information regarding an allegation of elder abuse to determine whether or not a referral becomes a case. When a referral is received, the contractor shall record all allegations and concerns on the intake portion of the assessment form to determine the priority level of the case as follows:

15.8(1) Priority 1. The at-risk older individual's health or safety is in immediate danger, and the individual requires immediate intervention. The contractor shall contact appropriate agencies such as the department of human services, emergency medical services, and law enforcement. A face-to-face visit with the at-risk older individual and completion of the assessment form shall occur after the life-threatening situation is resolved and within one business day.

15.8(2) Priority 2. The at-risk older individual's health or safety is not in immediate danger, but the risk is real and foreseeable in the future. A face-to-face visit with the at-risk older individual and completion of the assessment shall be made within four working days.

15.8(3) Priority 3. The at-risk older individual's health or safety is not in immediate danger, but there is potential risk for abuse, neglect, self-neglect, or exploitation. Contact with the at-risk older individual is required within ten working days.

17—15.9(231) Release of information. A release of information form designated by the department shall be signed by the at-risk older individual or the individual's legal representative prior to the provision of services. In Priority 1 cases, if obtaining the at-risk older individual's signature will delay the process of immediate intervention or the protection of the at-risk older individual's safety, telephone approval is acceptable and shall be documented in the assessment. In this circumstance, appropriate signatures shall be obtained as soon as the life-threatening situation is resolved and a face-to-face assessment is conducted. A release shall also be signed by a client or the client's legal representative if photographs, electronic images, or recordings are taken involving the client or the client's home.

17—15.10(231) Assessment. A comprehensive assessment shall be completed on each client within the time frames specified in 17—15.8(231) to protect the client's safety and provide for services where necessary and desired by the client. The tasks associated with completion of the assessment are:

AGING, DEPARTMENT ON[17](cont'd)

15.10(1) *Interviewing the alleged victim.* This shall include interviewing the at-risk older individual to identify the nature and scope of the abuse or risk; assessing the at-risk older individual's cognitive, emotional, and physical capabilities, home environment, relationships with others living in the residence, relationships with any service providers, and information on the alleged offender; and gathering any information related to prior incidences of similar abuse or risk. Interviews with the alleged victim shall occur without the alleged offender present.

15.10(2) *Interviewing other sources.* Attempts shall be made to conduct interviews with persons who have relevant information to share about allegations.

15.10(3) *Evaluating the information.* Evaluation of the information shall include an analysis that confirms whether or not the alleged victim meets the eligibility criteria for services.

15.10(4) *Intervention plan.* An intervention plan designed to address the victim's situation shall be developed for all clients who are found to be eligible for services and, at a minimum, shall include a service plan, desired outcomes, funding source, and dates to review progress. If the situation is perpetuated by an older individual's personal choices, the intervention plan shall note this.

17—15.11(231) *Monitoring and reassessment.* A contractor shall monitor the provision of services identified in the intervention plan. A contractor shall conduct and document a face-to-face client reassessment every six months or whenever there is a significant change in the client's physical health, mental health, economic status, or risk status and shall update the intervention plan accordingly.

17—15.12(231) *Purchase of service.* A contractor may subcontract with a service provider for the provision of services. Any service provided by a contractor or a subcontractor shall be documented on a purchase of service form designated by the department. A subcontractor shall send the purchase of service form to the coordinator for approval prior to the expenditure of funds. Notification of approval or denial shall be sent to the subcontractor via E-mail or fax and shall be retained in the client's case record. A service provider shall bill the contractor within 30 days of rendering a service. A copy of all invoices shall be kept in the client's case record.

17—15.13(231) *Case records.*

15.13(1) A case record shall be maintained for each client and shall contain copies of the assessments and any related correspondence or information that pertains to the assessment of the client, intervention plan, medical records, updates, legal representation documents, and documentation of dates, times, travel, activities, and expenditures related to the client. The department shall have complete access to all client case records during regular business hours and upon request.

15.13(2) Case records shall be maintained for a minimum of five years from the date a case is closed in accordance with Iowa Code chapter 305. A case record that is closed shall contain completed assessments; signed release of information forms; purchase of service forms and invoices for services rendered; department of human services' dependent adult abuse report forms; photographs, electronic images, or recordings; and all case documentation, records, and notes.

17—15.14(231) *Refusal of assistance.* A client has the right to refuse services at any time. However, if dependent adult abuse is suspected, the abuse shall be reported to law enforcement, the department of human services, and the county attorney pursuant to mandatory reporting requirements.

17—15.15(231) *Termination or limitation.* A contractor may terminate or limit the provision of services under circumstances including but not limited to the following:

1. Services are no longer needed or do not benefit the client;
2. The client moves out of state or outside the service area;
3. The client moves into a nursing facility as defined in Iowa Code section 135C.1(13);
4. The client or the client's legal representative requests termination of services;
5. The client is unwilling or unable to meet the terms in the intervention plan;
6. The client's legal representative refuses to provide information needed for the development of an intervention plan; or

AGING, DEPARTMENT ON[17](cont'd)

7. There is risk of harm to the contractor or service provider.

17—15.16(231) Confidentiality and disclosure. Client identification numbers shall be used to maintain confidentiality. All case records shall be maintained by the department and the contractor as confidential records pursuant to Iowa Code section 22.7 and shall not be disclosed except with the written consent of the client or the client's legal representative.

17—15.17(231) Legal representatives.

15.17(1) A legal representative shall provide appointment papers, a court order, or power of attorney documentation within 72 hours of being contacted by a contractor. The legal representative's signature shall be obtained on the assessment before the client receives services.

15.17(2) If there is suspicion of abuse, neglect, exploitation or self-neglect of an older individual and the legal representative will not permit access to the older individual, the contractor shall make oral and written reports to the department of human services and local law enforcement pursuant to Iowa Code section 235B.3. The contractor shall also notify the judge in probate for the county in which the guardianship or conservatorship was filed by certified letter within five days of the denial of access. The notification shall detail concerns and potential consequences of the guardian's or conservator's action or inaction that appears not to be in the best interest of the older individual.

17—15.18(231) Appeals. Complaints by any aggrieved party shall be heard first by the contractor using the contractor's procedures and shall be exhausted before the department is contacted. Appeals made by any aggrieved party to the department shall follow the procedures set forth in 17—2.9(231).

17—15.19(231) Conflict of interest. Conflict of interest includes any action or failure to act that may be an actual or perceived conflict between official duties and personal interest. Conflict of interest exists when an elder abuse prevention initiative contractor or any entity or individual involved in that program:

1. Uses an official position for private gain (other than salary);
2. Gives preferential treatment to any contractor, entity, or individual or fails to act impartially in the conduct of official duties;
3. Impedes or adversely affects governmental efficiency or economy;
4. Engages in conduct that could adversely affect the confidence of the public in the integrity of the elder abuse prevention initiative;
5. Creates circumstances where it might reasonably be perceived that a contractor's, an entity's, or an individual's judgment could be influenced by the nature of the circumstances; or
6. Has a client that is related to the contractor, entity, or individual within the third degree of consanguinity.

17—15.20(235B) Dependent adult abuse mandatory reporter training. The department shall develop and maintain a dependent adult abuse mandatory reporter training curriculum in accordance with Iowa Code section 235B.16(2). The curriculum shall comply with the specifications of the department of public health's abuse education review panel as provided in 641 IAC 93.

15.20(1) The department shall certify trainers to provide the department's approved dependent adult abuse mandatory reporter curriculum. A trainer shall not utilize the department's curriculum unless the trainer has been certified by completing the department's required training program.

15.20(2) The department's training program shall include but is not limited to information on laws, rules, and regulations relating to all forms of dependent adult abuse and reporting requirements.

15.20(3) A trainer's certification shall be valid for three years from the date of issuance and must be renewed by completion of the department's training program.

15.20(4) The department may revoke a trainer's certification for noncompliance with training requirements after a written warning.

15.20(5) Certified trainers shall notify the department of changes in contact information, such as address, E-mail, and telephone number. Certified trainers shall be responsible for checking the department's Web site for curriculum updates.

AGING, DEPARTMENT ON[17](cont'd)

17—15.21(231) Severability. Should any rule, subrule, paragraph, phrase, sentence, or clause of this chapter be declared invalid or unconstitutional for any reason, the remainder of this chapter shall not be affected thereby.

These rules are intended to implement Iowa Code sections 231.56A and 235B.16 and chapter 249H and Title VII of the federal Older Americans Act.

[Filed 2/5/10, effective 3/31/10]

[Published 2/24/10]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 2/24/10.

ARC 8543B

**HOMELAND SECURITY AND EMERGENCY
MANAGEMENT DIVISION[605]**

Adopted and Filed Without Notice

Pursuant to the authority of Iowa Code sections 17A.3 and 29C.8(3)“c,” the Homeland Security and Emergency Management Division hereby amends Chapter 7, “Local Emergency Management,” Iowa Administrative Code.

The amendment to paragraph 7.7(3)“a” updates the allocation and distribution process for Emergency Management Performance Grant moneys received from the federal Department of Homeland Security. This amendment increases the maximum total allocation an individual applicant may receive. This adjustment of the maximum is due to additional federal funds being made available within the grant program.

In compliance with Iowa Code section 17A.4(3), the Division finds that notice and public participation on this amendment are unnecessary because the amendment merely increases the maximum allocation an individual applicant may receive from the Emergency Management Performance Grant program.

This amendment is intended to implement Iowa Code chapter 29C.

This amendment will become effective on April 14, 2010.

The following amendment is adopted.

Amend paragraph **7.7(3)“a”** as follows:

a. The homeland security and emergency management division shall allocate funds to eligible local or joint commissions within 45 days of receipt of notice from the federal Department of Homeland Security, Preparedness Directorate, Office of Grants and Training, that such funds are available. The division shall use a formula for the allocation of funds based upon the number of eligible applicants, the part-time or full-time status of the coordinator, 50 percent equal-share base, and 50 percent population base. The total allocation of funds for an applicant may not exceed the lesser of ~~\$33,000~~ \$39,000 or the amount requested by the applicant.

[Filed Without Notice 2/4/10, effective 4/14/10]

[Published 2/24/10]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 2/24/10.

ARC 8546B

IOWA FINANCE AUTHORITY[265]

Adopted and Filed

Pursuant to the authority of Iowa Code sections 17A.3(1)“b,” 16.5(1)“r” and 16.40, the Iowa Finance Authority hereby amends Chapter 29, “Jump-Start Housing Assistance Program,” Iowa Administrative Code.

IOWA FINANCE AUTHORITY[265](cont'd)

The purpose of this amendment is to revise the program of housing assistance for persons affected by the natural disasters that occurred in Iowa in 2008.

Notice of Intended Action was published in the Iowa Administrative Bulletin on December 2, 2009, as **ARC 8324B**. This amendment was also Adopted and Filed Emergency and was published as **ARC 8323B** on the same date. The Authority did not receive any public comment on the proposed amendment. The Authority has made no changes to the amendment as published under Notice.

The Iowa Finance Authority adopted this amendment on February 3, 2010.

This amendment is intended to implement Iowa Code sections 16.5(1)“r” and 16.40 and 2009 Iowa Acts, Senate File 289.

This amendment will become effective on March 31, 2010, at which time the Adopted and Filed Emergency amendment is hereby rescinded.

The following amendment is adopted.

Amend subrule 29.6(5) as follows:

29.6(5) Retention agreement. Each loan made pursuant to this program shall be secured by a retention agreement which shall constitute a lien on the title of the real property for which the forgivable loan is made until such time as the forgivable loan has either been fully forgiven or paid in full; provided, however, that in the case of a property acquisition under the hazard mitigation grant program set forth in Iowa Code chapter 29C (or under any other comparable program implemented in whole or in part to assist in recovery from the natural disasters of 2008), payment of the following shall be waived:

a. That portion of the repayment due for a down payment assistance loan made under paragraph 29.5(1)“a” or an interim mortgage assistance loan made under subrule 29.5(2), provided that the amount so waived shall not exceed \$25,000; and

b. That portion of the repayment due for a housing repair or rehabilitation assistance loan made under paragraph 29.5(1)“b” for which the eligible resident provides documentation that the assistance was expended for the purpose for which it was awarded.

[Filed 2/4/10, effective 3/31/10]

[Published 2/24/10]

EDITOR’S NOTE: For replacement pages for IAC, see IAC Supplement 2/24/10.

ARC 8545B

IOWA FINANCE AUTHORITY[265]

Adopted and Filed

Pursuant to the authority of Iowa Code sections 17A.3(1)“b” and 16.5(1)“r” and 2009 Iowa Acts, Senate File 376, sections 5 to 12, the Iowa Finance Authority hereby amends Chapter 32, “Iowa Jobs Program,” Iowa Administrative Code.

The purpose of this amendment is to implement 2009 Iowa Acts, Senate File 376, sections 5 to 12, by amending rule 265—32.4(16), relating to the Iowa Jobs Program application procedures.

Notice of Intended Action was published in the Iowa Administrative Bulletin on December 2, 2009, as **ARC 8328B**. This amendment was also Adopted and Filed Emergency and was published as **ARC 8327B** on the same date. The Authority did not receive any public comment on the proposed amendment. The Authority has made no changes to the amendment as published under Notice.

The Iowa Finance Authority adopted this amendment on February 3, 2010.

This amendment is intended to implement Iowa Code section 16.5(1)“r” and 2009 Iowa Acts, Senate File 376, sections 5 to 12.

This amendment will become effective on March 31, 2010, at which time the Adopted and Filed Emergency amendment is hereby rescinded.

The following amendment is adopted.

IOWA FINANCE AUTHORITY[265](cont'd)

Amend subrule 32.4(6) as follows:

32.4(6) Application procedure.

a. Applications shall be reviewed and scored in rounds. The deadline for submission for the first round of applications shall be August 3, 2009. Subsequent rounds shall be quarterly at the discretion of the board as funding is available. Applications for each such round shall be due not later than January 1, April 1, July 1, and October 1 of each year, respectively.

b. No change.

c. The review committee members will score the applications according to the criteria set forth in subrule 32.4(7), and IFA staff shall compile the scores. To be eligible for a grant, a proposed project must receive a minimum score of at least 100 points. The review committee shall meet at least quarterly to review the ratings for each round of applications. Those applications meeting the minimum criteria shall be referred to the Iowa jobs board with a recommendation of final approval, denial, or deferral.

d. to i. No change.

j. A denied or deferred application may be revised and resubmitted as a new application in a subsequent round, if any. Unless a deferred application is withdrawn by the applicant or revised and resubmitted as a new application, the authority shall keep it on file, and its score shall automatically be ranked among new applications submitted for the next round, if any, once such new applications have been scored.

[Filed 2/4/10, effective 3/31/10]

[Published 2/24/10]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 2/24/10.

ARC 8547B

IOWA FINANCE AUTHORITY[265]

Adopted and Filed

Pursuant to the authority of Iowa Code sections 17A.3(1)“b” and 16.5(1)“r” and 2009 Iowa Acts, Senate File 376, section 30, the Iowa Finance Authority hereby amends Chapter 35, “Affordable Housing Assistance Grant Fund,” Iowa Administrative Code.

The purpose of this amendment is to implement 2009 Iowa Acts, Senate File 376, section 30, by expanding the Affordable Housing Assistance Grant Fund program to include adaptive reuse projects.

Notice of Intended Action was published in the Iowa Administrative Bulletin on December 2, 2009, as **ARC 8326B**. This amendment was also Adopted and Filed Emergency and was published as **ARC 8325B** on the same date. The Authority did not receive any public comment on the proposed amendment. The Authority has made no changes to the amendment as published under Notice.

The Iowa Finance Authority adopted this amendment on February 3, 2010.

This amendment is intended to implement Iowa Code section 16.5(1)“r” and 2009 Iowa Acts, Senate File 376, section 30.

This amendment will become effective on March 31, 2010, at which time the Adopted and Filed Emergency amendment is hereby rescinded.

The following amendment is adopted.

Amend rule 265—35.1(16) as follows:

265—35.1(16) Affordable housing assistance grant fund allocation plan. The affordable housing assistance grant fund allocation plan entitled Iowa Finance Authority Affordable Housing Assistance Grant Fund Allocation Plan dated ~~June~~ November 2009 shall be the allocation plan for the award, pursuant to the affordable housing assistance grant fund program, of funds held within the affordable housing assistance grant fund established in 2009 Iowa Acts, Senate File 376, section 30. The allocation

IOWA FINANCE AUTHORITY[265](cont'd)

plan for the affordable housing assistance grant fund program is incorporated by reference pursuant to Iowa Code section 17A.6 and 265—subrules 17.4(2) and 17.12(2).

[Filed 2/4/10, effective 3/31/10]

[Published 2/24/10]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 2/24/10.

ARC 8540B

PHARMACY BOARD[657]

Adopted and Filed

Pursuant to the authority of Iowa Code section 147.76, the Board of Pharmacy hereby amends Chapter 6, "General Pharmacy Practice," Iowa Administrative Code.

The amendment requires a general pharmacy located in Iowa to post a notice to patients that the pharmacist is required to counsel a patient on any new prescription dispensed to the patient. The amendment provides that the Board will supply the pharmacy with the required signage. A pharmacy with no direct patient access, commonly referred to as a "closed-door pharmacy," is exempt from the requirement to post the patient counseling notice.

Requests for waiver or variance of the discretionary provisions of these rules will be considered pursuant to 657—Chapter 34.

Notice of Intended Action was published in the November 4, 2009, Iowa Administrative Bulletin as **ARC 8267B**. The Board received written comments regarding the proposed amendment. The adopted amendment differs from that published under Notice. In response to comments from pharmacies providing services in a "closed-door pharmacy" environment, the adopted amendment includes an exemption from the requirement to post the counseling notice for a pharmacy with no direct patient access.

The amendment was approved during the January 26, 2010, meeting of the Board of Pharmacy.

This amendment will become effective on April 1, 2010.

This amendment is intended to implement Iowa Code section 155A.13.

The following amendment is adopted.

Amend rule 657—6.14(155A), introductory paragraph, as follows:

657—6.14(155A) Patient counseling and instruction. Every general pharmacy located in Iowa shall post in the prescription pickup area in a manner clearly visible to patients a notice that Iowa law requires the pharmacist to discuss with the patient any new prescriptions dispensed to the patient. The board shall provide a general pharmacy with the required signage. A pharmacy that provides no direct patient access to the pharmacy department, commonly referred to as a "closed-door pharmacy," shall not be required to post the counseling notice.

[Filed 2/4/10, effective 4/1/10]

[Published 2/24/10]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 2/24/10.

ARC 8539B

PHARMACY BOARD[657]

Adopted and Filed

Pursuant to the authority of Iowa Code sections 124.301 and 147.76, the Board of Pharmacy hereby amends Chapter 6, "General Pharmacy Practice," Chapter 8, "Universal Practice Standards," and Chapter 10, "Controlled Substances," Iowa Administrative Code.

PHARMACY BOARD[657](cont'd)

The amendments authorize pharmacies to maintain pharmacy records that are more than 12 months old in a secure storage area located outside the licensed pharmacy department but within the same physical building as the licensed pharmacy department unless such outside storage is prohibited under federal law.

Requests for waiver or variance of the discretionary provisions of these rules will be considered pursuant to 657—Chapter 34.

Notice of Intended Action was published in the November 4, 2009, Iowa Administrative Bulletin as **ARC 8269B**. The Board received written comments from one pharmacy regarding the proposed amendments. The circumstances presented in that pharmacy's comments are unique and may be considered by the Board pursuant to provisions for waiver or variance of these rules. The adopted amendments are identical to those published under Notice.

The amendments were approved during the January 26, 2010, meeting of the Board of Pharmacy.

These amendments will become effective on April 1, 2010.

These amendments are intended to implement Iowa Code sections 124.306, 155A.13, and 155A.35.

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 [6.16, 8.9, 10.34] is being omitted. These amendments are identical to those published under Notice as **ARC 8269B**, IAB 11/4/09.

[Filed 2/4/10, effective 4/1/10]

[Published 2/24/10]

[For replacement pages for IAC, see IAC Supplement 2/24/10.]

ARC 8550B**PUBLIC SAFETY DEPARTMENT[661]****Adopted and Filed**

Pursuant to the authority of Iowa Code section 100.18, the State Fire Marshal hereby amends Chapter 210, "Smoke Detectors," Iowa Administrative Code.

Iowa Code section 100.18 requires the installation of smoke detectors in residences and delegates to the State Fire Marshal authority to regulate the devices used. Last year, the State Fire Marshal adopted a requirement that smoke detectors installed on or after October 1, 2008, would be required to be dual sensor smoke detectors, using both ionization and photoelectric sensors. The effective date of this requirement has been delayed and is now set at April 1, 2010.

Notice of Intended Action was published in the Iowa Administrative Bulletin as **ARC 8150B** on September 23, 2009. A public hearing was held to receive comments on the proposed amendments on October 13, 2009. Numerous comments were received both at the public hearing and in writing.

The following changes were made in the proposed amendments in response to comments received from the public:

- A definition of "commercial grade smoke detection system" has been added.
- The definition of "dual sensor smoke detector" was modified to allow the use of any dual sensor detector, so long as it complies with Underwriters Laboratory Standard UL-217, Single and Multiple Station Smoke Alarms, or another standard approved by the State Fire Marshal.
- The words "or listed" were added to the definition of "approved" for clarification.

These amendments are intended to implement Iowa Code section 100.18.

These amendments will become effective April 1, 2010.

The following amendments are adopted.

ITEM 1. Amend rule 661—210.1(100) as follows:

661—210.1(100) Definitions. The following definitions apply to rules 661—210.1(100) through 661—210.4(100) 661—210.5(100):

PUBLIC SAFETY DEPARTMENT[661](cont'd)

“Approved” means that the equipment has been approved or listed for a specific use by an independent testing laboratory or organization of national reputation.

“Commercial grade smoke detection system” means a system of smoke detectors in which each detector is listed to Underwriters Laboratory Standard 268, Smoke Detectors for Fire Alarm Systems, or to another standard approved by the state fire marshal. Sensors in a commercial grade smoke detection system shall be located so as to provide coverage at least equivalent to that which would be provided by smoke detectors installed as required in subrule 210.3(11).

“Dual sensor smoke detector” means a smoke detector which contains both an ionization sensor and a photoelectric sensor and which is designed to detect and trigger an alarm in response to smoke detected through either sensing device, or a smoke detector which has at least two sensors and which is listed to Underwriters Laboratory Standard 217, Single and Multiple Station Smoke Alarms, or to another standard approved by the state fire marshal.

ITEM 2. Renumber rules **661—210.2(100)** to **661—210.4(100)** as **661—210.3(100)** to **661—210.5(100)**.

ITEM 3. Adopt the following **new** rule 661—210.2(100):

661—210.2(100) Scope. The provisions of this chapter apply to single-family and two-family residences and to townhouses and to all other residential occupancies unless otherwise provided herein or by another provision of law. The provisions of this chapter do not apply to nonresidential occupancies.

ITEM 4. Amend renumbered rule 661—210.3(100) as follows:

661—210.3(100) General requirements.

210.3(1) Approved single station smoke detectors shall be acceptable in all areas covered by this chapter, unless other fire warning equipment or materials are required by any provision of 661—Chapter 201, 202, or 205 or if a commercial grade smoke detection system has been installed. Any single station smoke detector installed on or after April 1, 2010, in compliance with this subrule, including a replacement of an existing detector, shall be a dual sensor smoke detector. If sufficient dual sensor smoke detectors have been installed to comply with the requirements of this chapter, additional smoke detectors which may be other than dual sensor detectors may be installed.

210.3(2) Any installation of wiring and equipment shall comply with NFPA 70, National Electrical Code, 2008 edition, and requirements established by the manufacturer of the equipment serviced by the wiring.

210.3(3) All devices, combinations of devices, and equipment to be installed in conformity with this chapter shall be approved and used for the purposes for which they are intended. Any smoke detector installed on or after April 1, 2010, in compliance with this chapter, including a replacement of an existing detector, shall be a dual sensor smoke detector. If sufficient dual sensor smoke detectors have been installed to comply with the requirements of this chapter, additional smoke detectors which may be other than dual sensor detectors may be installed.

210.3(4) and **210.3(5)** No change.

210.3(6) Power source.

a. In new buildings and additions constructed after July 1, 1991, required smoke detectors shall receive their primary power from the building wiring when such wiring is served from a commercial source. Wiring shall be permanent and without a disconnecting switch other than that required for overcurrent protection. Smoke detectors may be solely battery operated when installed in existing buildings, or in buildings without commercial power, or in buildings which undergo alterations, repairs or additions subject to subrule ~~210.2(2)~~ 210.3(2).

b. No change.

210.3(7) No change.

210.3(8) Equipment shall be installed, ~~located and spaced~~ in accordance with the manufacturer’s recommendations.

210.3(9) and **210.3(10)** No change.

PUBLIC SAFETY DEPARTMENT[661](cont'd)

210.3(11) Location within dwelling units. Smoke detectors shall be located as follows:

a.—~~In dwelling units, detectors shall be mounted on the ceiling or wall at a point centrally located in the corridor or area giving access to each separate sleeping area. When the dwelling unit has more than one story and in dwellings with basements, a detector shall be installed on each story and in the basement. In dwelling units where a story or basement is split into two or more levels, the smoke detector shall be installed on the upper level, except that when the lower level contains a sleeping area, a detector shall be installed on each level. When sleeping rooms are on an upper level, the detector shall be placed at the ceiling of the upper level in close proximity to the stairway. In dwelling units where the ceiling height of a room open to the hallway serving the bedrooms exceeds that of the hallway by 24 inches or more, smoke detectors shall be installed in the hallway and in the adjacent room. Detectors shall sound an alarm audible in all sleeping areas of the dwelling unit in which they are located.~~

b.—~~Location in efficiency dwelling units and hotels. In efficiency dwelling units, in hotel suites and in hotel sleeping rooms, detectors shall be located on the ceiling or wall of the main room or hotel sleeping room. When sleeping rooms within an efficiency dwelling unit or hotel suite are on an upper level, the detector shall be placed at the ceiling of the upper level in close proximity to the stairway. When actuated, the detector shall sound an alarm audible within the sleeping area of the dwelling unit, hotel suite or sleeping room in which it is located.~~

a. On the ceiling or wall outside of each separate sleeping area in the immediate vicinity of bedrooms.

b. In each room used for sleeping purposes.

c. In each story within a dwelling unit, including basements but not including crawl spaces and uninhabitable attics. In dwellings or dwelling units with split levels and without an intervening door between the adjacent levels, a smoke alarm installed on the upper level shall suffice for the adjacent lower level provided that the lower level is less than one full story below the upper level.

ITEM 5. Amend renumbered rule 661—210.4(100) as follows:

661—210.4(100) Smoke detectors—notice and certification of installation.

210.4(1) No change.

210.4(2) *Certification—single-family dwelling units.* A person who files for a homestead tax credit pursuant to Iowa Code chapter 425 shall certify that the single-family dwelling unit for which the credit is filed has a smoke detector(s) installed in accordance with subrule ~~210.2(6)~~ 210.3(6) and paragraph ~~210.2(11)“a.”~~ 210.3(11)“a.” or that such smoke detector(s) will be installed within 30 days of the date of filing for credit.

210.4(3) No change.

ITEM 6. Amend renumbered rule 661—210.5(100) as follows:

661—210.5(100) Smoke detectors—new and existing construction.

210.5(1) *New construction.* All multiple-unit residential buildings and single-family dwellings which are constructed after July 1, 1991, shall include the installation of smoke detectors meeting the requirements of rule ~~661—210.1(100)~~ and rule ~~661—210.2(100)~~ 661—210.3(100).

210.5(2) *Existing construction.* All existing single-family units and multiple-unit residential buildings shall be equipped with smoke detectors as required in paragraph ~~210.2(11)“a.”~~ 210.3(11)“a.”

[Filed 2/4/10, effective 4/1/10]

[Published 2/24/10]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 2/24/10.

ARC 8551B**REVENUE DEPARTMENT[701]****Adopted and Filed**

Pursuant to the authority of Iowa Code section 421.7(6), the Department of Revenue hereby amends Chapter 10, "Interest, Penalty, Exceptions to Penalty, and Jeopardy Assessments," Iowa Administrative Code.

Iowa Code section 421.7 requires the Director of Revenue to determine the interest rate for each calendar year. The Director has determined that the rate of interest on interest-bearing taxes arising under Iowa Code Title XVI shall be 5 percent for the calendar year 2010 (0.4 percent per month). The Department will also pay interest at the 5 percent rate on refunds.

Notice of Intended Action was published in IAB Volume XXXII, Number 12, pages 1456 and 1457, on December 2, 2009, as **ARC 8354B**. This amendment is identical to that published under Notice of Intended Action.

This amendment will become effective March 31, 2010, after filing with the Administrative Rules Coordinator and publication in the Iowa Administrative Bulletin.

This amendment is intended to implement Iowa Code section 421.7.

The following amendment is adopted.

Adopt the following **new** subrule 10.2(29):

10.2(29) Calendar year 2010. The interest rate upon all unpaid taxes which are due as of January 1, 2010, will be 5 percent per annum (0.4% per month). This interest rate will accrue on taxes which are due and unpaid as of, or after, January 1, 2010. In addition, this interest will accrue on tax refunds which by law accrue interest, regardless of whether the tax to be refunded is due before or after January 1, 2010. This interest rate of 5 percent per annum, whether for unpaid taxes or tax refunds, will commence to accrue in 2010.

[Filed 2/5/10, effective 3/31/10]

[Published 2/24/10]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 2/24/10.

ARC 8542B**REVENUE DEPARTMENT[701]****Adopted and Filed**

Pursuant to the authority of Iowa Code chapter 17A and section 421.17, the Department of Revenue hereby amends Chapter 71, "Assessment Practices and Equalization," Iowa Administrative Code.

The adopted amendment pertains to the determination of the agricultural factor and explains the process used to compute the factor so that there will be no major increases or decreases in it over time.

Notice of Intended Action was published in IAB Volume XXXII, Number 14, pages 1712-1713, on December 30, 2009, as **ARC 8428B**. This amendment is identical to that published under Notice of Intended Action.

This amendment will become effective March 31, 2010, after filing with the Administrative Rules Coordinator and publication in the Iowa Administrative Bulletin.

This amendment is intended to implement Iowa Code section 441.21.

The following amendment is adopted.

Amend rule **701—71.3(421,428,441)**, third unnumbered paragraph, as follows:

In order to determine a productivity value for agricultural buildings and structures, assessors ~~shall~~ must make an agricultural adjustment to the market value of these buildings and structures by developing an "agricultural factor" for ~~their jurisdiction~~ the assessors' jurisdictions. The agricultural factor for each jurisdiction ~~shall be~~ is the product of the ratio of the productivity and net earning capacity

REVENUE DEPARTMENT[701](cont'd)

value per acre as determined under subrule 71.12(1) over the market value of agricultural land within the assessing jurisdiction. The resulting ratio is then applied to the actual value of the agricultural buildings and structures as determined under the Iowa Real Property Appraisal Manual prepared by the department. The agricultural factor ~~shall~~ must be applied uniformly to all agricultural buildings and structures in the assessing jurisdiction. As an example, if a building's actual value is \$500,000 and the agricultural factor is ~~50~~ 30 percent, the productivity value of that building is ~~\$250,000~~ \$150,000. See *H & R Partnership v. Davis County Board of Review*, 654 N.W.2d 521 (Iowa 2002). The 2007, 2008, and 2009 average of the market value of land will be used in determining the agricultural factor for assessment year 2011. A five-year market value average of land for years used to determine the productivity formula will be used to determine the agricultural factor for assessment year 2013 and subsequent assessment years.

[Filed 2/4/10, effective 3/31/10]

[Published 2/24/10]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 2/24/10.

AGENCY	RULE	DELAY
Environmental Protection Commission[567]	135.5(1)“e” [IAB 1/13/10, ARC 8469B]	Effective date of February 17, 2010, delayed 70 days by the Administrative Rules Review Committee at its meeting held February 8, 2010. [Pursuant to §17A.4(7)]

Environmental Protection Commission

At a special meeting held on Monday, February 8, 2010, the Administrative Rules Review Committee voted to object to the provisions of **ARC 8469B**, on the grounds these requirements are beyond the authority delegated to the agency. This filing appeared in the 1/13/2010 issue of the Iowa Administrative Bulletin.

This adopted filing establishes leak detection requirements for unstaffed fueling facilities. It requires in-line leak detection to shut off the pump and stop fuel flow to the dispenser. Discussion at the February 8, 2010, meeting raised several issues involving the number of facilities affected and the cost of the upgrades. The issue was also raised whether the rule exceeded the authority of the agency. Iowa Code §455B.474(10) states, in part, “The rules adopted by the commission under this section shall be consistent with and shall not exceed the requirements of federal regulations....” Since federal regulations do not have specific leak detection requirements for unstaffed fueling facilities, the Committee believes the plain language of §455B.474(10) precludes this rulemaking.

For this reason the Committee members felt the new detection requirements are beyond the authority delegated to the agency.

Objection filed February 12, 2010



EXECUTIVE ORDER NUMBER 20

WHEREAS, the people of Iowa expect that their state government will efficiently provide services and will be accountable in the use of taxpayer dollars; and

WHEREAS, great fiscal challenges face state government as the result of expenses caused by unprecedented natural disasters and a severe international recession caused by reckless acts by Wall Street speculators; and

WHEREAS, these expectations and challenges require changes in the ways that state government agencies conduct business, including the elimination of costly and inefficient practices and the creation of new and better ways to serve the people of the state; and

WHEREAS, innovative, efficient and dynamic ways to govern state agencies can be achieved best when skilled and dedicated governmental employees are challenged to improve the operations and accountability of their workplaces; and

WHEREAS, the Culver-Judge Administration engaged with its own employees, has communicated with members of the Iowa General Assembly, and has retained outside expertise to identify areas of state government operations that can be improved to make the delivery of needed services more cost-effective and more accountable to the people of Iowa; and

WHEREAS, those processes have resulted in the "Iowa Efficiency Review Report," which presents a series of recommendations that, if entirely implemented, will result in at least \$340 million dollars of real savings within the first year, while improving the delivery and transparency of state government services; and

WHEREAS, some of those recommendations may be implemented now, by means of executive agency action, rather than by awaiting action and approval from the Iowa General Assembly; and

WHEREAS, given the reasonableness of the public's expectations and the enormity of the fiscal challenges facing our state, it is both prudent and necessary that those recommendations that can be implemented without need for statutory changes should now be implemented:

NOW, THEREFORE, I, Chester J Culver, Governor of the State of Iowa, by virtue of the power and authority vested in me by the Constitution and statutes of the State of Iowa, do hereby issue this Executive Order, to become effective immediately:

1. The Directors of the Department of Administrative Services (DAS) and the Department of Management (DOM), working with affected state government agencies, shall jointly identify and implement a series of practical measures, which shall include, but not necessarily be limited to, those measures outlined in the Iowa Efficiency Review Report that do not require legislative action, to improve state agency performance of programs and operations, to reduce total costs of state government operations, to increase productivity, to improve services and to make state government more responsive and accountable to the public.

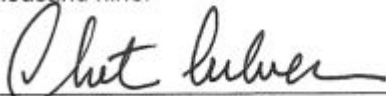
2. The measures identified pursuant to paragraph 1, above, shall be implemented by DAS and DOM and shall include, but shall not necessarily be limited to, the following:
 - A. Consolidate Information Technology (IT) planning and operations to the extent reasonably possible;
 - B. Consolidate all state e-mail systems;
 - C. Consolidate wireless equipment purchasing and service contracts;
 - D. Negotiate statewide IT technology service contract;
 - E. Negotiate statewide IT and office equipment maintenance contracts;
 - F. Increase the use of new technologies such as Thin Client Technologies;
 - G. Reduce the size of the state motor vehicle fleet and change mileage and take-home policies;
 - H. Consolidate Department of Natural Resources (DNR) offices in Des Moines;
 - I. Require state agency purchasing from master contracts;
 - J. Improve the state's debt collection practices;
 - K. Join multi-state lawsuit on escheat of unclaimed U.S. Bonds;
 - L. Strengthen Medicaid integrity efforts;
 - M. Ensure that Iowa is getting the best purchase prices for required Medicaid medical equipment;
 - N. Modify the Medicaid Durable Medical Equipment rental versus purchase policies;
 - O. Update Nursing Home Recoverable Cost Regulations to assure that the state's financial interests are fully protected;
 - P. Claim federal reimbursement for eligible inmate hospital care;
 - Q. Modify Medicaid prescription drug purchasing;
 - R. Reinstate the use of telemedicine services between the Department of Corrections and the University of Iowa Hospitals and Clinics;
 - S. Modify child support and recovery funding;
 - T. Increase the Juvenile Court Services' claims for Title IV-E reimbursement;
 - U. Claim Title IV-E reimbursements for eligible placements and license all relative homes;
 - V. Eliminate the least efficient state print shops;
 - W. Consolidate administrative functions at DHS institutions;
 - X. Modify and simplify the entrepreneurial model;
 - Y. Modify warehouse policies to take advantage of the newest techniques to reduce costs;
 - Z. Consolidate state agency mailrooms and modify mail delivery policies;
 - AA. Reduce spending on periodicals and subscriptions;
 - BB. Reduce architecture, engineering and attorney contracts when cost-benefit ratios indicate that the state can perform the work at reduced costs;
 - CC. Require state employees to pay for safety courses when they have been required due to employees' driving violations;
 - DD. Reduce the number of Human Resource staff members in agencies and departments;
 - EE. Expand the use of state garages to reduce the costs of contracted private garages;
 - FF. Conduct energy efficiency retrofits for state buildings;
 - GG. Require newly-hired state employees to use payroll direct deposit;
 - HH. Conduct an audit of state employee health insurance enrollees to identify ineligible dependents;
 - II. Improve the coordination of law enforcement at state parks;
 - JJ. Increase the number of volunteer and intern programs at state parks;
 - KK. Accelerate assessments for compliance violations under Iowa's Workers' Compensation Law;
 - LL. Improve collection processes for Unemployment Taxes;
 - MM. Encourage larger state agencies to support budget, accounting and pre-audit services for smaller state agencies;
3. The Directors of DAS and DOM, working with affected state government agencies, shall further analyze and evaluate for potential savings and revenue generation opportunities which matters shall include, but shall not necessarily be limited to, the following:
 - A. Launch Employee Wellness Initiatives;

- B. Require family enrollment in health insurance when spouses are both employed by the State of Iowa;
 - C. Reduce or eliminate deferred compensation contribution for non-contract employees;
 - D. Evaluate the cost benefit of going to a 10-hour, 4-day work week; and
 - E. Pay employees on a semi-monthly basis rather than bi-weekly.
4. DAS and DOM shall issue to the Governor's Office an Initial Report outlining specific plans for implementing this Order, which document shall include timelines for implementing, analyzing, or evaluating each of the above-described actions and whether the actions can be achieved in another manner. Further, the Initial Report shall identify any additional measures, not otherwise identified in the Iowa Efficiency Review Report, that DAS and DOM believe can be initiated without need for statutory changes that, if implemented, will have the effect of improving state agency performance in the delivery of services and offering a plan for the implementation of said additional measures.
5. Thereafter, starting on June 1, 2010, and semi-annually thereafter, the Directors of DAS and DOM shall issue to the Governor's Office a Semi-Annual Status Report, which document shall set forth additional pertinent and relevant information including, but not be limited to: the savings-to-date for each of the implemental actions as set forth in paragraph 2, above, and the anticipated future cost-savings for each action to occur in FY 2011 and beyond; and any analyses and evaluations for potential savings and revenue generation opportunities as set forth in paragraph 3, above. Further, any Report shall identify any additional measures that Directors of DAS or DOM believe can be initiated that could have the effect of improving state agency performance in the delivery of services and offering a plan for initiating said measures.

All reports described herein shall be posted on the Governor's Office's website: www.governor.iowa.gov, and shall invite comments by state government employees and members of the general public.



IN TESTIMONY WHEREOF, I have hereunto subscribed my name and caused the Great Seal of Iowa to be affixed. Done at Des Moines this 16th day of December, in the year of our Lord two thousand nine.



 CHESTER J. CULVER
 GOVERNOR

ATTEST:



 MICHAEL A. MAURO
 SECRETARY OF STATE



EXECUTIVE ORDER NUMBER 21

WHEREAS, on Sunday, May 25, 2008, and continuing, severe storm systems moved across portions of Iowa, spawning severe weather including tornados, heaving rains, wind, hail and severe thunderstorms; and

WHEREAS, the severe damage and flooding resulting from these storm systems have caused unprecedented devastation and damage to communities throughout much of the state, including its people, economy, infrastructure, natural resources, and critical institutions; and

WHEREAS, on October 3, 2008, President Bush signed into law the Heartland Disaster Tax Relief Act of 2008 (the "Disaster Relief Act"), which provides temporary tax relief to certain areas, including areas in Iowa, damaged by the severe storms, tornados and flooding in 2008; and

WHEREAS, among other things, the Disaster Relief Act provides for the issuance of a new category of tax-exempt bonds ("Qualified Midwestern Disaster Area Bonds"), which Bonds may be issued on a tax-exempt basis for an expanded array of permissible projects; and

WHEREAS, under the Disaster Relief Act, the Qualified Midwestern Disaster Area Bonds must be allocated to uses on the basis of providing assistance to areas in the order in which such assistance is most needed; and

WHEREAS, on December 18, 2009, the Internal Revenue Service released Notice 2010-10 (the "Notice"), which provides additional guidance relating to the issuance of Qualified Midwestern Disaster Area Bonds; and

WHEREAS, the Notice states that the determination of whether a loss in a trade or business has been suffered and whether a person is carrying on a trade or business replacing a trade or business with respect to which another person suffered such a loss may be made by the Governor of the State in which the project is located, in any reasonable manner as the Governor shall determine in good faith in such Governor's discretion; and

WHEREAS, the Notice further provides that a duly authorized designee of the Governor may make the necessary determinations set forth above; and

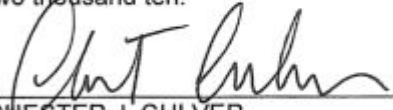
WHEREAS, pursuant to Executive Order Number Nine, to ensure an accurate, efficient and timely allocation of the additional tax-exempt bonding authority provided under the Disaster Relief Act, the Iowa Finance Authority was directed to administer the allocation and track the issuance of Iowa's Qualified Midwestern Disaster Area Bonds;

NOW, THEREFORE, I, Chester J. Culver, Governor of the State of Iowa, by the power vested in me by the laws and the constitution of the State of Iowa, do hereby order as follows:

The Executive Director of the Iowa Finance Authority is by this Executive Order made my designee, consistent with the Notice, with the ability and power to make the necessary determinations as to whether a loss in a trade or business has been suffered and whether a person is carrying on a trade or business replacing a trade or business with respect to which another person suffered such a loss, with such determinations to be made in any reasonable manner as the Executive Director of the Iowa Finance Authority, as my designee, shall determine in good faith in such Executive Director's discretion, all as provided under the Disaster Relief Act and the Notice.

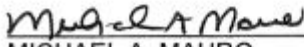


IN TESTIMONY WHEREOF, I have hereunto subscribed my name and caused the Great Seal of Iowa to be affixed. Done at Des Moines this 15th day of February, in the year of our Lord two thousand ten.



CHESTER J. CULVER
GOVERNOR

ATTEST:



MICHAEL A. MAURO
SECRETARY OF STATE



IN THE NAME AND BY THE AUTHORITY OF THE STATE OF IOWA

EXECUTIVE ORDER NUMBER 22

WHEREAS, large-scale construction projects undertaken by the various departments and agencies of the State of Iowa can pose unique challenges to the public interest in terms of delivering fully-constructed public projects of the highest standards, at the most reasonable costs, on-time, and in a manner that fully complies with all applicable laws—including those involving health, safety, equal employment opportunity, labor and employment standards; and

WHEREAS, large-scale construction projects pose challenges to employers that often do not have permanent workforces, making it difficult to ensure the availability of a steady supply of skilled labor or to predict labor costs for said projects; and

WHEREAS, large-scale construction projects frequently involve multiple employers and employees drawn from multiple trades and crafts all working at a single location; and

WHEREAS, a labor dispute involving only one of many employers can delay an entire large-scale construction project; and

WHEREAS, a lack of coordination among various employers, or uncertainties about the terms and conditions of employment of any of the various groups of workers involved with large-scale construction projects, can create frictions and disputes that, in the absence of agreed-upon dispute resolution mechanisms applicable to all said employers and workers, may jeopardize the efficient, on-time, on-budget completion of said projects; and

WHEREAS, the use of Project Labor Agreements may protect the public interest by providing structure and stability to large-scale construction projects, thereby promoting the efficient, on-time completion of said projects of the highest standards and at the most reasonable costs:

NOW, THEREFORE, I, Chester J. Culver, Governor of the State of Iowa, by virtue of the power and authority vested in me by the Constitution and statutes of the State of Iowa, do hereby issue this Executive Order to become effective immediately:

1. For the purpose of this Order, the following definitions shall apply:
 - a. "*Labor organization*" means an area or state building and construction trades or crafts council, organization or association or comparable body.
 - b. "*Large-scale construction project*" means the construction, rehabilitation, alteration, conversion, extension, repair or improvement of a vertical public works project, including a building and other real property-related project, where the total project cost is \$25 million or more.
 - c. "*Project Labor Agreement*" means a comprehensive pre-hire collective bargaining agreement that is negotiated between a project's owner (here, the State of Iowa or an agency or department of the State of Iowa) and an appropriate labor organization and which sets out the basic terms and working conditions for that particular project.
2. All state departments and agencies should consider using Project Labor Agreements in connection with large-scale construction projects which meet the criteria established in this Order.
3. In awarding any contract in connection with a large-scale construction project, or in obligating funds pursuant to such a contract, state departments and agencies may, on a project-by-project basis, require the use of a Project Labor Agreement where said use will advance the state's interest. In making the decision whether to use a Project Labor Agreement, the following factors shall be considered:
 - A. The potential for labor disruptions, such as strikes, lockouts or slowdowns, which could affect the timely completion of the project;
 - B. The number of trades and crafts anticipated to be used on the project;

- C. The need and urgency of the project and the harm to the public if the completion of the project is delayed;
 - D. The size and complexity of the project and the time needed for its completion;
 - E. The benefits to the public from the use of a Project Labor Agreement relative to a project's cost, efficiency, quality, safety and timeliness of completion; and
 - F. The ability to ensure compliance with applicable State laws and regulations governing safety and health, equal employment opportunity, labor and employment standards.
4. If a state agency or department determines that the use of a Project Labor Agreement will satisfy these criteria, the state agency or department may, if appropriate, require that every contractor or subcontractor on the project agree, for that project, to negotiate or become a party to a Project Labor Agreement with one or more appropriate labor organizations. The decision to use a Project Labor Agreement shall be supported by written findings by the affected state agency or department which demonstrate how the use of a Project Labor Agreement will benefit the project, particularly with respect to the criteria set forth in paragraph 3, herein.
5. Any Project Labor Agreement reached pursuant to this Order shall:
- A. Bind all contractors and subcontractors on the large-scale construction project through the inclusion of appropriate specifications in all relevant solicitation provisions and contract documents;
 - B. Allow all contractors and subcontractors to compete for contracts and subcontracts without regard to whether they are otherwise parties to collective bargaining agreements;
 - C. Contain guarantees against strikes, lockouts and similar job disruptions;
 - D. Set forth effective, prompt and mutually binding procedures for resolving labor disputes arising during the term of the Project Labor Agreement;
 - E. Provide other mechanisms for labor-management cooperation on matters of mutual interest and concern, including, but not necessarily limited to, productivity, quality of work, safety and health; and
 - F. Fully conform to all applicable state statutes, regulations and Executive Orders.
6. This Order does not require a state agency or department to use a Project Labor Agreement on any construction project with a total project cost of \$25 million or more, nor does it preclude the use of a Project Labor Agreement on any construction project with a total cost of less than \$25 million when circumstances of a particular project would support its use. Finally, this Order also does not require contractors or subcontractors to enter into a Project Labor Agreement with any particular labor organization.
7. If any provision of this Order, or the application of such provision to any person or circumstance, is held to be invalid, the remaining provisions, as applied to any person or circumstance, shall not be affected thereby.
8. This Order is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity, by any party against the State of Iowa, its departments, agencies, or entities, its officers, employees, or agents or any other person.



IN TESTIMONY WHEREOF, I have hereunto subscribed my name and caused the Great Seal of Iowa to be affixed. Done at Des Moines this 3 day of February, in the year of our Lord two thousand ten.

Chester J. Culyer
 CHESTER J. CULYER
 GOVERNOR

ATTEST:

Michael A. Mauro
 MICHAEL A. MAURO
 SECRETARY OF STATE