



IOWA ADMINISTRATIVE BULLETIN

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PREFACE

The Iowa Administrative Bulletin is published biweekly in pamphlet form pursuant to Iowa Code chapters 2B and 17A and contains Notices of Intended Action 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”]; agricultural credit corporation maximum loan rates [535.12]; and regional banking—notice of application and hearing [524.1905(2)].

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

KATHLEEN K. WEST, Administrative Code Editor
STEPHANIE A. HOFF, Deputy Editor

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CITATION of Administrative Rules

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

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

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

Schedule for Rule Making 2007

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. 27 '06	Jan. 17 '07	Feb. 6 '07	Feb. 21 '07	Feb. 23 '07	Mar. 14 '07	Apr. 18 '07	July 16 '07
Jan. 12	Jan. 31	Feb. 20	Mar. 7	Mar. 9	Mar. 28	May 2	July 30
Jan. 26	Feb. 14	Mar. 6	Mar. 21	Mar. 23	Apr. 11	May 16	Aug. 13
Feb. 9	Feb. 28	Mar. 20	Apr. 4	Apr. 6	Apr. 25	May 30	Aug. 27
Feb. 23	Mar. 14	Apr. 3	Apr. 18	Apr. 20	May 9	June 13	Sept. 10
Mar. 9	Mar. 28	Apr. 17	May 2	May 4	May 23	June 27	Sept. 24
Mar. 23	Apr. 11	May 1	May 16	***May 16***	June 6	July 11	Oct. 8
Apr. 6	Apr. 25	May 15	May 30	June 1	June 20	July 25	Oct. 22
Apr. 20	May 9	May 29	June 13	June 15	July 4	Aug. 8	Nov. 5
May 4	May 23	June 12	June 27	***June 27***	July 18	Aug. 22	Nov. 19
May 16	June 6	June 26	July 11	July 13	Aug. 1	Sept. 5	Dec. 3
June 1	June 20	July 10	July 25	July 27	Aug. 15	Sept. 19	Dec. 17
June 15	July 4	July 24	Aug. 8	Aug. 10	Aug. 29	Oct. 3	Dec. 31
June 27	July 18	Aug. 7	Aug. 22	***Aug. 22***	Sept. 12	Oct. 17	Jan. 14 '08
July 13	Aug. 1	Aug. 21	Sept. 5	Sept. 7	Sept. 26	Oct. 31	Jan. 28 '08
July 27	Aug. 15	Sept. 4	Sept. 19	Sept. 21	Oct. 10	Nov. 14	Feb. 11 '08
Aug. 10	Aug. 29	Sept. 18	Oct. 3	Oct. 5	Oct. 24	Nov. 28	Feb. 25 '08
Aug. 22	Sept. 12	Oct. 2	Oct. 17	Oct. 19	Nov. 7	Dec. 12	Mar. 10 '08
Sept. 7	Sept. 26	Oct. 16	Oct. 31	Nov. 2	Nov. 21	Dec. 26	Mar. 24 '08
Sept. 21	Oct. 10	Oct. 30	Nov. 14	***Nov. 14***	Dec. 5	Jan. 9 '08	Apr. 7 '08
Oct. 5	Oct. 24	Nov. 13	Nov. 28	Nov. 30	Dec. 19	Jan. 23 '08	Apr. 21 '08
Oct. 19	Nov. 7	Nov. 27	Dec. 12	***Dec. 12***	Jan. 2 '08	Feb. 6 '08	May 5 '08
Nov. 2	Nov. 21	Dec. 11	Dec. 26	***Dec. 26***	Jan. 16 '08	Feb. 20 '08	May 19 '08
Nov. 14	Dec. 5	Dec. 25	Jan. 9 '08	Jan. 11 '08	Jan. 30 '08	Mar. 5 '08	June 2 '08
Nov. 30	Dec. 19	Jan. 8 '08	Jan. 23 '08	Jan. 25 '08	Feb. 13 '08	Mar. 19 '08	June 16 '08
Dec. 12	Jan. 2 '08	Jan. 22 '08	Feb. 6 '08	Feb. 8 '08	Feb. 27 '08	Apr. 2 '08	June 30 '08
Dec. 26	Jan. 16 '08	Feb. 5 '08	Feb. 20 '08	Feb. 22 '08	Mar. 12 '08	Apr. 16 '08	July 14 '08

PRINTING SCHEDULE FOR IAB

<u>ISSUE NUMBER</u>	<u>SUBMISSION DEADLINE</u>	<u>ISSUE DATE</u>
22	Friday, April 6, 2007	April 25, 2007
23	Friday, April 20, 2007	May 9, 2007
24	Friday, May 4, 2007	May 23, 2007

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*****

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Legislative Services Agency
Miller Building
Des Moines, IA 50319
Telephone: (515)281-6766

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For free brochures and order forms for 2007 IOWA LAW CD-ROM, contact Nicole Navara at the above address or at nicole.navara@legis.state.ia.us.

The Administrative Rules Review Committee will hold a special meeting on Friday, April 13, 2007, at 8 a.m. in Room 116, State Capitol, Des Moines, Iowa. The following rules will be reviewed:

ADMINISTRATIVE SERVICES DEPARTMENT[11]

Customer councils, 10.1, 10.4, 10.5(1)“a”(2) and (3), 10.7(3), Notice **ARC 5791B** 3/28/07

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Iowa-foaled horse program, 62.1, Filed Emergency **ARC 5774B** 3/14/07

Animal welfare—fostering oversight organizations and foster care homes, 67.12, Filed **ARC 5777B** 3/14/07

EDUCATION DEPARTMENT[281]

Teacher librarians; media programs, 12.2, 12.3(11), 12.3(12), Notice **ARC 5789B** 3/28/07

Funding for children residing in state institutions or mental health institutes, 34.4, 34.11(9),
34.15, Notice **ARC 5767B** 3/14/07

Early ACCESS—definition of “parent,” transmittal of education records
without parental consent, 120.4, 120.59, Filed **ARC 5766B** 3/14/07

ENVIRONMENTAL PROTECTION COMMISSION[567]

NATURAL RESOURCES DEPARTMENT[561]“umbrella”

Minor water main construction permits, 40.3(1), 40.4(1), 40.4(4), 43.3(3)“c”(2),
43.3(3)“e,” Notice **ARC 5795B** 3/28/07

Sanitary sewer extension construction permits, 64.2(10), Filed **ARC 5793B** 3/28/07

Land application of sewage sludge, 67.1(1), 67.6(1), 67.7(1)“a,” 67.8(1)“a,”
67.8(2)“b,” Filed **ARC 5792B** 3/28/07

Certification of public water supply and wastewater treatment systems operators
81.7(3)“a,” Filed **ARC 5794B** 3/28/07

ETHICS AND CAMPAIGN DISCLOSURE BOARD, IOWA[351]

Disclosure of campaign contributors, 4.14(1), 4.17(1), Filed **ARC 5788B** 3/28/07

HUMAN SERVICES DEPARTMENT[441]

Disaster reimbursement grant program, ch 58 title and preamble, ch 58 div I,
58.1 to 58.8, ch 58 div II, Notice **ARC 5785B**, also Filed Emergency **ARC 5784B** 3/28/07

Food assistance program—eligible students, 65.26, Notice **ARC 5769B**, also Filed Emergency **ARC 5768B** 3/14/07

State payment program; provider enrollment forms, 79.14(1), 79.14(2), 79.14(6), 81.13(1)“b,”
82.3(1)“b,” 88.44(3)“a”(1), 88.48(3), 88.49(1), 88.61, 88.62(1)“a,” 88.63(2), 88.63(3),
88.63(5), 88.63(6), 88.68(2), 88.71(2), 88.72(2), Filed **ARC 5770B** 3/14/07

HAWK-I program—health insurance data match, 86.18, Filed **ARC 5780B** 3/14/07

State payment program for mental health services to adults without legal settlement,
ch 153, div IV, 153.51 to 153.58, Filed Emergency After Notice **ARC 5773B** 3/14/07

INSURANCE DIVISION[191]

COMMERCE DEPARTMENT[181]“umbrella”

Filing of insurance policy rates and forms, 5.9, 20.1, 20.2, 20.4, 20.5, 20.9, 20.10,
30.5, 31.3(1), 31.3(2), 34.5, 35.7(1) to 35.7(6), 36.11, 37.13(1), 39.26(2), Filed **ARC 5808B** 3/28/07

Cash refund of premium tax, 5.95, Notice **ARC 5778B** 3/14/07

Indexed products training, 15.80 to 15.87, Filed **ARC 5807B** 3/28/07

INTERIOR DESIGN EXAMINING BOARD[193G]

Professional Licensing and Regulation Bureau[193]

COMMERCE DEPARTMENT[181]“umbrella”

Professional conduct, ch 4, Notice **ARC 5781B** 3/28/07

Grounds for discipline; disciplinary authority, investigations,
and proceedings, chs 5 to 7, Notice **ARC 5782B** 3/28/07

IOWA PUBLIC EMPLOYEES' RETIREMENT SYSTEM[495]

Benefits advisory committee; contributions; benefits; refunds; member identification number,
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LABOR SERVICES DIVISION[875]

WORKFORCE DEVELOPMENT DEPARTMENT[871]"umbrella"

Elevators—platform lifts, safety tests, 71.2(2)"c," 72.1(6) to 72.1(8), Notice **ARC 5790B** 3/28/07**NATURAL RESOURCE COMMISSION[571]**

NATURAL RESOURCES DEPARTMENT[561]"umbrella"

Game management areas, 51.10, Notice **ARC 5802B** 3/28/07Wildlife refuges, 52.1(2)"a," Notice **ARC 5801B** 3/28/07

Waterfowl and coot hunting seasons, 91.1(2) 91.1(3), 91.3(2), 91.3(3), 91.3(7),

91.3(7)"e," 91.3(8)"b," 91.3(9)"b," 91.3(10)"b," 91.4(2)"c," "i" and "m" to "p,"

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Game harvest reporting and landowner-tenant registration, 95.1(1), 95.2, 95.2(2),

95.2(4), Notice **ARC 5799B** 3/28/07Wild turkey spring hunting, 98.2(3), 98.9(2), 98.10, 98.11(1), Notice **ARC 5798B** 3/28/07Wild turkey fall hunting, 99.4, 99.5(1), Notice **ARC 5797B** 3/28/07

Deer hunting by residents, 106.6(2) to 106.6(4), 106.7(5), 106.7(8), 106.10(2),

106.11, Notice **ARC 5803B** 3/28/07Rabbit and squirrel hunting, 107.1, 107.3, Notice **ARC 5796B** 3/28/07**NURSING BOARD[655]**

PUBLIC HEALTH DEPARTMENT[641]"umbrella"

Duplicate wallet cards or certificates; temporary licenses, 3.5(3)"c" and "d,"

3.7(6), Notice **ARC 5786B** 3/28/07**PROFESSIONAL LICENSURE DIVISION[645]**

PUBLIC HEALTH DEPARTMENT[641]"umbrella"

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Professional Licensing and Regulation Bureau[193]

COMMERCE DEPARTMENT[181]"umbrella"

Address correction, forms, continuing education, reinstatement fee, 1.1(2), 1.6(1),

10.2(2), 11.2(5), 11.2(9), 12.1, Filed **ARC 5779B** 3/14/07Monthly logs; initial certification; license renewal, 4.1(7), 5.4, 6.4, 11.2(1)"d," Notice **ARC 5783B** 3/28/07**REVENUE DEPARTMENT[701]**Property assessment appeals, 71.21(6) to 71.21(30), Notice **ARC 5806B** 3/28/07**TRANSPORTATION DEPARTMENT[761]**

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520.1(1)"a" and "b," Filed **ARC 5776B** 3/14/07**UTILITIES DIVISION[199]**

COMMERCE DEPARTMENT[181]"umbrella"

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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, 2007.

Senator Michael Connolly
2600 Renaissance Drive, #3
Dubuque, Iowa 52001

Senator Thomas Courtney
2200 Summer Street
Burlington, Iowa 52601

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

Senator Paul McKinley
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Chariton, Iowa 50049

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Telephone (515)281-0208

AGENCY	HEARING LOCATION	DATE AND TIME OF HEARING
EDUCATION DEPARTMENT[281]		
Library and media programs, 12.2, 12.3 IAB 3/28/07 ARC 5789B	State Board Room Grimes State Office Bldg. Des Moines, Iowa	April 17, 2007 3 to 4:30 p.m.
Funding for children in state institutions or mental health institutes, 34.4, 34.11(9), 34.15 IAB 3/14/07 ARC 5767B	State Board Room, Second Floor Grimes State Office Bldg. Des Moines, Iowa	April 4, 2007 9 to 10 a.m.
ENVIRONMENTAL PROTECTION COMMISSION[567]		
Minor water main construction permits, 40.3(1), 40.4, 43.3(3) IAB 3/28/07 ARC 5795B	Conf. Rm., Water Supply Office Suite I 401 SW 7th St. Des Moines, Iowa	April 19, 2007 10 a.m.
Wastewater construction and operation permits, 64.3(4), 64.6, 64.15 IAB 2/28/07 ARC 5753B	Fifth Floor Conference Room Wallace State Office Bldg. Des Moines, Iowa	March 30, 2007 9 a.m.
Financial assurance for sanitary landfills, amendments to chs 103 to 106, 112, 114, 115, 118, 120 to 123 IAB 1/3/07 ARC 5633B	Fifth Floor West Conference Rm. Wallace State Office Bldg. Des Moines, Iowa	March 28, 2007 10 a.m. to 12 noon
INSURANCE DIVISION[191]		
Cash refund of premium tax, 5.95 IAB 3/14/07 ARC 5778B	330 Maple St. Des Moines, Iowa	April 4, 2007 10 a.m.
IOWA PUBLIC EMPLOYEES' RETIREMENT SYSTEM[495]		
IPERS benefits, amendments to chs 3, 4, 8, 9, 11, 12, 14, 16, 17 IAB 3/28/07 ARC 5804B	7401 Register Dr. Des Moines, Iowa	April 17, 2007 9 a.m.
LABOR SERVICES DIVISION[875]		
New installations and safety tests, 71.2(2), 72.1 IAB 3/28/07 ARC 5790B	Stanley Room 1000 E. Grand Ave. Des Moines, Iowa	April 18, 2007 10 a.m. (If requested)
NATURAL RESOURCE COMMISSION[571]		
Use of nontoxic shot on wildlife areas, 51.10 IAB 3/28/07 ARC 5802B (ICN Network)	Contact (515)281-5918 or visit the department's Web site at www.iowadnr.com for list of 18 ICN hearing locations.	April 19, 2007 6:30 to 9 p.m.

NATURAL RESOURCE COMMISSION[571] (Cont'd)

Wildlife refuges—restrictions, 52.1(2)“a” IAB 3/28/07 ARC 5801B (ICN Network)	Contact (515)281-5918 or visit the department’s Web site at www.iowadnr.com for list of 18 ICN hearing locations.	April 19, 2007 6:30 to 9 p.m.
Waterfowl and coot hunting seasons, 91.1, 91.3, 91.4(2), 91.5(1), 91.6 IAB 3/28/07 ARC 5800B (ICN Network)	Contact (515)281-5918 or visit the department’s Web site at www.iowadnr.com for list of 18 ICN hearing locations.	April 19, 2007 6:30 to 9 p.m.
Game harvest reporting and landowner-tenant registration, 95.1(1), 95.2 IAB 3/28/07 ARC 5799B (ICN Network)	Contact (515)281-5918 or visit the department’s Web site at www.iowadnr.com for list of 18 ICN hearing locations.	April 19, 2007 6:30 to 9 p.m.
Wild turkey spring hunting, 98.2(3), 98.9(2), 98.10, 98.11(1) IAB 3/28/07 ARC 5798B (ICN Network)	Contact (515)281-5918 or visit the department’s Web site at www.iowadnr.com for list of 18 ICN hearing locations.	April 19, 2007 6:30 to 9 p.m.
Wild turkey fall hunting, 99.4, 99.5(1) IAB 3/28/07 ARC 5797B (ICN Network)	Contact (515)281-5918 or visit the department’s Web site at www.iowadnr.com for list of 18 ICN hearing locations.	April 19, 2007 6:30 to 9 p.m.
Deer hunting by residents, 106.6, 106.7, 106.10(2), 106.11 IAB 3/28/07 ARC 5803B (ICN Network)	Contact (515)281-5918 or visit the department’s Web site at www.iowadnr.com for list of 18 ICN hearing locations.	April 19, 2007 6:30 to 9 p.m.
Cottontail rabbit and squirrel seasons, 107.1, 107.3 IAB 3/28/07 ARC 5796B (ICN Network)	Contact (515)281-5918 or visit the department’s Web site at www.iowadnr.com for list of 18 ICN hearing locations.	April 19, 2007 6:30 to 9 p.m.

PROFESSIONAL LICENSURE DIVISION[645]

Continuing education for optometrists, 181.3(2)“c” IAB 3/14/07 ARC 5771B	Fifth Floor Board Conference Rm. Lucas State Office Bldg. Des Moines, Iowa	April 3, 2007 9 to 9:30 a.m.
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PUBLIC SAFETY DEPARTMENT[661]

Payment of small claims to employees, rescind ch 14; adopt ch 41 IAB 3/28/07 ARC 5809B	Third Floor Conference Rm. Wallace State Office Bldg. Des Moines, Iowa	May 2, 2007 10 a.m.
Liquefied petroleum gas, 51.100 to 51.102, ch 226 IAB 3/28/07 ARC 5805B	Third Floor Conference Rm. Wallace State Office Bldg. Des Moines, Iowa	May 2, 2007 10:30 a.m.

REGENTS BOARD[681]

Admission of undergraduate students, 1.1 IAB 2/28/07 ARC 5748B (ICN Network)	Room 8, Building 6 DMACC 2006 S. Ankeny Blvd. Ankeny, Iowa	March 30, 2007 4 to 6 p.m.
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REGENTS BOARD[681] (Cont'd)

Room 160, Scheman Bldg. Iowa State Center, ISU Corner of Elwood and Lincoln Way Ames, Iowa	March 30, 2007 4 to 6 p.m.
Room 107, North Hall University of Iowa End of North Madison St. Iowa City, Iowa	March 30, 2007 4 to 6 p.m.
Room 130A, Schindler Hall University of Northern Iowa Corner of Hudson Rd. and 23rd St. Cedar Falls, Iowa	March 30, 2007 4 to 6 p.m.
Room 1, Southern Prairie AEA 15 2814 N. Court St. Ottumwa, Iowa	March 30, 2007 4 to 6 p.m.
ICN Rm., Burlington High School 421 Terrace Dr. Burlington, Iowa	March 30, 2007 4 to 6 p.m.
Rm. 12, Ft. Dodge High School 819 N. 25th St. Ft. Dodge, Iowa	March 30, 2007 4 to 6 p.m.
Rm. 1, Old Hospital Iowa Braille and Sight Saving School 1002 G Ave. Vinton, Iowa	March 30, 2007 4 to 6 p.m.
Rm. A-123, Dubuque High School 1800 Clarke Dr. Dubuque, Iowa	March 30, 2007 4 to 6 p.m.
Rm. 215, Sioux City East High School 5011 Mayhew Ave. Sioux City, Iowa	March 30, 2007 4 to 6 p.m.
Rm. 2, Iowa School for the Deaf 3501 Harry Langdon Blvd. Council Bluffs, Iowa	March 30, 2007 4 to 6 p.m.

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

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

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

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

The following list will be updated as changes occur:

ADMINISTRATIVE SERVICES DEPARTMENT[11]
 AGRICULTURE AND LAND STEWARDSHIP DEPARTMENT[21]
 Agricultural Development Authority[25]
 Soil Conservation Division[27]
 ATTORNEY GENERAL[61]
 AUDITOR OF STATE[81]
 BEEF INDUSTRY COUNCIL, IOWA[101]
 BLIND, DEPARTMENT FOR THE[111]
 CAPITAL INVESTMENT BOARD, IOWA[123]
 CITIZENS’ AIDE[141]
 CIVIL RIGHTS COMMISSION[161]
 COMMERCE DEPARTMENT[181]
 Alcoholic Beverages Division[185]
 Banking Division[187]
 Credit Union Division[189]
 Insurance Division[191]
 Professional Licensing and Regulation Bureau[193]
 Accountancy Examining Board[193A]
 Architectural Examining Board[193B]
 Engineering and Land Surveying Examining Board[193C]
 Landscape Architectural Examining Board[193D]
 Real Estate Commission[193E]
 Real Estate Appraiser Examining Board[193F]
 Interior Design Examining Board[193G]
 Savings and Loan Division[197]
 Utilities Division[199]
 CORRECTIONS DEPARTMENT[201]
 Parole Board[205]
 CULTURAL AFFAIRS DEPARTMENT[221]
 Arts Division[222]
 Historical Division[223]
 ECONOMIC DEVELOPMENT, IOWA DEPARTMENT OF[261]
 City Development Board[263]
 Grow Iowa Values Board[264]
 Iowa Finance Authority[265]
 EDUCATION DEPARTMENT[281]
 Educational Examiners Board[282]
 College Student Aid Commission[283]
 Higher Education Loan Authority[284]
 Iowa Advance Funding Authority[285]
 Libraries and Information Services Division[286]
 Public Broadcasting Division[288]
 School Budget Review Committee[289]
 EGG COUNCIL, IOWA[301]
 ELDER AFFAIRS DEPARTMENT[321]
 EMPOWERMENT BOARD, IOWA[349]
 ETHICS AND CAMPAIGN DISCLOSURE BOARD, IOWA[351]
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 HUMAN RIGHTS DEPARTMENT[421]
 Community Action Agencies Division[427]
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 Latino Affairs Division[433]
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 Employment Appeal Board[486]
 Foster Care Review Board[489]
 Racing and Gaming Commission[491]
 State Public Defender[493]
IOWA PUBLIC EMPLOYEES' RETIREMENT SYSTEM[495]
LAW ENFORCEMENT ACADEMY[501]
LIVESTOCK HEALTH ADVISORY COUNCIL[521]
LOTTERY AUTHORITY, IOWA[531]
MANAGEMENT DEPARTMENT[541]
 Appeal Board, State[543]
 City Finance Committee[545]
 County Finance Committee[547]
NATURAL RESOURCES DEPARTMENT[561]
 Energy and Geological Resources Division[565]
 Environmental Protection Commission[567]
 Natural Resource Commission[571]
 Preserves, State Advisory Board for[575]
PETROLEUM UNDERGROUND STORAGE TANK FUND
 BOARD, IOWA COMPREHENSIVE[591]
PREVENTION OF DISABILITIES POLICY COUNCIL[597]
PUBLIC DEFENSE DEPARTMENT[601]
 Homeland Security and Emergency Management Division[605]
 Military Division[611]
PUBLIC EMPLOYMENT RELATIONS BOARD[621]
PUBLIC HEALTH DEPARTMENT[641]
 Professional Licensure Division[645]
 Dental Examiners Board[650]
 Medical Examiners Board[653]
 Nursing Board[655]
 Pharmacy Examiners Board[657]
PUBLIC SAFETY DEPARTMENT[661]
RECORDS COMMISSION[671]
REGENTS BOARD[681]
 Archaeologist[685]
REVENUE DEPARTMENT[701]
SECRETARY OF STATE[721]
SHEEP AND WOOL PROMOTION BOARD, IOWA[741]
TELECOMMUNICATIONS AND TECHNOLOGY COMMISSION, IOWA[751]
TRANSPORTATION DEPARTMENT[761]
 Railway Finance Authority[765]
TREASURER OF STATE[781]
TURKEY MARKETING COUNCIL, IOWA[787]
UNIFORM STATE LAWS COMMISSION[791]
VETERANS AFFAIRS, IOWA DEPARTMENT OF[801]
VETERINARY MEDICINE BOARD[811]
VOLUNTEER SERVICE, IOWA COMMISSION ON[817]
VOTER REGISTRATION COMMISSION[821]
WORKFORCE DEVELOPMENT DEPARTMENT[871]
 Labor Services Division[875]
 Workers' Compensation Division[876]
 Workforce Development Board and
 Workforce Development Center Administration Division[877]

ARC 5791B**ADMINISTRATIVE SERVICES
DEPARTMENT[11]****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 8A.121, the Department of Administrative Services hereby gives Notice of Intended Action to amend Chapter 10, “Customer Councils,” Iowa Administrative Code.

The proposed amendments rescind two definitions that are not used in the rules; delete the names of the customer councils so that councils can be added or dissolved without need for changing the rules; change the definition of “quorum” so that only a simple majority is needed for voting; modify the process for filling midyear vacancies on the councils; and allow increases or reductions in rates throughout the year as recommended by the Department and voted on by the respective council. The current rules require an election process to fill vacancies and do not allow for rate reductions and increases without the need for a waiver of the September 1 rate-setting deadline.

Any interested person or party may make written or oral comments on the proposed amendments on or before April 17, 2007. Such written comments should be directed to Patricia Lantz, Hoover State Office Building, 1305 E. Walnut, Level 3, Des Moines, Iowa 50319, or may be sent by fax to (515)281-6401 or by E-mail to Patricia.Lantz@iowa.gov.

These amendments are intended to implement Iowa Code section 8A.121.

A fiscal impact summary prepared by the Legislative Services Agency pursuant to Iowa Code § 17A.4(3) will be available at <http://www.legis.state.ia.us/IAC.html> or at (515) 281-5279 prior to the Administrative Rules Review Committee’s review of this rule making.

The following amendments are proposed.

ITEM 1. Amend rule 11—10.1(8A) as follows:

Rescind the following definitions:

“Leadership function” means a service provided by the department and funded by a general appropriation. Leadership functions typically relate to development of policy and standards and are appropriate when standardization is required and the ultimate customer is the taxpayer.

“Marketplace service” means a service that the department is authorized to provide, but which governmental entities may provide on their own or obtain from another provider of the service.

Amend the following definition:

“Quorum” means the presence of no less than two-thirds a simple majority (50 percent plus 1) of the members eligible to vote.

ITEM 2. Amend rule 11—10.4(8A) as follows:

11—10.4(8A) Customer councils established. In order to ensure that DAS utilities provide effective, efficient, and high-quality services that benefit governmental entities and the citizens they serve, this chapter establishes the following

customer councils: ~~general services, human resources, and information technology for services identified as utilities.~~

ITEM 3. Amend paragraph 10.5(1)“a” as follows:

Amend subparagraph (2) as follows:

(2) Review. The directors or directors’ designees from each agency size group shall review representation on each customer council prior to August 1 of each year for the terms ending August 31 of that year and select customer council members as in subparagraph (1) to fill vacancies caused by expired terms. ~~The directors or directors’ designees shall use the process in subparagraph (1) to fill an executive branch customer council position that becomes vacant before the end of the term. This action shall occur by the end of the month following the month in which the vacancy occurred. An agency may provide representatives to fill no more than one position on a customer council at one time.~~ The department will periodically review the definition of large, medium-sized and small agencies based on the number of permanent employees of the agencies in Iowa state government and make adjustments accordingly.

Adopt ~~new~~ subparagraph (3) as follows:

(3) Vacancies. If a vacancy occurs from September 1 through August 1, the appropriate chairperson shall fill the vacancy.

ITEM 4. Amend subrule 10.7(3) as follows:

10.7(3) Rate setting. The customer council shall approve the procedure for setting rates for the services that the customer council oversees and the resulting rates. Rates shall be established no later than September 1 of the year preceding the rate change. *Established rates may be amended after September 1 upon recommendation by the department and affirmative vote by the appropriate customer council.*

ARC 5789B**EDUCATION DEPARTMENT[281]****Notice of Intended Action**

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

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

Pursuant to the authority of Iowa Code section 256.7(5), the State Board of Education hereby proposes to amend Chapter 12, “General Accreditation Standards,” Iowa Administrative Code.

2006 Iowa Acts, chapter 1182 (sections 2 and 3), amended accreditation statutes to require that each school district have a qualified (i.e., licensed by the Board of Educational Examiners) teacher librarian. The new legislation also requires that the State Board establish in rule a definition of and standards for an articulated sequential kindergarten through grade 12 media program. These amendments are proposed in compliance with new Iowa Code section 256.11(9) and amended section 256.11A.

An agencywide waiver provision is provided in 281—Chapter 4.

Interested individuals may make written comments on the proposed amendments on or before April 17, 2007, at 4:30 p.m. Comments on the proposed amendments should be directed to Carol Greta, Attorney 3, Iowa Department of

EDUCATION DEPARTMENT[281](cont'd)

Education, Second Floor, Grimes State Office Building, Des Moines, Iowa 50319-0146; telephone (515)281-8661; E-mail carol.greta@iowa.gov; or fax (515)281-4122.

A public hearing will be held on April 17, 2007, from 3 to 4:30 p.m. in the State Board Room, Grimes State Office Building, East 14th Street and Grand Avenue, Des Moines, Iowa, at which time persons may present their views either orally or in writing.

Any persons who intend to attend the public hearing and have special requirements such as those related to hearing or mobility impairments should contact and advise the Department of Education of their specific needs by calling (515) 281-5295.

These amendments are intended to implement Iowa Code sections 256.11(9) and 256.11A.

A fiscal impact summary prepared by the Legislative Services Agency pursuant to Iowa Code § 17A.4(3) will be available at <http://www.legis.state.ia.us/IAC.html> or at (515) 281-5279 prior to the Administrative Rules Review Committee's review of this rule making.

The following amendments are proposed.

ITEM 1. Amend rule **281—12.2(256)** by adding the following **new** definition in alphabetical order:

“Library program” means an articulated sequential kindergarten through grade 12 library or media program that enhances student achievement and is integral to the school district's curricula and instructional program. The library program is planned and implemented by a qualified teacher librarian working collaboratively with the district's administration and instructional staff. The library program services provided to students and staff shall include the following:

1. Support of the overall school curricula;
2. Collaborative planning and teaching;
3. Promotion of reading and literacy;
4. Information literacy instruction;
5. Access to a diverse and appropriate school library collection; and
6. Learning enhancement through technologies.

ITEM 2. Amend subrule 12.3(11) as follows:

12.3(11) Policy required relating to health services, ~~media services programs~~ and guidance programs. The board of directors of each school district and the authorities in charge of an accredited nonpublic school shall adopt a local policy relating to health services, ~~media services programs~~ and guidance programs. The policy shall state whether or not the services shall be provided. This subrule shall not be interpreted to require schools and school districts to provide or to offer health services, ~~media services~~ or guidance programs.

ITEM 3. Adopt **new** subrule 12.3(12) as follows:

12.3(12) Standards for library programs. The board of directors of each school district shall establish a K-12 library program to support the student achievement goals of the total school curriculum.

a. A qualified teacher librarian, licensed by the board of educational examiners, who works with students, teachers, support staff and administrators shall direct the library program and provide services and instruction in support of the curricular goals of each attendance center. The teacher librarian shall be a member of the attendance center instructional team with special expertise in identifying resources and technologies to support teaching and learning. The teacher librarian and classroom teachers shall collaborate to develop, teach, and evaluate attendance center curricular goals with emphasis on promoting inquiry and critical thinking; providing information literacy learning experiences to

help students access, evaluate, use, create, and communicate information; enhancing learning and teaching through technology; and promoting literacy through reader guidance and activities that develop capable and independent readers.

b. The library program shall be regularly reviewed and revised and shall be designed to meet the following goals:

- (1) To provide for methods to improve library collections to meet student and staff needs;
- (2) To make connections with parents and the community;
- (3) To support the district's school improvement plan;
- (4) To provide access to or support for professional development for the teacher librarian;
- (5) To provide current technology and electronic resources to ensure that students become skillful and discriminating users of information;
- (6) To include a current and diverse collection of fiction and nonfiction materials in a variety of formats to support student and curricular needs; and
- (7) To include a plan for annually updating and replacing library materials, supports, and equipment.

c. The board of directors of each school district shall adopt policies to address selection and reconsideration of school library materials; confidentiality of student library records; and legal and ethical use of information resources.

ARC 5795B

ENVIRONMENTAL PROTECTION COMMISSION[567]

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 455B.173, the Environmental Protection Commission hereby gives Notice of Intended Action to amend Chapter 40, “Scope of Division—Definitions—Forms—Rules of Practice,” and Chapter 43, “Water Supplies—Design and Operation,” Iowa Administrative Code.

The amendments to Chapter 40 pertain to the forms of the public water supply program, while the amendments to Chapter 43 pertain to the public water supply program's construction permitting requirements for design and operation. Construction permits are required of all systems for any construction, installation, or modification of any project that affects a public water supply system. These proposed amendments would create a Minor Water Main Construction Permit to allow for the construction of extensions to and replacement of minor water mains for the duration of the permit so that the system does not have to apply for an individual permit prior to each minor water main construction project. The amendments establish minimum criteria that must be met by a public water supply system in order to obtain a Minor Water Main Construction Permit. The “as-built” plans that have been prepared and submitted by a licensed professional engineer, construction permit fees, and construction permit schedules must be submitted to the Department each year under the permit.

ENVIRONMENTAL PROTECTION COMMISSION[567](cont'd)

Any interested person may make written suggestions or comments pertaining to the proposed amendments on or before April 20, 2007. Such written materials should be directed to Diane Moles, Water Supply Engineering Section, Iowa Department of Natural Resources, 401 SW 7th Street, Suite M, Des Moines, Iowa 50309-4611; fax (515)725-0348; or E-mail diane.moles@dnr.state.ia.us. Persons wishing to convey their views orally should contact Diane Moles at (515)725-0281.

When submitting comments, the Water Supply Engineering Section encourages you to utilize the following guidelines. These guidelines aid in accurately understanding and creating a record of your input.

1. Include your mailing address and contact information.
2. Please state if you are submitting comments as an individual or on behalf of a municipality, business, or organization.
3. Cite the specific rule(s) on which you are commenting.
4. Explain your views as clearly as possible by describing any assumptions, data, or technical information you utilized.
5. Provide specific examples to illustrate your concerns.
6. Offer alternative language that you think would improve the specific rule(s) and explain why.

A public hearing will be held on April 19, 2007, at 10 a.m. in the conference room at the Department's Water Supply Office at 401 SW 7th Street, Suite I, Des Moines, Iowa 50309, at which time persons may present their views either orally or in writing. At the hearing, persons will be asked to give their names and addresses for the record and to confine their remarks to the subject of the amendments.

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

These amendments are intended to implement Iowa Code sections 17A.3(1)"b," 455B.105 and 455B.173 and chapter 455B, division III, part 2.

A fiscal impact summary prepared by the Legislative Services Agency pursuant to Iowa Code § 17A.4(3) will be available at <http://www.legis.state.ia.us/IAC.html> or at (515) 281-5279 prior to the Administrative Rules Review Committee's review of this rule making.

The following amendments are proposed.

ITEM 1. Amend subrule 40.3(1) as follows:

40.3(1) Construction permit application forms. Schedules "1a" through "16d" are required.

<u>Schedule</u> <u>No.</u>	<u>Name of Form</u>	<u>Form</u> <u>Number</u>
"1a"	General Information	542-3178
"1b"	Certification of Project Design	542-3174
	Minor Water Main Construction Permit	542-3151
"1c"	Fee Schedule	542-3179
"2a"	Water Mains, General	542-3030
"2b"	Water Mains, Specifications	542-3031
"2c"	Notification of Minor Water Main Construction	542-3152
"3a"	Water System, Preliminary Data	542-3032
"3b"	Water Quality Data	542-3029
"3c"	Surface Water Quality Data	542-3028
"4"	Site Selection	542-3078
"5a"	Well Construction	542-1005
"5b"	Well Appurtenances	542-3026
"5c"	Well Profile	542-1006
"5d"	Surface Water Supply	542-3139
"6a"	Distribution Water Storage Facilities	542-3140

<u>Schedule</u> <u>No.</u>	<u>Name of Form</u>	<u>Form</u> <u>Number</u>
"6b"	Distribution Pumping Station	542-3141
"7"	Schematic Flow Diagram	542-3142
"8"	Aeration	542-3143
"9"	Clarification/Sedimentation	542-3144
"10"	Suspended Solids Contact	542-3145
"11"	Cation Exchange Softening	542-3146
"12"	Filters	542-3147
"13a"	Chemical Addition	542-3141
"13b"	Dry Chemical Addition	542-3130
"13c"	Gas Chlorination	542-3131
"13d"	Fluoridation	542-3132
"13e"	Sampling and Tests	542-3133
"14"	Pumping Station	542-3134
"15"	Process Water Storage Facilities	542-3135
"16a"	Wastewater, General	542-3136
"16b"	Waste Treatment Ponds	542-3137
"16c"	Filtration and Mechanical	542-3138
"16d"	Discharge to Sewer	542-3103

ITEM 2. Amend subrule 40.4(1), introductory paragraph, as follows:

40.4(1) General procedures. Applications for written approval from the department for any new construction or for reconstruction pursuant to 567—Chapter 44 shall consist of complete plans and specifications, application fee, and appropriate water supply construction permit application schedules. Upon review, the department will issue a construction permit for approval of a project if the review shows that the project meets all departmental design standards in accordance with 567—Chapter 43. Approval of a project which does not meet all department design standards will be denied unless a variance as provided by 567—paragraph 43.3(2)"e" 43.3(2)"b" is granted. A variance may be requested at the time plans and specifications are submitted or after the design discrepancy is pointed out to the applicant.

ITEM 3. Amend subrule 40.4(4) as follows:

40.4(4) Certification of project design. A permit shall be issued for the construction, installation or modification of a public water supply system or part of a system or for a water supply distribution system extension if a qualified, licensed professional engineer certifies that the plans and specifications comply with federal and state laws and regulations or that a variance to standards has been granted by the department. Refer to Schedule 1b 1a.

ITEM 4. Amend subparagraph **43.3(3)"c"(2)** as follows:

(2) "As-built" construction. "As-built" construction is defined as construction that occurred before a construction permit is issued. The fee shall be calculated according to 43.3(3)"c"(1), plus an additional fee of \$200, and is effective for construction that occurred after December 1, 2003. *The fee for water main projects permitted in accordance with paragraph 43.3(3)"e" shall be calculated in accordance with subparagraph 43.3(3)"c"(1); however, the additional "as-built" fee of \$200 shall not be assessed for these projects.*

ITEM 5. Adopt the following **new** paragraph **43.3(3)"e"**:

e. Minor water main construction permit. A public water system may obtain a minor water main construction permit from the department for construction or replacement of minor water mains that serve additional users. By obtaining this permit, the system is able to construct new minor water mains or extend or replace existing minor water mains without obtaining an individual construction permit for each specific water main. The permit shall allow construction or re-

ENVIRONMENTAL PROTECTION COMMISSION[567](cont'd)

placement of minor water mains that do not exceed six inches in diameter and, in aggregation, do not increase the average daily demand (in gallons per day) of the public water supply system by more than 5 percent over the duration of the permit.

The additional users must have been included in the system's hydraulic analysis that has been approved by the department. The water demands of the additional users must be consistent with the water demands in the approved hydraulic analysis.

(1) A minor water main construction permit shall be issued subject to the following conditions:

1. The system has standard specifications for water main construction approved and on file with the department;

2. The system has adequate source capacity and, where treatment is provided, adequate treatment plant capacity to meet the peak day demand of all existing users and the proposed additional users covered under the permit;

3. The system has adequate storage capacity to meet the average day demand of all existing users and the proposed additional users covered under the permit; and

4. The system submits an application for a minor water main construction permit prior to the construction or replacement of any water main covered by the permit. The permit application must be submitted to the department 90 days before the anticipated first use of the permit, and construction shall not commence prior to the issuance of the permit. The minor water main construction permit expires on December 31 of the year in which it is issued. The application shall include the following:

- An up-to-date hydraulic analysis of the system, prepared and submitted by a licensed professional engineer, must be either on file with the department or submitted with the permit application. The hydraulic basis of flow (gallons per minute per connection) used in the analysis must be acceptable to the department. The hydraulic analysis shall include:

- All existing water mains within the system;
- All proposed water mains intended to be covered by the permit;
- A demonstration that the system has adequate hydraulic capacity to serve the existing and new users under peak flow conditions without causing the pressure to fall below 20 psi anywhere within the system;
- The location of all potential users of the system;
- The diameter of all existing and proposed pipes;
- The projected system flows; and
- The static and dynamic pressures anticipated throughout the system with the addition of the new users incorporated in the analysis.

- A completed Schedule 1b, Minor Water Main Construction Permit Application (Form 542-3151), listed in 567—subrule 40.3(1).

(2) The system must submit completed Schedule 2c, Notification of Minor Water Main Construction (Form 542-3152), prior to the construction or replacement of each minor water main covered by this permit. Each water main covered by the permit must have either been included in the previously submitted hydraulic analysis or must be included in an update to the hydraulic analysis, submitted with Schedule 2c. If an update to the hydraulic analysis is submitted with Schedule 2c, it must include all portions of the distribution system potentially affected by the new construction.

(3) By January 31 of the following year, the system shall submit the following to the department:

1. A complete set of plans for all water main extensions constructed under the permit. The plans must be prepared and submitted by a licensed professional engineer.

2. Completed Schedules 1a, 1c, and 2a, listed in 567—subrule 40.3(1).

3. The construction permit fee calculated in accordance with subparagraph 43.3(3)“c”(1). The fee calculation shall be based upon the total length of water main constructed under the permit. For the purpose of calculating the total amount of water main construction permit fees, paid by the system in accordance with subparagraph 43.3(3)“c”(4), the fee shall be credited to the calendar year in which the actual fee was received by the department.

(4) A permit shall contain such conditions as are deemed necessary by the director to ensure compliance with all applicable rules of the department.

(5) The director may modify the permit, in whole or in part, at any time. The director may suspend or revoke the permit, in whole or in part, at any time by providing written notice to the permit holder and is not obligated to renew the permit. Cause for modification, suspension, or revocation of the permit includes, but is not limited to, the following:

- 1. Violation of any term or condition of the permit;
 - 2. Misrepresentation of fact or failure to disclose fully all material facts in order to obtain a permit;
 - 3. Failure to submit the records and information as required by the director, both generally and as condition of the permit;
 - 4. Failure to submit timely reports from previous permits;
 - 5. Failure to construct in accordance with approved design standards in accordance with subrule 43.3(2); or
 - 6. Failure to construct in accordance with the system's approved standard specifications.
- (6) No variance to the design standards is allowed under this permit. If a variance to the design standards is needed, the system must apply for an individual construction permit following the procedures in 567—subrule 40.4(1).

ARC 5785B**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 217.6, the Department of Human Services proposes to amend Chapter 58, “Emergency Assistance Program,” Iowa Administrative Code.

These amendments implement a new program of state assistance for needy individuals who have disaster-related expenses or serious needs that cannot be met by other financial assistance, as authorized by 2007 Iowa Acts, Senate File 305. The amendments provide for reimbursement for repair or replacement of personal property, home repairs, and temporary housing for families whose income is less than 130 percent of the federal poverty level for a household of that size. The amount of assistance available to a family in a single disaster

HUMAN SERVICES DEPARTMENT[441](cont'd)

is capped at 25 percent of the income limit for a one-person household (currently \$3,319).

The Department administers the Disaster Reimbursement Grant Program jointly with the Homeland Security and Emergency Management Division of the Department of Public Defense and local emergency management coordinators who are appointed by local emergency management commissions. Emergency management coordinators will receive applications from affected households and will certify each household's residence and disaster-related expenses. Department staff will determine eligibility, issue notices and payments, and handle any appeals.

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).

These amendments were also Adopted and Filed Emergency and are published herein as **ARC 5784B**. The purpose of this Notice is to solicit comment on that submission, the subject matter of which is incorporated by reference.

Any interested person may make written comments on the proposed amendments on or before April 18, 2007. Comments should be directed to Mary Ellen Imlau, Office of Policy Analysis, 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 2007 Iowa Acts, Senate File 305.

A fiscal impact summary prepared by the Legislative Services Agency pursuant to Iowa Code § 17A.4(3) will be available at <http://www.legis.state.ia.us/IAC.html> or at (515) 281-5279 prior to the Administrative Rules Review Committee's review of this rule making.

ARC 5781B**INTERIOR DESIGN EXAMINING BOARD[193G]****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 544C.3, the Interior Design Examining Board hereby gives Notice of Intended Action to adopt Chapter 4, “Professional Conduct,” Iowa Administrative Code.

Chapter 4 provides rules of professional conduct for interior designers.

Consideration will be given to all written suggestions or comments on the proposed rule received on or before April 17, 2007. Comments should be addressed to Sylvia King, Professional Licensing and Regulation Bureau, 1920 SE Hulsizer Road, Ankeny, Iowa 50021, or faxed to (515) 281-7411. E-mail may be sent to sylvia.king@iowa.gov.

This rule is intended to implement Iowa Code chapters 544C and 272C.

A fiscal impact summary prepared by the Legislative Services Agency pursuant to Iowa Code § 17A.4(3) will be available at <http://www.legis.state.ia.us/IAC.html> or at (515) 281-5279 prior to the Administrative Rules Review Committee's review of this rule making.

The following **new** chapter is proposed.

CHAPTER 4**PROFESSIONAL CONDUCT**

193G—4.1(544C) Rules of conduct. A registered interior designer shall maintain a high standard of integrity and professional responsibility within the profession of interior design to protect the public health, life safety, and welfare.

4.1(1) Competence.

a. A registered interior designer shall act with reasonable care and competence and shall apply the technical knowledge and skill ordinarily applied by a registered interior designer of good standing providing interior design services in the same locality.

b. The board may initiate discipline against a registered interior designer or may, when appropriate, refer a registered interior designer to the board's impaired practitioner review committee based on habitual intoxication or addiction to the use of drugs or other impairment which adversely affects the registrant's ability to practice in a safe and competent manner.

4.1(2) Conflict of interest. A registered interior designer shall not accept compensation for interior design services from more than one party on a project unless circumstances are fully disclosed and agreed to in writing by all interested parties.

4.1(3) Full disclosure.

a. A registered interior designer shall not deliberately make a materially false statement or deliberately fail to disclose a material fact requested in connection with application for registration or renewal of registration.

b. A registered interior designer shall not assist in the application for registration of a person known by the registered interior designer to be unqualified with respect to education, training, experience or character.

c. A registered interior designer engaged in the practice of interior design must act in the best interest of the client and shall not allow integrity, objectivity or professional judgment to be impaired.

d. A registered interior designer with knowledge of a violation of these rules by another registered interior designer shall report such knowledge to the board.

4.1(4) Professional conduct.

a. A registered interior designer shall respect the confidentiality of sensitive information obtained in the course of the interior designer's professional activities.

b. A registered interior designer shall not engage in conduct involving fraud, deceit, misrepresentation or dishonesty in the practice of interior design.

c. A registered interior designer shall neither attempt to obtain a contract to provide interior design services through any unlawful means nor assist others in such an attempt.

d. A registered interior designer shall neither offer nor make any payment to a governmental official with the intent of influencing the official's judgment in connection with a prospective or existing project in which the interior designer has an interest.

This rule is intended to implement Iowa Code chapter 544C.

ARC 5782B**INTERIOR DESIGN EXAMINING BOARD[193G]****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 544C.3, the Interior Design Examining Board hereby gives Notice of Intended Action to adopt Chapter 5, “Disciplinary Authority and Grounds for Discipline,” Chapter 6, “Disciplinary Investigations,” and Chapter 7, “Disciplinary Proceedings,” Iowa Administrative Code.

Chapter 5 establishes the Board’s disciplinary authority and grounds for discipline. Chapter 6 sets forth investigative authority, provides for initiation of disciplinary investigations and sources of information, addresses conflict of interest and elaborates on the complaint and investigative processes. Chapter 7 describes the initiation of disciplinary proceedings, sets forth sanctions and provides conditions for reinstatement when a registered interior design license has been suspended, revoked or voluntarily surrendered.

Consideration will be given to all written suggestions or comments on the proposed rules received on or before April 17, 2007. Comments should be addressed to Sylvia King, Professional Licensing and Regulation Bureau, 1920 SE Hulsizer Road, Ankeny, Iowa 50021, or faxed to (515) 281-7411. E-mail may be sent to sylvia.king@iowa.gov.

These rules are intended to implement Iowa Code chapters 544C and 272C.

A fiscal impact summary prepared by the Legislative Services Agency pursuant to Iowa Code § 17A.4(3) will be available at <http://www.legis.state.ia.us/IAC.html> or at (515) 281-5279 prior to the Administrative Rules Review Committee’s review of this rule making.

The following **new** chapters are proposed.

**CHAPTER 5
DISCIPLINARY AUTHORITY AND
GROUNDS FOR DISCIPLINE**

193G—5.1(17A,272C,544C) Disciplinary authority. The board is empowered to administer Iowa Code chapters 17A, 272C, and 544C and related administrative rules for the protection and well-being of those persons who may rely upon registered individuals for the performance of interior design services within this state or for clients in this state. To perform these functions, the board is broadly vested with authority to review and investigate alleged acts or omissions of registrants, determine whether disciplinary proceedings are warranted, initiate and prosecute disciplinary proceedings, establish standards of professional conduct, and impose discipline pursuant to Iowa Code sections 17A.13, 272C.3 to 272C.6, 272C.10, 544C.3 and 544C.10.

193G—5.2(17A,272C,544C) Grounds for discipline. The board may initiate disciplinary action against a registered interior designer on any of the following grounds:

1. A violation of any of the rules of professional conduct set forth in 193G—Chapter 4.

2. A violation of Iowa Code subsection 272C.9(2) or 272C.9(3).

3. Failure to comply with an order of the board imposing discipline.

4. A violation of Iowa Code subsection 272C.3(2).

5. Continuing to practice as a registered interior designer without satisfying the continuing education requirement, absent express waiver granted by the board.

6. Failure to fully cooperate with a registrant disciplinary investigation or investigation against a nonregistrant, including failure to respond to a board inquiry within 30 calendar days of the date of mailing by certified mail of a written communication directed to the registrant’s last address on file at the board office.

7. A violation of Iowa Code section 544C.9 or 272C.10.

These rules are intended to implement Iowa Code chapters 17A, 272C, and 544C.

**CHAPTER 6
DISCIPLINARY INVESTIGATIONS**

193G—6.1(17A,272C,544C) Investigative authority. The board is authorized by Iowa Code sections 17A.13(1), 272C.3, 272C.4 and 272C.6(4) to conduct disciplinary investigations to determine whether grounds exist to initiate a disciplinary proceeding against a registrant.

193G—6.2(17A,272C,544C) Initiation of disciplinary investigations. The board may initiate a registrant disciplinary investigation upon the board’s receipt of information suggesting that a registrant may have violated a law or rule enforced by the board which violation, if true, would constitute grounds for registrant discipline. The board may also review the publicly available work product of a registrant on a general or random basis to determine whether reasonable grounds exist to initiate disciplinary proceedings or to conduct a more specific investigation.

193G—6.3(272C,544C) Sources of information. Without limitation, the following nonexclusive list of information sources may form the basis for the initiation of a disciplinary investigation or proceeding:

1. General or random review of publicly available work product.

2. News articles or other media sources.

3. Reports filed with the board by the commissioner of insurance pursuant to Iowa Code subsection 272C.4(9).

4. Complaints filed with the board by any member of the public.

5. Registration applications or other documents submitted to the board.

6. Reports to the board from any regulatory or law enforcement agency from any jurisdiction.

7. Board audits of registrant compliance with conditions for registration, such as continuing education.

193G—6.4(17A,272C,544C) Conflict of interest. If the subject of a complaint is a member of the board, or if a member of the board has a conflict of interest in any disciplinary matter before the board, that member shall abstain from participation in any consideration of the complaint and from participation in any disciplinary hearing that may result from the complaint.

193G—6.5(272C,544C) Complaints. Written complaints may be submitted to the board office by mail, E-mail, facsimile, or personal delivery by members of the public, including clients, business organizations, nonprofit organizations, gov-

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environmental bodies, registrants, or other individuals or entities with knowledge of possible law or rule violations by registrants.

6.5(1) Contents of a written complaint. Written complaints may be submitted on forms provided by the board which are available from the board office and on the board's Web site. Written complaints, whether submitted on a board complaint form or in other written medium, shall contain the following information:

- a. The full name, address, and telephone number of the complainant (person complaining).
- b. The full name, address, and telephone number of the respondent (registrant against whom the complaint is filed).
- c. A statement of the facts and circumstances giving rise to the complaint, including a description of the alleged acts or omissions which the complainant believes demonstrate that the respondent has violated or is violating laws or rules enforced by the board.
- d. If known, citations to the laws or rules allegedly violated by the respondent.
- e. Evidentiary supporting documentation.
- f. Steps, if any, taken by the complainant to resolve the dispute with the respondent prior to filing a complaint.

6.5(2) Immunity. As provided by Iowa Code section 272C.8, a person shall not be civilly liable as a result of filing a report or complaint with the board unless such act is done with malice, nor shall an employee be dismissed from employment or discriminated against by an employer for filing such a report or complaint.

6.5(3) Role of complainant. The role of the complainant in the disciplinary process is limited to providing the board with factual information relative to the complaint. A complainant is not party to any disciplinary proceeding which may be initiated by the board based in whole or in part on information provided by the complainant.

6.5(4) Role of the board. The board does not act as an arbiter of disputes between private parties, nor does the board initiate disciplinary proceedings to advance the private interest of any person or party. The role of the board in the disciplinary process is to protect the public by investigating complaints and initiating disciplinary proceedings in appropriate cases. The board possesses sole decision-making authority throughout the disciplinary process, including the authority to determine whether a case will be investigated, the manner of the investigation, whether a disciplinary proceeding will be initiated, and the appropriate registrant discipline to be imposed, if any.

6.5(5) Initial complaint screening. All written complaints received by the board shall be initially screened by the board's executive officer to determine whether the allegations of the complaint fall within the board's investigatory jurisdiction and whether the facts presented, if true, would constitute a basis for disciplinary action against a registrant. Complaints which are clearly outside the board's jurisdiction, which clearly do not allege facts upon which disciplinary action would be based, or which are frivolous shall be referred by the board's executive officer to the board for closure at the next scheduled board meeting. All other complaints shall be referred by the board's executive officer to the board's disciplinary committee for committee review as described in rule 193G—6.8(17A,272C,544C).

193G—6.6(272C,544C) Case numbers. Whether based on a written complaint received by the board or a complaint initiated by the board, all complaint files shall be tracked by a case numbering system. Complaints are assigned case numbers in chronological order with the first two digits representing the

year in which the complaint was received or initiated, and the second two digits representing the order in which the case file was opened (e.g., 01-01, 01-02, 01-03, etc.). The board's executive officer shall maintain a case file log noting the date each case file was opened, whether disciplinary proceedings were initiated in the case, and the final disposition of the case. Once a case file number is assigned to a complaint, all persons communicating with the board regarding that complaint are encouraged to include the case file number to facilitate accurate record keeping and a prompt response.

193G—6.7(272C,544C) Confidentiality of complaint and investigatory information. All complaint and investigatory information received or created by the board is privileged and confidential pursuant to Iowa Code subsection 272C.6(4). Such information shall not be released to any person except as provided in that subsection.

193G—6.8(17A,272C,544C) Investigation procedures.

6.8(1) Disciplinary committee. The board chairperson shall annually appoint, as needed, two to four members of the board to serve on the board's disciplinary committee to review and process disciplinary complaints. The disciplinary committee is a purely advisory body which shall review complaint files referred by the board's executive officer, generally supervise the investigation of complaints, and make recommendations to the full board on the disposition of complaints. Members of the committee shall not personally investigate complaints, but they may review the investigative work product of others in formulating recommendations to the board.

6.8(2) Committee screening of complaints. Upon the referral of a complaint from the board's executive officer or from the full board, the committee shall determine whether the complaint presents facts which, if true, suggest that a registrant may have violated a law or rule enforced by the board. If the committee concludes that the complaint does not present facts which suggest such a violation or that the complaint does not otherwise constitute an appropriate basis for disciplinary action, the committee shall refer the complaint to the full board with the recommendation that the complaint be closed with no further action. If the committee determines that the complaint does present a credible basis for disciplinary action, the committee may either immediately refer the complaint to the full board recommending that a disciplinary proceeding be commenced or initiate a disciplinary investigation.

6.8(3) Committee procedures. If the committee determines that additional information is necessary or desirable to evaluate the merits of a complaint, the committee may assign an investigator or expert consultant, appoint a peer review committee, provide the registrant an opportunity to appear before the disciplinary committee for an informal discussion as described in rule 193G—6.9(17A,272C,544C), or request board staff to conduct further investigation. Upon completion of an investigation, the investigator, expert consultant, peer review committee or board staff shall present a report to the committee. The committee shall review the report and determine what further action is necessary. The committee may:

- a. Request further investigation.
- b. Determine there is not probable cause to believe a disciplinary violation has occurred and refer the case to the full board with the recommendation of closure.
- c. Determine there is probable cause to believe that a law or rule enforced by the board has been violated, but that disciplinary action is unwarranted on other grounds, and refer the

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case to the full board with the recommendation of closure. The committee may also recommend that the registrant be informally cautioned or educated about matters which could form the basis for disciplinary action in the future.

d. Determine there is probable cause to believe a disciplinary violation has occurred, and refer the case to the full board with the recommendation that the board initiate a disciplinary proceeding (contested case).

6.8(4) Subpoena authority. Pursuant to Iowa Code subsections 17A.13(1) and 272C.6(3), the board is authorized in connection with a disciplinary investigation to issue subpoenas to compel witnesses to testify or persons to produce books, papers, records and any other real evidence, whether or not privileged or confidential under law, which the board deems necessary as evidence in connection with a disciplinary proceeding or relevant to the decision of whether to initiate a disciplinary proceeding. Board procedures concerning investigatory subpoenas are set forth in 193—Chapter 6.

193G—6.9(17A,272C,544C) Informal discussion. If the disciplinary committee considers it advisable, or if requested by the affected registrant, the committee may grant the registrant an opportunity to appear before the committee for a voluntary informal discussion of the facts and circumstances of an alleged violation, subject to the provisions of this rule.

6.9(1) An informal discussion is intended to provide a registrant an opportunity to share the registrant's account of a complaint in an informal setting before the board determines whether probable cause exists to initiate a disciplinary proceeding. A registrant is not required to attend an informal discussion. Because disciplinary investigations are confidential, the registrant may not bring other persons to an informal discussion, but registrants may be represented by legal counsel.

6.9(2) Unless disqualification is waived by the registrant, board members or staff who personally investigate a disciplinary complaint are disqualified from making decisions or assisting the decision makers at a later formal hearing. Because board members generally rely upon investigators, peer review committees, or expert consultants to conduct investigations, the issue rarely arises. An informal discussion, however, is a form of investigation because it is conducted in a question and answer format. In order to preserve the ability of all board members to participate in board decision making and to receive the advice of staff, a registrant who desires to attend an informal discussion must therefore waive the right to seek disqualification of a board member or staff based solely on the board member's or staff's participation in an informal discussion. A registrant would not waive the right to seek disqualification on any other ground. By electing to attend an informal discussion, a registrant accordingly agrees that participating board members or staff are not disqualified from acting as a presiding officer in a later contested case proceeding or from advising the decision maker.

6.9(3) Because an informal discussion constitutes a part of the board's investigation of a pending disciplinary case, the facts discussed at the informal discussion may be considered by the board in the event the matter proceeds to a contested case hearing and those facts are independently introduced into evidence.

6.9(4) The disciplinary committee, subject to board approval, may propose a consent order at the time of the informal discussion. If the registrant agrees to a consent order, a statement of charges shall be filed simultaneously with the consent order, as provided in rule 193—7.4(17A,272C).

193G—6.10(17A,272C,544C) Closing complaint files.

6.10(1) Grounds for closing. Upon the recommendation of the board's executive officer pursuant to subrule 6.5(5), the recommendation of the disciplinary committee pursuant to rule 193G—6.8(17A,272C,544C), or on its own motion, the board may close a complaint file, with or without prior investigation. Given the broad scope of matters about which members of the public may complain, it is not possible to catalog all possible reasons why the board may close a complaint file. The following nonexclusive list is, however, illustrative of the grounds upon which the board may close a complaint file:

- a. The complaint alleges matters outside the board's jurisdiction.
- b. The complaint does not allege a reasonable or credible basis to believe that the subject of the complaint violated a law or rule enforced by the board.
- c. The complaint is frivolous or trivial.
- d. The complaint alleges matters more appropriately resolved in a different forum, such as civil litigation to resolve a contract dispute, or more appropriately addressed by alternative procedures, such as outreach education or rule making.
- e. The matters raised in the complaint are situational, isolated, or unrepresentative of a registrant's typical practice, and the registrant has taken appropriate steps to ensure future compliance and prevent public injury.
- f. Resources are unavailable or better directed to other complaints or board initiatives in light of the board's overall budget and mission.
- g. Other extenuating factors weigh against the imposition of public discipline when considered in the context of the board's purpose and mission.

6.10(2) Closing orders. The board's executive officer may enter an order stating the basis for the board's decision to close a complaint file. If entered, the order shall not contain the identity of the complainant or the respondent and shall not disclose confidential complaint or investigative information. If entered, a closing order will be indexed by case number and shall be a public record pursuant to Iowa Code subsection 17A.3(1)(d). A copy of the order may be mailed to the complainant, if any, and to the respondent. The board's decision whether or not to pursue an investigation, to institute disciplinary proceedings, or to close a file is not subject to judicial review.

6.10(3) Cautionary letters. The board may issue a confidential letter of caution to a registrant when a complaint file is closed which informally cautions or educates the registrant about matters which could form the basis for disciplinary action in the future if corrective action is not taken by the registrant. Informal cautionary letters do not constitute disciplinary action, but the board may take such letters into consideration in the future if a registrant continues a practice about which the registrant has been cautioned.

6.10(4) Reopening closed complaint files. The board may reopen a closed complaint file if additional information arises after closure which provides a basis to reassess the merits of the initial complaint.

These rules are intended to implement Iowa Code chapters 17A, 272C and 544C.

CHAPTER 7

DISCIPLINARY PROCEEDINGS

193G—7.1(17A,272C,544C) Initiation of disciplinary proceedings. Disciplinary proceedings may be initiated only by the affirmative vote of a majority of a quorum of the board

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at a public meeting. Board members who are disqualified shall not be included in determining whether a quorum exists. If, for example, two members of the board are disqualified, four members of the board shall constitute a quorum of the remaining six board members for purposes of voting on the case in which the two members are disqualified. When three or more members of the board are disqualified or otherwise unavailable for any reason, the board's executive officer may request the special appointment of one or more substitute board members pursuant to Iowa Code section 17A.11, subsection 5.

193G—7.2(17A,272C,544C) Disciplinary contested case procedures. Unless in conflict with a provision of board rules in this chapter, all of the procedures set forth in 193—Chapter 7 shall apply to disciplinary contested cases initiated by the board.

193G—7.3(272C,544C) Disciplinary sanctions.

7.3(1) Type of sanctions. The board has authority to impose the following disciplinary sanctions:

- a. Revoke a registration issued by the board.
- b. Suspend a registration issued by the board.
- c. Revoke or suspend the privilege to engage in one or more areas of interior design.
- d. Impose a period of probation, either with or without conditions.
- e. Impose requirements regarding continuing education. The board may specify that a designated amount of continuing education be taken in specific subjects and may specify the time period for completing these courses. The board may also specify whether that continuing education be in addition to the continuing education routinely required for registration renewal. The board may also specify that additional continuing education be a condition for the termination of any suspension or reinstatement of a registration. The board may also specify that current reference materials be obtained and maintained.
- f. Require reexamination, using one or more parts of the NCIDQ examination given to candidates for the registered interior design registration.
- g. Impose civil penalties, the amount of which shall be at the discretion of the board, but which shall not exceed \$1,000 per violation. Civil penalties may be imposed for any of the disciplinary violations specified in rule 193G—5.2(17A, 272C,544C).
- h. Issue a reprimand.

7.3(2) Imposing discipline. Discipline may be imposed against a registrant only by the affirmative vote of a majority of the members of the board who are not disqualified.

7.3(3) Voluntary surrender. The board may accept the voluntary surrender of a registration to resolve a pending disciplinary contested case or pending disciplinary investigation. The board shall not accept a voluntary surrender of a registration to resolve a pending disciplinary investigation unless a statement of charges will be filed along with the order accepting the voluntary surrender. Such a voluntary surrender is considered disciplinary action and shall be published in the same manner as is applicable to any other form of disciplinary order.

7.3(4) Notification requirements. Whenever a registration is revoked, suspended, restricted, or voluntarily surrendered under this chapter, the registrant shall:

- a. Within 15 days of receipt of the board's final order, notify in writing all clients of the fact that the registration has been revoked, suspended or voluntarily surrendered or that the practice of the registrant has been restricted. Such notice shall advise the client to obtain alternative professional ser-

vices, unless the restriction at issue would not impact the registered interior design services provided for that client;

b. Within 30 days of receipt of the board's final order, the registrant shall file with the board copies of the notices sent pursuant to paragraph 7.3(4)“a.” Compliance with this requirement shall be a condition for an application for reinstatement.

7.3(5) Civil penalties. Factors the board may consider when determining whether to assess and the amount of civil penalties include:

- a. Whether other forms of discipline are being imposed for the same violation.
- b. Whether the amount imposed will be a substantial deterrent to the violation.
- c. The circumstances leading to the violation.
- d. The severity of the violation and the risk of harm to the public.
- e. The economic benefits gained by the registrant as a result of the violation.
- f. The interest of the public.
- g. Evidence of reform or remedial action.
- h. Time lapsed since the violation occurred.
- i. Whether the violation is a repeat offense following a prior cautionary letter, disciplinary order, or other notice of the nature of the infraction.
- j. The clarity of the issues involved.
- k. Whether the violation was willful and intentional.
- l. Whether the registrant acted in bad faith.
- m. The extent to which the registrant cooperated with the board.

193G—7.4(272C,544C) Publication of decisions.

7.4(1) The board shall publish in the board's newsletter, or in another professional publication designated by the board, the name of each registrant disciplined by the board, along with a brief description of the underlying circumstances, regardless of the nature of the violation.

7.4(2) The board shall issue a formal press release in those instances in which a registration has been suspended or revoked.

7.4(3) The board shall notify other state interior design boards that have issued a similar license to an Iowa registrant of disciplinary action taken against the Iowa registrant. The board shall also notify the National Council for Interior Design Qualification of disciplinary action taken against an Iowa registrant.

193G—7.5(272C,544C) Reinstatement.

7.5(1) The term “reinstatement” as used in this rule and in rule 193—7.38(17A,272C) shall include the reinstatement of a suspended registration, the modification or removal of a practice restriction, the issuance of a registration following the denial of an application to renew a registration, and the issuance of a new registration following the revocation or voluntary surrender of a registration.

7.5(2) Any person whose registration has been revoked, suspended or restricted by the board, or who has voluntarily surrendered a registration to conclude a disciplinary investigation or proceeding, or whose application to renew a registration has been denied may apply to the board to modify or terminate the suspension, issue or reissue the registration, or modify or remove the restriction in accordance with the provisions of this rule, and the terms of the order of revocation, suspension or restriction, denial of registration renewal, or acceptance of voluntary surrender of a registration.

7.5(3) If the applicable order did not establish terms upon which the registrant may apply for reinstatement, an initial application for reinstatement may not be made until one year

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has elapsed from the date of the order which revoked, suspended or restricted the registration, denied registration renewal, or accepted a voluntary surrender.

7.5(4) All proceedings for reinstatement shall be initiated by the respondent and shall be subject to the procedures set forth in rule 193—7.38(17A,272C). In addition, the board may grant an applicant's request to appear informally before the board prior to the issuance of a notice of hearing on the application if the applicant requests an informal appearance in the application and agrees not to seek to disqualify on the ground of personal investigation the board members or staff before whom the applicant appears.

7.5(5) An order granting an application for reinstatement may impose such terms and conditions as the board deems desirable, which may include one or more of the types of disciplinary sanctions described in rule 193G—7.3(272C, 544C).

7.5(6) The board shall not grant an application for reinstatement when the initial order which revoked, suspended or restricted the registration, denied registration renewal, or accepted a voluntary surrender was based on a criminal conviction and the applicant cannot demonstrate to the board's satisfaction that:

- a. All terms of the sentencing or other criminal order have been fully satisfied;
- b. The applicant has been released from confinement and any applicable probation or parole; and
- c. Restitution has been made or is reasonably in the process of being made to any victims of the crime.

These rules are intended to implement Iowa Code chapters 17A, 272C, and 544C.

ARC 5804B**IOWA PUBLIC EMPLOYEES' RETIREMENT SYSTEM[495]****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 97B.4 and 97B.15, the Iowa Public Employees' Retirement System (IPERS) hereby gives Notice of Intended Action to amend Chapter 3, “Benefits Advisory Committee,” Chapter 4, “Employers,” Chapter 8, “Service Purchases,” Chapter 9, “Refunds,” Chapter 11, “Application for, Modification of, and Termination of Benefits,” Chapter 12, “Calculation of Monthly Retirement Benefits,” Chapter 14, “Death Benefits and Beneficiaries,” Chapter 16, “Assignments,” and Chapter 17, “Public Records and Fair Information Practices,” Iowa Administrative Code.

The following paragraphs itemize the proposed changes.

Item 1 discontinues the practice of listing specific membership organizations of the Benefits Advisory Committee (BAC).

Item 2 improves readability and clarifies effective dates for regular class member contributions.

Item 3 implements new contribution rates for special service members as provided by the Legislature, effective July 1, 2007.

Item 4 updates prior contribution rates for special service members.

Item 5 implements changes to the Pension Protection Act of 2006 that authorize defined benefit plans such as IPERS to accept direct rollover service purchases which include after-tax amounts.

Item 6 updates the implementation sentence in Chapter 8.

Item 7 removes the requirement for notarization of a member's signature when a refund is requested.

Item 8 reinstates the requirement that the employer certify the last pay date, unless the member has been out of IPERS covered employment for more than one year.

Item 9 implements provisions of the Internal Revenue Code which prohibit certain members who were previously covered under IPERS and then opted to be covered under an alternative retirement plan of a covered employer from receiving a refund of the IPERS account while employed by an IPERS covered employer even if the current position is not IPERS covered.

Item 10 adds the clarifying term “calendar” for purposes of defining a bona fide retirement period for licensed health care professionals.

Item 11 makes the administrative fees for multiple rollovers applicable to nonspouse beneficiaries who become eligible to make direct rollovers under these rule changes.

Item 12 authorizes IPERS to make direct rollovers under the more flexible provisions of the Pension Protection Act of 2006.

Item 13 updates the implementation sentence in Chapter 12.

Item 14 adds IPERS Option 6 to the list of options for members to designate a new beneficiary for the period of re-employment.

Item 15 clarifies that IPERS distributions to a member's estate include distributions to an executor or administrator approved under Iowa Code chapters 633 and 635.

Item 16 implements provisions of the Pension Protection Act of 2006 and IRS Notice 2007-7 regarding direct rollovers by nonspouse beneficiaries.

Item 17 updates the implementation sentence in Chapter 14.

Item 18 integrates the use of a member identification number for the filing of domestic relations orders.

Item 19 clarifies that the hold placed on a member's account following notice of a dissolution of marriage will be released if one year passes in which no further contacts are made by the parties.

Items 20 and 21 incorporate the use of the member identification number for requests of information.

There are no waiver provisions included in the proposed amendments.

Any person may make written suggestions or comments on the proposed amendments on or before April 17, 2007. Such written suggestions or comments should be directed to the IPERS Administrative Rules Coordinator at IPERS, P.O. Box 9117, Des Moines, Iowa 50306-9117. Persons who wish to present their comments orally may contact the IPERS Administrative Rules Coordinator at (515)281-3081. Comments may also be submitted by fax to (515)281-0045 or by E-mail to info@ipers.org.

A public hearing will be held on April 17, 2007, at 9 a.m. at IPERS, 7401 Register Drive, Des Moines, Iowa, at which time persons may present their views either orally or in writ-

IOWA PUBLIC EMPLOYEES' RETIREMENT SYSTEM[495](cont'd)

ing. Persons who attend the hearing will be asked to give their names and addresses for the record and to confine their remarks to the subject matter of the amendments.

These amendments are intended to implement Iowa Code sections 97B.4 and 97B.15.

A fiscal impact summary prepared by the Legislative Services Agency pursuant to Iowa Code § 17A.4(3) will be available at <http://www.legis.state.ia.us/IAC.html> or at (515) 281-5279 prior to the Administrative Rules Review Committee's review of this rule making.

The following amendments are proposed.

ITEM 1. Amend subrule 3.2(1) as follows:

3.2(1) The BAC shall be composed of representatives appointed by the following: the Iowa State Education Association, the Iowa Association of Community College Trustees, the School Administrators of Iowa, the Iowa Association of School Boards, the Retired School Personnel Association, the State Police Officers' Council, the state of Iowa (which shall be represented by the director of the department of administrative services), the IPERS' Improvement Association, the American Federation of State, County, and Municipal Employees, the Iowa State Sheriffs' and Deputies' Association, the Iowa State Association of Counties, the Iowa

League of Cities, and the Iowa Association of Chiefs of Police and Peace Officers, Inc.

In addition, there shall be a citizen representative who has pension benefits experience and who is not a member of IPERS.

In no event shall the total number of The BAC membership organizations be fewer than 9 or more than 14, and the composition of the BAC must at all times be composed of a mixture of employer and employee membership organizations that meet the specific membership and voting requirements of Iowa Code section 97B.8B. A current list of organizations, appointees, terms and voting status is maintained on IPERS' Web site and may be obtained in writing upon request.

ITEM 2. Amend subrule 4.6(1) as follows:

4.6(1) All covered members, except those identified in 4.6(2) and 4.6(3).

a. Member's rate—3.7%.

b. Employer's rate—5.75%.

e. Effective July 1, 2007, and, except as otherwise provided by law, the following contribution rates shall be effective for all covered members described except those identified in this subrule subrules 4.6(2) and 4.6(3):

	Current Ended June 30, 2007	Effective July 1, 2007	Effective July 1, 2008	Effective July 1, 2009	Effective July 1, 2010
Combined rate	9.45%	9.95%	10.45%	10.95%	11.45%
Employer	5.75%	6.05%	6.35%	6.65%	6.95%
Employee	3.70%	3.90%	4.10%	4.30%	4.50%

ITEM 3. Amend subrules 4.6(2) and 4.6(3) as follows:

4.6(2) Sheriffs and deputy sheriffs, effective July 1, 2006 2007.

a. Member's rate—8.37 7.70%.

b. Employer's rate—8.37 7.70%.

4.6(3) Members employed in a protection occupation, effective July 1, 2006 2007.

a. Member's rate—6.08 5.64%.

b. Employer's rate—9.12 8.47%.

ITEM 4. Amend subrule 4.6(7) as follows:

4.6(7) Prior special rates are as follows:

Effective July 1, 2005 2006, through June 30, 2006 2007:

a. Sheriffs and deputy sheriffs:

(1) Member's rate—8.2 8.37%.

(2) Employer's rate—8.2 8.37%.

b. Protection occupation:

(1) Member's rate—6.16 6.08%.

(2) Employer's rate—9.23 9.12%.

ITEM 5. Amend subrule **8.5(2)** by adding the following new paragraph "e":

e. Effective January 1, 2007, IPERS may, notwithstanding certain provisions of Iowa Code section 97B.82 adopted in order to comply with prior rollover provisions of the Internal Revenue Code, utilize forms and procedures permitting direct rollover service purchases to include after-tax amounts as provided under the applicable rollover provisions of the Internal Revenue Code as amended subsequent to the enactment of Iowa Code section 97B.82.

ITEM 6. Amend **495—Chapter 8**, implementation sentence, as follows:

These rules are intended to implement Iowa Code sections 97B.1A, 97B.1A(13), 97B.1A(20), 97B.43, 97B.73B, 97B.80, and 97B.80C, and 97B.82.

ITEM 7. Amend subrule 9.4(2) as follows:

9.4(2) The last date the member is considered an employee and the date of the last paycheck from which IPERS contributions will be deducted must be certified by the employer on the refund application unless the member has not been paid covered wages for at least one year. The applicant's signature must be notarized. Terminated employees must keep IPERS advised in writing of any change in address so that refunds and tax documents may be delivered.

ITEM 8. Amend subrule 9.4(5) as follows:

9.4(5) Effective July 1, 2004, employers shall only be required to certify the last date the member is considered an employee, and not the date of the last paycheck from which IPERS contributions will be deducted. Further, effective July 1, 2004, an employee must sever all covered employment for 30 days after the date the employee was last considered an employee, and not for 30 days after the date of the last paycheck containing IPERS covered wages.

ITEM 9. Amend rule 495—9.4(97B) by adding the following new subrule:

9.4(6) Effective November 2006, an individual who previously stopped participating in IPERS to begin participating in an alternative plan shall not receive a refund of that individual's IPERS account while still employed by a covered employer, even if the member is no longer in IPERS covered employment.

ITEM 10. Amend subrule 11.5(2), introductory paragraph, as follows:

11.5(2) Bona fide retirement—licensed health care professionals. For retirees whose first month of entitlement is no earlier than July 2004 and no later than June 2010, a retiree who is reemployed as a "licensed health care professional" by a "public hospital" does not have a bona fide retirement until all employment with covered employers is terminated

IOWA PUBLIC EMPLOYEES' RETIREMENT SYSTEM[495](cont'd)

for at least one *calendar* month. In order to receive retirement benefits, the member must file a completed application for benefits form before returning to any employment with a covered employer.

ITEM 11. Amend subrule 11.6(4) as follows:

11.6(4) Rollover fees. ~~If a member who is paid Effective January 1, 2007, if the recipient of a lump-sum lump-sum distribution, or a beneficiary who is the member's spouse and is paid a lump-sum death benefit~~ which qualifies to be rolled over; requests that ~~the taxable portion be rolled over a roll-over be made~~ to more than one IRA or other qualified plan, IPERS may assess a \$5 administrative fee for each additional rollover beyond the first one. The fee will be deducted from the gross amount of each distribution, less federal and state income tax.

ITEM 12. Amend 495—Chapter 12 by adding the following **new** rule:

495—12.10(97B) Conforming rules for lump-sum payments. Effective January 1, 2007, IPERS may, notwithstanding certain provisions of Iowa Code section 97B.53B enacted in order to comply with prior rollover provisions of the Internal Revenue Code, utilize forms and procedures affording payees of lump-sum distributions with broader rollover rights as permitted under the applicable rollover provisions of the Internal Revenue Code as amended subsequent to the enactment of Iowa Code section 97B.53B.

ITEM 13. Amend **495—Chapter 12**, implementation sentence, as follows:

These rules are intended to implement Iowa Code sections 97B.1A, 97B.1A(24), 97B.15, 97B.25, 97B.45, 97B.47 to 97B.48A, 97B.49A to 97B.49I, ~~and~~ 97B.51, ~~and~~ 97B.53B.

ITEM 14. Amend subrule 14.3(1) as follows:

14.3(1) Designation of beneficiaries. To designate a beneficiary, the member must complete an IPERS designation of beneficiary form, which must be filed with IPERS. The designation of a beneficiary by a retiring member on the application for monthly benefits revokes all prior designation of beneficiary forms. IPERS may consider as valid a designation of beneficiary form filed with the member's employer prior to the death of the member, even if that form was not forwarded to IPERS prior to the member's death. If a retired member is reemployed in covered employment, the most recently filed beneficiary form shall govern the payment of all death benefits for all periods of employment. Notwithstanding the foregoing sentence, a reemployed IPERS Option 4 or 6 retired member may name someone other than the member's contingent annuitant as beneficiary, but only for death benefits accrued during the period of reemployment and only if the contingent annuitant has died or has been divorced from the member *before the period of reemployment*. If a reemployed IPERS Option 4 or 6 retired member dies without filing a new beneficiary form, the death benefits accrued for the period of reemployment shall be paid to the member's contingent annuitant, unless the contingent annuitant has died or been divorced from the member. If the contingent annuitant has been divorced from the member, any portion of the death benefits awarded in a qualified domestic relations order (QDRO) shall be paid to the contingent annuitant as alternate payee, and the remainder of the death benefits shall be paid to the member's estate, or the member's heirs if no estate is probated.

ITEM 15. Amend subrule 14.6(1) as follows:

14.6(1) Where the estate is open, payment shall be made to the administrator or executor *where said executor or administrator shall be duly appointed and serving under Iowa Code chapter 633 or 635*.

ITEM 16. Amend 495—Chapter 14 by adding the following **new** rule:

495—14.15(97B) Rollovers by nonspouse beneficiaries. Effective January 1, 2007, in addition to the rollovers permitted under Iowa Code section 97B.53B, nonspouse beneficiaries shall be permitted to request a direct rollover of such beneficiaries' death benefit payments to IRA accounts established in accordance with Section 829 of the Pension Protection Act of 2006 and IRS Notice 2007-7. IPERS shall determine the amount eligible for direct rollover under IRC Section 401(a)(9), if any, and the procedural requirements for requesting such rollovers. It shall be the beneficiaries' responsibility to determine that the recipient IRAs meet the structural and operational requirements of Section 829 and Notice 2007-7. IPERS shall bear no responsibility for rollovers to IRS accounts that fail to meet such requirements.

ITEM 17. Amend **495—Chapter 14**, implementation sentence, as follows:

These rules are intended to implement Iowa Code sections 97B.1A(8), 97B.1A(18), 97B.1A(19), 97B.34, 97B.34A, 97B.44, 97B.52 ~~and~~ 97B.53B, and 2000 Iowa Acts, chapter 1077, section 75.

ITEM 18. Amend subparagraph **16.2(2)“a”(1)** as follows:

(1) Clearly specifies the member's name and last-known mailing address, *member identification number or social security number*, and the names and last-known mailing addresses *and social security numbers* of alternate payees. ~~and requires that the social security numbers of the member and alternate payees~~ *This information shall be provided to IPERS in a cover letter or a court's Confidential Information Form;*

ITEM 19. Amend paragraph **16.2(3)“g”** as follows:

g. A domestic relations order shall not become effective until it is approved by IPERS. If a member is receiving a retirement allowance at the time a domestic relations order is received by the system, the order shall be effective only with respect to payments made after the order is determined to be a qualified domestic relations order. If the member is not receiving a retirement allowance at the time a domestic relations order is approved by IPERS and the member applies for a refund or monthly allowance, or dies, no distributions shall be made until the respective rights of the parties under the domestic relations order are determined by IPERS. If IPERS has placed a hold on the member's account following written or verbal notification from the member, member's spouse, or legal representative of either party of a pending dissolution of marriage, and no further contacts are received from either party or their representatives within the *following* one-year period ~~preceding the trigger event~~, IPERS shall release the hold ~~and make the applicable payment~~.

ITEM 20. Amend subrule 17.3(3) as follows:

17.3(3) Request for access. Requests for access to open records may be made in writing, by telephone, electronically or in person. All requests shall include the name, address,

IOWA PUBLIC EMPLOYEES' RETIREMENT SYSTEM[495](cont'd)

telephone number, and the E-mail address (if available), of the person requesting the information. All requests for information regarding member accounts must contain the member's *identification number* or social security number. Requests shall identify the particular records sought by name or other personal identifier and shall include a description in order to facilitate the location of the record. A person shall not be required to give a reason for requesting an open record. The request shall indicate the maximum search fee the requester is prepared to pay. If the maximum amount is reached before the requested records have been located and copied, the requester shall be notified and asked for further directions.

ITEM 21. Amend subrule 17.5(2) as follows:

17.5(2) Request. A request for the treatment of a record as a confidential record shall be in writing and shall be filed with the custodian. The request shall include an enumeration of the specific reasons justifying confidential record treatment for all or part of that record, the specific provisions of law that authorize confidential record treatment in this instance, and the name, mailing address, telephone number and, if available, the E-mail address of the person authorized to respond to any action concerning the request. If the information is regarding an IPERS member, the *member identification number* or social security number of the member must be included. The person requesting treatment of a record as a confidential record may also be required to sign a certified statement or affidavit enumerating the specific reasons justifying the treatment of the record as a confidential record and to provide any proof necessary to establish relevant facts. The person filing a request shall, if possible, accompany the request with a redacted copy of the record in question for which confidential record treatment has been requested. If the original record is submitted at the same time the request is filed, the person shall indicate conspicuously on the original record which portions of it are requested to be confidential. Requests for treatment of all or portions of a record as confidential for a limited time period shall also specify the precise period of time for which confidential record treatment is requested.

ARC 5790B

LABOR SERVICES DIVISION[875]

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 89A.3, the Elevator Safety Board hereby gives Notice of Intended Action to amend Chapter 71, "Administration," and Chapter 72, "New Installations," Iowa Administrative Code.

The proposed amendments adopt by reference the most recent platform lift standards of the American Society of Mechanical Engineers and replace "and" with "or" in the rule setting forth the requirements for safety tests.

The purposes of these amendments are to protect the safety of the public and implement legislative intent.

If requested in accordance with Iowa Code section 17A.4(1)"b" by the close of business on April 17, 2007, a

public hearing will be held on April 18, 2007, at 10 a.m. in the Stanley Room at 1000 East Grand Avenue, Des Moines, Iowa. Interested persons will be given the opportunity to make oral statements and file documents concerning the proposed amendments. The facility for the oral presentations is accessible to and functional for persons with physical disabilities. Persons who have special requirements should call (515)242-5869 in advance to arrange access or other needed services.

Written data, views, or arguments to be considered in adoption shall be submitted by interested persons no later than April 17, 2007, to Division of Labor Services, 1000 East Grand Avenue, Des Moines, Iowa 50319-0209. Comments may be sent electronically to kathleen.uehling@iwd.iowa.gov.

These amendments are intended to implement Iowa Code chapter 89A.

A fiscal impact summary prepared by the Legislative Services Agency pursuant to Iowa Code § 17A.4(3) will be available at <http://www.legis.state.ia.us/IAC.html> or at (515) 281-5279 prior to the Administrative Rules Review Committee's review of this rule making.

The following amendments are proposed.

ITEM 1. Amend paragraph **71.2(2)"c,"** introductory paragraph, as follows:

c. Safety tests shall be performed by a qualified person who is employed by a recognized elevator company or persons certified by the commissioner for the purpose of performing safety tests on their own facilities. All tests shall be in accordance with ASME A17.1-2004, A17.1a-2005 and A17.1S-2005, part 8 (except for rule 8.11.1.1), and ~~A18.1(2003)~~ or A18.1(2005), part 10. Safety tests shall be in a format approved by the commissioner. The firm or person conducting the tests shall:

ITEM 2. Amend subrule 72.1(6) as follows:

72.1(6) Installations—April 5, 2006, to ~~present~~ June 26, 2007. As used in this chapter, ASME A17.1 shall mean ASME A17.1-2004, A17.1a-2005 and A17.1S-2005. As used in this chapter, ASME A18.1 shall mean ASME A18.1 (2003), except chapters 4, 5, 6, and 7. As used in this chapter, ANSI A117.1 shall mean ANSI A117.1 (2003). As used in this chapter, ANSI/NFPA 70 shall mean ANSI/NFPA 70 (2005).

ITEM 3. Amend rule 875—72.1(89A) by renumbering subrule **72.1(7)** as **72.1(8)** and adopting the following **new** subrule:

72.1(7) Installations—June 27, 2007, to present. As used in this chapter, ASME A17.1 shall mean ASME A17.1-2004, A17.1a-2005 and A17.1S-2005. As used in this chapter, ASME A18.1 shall mean ASME A18.1 (2005), except chapters 4, 5, 6, and 7. As used in this chapter, ANSI A117.1 shall mean ANSI A117.1 (2003). As used in this chapter, ANSI/NFPA 70 shall mean ANSI/NFPA 70 (2005).

ARC 5802B**NATURAL RESOURCE
COMMISSION[571]****Notice of Intended Action**

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

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

Pursuant to the authority of Iowa Code subsection 455A.5(6), the Natural Resource Commission hereby gives Notice of Intended Action to amend Chapter 51, “Game Management Areas,” Iowa Administrative Code.

This amendment adds Hendrickson Marsh and Colo Bog in Story County to the list of wildlife areas where nontoxic shot is required and removes several wildlife management areas that were previously exempted from nontoxic shot use.

Any interested person may make written suggestions or comments on the proposed amendment on or before April 19, 2007. Written comments may be directed to the Wildlife Bureau’s Web site at www.iowadnr.com or may be sent to the Wildlife Bureau Chief, Department of Natural Resources, Wallace State Office Building, Des Moines, Iowa 50319-0034; fax (515)281-6794. Persons who wish to convey their views orally should contact the Wildlife Bureau at (515)281-6156 or at the Wildlife Bureau offices on the fourth floor of the Wallace State Office Building.

There will be public hearings held at 18 locations via the Iowa Communications Network on April 19, 2007, from 6:30 to 9 p.m. Interested persons should contact the Department at (515)281-5918 for a list of hearing locations or go to the Department’s Web site at www.iowadnr.com. Persons may present their views either orally or in writing. At the hearings, persons will be asked to give their names and addresses for the record and to confine their remarks to the subject of the amendment.

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

This amendment is intended to implement Iowa Code sections 481A.5, 481A.6, 481A.8 and 481A.39.

A fiscal impact summary prepared by the Legislative Services Agency pursuant to Iowa Code § 17A.4(3) will be available at <http://www.legis.state.ia.us/IAC.html> or at (515) 281-5279 prior to the Administrative Rules Review Committee’s review of this rule making.

The following amendment is proposed.

Amend rule 571—51.10(481A) as follows:

571—51.10(481A) Use of nontoxic shot on wildlife areas.

It shall be unlawful to hunt any migratory game bird or resident game or furbearers, except deer and turkeys, or target shoot with a shotgun while having in one’s possession any shot other than nontoxic shot approved by the U.S. Fish and Wildlife Service on the following wildlife areas:

County	Wildlife Area
Benton	Iowa River Corridor
Boone	Harrier Marsh
Buena Vista	All state and federal areas except Bluebird Access
Calhoun	South Twin Lake

County	Wildlife Area
Cerro Gordo	All state and federal areas
Clay	All state and federal areas except Burr Access, Dry Mud Lake, Little Sioux, Highbridge, Fen Valley, and the Ocheyedan wildlife area target shooting range
Dickinson	All state and federal areas except the Spring Run target shooting range
Emmet	All state and federal areas except Birge Lake, Grass Lake, Ryan Lake, and the East Des Moines River Access
Franklin	All state and federal areas
Greene	All state and federal areas except Rippey Access and McMahon Access
Guthrie	McCord Pond, Lakin Slough and Bays Branch, except the target shooting range at Bays Branch
Hamilton	Little Wall Lake, Gordon Marsh and Bauer Slough
Hancock	All state and federal areas
Humboldt	All state and federal areas except Bradgate Access and Willows Access
Iowa	Iowa River Corridor
Jasper	Chichaqua
Kossuth	All state and federal areas except Seneca Access
Osceola	All state and federal areas
Palo Alto	All state and federal areas
Pocahontas	All state and federal areas except Kalsow Prairie
Polk	Paul Errington Marsh and Chichaqua
Sac	All state and federal areas except White Horse Access and Sac City Access
Story	Hendrickson Marsh and Colo Bog
Tama	Iowa River Corridor
Winnebago	All state and federal areas
Worth	All state and federal areas
Wright	All state and federal areas

ARC 5801B**NATURAL RESOURCE
COMMISSION[571]****Notice of Intended Action**

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

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

Pursuant to the authority of Iowa Code subsection 455A.5(6), the Natural Resource Commission hereby gives Notice of Intended Action to amend Chapter 52, “Wildlife Refuges,” Iowa Administrative Code.

The amendment adds Sedan Bottoms in Appanoose County and the Jemmerson Slough Complex in Dickinson County to the list of wildlife refuges. The amendment also removes several areas from the subrule that are no longer posted as refuges or have not been functioning effectively as waterfowl refuges.

Any interested person may make written suggestions or comments on the proposed amendment on or before April 19, 2007. Written comments may be directed to the Wildlife Bu-

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reau's Web site at www.iowadnr.com or may be sent to the Wildlife Bureau Chief, Department of Natural Resources, Wallace State Office Building, Des Moines, Iowa 50319-0034; fax (515)281-6794. Persons who wish to convey their views orally should contact the Wildlife Bureau at (515)281-6156 or at the Wildlife Bureau offices on the fourth floor of the Wallace State Office Building.

There will be public hearings held at 18 locations via the Iowa Communications Network on April 19, 2007, from 6:30 to 9 p.m. Interested persons should contact the Department at (515)281-5918 for a list of hearing locations or go to the Department's Web site at www.iowadnr.com. Persons may present their views either orally or in writing. At the hearings, persons will be asked to give their names and addresses for the record and to confine their remarks to the subject of the amendment.

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

This amendment is intended to implement Iowa Code sections 481A.5, 481A.6, 481A.8 and 481A.39.

A fiscal impact summary prepared by the Legislative Services Agency pursuant to Iowa Code § 17A.4(3) will be available at <http://www.legis.state.ia.us/IAC.html> or at (515) 281-5279 prior to the Administrative Rules Review Committee's review of this rule making.

The following amendment is proposed.

Amend subrule **52.1(2)**, paragraph "a," as follows:

a. Restrictions. The following areas under the jurisdiction of the department of natural resources are established as game refuges where posted. It shall be unlawful to hunt, pursue, kill, trap, or take any wild animal, bird, or game on these areas at any time, and no one shall carry firearms thereon, except where and when specifically authorized by the department of natural resources. It shall also be unlawful to trespass in any manner on the following areas, where posted, between the dates of September 10 and December 31 of each year, both dates inclusive, except that department personnel and law enforcement officials may enter the area at any time in performance of their duties, and hunters, under the supervision of department staff, may enter when specifically authorized by the department of natural resources.

Area	County
Lake Icaria	Adams
Pool Slough Wildlife Area	Allamakee
Rathbun Area	Appanoose
Sedan Bottoms	Appanoose
Wildlife Exhibit Area	Boone
Sweet Marsh	Bremer
Storm Lake Islands	Buena Vista
Big Marsh	Butler
South Twin Lake	Calhoun
Round Lake	Clay
Little River Recreation Area	Decatur
Allen Green Refuge	Des Moines
Henderson	Dickinson
Jimmerson Slough Complex	Dickinson
Kettleson Area	Dickinson
Spring Run	Dickinson
Ingham Lake	Emmet
Forney Lake	Fremont
Riverton Area	Fremont
Dunbar Slough	Greene
Bays Branch	Guthrie

Area	County
Green Island Area	Jackson
Hawkeye Wildlife Area	Johnson
Muskat Slough	Jones
Colyn Area	Lucas
Red Rock Area	Marion, Polk, Warren
Badger Lake	Monona
Tieville/Decatur Bend	Monona
Five Island Lake	Palo Alto
Big Creek-Saylorville Complex	Polk
Chichaqua Area	Polk
Cottonwood Area	Polk
I-35 Area	Polk
Smith Area	Pottawattamie
Lake View Area	Sac
McCausland	Scott
Princeton Area	Scott
Prairie Rose Lake	Shelby
Otter Creek Marsh	Tama
Green Valley Lake	Union
Three Mile Lake	Union
Lake Sugema	Van Buren
Rice Lake Area	Winnebago
Snyder Lake	Woodbury
Elk Creek Marsh	Worth
Lake Cornelia	Wright

ARC 5800B**NATURAL RESOURCE COMMISSION[571]****Notice of Intended Action**

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

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

Pursuant to the authority of Iowa Code subsection 455A.5(6), the Natural Resource Commission hereby gives Notice of Intended Action to amend Chapter 91, "Waterfowl and Coot Hunting Seasons," Iowa Administrative Code.

These rules set regulations for hunting waterfowl and coot and include season dates, bag limits, possession limits, shooting hours, and areas open to hunting. Season dates are adjusted annually to comply with federal law and to ensure that seasons open on a weekend.

Any interested person may make written suggestions or comments on the proposed amendments on or before April 19, 2007. Written comments may be directed to the Wildlife Bureau's Web site at www.iowadnr.com or may be sent to the Wildlife Bureau Chief, Department of Natural Resources, Wallace State Office Building, Des Moines, Iowa 50319-0034; fax (515)281-6794. Persons who wish to convey their views orally should contact the Wildlife Bureau at (515)281-6156 or at the Wildlife Bureau offices on the fourth floor of the Wallace State Office Building.

There will be public hearings held at 18 locations via the Iowa Communications Network on April 19, 2007, from 6:30 to 9 p.m. Interested persons should contact the Department at (515)281-5918 for a list of hearing locations or go to the Department's Web site at www.iowadnr.com. Persons may present their views either orally or in writing. At the

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hearings, persons will be asked to give their names and addresses for the record and to confine their remarks to the subject of the amendments.

Any persons who intend to attend the public hearings and have special requirements such as those related to hearing or mobility impairments should contact the Department of Natural Resources and request specific accommodations.

These amendments are intended to implement Iowa Code sections 481A.38, 481A.39, 481A.48 and 483A.7.

A fiscal impact summary prepared by the Legislative Services Agency pursuant to Iowa Code § 17A.4(3) will be available at <http://www.legis.state.ia.us/IAC.html> or at (515) 281-5279 prior to the Administrative Rules Review Committee's review of this rule making.

The following amendments are proposed.

ITEM 1. Amend subrules 91.1(2) and 91.1(3) as follows:

91.1(2) Season dates - north zone. For all ducks: September 23 through September 27 and October 14 through December 7.

91.1(3) Season dates - south zone. For all ducks: September 23 through September 27 and October 21 through December 14.

ITEM 2. Amend subrules 91.3(2) and 91.3(3) as follows:

91.3(2) Season dates - north zone. Canada geese and brant: September 30 through December 10 and December 16 through January 2, 2007-1, 2008. White-fronted geese: September 30 through December 10. Light geese (white and blue-phase snow geese and Ross' geese): September 30 through January 14, 2007-13, 2008.

91.3(3) Season dates - south zone. Canada geese and brant: September 30 through October 8 and October 21 through January 9, 2007-8, 2008. White-fronted geese: September 30 through December 10. Light geese (white and blue-phase snow geese and Ross' geese): September 30 through January 14, 2007-13, 2008.

ITEM 3. Amend subrule 91.3(7), introductory paragraph and paragraph "e," as follows:

91.3(7) Light goose conservation order season. Only light geese (white and blue-phase snow geese and Ross' geese) may be taken under a conservation order from the U.S. Fish and Wildlife Service from January 15, 2007-14, 2008, through April 15, 2007-2008.

e. Other regulations. The *Methods of take approved by the U.S. Fish and Wildlife Service may develop special regulations concerning the for hunting of light geese during the conservation order season shall be permitted.*

ITEM 4. Amend subrule **91.3(8)**, paragraph "b," as follows:

b. Season dates. September 9 and September 10.

ITEM 5. Amend subrule **91.3(9)**, paragraph "b," as follows:

b. Bag limit. Daily bag limit is 3-5 Canada geese.

ITEM 6. Amend subrule **91.3(10)**, paragraph "b," as follows:

b. Bag limit. Daily bag limit is 3-5 Canada geese.

ITEM 7. Amend subrule **91.4(2)**, paragraphs "c," "i," "m," "n," "o," and "p," as follows:

c. Area three. A portion of Dickinson County bounded as follows: Beginning at a point four and one-half miles west of the east junction of Highways 9 and 71; thence north along a county road to its junction with Dickinson County Road A15; thence generally north about three miles along A15 to

its junction with Dickinson County Road M56; thence east along A15 about one and one-half miles; thence north along county roads to the Iowa-Minnesota state line; thence west along the state line seven and one-half miles; thence south along Highway 86 five miles to Highway 9; thence east along Highways 9 and 71 to the point of beginning. Beginning at the junction of State Highways 9 and 86; thence north along State Highway 86 (including the right-of-way) to the Iowa-Minnesota state line; thence east along the Iowa-Minnesota state line approximately 3.5 miles (excluding any road right-of-ways) to 240th Avenue (also known as West Lake Shore Drive in Orleans or Peoria Avenue in Spirit Lake); thence south along 240th Avenue (including the right-of-way) to State Highway 9; thence west along State Highway 9 (including the right-of-way) to the point of beginning.

i. Area nine. Portions of Monona and Woodbury Counties bounded as follows: Beginning at the Iowa-Nebraska state line along the Missouri River in Monona County in section 13, township 84 north, range 47 west; proceeding east approximately 3 miles along 185th Street to Cashew Avenue (including the right-of-way and all other road right-of-ways subsequently identified in this description); For the portion in Monona County, beginning at the junction of County Road K42 and 120th Street; thence south along County Road K42 (including the right-of-way and all other road right-of-ways identified in this description) approximately 4 miles; thence south on Berry Avenue approximately 1 mile to 170th Street; thence east along 170th Street to Cashew Avenue; thence south along Cashew Avenue to 200th Street; thence east along 200th Street to County Road K42; thence south and east along County Road K42 to Cherry Avenue; thence south along Cherry Avenue to 243rd Street State Highway 175; thence east along 243rd Street to Cypress Avenue; thence south along Cypress Avenue to 245th Street; thence east along 245th Street to Elm Avenue; thence south along Elm Avenue to 250th Street; thence east along 250th Street to Filbert Avenue; thence south along Filbert Avenue to 260th Street; thence east along 260th Street State Highway 175 to County Road K45; thence north and northwest approximately 17-11 miles along Monona County Road K45 to the junction with State Highway 970 in Woodbury County. 120th Street; thence west along 120th Street to the point of beginning; thence continuing northwest along State Highway 970 (otherwise known as Woodbury County Road K45) approximately 8 miles and for the portion in Woodbury County, beginning at the junction of County Road K45 and State Highway 141; thence northwest along County Road K45 approximately 6 miles to the intersection with Woodbury County Road K25; thence west approximately 3 miles along Woodbury County Road K25 to the intersection with Port Neal Road; thence continuing on along the same westerly line approximately 1 mile on the north border of section 6, township 86 north, range 47 west, to the Iowa-Nebraska state line along the Missouri River; thence southerly along the state line approximately 17 miles to the point of beginning 8 miles to a point where 340th Street meets the Iowa-Nebraska state line on the Missouri River; thence east to and along 340th Street approximately 5.5 miles to County Road K42; thence north and east along County Road K42 approximately 2.5 miles to the point of beginning.

m. Area thirteen. Portions of Van Buren and Davis Counties bounded as follows: Beginning at the junction of State Highway 16 Hawk Drive and State Highway 98 in Van Buren County; thence east and south along State Highway 16 Hawk Drive (including the right-of-way and all other road right-of-ways identified in this description) to Lark Avenue; thence north along Lark Avenue to 170th Street; thence east

NATURAL RESOURCE COMMISSION[571](cont'd)

along 170th Street to State Highway 1 in Van Buren County; thence south along State Highway 1 (including the right-of-way) to State Highway 2; thence west along State Highway 2 (including the right-of-way) to County Road V56 V42 in Davis County; thence north along County Road V56 V42 (including the right-of-way) to County Road J40 in Davis County; thence east and south along County Road J40 (including the right-of-way) to County Road V64 in Van Buren County; thence north along County Road V64 (including the right-of-way) to State Highway 98 in Van Buren County; thence north along State Highway 98 (including the right-of-way) to the point of beginning.

n. Area fourteen. Portions of Bremer County bounded as follows: Beginning at the intersection of County Road V56 and 140th Street (also named State Highway 93); thence south along County Road V56 (including the right-of-way and all other road right-of-ways identified in this description) to State Highway 3; thence west along State Highway 3 (including the right-of-way) to County Road V43; thence north along County Road V43 (including the right-of-way) to County Road C33; thence west along County Road C33 (including the right-of-way) to Navaho Avenue; thence north along Navaho Avenue (including the right-of-way) to State Highway 93; thence west along State Highway 93 (including the right-of-way) to U.S. Highway 63; thence north 7 miles along U.S. Highway 63 (including the right-of-way) to the Bremer-Chickasaw County line; thence east 3 miles along the Bremer-Chickasaw County line road (including the right-of-way) to Oakland Avenue; thence south along Oakland Avenue (including the right-of-way) to 120th Street; thence east along 120th Street (including the right-of-way) to Piedmont Avenue; thence south along Piedmont Avenue (including the right-of-way) to 140th Street; thence east along 140th Street, which becomes State Highway 93, to the point of beginning.

o. Area fifteen. Portions of Butler County bounded as follows: Beginning at the junction of County Road T16 and 230th Street; thence south 5 miles on County Road T16 (including the right-of-way) to 280th Street; thence east 3 miles along 280th Street (including the right-of-way) to Grand Avenue; thence south on Grand Avenue (including the right-of-way) to County Road C55 (also named 290th Street); thence east 3 miles on County Road C55 (including the right-of-way) to Jay Avenue; thence north along Jay Avenue (including the right-of-way) to 280th Street; thence east 3 miles on 280th Street (including the right-of-way) to State Highway 14; thence north 6 miles on State Highway 14 (including the right-of-way) to 230th Street; thence west on 230th Street (including the right-of-way) to Jackson Avenue; thence north on Jackson Avenue (including the right-of-way) to 220th Street; thence west on 220th Street (including the right-of-way) to County Road T25 (also named Hickory Avenue); thence south 0.5 mile on County Road T25 (including the right-of-way) to 225th Street; thence west on 225th Street (including the right-of-way) to Fir Avenue; thence south 0.5 miles on Fir Avenue (including the right-of-way) to 230th Street; thence west on 230th Street (including the right-of-way) to the point of beginning. Beginning at the junction of State Highway 14 and 245th Street; thence south along State Highway 14 (including the right-of-way and all other road right-of-ways identified in this description) to 280th Street; thence west along 280th Street for 3 miles; continuing on a similar westerly line along the south borders of sections 31, 32, and 33, township 91 north, range 17 west; thence west along 280th Street for 1.5 miles to Evergreen Avenue; thence north along Evergreen Avenue to 270th Street; thence east

along 270th Street to Forest Avenue; thence north along Forest Avenue to 230th Street; thence east along 230th Street to Fir Avenue; thence north along Fir Avenue to 225th Street; thence east along 225th Street to County Road T25 (also named Hickory Avenue); thence south along County Road T25 to 230th Street; thence east along 230th Street to Jackson Avenue; thence south along Jackson Avenue to 240th Street; thence east along 240th Street to Jackson Avenue; thence south on Jackson Avenue to 245th Street; thence east along 245th Street to the point of beginning.

p. Area sixteen. A portion of Union County bounded as follows: Beginning at the intersection of U.S. Highway 169 and Three Mile Creek Drive 34 and County Road P53 near Afton; thence west along U.S. Highway 34 (including the right-of-way and all other road right-of-ways identified in this description) approximately 2.5 miles to Union County Road P43 (also named Twelve Mile Lake Road); thence north along Union County Road P43 (including the right-of-way) Twelve Mile Lake Road approximately 5 miles to Union County Road H17; thence north and east along Union County Road H17 (including the right-of-way) approximately 6 miles to Quail Avenue to County Road P53; thence south along Quail Avenue (including the right-of-way) to Three Mile Creek Drive; thence south along Three Mile Creek Drive County Road P53 to the point of beginning.

ITEM 8. Amend subrule 91.5(1), catchwords, as follows:
91.5(1) Ruthven, Kettleson-Hogsback, Ingham Lake and Rice Lake Clay County, Dickinson County, Emmet County, and Butler County closed areas.

ITEM 9. Amend rule 571—91.6(481A) as follows:

571—91.6(481A) Youth waterfowl hunt. A special youth waterfowl hunt will be held on October 7 and 8, 2006 and 7, 2007, in the north duck hunting zone and October 7 and 8, 2006 and 7, 2007, in the south duck hunting zone. Youth hunters must be 15 years old or younger. Each youth hunter must be accompanied by an adult 18 years old or older. The youth hunter does not need to have a hunting license or stamps. The adult must have a valid hunting license and habitat stamp if normally required to have them to hunt and a state waterfowl stamp. Only the youth hunter may shoot ducks and coots. The adult may hunt for any other game birds for which the season is open. The daily bag and possession limits are the same as for the regular waterfowl season, as defined in rule 91.1(481A). All other hunting regulations in effect for the regular waterfowl season apply to the youth hunt.

ARC 5799B

NATURAL RESOURCE COMMISSION[571]

Notice of Intended Action

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

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

Pursuant to the authority of Iowa Code section 455A.5, the Natural Resource Commission hereby gives Notice of Intended Action to amend Chapter 95, “Game Harvest Report-

NATURAL RESOURCE COMMISSION[571](cont'd)

ing and Landowner-Tenant Registration," Iowa Administrative Code.

These amendments clarify the regulations for reporting the harvest of deer and wild turkey and procedures for landowners and tenants to verify their eligibility for free deer and wild turkey hunting licenses.

Any interested person may make written suggestions or comments on the proposed amendments on or before April 19, 2007. Written comments may be directed to the Wildlife Bureau's Web site at www.iowadnr.com or may be sent to the Wildlife Bureau Chief, Department of Natural Resources, Wallace State Office Building, Des Moines, Iowa 50319-0034; fax (515)281-6794. Persons who wish to convey their views orally should contact the Wildlife Bureau at (515)281-6156 or at the Wildlife Bureau offices on the fourth floor of the Wallace State Office Building.

There will be public hearings held at 18 locations via the Iowa Communications Network on April 19, 2007, from 6:30 to 9 p.m. Interested persons should contact the Department at (515)281-5918 for a list of hearing locations or go to the Department's Web site at www.iowadnr.com. Persons may present their views either orally or in writing. At the hearings, persons will be asked to give their names and addresses for the record and to confine their remarks to the subject of the amendments.

Any persons who intend to attend the public hearings and have special requirements such as those related to hearing or mobility impairments should contact the Department of Natural Resources and request specific accommodations.

These amendments are intended to implement Iowa Code sections 483A.38, 483A.39, 483A.48 and 483A.7.

A fiscal impact summary prepared by the Legislative Services Agency pursuant to Iowa Code § 17A.4(3) will be available at <http://www.legis.state.ia.us/IAC.html> or at (515) 281-5279 prior to the Administrative Rules Review Committee's review of this rule making.

The following amendments are proposed.

ITEM 1. Amend subrule 95.1(1) as follows:

95.1(1) Reporting deadlines.

a. Deer. A harvest report must be made by midnight on the day after the day of the kill, before the deer is taken to a locker *or taxidermist*, before the deer is processed for consumption, or before the ~~hunter leaves the state~~ *deer is transported out of state*, whichever occurs first.

b. Wild turkey. A harvest report must be made no later than midnight on the day after the turkey is killed, before the turkey is taken to a locker *or taxidermist*, before the turkey is processed for consumption, or before the ~~hunter leaves the state~~ *turkey is transported out of state*, whichever occurs first.

ITEM 2. Amend rule 571—95.2(481A), introductory paragraph, as follows:

571—95.2(481A) Verifying eligibility for free landowner or tenant licenses. Eligibility for free and reduced-fee deer and wild turkey hunting licenses, which are hereafter referred to as free licenses, is defined in Iowa Code section 483A.24, rule 571—98.5(483A) and rule 571—106.12(481A). The electronic licensing system for Iowa (ELSI) will not issue free licenses to persons who have not registered their eligibility with ELSI. Registering once will enable a landowner or tenant and any eligible family members to receive all the free licenses for which the landowner or tenant is eligible for three years after the date of registration, *provided the landowner's and tenant's eligibility status does not change within the three-year period.*

ITEM 3. Amend subrule 95.2(2) as follows:

95.2(2) Who may obtain free licenses. One member of the landowner family (the landowner or an eligible family member) may obtain a free any-deer license. Members of the landowner family may divide the free antlerless-deer-only licenses for which the family is eligible among themselves in any way they choose. If there is a tenant on the same property, one member of the tenant family (the tenant or an eligible family member) may also obtain a free any-deer license. Members of the tenant family may divide the free antlerless-deer-only licenses for which they may be eligible among themselves in any way they choose. ~~The One member of the~~ landowner family and *one member of the* tenant family may each obtain one free spring turkey hunting license and one free fall turkey hunting license.

ITEM 4. Amend subrule 95.2(4) as follows:

95.2(4) Information verifying eligibility. In order to register, a landowner, tenant or qualifying family member must have a customer record in ELSI, i.e., have already purchased a license through ELSI. A person without an ELSI customer record must call the ELSI telephone ordering system to establish a customer record before registering. When registering, landowners, tenants and family members will be required to provide their ELSI customer number or their Iowa driver's license number or social security number and their date of birth to identify their ELSI customer record.

a. Landowners. A landowner shall provide the ~~taxpayer identification number (ID) or~~ parcel identification number (PIN) from the landowner's current property tax statement for one parcel of qualifying land owned by the landowner and the number of the county where the land is located. Qualifying family members shall be registered to the same parcel of qualifying land as the landowner.

b. Partnerships, corporations or other forms of joint land ownership. Each owner of a jointly owned farm unit and the owner's qualifying family members who wish to receive free licenses for that farm unit shall register with the same county number and ~~ID or PIN number~~. Only one joint owner or family member may obtain the one any-deer license available for the farm unit. The other joint owner(s) and family members may divide any other free licenses to which they are entitled among themselves in any way they choose.

c. Tenants. A tenant shall provide an affidavit that contains the name, address, and telephone number of the owner of the qualifying land rented by the tenant; the county number where the land is located; and the landowner's ~~taxpayer ID or~~ PIN from one parcel of that qualifying land. If a tenant rents land from more than one landowner, the tenant shall provide the required information about only one landowner. The tenant's qualifying family members shall be registered to the same parcel of qualifying land as the tenant.

d. Signature required. Pursuant to Iowa Code Supplement section 483A.24(2)"f," all affidavits submitted to register eligibility for free licenses shall bear the signature of the landowner, tenant, or family member attesting that the information contained therein is true.

ARC 5798B**NATURAL RESOURCE
COMMISSION[571]****Notice of Intended Action**

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

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

Pursuant to the authority of Iowa Code section 455A.5, the Natural Resource Commission hereby gives Notice of Intended Action to amend Chapter 98, “Wild Turkey Spring Hunting,” Iowa Administrative Code.

These rules give the regulations for hunting wild turkeys during the spring and include season dates, bag limits, possession limits, shooting hours, areas open to hunting, licensing procedures, means and method of take, and transportation tag requirements. The amendments clarify that the state forests are no longer special zones for resident and nonresident spring turkey hunting. The amendments allow nonresidents to hunt in all four seasons and adjust the nonresident license quotas to divide the licenses between all four seasons. Nonresidents had not been allowed to hunt during the second season when the number of licenses for residents was limited. The total number of nonresident turkey licenses issued does not change.

Any interested person may make written suggestions or comments on the proposed amendments on or before April 19, 2007. Written comments may be directed to the Wildlife Bureau’s Web site at www.iowadnr.com or may be sent to the Wildlife Bureau Chief, Department of Natural Resources, Wallace State Office Building, Des Moines, Iowa 50319-0034; fax (515)281-6794. Persons who wish to convey their views orally should contact the Wildlife Bureau at (515)281-6156 or at the Wildlife Bureau offices on the fourth floor of the Wallace State Office Building.

There will be public hearings held at 18 locations via the Iowa Communications Network on April 19, 2007, from 6:30 to 9 p.m. Interested persons should contact the Department at (515)281-5918 for a list of hearing locations or go to the Department’s Web site at www.iowadnr.com. Persons may present their views either orally or in writing. At the hearings, persons will be asked to give their names and addresses for the record and to confine their remarks to the subject of the amendments.

Any persons who intend to attend the public hearings and have special requirements such as those related to hearing or mobility impairments should contact the Department of Natural Resources and request specific accommodations.

These amendments are intended to implement Iowa Code sections 483A.38, 483A.39, 483A.48 and 483A.7.

A fiscal impact summary prepared by the Legislative Services Agency pursuant to Iowa Code § 17A.4(3) will be available at <http://www.legis.state.ia.us/IAC.html> or at (515) 281-5279 prior to the Administrative Rules Review Committee’s review of this rule making.

The following amendments are proposed.

ITEM 1. Amend subrule 98.2(3) as follows:

98.2(3) Zones. A person with a *resident* wild turkey spring hunting license may take wild turkey *statewide*. in designated areas in accordance with the type of license is-

sued. A person with an archery-only license may take wild turkey statewide. A person with a paid combination shotgun-or-archery license may take wild turkey in one of four zones described as follows:

a. ~~Zone 1. Zone 1 is all units of Stephens State Forest west of U.S. Highway 65 in Clarke and Lucas Counties only.~~

b. ~~Zone 2. Zone 2 is Shimek State Forest in Lee and Van Buren Counties only.~~

c. ~~Zone 3. Zone 3 is Yellow River State Forest in Allamakee County only.~~

d. ~~Zone 4. Zone 4 is all of Iowa except for those areas described by Zones 1, 2 and 3.~~

ITEM 2. Amend subrule 98.9(2) as follows:

98.9(2) Seasons. Bearded (or male) wild turkey may be taken only by the use of shotguns, muzzleloading shotguns, and bow and arrow during the first, *second*, third or fourth seasons as defined in 98.2(4)“a.” ~~No nonresident hunting licenses will be issued for the second season.~~

ITEM 3. Amend rule 571—98.10(483A) as follows:

571—98.10(483A) Zones open to hunting. Licenses shall be valid only in designated areas as follows:

1. ~~Zone 1. Zone 1 is all units of Stephens State Forest in Clarke and Lucas Counties west of U.S. Highway 65.~~

2. ~~Zone 2. Zone 2 is the Shimek State Forest in Lee and Van Buren Counties only.~~

3. ~~Zone 3. Zone 3 is the Yellow River State Forest in Allamakee County only.~~

4. ~~Zone 4. Zone 4 is that portion of Iowa bounded on the north by Interstate Highway 80 and on the west by U.S. Highway 59, with the exception of the areas described as Zone 1 and Zone 2.~~

5. ~~Zone 5. Zone 5 is that portion of Iowa bounded on the north by U.S. Highway 20 and on the east by U.S. Highway 59.~~

6. ~~Zone 6. Zone 6 is that portion of Iowa lying east of U.S. Highway 63 and north of Interstate Highway 80, with the exception of that area described as Zone 3.~~

7. ~~Zone 7. Zone 7 is that portion of Iowa bounded on the north by U.S. Highway 20, on the west by U.S. Highway 59, on the south by Interstate Highway 80, and on the east by U.S. Highway 63.~~

8. ~~Zone 8. Zone 8 is that portion of Iowa north of U.S. Highway 20 and west of U.S. Highway 63.~~

ITEM 4. Amend subrule 98.11(1) as follows:

98.11(1) Combination shotgun-or-archery licenses.

a. ~~Zone 1. Closed.~~

b. ~~Zone 2. Closed.~~

c. ~~Zone 3. Closed.~~

d. ~~Zone 4. 350 262.~~

e b. ~~Zone 5. 75 55.~~

f c. ~~Zone 6. 220 165.~~

g d. ~~Zone 7. 46 35.~~

h e. ~~Zone 8. 25 20.~~

ARC 5797B**NATURAL RESOURCE
COMMISSION[571]****Notice of Intended Action**

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

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

Pursuant to the authority of Iowa Code section 455A.5, the Natural Resource Commission hereby gives Notice of Intended Action to amend Chapter 99, “Wild Turkey Fall Hunting by Residents,” Iowa Administrative Code.

These amendments eliminate the state forest zones during the fall season, which makes the regulations for the fall season consistent with the spring season. The amendments also add 200 licenses to Zone 5 in western Iowa.

Any interested person may make written suggestions or comments on the proposed amendments on or before April 19, 2007. Written comments may be directed to the Wildlife Bureau’s Web site at www.iowadnr.com or may be sent to the Wildlife Bureau Chief, Department of Natural Resources, Wallace State Office Building, Des Moines, Iowa 50319-0034; fax (515)281-6794. Persons who wish to convey their views orally should contact the Wildlife Bureau at (515)281-6156 or at the Wildlife Bureau offices on the fourth floor of the Wallace State Office Building.

There will be public hearings held at 18 locations via the Iowa Communications Network on April 19, 2007, from 6:30 to 9 p.m. Interested persons should contact the Department at (515)281-5918 for a list of hearing locations or go to the Department’s Web site at www.iowadnr.com. Persons may present their views either orally or in writing. At the hearings, persons will be asked to give their names and addresses for the record and to confine their remarks to the subject of the amendments.

Any persons who intend to attend the public hearings and have special requirements such as those related to hearing or mobility impairments should contact the Department of Natural Resources and request specific accommodations.

These amendments are intended to implement Iowa Code sections 481A.38, 481A.39, 481A.48 and 483A.7.

A fiscal impact summary prepared by the Legislative Services Agency pursuant to Iowa Code § 17A.4(3) will be available at <http://www.legis.state.ia.us/IAC.html> or at (515) 281-5279 prior to the Administrative Rules Review Committee’s review of this rule making.

The following amendments are proposed.

ITEM 1. Amend rule 571—99.4(481A) as follows:

571—99.4(481A) Zones. Wild turkey may be taken with a combination shotgun-or-archery license only in the following zones:

99.4(1) Zone 1. Zone 1 is that portion of Stephens State Forest west of U.S. Highway 65 in Lucas and Clarke Counties.

99.4(2) Zone 2. Zone 2 is the Shimek State Forest in Lee and Van Buren Counties.

99.4(3) Zone 3. Zone 3 is that portion of the Yellow River State Forest in Allamakee County.

99.4(4) (1) Zone 4. Zone 4 is that portion of Iowa bounded on the north by Interstate Highway 80 and on the west by U.S. Highway 59.

99.4(5) (2) Zone 5. Zone 5 is that portion of Iowa bounded on the east by U.S. Highway 59 and on the north by U.S. Highway 20.

99.4(6) (3) Zone 6. Zone 6 is that portion of Iowa bounded on the south by Interstate Highway 80 and on the west by U.S. Highway 63.

99.4(7) (4) Zone 7. Zone 7 is that portion of Iowa bounded on the north by U.S. Highway 20, on the west by U.S. Highway 59, on the south by Interstate Highway 80 and on the east by U.S. Highway 63.

99.4(8) (5) Zone 8. Zone 8 is that portion of Iowa bounded on the south by U.S. Highway 20, on the east by U.S. Highway 63, and on the west by U.S. Highway 69.

99.4(9) (6) Zone 9. Zone 9 is that portion of Iowa bounded on the south by U.S. Highway 20 and on the east by U.S. Highway 69.

ITEM 2. Amend subrule 99.5(1) as follows:

99.5(1) Combination shotgun-or-archery licenses. A limited number of paid combination shotgun-or-archery licenses will be issued by zone as follows:

- a. ~~Zone 1.~~ 50
- b. ~~Zone 2.~~ 50
- c. ~~Zone 3.~~ 50
- d a. Zone 4. 4,500
- e b. Zone 5. 500 700
- f c. Zone 6. 3,000
- g d. Zone 7. 400
- h e. Zone 8. 150
- i f. Zone 9. 200

ARC 5803B**NATURAL RESOURCE
COMMISSION[571]****Notice of Intended Action**

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

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

Pursuant to the authority of Iowa Code section 455A.5, the Natural Resource Commission hereby gives Notice of Intended Action to amend Chapter 106, “Deer Hunting by Residents,” Iowa Administrative Code.

The amendments list tentative county quotas for antlerless deer licenses and the counties that will be open during the November and January antlerless season. The antlerless quotas and open counties could change if results of ongoing population surveys indicate they need to be changed to meet the Department’s objective of controlling the deer population. The amendments simplify the language describing who can obtain antlerless deer licenses and when the licenses may be issued. The amendments make the dates for the youth and special disabled hunter deer season consistent with Chapter 94. The amendments remove the six shot clip restriction on centerfire rifles for the January antlerless season. The amendments add a requirement that hunters in ground blinds during the shotgun seasons display solid blaze orange on the

NATURAL RESOURCE COMMISSION[571](cont'd)

exterior of the blind. The amendments clarify the procedures used by the depredation program when depredation biologists write depredation plans and issue depredation licenses or shooting permits.

The Commission gives notice that the final rule may have to be changed substantially from this Notice of Intended Action depending on the outcome of deer population surveys. If surveys indicate that the deer harvest must be substantially increased or reduced in some regions to meet the Department's goals for herd management, additional changes to the amendments may be made. Such changes could include season dates, bag limits, antlerless-deer-only license quotas, number and type of seasons, license types and other changes that may be deemed necessary by the Commission.

Any interested person may make written suggestions or comments on the proposed amendments on or before April 19, 2007. Written comments may be directed to the Wildlife Bureau's Web site at www.iowadnr.com or may be sent to the Wildlife Bureau Chief, Department of Natural Resources, Wallace State Office Building, Des Moines, Iowa 50319-0034; fax (515)281-6794. Persons who wish to convey their views orally should contact the Wildlife Bureau at (515)281-6156 or at the Wildlife Bureau offices on the fourth floor of the Wallace State Office Building.

There will be public hearings held at 18 locations via the Iowa Communications Network on April 19, 2007, from 6:30 to 9 p.m. Interested persons should contact the Department at (515)281-5918 for a list of hearing locations or go to the Department's Web site at www.iowadnr.com. Persons may present their views either orally or in writing. At the hearings, persons will be asked to give their names and addresses for the record and to confine their remarks to the subject of the amendments.

Any persons who intend to attend the public hearings and have special requirements such as those related to hearing or mobility impairments should contact the Department of Natural Resources and request specific accommodations.

These amendments are intended to implement Iowa Code sections 481A.38, 481A.39, 481A.48 and 483A.7.

A fiscal impact summary prepared by the Legislative Services Agency pursuant to Iowa Code § 17A.4(3) will be available at <http://www.legis.state.ia.us/IAC.html> or at (515) 281-5279 prior to the Administrative Rules Review Committee's review of this rule making.

The following amendments are proposed.

ITEM 1. Amend subrule 106.6(2) as follows:

106.6(2) Paid antlerless-deer-only licenses. Paid antlerless-deer-only licenses have quotas for each county and will be sold for each county until quotas are reached. The season that may be hunted with paid antlerless-deer-only licenses and the number that may be purchased depend on the season for which any deer licenses have been purchased.

a.—Bow season. A person who purchases a paid any-deer bow license may purchase antlerless-deer-only licenses, but the type and number that may be purchased depend on the season for which the paid any-deer firearm license is purchased (see paragraphs "b" through "f"). Prior to October 1, if no paid any-deer firearm license is purchased, the following paid antlerless-deer-only licenses may be purchased in any combination: up to three paid antlerless-deer-only licenses for the youth/disabled hunter season (if eligible), bow season, first regular gun season or second regular gun season, and late muzzleloader season. Up to three licenses may also be purchased for the January antlerless-deer-only season. Beginning October 1, an unlimited number of antlerless-deer-only licenses may be purchased for these seasons. A

person may not obtain paid licenses of any type for both regular gun seasons.

b.—First regular gun season. Prior to October 1, a person who purchases a paid any-deer license for the first regular gun season may purchase the following paid antlerless-deer-only licenses in any combination: up to three licenses for the youth/disabled hunter season (if eligible), bow season, first regular gun season, and late muzzleloader season. Up to three antlerless-deer-only licenses may also be purchased for the January antlerless-deer-only season. Beginning October 1, an unlimited number of paid antlerless-deer-only licenses may be purchased for these seasons. A person obtaining a paid license for the first regular gun season may not obtain a paid license of any type for the second regular gun season.

c.—Second regular gun season. Prior to October 1, a person who purchases a paid any-deer license for the second regular gun season may purchase the following paid antlerless-deer-only licenses in any combination: up to three licenses for the youth/disabled hunter season (if eligible), bow season, second regular gun season and late muzzleloader season. Up to three licenses may also be purchased for the January antlerless-deer-only season. Beginning October 1, an unlimited number of paid antlerless-deer-only licenses may be purchased for these seasons. A person obtaining a paid license for the second regular gun season may not obtain a paid license of any type for the first regular gun season.

d.—Early muzzleloader season. Prior to October 1, a person who purchases an any-deer license for the early muzzleloader season may purchase the following paid antlerless-deer-only licenses in any combination: up to three licenses for the youth/disabled hunter season (if eligible), bow season, early muzzleloader season, first regular gun season or second regular gun season, and late muzzleloader season. Up to three licenses may also be purchased for the January antlerless-deer-only season. Beginning October 1, an unlimited number of paid antlerless-deer-only licenses may be purchased for these seasons. A person may not obtain paid licenses of any type for both regular gun seasons.

e.—Late muzzleloader season. Prior to October 1, a person who purchases a paid any-deer late muzzleloader season license may purchase the following paid antlerless-deer-only licenses in any combination: up to three licenses for the youth/disabled hunter season (if eligible), bow season, first regular gun season or second regular gun season, and late muzzleloader season. Up to three licenses may also be purchased for the January antlerless-deer-only season. Beginning October 1, an unlimited number of licenses may be purchased for these seasons. A person may not obtain paid licenses of any type for both regular gun seasons.

f.—Paid any-deer license not purchased. Prior to October 1, a person who has not purchased a paid any-deer license for any season may purchase the following antlerless-deer-only licenses in any combination: up to three licenses for the youth/disabled hunter season (if eligible), bow season, first regular gun season or second regular gun season, and late muzzleloader season. Up to three licenses may also be purchased for the January antlerless-deer-only season. Beginning October 1, an unlimited number of these licenses may be purchased. A person may not obtain paid licenses of any type for both regular gun seasons.

a. *Paid antlerless-deer-only licenses may be purchased for any season in counties where licenses are available, except as outlined in 106.6(2) "b."* A license must be used in the season, county or deer population management area selected at the time the license is purchased.

b. *No one may obtain paid licenses for both the first regular gun season and second regular gun season regardless of*

NATURAL RESOURCE COMMISSION[571](cont'd)

whether the licenses are valid for any-deer or antlerless-deer-only. Paid antlerless-deer-only licenses for the early muzzleloader season may only be purchased by hunters who have already purchased one of the 7,500 paid statewide any-deer licenses or obtained free any-deer licenses for the early muzzleloader season.

c. Prior to September 15, a hunter may purchase one antlerless-deer-only license for any season for which the hunter is eligible. Beginning September 15, a hunter may purchase an unlimited number of antlerless-deer-only licenses for any season the hunter is eligible, as set forth in 106.6(2)“b,” until the county or population management area quotas are filled. Licenses purchased for deer population management areas will not count in the county quota.

ITEM 2. Amend subrule 106.6(3) as follows:

106.6(3) November antlerless-deer-only season. Antlerless-deer-only licenses for the November antlerless-deer-only season shall be available in the following counties: Adair, Adams, Allamakee, Appanoose, Clarke, Clayton, Davis, Decatur, Des Moines, Fremont, Guthrie, Henry, Jefferson, Lee, Lucas, Mills, Monroe, Montgomery, Page, Ringgold, Taylor, Union, Van Buren, Wapello, Wayne, and Winneshiek. Beginning the second Saturday prior to the opening of the November antlerless-deer-only season, an unlimited number of paid antlerless-deer-only licenses may be purchased for the November antlerless-deer-only season. These licenses may be obtained regardless of any other paid any-deer or paid antlerless-deer-only licenses that may have been obtained. Licenses will be sold until county quotas are filled.

ITEM 3. Amend subrule 106.6(4) as follows:

106.6(4) January antlerless-deer-only licenses. Antlerless-deer-only licenses for the January antlerless-deer-only season shall be available in the following counties: Adair, Adams, Allamakee, Appanoose, Benton, Bremer, Buchanan, Cass, Cedar, Chickasaw, Clarke, Clayton, Clinton, Dallas, Davis, Decatur, Delaware, Des Moines, Dubuque, Fayette, Fremont, Guthrie, Harrison, Henry, Howard, Iowa, Jackson, Jasper, Jefferson, Jones, Johnson, Keokuk, Lee, Linn, Louisa, Lucas, Madison, Mahaska, Marion, Mills, Monona, Monroe, Montgomery, Muscatine, Page, Polk, Pottawattamie, Poweshiek, Ringgold, Scott, Taylor, Union, Van Buren, Wapello, Warren, Washington, Wayne, and Winneshiek, and Woodbury. Prior to October 1 September 15, a person may purchase up to three one antlerless-deer-only licenses license for the January antlerless-deer-only season. Beginning October 1 September 15, an unlimited number of licenses may be obtained until quotas are filled. January antlerless-deer-only licenses may be obtained regardless of any other deer licenses that may have been obtained.

ITEM 4. Amend subrule 106.7(5) as follows:

106.7(5) January antlerless-deer-only season. Bows, shotguns, muzzleloaders and handguns as described in this rule may be used during the January antlerless-deer-only season. Centerfire rifles .24 caliber or larger may be used during the last seven days of the season in the southern two tiers of counties. For deer hunting, semiautomatic rifles may have no more than six rounds in the chamber and magazine combined.

ITEM 5. Adopt the following **new** subrule 106.7(8):

106.7(8) Ground blinds. No person shall use a ground blind for hunting deer during the regular gun deer seasons unless such blind exhibits a solid blaze orange marking visible in all directions with a minimum height of 12 inches and a minimum width of 12 inches. As used in this subrule,

“ground blind” means a constructed place of concealment used for the purpose of hiding a person who is hunting from sight. A ground blind is not a naturally occurring feature that a hunter merely uses for concealment.

ITEM 6. Amend subrule 106.10(2) as follows:

106.10(2) Season dates. Deer of either sex may be taken statewide during the 16-day period that ends on the first Sunday in October for 16 consecutive days beginning on the third Saturday in September.

ITEM 7. Amend rule 571—106.11(481A) as follows:

571—106.11(481A) Deer depredation management. *The deer depredation management program provides assistance to producers through technical advice and additional deer licenses and permits where the localized reduction of female deer is needed to reduce damage.* Upon signing a depredation management agreement with the department, producers of agricultural or high-value horticultural crops may be issued deer depredation permits to shoot deer causing excessive crop damage. If immediate action is necessary to forestall serious damage, depredation permits may be issued before an agreement is signed. Further permits will not be authorized until an agreement is signed.

106.11(1) Method of take and other regulations. Legal weapons and restrictions will be governed by 571—106.7(481A). For deer shooting permits only, there are no shooting hour restrictions; however, taking deer with an artificial light is prohibited by Iowa Code section 481A.93. The producer or designee must meet the deer hunters' orange apparel requirement in Iowa Code section 481A.122.

106.11(2) Eligibility. Producers growing typical agricultural crops (such as corn, soybeans, hay and oats and tree farms and other forestlands under a timber management program) and producers of high-value horticultural crops (such as Christmas trees, fruit or vegetable crops, nursery stock, and commercially grown nuts) shall be eligible to enter into depredation management agreements if these crops sustain excessive damage.

a. The producer may be the landowner or a tenant, who ever has cropping rights to the land.

b. Excessive damage is defined as crop losses exceeding \$1,000 in a single growing season, or the likelihood that damage will exceed \$1,000 if preventive action is not taken, or a documented history of at least \$1,000 of damage annually in previous years.

c. Producers who lease their deer hunting rights and have restricted access to the land are not eligible for the deer depredation management program.

d. Rub damage from bucks in conservation reserve program tree plantings or naturally occurring woodlands will not be considered as a portion of the required \$1,000 damage threshold to qualify for the deer depredation management program. Rubs will be considered qualifying damage on commercial tree and Christmas tree farms.

e. Crops in confined storage areas (such as hay, grain, silage, corn gluten) will not be considered eligible unless exclusionary measures (such as fencing, gates) have been implemented to protect agricultural products.

106.11(3) Depredation management plans. Upon request from a producer, field employees of the wildlife bureau will inspect and identify the type and amount of crop damage sustained from deer. If damage is not excessive, technical advice will be given to the producer on methods to reduce or prevent future damage. If damage is excessive and the producer agrees to participate, a written depredation manage-

NATURAL RESOURCE COMMISSION[571](cont'd)

ment plan will be developed by ~~the field employee~~ *depredation biologists* in consultation with the producer.

a. The goal of the management plan will be to reduce damage to below excessive levels within a specified time period through a combination of producer-initiated preventive measures and the issuance of deer depredation permits.

(1) Depredation plans written for producers of typical agricultural crops may require preventive measures such as harassment of deer with pyrotechnics and cannons, guard dogs, temporary fencing, allowing more hunters, increasing the take of antlerless deer, and other measures that may prove effective.

(2) Depredation plans written for producers of high-value horticultural crops may include all of the measures in (1) above, plus permanent fencing where necessary. Fencing will not be required if the cost of a fence exceeds \$1,000.

(3) Depredation permits to shoot deer may be issued to Iowa residents ~~only to temporarily~~ reduce deer numbers until long-term preventive measures become effective. Depredation permits will not be used as a long-term solution to deer damage problems.

b. Depredation management plans will normally be written for a three-year period with progress reviewed annually by the department and the producer.

(1) The plan will become effective when signed by the ~~field employee of the wildlife bureau~~ *depredation biologist* and the producer.

(2) Plans may be modified or extended if mutually agreed upon by the department and the producer.

(3) Depredation permits will not be issued after the initial term of the management plan if the producer fails to implement preventive measures outlined in the plan.

106.11(4) Depredation permits. Three types of permits may be issued under a depredation management plan.

a. Deer depredation licenses. Deer depredation licenses may be sold to resident hunters only for the regular deer license fee for use during one or more legal hunting seasons. Depredation licenses will be available to producers of agricultural and horticultural crops.

(1) Depredation licenses will be issued in blocks of five licenses up to the number specified in the management plan.

(2) Depredation licenses may be sold to individuals designated by the producer as having permission to hunt. No individual may obtain more than ~~two~~ *three* depredation licenses per management plan. Licenses will be sold by designated department field employees.

~~(3) A depredation license issued to the producer or producer's family member may be the one free license for which the producer's family is eligible annually.~~

~~(4)~~ (3) Depredation licenses will be valid only for hunting antlerless deer, unless otherwise specified in the management plan, regardless of restrictions that may be imposed on regular deer hunting licenses in that county.

~~(5)~~ (4) Hunters may keep any deer legally tagged with a depredation license.

~~(6)~~ (5) All other regulations for the hunting season specified on the license will apply.

~~(7)~~ (6) Depredation licenses will be valid only on the land where damage is occurring and the immediately adjacent property unless the land is within a designated block hunt area as described in subparagraph ~~(8)~~ (7). Other parcels of land in the farm unit not adjacent to the parcels receiving damage will not qualify.

~~(8)~~ (7) Block hunt areas are areas designated and delineated by wildlife biologists of the wildlife bureau to facilitate herd reduction in a given area where all producers may not

qualify for the depredation program or in areas of persistent deer depredation. Depredation permits issued to producers within the block hunt zone are valid on all properties within the delineated boundaries. Individual landowner permission is required for hunters utilizing depredation licenses within the block hunt boundaries. Creation of a given block hunt area does not authorize trespass.

b. Deer shooting permits. Permits for shooting deer outside an established hunting season may be issued to producers of high-value horticultural crops when damage cannot be controlled in a timely manner during the hunting seasons (such as late summer buck rubs in an orchard and winter browsing in a Christmas tree plantation) and to other agricultural producers and on areas such as airports where public safety may be an issue.

(1) Deer shooting permits will be issued at no cost to the applicant.

(2) The applicant or one or more designees approved by the department may take all the deer specified on the permit.

(3) Permits available to producers of high-value horticultural crops ~~will~~ *may* allow taking deer from August 1 through March 31. Permits issued for August 1 through August 31 shall be valid only for taking antlered deer. Permits issued for September 1 through March 31 may be valid for taking any deer, antlerless deer or antlered deer, depending on the nature of the damage.

(4) Permits issued due to public safety concerns may be used for taking any deer, as necessary, to address unpredictable intrusion which could jeopardize public safety. Permits may be issued for an entire year (January 1 through December 31) if the facility involved maintains a deerproof fence *and signs an agreement with the department*. Disposal of deer killed under these permits shall be coordinated with the local conservation officer.

(5) The times, dates, place and other restrictions on the shooting of deer will be specified on the permit.

(6) Antlers from all deer recovered must be turned over to the conservation officer to be disposed of according to department rules.

(7) Shooters must wear blaze orange and comply with all other applicable laws and regulations pertaining to shooting and hunting.

c. Agricultural depredation shooting permits. Agricultural depredation shooting permits will be issued to a landowner or designated tenant who is a resident of Iowa who has sustained at least \$1,000 of damage to agricultural crops if the resident is ~~cooperating with the U.S. Department of Agriculture's Animal and Plant Health Inspection Service (APHIS) to reduce crop damage by deer or~~ has an approved DNR deer depredation plan.

(1) Agricultural depredation shooting permits will be issued to the resident landowner or designated tenant at no cost and shall be valid only on the farm unit where the damage is occurring.

(2) Permits issued to the resident landowner or designated tenant shall allow the taking of antlerless deer from September 1 through November 30. The number of permits issued to individual landowners or tenants will be determined by a department depredation biologist and will be part of the deer depredation management plan.

(3) Deer taken on these permits must be taken by the resident landowner or the designated tenant only.

(4) Times, places, and other restrictions will be specified on the permit.

(5) Shooters must wear blaze orange and comply with all other applicable laws and regulations.

NATURAL RESOURCE COMMISSION[571](cont'd)

(6) For agricultural depredation shooting permits, there are no shooting hour restrictions; *however, taking deer with an artificial light is prohibited by Iowa Code section 481A.93.*

(7) Antlers from all deer recovered must be turned over to the conservation officer to be disposed of according to department rules.

(8) Agricultural depredation shooting permits will be valid only on the land where damage is occurring.

d. Rescinded IAB 5/29/02, effective 7/3/02.

e. Depredation licenses, agricultural depredation shooting permits and shooting permits will be issued in addition to any other licenses for which the hunters may be eligible.

f. Depredation licenses, agricultural depredation shooting permits and shooting permits will not be issued if the producer restricts the legal take of deer from the property sustaining damage by limiting hunter numbers below levels required to control the deer herd.

106.11(5) Disposal. It shall be the producer's responsibility for shooting permits, ~~excluding those issued for public safety,~~ and for agricultural depredation shooting permits to see that all deer are field dressed and removed immediately from the field. Dead deer must be handled for consumption, and the producer must coordinate through the local conservation officer the disposal of deer offered to the public. Charitable organizations will have the first opportunity to take deer offered to the public. No producer shall keep more than two deer taken under depredation shooting permits. By express permission from a DNR enforcement officer, the landowner may dispose of deer carcasses through a livestock sanitation facility.

ARC 5796B**NATURAL RESOURCE
COMMISSION[571]****Notice of Intended Action**

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

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

Pursuant to the authority of Iowa Code subsection 455A.5(6), the Natural Resource Commission hereby gives Notice of Intended Action to amend Chapter 107, "Rabbit and Squirrel Hunting," Iowa Administrative Code.

These amendments change the beginning date for cottontail rabbit and squirrel hunting seasons to the Saturday before Labor Day.

Any interested person may make written suggestions or comments on the proposed amendments on or before April 19, 2007. Written comments may be directed to the Wildlife Bureau's Web site at www.iowadnr.com or may be sent to the Wildlife Bureau Chief, Department of Natural Resources, Wallace State Office Building, Des Moines, Iowa 50319-0034; fax (515)281-6794. Persons who wish to convey their views orally should contact the Wildlife Bureau at (515)281-6156 or at the Wildlife Bureau offices on the fourth floor of the Wallace State Office Building.

There will be public hearings held at 18 locations via the Iowa Communications Network on April 19, 2007, from 6:30 to 9 p.m. Interested persons should contact the Depart-

ment at (515)281-5918 for a list of hearing locations or go to the Department's Web site at www.iowadnr.com. Persons may present their views either orally or in writing. At the hearings, persons will be asked to give their names and addresses for the record and to confine their remarks to the subject of the amendments.

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

These amendments are intended to implement Iowa Code sections 481A.5, 481A.6, 481A.8 and 481A.39.

A fiscal impact summary prepared by the Legislative Services Agency pursuant to Iowa Code § 17A.4(3) will be available at <http://www.legis.state.ia.us/IAC.html> or at (515) 281-5279 prior to the Administrative Rules Review Committee's review of this rule making.

The following amendments are proposed.

ITEM 1. Amend rule 571—107.1(481A) as follows:

571—107.1(481A) Cottontail rabbit season. Open season for hunting cottontail rabbits shall be from the first day of ~~September~~ *Saturday before Labor Day* through February 28 of the succeeding year. Bag limit shall be 10 per day; possession limit 20. Legal hunting hours shall be from sunrise to sunset. Entire state open.

ITEM 2. Amend rule 571—107.3(481A) as follows:

571—107.3(481A) Squirrel season. Open season for hunting squirrels (fox and gray) shall be from the first day of ~~September~~ *Saturday before Labor Day* through January 31 of the succeeding year. Bag limit shall be 6 squirrels per day; possession limit 12. Entire state open.

ARC 5786B**NURSING BOARD[655]****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 and 147.76, the Board of Nursing hereby gives Notice of Intended Action to amend Chapter 3, "Licensure to Practice—Registered Nurse/Licensed Practical Nurse," Iowa Administrative Code.

These amendments clarify the rules regarding issuance of duplicate wallet cards or certificates and temporary licenses.

Any interested person may make written comments or suggestions on or before April 17, 2007. Such written materials should be directed to the Executive Director, Iowa Board of Nursing, RiverPoint Business Park, 400 S.W. 8th Street, Suite B, Des Moines, Iowa 50309-4685. Persons who wish to convey their views orally should contact the Executive Director at (515)281-3256, or in the Board office at 400 S.W. 8th Street, by appointment.

These amendments are intended to implement Iowa Code chapters 147 and 152.

A fiscal impact summary prepared by the Legislative Services Agency pursuant to Iowa Code § 17A.4(3) will be

NURSING BOARD[655](cont'd)

available at <http://www.legis.state.ia.us/IAC.html> or at (515) 281-5279 prior to the Administrative Rules Review Committee's review of this rule making.

The following amendments are proposed.

ITEM 1. Amend subrule **3.5(3)**, paragraph "**c**," to read as follows:

c. A temporary license shall ~~not~~ be issued to an applicant ~~whose license is currently encumbered by who has incurred disciplinary action in another state when the license is not currently encumbered.~~

ITEM 2. Amend subrule **3.5(3)** by adding the following **new** paragraph "**d**":

d. A temporary license shall not be issued to an applicant with a past felony conviction.

ITEM 3. Amend subrule 3.7(6) to read as follows:

3.7(6) Duplicate wallet card or certificate. A duplicate wallet card ~~is or certificate shall be~~ required if the current ~~one card or certificate~~ is lost, stolen, ~~or~~ destroyed or not received by the licensee within 60 days from the date the license is issued. The licensee shall be issued a duplicate wallet card or certificate upon receipt of a ~~written request from the licensee~~ *an application for duplicate wallet card or certificate* and receipt of the fee as specified in rule 3.1(17A,147,152,272C). If the licensee notifies the board that the ~~documents have~~ *wallet card or certificate has not been received* within 60 days after being ~~mailed issued~~, no fee shall be required. *A fee is applicable when the licensee fails to notify the board of a name or address change.*

ARC 5809B

PUBLIC SAFETY DEPARTMENT[661]

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 80.18, the Department of Public Safety hereby gives Notice of Intended Action to rescind Chapter 14, "Payment of Small Claims," and to adopt a new Chapter 41, "Payment of Small Claims to Employees," Iowa Administrative Code.

Iowa Code section 80.18 authorizes the Department to reimburse employees for replacement or repair of personal items damaged during the course of an employee's work for the Department and requires that the Department adopt administrative rules to implement this provision. The statute authorizes such reimbursement up to \$150 per item, or up to a maximum amount authorized under a collective bargaining agreement to which the employee is subject.

The Department has had the required rules in place at least since 1979, authorizing reimbursements up to the statutory limit of \$150 per item. Recently, the state of Iowa concluded a collective bargaining agreement with the American Federation of State, County, and Municipal Employees which authorizes a higher level of reimbursement for employees covered by that agreement. The new chapter recognizes the effect of that agreement, and also is numbered in accordance with a comprehensive program to renumber all of the Depart-

ment's rules to make them more accessible to the public and those subject to their provisions.

A public hearing on these proposed amendments will be held on May 2, 2007, at 10 a.m. in the Third Floor Conference Room, Wallace State Office Building, 502 East 9th Street, Des Moines, Iowa. Persons may present their views concerning these amendments at the public hearing orally or in writing. Persons who wish to make oral presentations at the hearing are requested to contact the Agency Rules Administrator, Iowa Department of Public Safety, Wallace State Office Building, 502 East 9th Street, Des Moines, Iowa 50319; or by telephone at (515)281-5524 at least one day prior to the hearing, although any person who appears at the hearing will be afforded an opportunity to speak. Any interested persons may make oral or written comments concerning these proposed amendments to the Agency Rules Administrator by mail, telephone, or in person at the above address by 4:30 p.m. on May 2, 2007. Comments may also be submitted by electronic mail to admrule@dps.state.ia.us by 4:30 p.m. on May 2, 2007.

These amendments are intended to implement Iowa Code section 80.18.

A fiscal impact summary prepared by the Legislative Services Agency pursuant to Iowa Code § 17A.4(3) will be available at <http://www.legis.state.ia.us/IAC.html> or at (515) 281-5279 prior to the Administrative Rules Review Committee's review of this rule making.

The following amendments are proposed.

ITEM 1. Rescind and reserve **661—Chapter 14**.

ITEM 2. Adopt the following **new** chapter:

CHAPTER 41

PAYMENT OF SMALL CLAIMS TO EMPLOYEES

661—41.1(17A,80) Authorization to reimburse. The department is authorized to expend up to \$150 per item, or any other amount authorized by a collective bargaining agreement to which an individual employee is subject, as reimbursement for replacement or repair of personal items of the department's employees that have been damaged or destroyed while the employee is engaged in service for the department. The following requirements shall apply for filing such claims with the department:

41.1(1) An employee making a claim for reimbursement shall provide the employee's immediate supervisor with a detailed written account of the circumstances under which the loss occurred, a description of the nature and ownership of the item destroyed or damaged and any available information, including the names and other identifiers of any witness, which can be used to verify the loss.

41.1(2) An employee filing a claim for reimbursement pursuant to this rule shall also provide the employee's immediate supervisor with vendors' estimates of replacement costs and with estimates of repair costs of damaged items.

41.1(3) The claim and estimates shall be passed through the chain of command for reimbursement. Reimbursement shall be based on a determination of the most economical and adequate compensation for the loss, taking into account the extent of the damage, the feasibility of repair and the cost of replacement.

This rule is intended to implement Iowa Code section 80.18.

ARC 5805B**PUBLIC SAFETY
DEPARTMENT[661]****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 101.1, the State Fire Marshal hereby gives Notice of Intended Action to amend Chapter 51, “Flammable and Combustible Liquids,” and to adopt a new Chapter 226, “Liquefied Petroleum Gas,” Iowa Administrative Code.

Iowa Code section 101.1 authorizes and directs the Fire Marshal to establish requirements for the safe transportation, storage, handling, and use of liquefied petroleum gases. Iowa Code section 101.3 requires that the rules established for liquefied petroleum gas be “separately formulated and separately promulgated” from rules establishing requirements for transportation, storage, handling, and use of flammable and combustible liquids.

Effective January 1, 2003, rules established for flammable and combustible liquids and for liquefied petroleum gas were separated from the chapter (661—Chapter 5) of the Iowa Administrative Code which contained general rules of the Fire Marshal and were placed for the first time in a separate chapter (661—Chapter 51). Now the establishment of a separate chapter for the rules which govern liquefied petroleum gas is proposed (661—Chapter 226). The amendments are consistent with a general renumbering of the rules of the Fire Marshal and of the Department of Public Safety which is intended to make the rules more easily accessible to those subject to the provisions of those rules and to the general public.

The proposed amendments are based upon the use of provisions of the International Fire Code, with amendments, as safety requirements related to liquefied petroleum gas, which is consistent with recent changes made to Fire Marshal rules establishing general fire safety requirements. In addition, current editions of the International Fire Code and other national standards are used, which represent significant updating of the requirements.

A public hearing on these proposed amendments will be held on May 2, 2007, at 10:30 a.m. in the Third Floor Conference Room, Wallace State Office Building, 502 East 9th Street, Des Moines, Iowa. Persons may present their views concerning these amendments at the public hearing orally or in writing. Persons who wish to make oral presentations at the hearing are requested to contact the Agency Rules Administrator, Iowa Department of Public Safety, Wallace State Office Building, 502 East 9th Street, Des Moines, Iowa 50319; or by telephone at (515)281-5524 at least one day prior to the hearing, although any person who appears at the hearing will be afforded an opportunity to speak. Any interested persons may make oral or written comments concerning these proposed amendments to the Agency Rules Administrator by mail, telephone, or in person at the above address by 4:30 p.m. on May 2, 2007. Comments may also be submitted by electronic mail to admrule@dps.state.ia.us by 4:30 p.m. on May 2, 2007.

These amendments are intended to implement Iowa Code chapter 101.

A fiscal impact summary prepared by the Legislative Services Agency pursuant to Iowa Code § 17A.4(3) will be available at <http://www.legis.state.ia.us/IAC.html> or at (515) 281-5279 prior to the Administrative Rules Review Committee’s review of this rule making.

The following amendments are proposed.

ITEM 1. Rescind and reserve rules **661—51.100(101)**, **661—51.101(101)**, and **661—51.102(101)**.

ITEM 2. Adopt the following **new** chapter:

CHAPTER 226**LIQUEFIED PETROLEUM GAS**

661—226.1(101) General requirements. The provisions of the International Fire Code, Chapter 38, 2006 edition, published by the International Code Council, 5203 Leesburg Pike, Suite 600, Falls Church, VA 22041, and all references contained therein, are hereby adopted by reference as the general requirements for transportation, storage, handling, and use of liquefied petroleum gas, with the following amendments:

Delete section 3801.1 and insert in lieu thereof the following new section:

3801.1 Scope. Storage, handling and transportation of liquefied petroleum gas (LP-gas) and the installation of LP-gas equipment pertinent to systems for such uses shall comply with this chapter, NFPA 54, ANSI Z223.1-2006 National Fuel Gas Code, 2006 edition, and NFPA 58, Liquefied Petroleum Gas Code, 2004 edition, with the following amendments:

Amend NFPA 54, ANSI Z223.1-2006 National Fuel Gas Code, 2006 edition, as follows:

Delete section 7.3.5.2 and insert in lieu thereof the following new section:

7.3.5.2 Gas piping underground, outside a building, shall not be in physical contact with any concrete. Where it is necessary to install piping that will extend through or under an exterior concrete slab for connection to a regulator or other part of the system, before entering a building, the gas piping shall be sleeved. The sleeve shall extend through the concrete and be sealed only at the end extending above grade to prevent the entrance of insects, debris, or moisture. All piping, fittings, and risers shall be protected against corrosion in accordance with NFPA 54, National Fuel Gas Code, 2004 edition, section 5.6.6.

Amend NFPA 58, Liquefied Petroleum Gas Code, 2004 edition, as follows:

Delete section 5.2.3.1 and insert in lieu thereof the following new section:

5.2.3.1 DOT cylinders in stationary service that are filled on site and therefore are not under the jurisdiction of DOT shall be either requalified in accordance with DOT requirements or visually inspected within 12 years of the date of manufacture and every 5 years thereafter, in accordance with 5.2.3.1(A) through 5.2.3.1(C). The effective date for qualification and requalification requirements of this section shall be no later than [insert date three years after effective date of this rule].

(A) Any cylinder that fails one or more of the criteria in 5.2.3.1(C) shall not be refilled or continued in service until the condition is corrected.

(B) Personnel shall be trained and qualified to perform inspections. Initial and refresher training shall be in accordance with rule 661—226.4(101).

(C) Visual inspection shall be performed in accordance with the following:

PUBLIC SAFETY DEPARTMENT[661](cont'd)

(1) The cylinder is checked for exposure to fire, dents, cuts, digs, gouges, and corrosion according to CGA C-6-2005, Standards for Visual Inspection of Steel Compressed Gas Cylinders, ninth edition, except that paragraph 5.2.1.1(1) of that standard (which requires tare weight verification) shall not be part of the required inspection criteria.

(2) The cylinder protective collar (where utilized) and the foot ring are intact and are firmly attached.

(3) The cylinder is painted or coated to retard corrosion.

(4) The cylinder pressure relief valve indicates no visible damage, corrosion of operating components, or obstructions.

(5) There is no leakage from the cylinder or its appurtenances that is detectable without the use of instruments.

(6) The cylinder is installed on a firm foundation and is not in contact with the soil.

(7) A cylinder that passes the visual examination shall be marked with the month and year of the examination followed by the letter "E" (for example, 10-01E, indicating requalification in October 2001 by the external inspection method) and the requalifier identification number (RIN) in accordance with the requalifying agency's permit issued by the United States Department of Transportation.

(8) The results of the visual inspection shall be documented, and a record of the inspection shall be retained for a 5-year period or until the cylinder is again requalified, whichever occurs first.

Delete section 6.6.7.1 and insert in lieu thereof the following:

6.6.7.1 Installation of permanent, stationary containers on roofs of buildings shall be prohibited.

Delete section 6.6.7.2.

Delete sections 6.12, 6.12.1, 6.12.2, and 6.12.3.

Properties of LP-gases shall be determined in accordance with Appendix B of NFPA 58.

Delete paragraph 6.17.1.2(C) and insert in lieu thereof the following new paragraph:

6.17.1.2(C) Cylinders installed permanently on roofs of buildings shall be prohibited.

Delete section 6.17.11.1, including paragraphs (A) through (F), and insert in lieu thereof the following new section:

6.17.11.1 Cylinders installed permanently on roofs of buildings shall be prohibited.

Delete section 6.17.11.2 and insert in lieu thereof the following new section:

6.17.11.2 Cylinders having water capacities greater than 2.7 lb (1 kg) [nominal 1 lb (0.5 kg) LP-gas capacity] shall not be located on decks or balconies of dwellings of two or more living units above the first floor unless the decks or balconies are served by exterior stairways, where only such stairway is used to transport the cylinder. Any cylinder of greater than 108 lb (49 kg) water capacity [nominal 45 lb (20 kg) LP-gas capacity] shall be prohibited from being located on a balcony.

Delete section 7.2.1.1 and insert in lieu thereof the following new section:

7.2.1.1 Transfer operations shall be conducted by qualified personnel meeting the provisions of rule 661—226.4(101).

Delete section 3801.2.

Delete section 3801.3 and insert in lieu thereof the following new section:

3801.3 Construction documents. Where a single container is more than 2,000 gallons (7,570 L) in water capacity or the aggregate capacity of containers is more than 4,000 gallons (15,140 L) in water capacity, the installer shall submit

construction documents for such installation to the fire marshal for review and approval. Installation shall not commence until written approval from the fire marshal has been received.

Delete section 3803.1 and insert in lieu thereof the following new section:

3803.1 General. LP-gas equipment shall be installed in accordance with NFPA 54, ANSI Z223.1-2006 National Fuel Gas Code, 2006 edition, and NFPA 58, Liquefied Petroleum Gas Code, 2004 edition, except as otherwise provided in this chapter.

Delete section 3803.2.1.7 and insert in lieu thereof the following new section:

3803.2.1.7 Use for food preparation. Where approved, listed LP-gas commercial food service appliances are allowed to be used for food preparation within restaurants and in attended commercial food-catering operations in accordance with NFPA 54, ANSI Z223.1-2006 National Fuel Gas Code, 2006 edition, the International Mechanical Code, 2006 edition, and NFPA 58, Liquefied Petroleum Gas Code, 2004 edition.

Delete section 3803.3 and insert in lieu thereof the following new section:

3803.3 Location of equipment and piping. Equipment and piping shall not be installed in locations where such equipment and piping are prohibited by NFPA 54, ANSI Z223.1-2006 National Fuel Gas Code, 2006 edition.

Delete section 3805.1 and insert in lieu thereof the following new section:

3805.1 Nonapproved equipment. LP-gas shall not be used for the purpose of operating devices or equipment unless such device or equipment is approved for use with LP-gas in accordance with NFPA 58, Liquefied Petroleum Gas Code, 2004 edition, sections 1.5 through 1.5.3.

Delete section 3806.1 and insert in lieu thereof the following new section:

3806.1 Attendants. Transfer operations shall be conducted by qualified personnel meeting the provisions of rule 661—226.4(101).

Amend sections 308.3.1.1, 3803.2.1.6, 3809.3, and 3809.9 and the exception to section 3809.7 by deleting the phrase "a maximum water capacity of 2.5 gallons" and inserting in lieu thereof the phrase "a maximum water capacity of 2.7 gallons."

661—226.2(101) Transfer into container. No person shall transfer any liquefied petroleum gas into a container, regardless of the container's size, if the container has previously been used for the storage of any other product until the container has been thoroughly purged, inspected for contamination, provided with proper appurtenances, and determined suitable for use as a container for liquefied petroleum gas as prescribed in the standards established under rule 661—226.1(101).

661—226.3(101) Prohibition of certain refrigerants. The distribution, sale or use of refrigerants containing liquefied petroleum gas, as defined in Iowa Code section 101.1, for use in mobile air-conditioning systems is prohibited.

661—226.4(101) Qualifications of personnel.

226.4(1) Persons who transfer liquefied petroleum gas, who are employed to transport liquefied petroleum gas, or whose primary duties fall within the scope of this chapter shall be trained in proper handling procedures.

a. Training shall include both initial training and refresher training.

PUBLIC SAFETY DEPARTMENT[661](cont'd)

(1) Initial training shall include participation in a training program and shall include both a written qualification assessment (closed book test) and a skills assessment, based on the objectives set forth in the recognized training program and the requirements of NFPA 54 National Fuel Gas Code, 2006 edition, and NFPA 58 Liquefied Petroleum Gas Code, 2004 edition, and any applicable requirements established in this chapter.

(2) Refresher training shall include both a written qualification assessment (closed book test) and a hands-on skills assessment based on requirements of NFPA 54 National Fuel Gas Code, 2006 edition, and NFPA 58 Liquefied Petroleum Gas Code, 2004 edition, and any applicable requirements established in this chapter.

(3) The written qualification assessment shall be procured through the training agency providing the refresher training or another qualified party.

(4) The hands-on skills assessment shall be completed by the training agency or another qualified party and shall include a verification of completion that shall be signed by the individual completing the required skills and the skills evaluator.

(5) Refresher training shall be provided at least every three years.

b. All training shall be documented. Documentation shall be maintained by the current employer of the person receiving the training.

226.4(2) Persons who install, service, test, or maintain propane gas utilization equipment, or gas piping systems of which the equipment is a part, or accessories shall be trained in the proper procedures in accordance with applicable codes.

a. Initial training shall include participation in a training program and shall include both a written qualification assessment (closed book test) and a skills assessment, based on the objectives set forth in the recognized training program and the requirements of NFPA 54 National Fuel Gas Code, 2006 edition, and NFPA 58 Liquefied Petroleum Gas Code, 2004 edition, and this chapter.

b. Refresher training shall include both a written qualification assessment (closed book test) and a hands-on skills assessment based on requirements of NFPA 54 National Fuel Gas Code, 2006 edition, and NFPA 58 Liquefied Petroleum Gas Code, 2004 edition, and this chapter.

c. The written qualification assessment shall be procured through the training agency providing the refresher training or another qualified party.

d. The hands-on skills assessment shall be completed by the training agency or another qualified party and shall include a verification of completion that shall be signed by the individual completing the required skills and the skills evaluator.

e. Refresher training shall be provided at least every three years.

f. All training shall be documented. Documentation shall be maintained by the current employer of the person receiving the training.

226.4(3) Successful completion of the written qualification assessment and hands-on skills assessment shall satisfy the refresher training requirements of subrules 226.4(1) and 226.4(2).

661—226.5(101) Pressure testing.

226.5(1) After assembly, LP-gas piping systems, including hoses, shall be pressure-tested and proven free of leaks as follows:

a. Piping systems having operating pressures greater than 20 psig shall be tested at no less than normal operating pressure in accordance with NFPA 58 Liquefied Petroleum Gas Code, 2004 edition.

b. Piping systems having operating pressures of 20 psig or less and piping within the scope of NFPA 54 National Fuel Gas Code, 2006 edition, shall be tested in accordance with that code.

226.5(2) All LP-gas piping systems having operating pressures of 20 psig or less shall have system and equipment leakage tests performed in accordance with NFPA 54 National Fuel Gas Code, 2006 edition.

226.5(3) Tests shall not be made with flame.

These rules are intended to implement Iowa Code chapter 101.

ARC 5783B

REAL ESTATE APPRAISER EXAMINING BOARD[193F]

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 543D.5, the Real Estate Appraiser Examining Board hereby gives Notice of Intended Action to amend Chapter 4, “Associate Real Property Appraiser,” Chapter 5, “Certified Residential Real Property Appraiser,” Chapter 6, “Certified General Real Property Appraiser,” and Chapter 11, “Continuing Education,” Iowa Administrative Code.

The proposed amendment to Chapter 4 requires associate real estate appraisers and their supervisory certified appraisers to provide copies of monthly logs to the Board upon request. The proposed amendments to Chapters 5 and 6 establish additional standards for the experience required for initial certification in accordance with Senate File 137. The proposed amendment to Chapter 11 requires a seven-hour course in report writing as a condition for license renewal.

These amendments are subject to waiver or variance pursuant to 193—Chapter 5.

Consideration will be given to all written suggestions or comments on the proposed amendments received on or before April 17, 2007. Comments should be addressed to Sylvia King, Professional Licensing and Regulation Bureau, 1920 SE Hulsizer Road, Ankeny, Iowa 50021, or faxed to (515)281-7411. E-mail may be sent to sylvia.king@iowa.gov.

These amendments are intended to implement Iowa Code chapters 543D and 272C.

A fiscal impact summary prepared by the Legislative Services Agency pursuant to Iowa Code § 17A.4(3) will be available at <http://www.legis.state.ia.us/IAC.html> or at (515) 281-5279 prior to the Administrative Rules Review Committee’s review of this rule making.

The following amendments are proposed.

ITEM 1. Amend subrule 4.1(7) as follows:

4.1(7) The associate appraiser shall have the appraisal log reviewed and signed by the supervising appraiser at least

REAL ESTATE APPRAISER EXAMINING BOARD[193F](cont'd)

monthly. *The associate appraiser and the supervising appraiser shall submit by letter, fax or E-mail a copy of the associate appraiser's monthly logs within ten calendar days of the board's written request. The failure of an associate appraiser or supervising appraiser to submit the requested logs is a ground for disciplinary action.* Separate appraisal logs shall be maintained for each supervising appraiser.

ITEM 2. Amend 193F—Chapter 5 by adopting the following **new** rule:

193F—5.4(543D) Supervised experience required for initial certification. Commencing with experience attained on or after July 1, 2007, all experience required for initial certification pursuant to Iowa Code section 543D.9 shall be performed as a registered associate real estate appraiser under the direct supervision of a certified real estate appraiser.

5.4(1) Acceptable experience. The board will accept as qualifying experience the documented experience attained while the applicant for initial certification was in an educational program recognized by the Appraisal Qualifications Board and Appraisal Subcommittee as providing qualifying experience for initial certification, whether or not the applicant was registered as an associate real estate appraiser at the time the educational program was completed. Such programs, if approved by federal authorities, will incorporate direct supervision by a certified real estate appraiser and such additional program features as to satisfy the purpose of requiring that qualifying experience be attained by the applicant as a registered associate real estate appraiser.

5.4(2) Exceptions.

a. Applicants for initial certification in Iowa who would like the board to approve unsupervised experience or experience performed in the absence of registration as an associate real estate appraiser may file an application for approval on a form provided by the board. The burden shall be on the applicant to establish by clear and convincing evidence all of the following:

(1) The experience is qualifying experience under the substantive and documentation standards of the Appraisal Qualifications Board and Appraisal Subcommittee.

(2) Denial of the application would impose an undue hardship on the applicant.

(3) The nature of the experience attained is qualitatively and substantially equivalent to the experience a registered associate real estate appraiser would receive under the direct supervision of a certified real estate appraiser pursuant to the standards established in 193F—Chapter 15.

(4) Approval of the application would foster the board's goal of fair and consistent treatment of applicants.

(5) A basis exists beyond the individual control of the applicant to explain why the experience at issue could not have been attained by the applicant as a registered associate real estate appraiser under the direct supervision of a certified real estate appraiser.

b. Among the circumstances the board may favorably consider in ruling on an application for approval of unsupervised experience or experience attained by the applicant in the absence of registration as an associate real estate appraiser are:

(1) The experience was attained in a jurisdiction that, at the time, did not register associate real estate appraisers or otherwise offer an associate, trainee or equivalent category of licensure.

(2) The applicant attained the experience while employed in a county assessor's office engaged in mass appraisals, and

the experience would otherwise qualify under applicable federal standards.

(3) The experience was attained between July 1, 2007, and January 1, 2008, and the appraiser could not reasonably have become registered and associated with a supervising certified appraiser by the effective date of the requirement that qualifying experience be attained by the applicant as a registered associate real estate appraiser working under the direct supervision of a certified real estate appraiser.

ITEM 3. Amend 193F—Chapter 6 by adopting the following **new** rule:

193F—6.4(543D) Supervised experience required for initial certification. Commencing with experience attained on or after July 1, 2007, all experience required for initial certification pursuant to Iowa Code section 543D.9 shall be performed as a registered associate real estate appraiser under the direct supervision of a certified real estate appraiser.

6.4(1) Acceptable experience. The board will accept as qualifying experience the documented experience attained while the applicant for initial certification was enrolled in an educational program recognized by the Appraisal Qualifications Board and Appraisal Subcommittee as providing qualifying experience for initial certification, whether or not the applicant was registered as an associate real estate appraiser at the time the educational program was completed. Such programs, if approved by federal authorities, will incorporate direct supervision by a certified real estate appraiser and such additional program features as to satisfy the purpose of requiring that qualifying experience be attained by the applicant as a registered associate real estate appraiser.

6.4(2) Exceptions.

a. Applicants for initial certification in Iowa who request that the board to approve unsupervised experience or experience performed in the absence of registration as an associate real estate appraiser may file an application for approval on a form provided by the board. The burden shall be on the applicant to establish by clear and convincing evidence all of the following:

(1) The experience is qualifying experience under the substantive and documentation standards of the Appraisal Qualifications Board and Appraisal Subcommittee.

(2) Denial of the application would impose an undue hardship on the applicant.

(3) The nature of the experience attained is qualitatively and substantially equivalent to the experience a registered associate real estate appraiser would receive under the direct supervision of a certified real estate appraiser pursuant to the standards established in 193F—Chapter 15.

(4) Approval of the application would foster the board's goal of fair and consistent treatment of applicants.

(5) A basis exists beyond the individual control of the applicant to explain why the experience at issue could not have been attained by the applicant as a registered associate real estate appraiser under the direct supervision of a certified real estate appraiser.

b. Among the circumstances the board may favorably consider in ruling on an application for approval of unsupervised experience or experience attained by the applicant in the absence of registration as an associate real estate appraiser are:

(1) The experience was attained in a jurisdiction that, at the time, did not register associate real estate appraisers or otherwise offer an associate, trainee or equivalent category of licensure.

REAL ESTATE APPRAISER EXAMINING BOARD[193F](cont'd)

(2) The applicant attained the experience while employed in a county assessor's office engaged in mass appraisals, and the experience would otherwise qualify under applicable federal standards.

(3) The experience was attained between July 1, 2007, and January 1, 2008, and the appraiser could not reasonably have become registered and associated with a supervising certified appraiser by the effective date of the requirement that qualifying experience be attained by the applicant as a registered associate real estate appraiser working under the direct supervision of a certified real estate appraiser.

ITEM 4. Amend subrule **11.2(1)** by adopting new paragraph "**d**" as follows:

d. Effective with renewals commencing in June 2008, appraisers must successfully complete a seven-hour course in report writing each two-year renewal cycle.

ARC 5806B**REVENUE DEPARTMENT[701]****Notice of Intended Action**

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

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

Pursuant to the authority of Iowa Code chapter 17A and section 421.1A, the Property Assessment Appeal Board of the Department of Revenue gives Notice of Intended Action to amend Chapter 71, "Assessment Practices and Equalization," Iowa Administrative Code.

The proposed amendment to rule 71.21(421) provides for additional subrules to govern the practice and procedure for the conduct of appeals before the Property Assessment Appeal Board.

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

Any person who believes that the application of the discretionary provisions of this amendment would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any.

The Department has determined that this proposed amendment may have an impact on small business. The Department has considered the factors listed in Iowa Code section 17A.4A. The Department will issue a regulatory analysis as provided in Iowa Code section 17A.4A if a written request is filed by delivery or by mailing postmarked no later than April 30, 2007, to the Policy Section, Compliance Division, Department of Revenue, Hoover State Office Building, P.O. Box 10457, Des Moines, Iowa 50306. The request may be made by the Administrative Rules Review Committee, the Administrative Rules Coordinator, at least 25 persons signing that request who each qualify as a small business or an organization representing at least 25 such persons.

Any interested person may make written suggestions or comments on the proposed amendment on or before April 17, 2007. Such written comments should be directed to the Policy Section, Taxpayer Service and Policy Division, Department of Revenue, Hoover State Office Building, P.O. Box 10457, Des Moines, Iowa 50306.

Persons who want to convey their views orally should contact the Policy Section, Taxpayer Service and Policy Division, Department of Revenue, at (515)281-8036 or at the Department of Revenue offices on the fourth floor of the Hoover State Office Building.

Requests for a public hearing must be received by April 20, 2007.

A fiscal impact summary prepared by the Legislative Services Agency pursuant to Iowa Code § 17A.4(3) will be available at <http://www.legis.state.ia.us/IAC.html> or at (515) 281-5279 prior to the Administrative Rules Review Committee's review of this rule making.

This amendment is intended to implement Iowa Code sections 421.1, 421.1A, 421.2, 441.38 and 441.49 and chapter 17A.

The following amendment is proposed.

Amend rule **701—71.21(421)** as follows:

Amend the parenthetical implementation statute as follows:

701—71.21(421,17A)

Adopt new subrules 71.21(6) to 71.21(30) as follows:

71.21(6) Applicability and scope. These subrules set forth herein govern the proceedings for all cases in which the property assessment appeal board (board) has jurisdiction to hear appeals from the action of a local board of review. For the purpose of these subrules, the following definitions shall apply:

"Appellant" means the party filing the notice of appeal with the secretary of the property assessment appeal board.

"Board" means the property assessment appeal board as created by chapter 150 of the Acts of the Eighty-first General Assembly and governed by Iowa Code chapter 17A and sections 421.1A and 441.37A.

"Department" means the Iowa department of revenue.

"Local board of review" means the board of review as defined by Iowa Code section 441.31.

"Party" means a property owner, an aggrieved taxpayer, an assessor, or an appellant in an appeals process before the board, as provided in Iowa Code section 441.42.

"Presiding officer" means the chairperson, member or members of the property assessment appeal board who preside over an appeal or proceedings before the property assessment appeal board.

"Secretary" means the secretary for the property assessment appeal board.

71.21(7) Appeal and jurisdiction. Notice of appeal confers jurisdiction for the board. The procedure for appeals and parameters for jurisdiction are as follows:

a. Jurisdiction is conferred upon the board by written notice of appeal given to the secretary. The written notice of appeal shall include a petition setting forth the basis of the appeal and the relief sought. The written notice of appeal shall be filed with the secretary within 20 days after the postmarked date of the disposition of the protest by the local board of review. The appellant may appeal the action of the board of review relating to protests of assessment, valuation, or the application of an equalization order. Within 20 days of the filing of an appeal, either party may request an in-person or telephonic hearing before the board.

b. The notice of appeal must be proper in format and content as set forth in subrule 71.21(9), which governs the notice of appeal. Notice of appeal may be mailed or delivered in person to the secretary of the board. The mailing address for the board is Secretary of the Property Assessment Appeal Board, 401 SW 7th Street, Suite D, Des Moines, Iowa 50309-4634.

REVENUE DEPARTMENT[701](cont'd)

71.21(8) Scope of review. The board shall determine anew all questions arising before the local board of review which relate to the liability of the property to assessment or the amount thereof. The board will consider only those grounds set out in the protest to the local board of review. However, additional evidence may be introduced in the board proceedings to sustain those grounds. The board shall afford each party an opportunity to present briefs and oral arguments. There shall be no presumption as to the correctness of the valuation of the assessment appealed from.

71.21(9) Form of appeal. The written notice of appeal shall contain a caption in the following form:

BEFORE THE PROPERTY ASSESSMENT APPEAL
BOARD
401 SW 7th STREET, SUITE D
DES MOINES, IOWA 50309-4634

IN THE MATTER
OF _____
(Appellant's name and
address)



NOTICE OF APPEAL
DOCKET NO. _____
(Docket No. assigned by
board)

The notice of appeal shall include:

- a. The appellant's name and legal residence;
- b. A copy of the petition to the local board of review;
- c. Copies of all evidence submitted to the local board of review in support of the petition to the local board of review;
- d. A copy of the postmarked envelope and a copy of the letter of disposition by the local board of review;
- e. A short and plain statement of the claim showing that the appellant is entitled to relief;
- f. The relief sought; and
- g. The signature of the appealing party or the party's legal representative.

To have legal representation before the board, a party must file a valid and complete power of attorney form in compliance with rule 701—7.34(421).

71.21(10) Notice to local board of review. The secretary shall mail a copy of the appellant's written notice of appeal and petition to the local board of review whose decision is being appealed. Notice to all affected taxing districts shall be deemed to have been given when written notice is provided to the local board of review.

71.21(11) Certification by local board of review. Within seven days after notice of appeal is given, the local board of review shall certify to the board all records, documents, or reports, or disposition order or directive from which an appeal is taken, and all other pertinent information.

71.21(12) Docketing. Appeals shall be assigned consecutive docket numbers. Records consisting of the case name and the corresponding docket number assigned to the case must be maintained by the secretary. The records of each case shall also include each action and each act done, with the proper dates as follows:

- a. The title of the appeal including jurisdiction and parcel identification number;
- b. Brief statement of the grounds for the appeal and the relief sought;
- c. Postmarked date of the local board of review's letter of disposition;
- d. The manner and date/time of service of notice of appeal;
- e. Date of notice of hearing;
- f. Date of hearing; and

g. The decision by the board, or other disposition of the case, and date thereof.

71.21(13) Appearances by appellant. An appellant may appear in person or by the appellant's legal representative. In order for a legal representative for an appellant before the board to be considered valid, a valid power of attorney form must be properly completed and filed with the board in compliance with rule 701—7.34(421).

71.21(14) Filing of papers. After the notice of appeal and petition have been filed, either in person or by U.S. mail, all motions, pleadings, briefs, and other papers to be filed shall be filed with the secretary at 401 SW 7th Street, Suite D, Des Moines, Iowa 50309-4634. Parties shall also send copies to the local board of review and to all other parties of record, unless represented by counsel of record, and then to such counsel.

71.21(15) Motions. All motions shall be in writing and shall be filed with the secretary within 30 days after the filing of the attached notice of appeal and shall contain the reasons and grounds supporting the motion. The board shall act upon such motions as justice may require. Motions based on matters which do not appear of record shall be supported by affidavit.

71.21(16) Authority of board to issue procedural orders. The board may issue preliminary orders regarding procedural matters. The secretary shall mail copies of all procedural orders to the parties.

71.21(17) Members participating. An appeal may be reviewed and considered by less than a majority of the members of the board, and the chairperson of the board may assign members to consider appeals. Orders and decisions shall be signed by one member of the board and shall name participating members. Decisions shall affirm, modify, remand, or reverse the decision, order, or directive from which an appeal was made. In order for the decision to be valid, a majority of the board must concur on the decision on appeal.

71.21(18) Notice of hearing. Unless otherwise designated by the board, the hearing shall be held in the hearing room of the board at 401 SW 7th Street, Suite D, Des Moines, Iowa. All hearings are to be open to the public. If a hearing is requested, the secretary shall mail a notice of hearing to the parties at least 30 days prior to the hearing. The notice of hearing shall contain the following information:

- a. A statement of the date, time, and place of the hearing;
- b. A statement of legal authority and jurisdiction under which the hearing is to be held;
- c. A reference to the particular sections of the statutes and rules involved;
- d. That the parties may appear and present oral arguments;
- e. That the parties may submit evidence and briefs;
- f. That the hearing will be electronically recorded by the board;
- g. That a party may obtain a certified court reporter for the hearing at the party's own expense;
- h. That audio visual aids and equipment are to be provided by the party intending to use them;
- i. A statement that, upon submission of the appeal, the board will take the matter under advisement. A letter of disposition will be mailed to the parties; and
- j. A compliance notice required by the Americans with Disabilities Act (ADA).

71.21(19) Transcript of hearing. All hearings shall be electronically recorded. Any party may provide a certified court reporter at the party's own expense. Any party may re-

REVENUE DEPARTMENT[701](cont'd)

quest a transcription of the hearing. The board reserves the right to impose a charge for copies.

71.21(20) Continuance. Any hearing may be continued for “good cause.” Requests for continuance prior to the hearing shall be in writing and promptly filed with the board immediately upon “the cause” becoming known. An emergency oral continuance may be obtained from the board or a member of the board based on “good cause” and at the discretion of the board or board member.

71.21(21) Telephone proceedings. The board at its discretion and based on “good cause,” may conduct a telephone conference in which all parties have an opportunity to participate. The board will determine the location of the parties and witnesses for telephone hearings. The convenience of the witnesses or parties, as well as the nature of the case, will be considered when the location is chosen.

71.21(22) Disqualification of board member. A board member or members must, on their own motion or on a motion from a party in the proceeding, withdraw from participating in an appeal if there are circumstances that warrant disqualification.

a. A board member or members shall withdraw from participation in the making of any proposed or final decision in an appeal before the board if that member is involved in one of the following circumstances:

(1) Has a personal bias or prejudice concerning a party or a representative of a party;

(2) Has personally investigated, prosecuted, or advocated in connection with the appeal, the specific controversy underlying that appeal, or another pending factually related matter, or a pending factually related controversy that may culminate in an appeal involving the same parties;

(3) Is subject to the authority, direction, or discretion of any person who has personally investigated, prosecuted, or advocated in connection with that matter, the specific controversy underlying the appeal, or a pending factually related matter or controversy involving the same parties;

(4) Has acted as counsel to any person who is a private party to that proceeding within the past two years;

(5) Has a personal financial interest in the outcome of the appeal or any other significant personal interest that could be substantially affected by the outcome of the appeal; or

(6) Has a spouse or relative within the third degree of relationship who:

1. Is a party to the appeal, or an officer, director or trustee of a party;

2. Is a lawyer in the appeal;

3. Is known to have an interest that could be substantially affected by the outcome of the appeal;

4. Is likely to be a material witness in the appeal; or

5. Has any other legally sufficient cause to withdraw from participation in the decision making in that appeal.

b. Motion for disqualification. If a party asserts disqualification on any appropriate ground, including those listed in paragraph “a,” the party shall file a motion supported by an affidavit pursuant to Iowa Code section 17A.11. The motion must be filed as soon as practicable after the reason alleged in the motion becomes known to the party. If, during the course of the hearing, a party first becomes aware of evidence of bias or other grounds for disqualification, the party may move for disqualification, but must establish the grounds by the introduction of evidence into the record.

If a majority of the board determines that disqualification is appropriate, the board member shall withdraw. If a majority of the board determines that withdrawal is not required, the board shall enter an order to that effect. A party asserting

disqualification may seek an interlocutory appeal and a stay as provided under 701—Chapter 7.

c. The term “personally investigated” means taking affirmative steps to interview witnesses directly or to obtain documents or other information directly. The term “personally investigated” does not include general direction and supervision of assigned investigators, unsolicited receipt of information which is relayed to assigned investigators, review of another person’s investigative work product in the course of determining whether there is probable cause to initiate a proceeding, or exposure to factual information while performing other functions of the board, including fact gathering for purposes other than investigation of the matter which culminates in an appeal. Factual information relevant to the merits of an appeal received by a person who later serves as presiding officer or a member of the board shall be disclosed if required by Iowa Code section 17A.11 and this rule.

d. Withdrawal. In a situation where a presiding officer or any other board member knows of information which might reasonably be deemed to be a basis for disqualification and decides voluntary withdrawal is unnecessary, that person shall submit the relevant information for the record by affidavit and shall provide for the record a statement of the reasons for the determination that withdrawal is unnecessary.

71.21(23) Consolidation and severance. A majority of the board may determine, in its discretion, if consolidation or severance of issues or proceedings should be performed in order to efficiently resolve matters on appeal before the board.

a. Consolidation. The presiding officer may consolidate any or all matters at issue in two or more appeal proceedings where:

(1) The matters at issue involve common parties or common questions of fact or law;

(2) Consolidation would expedite and simplify consideration of the issues involved; and

(3) Consolidation would not adversely affect the rights of any of the parties to those proceedings.

b. Severance. The presiding officer may, for good cause shown, order any appeal proceedings or portions of the proceedings severed.

71.21(24) Withdrawal. An appellant may withdraw the appeal prior to the hearing. Such a withdrawal of an appeal must be in writing and signed by the appellant or the appellant’s legal representative. Unless otherwise provided, withdrawal shall be with prejudice and the appellant shall not be able to refile the appeal.

71.21(25) Hearing procedures. A party to the appeal may request a hearing, or the appeal may proceed without a hearing. The local board of review may be present and participate at such hearing.

a. Authority of presiding officer. The presiding officer presides at the hearing and may rule on motions, require briefs, issue a decision, and issue such orders and rulings as will ensure the orderly conduct of the proceedings.

b. Representation. Parties to the appeal have the right to participate or to be represented in all hearings. Any party may be represented by an attorney or another person authorized by law. To have legal representation before the board, a party must complete a power of attorney form, and completion must be in compliance with rule 701—7.34(421).

c. Participation in hearing. The parties to the appeal have the right to introduce evidence to sustain the grounds set out in the protest to the local board of review. Subject to terms and conditions prescribed by the presiding officer, parties have the right to introduce evidence on issues of material

REVENUE DEPARTMENT[701](cont'd)

fact, cross-examine witnesses present at the hearing as necessary for a full and true disclosure of the facts, present evidence in rebuttal, and submit briefs and engage in oral argument.

d. Decorum. The presiding officer shall maintain the decorum of the hearing and may refuse to admit or may expel anyone whose conduct is disorderly.

e. Conduct of the hearing. The presiding officer shall conduct the hearing in the following manner:

(1) The presiding officer shall give an opening statement briefly describing the nature of the proceedings;

(2) The parties shall be given an opportunity to present opening statements;

(3) The parties shall present their cases in the sequence determined by the presiding officer;

(4) Each witness shall be sworn or affirmed by the presiding officer and shall be subject to examination and cross-examination. The presiding officer may limit questioning in a manner consistent with law; and

(5) When all parties and witnesses have been heard, parties may be given the opportunity to present final arguments.

71.21(26) Evidence.

a. Admissibility. The presiding officer shall rule on admissibility of evidence and may take official notice of facts in accordance with all applicable requirements of law.

b. Stipulations. Stipulation of facts by the parties is encouraged. The presiding officer may make a decision based on stipulated facts.

c. Scope of admissible evidence. Evidence in the proceeding shall be confined to the issues contained in the notice from the board prior to the hearing, unless the parties waive their right to such notice or the presiding officer determines that good cause justifies expansion of the issues. Admissible evidence is that which, in the opinion of the board, is determined to be material, relevant, or necessary for the making of a just decision.

d. Exhibits. The party seeking admission of an exhibit must provide an opposing party with an opportunity to examine the exhibit prior to the ruling on its admissibility. Copies of documents to be used as evidence shall be provided to the opposing party. All exhibits admitted into evidence shall be appropriately marked and be made part of the record.

e. Objections. Any party may object to specific evidence or may request limits on the scope of examination or cross-examination. Such an objection shall be accompanied by a brief statement of the grounds upon which the objection is based. The objection, the ruling on the objection, and the reasons for the ruling shall be noted in the record. The presiding officer may rule on the objection at the time it is made or may reserve a ruling until the written decision.

f. Offers of proof. Whenever evidence is ruled inadmissible, the party offering that evidence may submit an offer of proof on the record. The party making the offer of proof for excluded oral testimony shall briefly summarize the testimony or, with permission of the presiding officer, present the testimony. If the excluded evidence consists of a document or exhibit, it shall be marked as part of an offer of proof and inserted in the record.

71.21(27) Dismissal. If a party fails to appear or participate in an appeal hearing after proper service of notice, the presiding officer may dismiss the appeal unless a continuance is granted for good cause. If an appeal is dismissed for failure to appear, the board shall have no jurisdiction to consider any subsequent appeal on the appellant's protest.

71.21(28) Appeals of board decisions. A party may seek judicial review of a decision rendered by the board by filing a

written notice of appeal with the clerk of the district court within 20 days after the letter of disposition of the appeal by the board is mailed to the appellant.

71.21(29) Time requirements. Time shall be computed as provided in Iowa Code section 4.1(34).

71.21(30) Judgment of the board. Nothing stated in this rule should be construed as prohibiting the exercise of honest judgment, as provided by law, by the board in matters pertaining to valuation and assessment of individual properties.

Amend the implementation sentence as follows:

This rule is intended to implement Iowa Code ~~Supplement section sections 421.1, 421.1A as amended by 2006 Iowa Acts, House File 2797, 421.2, and section 441.38 as amended by 2006 Iowa Acts, House File 2794 and 441.49 and chapter 17A.~~

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 March is 6.75%.

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 March 9, 2007, setting the minimums that may be paid by Iowa depositories on public funds are listed below.

TIME DEPOSITS

7-31 days Minimum 1.85%
32-89 days Minimum 2.85%
90-179 days Minimum 3.25%
180-364 days Minimum 3.70%
One year to 397 days Minimum 3.85%
More than 397 days Minimum 4.60%

NOTICE—PUBLIC FUNDS INTEREST RATES(cont'd)

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 5787B**UTILITIES DIVISION[199]****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 Iowa Code chapters 476, 478, and 479 and section 17A.4, the Utilities Board (Board) gives notice that on March 7, 2007, the Board issued an order in Docket No. RMU-07-1, In re: Updates and Corrections to Board Safety Regulations [199 IAC 10.12(1), 10.17, 15.10(1), 19.2(5), 19.5(2), 19.8(3), 20.5(2), 20.6(3), 24.10(2), 25.2(1), 25.2(2), and 25.2(3)], “Order Commencing Rule Making.” The Board has adopted rules in 199 IAC Chapters 10, 15, 19, 20, 24, and 25 establishing standards for the safe operation of natural gas and electric facilities. These rules include technical standards established in federal regulations and industry publications that are incorporated by reference in the Board’s rules.

Periodically, the Board is required to update the references as new and revised standards are developed. The Board is proposing the amendments to make the necessary updates and corrections. The Board will adopt any revisions to federal regulations through the effective date of the amendments and will insert the effective date in the amendments when the amendments are adopted. The order containing the background and support for this rule making can be found on the Board’s Web site, www.state.ia.us/iub.

Pursuant to Iowa Code section 17A.4(1)“a” and “b,” any interested person may file a written statement of position pertaining to the proposed amendments. The statement must be filed on or before April 17, 2007, by filing an original and ten copies in a form substantially complying with 199 IAC 2.2(2). All written statements must clearly state the author’s name and address and should make specific reference to this docket. All communications should be directed to the Executive Secretary, Iowa Utilities Board, 350 Maple Street, Des Moines, Iowa 50319-0069.

No oral presentation is scheduled at this time. Pursuant to Iowa Code section 17A.4(1)“b,” an oral presentation may be requested or the Board on its own motion after reviewing the statements may determine that an oral presentation should be scheduled.

These amendments are intended to implement Iowa Code chapters 476, 478, and 479 and section 17A.4.

A fiscal impact summary prepared by the Legislative Services Agency pursuant to Iowa Code § 17A.4(3) will be available at <http://www.legis.state.ia.us/IAC.html> or at (515) 281-5279 prior to the Administrative Rules Review Committee’s review of this rule making.

The following amendments are proposed.

ITEM 1. Amend subrule 10.12(1) as follows:

10.12(1) All pipelines, underground storage facilities, and equipment used in connection therewith shall be designed, constructed, operated, and maintained in accordance with the following standards:

a. 49 CFR Part 191, “Transportation of Natural and Other Gas by Pipeline; Annual Reports, Incident Reports, and Safety-Related Condition Reports,” as amended through ~~November 17, 2004~~ *the effective date of this amendment*.

b. 49 CFR Part 192, “Transportation of Natural and Other Gas by Pipeline: Minimum Federal Safety Standards,” as amended through ~~November 17, 2004~~ *the effective date of this amendment*.

c. 49 CFR Part 199, “Drug and Alcohol Testing,” as amended through ~~November 17, 2004~~ *the effective date of this amendment*.

d. to f. No change.

Conflicts between the standards established in paragraphs 10.12(1)“a” through “f” or between the requirements of rule 199—10.12(479) and other requirements which are shown to exist by appropriate written documentation filed with the board shall be resolved by the board.

ITEM 2. Amend rule 199—10.17(479) as follows:

199—10.17(479) Accidents and incidents. Any pipeline incident or accident which is reportable to the U.S. Department of Transportation under 49 CFR Part 191 as amended through ~~November 17, 2004~~, *the effective date of this amendment* shall also be reported to the board, except that the minimum economic threshold of damage required for reporting to the board is \$15,000. Duplicate copies of any written accident reports and safety-related condition reports submitted to the U.S. Department of Transportation shall be provided to the board.

ITEM 3. Amend subrule 15.10(1) as follows:

15.10(1) Acceptable standards. Qualifying facilities and AEP facilities shall meet the applicable provisions in the publications listed below in order to be eligible for interconnection to an electric utility system:

a. No change.

b. ~~Requirements for Salient Pole Synchronous Generators and Condensers, ANSI C50.12-1982. IEEE Standard for Salient-Pole 50 Hz and 60 Hz, Synchronous Generators and Generator/Motors for Hydraulic Turbine Applications Rated 5 MVA and above, IEEE C50.12-2005.~~

c. ~~Requirements for Cylindrical-Rotor Synchronous Generators, ANSI C50.13-1989. IEEE Standard for Cylindrical-Rotor 50 Hz and 60 Hz, Synchronous Generators Rated 10 MVA and above, IEEE C50.13-2005.~~

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

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

f e. National Electrical Code, ANSI/NFPA 70-2002 2005.

g f. IEEE Recommended Practices and Requirements for Harmonic Control in Electrical Power Systems—IEEE 519-1992.

h g. Standard for Interconnecting Distributed Resources with Electric Power Systems, ANSI/IEEE 1547-2003.

For those facilities which are of such design as to not be subject to the standards noted in *paragraphs 15.10(1)“a,” “b,” “c,” and through “d,”* above, data on the manufacturer, type of device, and output current wave form (at full load) and output voltage wave form (at no load and at full load) shall be submitted to the utility for review and approval prior to interconnection. A copy of the utility decision (whether

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approving or disapproving), including the data specified above in paragraphs 15.10(1)“a” through “d” and the exact location of the facility, shall be filed with the board within one week of the date of the decision. The utility decision, or its failure to decide within a reasonable time, may be appealed to the board. The appeal shall be treated as a contested case proceeding.

ITEM 4. Amend paragraph **19.2(5)“g”** as follows:

g. Reports to federal agencies. Copies of reports submitted pursuant to 49 CFR Part 191 as amended through ~~November 17, 2004, the effective date of this amendment~~ “Transportation of Natural and Other Gas by Pipeline; Annual Reports, Incident Reports, and Safety-Related Condition Reports,” shall be filed with the board. Utilities operating in other states shall provide to the board data for Iowa only.

ITEM 5. Amend subrule 19.5(2) as follows:

19.5(2) Standards incorporated by reference.

a. The design, construction, operation, and maintenance of gas systems and liquefied natural gas facilities shall be in accordance with the following standards where applicable:

(1) 49 CFR Part 191, “Transportation of Natural and Other Gas by Pipeline; Annual Reports, Incident Reports, and Safety-Related Condition Reports,” as amended through ~~November 17, 2004 the effective date of this amendment.~~

(2) 49 CFR Part 192, “Transportation of Natural and Other Gas by Pipeline: Minimum Federal Safety Standards,” as amended through ~~November 17, 2004 the effective date of this amendment.~~

(3) 49 CFR Part 193, “Liquefied Natural Gas Facilities: Federal Safety Standards,” as amended through ~~November 17, 2004 the effective date of this amendment.~~

(4) 49 CFR Part 199, “Drug and Alcohol Testing,” as amended through ~~November 17, 2004 the effective date of this amendment.~~

(5) No change.

(6) ANSI/NFPA No. 59-2004, “Standard for the Storage and Handling of Liquefied Petroleum Gases at Utility Gas Plants.”

(7) No change.

b. The following publications are adopted as standards of accepted good practice for gas utilities:

(1) ANSI Z223.1/NFPA 54-2002 2006, “National Fuel Gas Code.”

(2) ~~ANSI A225/NFPA 501A-2003~~ 2005, “Fire Safety Criteria for Manufactured Home Installations, Sites, and Communities.”

ITEM 6. Amend subrule 19.8(3) as follows:

19.8(3) Turning on gas. Each utility upon the installation of a meter and turning on gas or the act of turning on gas alone shall take the necessary steps to assure itself that there exists no flow of gas through the meter which is a warning that the customer’s piping or appliances are not safe for gas turn on (Ref: Sec. 4.2 and Appendix D, ANSI Z223.1/NFPA 54-2002 2006).

ITEM 7. Amend subrule 20.5(2) as follows:

20.5(2) Standards incorporated by reference. The utility shall use the applicable provisions in the publications listed below as standards of accepted good practice unless otherwise ordered by the board.

a. No change.

b. National Electrical Code, ANSI/NFPA 70-2002 2005.

c. No change.

d. ~~American National Standard Requirements for Electrical Analog Indicating Instruments, ANSI C39.1-1981 (R1992).~~

e. ~~Rescinded IAB 11/19/97, effective 12/24/97.~~

f. ~~American National Standard Voltage Ratings for Electric Power Systems and Equipment (60Hz), ANSI C84.1-1995.~~

g. ~~e. Grounding of Industrial and Commercial Power Systems, IEEE 142-1991.~~

h. ~~f. IEEE Standard 1159-1995, IEEE Recommended Practice for Monitoring Electric Power Quality or any successor standard.~~

i. ~~g. IEEE Standard 519-1992, IEEE Recommended Practices and Requirements for Harmonic Control in Electric Power Systems or its successor standard.~~

j. ~~h. At railroad crossings, 199 IAC 42.6(476), “Engineering standards for electric and communications lines.”~~

ITEM 8. Amend subrule 20.6(3) as follows:

20.6(3) Accepted good practice. The following publications are considered to be representative of accepted good practice in matters of metering and meter testing:

a. No change.

b. ~~American National Standard for Solid-State Electricity Meters, ANSI C12.16-1991.~~

c. ~~American National Standard for Cartridge-type Solid-State Pulse Recorders for Electricity Metering, ANSI C12.17-1991.~~

ITEM 9. Amend paragraph **24.10(2)“e”** as follows:

e. Requirement for good engineering practice. The applicant shall use the applicable provisions in the publications listed below as standards of accepted good practice unless otherwise ordered by the board:

(1) No change.

(2) No change.

(3) ~~Operation and Maintenance of Turbine Generators-ANSI standard C50.30-1972.~~

(4) (3) Power Piping-ANSI standard B31.1-1998 2004.

ITEM 10. Amend subrule 25.2(1) as follows:

25.2(1) National Electrical Safety Code. The American National Standards Institute (ANSI C2-2002 2007 “National Electrical Safety Code” (NESC) as ultimately conformed to the ANSI-approved draft by correction of publishing errors through issuance of printed corrections is adopted as part of the Iowa electrical safety code, except Part 4, “Rules for Operation of Electric Supply and Communications Lines and Equipment,” which is not adopted by the board.

ITEM 11. Amend subparagraph **25.2(2)“b”(4)** as follows:

(4) Except for clearances near grain bins, for measurements made under field conditions, the board will consider compliance with the overhead vertical line clearance requirements of Subsection 232 and Table 232-1 of the 1987 NESC indicative of compliance with the 1990 through 2002 2007 editions of the NESC. (For an explanation of the differences between 1987 and subsequent code edition clearances, see Appendix A of the 1990 through 2002 2007 editions of the NESC.)

ITEM 12. Amend paragraph **25.2(2)“d”** as follows:

d. Rule ~~264E.1~~ 217C.1 is changed to read:

“The ground end of anchor guys exposed to pedestrian or vehicle traffic shall be provided with a substantial marker not less than eight feet long. The guy marker shall be of a con-

UTILITIES DIVISION[199](cont'd)

spicuous color such as yellow, orange, or red. Green, white, gray or galvanized steel colors are not reliably conspicuous against plant growth, snow, or other surroundings. Noncomplying guy markers shall be replaced as part of the utility's inspection and maintenance plan."

ITEM 13. Amend subrule 25.2(3) as follows:

25.2(3) Grain bins.

- a. No change.
- b. An electric utility may refuse to provide electric service to any grain bin built near an existing electric line which does not provide the clearances required by ~~The~~ *the* American National Standards Institute (ANSI) C2-~~2002~~ 2007 "National Electrical Safety Code," Rule 234F. This paragraph "b" shall apply only to grain bins loaded by portable augers, conveyors or elevators and built after September 9, 1992, or to grain bins loaded by permanently installed augers, con-

veyors, or elevator systems installed after December 24, 1997.

ITEM 14. Amend subrule 25.2(5) as follows:

25.2(5) Other references adopted.

- a. The "National Electrical Code," ANSI/NFPA 70-~~2002~~ 2005, is adopted as a standard of accepted good practice for customer-owned electrical facilities beyond the utility point of delivery.

- b. "The Lineman's and Cableman's Handbook," ~~Tenth~~ *Eleventh* Edition; Shoemaker, Thomas M. and Mack, James E.; New York, McGraw-Hill Book Co., is adopted as a recommended guideline to implement the "National Electrical Safety Code" or "National Electrical Code," and for developing the inspection and maintenance plans required by 199 IAC 25.3(476,478).

ARC 5784B

HUMAN SERVICES
DEPARTMENT[441]

Adopted and Filed Emergency

Pursuant to the authority of Iowa Code section 217.6, the Department of Human Services amends Chapter 58, "Emergency Assistance Program," Iowa Administrative Code.

These amendments implement a new program of state assistance for needy individuals who have disaster-related expenses or serious needs that cannot be met by other financial assistance, as authorized by 2007 Iowa Acts, Senate File 305. The amendments provide for reimbursement for repair or replacement of personal property, home repairs, and temporary housing for families whose income is less than 130 percent of the federal poverty level for a household of that size. The amount of assistance available to a family in a single disaster is capped at 25 percent of the income limit for a one-person household (currently \$3,319).

The Department administers the Disaster Reimbursement Grant Program jointly with the Homeland Security and Emergency Management Division of the Department of Public Defense and local emergency management coordinators who are appointed by local emergency management commissions. Emergency management coordinators will receive applications from affected households and will certify each household's residence and disaster-related expenses. Department staff will determine eligibility, issue notices and payments, and handle any appeals.

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).

The Council on Human Services adopted these amendments on March 5, 2007.

The Department finds that notice and public participation are contrary to the public interest, because the intent of the General Assembly is for benefits to be available to persons affected by disasters proclaimed on or after February 23, 2007. Therefore, these amendments are filed pursuant to Iowa Code section 17A.4(2).

The Department finds that these amendments confer a benefit by making grants available to people who have no other resources to meet disaster-related expenses. 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.

These amendments are also published herein under Notice of Intended Action as **ARC 5785B** to allow for public comment.

These amendments are intended to implement 2007 Iowa Acts, Senate File 305.

These amendments became effective March 5, 2007.

A fiscal impact summary prepared by the Legislative Services Agency pursuant to Iowa Code § 17A.4(3) will be available at <http://www.legis.state.ia.us/IAC.html> or at (515) 281-5279 prior to the Administrative Rules Review Committee's review of this rule making.

The following amendments are adopted.

ITEM 1. Amend **441—Chapter 58**, title and preamble, as follows:

CHAPTER 58
EMERGENCY ASSISTANCE PROGRAM

PREAMBLE

This chapter implements the emergency assistance program which is designed to assist families who face homelessness or other types of emergencies. The purpose of the program is to provide financial assistance on behalf of a needy child or children and any other members of the household to meet needs that have been caused by an emergency situation and that they are unable to fulfill. The program provides a means to deal with financial situations that are threatening the health and well-being of an eligible family. It is intended to meet an immediate need which would not otherwise be met. Assistance shall not be denied even if the assistance payment will provide only a temporary resolution to an ongoing problem.

ITEM 2. Adopt **new 441—Chapter 58**, Division I, as follows:

DIVISION I
DISASTER REIMBURSEMENT GRANT PROGRAM

PREAMBLE

This division implements a state program of financial assistance to meet disaster-related expenses, food-related costs, or serious needs of individuals or families who are adversely affected by a state-declared disaster emergency. The program is intended to meet needs that cannot be met by other means of financial assistance.

441—58.1(82GA,SF305) Definitions.

"Emergency management coordinator" means the person appointed by the local emergency management commission pursuant to Iowa Code sections 29C.9 and 29C.10 to be responsible for development of the countywide emergency operations plan and for coordination and assistance to government officials when an emergency or disaster occurs.

"Household" means all adults and children who lived in the pre-disaster residence who request assistance, as well as any persons, such as infants, spouses, or part-time residents, who were not present at the time of the disaster but who are expected to return during the assistance period.

"Necessary expense" means the cost associated with acquiring an item or items, obtaining a service, or paying for any other activity that meets a serious need.

"Safe, sanitary, and secure" means free from disaster-related health hazards.

"Serious need" means the item or service is essential to the household to prevent, mitigate, or overcome a disaster-related hardship, injury, or adverse condition.

441—58.2(82GA,SF305) Program implementation. The disaster reimbursement grant program shall be implemented when the governor issues a declaration of a state of disaster emergency and shall be in effect only in those counties named in the declaration. Assistance shall be provided for a period not to exceed 120 days from the date of declaration.

441—58.3(82GA,SF305) Application for assistance. To request reimbursement for disaster-related expenses, the household shall complete Form 470-4448, Individual Disaster Assistance Application, and submit it within 45 days of the disaster declaration to the county emergency management coordinator along with receipts for the claimed expenses.

HUMAN SERVICES DEPARTMENT[441](cont'd)

58.3(1) Application forms are available from county emergency management coordinators and local offices of the department of human services, as well as the Internet Web site of the department at www.dhs.iowa.gov.

58.3(2) The application includes:

- a. A declaration of the household's annual income.
- b. A release of confidential information to personnel involved in administering the program.
- c. A certification of the accuracy of the information provided.
- d. An assurance that the household had no insurance coverage for claimed items.
- e. A commitment to refund any grant awarded that is duplicated by insurance or by any other assistance program, such as but not limited to local community development groups and charities, the Small Business Administration, or the Federal Emergency Management Administration.

441—58.4(82GA,SF305) Eligibility criteria. To be eligible for assistance, an applicant household must meet all of the following conditions:

58.4(1) The household's residence was located in the area identified in the disaster declaration during the designated incident period and the household verifies occupancy at that residence.

58.4(2) Household members are citizens of the United States or are legally residing in the United States.

58.4(3) The household's self-declared annual income is less than 130 percent of the federal poverty level for a household of that size.

- a. Poverty guidelines are updated annually.
- b. All income available to the household is counted, including wages, child support, interest from investments or bank accounts, social security benefits, and retirement income.

58.4(4) The household has disaster-related expenses or serious needs that are not covered by insurance.

58.4(5) The household has not previously received assistance from this program or another program for the same loss.

441—58.5(82GA,SF305) Eligible categories of assistance. The maximum assistance available to a household in a single disaster is 25 percent of the annual income limit for a household of one person. Reimbursement is available under the program for the following disaster-related expenses:

58.5(1) Reimbursement may be issued for personal property, including repair or replacement of the following items, based on the item's condition:

- a. Kitchen items, up to a maximum of \$560, including:
 - (1) Equipment and furnishings, up to a maximum of \$560.
 - (2) Food, up to a maximum of \$50 for one person plus \$25 for each additional person in the household.
- b. Personal hygiene items, up to a maximum of \$30 per person and \$150 per household.
- c. Clothing and bedroom furnishings, up to a maximum of \$875, including:
 - (1) Mattress, box spring, frame, and storage containers, up to a maximum of \$250 per person.
 - (2) Clothing, up to a maximum of \$145 per person.
- d. Other items, including:
 - (1) Infant car seat, up to a maximum of \$40.
 - (2) Dehumidifier, up to a maximum of \$150.
 - (3) Sump pump (in a flood event only), up to a maximum of \$200 installed.

(4) Electrical or mechanical repairs, up to a maximum of \$300.

(5) Water heater, up to a maximum of \$425 installed.

(6) Vehicle repair, up to a maximum of \$500.

(7) Heating and air conditioning systems, up to a maximum of \$2,100 installed. Air conditioning is covered only with proof of medical necessity.

58.5(2) Reimbursement may be issued for home repair as needed to make the home safe, sanitary, and secure, up to a maximum of \$1,000. Assistance will be denied if preexisting conditions are the cause of the damage. Reimbursement may be authorized for the repair of:

- a. Structural components, such as the foundation and roof.
- b. Floors, walls, ceilings, doors, windows, and carpeting of essential interior living space that was occupied at the time of the disaster.

58.5(3) Reimbursement may be issued for temporary housing assistance, up to a limit of \$50 per day, for lodging at a licensed establishment, such as a hotel or motel, if the household's home is destroyed, uninhabitable, inaccessible, or unavailable to the household.

441—58.6(82GA,SF305) Eligibility determination and payment.

58.6(1) The county emergency management coordinator or designee shall:

- a. Certify the household's residence and disaster-related expenses; and
- b. Submit the household's application form to the DHS Division of Results-Based Accountability, 1305 East Walnut Street, Des Moines, Iowa 50319-0114. The envelope shall be marked "DRGP application."

58.6(2) Designated disaster staff in the department of human services shall:

- a. Review the application.
- b. Determine eligibility and the amount of payment.
- c. Notify the applicant household of the eligibility decision.
- d. Authorize payment to an eligible household.

441—58.7(82GA,SF305) Contested cases.

58.7(1) Reconsideration. The household may request reconsideration of the department's decisions regarding eligibility and the amount of reimbursement awarded.

a. To request reconsideration, the household shall submit a written request to the DHS Division of Results-Based Accountability, 1305 East Walnut Street, Des Moines, Iowa 50319-0114, within 15 days of the date of the department's letter notifying the household of its decision.

b. The department shall review any additional evidence or documentation submitted and issue a reconsideration decision within 15 days of receipt of the request.

58.7(2) Appeal. The household may appeal the department's reconsideration decision according to procedures in 441—Chapter 7.

a. Appeals must be submitted in writing, either on Form 470-0487 or 470-0487(S), Appeal and Request for Hearing, or in any form that provides comparable information, to the DHS Appeals Section, 1305 East Walnut Street, Des Moines, Iowa 50319-0114, within 15 days of the date of the reconsideration decision.

b. A written appeal is filed on the date the envelope sent to the department is postmarked or, when the postmarked envelope is not available, on the date the appeal is stamped received by the agency.

HUMAN SERVICES DEPARTMENT[441](cont'd)

441—58.8(82GA,SF305) Discontinuance of program.

The program shall be discontinued when funds available for the program have been exhausted. To ensure equitable treatment, applications for assistance shall be approved on a first-come, first-served basis until all funds have been depleted. "First-come, first-served" is determined by the date the application is approved for payment.

58.8(1) Partial payment. Because funds are limited, applications may be approved for less than the amount requested. Payment cannot be approved beyond the amount of funds available.

58.8(2) Reserved funds. A portion of allocated funds shall be reserved for final appeal decisions reversing the department's denial that are received after funds for the program have been awarded.

58.8(3) Untimely applications. Applications received after the program is discontinued shall be denied.

These rules are intended to implement 2007 Iowa Acts, Senate File 305.

441—58.9 to 58.20 Reserved.

ITEM 3. Amend **441—Chapter 58**, Division II, as follows:

Amend the title as follows:

DIVISION II
FAMILY INVESTMENT PROGRAM—
~~TREATMENT GROUP~~ EMERGENCY ASSISTANCE

Adopt the following **new** preamble:

PREAMBLE

This division implements the emergency assistance program, which is designed to assist families who face homelessness or other types of emergencies. The purpose of the program is to provide financial assistance on behalf of a needy child or children and any other members of the household to meet needs that have been caused by an emergency and that the household is unable to fulfill. The program provides a means to deal with financial situations that threaten the health and well-being of an eligible family. It is intended to meet an immediate need that would not otherwise be met. Assistance shall not be denied even if the assistance payment will provide only a temporary resolution to an ongoing problem.

[Filed Emergency 3/5/07, effective 3/5/07]

[Published 3/28/07]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 3/28/07.

ARC 5793B**ENVIRONMENTAL PROTECTION
COMMISSION[567]****Adopted and Filed**

Pursuant to the authority of Iowa Code sections 455B.173(3) and 455B.105(11), the Environmental Protection Commission hereby amends Chapter 64, "Wastewater Construction and Operation Permits," Iowa Administrative Code.

The amendment to subrule 64.2(10) revises and clarifies the criteria for sewer extension construction permit approval and denial provisions. Sewer extension permits are issued by the DNR to allow communities and developers to construct new sanitary sewer collection and conveyance systems and to transport additional domestic, commercial, and industrial wastes to the wastewater treatment facilities for treatment and disposal. The amendment also modifies subrule 64.2(10) to include new permit approval and denial language and to update and simplify the rule.

Notice of Intended Action was published in the Iowa Administrative Bulletin on January 3, 2007, as **ARC 5638B**. A public hearing was held on January 24, 2007. No comments were received during the hearing or during the public comment period, which ended January 26, 2007. The amendment is identical to that published under the Notice.

This amendment was adopted by the Commission on March 6, 2007.

This amendment is intended to implement Iowa Code sections 455B.173(3) and 455B.105(11).

This amendment shall become effective May 2, 2007.

EDITOR'S NOTE: Pursuant to recommendation of the Administrative Rules Review Committee published in the Iowa Administrative Bulletin, September 10, 1986, the text of this amendment [64.2(10)] is being omitted. This amendment is identical to that published under Notice as **ARC 5638B**, IAB 1/3/07.

[Filed 3/8/07, effective 5/2/07]
[Published 3/28/07]

[For replacement pages for IAC, see IAC Supplement 3/28/07.]

ARC 5792B**ENVIRONMENTAL PROTECTION
COMMISSION[567]****Adopted and Filed**

Pursuant to the authority of Iowa Code section 455B.173, the Environmental Protection Commission hereby amends Chapter 67, "Standards for the Land Application of Sewage Sludge," Iowa Administrative Code.

These amendments to Chapter 67 adopt into the state's administrative rules changes to the federal regulations that were amended as a result of EPA's reconsiderations of certain issues remanded by the U.S. Court of Appeals for additional justification or modification. These amendments delete the current land application pollutant limit for chromium and change the land application pollutant concentration limits for

selenium and molybdenum. These amendments also change an adoption by reference date and update an address.

Notice of Intended Action was published in the Iowa Administrative Bulletin on January 3, 2007, as **ARC 5639B**. A public hearing was held on January 24, 2007. No comments were received during the hearing or the public comment period, which ended January 26, 2007. Since publication of the Notice, the Department's Web address listed in subrule 67.6(1) has been changed.

These amendments were adopted by the Commission on March 6, 2007.

These amendments are intended to implement Iowa Code section 455B.174.

These amendments shall become effective May 2, 2007.

EDITOR'S NOTE: Pursuant to recommendation of the Administrative Rules Review Committee published in the Iowa Administrative Bulletin, September 10, 1986, the text of these amendments [amendments to Ch 67] is being omitted. With the exception of the change noted above, these amendments are identical to those published under Notice as **ARC 5639B**, IAB 1/3/07.

[Filed 3/8/07, effective 5/2/07]
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[For replacement pages for IAC, see IAC Supplement 3/28/07.]

ARC 5794B**ENVIRONMENTAL PROTECTION
COMMISSION[567]****Adopted and Filed**

Pursuant to the authority of Iowa Code sections 455B.213 and 455B.223, the Environmental Protection Commission hereby amends Chapter 81, "Operator Certification: Public Water Supply Systems and Wastewater Treatment Systems," Iowa Administrative Code.

The amendment to subrule 81.7(3), paragraph "a," will allow more operators the opportunity to qualify for the highest grade examination (Grade 4) through the substitution of experience. This change will provide for additional qualified Iowa operators, who are needed for succession as current operators retire.

Notice of Intended Action was published in the Iowa Administrative Bulletin on January 3, 2007, as **ARC 5630B**. A public hearing was held on January 24, 2007. The only comment received was positive and supported the rule change. The adopted amendment is identical to that published under Notice.

This amendment was adopted by the Commission on March 6, 2007.

This amendment is intended to implement Iowa Code sections 455B.213 and 455B.223.

This amendment shall become effective May 2, 2007.

The following amendment is adopted.

Amend paragraph **81.7(3)"a"** as follows:

a. Substitution of experience for education.

(1) One year of operating experience in a Grade II or higher position may be substituted for one year of post-high school education for Grade III certification up to one-half of the post-high school education requirement.

ENVIRONMENTAL PROTECTION COMMISSION[567](cont'd)

(2) One year of operating experience in a Grade III or higher position may be substituted for one year of post-high school education for Grade IV certification up to one-half of the post-high school education requirement.

(3) *Two years of direct responsible charge experience in a Grade III or higher position may be substituted for one year of directly related post-high school education for Grade IV certification up to three-fourths of the post-high school education requirement.*

(3) (4) That portion of experience which is applied toward substitution for education cannot also be used for experience.

[Filed 3/8/07, effective 5/2/07]

[Published 3/28/07]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 3/28/07.

ARC 5788B**ETHICS AND CAMPAIGN
DISCLOSURE BOARD, IOWA[351]****Adopted and Filed**

Pursuant to the authority of Iowa Code section 68B.32A, the Iowa Ethics and Campaign Disclosure Board hereby amends Chapter 4, "Campaign Disclosure Procedures," Iowa Administrative Code.

The amendments require campaign committees to disclose on campaign reports the names of campaign contributors in chronological order based on the date on which the contributors' monetary or in-kind contributions were received. The current rules permit the disclosure of campaign contributors in either chronological order or alphabetical order.

The amendments were published under Notice of Intended Action in the Iowa Administrative Bulletin on January 17, 2007, as **ARC 5664B**. No oral or written comments on the amendments were received. The amendments are identical to those published under Notice.

The Board adopted these amendments on February 28, 2007.

These amendments are intended to implement Iowa Code sections 68A.201 and 68A.402A(1).

These amendments will become effective on May 2, 2007.

The following amendments are adopted.

ITEM 1. Amend subrule 4.14(1) as follows:

4.14(1) Reporting of all monetary receipts; chronological ~~or alphabetical listings~~ *listing*. The committee shall report the amounts of all monetary receipts which are accepted by the committee during the reporting period. If a contribution is returned to a contributor prior to the end of the reporting period and is not deposited into the committee's bank account, the contribution is deemed to have been rejected and shall not be reported. A contribution which is physically received and either deposited into the committee's account or not returned by the end of the reporting period is deemed to have been accepted. The schedule entries shall be listed in ~~either chronological or alphabetical order by name of contributor~~ *the date on which the contribution is received*.

ITEM 2. Amend subrule 4.17(1) as follows:

4.17(1) Reporting of all in-kind contributions; chronological ~~or alphabetical listings~~ *listing*. The committee shall report the amounts of all in-kind contributions which are accepted by the committee during the reporting period. The schedule entries shall be listed in ~~either chronological or alphabetical order by name of contributor~~ *the date on which the contribution is received*.

[Filed 3/7/07, effective 5/2/07]

[Published 3/28/07]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 3/28/07.

ARC 5808B**INSURANCE DIVISION[191]****Adopted and Filed**

Pursuant to the authority of Iowa Code section 505.8, the Insurance Division hereby amends the following chapters of the Iowa Administrative Code: Chapter 5, "Regulation of Insurers—General Provisions," Chapter 20, "Property and Casualty Insurance Rate and Form Filing Procedures," Chapter 30, "Life Insurance Policies," Chapter 31, "Life Insurance Companies—Variable Annuities Contracts," Chapter 34, "Nonprofit Health Service Corporations," Chapter 35, "Accident and Health Insurance," Chapter 36, "Individual Accident and Health—Minimum Standards," Chapter 37, "Medicare Supplement Insurance Minimum Standards," and Chapter 39, "Long-Term Care Insurance."

The amended rules describe the procedures for filing insurance policy rates and forms for approval by the Insurance Division. The amendments change the procedures to require the filing of all rates and forms through electronic means in order to make the filing and approval process more efficient. The amendments will be effective May 2, 2007, and insurance producers and companies must comply beginning July 1, 2007.

Notice of Intended Action was published in the Iowa Administrative Bulletin on January 31, 2007, as **ARC 5698B**. A public hearing was held on February 20, 2007, at 10 a.m. at the offices of the Iowa Insurance Division, 330 Maple Street, Des Moines, Iowa. Following publication of the Notice, a technical change was made to subrule 20.1(1) to clarify that any fees required to be paid during the filing process would be paid electronically. Subrule 20.1(1) now reads as follows:

"20.1(1) Insurance companies required to file rates or forms with the division shall submit required rate and form filings and any fees required for the filings electronically using the National Association of Insurance Commissioners' System for Electronic Rate and Form Filing (SERFF). Insurance companies must comply with the division's requirements, including both the Iowa general instructions and the specific submission requirements for the type of insurance for which the companies are submitting forms or rates, as set out on the SERFF Web site at www.serff.org."

No other changes were made.

These amendments will become effective May 2, 2007.

These amendments are intended to implement Iowa Code section 505.8.

EDITOR'S NOTE: Pursuant to recommendation of the Administrative Rules Review Committee published in the Iowa Administrative Bulletin, September 10, 1986, the text of

INSURANCE DIVISION[191](cont'd)

these amendments [amendments to Chs 5, 20, 30, 31, 34 to 37, 39] is being omitted. With the exception of the change noted above, these amendments are identical to those published under Notice as **ARC 5698B**, IAB 1/31/07.

[Filed 3/9/07, effective 5/2/07]
[Published 3/28/07]

[For replacement pages for IAC, see IAC Supplement 3/28/07.]

ARC 5807B**INSURANCE DIVISION[191]****Adopted and Filed**

Pursuant to the authority of Iowa Code sections 505.8 and 507B.12, the Insurance Division hereby amends Chapter 15, "Unfair Trade Practices," Iowa Administrative Code.

The rules in Chapter 15 establish certain minimum standards and guidelines of conduct by identifying unfair methods of competition and unfair or deceptive acts or practices in the business of insurance.

These rules require certain specific training for insurance producers who wish to sell indexed annuities or indexed life insurance in Iowa. This additional training is necessary due to the complex nature of these indexed products and to ensure that an insurance producer is able to determine whether an indexed product is suitable for a consumer and is able to adequately explain to a consumer how the indexed product works. The rules will become effective May 2, 2007, and insurance producers and companies must be able to demonstrate compliance by January 1, 2008.

Notice of Intended Action was published in the Iowa Administrative Bulletin on December 20, 2006, as **ARC 5620B**. A public hearing was held on January 9, 2007, at the offices of the Iowa Insurance Division, 330 Maple Street, Des Moines, Iowa. Based on comments received at the public hearing and in writing, the compliance date was changed from July 1, 2007, to January 1, 2008, in rules 191—15.80(507B,522B) and 15.87(507B,522B).

In addition, the implementation sentence at the end of Chapter 15 was amended to include a reference to Iowa Code chapter 522B.

These amendments will become effective May 2, 2007.

These rules are intended to implement Iowa Code sections 505.8 and 507B.12.

The following amendments are adopted.

ITEM 1. Amend 191—Chapter 15 by adopting the following **new** division:

DIVISION VI

INDEXED PRODUCTS TRAINING REQUIREMENT

191—15.80(507B,522B) Purpose. The purpose of the rules in this division is to require certain specific minimum training for insurance producers who wish to sell indexed annuities or indexed life insurance in Iowa. This additional training is necessary due to the complex nature of these indexed products and to ensure that insurance producers are able to determine whether an indexed product is suitable for a consumer and are able to adequately explain to a consumer how the indexed product works. The ultimate goal of these rules is to ensure that purchasers of indexed products understand basic

features of the indexed products. The rules in this division apply to all indexed products sold on or after January 1, 2008.

191—15.81(507B,522B) Definitions. For the purpose of this division:

"CE credit" means one continuing education "credit" as defined in 191—Chapter 11.

"CE provider" means any individual or entity that is approved to offer continuing education courses in Iowa pursuant to 191—Chapter 11.

"Indexed products" means all fixed indexed life insurance and fixed indexed annuity products.

"Insurer" means an insurance company admitted to do business in Iowa which sells indexed products in Iowa.

"Producer" means a person required to obtain an insurance license under Iowa Code chapter 522B.

191—15.82(507B,522B) Special training required. A producer who wishes to sell indexed products in Iowa shall complete at least one four-credit indexed products training course, as described in this division, prior to providing any advice or making any sales presentation concerning an indexed product.

191—15.83(507B,522B) Conduct of training course.

15.83(1) The indexed products training shall include information on all topics listed in the most recent version of the indexed products training outline available at the division's Web site, www.iid.state.ia.us.

15.83(2) CE providers of indexed products training shall cover all topics listed in the indexed products training outline and, within the time allotted for the required topics, shall not present any marketing information or provide training on sales techniques or provide specific information about a particular insurer's products. Additional topics may be offered in conjunction with and in addition to the required outline.

15.83(3) The minimum length of the indexed products training must be sufficient to qualify for at least four CE credits, but may be longer.

15.83(4) To satisfy the requirements of subrules 15.83(1), 15.83(2) and 15.83(3), an indexed products training course shall be filed, approved and conducted according to the rules and guidelines applicable to insurance producer continuing education courses as set forth in 191—Chapter 11.

15.83(5) Indexed products training courses may be conducted and completed by classroom or self-study methods according to the rules in 191—Chapter 11.

15.83(6) CE providers of indexed products training shall comply with the reporting requirements as set forth in 191—Chapter 11.

15.83(7) CE providers of indexed products training shall issue certificates of completion according to the rules in 191—Chapter 11.

15.83(8) A producer may use the CE credits completed under the indexed products training requirement to meet the producer's continuing education requirement under 191—Chapter 11.

191—15.84(507B,522B) Insurer duties.

15.84(1) Each insurer shall establish a system to verify which of its appointed insurance producers have completed one training course on indexed products as required in this division.

15.84(2) An insurer shall verify that a producer has completed the required indexed products training before allowing the producer to sell an indexed product for that insurer.

15.84(3) For insurance producers under contract with or employed by a broker-dealer, general agent or independent

INSURANCE DIVISION[191](cont'd)

agency, an insurer may enter into a contract with the broker-dealer, general agent or independent agency to establish and maintain a system of verification as required by subrule 15.84(1) with respect to those insurance producers. In such circumstances, the insurer shall make reasonable inquiry to ensure that the broker-dealer, general agent or independent agency is performing the functions required under subrules 15.84(1) and 15.84(2).

191—15.85(507B,522B) Verification of training. Insurers, producers and third-party contractors may verify a producer's completion of the indexed products training by accessing the division's Web site at www.iid.state.ia.us.

191—15.86(507B,522B) Penalties.

15.86(1) Insurers and third-party contractors that violate the rules of this division are subject to penalty under Iowa Code chapter 507B.

15.86(2) Producers who violate the rules of this division are subject to penalty under Iowa Code chapters 507B and 522B.

15.86(3) Continuing education providers that fail to follow the requirements of the rules of this division and the conduct requirements of 191—Chapter 11 are subject to penalty

under 191—Chapter 11 and Iowa Code chapters 507B and 522B.

191—15.87(507B,522B) Compliance date.

15.87(1) A producer who provides advice or makes a sales presentation regarding an indexed product on or after January 1, 2008, shall have completed the indexed products training required by this division.

15.87(2) An Iowa-licensed insurer shall verify that, prior to the sale of any indexed products on or after January 1, 2008, any producer appointed by the insurer has completed the indexed products training required by this division.

ITEM 2. Amend **191—Chapter 15**, implementation sentence, as follows:

These rules are intended to implement Iowa Code ~~chapter~~ *chapters* 507B and 522B.

[Filed 3/9/07, effective 5/2/07]

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