



IOWA ADMINISTRATIVE BULLETIN

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PREFACE

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

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

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

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

STEPHANIE A. HOFF, Administrative Code Editor

Telephone: (515)281-3355

Fax: (515)281-5534

CITATION of Administrative Rules

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

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

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

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

NOTE: In accordance with Iowa Code section 2B.5A, a rule number within the Iowa Administrative Code includes a reference to the statute which the rule is intended to implement: 441—79.1(249A).

Schedule for Rule Making 2013

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

PRINTING SCHEDULE FOR IAB

<u>ISSUE NUMBER</u>	<u>SUBMISSION DEADLINE</u>	<u>ISSUE DATE</u>
10	Wednesday, October 23, 2013	November 13, 2013
11	Wednesday, November 6, 2013	November 27, 2013
12	Wednesday, November 20, 2013	December 11, 2013

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*****

EDUCATION DEPARTMENT[281]

Private instruction and dual enrollment, amendments to ch 31 IAB 10/16/13 ARC 1126C	State Board Room, Second Floor Grimes State Office Bldg. Des Moines, Iowa	November 5, 2013 1 to 2 p.m.
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ENVIRONMENTAL PROTECTION COMMISSION[567]

Air quality—nonattainment areas, amendments to chs 20, 22, 31, 33 IAB 9/18/13 ARC 1016C	Conference Rooms, Air Quality Bureau 7900 Hickman Rd. Windsor Heights, Iowa	October 21, 2013 1 p.m.
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Prohibition on campaign contributions from corporations, 4.44(1) IAB 9/18/13 ARC 1020C	Board Office, Suite 1A 510 E. 12th St. Des Moines, Iowa	October 17, 2013 1:30 to 2:30 p.m.
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Supporting documentation for complaint, 9.1(1) IAB 9/18/13 ARC 1019C	Board Office, Suite 1A 510 E. 12th St. Des Moines, Iowa	October 17, 2013 2:30 to 3:30 p.m.
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Policy form filing, 20.4(2) IAB 10/16/13 ARC 1127C	Division Offices, Fourth Floor Two Ruan Center 601 Locust St. Des Moines, Iowa	November 5, 2013 10 a.m.
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LABOR SERVICES DIVISION[875]

Safety standard—platform lifts and stairway chairlifts, 72.1(9) IAB 10/16/13 ARC 1108C	Capitol View Room 1000 East Grand Ave. Des Moines, Iowa	November 6, 2013 9 a.m. (If requested)
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Wrestling, boxing, mixed martial arts—general requirements for athletic events, adopt ch 169; amend chs 170 to 174, 177 IAB 10/16/13 ARC 1107C	Capitol View Room 1000 East Grand Ave. Des Moines, Iowa	November 6, 2013 1:30 p.m. (If requested)
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PUBLIC HEALTH DEPARTMENT[641]

Plumbing and mechanical systems board—licensure fees, 28.1 IAB 10/16/13 ARC 1128C (ICN Network)	First Floor North Grimes State Office Bldg. 400 E. 12th St. Des Moines, Iowa	November 5, 2013 11:30 a.m. to 12:30 p.m.
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Cresco-Crestwood High School 1000 Schroder Dr. Cresco, Iowa	November 5, 2013 11:30 a.m. to 12:30 p.m.
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Spirit Lake High School 2701 Hill Ave. Spirit Lake, Iowa	November 5, 2013 11:30 a.m. to 12:30 p.m.
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Iowa Falls Community College 1100 College Ave. Iowa Falls, Iowa	November 5, 2013 11:30 a.m. to 12:30 p.m.
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PUBLIC HEALTH DEPARTMENT[641] (cont'd)**(ICN Network)**

Clarinda Community College 923 E. Washington St. Clarinda, Iowa	November 5, 2013 11:30 a.m. to 12:30 p.m.
Ottumwa Hospital 1001 E. Pennsylvania Ottumwa, Iowa	November 5, 2013 11:30 a.m. to 12:30 p.m.
Waterloo Dept. of Human Services 501 Sycamore St. Waterloo, Iowa	November 5, 2013 11:30 a.m. to 12:30 p.m.
Council Bluffs Dept. of Human Services 417 E. Kanesville Blvd. Council Bluffs, Iowa	November 5, 2013 11:30 a.m. to 12:30 p.m.
Sheldon Community College 603 W. Park St. Sheldon, Iowa	November 5, 2013 11:30 a.m. to 12:30 p.m.
Notre Dame High School 702 S. Roosevelt Ave. Burlington, Iowa	November 5, 2013 11:30 a.m. to 12:30 p.m.
Mason City Community College 500 College Dr. Mason City, Iowa	November 5, 2013 11:30 a.m. to 12:30 p.m.
Xavier High School 6300 42nd St. NE Cedar Rapids, Iowa	November 5, 2013 11:30 a.m. to 12:30 p.m.

REAL ESTATE APPRAISER EXAMINING BOARD[193F]

Nonresident certification by reciprocity, 10.1 IAB 10/2/13 ARC 1035C	Professional Licensing Small Conf. Room Third Floor 200 E. Grand Ave. Des Moines, Iowa	October 23, 2013 8:30 a.m.
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Automated traffic enforcement on the primary road system, ch 144 IAB 10/2/13 ARC 1037C	Hampton Inn and Suites 6210 SE Convenience Blvd. Ankeny, Iowa	October 30, 2013 1 p.m.
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WORKFORCE DEVELOPMENT DEPARTMENT[871]

Online filing of unemployment insurance appeals, 26.4 to 26.6, 26.9, 26.12 IAB 10/16/13 ARC 1094C	Stanley Room 1000 E. Grand Ave. Des Moines, Iowa	November 6, 2013 1:30 p.m. (If requested)
Appealing party's participation in appeal hearing, 26.14 IAB 10/16/13 ARC 1095C	Stanley Room 1000 E. Grand Ave. Des Moines, Iowa	November 6, 2013 3 p.m. (If requested)

The following list will be updated as changes occur.

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

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

Other autonomous agencies are included alphabetically in SMALL CAPITALS at the left-hand margin.

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ARC 1106C

AGRICULTURE AND LAND STEWARDSHIP DEPARTMENT[21]

Notice of Termination

Pursuant to the authority of Iowa Code sections 201A.5 and 201A.8, the Department of Agriculture and Land Stewardship hereby terminates the rule making initiated by its Notice of Intended Action published in the Iowa Administrative Bulletin as **ARC 1006C** on September 4, 2013, proposing to amend Chapter 43, "Fertilizers and Agricultural Lime," Iowa Administrative Code.

The Notice proposed to increase the cost of testing individual samples of agricultural lime and also to reduce the number of samples being taken. The Department is terminating the rule making commenced in **ARC 1006C** based on comments received from the industry.

After analysis and review of this rule making, no adverse effect on jobs has been found.

ARC 1123C

COLLEGE STUDENT AID COMMISSION[283]

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 261.3, the Iowa College Student Aid Commission hereby gives Notice of Intended Action to amend Chapter 1, "Organization and Operation," Iowa Administrative Code.

The rules in Chapter 1 describe the organization and operations of the Commission. These amendments update the Commission's address, clarify meeting procedures, update information concerning fees for public records, and eliminate advisory council requirements.

Interested persons may submit comments orally or in writing by 4:30 p.m. on November 15, 2013, to the Executive Director, Iowa College Student Aid Commission, 430 East Grand Avenue, Third Floor, Des Moines, Iowa 50309-1920; fax (515)725-3401.

After analysis and review of this rule making, no impact on jobs has been found.

These amendments are intended to implement Iowa Code chapter 261.

The following amendments are proposed.

ITEM 1. Amend subrule 1.2(1) as follows:

1.2(1) Location. The commission is located ~~in the Iowa Building, 603 East 12th Street, 5th Floor~~ at 430 East Grand Avenue, Third Floor, Des Moines, Iowa 50309-3609 50309-1920; telephone (515)725-3400; ~~Web Internet site www.iowacollegeaid.org~~ www.iowacollegeaid.gov. Office hours are 8 a.m. to 4:30 p.m., Monday to Friday. Offices are closed on Saturdays and Sundays and on official state holidays designated in accordance with state law.

ITEM 2. Amend paragraph **1.2(3)“d”** as follows:

d. A specific time is set aside at each meeting for the public to address the commission. As a general guideline, a limit of five minutes will be allocated for each of these presentations. If a large group seeks to address a specific issue, the chairperson may limit the number of speakers. Members of the public who wish to address the commission during this portion of the meeting are required to ~~fill out a card, which is available upon request, that is to be given to~~ notify the commission's ~~confidential~~ administrative secretary prior to the meeting. The person's name and the subject of the person's remarks must be ~~noted~~ provided. To accommodate maximum public participation, members of the public are encouraged to submit ~~the cards~~ requests at least 72 hours in advance of the meeting.

COLLEGE STUDENT AID COMMISSION[283](cont'd)

ITEM 3. Amend subrule 1.2(4) as follows:

1.2(4) Minutes. The minutes of all commission meetings are recorded and kept by the executive director in the commission office. Upon approval by the commission, minutes are posted on the commission's Web Internet site.

ITEM 4. Amend subrule 1.2(5) as follows:

1.2(5) Records. The records of all business transacted and other information with respect to the operation of the commission are public records and are on file in the commission office. All records, except statements specified as confidential under these rules, are available for inspection during regular business hours. (Copies of records up to ~~ten~~ 25 pages in number may be obtained without charge. The cost of reproduction will be charged for pages in excess of ~~ten~~ 25. Digital media will be provided for a fee equal to the cost of the physical device provided. The charge may be waived by the executive director.)

ITEM 5. Rescind and reserve subrule **1.2(7)**.

ARC 1122C

COLLEGE STUDENT AID COMMISSION[283]

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 261.86, the Iowa College Student Aid Commission hereby gives Notice of Intended Action to amend Chapter 20, “Iowa National Guard Educational Assistance Program,” Iowa Administrative Code.

Chapter 20 describes the administration of the Iowa National Guard Educational Assistance Program. These amendments provide new definitions, ensure that late applications can be accepted for Guard members on active duty at the time of the application deadline, and renumber subrules as appropriate.

Interested persons may submit comments orally or in writing by 4:30 p.m. on November 15, 2013, to the Executive Director, Iowa College Student Aid Commission, 430 East Grand Avenue, Third Floor, Des Moines, Iowa 50309-1920; fax (515)725-3401.

The Commission does not intend to grant waivers under the provisions of these rules.

After analysis and review of this rule making, the Commission finds that there is no impact on jobs.

These amendments are intended to implement Iowa Code section 261.86 as amended by 2013 Iowa Acts, Senate File 332.

The following amendments are proposed.

ITEM 1. Renumber subrules **20.1(1)** to **20.1(6)** as **20.1(2)** to **20.1(7)**.

ITEM 2. Adopt the following **new** subrule 20.1(1):

20.1(1) Definitions. As used in this chapter:

“*Federal active duty*” means military duty performed pursuant to orders issued under Title 10, United States Code, other than for training.

“*State-defined payment period*” means one of five payment terms and corresponding deadlines as defined by the college student aid commission.

ITEM 3. Amend renumbered subrule 20.1(2) as follows:

20.1(2) Guard member eligibility. A recipient must:

a. Be a resident of Iowa, as defined by the adjutant general of Iowa, and a member of an Iowa army or air national guard unit throughout each term for which the member receives benefits.

b. Have satisfactorily completed required guard training.

COLLEGE STUDENT AID COMMISSION[283](cont'd)

- c. Have maintained satisfactory performance of guard duty.
- d. Have applied to the adjutant general of Iowa for program eligibility by the established application deadline date(s). The adjutant general shall accept an application from an eligible member of the Iowa national guard who was on federal active duty at the time of an application deadline if the application is received within 30 days after the eligible member returns to Iowa from federal active duty. The applicant will be considered for funding for the state-defined payment period in which the application was received and any future state-defined payment periods in that academic year.
- e. Be pursuing a certificate or undergraduate degree program at an eligible Iowa college or university and maintaining satisfactory academic progress.
- f. Provide notice of national guard status to the college or university at the time of registration.

ARC 1121C

COLLEGE STUDENT AID COMMISSION[283]**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 261.113, the Iowa College Student Aid Commission hereby gives Notice of Intended Action to adopt a new Chapter 24, “Rural Iowa Primary Care Loan Repayment Program,” Iowa Administrative Code.

The rules in new Chapter 24 describe the administration of a new Rural Iowa Primary Care Loan Repayment Program pursuant to Iowa Code section 261.113.

Interested persons may submit comments orally or in writing by 4:30 p.m. on November 15, 2013, to the Executive Director, Iowa College Student Aid Commission, 430 East Grand Avenue, Third Floor, Des Moines, Iowa 50309-1920; fax (515)725-3401.

The Commission does not intend to grant waivers under the provisions of these rules.

After analysis and review of this rule making, the Commission finds that there could be a positive impact on jobs. This rule making provides student loan repayment dollars to be distributed to individuals who will work in Iowa communities. Individuals will be able to work in rural Iowa settings.

These rules are intended to implement Iowa Code section 261.113 as amended by 2013 Iowa Acts, House File 604, sections 14 and 15.

The following amendment is proposed.

Adopt the following **new** 283—Chapter 24:

CHAPTER 24

RURAL IOWA PRIMARY CARE LOAN REPAYMENT PROGRAM

283—24.1(261) Rural Iowa primary care loan repayment program. The rural Iowa primary care loan repayment program is a state-supported and administered loan repayment program for students who agree to practice as physicians in service commitment areas for 60 consecutive months and meet the requirements of these rules.

283—24.2(261) Definitions. As used in this chapter:

“*Eligible loan*” means the physician’s total subsidized, unsubsidized, and consolidated Federal Stafford Loan amount under the Federal Family Education Loan Program or the Federal Direct Loan Program, including principal and interest. Only the outstanding portion of a federal consolidation loan

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that was used to repay an eligible subsidized or unsubsidized Federal Stafford Loan qualifies for loan repayment.

“Eligible university” means either the State University of Iowa Carver College of Medicine or Des Moines University College of Osteopathic Medicine.

“Maximum award” means the maximum amount of loan repayments that the physician can receive after completing all obligations under the rural Iowa primary care loan repayment program, not to exceed a total of \$200,000. The maximum award can be applied only to eligible loans; thus, payments cannot exceed the outstanding eligible loan balance at the time of payment.

“Physician” means an individual who holds a practitioner’s license issued by an agency or board under the Iowa department of public health and is employed in the practice of medicine and surgery or osteopathic medicine and surgery, specializing in family medicine, pediatrics, psychiatry, internal medicine, or general surgery.

“Residency program” means an accredited medical residency program located in the state of Iowa in which the residency is physically performed in the state of Iowa.

“Service commitment area” means a medically underserved Iowa city with a population of less than 26,000 that is located more than 20 miles from a city with a population of 50,000 or more. Each physician participating in the program must contract with the service commitment area to ensure the service commitment area provides a nonrefundable \$20,000 contribution for deposit in the rural Iowa primary care trust fund. Payment of the nonrefundable contribution to the trust fund can be made by, but is not limited to, the following organizations: community agencies, hospitals, medical groups, municipalities, community foundations, local government entities, or other community entities. Locations and distances between cities will be consistently measured and verified by calculating the straight-line distance between main post offices.

283—24.3(261) Eligibility requirements.

24.3(1) An eligible university will recommend up to ten applicants to the commission for loan repayment benefits. Priority will be given to students who are Iowa residents upon enrolling in the eligible university. The criteria used by the state board of regents to determine residency for tuition purposes, Iowa Administrative Code rule 681—1.4(262), are adopted for this program. Fifty percent of the agreements shall be entered into by students attending each eligible university.

a. The commission will annually determine and communicate the number of recommendations that can be funded at each eligible university.

b. If fewer than one-half of the total recommendations in 24.3(1) “*a*” are fulfilled by students at one eligible university, the commission may obtain additional recommendations from the other eligible university to award the remaining agreements.

24.3(2) An applicant must enter into an agreement with the commission when the applicant begins curriculum leading to a doctor of medicine or osteopathy degree.

24.3(3) An applicant must remain enrolled on a full-time basis in each term of enrollment and graduate with a doctor of medicine or osteopathy degree from an eligible university. The commission may waive the full-time enrollment requirement for a temporary time frame only in the instance of a leave of absence approved by an eligible university. The applicant must request a waiver from the commission in writing.

24.3(4) An applicant must apply for, enter, and complete a residency program in Iowa.

24.3(5) Within nine months of graduating from the residency program, an applicant must receive a permanent license to practice medicine and surgery or osteopathic medicine and surgery in the state of Iowa and engage in full-time practice, as defined by the service commitment area, of medicine and surgery or osteopathic medicine and surgery specializing in family medicine, pediatrics, psychiatry, internal medicine, or general surgery for a period of 60 consecutive months in a service commitment area.

24.3(6) An applicant must annually complete and return to the commission an affidavit of full-time enrollment at an eligible university and, when applicable, an annual affidavit of acceptance into and

COLLEGE STUDENT AID COMMISSION[283](cont'd)

completion of residency programs and acceptance of and completion of employment obligations in a service commitment area.

24.3(7) Prior to or upon engagement in full-time employment in a service commitment area, the physician must contract with a service commitment area to provide a nonrefundable \$20,000 contribution for deposit in the rural Iowa primary care trust fund. Payment must be received by the commission from a service commitment area prior to payment of any loan repayment awards.

24.3(8) Failure by the applicant to meet all eligibility requirements under this rule and in the agreement will result in forfeiture of all remaining unpaid payments.

283—24.4(261) Awarding of funds.

24.4(1) Prior to accepting an offer of employment, the physician must notify the commission of the service commitment area in which the physician will be employed, and the commission will verify the eligibility of the service commitment area.

24.4(2) The maximum award will be paid to the physician's eligible loan holder in five equal installments, upon successful completion of each of five 12-month employment obligations. Failure to complete all, or any portion, of the 60-consecutive-month employment obligation will result in the forfeiture of all remaining unpaid payments. A physician who fails to meet the requirements of these rules may also be subject to repayment of moneys advanced by the service commitment area as provided in any contract between the physician and the service commitment area.

24.4(3) No loan repayment amounts will be paid until the service commitment area provides the nonrefundable \$20,000 contribution for deposit into the rural Iowa primary care trust fund.

283—24.5(261) Waivers.

24.5(1) *Service commitment area.* The commission may waive the requirement that the physician practice in the same service commitment area for all 60 months. The physician must request a waiver from the commission in writing.

24.5(2) *Full-time employment.* The commission may waive the requirement that the physician be employed full-time if the physician demonstrates exceptional circumstances. The physician must request a waiver from the commission in writing. If a waiver request is granted by the commission, the agreement will be amended to provide an allowance for part-time employment. The 60-month employment obligation will be proportionally extended to ensure the physician is employed in a service commitment area for the equivalent of 60 full-time months.

24.5(3) *Postponement of physician employment.* The physician obligation to engage in practice in accordance with 24.3(5) may be postponed for no more than two years from the time full-time practice was to commence. The physician must request a waiver from the commission in writing for one of the following purposes:

- a. Active duty service in the armed forces, the armed forces military reserve, or the national guard.
- b. Service in Volunteers in Service to America or the federal Peace Corps.
- c. A service commitment to the United States Public Health Service Commissioned Corps.
- d. A period of religious missionary work conducted by an organization exempt from federal income taxation pursuant to Section 501(c)(3) of the Internal Revenue Code.

The physician obligation to engage in practice in accordance with 24.3(5) may be postponed for a period exceeding two years for any period of temporary medical incapacity, including leave approved under the Family and Medical Leave Act, during which the physician is unable to engage in full-time practice. The physician must request a waiver from the commission in writing.

24.5(4) *Satisfaction of physician employment.* All obligations under the rural Iowa primary care loan repayment program are considered to be satisfied when any of the following conditions are met:

- a. All terms of the agreement are met.
- b. The person who entered into the agreement dies.
- c. The person who entered into the agreement, due to permanent disability, is unable to meet the requirements of these rules.
- d. The person who entered into the agreement has no remaining eligible loan balance to repay.

COLLEGE STUDENT AID COMMISSION[283](cont'd)

283—24.6(261) Loan repayment cancellation.

24.6(1) Within 30 days following withdrawal from an eligible university, or termination of employment from a residency program or as a physician in a service commitment area, the applicant must notify the commission.

24.6(2) The applicant is responsible for notifying the commission immediately of a change in contact information including, but not limited to, name, telephone number, e-mail address, and place of employment.

283—24.7(261) Restrictions. A physician who is in default on a Federal Stafford Loan, Grad PLUS Loan, SLS Loan, Perkins/National Direct/National Defense Student Loan, Health Professions Student Loan (HPSL), or Health Education Assistance Loan (HEAL) or who owes a repayment on any Title IV grant assistance or state award shall be ineligible for loan repayment. Eligibility may be reinstated upon payment in full of the delinquent obligation or by commission ruling on the basis of adequate extenuating evidence presented in appeal under the procedures set forth in 283—Chapters 4 and 5.

These rules are intended to implement Iowa Code section 261.113.

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COLLEGE STUDENT AID COMMISSION[283]**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 2013 Iowa Acts, House File 604, section 16(7), the Iowa College Student Aid Commission hereby gives Notice of Intended Action to adopt a new Chapter 25, “Rural Iowa Advanced Registered Nurse Practitioner and Physician Assistant Loan Repayment Program,” Iowa Administrative Code.

The rules in new Chapter 25 describe the administration of a new Rural Iowa Advanced Registered Nurse Practitioner and Physician Assistant Loan Repayment Program pursuant to 2013 Iowa Acts, House File 604, section 16 (new Iowa Code section 261.114).

Interested persons may submit comments orally or in writing by 4:30 p.m. on November 15, 2013, to the Executive Director, Iowa College Student Aid Commission, 430 East Grand Avenue, Third Floor, Des Moines, Iowa 50309-1920; fax (515)725-3401.

The Commission does not intend to grant waivers under the provisions of these rules.

After analysis and review of this rule making, the Commission finds that there could be a positive impact on jobs. This rule making provides student loan repayment dollars to be distributed to individuals who will work in Iowa communities. Individuals will be able to work in rural Iowa settings.

These rules are intended to implement 2013 Iowa Acts, House File 604, section 16.

The following amendment is proposed.

Adopt the following **new** 283—Chapter 25:

CHAPTER 25

RURAL IOWA ADVANCED REGISTERED NURSE PRACTITIONER AND
PHYSICIAN ASSISTANT LOAN REPAYMENT PROGRAM

283—25.1(261) Rural Iowa advanced registered nurse practitioner and physician assistant loan repayment program. The rural Iowa advanced registered nurse practitioner and physician assistant loan

COLLEGE STUDENT AID COMMISSION[283](cont'd)

repayment program is a state-supported and administered loan repayment program for applicants who agree to practice as advanced registered nurse practitioners or physician assistants in service commitment areas for 60 consecutive months and meet the requirements of these rules.

283—25.2(261) Definitions. As used in this chapter:

“Advanced registered nurse practitioner” means an individual who graduated from a doctorate of nursing practice degree program at an eligible university, holds a practitioner’s license to practice as an advanced registered nurse practitioner pursuant to Iowa Code chapter 152, and is employed in the practice of nursing in an eligible service commitment area.

“Eligible loan” means the advanced registered nurse practitioner’s or physician assistant’s total subsidized, unsubsidized, and consolidated Federal Stafford Loan amount under the Federal Family Education Loan Program or the Federal Direct Loan Program, including principal and interest. Only the outstanding portion of a federal consolidation loan that was used to repay an eligible subsidized or unsubsidized Federal Stafford Loan qualifies for loan repayment.

“Eligible university” means either the State University of Iowa Carver College of Medicine or Des Moines University College of Health Sciences.

“Maximum award” means the maximum amount of loan repayments that the advanced registered nurse practitioner or physician assistant can receive after completing all obligations under the rural Iowa advanced registered nurse practitioner and physician assistant loan repayment program, not to exceed a total of \$20,000. The maximum award can be applied only to eligible loans; thus, payments cannot exceed the outstanding eligible loan balance at the time of payment.

“Physician assistant” means an individual who graduated with a master’s degree in a physician assistant studies program at an eligible university, holds a practitioner’s license to practice as a physician assistant pursuant to Iowa Code chapter 148C, and is employed as a physician assistant in an eligible service commitment area.

“Service commitment area” means a medically underserved Iowa city with a population of less than 26,000 that is located more than 20 miles from a city with a population of 50,000 or more. Each applicant participating in the program must contract with the service commitment area to ensure the service commitment area provides a nonrefundable \$2,000 contribution for deposit in the rural Iowa advanced registered nurse practitioner and physician assistant trust fund. Payment of the nonrefundable contribution to the trust fund can be made by, but is not limited to, the following organizations: community agencies, hospitals, medical groups, municipalities, community foundations, local government entities, or other community entities. Locations and distances between cities will be consistently measured and verified by calculating the straight-line distance between main post offices.

283—25.3(261) Eligibility requirements.

25.3(1) The commission will annually determine and communicate the number of recommendations that can be funded in each physician assistant studies degree program or doctorate of nursing practice degree program at each eligible university. The intent of this determination will be to ensure that an equal number of students in each program at an eligible university are able to enter into an agreement. Priority will be given to applicants who are Iowa residents upon enrolling in the eligible university. The criteria used by the state board of regents to determine residency for tuition purposes, Iowa Administrative Code rule 681—1.4(262), are adopted for this program. If fewer than the maximum number of recommendations of students in either a physician assistant studies degree program or doctorate of nursing practice degree program is recommended at one eligible university, the commission may obtain additional recommendations from the other eligible university to award the remaining agreements.

25.3(2) An applicant must enter into an agreement with the commission when the applicant begins curriculum leading to a doctor of nursing practice degree or a master’s degree in physician assistant studies.

25.3(3) An applicant must remain enrolled on a full-time basis in each term of enrollment and graduate with a doctor of nursing practice degree or a master’s degree in physician assistant studies

COLLEGE STUDENT AID COMMISSION[283](cont'd)

from an eligible university. The commission may waive the full-time enrollment requirement for a temporary time frame only in the instance of a leave of absence approved by an eligible university. The applicant must request a waiver from the commission in writing.

25.3(4) Within nine months of graduating with a doctor of nursing practice degree or a master's degree in physician assistant studies from an eligible university, an applicant must receive a permanent license to practice nursing or to work as a physician assistant in the state of Iowa and engage in full-time practice, as defined by the service commitment area, as a nurse or physician assistant for a period of 60 consecutive months in a service commitment area.

25.3(5) An applicant must annually complete and return to the commission an affidavit of full-time enrollment at an eligible university and, when applicable, an affidavit of completion of the employment obligation in a service commitment area.

25.3(6) Prior to or upon engagement in full-time employment in a service commitment area, the advanced registered nurse practitioner or physician assistant must contract with the service commitment area to provide a nonrefundable \$2,000 contribution for deposit in the rural Iowa advanced registered nurse practitioner and physician assistant trust fund. Payment must be received by the commission from the service commitment area prior to payment of any loan repayment awards to the advanced registered nurse practitioner or physician assistant.

25.3(7) Failure by the applicant to meet all eligibility requirements under these rules and in the agreement will result in forfeiture of all remaining unpaid payments.

283—25.4(261) Awarding of funds.

25.4(1) Prior to accepting an offer of employment, the advanced registered nurse practitioner or physician assistant must notify the commission of the service commitment area in which the advanced registered nurse practitioner or physician assistant will be employed, and the commission will verify the eligibility of the service commitment area.

25.4(2) The maximum award will be paid to the advanced registered nurse practitioner or physician assistant's eligible loan lender in one installment, upon successful completion of the 60-month employment obligation. Failure to complete all, or any portion, of the 60-consecutive-month employment obligation will result in the forfeiture of all payments. An advanced registered nurse practitioner or physician assistant who fails to meet the requirements of these rules may also be subject to repayment of moneys advanced by the service commitment area as provided in any contract between the advanced registered nurse practitioner or physician assistant and the service commitment area.

25.4(3) No loan repayment amounts will be paid until the service commitment area provides the nonrefundable \$2,000 contribution for deposit into the rural Iowa advanced registered nurse practitioner and physician assistant trust fund.

283—25.5(261) Waivers.

25.5(1) *Service commitment area.* The commission may waive the requirement that the advanced registered nurse practitioner or physician assistant practice in the same service commitment area for all 60 months. The advanced registered nurse practitioner or physician assistant must request a waiver from the commission in writing.

25.5(2) *Full-time employment.* The commission may waive the requirement that the advanced registered nurse practitioner or physician assistant be employed full-time if the advanced registered nurse practitioner or physician assistant demonstrates exceptional circumstances. The advanced registered nurse practitioner or physician assistant must request a waiver from the commission in writing. If a waiver request is granted by the commission, the agreement will be amended to provide an allowance for part-time employment. The 60-month employment obligation will be proportionally extended to ensure the advanced registered nurse practitioner or physician assistant is employed in a service commitment area for the equivalent of 60 full-time months.

25.5(3) *Postponement of advanced registered nurse practitioner or physician assistant employment.* The advanced registered nurse practitioner or physician assistant obligation to engage in practice in accordance with 25.3(4) may be postponed for no more than two years from the time

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full-time practice was to commence. The advanced registered nurse practitioner or physician assistant must request a waiver from the commission in writing for one of the following purposes:

- a. Active duty service in the armed forces, the armed forces military reserve, or the national guard.
- b. Service in Volunteers in Service to America or the federal Peace Corps.
- c. A service commitment to the United States Public Health Service Commissioned Corps.
- d. A period of religious missionary work conducted by an organization exempt from federal income taxation pursuant to Section 501(c)(3) of the Internal Revenue Code.

The advanced registered nurse practitioner or physician assistant obligation to engage in practice in accordance with 25.3(4) may be postponed for a period exceeding two years for any period of temporary medical incapacity, including leave approved under the Family and Medical Leave Act, during which the advanced registered nurse practitioner or physician assistant is unable to engage in full-time practice. The advanced registered nurse practitioner or physician assistant must request a waiver from the commission in writing.

25.5(4) *Satisfaction of advanced registered nurse practitioner or physician assistant employment.* All obligations under the rural Iowa advanced registered nurse practitioner and physician assistant loan repayment program are considered to be satisfied when any of the following conditions are met:

- a. All terms of the agreement are met.
- b. The person who entered into the agreement dies.
- c. The person who entered into the agreement, due to permanent disability, is unable to meet the requirements of these rules.
- d. The person who entered into the agreement has no remaining eligible loan balance to repay.

283—25.6(261) Loan repayment cancellation.

25.6(1) Within 30 days following withdrawal from an eligible university, or termination of employment from a residency program or as an advanced registered nurse practitioner or physician assistant in a service commitment area, the applicant must notify the commission.

25.6(2) The applicant is responsible for notifying the commission immediately of a change in contact information including, but not limited to, name, telephone number, e-mail address, and place of employment.

283—25.7(261) Restrictions. A advanced registered nurse practitioner or physician assistant who is in default on a Federal Stafford Loan, Grad PLUS Loan, SLS Loan, Perkins/National Direct/National Defense Student Loan, Health Professions Student Loan (HPSL), or Health Education Assistance Loan (HEAL) or who owes a repayment on any Title IV grant assistance or state award shall be ineligible for loan repayment. Eligibility may be reinstated upon payment in full of the delinquent obligation or by commission ruling on the basis of adequate extenuating evidence presented in appeal under the procedures set forth in 283—Chapters 4 and 5.

These rules are intended to implement Iowa Code chapter 261 as amended by 2013 Iowa Acts, House File 604, section 16.

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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 299A.10 and 2013 Iowa Acts, House File 215 and House File 454, the State Board of Education hereby proposes to amend Chapter 31, “Competent Private Instruction and Dual Enrollment,” Iowa Administrative Code.

In 2013, the enacted education reform bill included provisions to allow parents who choose private instruction to enroll their child in competent private instruction, independent private instruction, or private instruction by a nonlicensed person (also deemed a form of competent private instruction for certain purposes). 2013 Iowa Acts, House File 215 and House File 454, also provided changes in the access to and the costs of annual achievement evaluations for students under private instruction. The Department is proposing changes to these rules to reflect the newly enacted provisions regarding private instruction. In addition, the Department is proposing changes to align this chapter with the requirements of special education law and to make a technical correction concerning blood lead testing. The Department anticipates that these proposed amendments will become effective on January 15, 2014.

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

A public hearing will be held from 1 to 2 p.m. on November 5, 2013, in the State Board Room on the Second Floor of the 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. All persons who intend to attend the public hearing and have special requirements, such as those related to hearing or mobility impairments, should advise the Department of Education of specific needs by calling (515)281-5295.

Any interested person may make written comments on the proposed amendments on or before November 5, 2013, at 4:30 p.m. Comments should be directed to Mike Cormack, Rules Coordinator, Grimes State Office Building, Second Floor, 400 East 14th Street, Des Moines, Iowa 50319-0146; telephone (515)281-3399; or submitted by e-mail to mike.cormack@iowa.gov.

After analysis and review of this rule making, there is no job impact anticipated from the proposed amendments.

These amendments are intended to implement Iowa Code chapters 299 and 299A as amended by 2013 Iowa Acts, House File 215 and House File 454.

The following amendments are proposed.

ITEM 1. Amend **281—Chapter 31**, title, as follows:

~~COMPETENT PRIVATE INSTRUCTION AND DUAL ENROLLMENT~~

ITEM 2. Amend rule 281—31.1(299,299A) as follows:

281—31.1(299,299A) Purpose and definitions.

31.1(1) Purpose. It is the purpose of this chapter to give guidance concerning the provision, assistance, and supervision of ~~competent~~ private instruction to children of compulsory attendance age outside the traditional school setting. This chapter also establishes responsibilities related to dual enrollment.

31.1(2) Definitions. The following definitions apply to this chapter:

a. “Competent private instruction” means private instruction provided on a daily basis for at least 148 days during a school year, to be met by attendance for at least 37 days each school quarter, by or under the supervision of a licensed practitioner in the manner provided under Iowa Code section 299A.2

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and this chapter, which results in the student about whom a report of private instruction has been filed making adequate progress.

b. "Independent private instruction" means instruction that meets the following criteria:

- (1) Is not accredited.
- (2) Enrolls not more than four unrelated students.
- (3) Does not charge tuition, fees, or other remuneration for instruction.
- (4) Provides private or religious-based instruction as its primary purpose.
- (5) Provides enrolled students with instruction in mathematics, reading and language arts, science, and social studies.
- (6) Provides, upon written request from the superintendent of the school district in which the independent private instruction is provided, or from the director of the department of education, a report identifying the primary instructor, name and location of the authority responsible for the independent private instruction, and the names of the students enrolled.
- (7) Is not a nonpublic school and does not provide competent private instruction as defined in Iowa Code section 299A.1 as amended by 2013 Iowa Acts, House File 215, section 87, and these rules.
- (8) Is exempt from all state statutes and administrative rules applicable to a school, a school board, or a school district, except as otherwise provided in Iowa Code chapters 299 and 299A as amended by 2013 Iowa Acts, House Files 215 and 454.

c. "Private instruction" means instruction using a plan and a course of study in a setting other than a public or organized accredited nonpublic school.

ITEM 3. Amend subrule 31.2(1) as follows:

31.2(1) Reporting. The Subject to subrule 31.2(3), the parent, guardian, or legal or actual custodian of a child of compulsory attendance age who does not enroll the child in a public school or Iowa accredited nonpublic school or who is not obtaining independent private instruction for the child shall complete a report in duplicate on forms created by the department of education and provided by the resident public school district, indicating the parent, guardian, or legal or actual custodian's intent to provide or arrange for competent private instruction for the child for each school year. The report shall be filed with the school board secretary district by August 26, except as otherwise provided by these rules September 1 of the school year in which the child will be under competent private instruction.

a. The report shall include the following information:

- (1) The name and address of the parent, guardian, or legal or actual custodian reporting;
- (2) The name and birth date of the child;
- (3) An indication of the number of days of instruction, which must be a minimum of 148 days per academic year;
- (4) The name and address of the person or persons providing competent private instruction to the child and an indication of whether that each such person is the holder of a valid Iowa practitioner license or teaching certificate appropriate to the age and grade level of the child being taught;
- (5) An outline of the courses of study, including subjects covered, lesson plans, and time spent on the areas of study;
- (6) The titles and authors or publishers of the texts to be used;
- (7) Evidence of immunization of the child or evidence of exemption, as required by law, if the child is being placed under competent private instruction for the first time and, if the child is younger than ten years of age, a blood lead test in accordance with Iowa Code section 135.105D. NOTE: Noncompliance with the blood lead test requirement shall not be considered a violation of compulsory attendance laws.

b. The report shall also seek the following information, which may be supplied by the person filing the report:

- (1) An indication of whether and to what extent dual enrollment of the child in the public school is desired;
- (2) An indication of whether the child is currently identified as a child requiring special education pursuant to the rules of special education;

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(3) An indication of which form of annual assessment, if applicable, is to be administered to the child and which test, if known, is desired.

ITEM 4. Adopt the following **new** subrules 31.2(3) and 31.2(4):

31.2(3) Reporting requirement option: private instruction exemption. A parent, guardian, or legal or actual custodian of a child of compulsory attendance age providing competent private instruction to the child under Iowa Code section 299A.3 as amended by 2013 Iowa Acts, House File 215, section 88, (private instruction by nonlicensed person) may meet, but is not required to meet, all of the following requirements:

a. Complete and send, in a timely manner, the report required under Iowa Code section 299.4 as amended by 2013 Iowa Acts, House File 215, sections 84 to 86, and this rule to the school district of residence of the child.

b. Ensure that the child under the parent's, guardian's, or legal or actual custodian's instruction is evaluated annually to determine whether the child is making adequate progress, as defined in Iowa Code section 299A.6 and this chapter.

c. Ensure that the results of the child's annual evaluation are reported to the school district of residence of the child and to the department of education by a date not later than June 30 of each year in which the child is under competent private instruction.

31.2(4) Reporting requirement option not available.

a. The reporting requirement option provided in subrule 31.2(3) shall not be available to any parent, guardian, or legal or actual custodian who requests services from a school district or area education agency under this chapter, including but not limited to provision of instructional materials under subrule 31.5(4), assistance from a home school assistance program under subrule 31.5(5), dual enrollment under rule 281—31.6(299A), open enrollment under rule 281—31.7(299), or special education services under rule 281—31.10(299A). Parents who elect the reporting requirement option under subrule 31.2(3) and who request testing assistance under subrule 31.5(2) or an approved course in driver education under subrule 31.5(6) need not complete the form required by subrule 31.2(1), but must demonstrate that the child is receiving competent private instruction pursuant to this chapter.

b. Notwithstanding the reporting requirement option described in subrule 31.2(3), a parent, guardian, or legal or actual custodian of a child currently requiring special education must obtain approval pursuant to rule 281—31.10(299A) before providing competent private instruction, unless that rule provides otherwise.

ITEM 5. Amend subrule 31.5(1) as follows:

31.5(1) Reports.

a. to e. No change.

f. Upon the request of a parent, guardian, or legal or actual custodian of a child of compulsory attendance age who is under competent private instruction, or upon the referral of a licensed practitioner who provides instruction or instructional supervision of a child of compulsory attendance age who is under competent private instruction, or upon any other evidence that the child may require special education, the district shall refer a child who may require special education to the area education agency division of special education for evaluation.

g. The district may request a parent, guardian, or legal or actual custodian of a child of compulsory attendance age providing competent private instruction to the child under Iowa Code section 299A.3 as amended by 2013 Iowa Acts, House File 215, section 88, (private instruction by nonlicensed person) to provide the information required by this subrule; however, the parent, guardian, or legal or actual custodian is not required to do so, pursuant to Iowa Code section 299A.3 as amended by 2013 Iowa Acts, House File 215, section 88, and subrule 31.2(3).

ITEM 6. Amend subrule 31.5(2) as follows:

31.5(2) Testing assistance.

a. ~~If a child is under dual enrollment and the standardized test option has been selected~~ requested by the child's parent, guardian, or legal or actual custodian, the district shall administer the standardized test to the child, delegate the test administration to the appropriate area education agency, or allow

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the child's parent, guardian, or legal or actual custodian to procure standardized testing through a correspondence or other school accredited by an accrediting agency approved by the federal Department of Education, or through any testing service authorized by the publisher of any test approved by the state department of education for assessment purposes. ~~If the child is under dual enrollment, no~~ No fee is charged to the parent, guardian, or legal or actual custodian for such assessment.

~~b. If a child under competent private instruction, and not under dual enrollment, is to be administered a standardized test for purposes of assessment, the district shall charge and collect from the child's parent, guardian, or legal or actual custodian a fee for the actual cost of the testing if administered by the public school or area education agency. The fee shall include the cost of the test materials, a prorated fee reflective of the personnel costs of administration based upon the number of students taking the test, and the cost of scoring.~~

~~e. b.~~ If a student has been administered an approved standardized test by a correspondence or other school accredited by an accrediting agency approved by the federal Department of Education, or by any testing service authorized by the publisher of any test approved by the state department of education for assessment purposes during the academic school year for which testing is required and the administration of the test has met the terms or protocol of the test publisher, a copy of the test result report, from which test results not required under law may be redacted, may be submitted to the resident district by the parent, guardian, or legal or actual custodian of the child being tested, in satisfaction of the annual assessment option. The submitted test results shall be accompanied by a certification statement signed by the test administrator to the effect that the publisher's protocol or terms required for test administration have been met.

c. The administration of the annual achievement evaluation shall not constitute a dual enrollment purpose under Iowa Code section 299A.8 as amended by 2013 Iowa Acts, House File 215, section 94, and this rule.

ITEM 7. Amend subrule 31.5(3) as follows:

31.5(3) Finance.

a. A public school district may count a competent private instruction student for purposes of its certified enrollment only under the following circumstances:

~~a. (1)~~ A resident student or the student's parent, guardian, or legal or actual custodian has requested dual enrollment, in which case the student is counted as authorized by law. However, if the student is receiving special education services or instruction, the student shall qualify for additional weighting pursuant to the provisions of Iowa Code section 257.6; or

~~b. (2)~~ The school district provides an Iowa licensed practitioner to instruct or to assist and supervise parents, guardians, or legal or actual custodians providing competent private instruction and the child has been enrolled in the district's home school assistance program.

b. Dual enrollment of a child is not required solely for purposes of accessing the annual achievement evaluation, and the administration of the annual achievement evaluation shall not constitute a dual enrollment purpose.

ITEM 8. Adopt the following **new** subrule 31.5(6):

31.5(6) Driver education. The public school district shall offer or make available to all resident students, including those receiving competent private instruction on an equal basis with students enrolled in the district, an approved course in driver education, as required by Iowa Code section 321.178(1) "c" as amended by 2013 Iowa Acts, House File 215, section 99.

ITEM 9. Amend subrule 31.6(1) as follows:

31.6(1) The parent, guardian, or legal or actual custodian of a child who is receiving competent private instruction may enroll the child in the school district of residence of the child under dual enrollment. The parent, guardian, or legal or actual custodian desiring dual enrollment shall notify the district of residence of the child not later than September 15 of the school year for which dual enrollment is sought. If the child is not of compulsory school attendance age, the parent, guardian, or legal or actual custodian is only required to provide the name of the child, age of the child, contact

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information for the person requesting the dual enrollment, and a listing of the programs or services for which dual enrollment is requested.

ITEM 10. Amend rule 281—31.10(299A) as follows:

281—31.10(299A) Special education students. Any duty to attempt to find and to offer to evaluate all children who may require special education includes children in private instruction. When there is evidence that a child receiving private instruction may be eligible for special education under 281—Chapter 41, parental consent to evaluate will be sought. Parents may decline consent to evaluate, and public agencies are not required to use the procedural safeguards of 281—Chapter 41 to obtain an evaluation.

When a child has been identified as currently requiring special education, the child is eligible to receive competent private instruction with the written approval of the director of special education of the area education agency of the child's district of residence unless the child's parent declines consent to continued services or refuses consent to a periodic reevaluation.

The director of special education of each area education agency shall issue a written decision, approving provision of competent private instruction, conditioning approval on modification of the proposed program, or denying approval, based upon the appropriateness of the proposed competent private instruction program for the child requiring special education, considering the child's individual disability. Pursuant to 34 CFR Section 300.300, the parent, guardian, or legal or actual custodian of a child with a disability is not required to seek approval from the area education agency to provide competent private instruction for the child if the parent, guardian, or legal or actual custodian does not consent to initial evaluation or to reevaluation of the child for receipt of special education services or programs.

The request for approval for placement under competent private instruction by the parent, guardian, or legal or actual custodian may be presented to the special education director at any time during the calendar year. If the special education director denies approval or if no written decision has been rendered within 30 calendar days, that decision or the absence thereof is subject to review by an impartial administrative law judge under provisions of 20 U.S.C. Section 1401 et seq., federal regulations adopted thereunder, and Iowa Code section 256B.6 and rules adopted thereunder found at 281—41.500(256B,34CFR300) et seq.

If a parent, guardian, or legal or actual custodian of a child requiring special education provides competent private instruction without the approval of the director of special education, the director may either request an impartial hearing before an administrative law judge under the rules of special education, 281—41.500(256B,34CFR300) et seq., or notify the secretary of the child's district of residence for referral of the matter to the county attorney pursuant to Iowa Code section 256B.6, incorporating Iowa Code chapter 299, unless the parent, guardian, or legal or actual custodian does not consent to initial evaluation or to reevaluation of the child for receipt of special education services or programs.

A program of competent private instruction provided to a student requiring special education is not a program of special education for purposes of federal and state law.

The director of special education shall advise the parent, guardian, or legal or actual custodian of a child requiring special education of the probable consequences of placing the child under private instruction and withdrawing the child from specialized instruction and services to which the child is entitled. The director of special education may require the parent, guardian, or legal or actual custodian of a child requiring special education to accept full responsibility for the parent's, guardian's, or legal or actual custodian's decision to reject special education programs and services, forgoing a later request for compensatory education for the period of time when the child was under private instruction.

A parent, as defined in rule 281—41.30(256B,34CFR300), who elects independent private instruction for the parent's child shall be deemed to have waived special education services. Approval from the area education agency's director of special education is not required before a child requiring special education receives independent private instruction.

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ITEM 11. Adopt the following **new** rule 281—31.11(299,299A):

281—31.11(299,299A) Independent private instruction.

31.11(1) *Instructor responsibilities.* The person providing independent private instruction shall meet each of the requirements in paragraph 31.1(2) “b.”

31.11(2) *School district responsibilities.*

a. Services.

(1) The public school district shall offer or make available to all resident students receiving independent private instruction an approved course in driver education on an equal basis with students enrolled in the district, as required by Iowa Code section 321.178(1) “c” as amended by 2013 Iowa Acts, House File 215, section 99.

(2) The public school district shall make available to all students receiving independent private instruction concurrent enrollment programs, also known as district-to-community college sharing, subject to the terms of Iowa Code section 261E.8 and rule 281—22.11(261E).

b. Information from parents.

(1) A school district shall request information pursuant to subparagraph 31.1(2) “b”(6) whenever services described in paragraph 31.11(2) “a” are requested for a child receiving independent private instruction.

(2) A school district superintendent may request information pursuant to subparagraph 31.1(2) “b”(6) in all other instances. The request must be in writing and must be mailed to the parent, guardian, or legal or actual custodian.

31.11(3) *Services not available.* Unless otherwise specifically required by a provision of this chapter, no service other than those listed in paragraph 31.11(2) “a” shall be provided to children receiving independent private instruction. These restrictions include but are not limited to provision of instructional materials under subrule 31.5(4), assistance from a home school assistance program under subrule 31.5(5), dual enrollment under rule 281—31.6(299A), open enrollment under rule 281—31.7(299), and special education services under rule 281—31.10(299A).

ITEM 12. Adopt the following **new** rule 281—31.12(299,299A):

281—31.12(299,299A) Miscellaneous provisions.

31.12(1) *Confidentiality of records.* Records maintained by school districts or area education agencies under Iowa Code chapters 299 and 299A as amended by 2013 Iowa Acts, House Files 215 and 454, and this chapter shall be protected under Iowa Code chapter 22, as well as 20 U.S.C. Section 1232g and 34 CFR Part 99. Personally identifiable information about students, as defined in 34 CFR Part 99, shall be disclosed only as permitted by that Part.

31.12(2) *Compulsory attendance actions.* In taking any action under Iowa Code chapters 299 and 299A as amended by 2013 Iowa Acts, House Files 215 and 454, a school district shall consider the requirements of compulsory attendance to be satisfied in the following instances:

a. Enrollment in a public school district and compliance with the district’s attendance policy as determined by the district (including the district’s policy on excusal of absences).

b. Enrollment in an accredited nonpublic school and compliance with the school’s attendance policy as determined by the school (including the school’s policy on excusal of absences).

c. Compliance with this chapter’s provisions regarding competent private instruction.

d. The child is receiving private instruction under subrule 31.2(3) and Iowa Code section 299A.3 as amended by 2013 Iowa Acts, House File 215, section 88, unless the subrule and section do not apply.

e. The child is receiving independent private instruction under rule 281—31.11(299,299A), unless paragraph 31.12(2) “f” applies.

f. The district received a response to a request for information about independent private instruction pursuant to subparagraph 31.1(2) “b”(6).

31.12(3) *Rules of construction.* No public school district or area education agency may apply a requirement more stringent than those contained in these rules for participation in private instruction, including instruction under subrule 31.2(3), or independent private instruction.

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ITEM 13. Amend **281—Chapter 31**, implementation sentence, as follows:

These rules are intended to implement Iowa Code chapters 299 and 299A as amended by 2013 Iowa Acts, House Files 215 and 454 and 2008 Iowa Acts, chapter 1191, sections 108 to 111.

ARC 1093C

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

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 29C.8, the Department of Homeland Security and Emergency Management proposes to amend Chapter 9, “Iowa Comprehensive Plan,” Iowa Administrative Code.

Iowa Code section 29C.8(3) requires the Director of the Department of Homeland Security and Emergency Management to prepare a comprehensive plan for homeland security, disaster response, recovery, mitigation, and emergency resource management for the state. This amendment will formally adopt the updated and federally approved Part B: Iowa Hazard Mitigation Plan, which is part of the Iowa Comprehensive Plan.

Consideration will be given to all written suggestions or comments on the proposed amendment submitted on or before November 6, 2013. Such written materials should be sent to the Administrative Rules Coordinator, Iowa Department of Homeland Security and Emergency Management, 7105 NW 70th Avenue, Camp Dodge W-4, Johnston, Iowa 50131; by facsimile to (515)725-3260; or e-mail at john.benson@iowa.gov.

After analysis and review of this rule making, it has been determined that no adverse impact to jobs is expected as a result of this rule making.

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

The following amendment is proposed.

Amend rule 605—9.3(29C), introductory paragraph, as follows:

605—9.3(29C) Part B: Iowa Hazard Mitigation Plan. The Part B: Iowa Hazard Mitigation Plan is developed in accordance with Iowa Code section 29C.8, and has been adopted on September 17, ~~2010~~ 2013, published, and maintained by the division. Part B details the state government goals, objectives, and strategies to mitigate a wide range of natural, technological or human-caused disasters in accordance with Section 322 of the Stafford Act, 42 U.S.C. 5165.

ARC 1129C

HUMAN SERVICES DEPARTMENT[441]**Notice of Intended Action**

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

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

Pursuant to the authority of Iowa Code section 234.6, the Department of Human Services proposes to amend Chapter 7, “Appeals and Hearings,” Iowa Administrative Code.

The proposed amendments implement provisions of the Patient Protection and Affordable Care Act of 2010 and the Health Care and Education Reconciliation Act of 2010 (collectively referred to as the Affordable Care Act), pursuant to federal regulations published July 15, 2013, at 78 Federal Register 42160, and of the Children’s Health Insurance Program Reauthorization Act of 2009 (CHIPRA).

The Affordable Care Act establishes an Exchange, which is a governmental agency or nonprofit entity that makes qualified health plans available to qualified individuals and qualified employers. The Exchange will have its own appeals process.

Based on the Affordable Care Act, changes are made to the appeals process for Medicaid and Healthy and Well Kids in Iowa (HAWK-I). The time frame to file an appeal is extended from 30 to 90 calendar days. This will allow more time to file an appeal regarding Medicaid and HAWK-I cases and matches the appeal time frames for filing an appeal with the Exchange.

Also, changes are made to modernize the way an appellant or the appellant’s representative may request an appeal and withdraw a request for hearing.

The proposed amendments define the term “authorized representative” and describe who can be an authorized representative and that person’s responsibilities. Other definitions are added to clarify new terms that are used based on the Affordable Care Act.

Any interested person may make written comments on the proposed amendments on or before November 5, 2013. Comments should be directed to Harry Rossander, Bureau of Policy Coordination, 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 do not provide for waivers in specified situations because requests for the waiver of any rule may be submitted under the Department’s general rule on exceptions at 441—1.8(17A,217).

After analysis and review of this rule making, no impact on jobs has been found.

These amendments are intended to implement Iowa Code section 234.6.

The following amendments are proposed.

ITEM 1. Amend the following definitions in rule **441—7.1(17A)**:

“*Aggrieved person*” means a person against whom the department has taken an adverse action. This includes a person who meets any of the following conditions:

1. and 2. No change.
3. For medical assistance, healthy and well kids in Iowa, IowaCare, family planning services, and waiver services, a person (see numbered paragraph “7” for providers):
 - Whose request to be given an application was denied.
 - Whose application has been denied or has not been acted on in a timely manner.
 - Whose eligibility has been terminated, suspended or reduced.
 - Who has been notified that there will be a reduction in the level of benefits or services the person is eligible to receive.

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- Who has received a determination of the amount of medical expenses that must be incurred to establish income eligibility for the medically needy program or a determination of income for the purposes of imposing any premiums, enrollment fees or cost sharing.
- Who has been notified that the level of services provided by a nursing facility is not needed based on a preadmission screening and resident review (PASRR) evaluation.
- Who has been notified that level of care requirements have not been met.
- Who has been aggrieved by a failure to take into account the appellant's choice in assignment to a coverage group.
- ~~Who contests the effective date of assistance, or services, or premium payments.~~
- Who contests the amount or effective date of health insurance premium payments, healthy and well kids in Iowa premium payments, Medicaid for employed people with disabilities premium payments, IowaCare premium payments, or the spenddown amount under the medically needy program.
- Who contests the amount of client participation.
- Whose claim for payment or prior authorization has been denied.
- Who has been notified that the reconsideration process has been exhausted and who remains dissatisfied with the outcome.
- Who has received notice from the medical assistance hotline that services not received or services for which an individual is being billed are not payable by medical assistance.
- ~~Who has been notified that there will be a reduction or cancellation of assistance or waiver services.~~
- Who has been notified that an overpayment of benefits has been established and repayment is requested.
- Who has been denied requested nonemergency medical transportation services by the broker designated by the department pursuant to rule 441—78.13(249A) and has exhausted the grievance procedures established by the broker pursuant to 441—subrule 78.13(7).

4. to 12. No change.

“Department of inspections and appeals” means the state agency ~~which~~ that contracts with the department to conduct appeal hearings.

“Due process” denotes the right of a person affected by an agency decision to receive a notice of decision or notice of action and an opportunity to be heard at an appeal hearing and to present an effective defense.

“Informal conference” means a type of meeting between the appellant and the appellant's representative, unless precluded by federal law or state statute, and a representative of the department. The purpose of the informal conference is to provide information as to the reasons for the intended adverse action, to answer questions, to explain the basis for the adverse action, to provide an opportunity for the appellant to explain the appellant's action or position, and to provide an opportunity for the appellant to examine the contents of the case record, including any electronic case record, including plus all documents and records to be used by the department at the hearing in accordance with 441—Chapter 9.

“~~Joint or group~~ Group hearings” denotes an opportunity for ~~several~~ two or more persons to present their case jointly when all have the same complaint against agency policy.

“PROMISE JOBS displacement grievance” means any written complaint filed with a PROMISE JOBS contractee by regular employees or their representatives ~~which~~ that alleges that the work assignment of an individual under the PROMISE JOBS program violates any of the prohibitions against displacement of regular workers described in rule 441—93.17(239B).

“Timely notice period” is the time from the date a notice is ~~mailed~~ sent to the effective date of action. That period of time shall be at least ten calendar days, except in the case of probable fraud of ~~the appellant~~ a beneficiary. When probable fraud ~~of the appellant~~ exists, “timely notice period” shall be at least five calendar days from the date a notice is sent ~~by certified mail~~.

HUMAN SERVICES DEPARTMENT[441](cont'd)

ITEM 2. Rescind the definitions of “Issues of fact or judgment” and “Issues of policy” in rule **441—7.1(17A)**.

ITEM 3. Adopt the following **new** definitions in rule **441—7.1(17A)**:

“*Authorized representative*” means a person or organization designated by an appellant to act on the appellant’s behalf or who has legal authority to act on behalf of the appellant, such as a guardian or power of attorney.

“*Electronic account*” means a Web-based account established by the department for an applicant or member for communication between the department and the applicant or member.

“*Electronic case record*” means an electronic file that includes all information collected and generated by the department regarding each individual’s Medicaid or healthy and well kids in Iowa eligibility and enrollment, including all documentation required for eligibility and any information collected or generated as part of a fair hearing process conducted by the department or through the exchange appeals process.

“*Exchange*” means an American health benefit exchange established pursuant to Section 1311 of the Patient Protection and Affordable Care Act of 2010 (Pub. L. 111-148). This entity makes qualified health plans available to qualified individuals and qualified employers.

“*Sent*” means delivered by first-class mail or posted to an individual’s electronic account.

ITEM 4. Amend rule 441—7.4(17A) as follows:

441—7.4(17A) Notification of hearing procedures. Hearing procedures shall be published in the form of rules and shall be made available to all applicants, recipients, appellants, and other interested groups and individuals. Procedures for hearings shall be identified in the notice of hearing issued to all parties as provided in subrule 7.10(7).

7.4(1) Hearing procedures must be furnished in electronic and paper format and orally as appropriate. The procedures must be written in plain language and in a manner that is accessible:

a. To individuals who are limited English proficient through oral interpretation, written translations, and taglines in non-English languages indicating the availability of language services. The services shall be at no cost to the individual.

b. To individuals living with disabilities through the provision of auxiliary aids in accordance with the Americans with Disabilities Act and Section 504 of the Rehabilitation Act. The services shall be at no cost to the individual.

7.4(2) The department shall inform individuals of the availability of the services and how to access such services.

ITEM 5. Adopt the following **new** subparagraph **7.5(2)“a”(19)**:

(19) Notice was issued by the exchange regarding determination of eligibility for enrollment in a qualified health plan or for advance payment of the premium tax credit or cost-sharing reductions.

ITEM 6. Adopt the following **new** subparagraph **7.5(2)“a”(20)**:

(20) Notice has been issued regarding the completion of a family assessment that indicates no determination of child abuse or neglect has been made and no information has been reported to the child abuse registry.

ITEM 7. Amend subrule 7.5(4) as follows:

7.5(4) Time limit for granting hearing to an appeal. Subject to the provisions of subrule 7.5(1), when an appeal is made, the granting of a hearing to that appeal shall be governed by the following timeliness standards:

a. *General standards.* In general, a hearing shall be held if the appeal is made within 30 days after official notification of an action or before the effective date of action. When the appeal is made more than 30 days but less than 90 days after notification, the director shall determine whether a hearing shall be granted.

(1) and (2) No change.

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(3) The day after the official notice is ~~mailed~~ sent is the first day of the period within which an appeal must be filed. When the time limit for filing falls on a holiday or a weekend, the time will be extended to the next workday.

b. Food assistance, Medicaid or healthy and well kids in Iowa standard. For appeals regarding food assistance, Medicaid or the healthy and well kids in Iowa program, a hearing shall be held if the appeal is made within 90 days after official notification of an action.

c. Offset standards. For appeals regarding state or federal tax or debtor offsets, a hearing shall be held if the appeal is made within 15 days after official notification of the action. Counties have 30 days to appeal offsets, as provided in 441—paragraph 14.4(1)“e.” When the appeal is made more than 15 days but less than 90 days after notification, the director shall determine whether a hearing shall be granted.

(1) and (2) No change.

(3) The day after the official notice is ~~mailed~~ sent is the first day of the period within which an appeal must be filed. When the time limit for filing falls on a holiday or a weekend, the time will be extended to the next workday.

d. Abuse standard.

(1) and (2) No change.

(3) The day after the official notice is ~~mailed~~ sent is the first day of the period within which an appeal must be filed. When the time limit for filing falls on a holiday or a weekend, the time will be extended to the next workday.

e. and f. No change.

ITEM 8. Amend paragraph **7.5(6)“c”** as follows:

c. Subject to the time limits described in subrule 7.5(4), a person’s right to appeal the recovery of an overpayment through benefit reduction, as described at rule 441—46.25(239B), but not the existence, computation, or amount of an overpayment, begins when the person receives ~~Form 470-0485, 470-0485(S), 470-0486, or 470-0486(S),~~ Notice of Decision or Notice of Action, Form 470-0485, 470-0485(S), 470-0486, or 470-0486(S), informing the person that benefits will be reduced to recover a FIP or RCA overpayment.

ITEM 9. Amend paragraph **7.5(10)“b”** as follows:

b. Subject to the time limits described in subrule 7.5(4), a person’s right to appeal the recovery of an overpayment through benefit reduction, but not the existence, computation, or amount of an overpayment, begins when the person receives ~~Form 470-0485, 470-0485(S), 470-0486, or 470-0486(S),~~ Notice of Decision or Notice of Action, Form 470-0485, 470-0485(S), 470-0486, or 470-0486(S), informing the person that benefits will be reduced to recover a food assistance overpayment.

ITEM 10. Adopt the following **new** paragraph **7.6(1)“d”**:

d. Persons living with disabilities shall be provided assistance through the use of auxiliary aids and services at no cost to the individual in accordance with the Americans with Disabilities Act and Section 504 of the Rehabilitation Act.

ITEM 11. Amend subrule 7.6(2) as follows:

7.6(2) Representation Authorized representation or responsible party. ~~All persons shall be advised that they~~ Persons may be represented at hearings for purposes of this chapter by others, including legal counsel, relatives, friends, or any other spokesperson of choice ~~an authorized representative or an individual or organization recognized by the department as acting responsibly for an applicant or beneficiary pursuant to policy governing a particular program (hereinafter referred to as a “responsible party”), unless otherwise specified by statute or federal regulations. The department shall advise the persons of any legal services which may be available and that the person may be represented by counsel at the person’s own expense.~~

a. The designation of an authorized representative must be in writing and include the signature of the person designating the authorized representative. Legal documentation of authority to act on behalf of a person, such as a court order establishing legal guardianship or a power of attorney, shall serve in place of a signed designation by the person.

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b. An authorized representative or responsible party must agree to maintain, or be legally bound to maintain, the confidentiality of any information regarding an applicant or beneficiary provided by the department.

c. A provider or staff member or volunteer of an organization serving as an authorized representative or responsible party must sign an agreement that such provider, staff member or volunteer will adhere to the regulations in Part 431, Subpart F, of 42 CFR Chapter IV and in 45 CFR 155.260(f) (relating to confidentiality of information), § 447.10 of 42 CFR Chapter IV (relating to the prohibition against reassignment of provider claims as appropriate for a health facility or an organization acting on the facility's behalf), as well as other relevant state and federal laws concerning conflict of interest and confidentiality of information.

d. An authorized representative or responsible party may file an appeal on the appellant's behalf, receive copies of appeal correspondence, and act on behalf of the appellant in all other matters regarding the appeal.

e. The authorized representative or responsible party is responsible for fulfilling all responsibilities encompassed within the scope of the authorized representation to the same extent as the individual the authorized representative or responsible party represents.

f. The power to act as an authorized representative is valid until the appellant modifies the authorization or notifies the department that the representative is no longer authorized to act on the appellant's behalf, or the authorized representative informs the agency that the authorized representative is no longer acting in such capacity, or there is a change in the legal authority upon which the individual's or organization's authority was based. Such notice must be in writing and include the appellant's, authorized representative's or responsible party's signature as appropriate.

g. Designations of authorized representatives, legal documentation of authority to act on behalf of a person, and modifications or terminations of designations or legal authority may be submitted online via the department's Web site, by mail, by electronic mail, by facsimile transmission or in person.

h. For purposes of this rule, the department shall accept electronic, including telephonically recorded, signatures and handwritten signatures transmitted by facsimile or other electronic transmission.

i. Designations of authorized representatives, legal documentation of authority to act on behalf of a person, and modifications or terminations of designations or legal authority previously submitted to the department that comply with the requirements of this rule will continue to apply for purposes of appeals, consistent with their terms.

ITEM 12. Amend subrule 7.7(1) as follows:

7.7(1) Notification.

a. to c. No change.

d. "Timely" means that the notice is ~~mailed~~ sent at least ten calendar days before the date the action would become effective. The timely notice period shall begin on the day after the notice is ~~mailed~~ sent.

e. "Adequate" means a written notice that includes:

(1) A statement of what action is being taken,

(2) The effective date of such action,

~~(2) (3)~~ (3) (3) The A clear statement of the specific reasons ~~for~~ supporting the intended action,

~~(3) (4)~~ (4) (4) The manual chapter number and subheading supporting the action and the corresponding rule reference,

~~(4) (5)~~ (5) (5) An explanation of the appellant's right to appeal, and

~~(5) (6)~~ (6) (6) The circumstances under which assistance is continued when an appeal is filed.

ITEM 13. Amend paragraph 7.7(2)"c" as follows:

c. The recipient has been admitted or committed to an institution ~~which~~ that does not qualify for payment under an assistance program.

HUMAN SERVICES DEPARTMENT[441](cont'd)

ITEM 14. Adopt the following **new** paragraph **7.7(2)“j”**:

j. The notice involves an adverse determination made with regard to the preadmission screening requirements.

ITEM 15. Amend subrule 7.7(3) as follows:

7.7(3) Action due to probable fraud. When the agency obtains facts indicating that assistance should be canceled, suspended, or reduced because of the probable fraud of the recipient, and, where possible, the facts have been verified through collateral sources, notice of the action shall be timely when ~~mailed~~ sent at least five calendar days before the action would become effective. The notice shall be sent by certified mail, return receipt requested.

ITEM 16. Amend subrule 7.8(1) as follows:

7.8(1) Initiating an appeal. To initiate an appeal, a person, ~~or~~ the person's authorized representative or an individual or organization recognized by the department as acting responsibly for the person pursuant to policy governing a particular program must state in writing that the person disagrees with a decision, action, or failure to act on the person's case.

a. All appeals shall be made in writing, except for food assistance, Medicaid and healthy and well kids in Iowa appeals, which may be made ~~orally~~ by telephone or in person.

b. ~~The~~ A written request may be ~~sent~~ submitted via the department's Web site or may be delivered by any means mail, electronic mail, facsimile transmission or personal delivery to the appeals section, to the local office, or to the department office that took the adverse action.

c. ~~The oral~~ A request by telephone or in person may be made to the appeals section or to the department office that took the adverse action.

ITEM 17. Amend subrule 7.8(2) as follows:

7.8(2) Filing the appeal. The appellant shall be encouraged, but not required, to make written appeal on Form 470-0487 or 470-0487(S), Appeal and Request for Hearing, and the worker shall provide any instructions or assistance required in completing the form. When the appellant is unwilling to complete or sign this form, nothing in this rule shall be construed to preclude the right to perfect the appeal, as long as the appeal is in writing (except for food assistance, Medicaid and healthy and well kids in Iowa appeals) and has been communicated to the department by the appellant or appellant's representative.

A written appeal submitted by mail is filed on the date postmarked on the envelope sent to the department, or, when the postmarked envelope is not available, on the date the appeal is stamped received by the agency. When an appeal is submitted through an electronic delivery method, such as electronic mail, submission of an online form, or facsimile, the appeal is filed on the date it is submitted. The electronic delivery method shall record the date and time the appeal request was submitted. If there is no date recorded by the electronic delivery method, the date of filing is the date the appeal is stamped received by the agency. Receipt date of all appeals shall be documented by the office where the appeal is received.

ITEM 18. Amend subrule 7.8(3) as follows:

7.8(3) Informal conference. When requested by the appellant, an informal conference with a representative of the department shall be held as soon as possible after the appeal has been filed. An appellant's representative shall be allowed to attend and participate in the informal conference, unless precluded by federal rule or state statute.

An informal conference need not be requested for the appellant to ~~have access to the records~~ examine the contents of the case record, including any electronic case record, as provided in subrule 7.13(1) and 441—Chapter 9.

ITEM 19. Amend subrule 7.8(6) as follows:

7.8(6) Right of the department to deny or dismiss an appeal. The department or the department of inspections and appeals has the right to deny or dismiss the appeal when:

a. It has been withdrawn by the appellant ~~in writing~~ pursuant to subrule 7.8(8).

b. The sole issue is one of state or federal law requiring automatic grant adjustments for classes of recipients.

HUMAN SERVICES DEPARTMENT[441](cont'd)

- c. It has been abandoned.
- d. The agency, by written notice, withdraws the action appealed and restores the appellant's status ~~which~~ that existed before the action appealed was taken.
- e. The agency implements action and issues a notice of decision or notice of action to correct an error made by the agency which resulted in the appeal.

Abandonment may be deemed to have occurred when the appellant or the appellant's authorized representative fails, without good cause, to appear at the prehearing or hearing.

ITEM 20. Amend subrule 7.8(8) as follows:

7.8(8) *Withdrawal.* When the appellant desires to voluntarily withdraw an appeal, the worker, the presiding officer, or the appeals section shall ~~request a clear, written statement~~ accept a request from the appellant to withdraw the appeal by telephone, in writing or in person. A written request may be submitted in person, by mail or through an electronic delivery method, such as electronic mail, submission of an online form, or facsimile. The appellant may use Form 470-0492 or 470-0492(S), Request for Withdrawal of Appeal, for this purpose. For child abuse and dependent adult abuse appeals, the request to withdraw an appeal must be made in writing and signed by the appellant or the appellant's legal counsel.

ITEM 21. Amend subrule 7.9(1) as follows:

7.9(1) *When assistance continues.* Assistance shall not be suspended, reduced, restricted, or canceled, nor shall a license, registration, certification, approval, or accreditation be revoked, or other proposed adverse action be taken pending a final decision on an appeal when:

- a. An appeal is filed within the timely notice period.
- b. The appellant requests a hearing within ten days from ~~the date adequate notice is issued for receipt of a notice of cancellation or reduction of food assistance, family investment program, or medical assistance benefits, based on the completed report form, including:~~

(1) Review/Recertification Eligibility Document, Form 470-2881, 470-2881(S), 470-2881(M), or 470-4083(MS).

(2) ~~Transitional Medicaid Notice of Decision/Quarterly Income Report, Form 470-2663, 470-2663(S), 470-2663(M), or 470-2663(MS)~~ Medicaid Review, Form 470-3118, 470-3118(S), 470-3118(M), or 470-3118(MS).

The date on which the notice is received is considered to be five days after the date on the notice, unless the beneficiary shows that the beneficiary did not receive the notice within the five-day period.

- c. If it is determined at a hearing that the issue involves only federal or state law or policy, assistance will be immediately discontinued.

ITEM 22. Amend subrule 7.9(2) as follows:

7.9(2) *When assistance does not continue.* The adverse action appealed to suspend, reduce, restrict, or cancel assistance; revoke a license, registration, certification, approval, or accreditation; or take other proposed action may be implemented pending a final decision on appeal when:

- a. An appeal is not filed within the timely notice period or within ten days from the date notice is received. The date on which notice is received is considered to be five days after the date on the notice, unless the beneficiary shows that the beneficiary did not receive the notice within the five-day period.

~~b. The appellant does not request a hearing within ten days from the date adequate notice is issued based on the completed monthly report.~~

- ~~c. Benefits or services were time limited through a certification period or prior authorization for which notice was given when established or for which adequate notice was provided.~~

~~d. Rescinded IAB 4/30/03, effective 7/1/03.~~

~~e. Rescinded IAB 4/30/03, effective 7/1/03.~~

- ~~f. c. The appellant directs the worker in writing to proceed with the intended action.~~

ITEM 23. Amend paragraph **7.9(5)“a”** as follows:

- a. The appeal is filed within the timely notice period of the notice of decision or notice of action establishing the beginning date of the LBP.

HUMAN SERVICES DEPARTMENT[441](cont'd)

ITEM 24. Adopt the following new paragraph **7.10(2)“c”**:

c. The department shall advise the person of any legal services which may be available and that the person may be represented by counsel at the person's own expense.

ITEM 25. Amend subrule 7.16(3) as follows:

7.16(3) Proposed decision. Following the reception of evidence, the presiding officer shall issue a proposed decision, consisting of the issues of the appeal, the decision, the findings of fact and the conclusions of law. Each item shall be separately stated under individual headings. The proposed decision shall be mailed sent by first-class mail, postage prepaid, addressed to the appellant at the appellant's last-known address.

ITEM 26. Amend subrule 7.16(5) as follows:

7.16(5) Time limit for appeal of a proposed decision. Appeal for the director's review of the proposed decision must be made in writing to the director, ~~and~~ The written request must be mailed or submitted in person or through an electronic delivery method, such as electronic mail, submission of an online form, or facsimile. The request must be postmarked or date-stamped received within ten calendar days of the date on which the proposed decision was signed and mailed sent. The day after the proposed decision is mailed sent is the first day of the time period within which a request for review must be filed. When the time limit for filing falls on a holiday or a weekend, the time will be extended to the next workday.

ITEM 27. Amend subrule 7.16(6) as follows:

7.16(6) Appeal of the proposed decision by the department. The appeals advisory committee acts as an initial screening device for the director and may recommend that the director review a proposed decision. That recommendation is not binding upon the director, and the director may decide to review a proposed decision without that committee's recommendation.

When the director grants a review of a proposed decision on the department's request, the appeals section shall notify all other parties to the appeal of the review and send a copy of the request to all other parties. All other parties shall be provided ten calendar days from the date of notification to submit further written arguments or objections for consideration upon review.

Written arguments or objections must be mailed or submitted in person to the appeals section or submitted through an electronic delivery method, such as electronic mail, submission of an online form, or facsimile.

The day after the notification is mailed sent is the first day of the time period within which a response to the department's request for review must be filed. When the time limit for responding falls on a holiday or a weekend, the time will be extended to the next workday.

ITEM 28. Amend subrule 7.16(9) as follows:

7.16(9) Time limits.

a. A final decision on the appeal shall be issued within 90 days from the date of the appeal on all decisions except food assistance and vendors. Food assistance-only decisions shall be rendered in 60 days. PROMISE JOBS displacement grievance decisions shall be rendered within 90 days from the date the displacement grievance was filed with the PROMISE JOBS contractee. Failure to reach a decision within these time frames shall not affect the merits of the appellant's appeal. the following time frames:

(1) Appeals for all programs, except food assistance and vendors, shall be rendered within 90 days from the date of the appeal.

(2) Food assistance-only decisions shall be rendered within 60 days.

(3) PROMISE JOBS displacement grievance decisions shall be rendered within 90 days from the date the displacement grievance was filed with the PROMISE JOBS contractee.

a. Time frames may be extended based on continuances or additional time frames as approved by the presiding officer. Should the appellant request a delay in the hearing in order to prepare the case or for other essential reasons, reasonable time, not to exceed 30 days except with the approval of the administrative law judge, shall be granted and the extra time shall be added to the maximum for final administrative action.

HUMAN SERVICES DEPARTMENT[441](cont'd)

~~*b.* For an appeal regarding child abuse, if the proposed decision is not appealed within 10 days from the date of the proposed decision, the proposed decision shall be the final agency action. If a party files an appeal within 10 days from the date of the proposed decision, the director has 45 days from the date of the proposed decision to issue a ruling. If the director does not rule within that 45-day period, the proposed decision becomes the final decision as provided in Iowa Code section 235A.19.~~

~~*c.* The department shall take prompt, definite and final administrative action to carry out the decision rendered within 7 calendar days of receipt of a copy of the final decision. When the final decision is favorable to the appellant, or when the department decides in favor of the appellant before the hearing, the department shall make any additional corrective payments due, retroactive to the date of the incorrect action.~~

~~*b.* Failure to reach a decision within the time frames set forth in paragraph 7.16(9)“a” shall not affect the merits of the appellant’s appeal.~~

~~*c.* Time frames may be extended based on continuances or additional time frames as approved by the presiding officer. Should the appellant request a delay in the hearing in order to prepare the case or for other essential reasons, reasonable time, not to exceed 30 days except with the approval of the administrative law judge, shall be granted and the extra time shall be added to the maximum for final administrative action.~~

~~*d.* For an appeal regarding child abuse, if the proposed decision is not appealed within 10 days from the date of the proposed decision, the proposed decision shall be the final agency action. If a party files an appeal within 10 days from the date of the proposed decision, the director has 45 days from the date of the proposed decision to issue a ruling. If the director does not rule within that 45-day period, the proposed decision becomes the final decision as provided in Iowa Code section 235A.19.~~

~~*e.* The department shall take prompt, definite and final administrative action to carry out the decision rendered within 7 calendar days of receipt of a copy of the final decision. When the final decision is favorable to the appellant, or when the department decides in favor of the appellant before the hearing, the department shall make any additional corrective payments due, retroactive to the date of the incorrect action.~~

ARC 1127C

INSURANCE DIVISION[191]**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 505.8, 509.3, 509.13, 509.16, 514A.3, and 515A.19A, the Insurance Division hereby gives Notice of Intended Action to amend Chapter 20, “Property and Casualty Insurance,” Iowa Administrative Code.

The rules in Chapter 20, among other things, prescribe the requirements for filing rates and forms with the Iowa Insurance Division. The proposed amendment rescinds subrule 20.4(2) because so many insurance transactions now take place electronically that the requirements of the subrule are no longer practicable. The Division intends that this amendment shall be effective January 15, 2014.

Any interested person may make written comments on the proposed amendment to Chapter 20 on or before November 5, 2013. Written comments may be sent to Tom O’Meara, Iowa Insurance Division, Two Ruan Center, 601 Locust Street, 4th Floor, Des Moines Iowa 50309-3738. Comments also may be submitted electronically to Tom.Omeara@iid.iowa.gov or via facsimile to (515)281-3059.

A public hearing will be held on November 5, 2013, at 10 a.m. at the offices of the Iowa Insurance Division, Two Ruan Center, 601 Locust Street, 4th Floor, Des Moines Iowa, at which time persons may

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present their views orally or in writing. At the hearing, persons will be asked to give their names and addresses for the record and to confine remarks to the subject of the proposed amendment.

Any persons who intend to attend the public hearing and have special requirements, such as those relating to hearing or mobility impairments, should contact the Insurance Division and advise of specific needs.

After analysis and review of this rule making, no impact on jobs has been found.

This amendment is intended to implement Iowa Code chapters 505, 509, 514A, 515, 515A and 515F. The following amendment is proposed.

Rescind and reserve subrule **20.4(2)**.

ARC 1113C

IOWA FINANCE AUTHORITY[265]

Notice of Intended Action

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

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

Pursuant to the authority of 2013 Iowa Acts, House File 607, sections 28 and 38, and Iowa Code section 16.5(1)“r,” the Iowa Finance Authority proposes to adopt new Chapter 44, “Iowa Agricultural Development Division,” and to rescind Agricultural Development Authority 25—Chapters 1 to 11, Iowa Administrative Code.

The purpose of this adoption is to establish rules in new Chapter 44 for the administration of the programs of the newly created Iowa Agricultural Development Division of the Iowa Finance Authority pursuant to 2013 Iowa Acts, House File 607, and Iowa Code chapter 175. In addition, pursuant to 2013 Iowa Acts, House File 607, section 28, the rules of the former Iowa Agricultural Development Authority, 25—Chapters 1 to 11, are rescinded.

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

The Authority will receive written comments on the proposed amendments until 4:30 p.m. on November 5, 2013. Comments may be addressed to Mark Thompson, Iowa Finance Authority, 2015 Grand Avenue, Des Moines, Iowa 50312. Comments may also be faxed to Mark Thompson at (515)725-4901 or e-mailed to mark.thompson@iowa.gov.

After analysis and review of this rule making, no impact on jobs has been found, as the rules primarily continue programs already previously administered by the former Iowa Agricultural Development Authority.

These rules were also Adopted and Filed Emergency and are published herein as **ARC 1112C**. The purpose of this Notice is to solicit comment on that submission, the subject matter of which is incorporated by reference.

These rules are intended to implement 2013 Iowa Acts, House File 607, Iowa Code section 16.5(1) and Iowa Code chapter 175.

ARC 1108C**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 72, “Conveyances Installed On or After January 1, 1975,” Iowa Administrative Code.

This proposed change would adopt by reference relevant portions of the most recent version of the American Society of Mechanical Engineers A18.1, “Safety Standard for Platform Lifts and Stairway Chairlifts.” Adoption of the most recent national code helps Iowa building owners by allowing them to install the most current technologies available on the national market, and helps elevator users by making the most current safety code applicable on new installations.

The purposes of this amendment are to make the rule current, protect the health and 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 November 5, 2013, a public hearing will be held on November 6, 2013, at 9 a.m. in the Capitol View 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 amendment. The facility for the oral presentations is accessible to and functional for persons with physical disabilities. Persons who have special requirements should call (515)281-5915 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 November 6, 2013, 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.

No variance procedures are included in this rule. Applicable variance procedures are set forth in 875—Chapter 66.

After analysis and review of this rule making, no impact on jobs will occur.

This amendment is intended to implement Iowa Code chapter 89A.

The following amendment is proposed.

Adopt the following **new** subrule 72.1(9):

72.1(9) For installations on or after January 31, 2014:

- a. ASME A17.1 shall mean ASME A17.1-2010/CSA B44-10, except for Rule 2.27.1.1.6;
- b. ASME A17.7 shall mean ASME A17.7-2007/CSA B44-10;
- c. ASME A18.1 shall mean ASME A18.1 (2011), except Chapters 4, 5, 6, and 7;
- d. ANSI A117.1 shall mean ANSI A117.1 (2003), except for Rule 407.4.6.2.2; and
- e. ANSI/NFPA 70 shall mean ANSI/NFPA 70 (2008).

ARC 1107C**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 90A.7 and 2013 Iowa Acts, Senate File 430, the Labor Commissioner hereby proposes to adopt a new Chapter 169, “General Requirements for Athletic Events,” and to amend Chapter 170, “Operations of Advisory Board,” Chapter 171, “Grant Applications and Awards,” Chapter 172, “Professional Wrestling,” Chapter 173, “Professional Boxing,” Chapter 174, “Elimination Tournaments,” and Chapter 177, “Mixed Martial Arts,” Iowa Administrative Code.

These amendments would update or rescind obsolete rules; establish event license fees pursuant to 2013 Iowa Acts, Senate File 430; establish a new chapter that sets forth standardized rules for promoter responsibilities and administrative requirements such as insurance, reporting of taxes and applying for event licenses; ease current regulations pertaining to health insurance and life insurance for mixed martial arts events; and ease current regulations pertaining to blood testing for mixed martial arts and boxing events.

If requested in accordance with Iowa Code section 17A.4(1)“b” by the close of business on November 5, 2013, a public hearing will be held on November 6, 2013, at 1:30 p.m. in the Capitol View 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)281-5915 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 November 6, 2013, 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.

The principal reasons for these amendments are to implement legislative intent, establish an event fee schedule, and modernize and standardize the rules.

No variance procedures are included in these rules because variance provisions are set forth in 875—Chapter 1.

After analysis and review of this rule making, these amendments will have no impact on jobs.

These amendments are intended to implement Iowa Code chapter 90A as amended by 2013 Iowa Acts, Senate File 430.

The following amendments are proposed.

ITEM 1. Adopt the following **new** 875—Chapter 169:

CHAPTER 169**GENERAL REQUIREMENTS FOR ATHLETIC EVENTS**

875—169.1(90A) Scope and application. Unless otherwise noted, this chapter applies to each event covered by Iowa Code chapter 90A.

875—169.2(90A) Prohibited events. No promoter shall arrange or advertise:

169.2(1) A match between persons of the opposite sex;

169.2(2) A match between more than two contestants; or

169.2(3) A match with a contestant who is younger than 18 years of age.

LABOR SERVICES DIVISION[875](cont'd)

875—169.3(90A) Advance notice of event. A promoter shall submit advance notice of an event, other than a professional wrestling event, to the commissioner on the form provided by the commissioner at least 60 days prior to the event but not more than six months prior to the event. The advance notice shall include:

- 169.3(1)** The date, time, type, and location of the event;
- 169.3(2)** The promoter's name and contact information;
- 169.3(3)** One-half of the required event license fee set forth by subrule 169.4(2);
- 169.3(4)** Whether the event is indoors or outdoors; and
- 169.3(5)** Other relevant information requested by the commissioner on the form.

875—169.4(90A) Event license. A promoter shall hold a mixed martial arts match, professional boxing match, or wrestling match only if the commissioner of athletics (commissioner) has issued an applicable event license.

169.4(1) Application. At least seven days before the event, the promoter shall submit a completed application for a license on the form provided by the commissioner.

- a.* For a professional wrestling event, the application shall include each of the following:
 - (1) The promoter's name, address, telephone number and other contact information as requested by the commissioner;
 - (2) The event date, venue name, and venue address;
 - (3) A nonrefundable \$125 event license fee; and
 - (4) The promoter's signature.
- b.* For any other covered event, the application shall contain all of the following information:
 - (1) The date, time, type, and location of the event;
 - (2) The promoter's name, address, and contact information;
 - (3) One-half of the required event license fee set forth in subrule 169.4(2);
 - (4) The name, address, weight, gender, and opponent of each contestant;
 - (5) A copy of the medical license of the ringside physician;
 - (6) The date, time, and location for the weighing of the contestants;
 - (7) The name, contact information, and role of each proposed official;
 - (8) Copies of the contracts with the contestants, the emergency medical services company, and the security company;
 - (9) The name and contact information for the certified law enforcement officer who will attend the event;
 - (10) The date, time, and location of the ringside physician's examination of the contestants;
 - (11) Certificates of insurance as required by subrules 169.5(17) and 169.5(18);
 - (12) A bond in the sum of \$5,000, payable to the State of Iowa, conditioned upon the payment of the tax and penalties imposed by Iowa Code chapter 90A, unless the promoter has a current valid bond on file with the division;
 - (13) The name and telephone number of the person designated to clean between rounds; and
 - (14) Other relevant information requested by the commissioner on the form.

169.4(2) Event license fees. The nonrefundable event license fee shall be \$125 for a professional wrestling event, \$500 for an event with only amateur mixed martial arts contestants, and \$750 for all other covered events. A professional wrestling promoter shall submit the event license fee with the event license application at least 7 days prior to the event. For all other covered events, the promoter shall submit one-half of the event license fee with the advance notice of the event at least 60 days prior to the event, and one-half of the event license fee with the event license application at least 7 days prior to the event.

169.4(3) Issuance. The decision to issue an event license is solely within the discretion of the commissioner. The following factors will be considered by the commissioner when deciding whether to issue an event license:

- a.* Date the promoter filed advance notice of event.
- b.* The promoter's prior compliance with Iowa Code chapter 90A and applicable rules.

LABOR SERVICES DIVISION[875](cont'd)

- c. Applications for conflicting events.
- d. Ability of the commissioner to provide staff.
- e. The promoter's history of canceling events.
- f. Anticipated tax revenue.
- g. Completeness of application package.
- h. Whether the event is indoors or outdoors.

169.4(4) Revocation. When the commissioner finds that failure to provide adequate security to maintain public safety imperatively requires emergency action, the commissioner may immediately suspend the event license, pending license revocation procedures pursuant to Iowa Code chapter 17A.

875—169.5(90A) Promoter responsibilities. The promoter of a professional wrestling event shall be responsible for subrules 169.5(1) through 169.5(6). All other promoters shall be responsible for each of the following:

169.5(1) Ensure compliance with Iowa Code chapter 90A and applicable rules.

169.5(2) Ensure that the referees are familiar with and enforce the rules.

169.5(3) Be responsible for the conduct and attendance of all officials and participants.

169.5(4) Ensure that adequate public safety is maintained at all events. Adequate personnel provided by a private security company and at least one law enforcement officer who is certified pursuant to Iowa Code chapter 80B shall be furnished by the promoter.

169.5(5) Ensure that a referee inspects the gloves, bandages, and body of each contestant for foreign substances that might be detrimental to an opponent.

169.5(6) Ensure that contestants are free of fingernails that are capable of causing injury to an opponent.

169.5(7) Provide officials and participants who are subject to approval by the commissioner.

169.5(8) Answer to the commissioner for noncompliance.

169.5(9) Be available to the commissioner throughout an event or identify a designee who shall be:

- a. Available to the commissioner throughout an event; and
- b. Authorized by the promoter to address issues that may arise.

169.5(10) Enter into a written contract with each contestant using the form furnished by the commissioner. Telegrams, fax transmissions, electronic mail, or letters indicating acceptance of terms will be considered an agreement between a contestant, the contestant's manager and the promoter, pending the actual signing of the contract.

169.5(11) Provide all equipment, personal protective equipment and gloves.

169.5(12) Provide and maintain a container with a solution of ten parts water to one part bleach to clean bodily fluids from any part of the cage, cage enclosure, or floor.

169.5(13) Ensure that an ambulance and ambulance service authorized at the EMT-B, EMT-I, EMT-P or paramedic specialist level pursuant to 641—Chapter 132 are present at the event. A promoter is fully responsible for all charges assessed by the ambulance service related to the event except:

- a. Charges covered by insurance.
- b. Charges for services provided to persons other than participants and officials.

169.5(14) Ensure that contestants are wearing appropriate attire, gloves, and other necessary equipment.

169.5(15) Provide a suitable, clean, and private space for contestants to change clothes.

169.5(16) Submit to the ringside physician no later than at the time of the physicals test results showing that each contestant scheduled for the event tested negative for the human immunodeficiency, hepatitis B, and hepatitis C viruses within the one-year period prior to the event. The contestant shall not participate and the physician shall notify the promoter that the contestant is prohibited from participating for medical reasons if any of the following occurs:

- a. The promoter does not produce timely proof of testing;
- b. The test results are positive;
- c. The laboratory is not properly certified in accordance with the federal Clinical Laboratory Improvement Act;

LABOR SERVICES DIVISION[875](cont'd)

- d. The test was performed more than 12 months prior to the event; or
- e. The test results are otherwise deficient.

169.5(17) Obtain from a company authorized to do business in the state of Iowa \$10,000 of health insurance coverage on each contestant to provide for medical, surgical and hospital care for injuries sustained and illnesses contracted during the event. If there is a deductible, it shall not exceed \$1,000. If the contestant pays for covered care, the insurance proceeds shall be paid to the contestant or the contestant's beneficiaries as reimbursement for payment. In the event of a claim, payment of the deductible shall be the sole responsibility of the promoter.

169.5(18) Obtain from a company authorized to do business in the state of Iowa no less than \$10,000 of life insurance coverage on each contestant to cover death caused by injuries sustained or illnesses contracted during the event.

169.5(19) No later than the day of the event, ensure that each contestant makes available to the commissioner's representative suitable proof of age consisting of one of the following documents:

- a. A certified birth certificate;
- b. A passport;
- c. A certified baptismal record;
- d. A U.S. visa;
- e. An identification card issued to the contestant by a governmental entity and which includes the contestant's photograph and birth date; or
- f. A U.S. resident alien card.

169.5(20) Ensure that participants and officials behave in a professional manner at all times.

169.5(21) Ensure that participants and officials refrain from:

- a. Fighting with anyone other than a scheduled opponent;
- b. Fighting outside the ring;
- c. Throwing objects; and
- d. Making obscene gestures.

169.5(22) Establish through www.mixedmartialarts.com that no contestant on an amateur card has participated in a reported professional mixed martial arts match.

875—169.6(90A) Taxes. No later than 20 days after an event, a promoter shall file with the commissioner a report and pay all taxes due as a result of the event. The report shall be submitted on the form provided by the commissioner and shall include the promoter's business name, name of a contact for the promoter, date of the event, event license number, location of the event, each price for which tickets were offered or sold, number of tickets sold at each price, total gate receipts, and signatures of the licensee and the person who completed the report. The promoter shall submit with the report:

169.6(1) Proof of the number of tickets sold and the price of each ticket, which shall include appropriate documentation from a ticketing service, if applicable.

169.6(2) A check made payable to the Iowa Division of Labor Services for the amount calculated using the report.

169.6(3) A check made payable to the Iowa Department of Revenue for the amount calculated using the report.

These rules are intended to implement Iowa Code chapter 90A as amended by 2013 Iowa Acts, Senate File 430.

ITEM 2. Amend rule 875—170.3(90A) as follows:

875—170.3(90A) Time of meetings. ~~The board shall meet at least semiannually.~~ The commissioner shall establish the date of all meetings, and provide notice of all meeting dates, locations, and agenda. ~~The commissioner shall schedule a meeting upon the receipt of a written request from a majority of the members of the board. The request shall state the reason for the meeting and the proposed agenda.~~

LABOR SERVICES DIVISION[875](cont'd)

ITEM 3. Amend rule 875—171.1(90A) as follows:

875—171.1(90A) Scope. This chapter establishes rules of the ~~athletic~~ commissioner of athletics (commissioner) for the distribution of revenues collected from a professional boxing event pursuant to Iowa Code section ~~90A.7(1) in excess of the amount expected to be needed to administer chapter 90A.9~~ 90A.9.

ITEM 4. Rescind and reserve rules **875—172.9(90A), 875—172.12(90A), 875—172.14(90A) and 875—172.18(90A)**.

ITEM 5. Rescind and reserve rules **875—173.3(90A), 875—173.20(90A), 875—173.22(90A), 875—173.25(90A), 875—173.26(90A), 875—173.38(90A) and 875—173.54(90A)**.

ITEM 6. Rescind and reserve rules **875—174.9(90A), 875—174.12(90A) and 875—174.13(90A)**.

ITEM 7. Rescind and reserve rule **875—177.2(90A)**.

ITEM 8. Rescind and reserve subrules **177.5(9) to 177.5(11)**.

ITEM 9. Rescind and reserve subrule **177.6(1)**.

ITEM 10. Rescind and reserve rule **875—177.10(90A)**.

ARC 1124C

MANAGEMENT DEPARTMENT[541]

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 8.6, the Department of Management hereby gives Notice of Intended Action to amend Chapter 1, “Organization and Operation,” Chapter 5, “Petitions for Rule Making,” Chapter 6, “Declaratory Orders,” Chapter 7, “Agency Procedure for Rule Making,” and Chapter 8, “Public Records and Fair Information Practices,” and to rescind Chapter 10, “Iowa Targeted Small Business Interim Guidelines,” and Chapter 15, “Local Government Innovation Fund Committee,” Iowa Administrative Code.

These amendments, which are nonsubstantive, correct the address to which various rule-making petitions, inquiries, and comments are to be submitted to the Department, include changes that reflect the current organizational structure of the Department, and reconcile definitions.

The proposed amendments will not necessitate additional expenditures by political subdivisions or agencies and entities which contract with political subdivisions and will not have an impact on small business.

A waiver provision is not included.

Any interested person may make written suggestions or comments or may request a public hearing on the proposed amendments on or before November 5, 2013. Such written comments should be directed to the Department of Management, 1007 East Grand Avenue, State Capitol, Room 13, Des Moines, Iowa 50319-0015.

After analysis and review of this rule making, no adverse impact on jobs has been found.

These amendments are intended to implement Iowa Code sections 8.6, 17A.9, 25.1, 22.11 and 25B.6.

The following amendments are proposed.

MANAGEMENT DEPARTMENT[541](cont'd)

ITEM 1. Amend rule 541—1.4(8) as follows:

541—1.4(8) Duties of the department. The department of management plans, develops, and recommends policy decisions for management of state government; administers local budget laws (cities, counties, and schools); oversees and ensures compliance with affirmative action; implements policies through coordination and budget processes; and monitors and evaluates the consistent, efficient, and effective operation of state government. The department consists of ~~the director's office, the Iowa Washington, D.C. office, administrative services division, five planning/budgeting divisions,~~ budgeting, planning and early childhood operations and the following agencies or boards: state appeal board, ~~criminal and juvenile justice planning agency,~~ city finance committee, county finance committee, and ~~the Iowa advisory commission on intergovernmental relations~~ early childhood Iowa state board.

ITEM 2. Amend rule 541—1.5(8) as follows:

541—1.5(8) Definitions.

"City budget" means the budget adopted by city officials which incorporates specified requirements as stated in Iowa Code section 384.16.

"Contract compliance director" means the individual designated to oversee and impose sanctions in connection with state programs emphasizing equal opportunity through affirmative action, contract compliance policies and procurement set-aside requirements.

"County budget" means the budget adopted by the board of supervisors pursuant to Iowa Code chapter 331.

"Department" means the department of management.

"Director" means the director of the department of management as appointed by the governor and subject to senate confirmation.

"Employing agency" means ~~an agency or department of the state of Iowa.~~

"History of the state employment data" means ~~the agencies, salaries, job classifications, and dates of employment by the state of Iowa of a named individual.~~

"Individual data" means ~~all personally identifiable information not included in the definition of "history of the state employment data."~~

"Management director" means ~~the director of designated clusters of state agencies and the director of local budgets, as appointed by the director of the department of management.~~

"Summary data" means ~~the information that is presented in such a manner as to preclude the identification of an individual by name or other identifier.~~

1.5(1) to 1.5(5) No change.

This rule is intended to implement Iowa Code ~~section~~ sections 8.6 and ~~section~~ 25.1 as amended by 1993 Iowa Acts, chapter 180, section 72.

ITEM 3. Amend rule 541—1.6(8) as follows:

541—1.6(8) Central office and communications. Correspondence and communications with the department of management shall be addressed or directed to the department's office located ~~in Room 12,~~ at Department of Management, 1007 East Grand Avenue, State Capitol Building, Room 13, Des Moines, Iowa 50319-0015; telephone (515)281-3322.

1.6(1) Correspondence and communication with the state board of appeals shall be addressed to its central office ~~in Room 12,~~ at Department of Management, 1007 East Grand Avenue, State Capitol Building, Room 13, Des Moines, Iowa 50319-0015; telephone (515)281-3322.

~~**1.6(2)** Correspondence and communications with the criminal and juvenile justice planning agency shall be addressed to Executive Hills East, Suite 205, Des Moines, Iowa 50319; telephone (515)281-3241.~~

~~**1.6(3)**~~ **1.6(2)** Correspondence and communications with the county finance committee shall be addressed to ~~Room 12,~~ Department of Management, 1007 East Grand Avenue, State Capitol Building, Room 13, Des Moines, Iowa 50319-0015; telephone (515)281-3322.

MANAGEMENT DEPARTMENT[541](cont'd)

~~1.6(4)~~ Correspondence and communications with the advisory commission on intergovernmental relations shall be addressed to Room 12, State Capitol Building, Des Moines, Iowa 50319; telephone (515)281-3322.

~~1.6(5)~~ **1.6(3)** Correspondence and communications with the city finance committee shall be addressed to ~~Room 12,~~ Department of Management, 1007 East Grand Avenue, State Capitol Building, Room 13, Des Moines, Iowa 50319-0015; telephone (515)281-3322.

ITEM 4. Amend **541—Chapter 5**, preamble, as follows:

The department of management ~~incorporates the petitions for rule making segment of the Uniform Administrative Rules which is printed in the first volume of the Iowa Administrative Code with the following amendments hereby adopts, with the following exceptions and amendments, the Uniform Rules on Agency Procedure relating to petitions for rule making which are published on the Iowa general assembly's Web site at <https://www.legis.iowa.gov/DOCS/Rules/Current/UniformRules.pdf>.~~

ITEM 5. Amend rule 541—5.1(17A) as follows:

541—5.1(17A) Petition for rule making. In lieu of the words “designate office,” insert “~~Room 12,~~ 1007 East Grand Avenue, State Capitol, Room 13, Des Moines, Iowa 50319-0015.” In lieu of the words “AGENCY NAME,” the heading on the petition form should read:

BEFORE THE DEPARTMENT OF MANAGEMENT

ITEM 6. Amend rule 541—5.3(17A) as follows:

541—5.3(17A) Inquiries. In lieu of the words “designate official by full title and address,” insert “Director, Department of Management, ~~Room 12,~~ 1007 East Grand Avenue, State Capitol, Room 13, Des Moines, Iowa 50319-0015.”

ITEM 7. Amend **541—Chapter 6**, preamble, as follows:

The department of management ~~incorporates the declaratory orders segment of the Uniform Rules on Agency Procedure printed in the first volume of the Iowa Administrative Code with the following amendments hereby adopts, with the following exceptions and amendments, the Uniform Rules on Agency Procedure relating to declaratory orders which are published on the Iowa general assembly's Web site at <https://www.legis.iowa.gov/DOCS/Rules/Current/UniformRules.pdf>.~~

ITEM 8. Amend rule 541—6.1(17A) as follows:

541—6.1(17A) Petition for declaratory order. In lieu of the words “(designate agency),” insert “department”. In lieu of the words “(designate office),” insert “the Director’s Office, Department of Management, 1007 East Grand Avenue, State Capitol, ~~Room 12~~ 13, Des Moines, Iowa 50319-0015”. In lieu of the words “(AGENCY NAME),” the heading on the petition form should read:

BEFORE THE DEPARTMENT OF MANAGEMENT

ITEM 9. Amend subrule 6.3(3) as follows:

6.3(3) In lieu of the words “(designate office),” insert “the Director’s Office, Department of Management, 1007 East Grand Avenue, State Capitol, ~~Room 12~~ 13, Des Moines, Iowa 50319-0015”. In lieu of the words “(designate agency),” insert “department”. In lieu of the words “(AGENCY NAME),” the heading on the petition form should read:

BEFORE THE DEPARTMENT OF MANAGEMENT

ITEM 10. Amend rule 541—6.5(17A) as follows:

541—6.5(17A) Inquiries. In lieu of the words “(designate official by full title and address),” insert “the Director, Department of Management, 1007 East Grand Avenue, State Capitol, ~~Room 12~~ 13, Des Moines, Iowa 50319-0015”.

MANAGEMENT DEPARTMENT[541](cont'd)

ITEM 11. Amend subrule 6.6(2) as follows:

6.6(2) In lieu of the words “(specify office and address)”, insert “the Director’s Office, Department of Management, 1007 East Grand Avenue, State Capitol, Room 12 13, Des Moines, Iowa 50319-0015”. In lieu of the words “(agency name)”, insert “department”.

ITEM 12. Amend **541—Chapter 6**, implementation sentence, as follows:

These rules are intended to implement ~~1998 Iowa Acts, chapter 1202, section 13~~ Iowa Code section 17A.9.

ITEM 13. Amend **541—Chapter 7**, preamble, as follows:

~~The department of management incorporates the agency procedure for rule making segment of the Uniform Administrative Rules which is printed in the first volume of the Iowa Administrative Code with the following amendments~~ hereby adopts, with the following exceptions and amendments, the Uniform Rules on Agency Procedure relating to agency procedure for rule making which are published on the Iowa general assembly’s Web site at <https://www.legis.iowa.gov/DOCS/Rules/Current/UniformRules.pdf>.

ITEM 14. Amend subrule 7.5(1) as follows:

7.5(1) Written comments. In lieu of the words “identify office and address,” insert “Department of Management, 1007 East Grand Avenue, Room 12 13, State Capitol, Des Moines, Iowa 50319-0015.”

ITEM 15. Amend subrule 7.6(2) as follows:

7.6(2) Mailing list. In lieu of the words “designate office,” insert “Department of Management, 1007 East Grand Avenue, Room 12 13, State Capitol, Des Moines, Iowa 50319-0015.”

ITEM 16. Amend subrule 7.11(1) as follows:

7.11(1) General. In lieu of the words “specify office and address,” insert “Department of Management, 1007 East Grand Avenue, Room 12 13, State Capitol, Des Moines, Iowa 50319-0015.”

ITEM 17. Amend **541—Chapter 7**, implementation sentence, as follows:

These rules are intended to implement Iowa Code chapter 17A ~~as amended by 1998 Iowa Acts, chapter 1202,~~ and Iowa Code section 25B.6.

ITEM 18. Amend **541—Chapter 8**, preamble, as follows:

~~The department of management hereby adopts, with the following exceptions and amendments, rules of the Governor’s Task Force on Uniform Rules of Agency Procedure relating to public records and fair information practices which are printed in the first volume of the Iowa Administrative Code~~ the Uniform Rules on Agency Procedure relating to public records and fair information practices which are published on the Iowa general assembly’s Web site at <https://www.legis.iowa.gov/DOCS/Rules/Current/UniformRules.pdf>.

ITEM 19. Amend paragraph **8.3(2)“b”** as follows:

b. Mail requests shall be addressed to: Director, Department of Management, 1007 East Grand Avenue, State Capitol, Room 13, Des Moines, Iowa 50319-0015.

ITEM 20. Amend paragraph **8.3(2)“d”** as follows:

d. Telephone requests should be made to (515)281-5192 3322.

ITEM 21. Rescind and reserve **541—Chapter 10.**

ITEM 22. Rescind **541—Chapter 15.**

ARC 1128C**PUBLIC HEALTH DEPARTMENT[641]****Notice of Intended Action**

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

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

Pursuant to the authority of 2013 Iowa Acts, Senate File 427, section 35, the Department of Public Health hereby gives Notice of Intended Action to amend Chapter 28, “Plumbing and Mechanical Systems Board—Licensure Fees,” Iowa Administrative Code.

These amendments are necessary to implement 2013 Iowa Acts, Senate File 427, which became effective upon enactment on April 26, 2013, by operation of section 36 of the Senate File. The proposed amendments identify the licensee fees associated with apprentice, journey, master, medical gas piping certificate, inactive license, contractor, and specialty licenses. The fees are applicable to initial licenses, reciprocal licenses, and renewal licenses. In addition, all licenses are issued for a period of three years, and until June 29, 2017, those renewed for less than three years will be prorated using a one-sixth deduction for each six-month period. Late fees and requirements for lapsed licenses are also included. A fee for converting an HVAC-refrigeration or hydronics license to a mechanical license is also included.

Any interested person may make written suggestions or comments on these amendments on or before November 5, 2013. Written materials should be directed to Cynthia Houlson, Plumbing and Mechanical Systems Board, 321 E. 12th Street, Des Moines, Iowa 50319-0075; fax (515)281-6114; e-mail cindy.houlson@idph.iowa.gov.

There will be a public hearing on November 5, 2013, from 11:30 a.m. to 12:30 p.m., 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. This hearing will originate from the Iowa Communications Network (ICN) and will be accessible over the ICN from the following locations:

Grimes State Office Building
First Floor North
400 E. 12th Street
Des Moines

Cresco-Crestwood High School
1000 Schroder Drive
Cresco

Spirit Lake High School
2701 Hill Avenue
Spirit Lake

Iowa Falls Community College
1100 College Avenue
Iowa Falls

Clarinda Community College
923 E. Washington Street
Clarinda

Ottumwa Hospital
1001 E. Pennsylvania
Ottumwa

PUBLIC HEALTH DEPARTMENT[641](cont'd)

Waterloo Department of Human Services
501 Sycamore Street
Waterloo

Council Bluffs Department of Human Services
417 E. Kanesville Boulevard
Council Bluffs

Sheldon Community College
603 W. Park Street
Sheldon

Notre Dame High School
702 S. Roosevelt Avenue
Burlington

Mason City Community College
500 College Drive
Mason City

Xavier High School
6300 42nd Street NE
Cedar Rapids

Any persons who intend to attend the public hearing and have special requirements, such as those relating to hearing or mobility impairments, should contact the Plumbing and Mechanical Systems Board at the above address and advise staff of specific needs.

After analysis and review of this rule making, no impact on jobs has been found.

These amendments are intended to implement Iowa Code section 105.9 as amended by 2013 Iowa Acts, Senate File 427.

The following amendments are proposed.

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

28.1(1) ~~License fee for~~ Fees for three-year initial licenses are as follows:

- a. An apprentice license as defined in 641—subrule 29.2(1) is \$50.
- b. A journey license as defined in 641—subrule 29.2(2) is ~~\$50~~ \$180.
- c. A master license as defined in 641—subrule 29.2(3) is ~~\$125~~ \$240.
- d. A medical gas pipe certificate as defined in 641—29.3(105) is ~~\$50~~ \$75.
- e. An inactive license as defined in 641—subrules 29.2(5) and 29.2(6) is \$50.
- f. A contractor license as defined in 641—subrule 29.2(4) is ~~\$150~~ \$250.
- g. A special restricted license as defined in 641—subrules 29.2(8), 29.2(9), 29.2(10), and 29.2(11) is \$50.

h. Fees for all initial licenses issued for a period of less than three years shall be prorated using a one-sixth deduction for each six-month period.

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

28.1(2) ~~Reciprocal license fee for~~ Fees for three-year reciprocal licenses are as follows:

- a. An apprentice license as defined in 641—subrule 29.2(1) is \$50.
- b. A journey license as defined in 641—subrule 29.2(2) is ~~\$50~~ \$180.
- c. A master license as defined in 641—subrule 29.2(3) is ~~\$125~~ \$240.
- d. Fees for all reciprocal licenses issued for a period of less than three years shall be prorated using a one-sixth deduction for each six-month period.

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

28.1(3) ~~Renewal license fee for~~ Fees for renewal of licenses are as follows:

- a. An apprentice license as defined in 641—subrule 29.2(1) is \$50.
- b. A journey license as defined in 641—subrule 29.2(2) is ~~\$50~~ \$180.
- c. A master license as defined in 641—subrule 29.2(3) is ~~\$125~~ \$240.

PUBLIC HEALTH DEPARTMENT[641](cont'd)

- d. A medical gas pipe certificate as defined in 641—29.3(105) is ~~\$50~~ \$75.
- e. An inactive license as defined in 641—subrules 29.2(5) and 29.2(6) is \$50.
- f. A contractor license as defined in 641—subrule 29.2(4) is ~~\$150~~ \$250.
- g. A special restricted license as defined in 641—subrules 29.2(8), 29.2(9), 29.2(10), and 29.2(11) is \$50.
- h. ~~The renewal fee shall be waived for all licenses renewed from January 1, 2011, through December 31, 2012. However, if applicable, late fees as set forth in subrule 28.1(5) and paper application fees as set forth in subrule 28.1(10) will be applied. Through June 29, 2017, fees for all licenses renewed for a period of less than three years shall be prorated using a one-sixth deduction for each six-month period.~~

ITEM 4. Amend subrule 28.1(5) as follows:

28.1(5) A late fee for failure to renew before expiration is determined as follows:

- a. ~~A Prior to July 1, 2017, a licensee who allows a license to lapse for 30 days or less may reinstate and renew the license with payment of the appropriate renewal fee and without payment of a late fee. Beginning July 1, 2017, a licensee who does not timely renew but renews a license on or before the following July 31 may reinstate and renew the license upon payment of the appropriate renewal fee and without payment of a late fee.~~
- b. ~~A Prior to July 1, 2017, a licensee who allows a license to lapse for more than 30 days but less than 60 days may reinstate and renew the license without examination upon payment of a \$60 late fee and the appropriate renewal of license fee. Beginning July 1, 2017, a licensee who does not timely renew but renews a license between the following August 1 and August 31 may reinstate and renew the license without examination upon payment of a \$60 late fee and the appropriate renewal of license fee.~~
- c. ~~A Prior to July 1, 2017, a licensee who allows a license to lapse for more than 60 days but not more than 365 days may reinstate and renew the license without examination upon payment of a \$100 late fee and the appropriate renewal of license fee. Beginning July 1, 2017, a licensee who does not timely renew but renews a license after the following August 31 and on or before the following June 30 may reinstate and renew the license without examination upon payment of a \$100 late fee and the appropriate renewal of license fee. A licensee whose license has lapsed for more than 60 days may not work as a plumbing or mechanical professional or contractor in Iowa until the license is renewed. A licensee who works as a plumbing or mechanical professional under a license that has lapsed more than 60 days, including under a special restricted license; works as a geothermal heat pump installer with a lapsed license; or operates as a contractor in the state of Iowa with a lapsed license may be subject to disciplinary action by the board, injunctive action pursuant to Iowa Code chapter 105, criminal sanctions pursuant to Iowa Code chapter 105, and other available legal remedies.~~

ITEM 5. Amend subrule 28.1(11) as follows:

28.1(11) Combined license.

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

ITEM 6. Adopt the following **new** subrule 28.1(12):

28.1(12) The fee for converting an HVAC-refrigeration or hydronics license to a mechanical license is \$50. This fee shall not apply at the time of reissue.

ITEM 7. Amend **641—Chapter 28**, implementation sentence, as follows:

These rules are intended to implement Iowa Code ~~chapter 105~~ section 105.9 as amended by ~~2011~~ 2013 Iowa Acts, House File 392 Senate File 427 , and ~~chapter 272C~~.

ARC 1092C

SECRETARY OF STATE[721]

Notice of Intended Action

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

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

Pursuant to the authority of Iowa Code sections 17A.3 and 9B.27, the Secretary of State hereby gives Notice of Intended Action to amend Chapter 43, “Notarial Acts,” Iowa Administrative Code.

The proposed amendment provides that when documents are filed using the Electronic Document Management System (EDMS) administered by the Iowa Judicial Branch, the documents are deemed in compliance with the performance of notarial acts on electronic records under Iowa Code chapter 9B.

Any interested person may make written comments on the proposed amendment on or before November 5, 2013. Written comments should be directed to Charlie Smithson, Legal Counsel, Office of the Secretary of State, First Floor, Lucas State Office Building, Des Moines, Iowa 50319. Comments may be sent by fax to (515)242-5953 or by e-mail to Charlie.Smithson@sos.iowa.gov.

After analysis and review of this rule making, no impact on jobs has been found.

This amendment is intended to implement Iowa Code section 9B.27.

The following amendment is proposed.

Adopt the following **new** rule 721—43.5(9B):

721—43.5(9B) Performance of notarial act on electronic record. A notarized document is deemed to be in compliance with the requirements for a notarial act on an electronic record under Iowa Code chapter 9B when the document is submitted and accepted on the electronic document management system (EDMS) administered by the Iowa judicial branch.

This rule is intended to implement Iowa Code section 9B.27.

TREASURER OF STATE

Notice—Public Funds Interest Rates

In compliance with Iowa Code chapter 74A and section 12C.6, the committee composed of Treasurer of State Michael L. Fitzgerald, Superintendent of Credit Unions JoAnn Johnson, Superintendent of Banking James M. Schipper, and Auditor of State Mary Mosiman have established today the following rates of interest for public obligations and special assessments. The usury rate for October is 4.75%.

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 Financial Institutions 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

TREASURER OF STATE(cont'd)

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 October 9, 2013, setting the minimums that may be paid by Iowa depositories on public funds are listed below.

TIME DEPOSITS	
7-31 days	Minimum .05%
32-89 days	Minimum .05%
90-179 days	Minimum .05%
180-364 days	Minimum .05%
One year to 397 days	Minimum .05%
More than 397 days	Minimum .15%

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 1109C

TREASURER OF STATE[781]

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 12C.1, the Treasurer of State hereby gives Notice of Intended Action to adopt new Chapter 11, “Deposit of Public Funds by State Agencies,” Iowa Administrative Code.

This Notice of Intended Action proposes a chapter establishing the requirements governing the deposit of public funds by state agencies.

Any interested person may make written suggestions or comments on this proposed amendment on or before November 5, 2013. Such written materials should be directed to Randi McLaughlin at the State Treasurer’s Office, Capitol Building, Des Moines, Iowa 50319. The fax number is (515)281-7562. Persons who wish to make oral presentations should contact Ms. McLaughlin at the Treasurer’s Office at (515)281-6093.

After analysis and review of this rule making, no impact on jobs has been found.

These rules are intended to implement Iowa Code section 12C.1.

The following amendment is proposed.

Adopt the following **new** 781—Chapter 11:

CHAPTER 11
DEPOSIT OF PUBLIC FUNDS BY STATE AGENCIES

781—11.1(12C) Scope. Iowa Code section 12C.1 grants authority to the treasurer of state to act as the public officer for depositing public funds of the state. Iowa Code chapter 12C also requires that all public

TREASURER OF STATE[781](cont'd)

funds of the state deposited in a financial institution be secured, either by a pledge of collateral by that financial institution or by the state sinking fund. These rules outline the requirements that state agencies shall follow to ensure that public funds of the state are secured as required by Iowa Code chapter 12C.

781—11.2(12C) Definitions. As used in this chapter:

“Agency” or *“state agency”* means a unit of state government, which can be an authority, board, commission, council, department, examining board, or independent agency as defined in Iowa Code section 7E.4, and includes the office of an elective constitutional or statutory officer, the general assembly and any office or unit under its administration, and the judicial branch.

“Depository” means a financial institution into which public funds are deposited under Iowa Code chapter 12C.

“Financial institution” means a corporation or limited liability company engaged in the business of banking and organized under the laws of this state, another state, or the United States, as well as a savings bank organized under the laws of another state or the United States. *“Financial institution”* also means a cooperative or a nonprofit association incorporated under Iowa Code chapter 533 or the federal Credit Union Act and that is insured by the National Credit Union Administration and includes an office of a credit union.

“Public funds” or *“public deposits”* means the moneys of the state deposited by or on behalf of a state agency. *“Moneys of the state”* includes moneys credited to a depository for the purpose of completing an electronic financial transaction created by the federal government, a business, a consumer, or any other public or private entity, and a transaction created pursuant to 2013 Iowa Acts, Senate File 396, section 23.

“Treasurer” means the treasurer of the state of Iowa and members of staff carrying out duties delegated by the treasurer.

781—11.3(12C) Treasurer’s procedures for administering the depository process.

11.3(1) The treasurer shall enter into an agreement with one or more financial institutions located in the state to serve as a depository.

11.3(2) The treasurer shall specify which depositories may be used by state agencies and any third party hired by an agency to collect receipts and make deposits of public funds on the agency’s behalf.

11.3(3) The treasurer shall provide state agencies with the proper instructions for receiving electronic financial transactions at a depository.

11.3(4) The treasurer shall provide state agencies with instructions on creating cash receipt accounting documents reflecting the deposit of public funds into a depository.

11.3(5) Before an agency hires a third party to collect receipts and make deposits of public funds on the agency’s behalf, the treasurer shall review the collection process being considered by the agency and third party to ensure that public funds are being deposited directly into a depository.

781—11.4(12C) State agency requirements for depositing public funds.

11.4(1) A state agency shall make deposits of public funds with the treasurer’s cashier or directly into an account owned by the treasurer at a depository located in the state.

11.4(2) A state agency shall notify the treasurer of the agency’s intent to use a third party to collect receipts and make deposits of public funds on the agency’s behalf to allow the treasurer to review the process to ensure that receipts of public funds are being deposited directly into a depository.

11.4(3) A state agency shall require any third party collecting public funds on the agency’s behalf to make deposits directly into the depository and account specified by the treasurer.

11.4(4) A state agency shall comply with the treasurer’s instructions on creating cash receipt accounting documents reflecting the deposit of public funds into a depository.

These rules are intended to implement Iowa Code section 12C.1.

ARC 1094C

WORKFORCE DEVELOPMENT DEPARTMENT[871]

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 96.11, the Director of the Workforce Development Department hereby gives Notice of Intended Action to amend Chapter 26, “Contested Case Proceedings,” Iowa Administrative Code.

These amendments will allow parties to file unemployment insurance appeals online using a form that will be available on the Iowa Workforce Development Web site.

If requested in accordance with Iowa Code section 17A.4(1)“b” by the close of business on November 5, 2013, a public hearing will be held on November 6, 2013, at 1:30 p.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)281-5915 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 not later than November 5, 2013, to Joseph Bervid, Workforce Development Department, 1000 East Grand Avenue, Des Moines, Iowa 50319-0209. Comments may be sent electronically to joseph.bervid@iwd.iowa.gov.

The Workforce Development Department does not intend to grant waivers under the provisions of these rules, other than as may be allowed under the Department’s general rules regarding waivers found at 871—Chapter 41.

After analysis and review of this rule making, no impact on jobs has been found.

These amendments are intended to implement Iowa Code sections 96.6(3) and 96.7(4) and chapter 17A.

The following amendments are proposed.

ITEM 1. Amend rule 871—26.4(17A,96) as follows:

871—26.4(17A,96) Commencement of unemployment benefits contested case.

26.4(1) An unemployment benefits contested case is commenced with the filing, by mail, facsimile, online or in person, of a written appeal by a party with the appeals ~~section~~ bureau of the department. The appeal shall be addressed or delivered to: Appeals ~~Section~~ Bureau, Department of Workforce Development, 1000 East Grand Avenue, Des Moines, Iowa 50319. An online appeal is filed by completing and submitting an online appeal form available on the Iowa workforce development Web site.

26.4(2) An appeal from an initial decision concerning the allowance or denial of benefits shall be filed, by mail, facsimile, online, or in person, not later than ten calendar days, as determined by the postmark or the date stamp, after the decision was mailed to the party at its last-known address and shall state the following:

- a. The name, address and social security number of the claimant;
- b. A reference to the decision from which appeal is taken; and
- c. The grounds upon which the appeal is based.

26.4(3) and 26.4(4) No change.

WORKFORCE DEVELOPMENT DEPARTMENT[871](cont'd)

26.4(5) Appeals transmitted by facsimile or online which are received by the appeals ~~section~~ bureau after 11:59 p.m. Central time shall be deemed filed as of the next regular business day.

ITEM 2. Amend rule 871—26.5(17A,96) as follows:

871—26.5(17A,96) Commencement of employer liability contested case.

26.5(1) An employer liability contested case is commenced with the filing of a written appeal with the ~~section~~ bureau of the department by mail, facsimile, online, or in person. The appeal shall be addressed or delivered to: Appeals ~~Section~~ Bureau, Department of Workforce Development, 1000 East Grand Avenue, Des Moines, Iowa 50319. An online appeal is filed by completing and submitting an online appeal form available on the Iowa workforce development Web site.

26.5(2) An appeal from a decision of the tax section of the department concerning employer status and liability, assessments, contribution (tax) rate, successorship, workers' status, and all questions regarding coverage of a worker or group of workers shall be filed, by mail, facsimile, online, or in person, not later than 30 calendar days, as determined by the postmark or the date stamp, after the decision was mailed to the party at its last-known address and shall set forth the following:

- a. The name, address, and Iowa employer account number of the employer;
- b. The name and title of the person filing the appeal;
- c. A reference to the decision from which the appeal is taken; and
- d. The grounds upon which the appeal is based.

26.5(3) Appeals transmitted by facsimile or online which are received by the appeals ~~section~~ bureau after 11:59 p.m. Central time shall be deemed filed as of the next regular business day.

ITEM 3. Strike "appeals section" wherever it appears in rules **871—26.6(17A,96)**, **871—26.9(17A,96)** and **871—26.12(17A,96)** and insert "appeals bureau" in lieu thereof.

ARC 1095C

WORKFORCE DEVELOPMENT DEPARTMENT[871]

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 96.11, the Director of the Workforce Development Department hereby gives Notice of Intended Action to amend Chapter 26, "Contested Case Proceedings," Iowa Administrative Code.

The amendments to subrules 26.14(6) and 26.14(7) and the rescision of subrule 26.14(9) provide that a party who appeals a decision and then does not participate in the appeal hearing may have the appeal dismissed at the discretion of the presiding officer. The appealing party may request to reopen the hearing if that party had good cause for failing to appear.

If requested in accordance with Iowa Code section 17A.4(1)"b" by the close of business on November 5, 2013, a public hearing will be held on November 6, 2013, at 3 p.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)281-5915 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 not later than November 5, 2013, to Joseph Bervid, Workforce Development Department,

WORKFORCE DEVELOPMENT DEPARTMENT[871](cont'd)

1000 East Grand Avenue, Des Moines, Iowa 50319-0209. Comments may be sent electronically to joseph.bervid@iwd.iowa.gov.

The Workforce Development Department does not intend to grant waivers under the provision of these rules, other than as may be allowed under the Department's general rules regarding waivers found at 871—Chapter 41.

After analysis and review of this rule making, no impact on jobs has been found.

These amendments are intended to implement Iowa Code section 96.6(3) and chapter 17A.

The following amendments are proposed.

ITEM 1. Amend subrules 26.14(6) and 26.14(7) as follows:

26.14(6) In the event that one or more parties which have received notice for a contested case hearing fail to appear at the time and place of an in-person hearing, the presiding officer may proceed with the hearing. If the appealing party fails to appear, the presiding officer may decide the party is in default and dismiss the appeal. The hearing may be reopened if the absent party makes a request to reopen the hearing under subrule 26.8(3) and shows good cause for reopening the hearing.

a. If an absent party arrives for an in-person hearing while the hearing is in session, the presiding officer shall pause to admit the party, summarize the hearing to that point, administer the oath, and resume the hearing.

b. If an absent party arrives for an in-person hearing after the record has been closed and after any party which had participated in the hearing has departed, the presiding officer shall not take the evidence of the late party. Instead, the presiding officer shall inquire *ex parte* as to the reason the party was late. For good cause shown, the presiding officer shall cause notice of hearing to be issued to all parties of record and reopen the record. The record shall not be reopened if the presiding officer does not find a good cause for the party's late arrival.

26.14(7) If a party has not responded to a notice of telephone hearing by providing the appeals ~~section~~ bureau with the names and telephone numbers of ~~its witnesses~~ the persons who are participating in the hearing by the scheduled starting time of the hearing or is not available at the telephone number provided, the presiding officer may proceed with the hearing. If the appealing party fails to provide a telephone number or is unavailable for the hearing, the presiding officer may decide the appealing party is in default and dismiss the appeal as provided in Iowa Code section 17A.12(3). The record may be reopened if the absent party makes a request to reopen the hearing under subrule 26.8(3) and shows good cause for reopening the hearing.

a. If an absent party responds to the hearing notice while the hearing is in progress, the presiding officer shall pause to admit the party, summarize the hearing to that point, administer the oath, and resume the hearing.

b. If a party responds to the notice of hearing after the record has been closed and any party which has participated is no longer on the telephone line, the presiding officer shall not take the evidence of the late party. Instead, the presiding officer shall inquire *ex parte* as to why the party was late in responding to the notice of hearing. For good cause shown, the presiding officer shall reopen the record and cause further notice of hearing to be issued to all parties of record. The record shall not be reopened if the presiding officer does not find good cause for the party's late response to the notice of hearing.

c. Failure to read or follow the instructions on the notice of hearing shall not constitute good cause for reopening the record.

ITEM 2. Rescind and reserve subrule **26.14(9)**.

ARC 1098C

ECONOMIC DEVELOPMENT AUTHORITY[261]

Adopted and Filed Emergency After Notice

Pursuant to the authority of Iowa Code section 15.106A, the Economic Development Authority amends Chapter 116, “Tax Credits for Investments in Certified Innovation Funds,” Iowa Administrative Code.

The rules in Chapter 116 describe the Economic Development Authority’s administration of the Innovation Fund Tax Credit Program. These amendments update existing rules to reflect changes to the tax credit, including additional eligibility criteria for certification of innovation funds, new requirements for the administration of the certification process and maintenance of fund certification, a description of the circumstances under which a fund’s certification may be revoked, an increase of the tax credit percentage that a taxpayer may claim, and changes to the way the tax credit may be claimed.

Notice of Intended Action was published in the Iowa Administrative Bulletin on August 7, 2013, as **ARC 0940C**. No public comment was received on these amendments. These amendments are identical to those published under the Notice of Intended Action.

These amendments were adopted by the Economic Development Authority Board on September 20, 2013.

The Authority finds, pursuant to Iowa Code section 17A.5(2)“b”(2), that the normal effective date of these amendments should be waived and that these amendments should be made effective on October 1, 2013, as they confer a benefit on the public by allowing investors to be eligible to receive tax credits for investments made in 2013.

After analysis and review of this rule making, no impact on jobs has been found.

These amendments are intended to implement Iowa Code section 15E.52 as amended by 2013 Iowa Acts, House File 615.

These amendments became effective October 1, 2013.

The following amendments are adopted.

ITEM 1. Strike “84GA,SF517” wherever it appears in rules **261—116.1(84GA,SF517)** to **261—116.8(84GA,SF517)** and insert “15E” in lieu thereof.

ITEM 2. Amend subrule 116.1(5) as follows:

116.1(5) Amount of credit. ~~The~~ For tax years beginning and investments made on or after January 1, 2011, and before January 1, 2013, the taxpayer may claim a tax credit in an amount equal to 20 percent of the taxpayer’s equity investment in a certified innovation fund. For tax years beginning and investments made on or after January 1, 2013, the taxpayer may claim a tax credit in an amount equal to 25 percent of the taxpayer’s equity investment in a certified innovation fund.

ITEM 3. Amend rule **261—116.2(15E)**, definitions of “Authority” and “Board,” as follows:

“*Authority*” means the economic development authority created in ~~2011 Iowa Acts, House File 590~~ Iowa Code section 15.105.

“*Board*” means the same as defined in Iowa Code section 15.102 ~~as amended by 2011 Iowa Acts, House File 590, section 3.~~

ITEM 4. Amend rule 261—116.3(15E), catchwords, as follows:

261—116.3(15E) Verification Certification of innovation funds.

ITEM 5. Amend subrule 116.3(2) as follows:

116.3(2) Application forms setting forth the information required to ~~verify~~ certify the eligibility of an innovation fund may be obtained by contacting the Economic Development Authority, 200 East Grand Avenue, Des Moines, Iowa 50309. The telephone number is (515)725-3000. Applications shall be submitted to the authority at the address identified above.

ECONOMIC DEVELOPMENT AUTHORITY[261](cont'd)

ITEM 6. Amend subrule 116.3(3) as follows:

116.3(3) ~~The following information must be submitted to the authority in order for an eligible innovation fund to be verified~~ authority will not issue a tax credit certificate until the board has certified that a fund meets all of the following criteria:

a. ~~A~~ The innovation fund has submitted a copy of the innovation fund's certificate of limited partnership, limited partnership agreement, articles of organization or operating agreement certified by the chief executive officer of the innovation fund.

b. ~~A~~ The innovation fund has submitted a signed statement, from an officer, director, manager, member or general partner of the fund, stating the following:

(1) That the innovation fund will make investments in promising early-stage companies which have a principal place of business in the state. For purposes of rule 261—116.3(15E), "having a principal place of business in the state" means (1) that the business has at least 50 percent of all of its employees in the state, (2) that the business pays at least 50 percent of the business's total payroll to employees residing in the state, or (3) that the headquarters of the business (defined as the home office for a substantial amount of executive employees) is in the state.

(2) That the innovation fund proposes to make investments in innovative businesses which have a principal place of business in the state.

(3) That the innovation fund seeks to secure private funding sources for investment in such businesses.

(4) That the innovation fund proposes to provide multiple rounds of funding and early-stage private sector funding to innovative businesses with a high growth potential, and proposes to focus such funding on innovative businesses that show a potential to produce commercially viable products or services within a reasonable period of time. In order to establish that this criterion is met, the innovation fund shall provide a detailed description of the framework the innovation fund will use to evaluate a business's growth potential and its ability to produce commercially viable products or services within a reasonable period of time. The description shall list and discuss the criteria and the attendant process that the innovation fund will use to evaluate businesses. The authority will consider requests submitted under Iowa Code section 15.118 or 22.7 to treat the evaluation framework as confidential.

(5) That the innovation fund proposes to evaluate all prospective innovative businesses using a rigorous approach and proposes to collaborate and coordinate with the authority and other state and local entities in an effort to achieve policy consistency. In order to establish that this criterion is met, an innovation fund shall provide a detailed description of the methods by which each business will be evaluated. An innovation fund shall also submit a plan describing the actions it will take in order to collaborate and coordinate with other state and local entities and the ways in which the innovation fund intends to ensure consistency with the policy goals of this chapter. Such a plan shall propose to create relationships that can be substantiated in writing, which may include, without limitation, contracts, memoranda of understanding, letters of support, affidavits, or joint press releases from or with the entities that will be involved in the collaborative and coordinating efforts or through a list and summary description of the dates and locations for meetings held between the innovation fund and the other entities which allowed for collaboration and coordination between the innovation fund and those entities in an effort to achieve policy consistency.

(6) That the innovation fund proposes to collaborate with the regents institutions of this state and to leverage relationships with such institutions in order to potentially commercialize research developed at those institutions. In order to establish that this criterion is met, an innovation fund shall provide written confirmation of such relationships which may include, without limitation, contracts, memoranda of understanding, letters of support, affidavits, or joint press releases from or with the regents institutions of this state or a list and summary description of the dates and locations for meetings held between the innovation fund and the regents institutions, the names of representatives of regents institutions with whom the innovation fund has met, and a brief summary of the discussions at those meetings.

(7) That the innovation fund proposes to obtain at least \$15 million in binding investment commitments and to invest a minimum of \$15 million in companies that have a principal place of business in the state. In order to establish that this criterion is met, an innovation fund shall include

ECONOMIC DEVELOPMENT AUTHORITY[261](cont'd)

provisions in the fund's governing documents that provide for the continued operations of the fund only if this minimum level of investment commitment is reached.

ITEM 7. Amend subrule 116.3(4) as follows:

116.3(4) Upon the authority's receipt of the information and documentation necessary to demonstrate satisfaction of the criteria set forth herein, the authority shall, within a reasonable period of time, determine whether ~~a certification will be issued for to certify~~ the innovation fund. If the authority certifies the innovation fund, the authority shall register the fund on a registry that shall be maintained by the authority. The authority shall use the registry to authorize the issuance of further investment tax credits to taxpayers who make equity investments in the innovation funds registered with the authority. The authority shall issue written notification to the innovation fund that the fund has been registered as an innovation fund with the authority for the purpose of issuing investment tax credits. This written notification shall contain the following statement:

The Authority shall not be liable either for an innovation fund's failure to maintain compliance with the certification requirements nor for an investor's loss of tax credit certificates resulting from either a failure to maintain compliance or from a revocation.

ITEM 8. Adopt the following new subrules 116.3(5) and 116.3(6):

116.3(5) On May 24, 2013, significant changes to the innovation fund tax credit program were enacted. (See 2013 Iowa Acts, House File 615.) The legislation includes changes to the criteria required for certification and also changes to the tax credits available to investors in certified funds. An innovation fund certified before May 24, 2013, that wishes to take advantage of the changes in 2013 Iowa Acts, House File 615, must resubmit an application to the board and demonstrate that the innovation fund meets all new requirements for certification as described in subrule 116.3(3).

116.3(6) The board will not certify an innovation fund after June 30, 2018.

ITEM 9. Renumber rules **261—116.4(15E)** and **261—116.5(15E)** as **261—116.5(15E)** and **261—116.6(15E)** and renumber rule **261—116.6(15E)** as **261—116.9(15E)**.

ITEM 10. Adopt the following new rule 261—116.4(15E):

261—116.4(15E) Maintenance, reporting, and revocation of certification.

116.4(1) In order to maintain certification, an innovation fund must demonstrate compliance with the eligibility criteria set forth in subrule 116.3(3) at all times during participation in the program. A failure to comply with the eligibility criteria on an ongoing basis may result in revocation of certification. The authority will notify an innovation fund if the authority finds that the fund is not in compliance and will allow the innovation fund a period of not more than 120 days in which to address such noncompliance. If after 120 days the innovation fund remains in noncompliance, the board may revoke the fund's certification. The authority will not issue tax credit certificates to investors in an innovation fund if such equity investments are made at any point after the innovation fund has been found to be in noncompliance or if the innovation fund's certification has been revoked.

116.4(2) On or before December 31 of each year, each certified innovation fund shall collect and provide to the board, in the manner and form prescribed by the authority, the following information:

a. The amount of equity investments made in the innovation fund, both on an annual and a cumulative basis.

b. For each investment by an innovation fund in a business:

(1) The amount and date of the investment.

(2) The name and industry of the business.

(3) The location or locations from which the business operates.

(4) The number of employees of the business located in Iowa and the number of employees of the business located outside Iowa on the date of the initial investment by the innovation fund in the business.

(5) The number of employees of the business located in Iowa and the number of employees of the business located outside Iowa at the close of the fiscal year which is the subject of the report.

c. In order to establish that an innovation fund has met the criterion found in subparagraph 116.3(3) "b"(5), the innovation fund shall provide documentation and information in the manner and

ECONOMIC DEVELOPMENT AUTHORITY[261](cont'd)

form required by the authority. Such documentation and information may include, without limitation, contracts, memoranda of understanding, letters of support, affidavits, joint press releases, or a list and summary description of the dates and locations for meetings held between the innovation fund and the other entities which allowed for collaboration and coordination between the innovation fund and those entities in an effort to achieve policy consistency.

d. In order to establish that an innovation fund has met the criterion found in subparagraph 116.3(3)“*b*”(6), the innovation fund shall provide documentation and information in the manner and form required by the authority. Such documentation and information may include, without limitation, contracts, memoranda of understanding, letters of support, affidavits, joint press releases, or a list and summary description of the dates and locations for meetings held between the innovation fund and regents institutions, the names of representatives of regents institutions with whom the innovation fund has met, and a brief summary of the discussions at those meetings. The innovation fund shall also indicate if any business in which it has invested is commercializing research developed at one of the regents institutions.

116.4(3) Upon obtaining the required minimum threshold of \$15 million in binding investment commitments, an innovation fund shall submit a statement containing the names, addresses, equity interests issued and consideration paid for the interests of all limited partners or members who may initially qualify for the tax credits. An innovation fund shall submit an amended statement as may be necessary from time to time to reflect new equity interests or transfers in equity among current equity holders or as any other information on the list may change. The authority will consider requests submitted under Iowa Code section 15.118 to treat investor names and amounts as confidential.

116.4(4) The board may revoke an innovation fund’s certification if any of the following events occur:

a. An innovation fund fails to secure the required \$15 million in initial binding investment commitments within one year of the date of certification by the board or fails at any point thereafter to secure investment from its investors of at least \$15 million. If an investor in an innovation fund fails to make a capital call by the innovation fund and that failure would cause the innovation fund to fail to secure the required minimum \$15 million in investment, then the authority will provide the innovation fund a period of not more than 120 days after receiving notice of the failed capital call to secure additional investment commitments sufficient to meet the required minimum investment.

b. An innovation fund fails to timely submit the report required in subrule 116.4(2).

c. An innovation fund fails to maintain the eligibility criteria as set forth in subrule 116.3(3).

The board may forbear revocation under this subrule for good cause shown or for demonstration of extenuating circumstances. Such forbearance shall be at the board’s discretion and for the period of time determined by the board to be in the best interest of the program and the state of Iowa.

116.4(5) If the board finds that a fund is in noncompliance or revokes an innovation fund’s certification, the board will not issue tax credit certificates to investors in the innovation fund until the innovation fund manager demonstrates to the board that the innovation fund again meets the eligibility criteria set forth in rule 261—116.3(15E). If an investor makes an equity investment prior to a notice of noncompliance and a revocation of an innovation fund’s certification, the board will issue the tax credit certificate as set forth in rule 261—116.6(15E). If an investor is issued a tax credit certificate prior to a revocation of certification, the investor shall have all the rights described in Iowa Code section 15E.52(5) as amended by 2013 Iowa Acts, House File 615.

ITEM 11. Amend renumbered rule 261—116.5(15E) as follows:

261—116.5(15E) Application for the investment tax credit certificate. Upon ~~verification~~ certification and registration by the authority of an innovation fund, a taxpayer ~~who desires to receive~~ may make equity investments in the fund and may apply for an investment tax credit certificate for an each equity investment made in an a certified innovation fund must submit by submitting an application to the authority for approval by the board and ~~provide~~ providing such other information and documentation as may be requested by the authority. Application forms for the investment tax credit certificate may be obtained by contacting the Economic Development Authority, 200 East Grand Avenue, Des Moines,

ECONOMIC DEVELOPMENT AUTHORITY[261](cont'd)

Iowa 50309. Applications shall be submitted to the authority at the address identified above. Each application shall be date- and time-stamped by the authority in the order in which such applications are received. Applications for the investment tax credit shall be accepted by the authority until March 31 of the year following the calendar year in which the taxpayer's equity investment is made.

ITEM 12. Amend renumbered rule 261—116.6(15E) as follows:

261—116.6(15E) Approval, issuance and distribution of investment tax credits.

116.6(1) Approval and issuance. Upon ~~verification certification~~ and registration by the authority of an innovation fund, ~~the authority, upon and approval by the board of the taxpayer's application, shall issue the board will approve the issuance of a tax credit certificate to the applicant. The board shall not issue a certificate to a taxpayer for an equity investment in an innovation fund until such fund has been certified as an innovation fund pursuant to rule 261—116.3(15E).~~

116.6(2) Issuance. Applicants shall receive tax credit certificates on a first-come, first-served basis until the maximum aggregate amount of credits authorized for issuance has been reached for any fiscal year. The board shall not issue a tax credit certificate prior to September 1, 2014.

~~**116.6(2) 116.6(3) Carry-forward Waiting list.** If, during any fiscal year during which tax credits are to be issued under this chapter, applications totaling more than the maximum aggregate amount are received and approved, the applications will be carried forward and prioritized to receive tax credit certificates on a first-come, first-served basis in subsequent fiscal years~~ board will establish a waiting list for certificates. Applications that were approved but for which certificates were not issued shall be placed on the waiting list in the order the applications were received by the board. If applications were placed on the waiting list, the authority shall:

a. When carrying forward and prioritizing such applications, the authority shall (1) issue Issue tax credit certificates to the taxpayers for such ~~carryover~~ waitlisted tax credits before issuing any new tax credits to later applicants, and

b. (2) apply Apply the aggregate amount of the waitlisted credits ~~carried over~~ against the total amount of tax credits to be issued during the subsequent fiscal year before approving or issuing additional tax credits.

~~**116.6(3) 116.6(4) Preparation of the certificate.** The tax credit certificate shall be in a form approved by the authority and shall contain the taxpayer's name, address, and tax identification number, the amount of credit, the name of the innovation fund, the year in which the ~~credit may be redeemed~~ investment was made and any other information that may be required by the department of revenue. In addition, the tax credit certificate shall contain the following statement:~~

Neither the authority nor the board has recommended or approved this investment or passed on the merits or risks of such investment. Investors should rely solely on their own investigation and analysis and seek investment, financial, legal and tax advice before making their own decision regarding investment in this ~~enterprise fund~~.

~~**116.6(4) 116.6(5) Credit amount.** A tax credit for investment in an innovation fund is equal to ~~20~~ 25 percent of the taxpayer's equity investment in the fund.~~

~~**116.6(5) 116.6(6) Maximum aggregate limitation.** The maximum aggregate amount of tax credits issued pursuant to this chapter shall not exceed the amount allocated by the board pursuant to Iowa Code section 15.119, subsection 2. For fiscal year 2012 and all subsequent fiscal years, that amount is \$8 million per year.~~

ITEM 13. Renumber rules **261—116.7(15E)** and **261—116.8(15E)** as **261—116.10(15E)** and **261—116.11(15E)**.

ITEM 14. Adopt the following new rule 261—116.7(15E):

261—116.7(15E) Transferability of the tax credit.

116.7(1) Transfer. Tax credit certificates issued pursuant to this rule may be transferred, in whole or in part, to any person or entity. Within 90 days of transfer, the transferee shall submit the transferred tax credit certificate to the department of revenue along with a statement containing the transferee's name,

ECONOMIC DEVELOPMENT AUTHORITY[261](cont'd)

tax identification number, and address, the denomination that each replacement tax credit certificate is to carry, and any other information required by the department of revenue.

116.7(2) *Only one transfer allowed.* A tax credit certificate shall only be transferred once.

116.7(3) *Replacement certificate.* Within 30 days of receiving the transferred tax credit certificate and the transferee's statement, the Iowa department of revenue shall issue one or more replacement tax credit certificates to the transferee. Each replacement tax credit certificate must contain the information required for the original tax credit certificate. A replacement tax credit certificate may designate a different tax than the tax designated on the original tax credit certificate.

116.7(4) *Claiming a transferred tax credit.* A tax credit shall not be claimed by a transferee until a replacement tax credit certificate identifying the transferee as the proper holder has been issued. The transferee may use the amount of the tax credit transferred against the taxes imposed in Iowa Code chapter 422, divisions II, III, and V, and in Iowa Code chapter 432, and against the moneys and credits tax imposed in Iowa Code section 533.329, for any tax year the original transferor could have claimed the tax credit. Any consideration received for the transfer of the tax credit shall not be included as income under Iowa Code chapter 422, divisions II, III, and V. Any consideration paid for the transfer of the tax credit shall not be deducted from income under Iowa code chapter 422, divisions II, III, and V. For more information on claiming transferred tax credits, see department of revenue rule 701—42.22(15E,422).

ITEM 15. Adopt the following **new** rule 261—116.8(15E):

261—116.8(15E) Vested right in the tax credit. A certificate and related tax credit issued pursuant to Iowa Code section 15E.52 as amended by 2013 Iowa Acts, House File 615, shall be deemed a vested right of the original holder or any transferee thereof, and the state shall not cause either to be redeemed in such a way that amends or rescinds the certificate or that curtails, limits, or withdraws the related tax credit, except as otherwise provided in rules 261—116.6(15E) and 261—116.7(15E) or upon consent of the proper holder. A certificate issued pursuant to this rule cannot pledge the credit of the state, and any such certificate so pledged to secure the debt of the original holder or a transferee shall not constitute a contract binding the state. A taxpayer does not obtain a vested right in such a tax credit until a certificate has been issued by the authority.

ITEM 16. Amend renumbered rule 261—116.9(15E) as follows:

261—116.9(15E) Claiming the tax credits. To claim a tax credit under this chapter, a taxpayer must attach to that taxpayer's tax return a certificate issued pursuant to this chapter when the return is filed with the department of revenue. A tax credit may be claimed in the first year that a certificate is issued. Any tax credit in excess of the taxpayer's liability for the tax year may be credited to the tax liability for the following five years or until depleted, whichever is earlier. A tax credit shall not be carried back to a tax year prior to the tax year in which the taxpayer claims the tax credit. For more information on claiming tax credits, see department of revenue rule 701—42.22(15E,422).

ITEM 17. Amend **261—Chapter 116**, implementation sentence, as follows:

These rules are intended to implement ~~2011 Iowa Acts, Senate File 517~~ 2013 Iowa Code section 15E.52 and 2013 Iowa Acts, House File 615.

[Filed Emergency After Notice 9/20/13, effective 10/1/13]

[Published 10/16/13]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 10/16/13.

ARC 1112C

IOWA FINANCE AUTHORITY[265]

Adopted and Filed Emergency

Pursuant to the authority of 2013 Iowa Acts, House File 607, sections 28 and 38, and Iowa Code section 16.5(1)“r,” the Iowa Finance Authority hereby adopts new Chapter 44, “Iowa Agricultural Development Division,” and rescinds Agricultural Development Authority 25—Chapters 1 to 11, Iowa Administrative Code.

The purpose of this adoption is to establish rules in new Chapter 44 for the administration of the programs of the newly created Iowa Agricultural Development Division of the Iowa Finance Authority pursuant to 2013 Iowa Acts, House File 607, and Iowa Code chapter 175. In addition, pursuant to 2013 Iowa Acts, House File 607, section 28, the rules of the former Iowa Agricultural Development Authority, 25—Chapters 1 to 11, are rescinded.

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

The adoption of these rules on an emergency basis is authorized by 2013 Iowa Acts, House File 607, section 38. Accordingly the rules are Adopted and Filed Emergency, and the normal effective date of these rules is waived pursuant to Iowa Code section 17A.5(2)“b”(1). The Authority is also concurrently publishing these rules under Notice of Intended Action as **ARC 1113C** to allow for public comment.

The Authority adopted these rules on September 3, 2013.

After analysis and review of these rules, no impact on jobs has been found, as the rules merely continue programs already previously administered by the former Iowa Agricultural Development Authority.

These amendments are intended to implement 2013 Iowa Acts, House File 607, Iowa Code section 16.5(1) and Iowa Code chapter 175.

These amendments became effective on September 26, 2013.

The following amendments are adopted.

ITEM 1. Adopt the following **new** 265—Chapter 44:

CHAPTER 44

IOWA AGRICULTURAL DEVELOPMENT DIVISION

265—44.1(175) General.

44.1(1) Description of Iowa agricultural development division (IADD) board. The IADD board consists of five members appointed by the governor. The executive director of the Iowa finance authority or the executive director’s designee shall serve as an ex officio nonvoting member. Members are appointed for staggered six-year terms. The appointed members shall elect a chairperson and vice chairperson annually, and other officers as the appointed members determine. The executive director of the authority may organize the division and employ necessary qualified personnel.

44.1(2) General course and method of operations. The IADD board generally meets on a monthly basis or at the call of the chairperson or whenever two appointed members so request. The purpose of the meetings shall be to review progress in implementation and administration of programs, to consider and act upon proposals for assistance, and take other actions as necessary and appropriate.

44.1(3) Location where public may submit requests for assistance or obtain information. Requests for assistance or information should be directed to the Iowa Finance Authority, 2015 Grand Avenue, Des Moines, Iowa 50312; telephone (515)725-4900. Requests may be made personally, by telephone, U.S. mail or any other medium available, between the hours of 8 a.m. and 4:30 p.m., Monday through Friday. Special arrangements for accessibility to the authority at other times will be provided as needed.

265—44.2(175) Definitions. For any terms not defined in this rule, refer to Iowa Code section 175.2.

“Act” means together Iowa Code chapters 16 and 175 as amended by 2013 Iowa Acts, House File 607.

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“*Agricultural asset*” means agricultural land, agricultural improvements, depreciable agricultural property, crops or livestock used for farming purposes.

“*Agricultural asset transfer agreement*” means any commonly accepted written agreement which specifies the terms of the transfer of operation of the agricultural asset. This may be made on a cash basis or a commodity share basis.

“*Agricultural improvements*” means any improvements, buildings, structures or fixtures suitable for use in farming which are located on agricultural land. “Agricultural improvements” includes a single-family dwelling located on agricultural land which is or will be occupied by the beginning farmer and structures attached to or incidental to the use of the dwelling.

“*Agricultural land*” means land suitable for use in farming and which is or will be operated as a farm.

“*Application*” means a completed instrument on a form approved by IADD.

“*BFCF*” means beginning farmer custom farming tax credit program.

“*BFCF eligible applicant*” means an individual, partnership, family farm corporation or family farm limited liability company, who has a net worth of not more than the maximum allowable net worth. The applicant must also satisfy all of the criteria contained in Iowa Code sections 175.36A and 175.38, who satisfies all of the criteria contained in the Act and provisions of these rules relating to recipient eligibility and who operates or will operate a farm.

“*BFLP*” means beginning farmer loan program.

“*BFLP eligible applicant*” means an individual who has a net worth of not more than the maximum allowable net worth. The applicant must also be a beginning farmer, as defined in Iowa Code section 175.12, who satisfies all of the criteria contained in the Act and provisions of these rules relating to recipient eligibility and who operates or will operate a farm.

“*BFTC*” means beginning farmer tax credit program.

“*BFTC eligible applicant*” means an individual, partnership, family farm corporation or family farm limited liability company, who has a net worth of not more than the maximum allowable net worth. The applicant must also satisfy all of the criteria contained in Iowa Code sections 175.36A and 175.37, who satisfies all of the criteria contained in the Act and provisions of these rules relating to recipient eligibility and who operates or will operate a farm.

“*Bond purchaser*” means any lender or any person, as defined in Iowa Code section 4.1(13), who purchases an authority bond under the individual agricultural development bond program.

“*Cash basis agreement*” means an agreement whereby operation of the agricultural asset is transferred via a fixed cash payment per annum.

“*Commodity share basis*” means an agreement whereby operation of the agricultural asset is transferred via a risk-sharing mechanism, whereby the agricultural asset owner receives a portion of the production and payment for use of the agricultural asset.

“*Custom farming contract*” means any commonly accepted written contract which specifies the terms of the work to be performed by the beginning farmer for an Iowa landowner or tenant and/or livestock owner. The contract must provide for the production of crops or livestock located on agricultural land. The taxpayer will pay the BFCF eligible applicant on a cash basis and must equal at least \$1,000. The contract must be in writing for a term of not more than 12 months. A contract is not allowed if the taxpayer and BFCF eligible applicant are: persons who hold a legal or equitable interest in the same agricultural land or livestock; related family members such as spouse, child, stepchild, brother, or sister; partners in the same partnership which holds a legal or equitable interest.

“*Farm*” means a farming enterprise which is generally recognized as a farm rather than a rural residence.

“*Farming*” means the cultivation of land for the production of agricultural crops, the raising of poultry, the production of eggs, the production of milk, the production of fruit or other horticultural crops, grazing, the production of livestock, aquaculture, hydroponics, the production of forest products, or other activities designated by the authority.

“*Lender*” means any regulated bank, trust company, bank holding company, mortgage company, national banking association, savings and loan association, life insurance company, state or federal

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governmental agency or instrumentality, or other financial institution or entity authorized and able to make mortgage loans or secured loans in this state.

“Low-income farmer” means a farmer who cannot obtain financing to purchase agricultural property without the assistance of an LPP loan with the authority.

“LPP” means loan participation program.

“LPP eligible applicant” means an individual who has a net worth of not more than the maximum allowable net worth. The applicant must be a low-income farmer, who satisfies all of the criteria contained in the Act and provisions of these rules relating to recipient eligibility and who operates or will operate a farm.

“LPP loan” means the “last-in/last-out” loan participation requested by the lender from the authority.

“Maximum allowable net worth” for calendar year 2013 is \$691,172. The maximum allowable net worth for each calendar year shall be increased or decreased as of January 1 of such calendar year by an amount equal to the percentage increase or decrease (September to September) in the United States Department of Agriculture “Index of Prices Paid for Commodities and Services, Interest, Taxes, and Farm Wage Rates” reported as of October 1 of the immediately preceding calendar year.

“Net worth” means total assets minus total liabilities as determined in accordance with generally accepted accounting principles with appropriate exceptions and exemptions reasonably related to an equitable determination of the net worth of the individual, partnership, limited liability company or corporation. Assets shall be valued at fair market value.

“Participated loan” means a loan, any portion of which is participated to the authority by the lender.

“Projected gross income” is the total of all nonfarm income plus gross farm revenues which include revenue from cash sales, inventory and receivable charges; crops, livestock products, government program payments, and other farm income received by the borrower during the next calendar year.

“Term debt coverage ratio” is the total of net farm income from operations plus total nonfarm income plus depreciation/amortization expense plus interest on term debt plus interest on capital leases minus total income tax expense minus withdrawals for family living multiplied by 100 and divided by the sum of annual scheduled principal and interest payments on term debt and the annual scheduled principal and interest payments on capital leases. The ratio provides a measure of the ability of the borrower to cover all term debt and capital lease payments. The greater the ratio over 100 percent, the greater the margin to cover the payments.

“Total assets” shall include but not be limited to the following: cash; crops or feed on hand; livestock held for sale; breeding stock; marketable bonds and securities; securities (not readily marketable); accounts receivable; notes receivable; cash invested in growing crops; net cash value of life insurance; machinery, equipment, cars and trucks; farm and other real estate including life estates and personal residence; value of beneficial interest in a trust; government payments or grants; any other assets.

“Total assets” shall not include items used for personal, family or household purposes by the applicant; but in no event shall any property be excluded, to the extent a deduction for depreciation is allowable for federal income tax purposes. All assets shall be valued at fair market value by the lender. The value shall be what a willing buyer would pay a willing seller in the locality. A deduction of 10 percent may be made from fair market value of farm and other real estate.

“Total liabilities” shall include but not be limited to the following: accounts payable; notes or other indebtedness owed to any source; taxes; rent; amount owed on real estate contract or real estate mortgages; judgments; accrued interest payable; any other liabilities. Liabilities shall be determined on the basis of generally accepted accounting principles.

In only those cases where the liabilities include an amount for deferred tax liability that causes the applicant’s net worth to change from exceeding the maximum allowable net worth to an amount no greater than the maximum allowable net worth, the applicant is required to have a certified public accountant prepare the financial statement and provide supporting calculations and documentation acceptable to the board.

“Veteran” means the same as defined in Iowa Code section 35.1.

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265—44.3(175) General recipient eligibility.

44.3(1) Residence. The eligible applicant must be a resident of Iowa. The project must be located in Iowa.

44.3(2) Training and experience. The eligible applicant must have documented to the satisfaction of the authority sufficient education, training, and experience for the anticipated farm operations.

44.3(3) Access to capital. The eligible applicant must demonstrate to the satisfaction of the authority access to the following as may be needed: adequate working capital; farm machinery; livestock; agricultural land.

265—44.4(175) Beginning farmer loan program.

44.4(1) Individual agricultural development bond program description. This program is intended to allow BFLP eligible applicants to obtain lower interest rate loans for qualified purposes by obtaining loan funds from the proceeds of a tax-exempt bond issued by the authority and purchased by the bond purchaser. The authority will enter into a loan agreement with the BFLP eligible applicant and assign that BFLP loan to the bond purchaser. At the same time, the authority will issue a tax-exempt bond in the amount of the BFLP loan, and the bond purchaser will purchase that bond, which is used to fund the BFLP loan assigned to the bond purchaser. The bond which is issued by the authority and purchased by the bond purchaser is a nonrecourse obligation. The only security for the bond purchaser is the underlying security on the assigned BFLP loan.

44.4(2) Application procedures. The BFLP eligible applicant may apply for a BFLP loan with any bond purchaser. Any BFLP loan approved will be assigned to that bond purchaser. BFLP loan eligibility is determined by the requirements of the Act and the rules of the authority.

a. If a BFLP eligible applicant meets the BFLP loan eligibility requirements, the decision on whether to enter into the loan agreement is between the BFLP eligible applicant and the bond purchaser. They must agree on terms of the loan, such as interest rates, length of loan, down payment, service fees, origination charges, and repayment schedule, which may not be any more onerous than those charged to similar customers for similar loans, but taking into account the tax-exempt nature of interest on the BFLP loan.

b. Following completion of the BFLP loan application by the BFLP eligible applicant and approval by the bond purchaser, the BFLP loan application must be submitted to the authority for its review and approval.

c. The authority's review will include, but not be limited to, whether:

- (1) The BFLP loan applicant is a BFLP eligible applicant;
- (2) The BFLP loan proceeds will be used for a qualified purpose under the Act, rules of the authority, and the Internal Revenue Code and IRS regulations relating to private activity bonds;
- (3) The terms of the BFLP loan comply with these rules; and
- (4) The bond purchaser meets the definition of a lender or bond purchaser.

d. The authority may require that the bond purchaser furnish any information which the authority deems necessary to determine whether the bond purchaser qualifies as either a lender or bond purchaser. If the authority determines that the bond purchaser does not qualify as either a lender or bond purchaser, it may deny the application.

e. Following approval and issuance of the bond, the authority will enter into a loan agreement with the BFLP eligible applicant and then assign the BFLP loan without recourse to the bond purchaser. The authority may charge fees as needed to defray its costs for processing the BFLP loan and bond.

44.4(3) Issuance of bond. The authority will not issue a bond for the purpose of financing a project for a specific BFLP eligible applicant unless, prior to its issuance, the authority has conformed to the applicable requirements of the United States Internal Revenue Code of 1986 as amended, and its regulations.

a. Public hearings may be held by a staff member, board member of the authority, an appointee or employee of the authority, or other qualified hearing officer.

b. Following approval of the BFLP loan by the authority, and upon completion of a public hearing and approval of the bond issuance by the governor or another elected state official designated by the

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governor, the authority will issue a bond, to be purchased by the bond purchaser, in the amount and fitting the terms of the BFLP loan to the BFLP eligible applicant. The principal and interest on the bond is a limited obligation payable solely out of the revenues derived from the BFLP loan to the BFLP eligible applicant and the underlying collateral or other security furnished by or on behalf of the BFLP eligible applicant. The bond purchaser shall have no other recourse against the authority. The principal and interest on the bond does not constitute an indebtedness of the authority or a charge against its general credit or general fund.

44.4(4) Priority of applications. Applications shall be processed by the authority on a first-come, first-served basis, based upon the receipt of all completed documents by the authority.

44.4(5) Procedures following bond issuance. No bond proceeds may be used for a nonqualified purpose or by a nonqualified user. Following disbursement of the bond proceeds, the bond purchaser and BFLP eligible applicant may be required to certify to the authority that the proceeds were used by the BFLP eligible applicant for a qualified purpose.

44.4(6) Assignment of BFLP loans by bond purchasers. A bond purchaser may assign a BFLP loan in whole or in part to any person, as defined in Iowa Code section 4.1(13). Serving of the BFLP loan may also be assigned. The authority must be notified in writing prior to assignment of the BFLP loan.

44.4(7) Assumption of BFLP loans, substitution of collateral and transfer of property. BFLP loans may not be assumed without the prior approval of the authority, and then only if the purchaser of the property is a BFLP eligible applicant for a BFLP loan. Equipment and other depreciable property may be exchanged or traded for similar property, and other property such as breeding livestock may be added or substituted as collateral at the discretion of the bond purchaser without the prior approval of the authority.

44.4(8) Right to audit. The authority shall have at any time the right to audit the records of the bond purchaser and the BFLP eligible applicant relating to the BFLP loan and bond to ensure that bond proceeds were used for a qualified purpose by a qualified user.

265—44.5(175) Loan participation program.

44.5(1) Program summary. The loan participation program is intended to assist lenders and LPP eligible applicants (hereafter referred to as “borrower(s)”) by participating in a loan for the purchase of agricultural property.

a. Supplement to borrower’s down payment. The LPP loan can be used to supplement the borrower’s down payment so that the borrower can more readily secure a loan (the “participated loan”) from a lender.

b. Last-in/last-out collateral position. The program enables lenders to request a “last-in/last-out” LPP loan from the authority. The lender, on behalf of the borrower, shall apply for the LPP loan on application forms provided by the authority.

c. Lender’s certification. The lender and the borrower shall certify that the information included in the application and any other documents submitted for consideration is true and correct to the best of their knowledge.

d. LPP loan in conjunction with BFLP loan. The loan participation program may be used in conjunction with the authority’s beginning farmer loan program, provided the borrower meets the criteria for both programs.

44.5(2) Underwriting criteria. Commercial underwriting criteria will be used as determined by the authority.

44.5(3) Eligible projects and activities.

a. Use of project. LPP loans must be for new purchases or new construction. Assets purchased or constructed with LPP loan funds must be used for agricultural purposes.

b. Agricultural land. The participated loan can be used for the purchase of agricultural land, which may include small acreages on which sufficient agricultural improvements are located to conduct a livestock operation. If a house is located on land for which an LPP loan is requested, an appraisal of the house will be made. If the appraised value of the house exceeds 50 percent of the appraised value of the property or total collateral, then the property will not be eligible for an LPP loan.

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c. Agricultural improvements. The participated loan can be used for the construction or purchase of improvements located on agricultural land (which is suitable for use in farming). Examples of such improvements include, but are not limited to, the following: confinement systems for swine, cattle, or poultry; barns or other outbuildings; grain storage facilities and silos.

d. Livestock used for breeding purposes. The participated loan can be used for the purchase of livestock for which an income tax deduction for depreciation is allowed in computing state and federal income taxes.

e. Machinery and equipment. The participated loan can be used for the purchase of agricultural machinery and equipment for which an income tax deduction for depreciation is allowed in computing state and federal income taxes. This machinery and equipment must be used in the borrower's farming operation.

f. Interim financing by lender. Interim financing by the lender may be done.

44.5(4) Ineligible projects and activities. The following program activities are ineligible:

a. Refinancing of existing debt. Refinancing of existing debt or new purchases which have been incurred by the borrower more than 60 days prior to approval of the LPP loan by the authority.

b. Financing personal expenses. Financing personal or living expenses and working capital to purchase such items as feed, seed, fertilizer, fuel, and feeder livestock.

c. Down payment funds for contract sale. Down payment to a contract sale, or in connection with a loan from a nonregulated lender.

44.5(5) Program parameters.

a. Purchase price impact. Maximum LPP loan amount is the lesser of:

- (1) Thirty percent of the purchase price; or
- (2) \$150,000.

b. LPP loan terms. The authority has established the following with respect to LPP loan terms:

(1) The maximum amortization period for the LPP loan is 7 years for depreciable agricultural property. When a participated loan is made for livestock, the length of the LPP loan is restricted to the expected useful life of the animal being purchased.

(2) LPP loan payments on participated real estate loans will be equally amortized for the term of the LPP loan, but shall not exceed a 20-year amortization, including a 10-year term with balloon payment and the balance of the LPP loan paid in full by the end of the tenth year. If utilized in conjunction with federal programs, the amortization will be consistent with federal rules.

(3) The IADD board will set the interest rate on the LPP loan.

c. LPP loans outstanding. Loans under the program may be issued more than once, provided that the outstanding LPP loan totals do not exceed \$150,000 to any single borrower.

44.5(6) LPP loan application procedures.

a. Financial statement. Lenders may use their own form of financial statement and other forms deemed necessary and appropriate to document the eligibility of the borrower and the borrower's ability to make principal and interest payments. A copy of the borrower's most current financial statement (generally prepared one month preceding application submission), the prior two years' financial statements, and a projected after-closing financial statement must be submitted with the application.

If the borrower or the borrower's spouse is involved in a business, partnership, limited liability company, or corporation, either related or unrelated to the borrower's farming operation, a financial statement from this entity must also be submitted with the application.

b. Income statement. A copy of the borrower's prior three years' federal income tax returns (if available) shall be submitted.

c. Background letter. The application will also include a background letter on the LPP eligible applicant documenting to the satisfaction of the authority sufficient training, experience and access to capital.

d. Credit evaluation. The lender will submit a credit evaluation of the project for which an LPP loan is sought. The lender will evaluate the borrower's net worth and ability to pay principal and interest and certify the sufficiency of security for the participated loan. The authority will review the application

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and make its own credit evaluation prior to issuance of an LPP loan. Such evaluation will center on whether:

(1) The borrower adequately demonstrates the ability to service the debt requirements of the participated loan based on cash flow, net worth, down payment, and collateral pledged for the participated loan.

(2) The borrower provides sufficient collateral to adequately secure the participated loan and keep the participated loan collateralized throughout its term.

(3) The lender certifies that all of the borrower's debts will be current at the time the participated loan is closed.

(4) The applicant is a low-income farmer who cannot obtain financing to purchase agricultural property without the assistance of an LPP loan with the authority.

(5) The lender certifies that no other private or state credit is available or can be obtained in a timely manner.

e. Processing LPP loan applications. Applications for the program will be taken and processed by the authority on a first-come, first-served basis. The authority reserves the right to change the program or terminate the approval of LPP loans under the program at any time. Grounds for termination/suspension of the program would include, but not be limited to, reaching the maximum allowable limit for total outstanding LPP loans as established by the authority or changing the program by order of the Iowa general assembly or by rules promulgated by the authority.

f. Security for participated loans and use of security documents. The lender shall take any security, cosignatures, guarantees or sureties that are deemed necessary for any participated loan. Any guarantee of repayment or pledge of additional collateral required by the lender to secure the participated loan shall secure the entire participated loan.

g. Recording documents and fees. Any recording or filing fees or transfer taxes associated with the participated loan will be paid by the borrower or lender and not the authority. Also, the authority will have no responsibility with respect to the preparation, execution, or filing of any declaration of value or groundwater hazard statements.

44.5(7) Loan administration procedures.

a. Lender's responsibilities. The lender is responsible for servicing the participated loan following accepted standards of loan servicing and transferring LPP loan payments to the authority.

(1) At the request of IADD, the lender shall:

1. On an annual basis, provide the authority with copies of a current financial statement or a current tax return, or both.

2. Provide copies of insurance to the authority with the lender named as loss payee. Lender will apply payments to the participated loan on a pro-rata basis.

(2) The lender shall not, without prior consent of the authority:

1. Make or consent to any substantial alterations in the terms of any participated loan instrument;

2. Make or consent to releases of security or collateral unless replaced with collateral of equal value on the participated loan;

3. Use the collateral purchased with funds from the participated loan as security for any other loan without prior written consent of the authority;

4. Accelerate the maturity of the participated loan;

5. Sue upon any participated loan instrument;

6. Waive any claim against any borrower, cosignor, guarantor, obligor, or standby creditor arising out of any instruments.

b. Payment due dates. Payment due dates for the LPP loan will be the same as for the lender's share of the loan.

c. Prepayment penalty. There is no penalty for early repayment of principal or interest.

d. Repayment proceeds and collateral. Without limitation, the repayment of proceeds and collateral shall include rights of setoff and counterclaim, which the lender or the authority jointly or severally may at any time recover on any participated loan.

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e. Subsequent loans. Any loan or advance made by a lender to a borrower subsequent to obtaining an LPP loan under the program and secured by collateral or security pledged for the participated loan will be subordinate to the participated loan.

f. Events of loan default.

(1) Default will occur when the participated loan payment is 30 days past due. Notice to cure will be sent to the borrower with a copy sent to the authority; and the lender will take appropriate steps to cure the default through mediation, liquidation, or foreclosure if needed.

(2) After a participated loan is in default for a period of 30 days, the lender shall file with the authority monthly reports regarding the status of the participated loan.

(3) The authority may, anytime a participated loan is in default, purchase the unpaid portion of the participated loan from the lender including the note, security agreements, additional guarantees, and other documents. The authority would become the servicer of the participated loan in such case.

g. Applying principal and interest payments. Lenders shall receive all payments of principal and interest. All payments made prior to liquidation or foreclosure shall be made on a pro-rata basis. All accrued interest must be paid to zero at least annually on the anniversary date of the note.

h. Application of proceeds of loan liquidation. Application of proceeds of loan liquidation will be determined after a written liquidation plan is approved by the authority or the authority's loan committee. All amounts recovered upon liquidation or foreclosure will be applied first to the unpaid balance of the lender's portion and then to the unpaid portion of the LPP loan's portion. All funds received from liquidation or foreclosure procedures shall be applied in the following order of priority:

First Priority: To the payment of the outstanding principal of and accrued interest on the lender's portion of the participated loan;

Second Priority: To the payment of the outstanding principal of and accrued interest on the authority's LPP loan;

Third Priority: To the payment on a pro-rata basis of all reasonable and necessary expenses incurred by the lender or the authority in connection with such liquidation or foreclosure procedures.

44.5(8) Right to audit. The authority shall have, at any time, the right to audit records of the lender and the borrower relating to any participated loan made under the program.

265—44.6(175) Beginning farmer tax credit program.

44.6(1) General provisions.

a. Term. The term of the credit shall be equal to the term of the agricultural assets transfer agreement, except that any unused credit may be carried forward for a period of five years if unused in the tax year the credits are earned. Credits may not be carried back to past tax years.

b. Fees. The authority may charge reasonable and necessary fees to defray the costs of this program.

c. Expiration of lease. The BFTC eligible applicant will continue to be eligible for the term of the lease. Upon expiration of the lease, both the taxpayer and BFTC eligible applicant must reapply to continue the tax credit.

44.6(2) Application procedures.

a. The authority shall prepare and make available appropriate forms to be used in making application for the tax credit, including forms for both the taxpayer and the BFTC eligible applicant.

b. Each application shall include, but not be limited to, the following:

(1) Taxpayer information: name and address, e-mail address if available, social security number, length of the lease, type of lease, and location of the agricultural asset to be leased. In addition, the application shall have attached to it a copy of the lease agreement between the parties.

(2) BFTC eligible applicant information: name and address, e-mail address if available, social security number, and location of the asset to be leased. In addition, the application shall have attached to it a copy of the BFTC eligible applicant's most recent financial statement (generally prepared one month preceding application submission). The application will also include a background letter on the BFTC eligible applicant documenting to the satisfaction of the authority sufficient training, experience

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and access to capital. This letter may be submitted by one or more of the following: the BFTC eligible applicant, the taxpayer or another third party.

c. Complete applications shall be processed in the order they are received by the authority.

44.6(3) *Execution of an agricultural assets transfer agreement.* In addition to the requirements set forth above, both the taxpayer and the BFTC eligible applicant shall execute an agricultural assets transfer agreement. This form shall be in a format from the Iowa Bar Association or other commonly accepted form and signed by all parties.

44.6(4) *Procedures following tax credit approval.* Either the BFTC eligible applicant or the taxpayer shall immediately notify the authority of any material changes in the agricultural assets transfer agreement. The authority shall act upon these changes pursuant to Iowa Code section 175.37. Material changes cannot result in an increase in the original tax credit amount approved. Death of a party to the lease, divorce, or sale of the property will be considered eligible material changes. Sale of the property will be considered only if the original lease terms remain in effect and the asset purchaser is determined to be eligible for the program.

265—44.7(16) Beginning farmer custom farming tax credit program.

44.7(1) *General provisions.*

a. Term. The term of the credit shall not exceed one year, except that any unused credit may be carried forward for a period of five years if unused in the tax year the credits are earned. Credits may not be carried back to past tax years.

b. Fees. The authority may charge reasonable and necessary fees to defray the costs of this program.

c. Expiration of custom hire contract. The BFCF eligible applicant will continue to be eligible during the year of the custom farming contract. Upon expiration of the contract, both the taxpayer and BFCF eligible applicant must reapply to qualify for subsequent tax credits.

44.7(2) *Application procedures.*

a. The authority shall prepare and make available appropriate forms to be used in making application for the tax credit, including forms for both the taxpayer and the BFCF eligible applicant.

b. Each application shall include, but not be limited to, the following:

(1) Taxpayer information: name and address, e-mail address if available, social security number, and description and location of the custom hire work completed. In addition, the application shall have attached to it a copy of the custom hire contract between the parties.

(2) BFCF eligible applicant information: name and address, e-mail address if available, social security number, and location of where custom hire work was completed. In addition, the application shall have attached to it a copy of the BFCF eligible applicant's most recent financial statement (generally prepared one month preceding application submission). The application will also include a background letter on the BFCF eligible applicant documenting to the satisfaction of the authority sufficient training, experience and access to capital. This letter may be submitted by one or more of the following: the BFCF eligible applicant, the taxpayer or another third party.

c. Complete applications shall be processed in the order they are received by the authority.

44.7(3) *Execution of custom farming contract.* In addition to the requirements set forth above, both the taxpayer and the BFCF eligible applicant shall execute a custom farming contract. This form shall be in a format provided by the authority or other commonly accepted forms and signed by all parties.

44.7(4) *Calculation of custom hire tax credit.* The taxpayer and BFCF eligible applicant will submit a completed application to the authority, including a list of all custom work completed by the BFCF eligible applicant. The application will also include verification of all payments made to the BFCF eligible applicant for work completed.

44.7(5) *Procedures following tax credit approval.* Either the BFCF eligible applicant or the taxpayer shall immediately notify the authority of any material changes in the custom hire contract. The authority shall act upon these changes pursuant to Iowa Code section 175.38. Material changes cannot result in

IOWA FINANCE AUTHORITY[265](cont'd)

an increase in the original tax credit amount approved. Death of a party to the contract, divorce, or sale of the property will be considered eligible material changes.

These rules are intended to implement Iowa Code chapter 175 and 2013 Iowa Acts, House File 607.

ITEM 2. Rescind **25**—**Chapter 1** to **Chapter 11**.

[Filed Emergency 9/26/13, effective 9/26/13]

[Published 10/16/13]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 10/16/13.

ARC 1085C

EDUCATIONAL EXAMINERS BOARD[282]

Adopted and Filed

Pursuant to the authority of Iowa Code section 272.2, the Board of Educational Examiners hereby amends Chapter 13, "Issuance of Teacher Licenses and Endorsements," Iowa Administrative Code.

Subrule 13.28(17) was recently amended, in part to adjust the requirements for the "All science" endorsement. In the previous rule-making documents, the endorsement was mistakenly titled "All science. 9-12." It should be titled "All science. 5-12." This amendment corrects the title.

Notice of Intended Action was published in the Iowa Administrative Bulletin as **ARC 0879C** on July 24, 2013. A public hearing was held on August 14, 2013, with written comment accepted until August 16, 2013. No one attended the public hearing, and no written comments were received. This amendment is identical to that published under Notice.

After analysis and review of this rule making, there is no anticipated impact on jobs.

This amendment is intended to implement Iowa Code section 272.2(1)"a."

This amendment will become effective November 20, 2013.

The following amendment is adopted.

Amend paragraph **13.28(17)"i"** as follows:

i. All science. 9 5-12.

(1) and (2) No change.

[Filed 9/16/13, effective 11/20/13]

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EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 10/16/13.

ARC 1087C

EDUCATIONAL EXAMINERS BOARD[282]

Adopted and Filed

Pursuant to the authority of Iowa Code section 272.2, the Board of Educational Examiners hereby amends Chapter 22, "Authorizations," Iowa Administrative Code.

The change to the substitute authorization rule creates more precise guidelines for districts regarding the length of time a licensee with a substitute authorization may serve in one classroom.

Notice of Intended Action was published in the Iowa Administrative Bulletin as **ARC 0878C** on July 24, 2013. A public hearing was held on August 14, 2013, with written comment accepted until August 16, 2013. No one attended the public hearing, and no written comments were received. This amendment is identical to that published under Notice.

After analysis and review of this rule making, there is no anticipated impact on jobs.

This amendment is intended to implement Iowa Code section 272.2(1)"a."

This amendment will become effective November 20, 2013.

The following amendment is adopted.

Amend rule 282—22.2(272), introductory paragraph, as follows:

282—22.2(272) Substitute authorization. A substitute authorization allows an individual to substitute in a middle school, junior high school, or high school for no more than ~~five~~ 5 consecutive days and no more than 10 days in a 30-day period in one job assignment for a regularly assigned teacher who is absent. A school district administrator may file a written request with the board for an extension of the 10-day limit in one job assignment on the basis of documented need and benefit to the instructional program. The licensure committee will review the request and provide a written decision either approving or denying the request. An individual who holds a paraeducator certificate and completes the substitute

EDUCATIONAL EXAMINERS BOARD[282](cont'd)

authorization program is authorized to substitute only in the special education classroom in which the individual paraeducator is employed. This special education classroom may be on the preschool or elementary school level as well as the middle school, junior high school or high school level.

[Filed 9/16/13, effective 11/20/13]

[Published 10/16/13]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 10/16/13.

ARC 1086C**EDUCATIONAL EXAMINERS BOARD[282]****Adopted and Filed**

Pursuant to the authority of Iowa Code section 272.2, the Board of Educational Examiners hereby amends Chapter 22, "Authorizations," Iowa Administrative Code.

This rule is to accompany 281—Chapter 82, "Standards for School Administration Manager Programs," adopted by the Department of Education. The rule requires that anyone performing the duties of a School Administration Manager (SAM) hold the proper authorization from the Board of Educational Examiners.

Notice of Intended Action was published in the Iowa Administrative Bulletin as **ARC 0877C** on July 24, 2013. A public hearing was held on August 14, 2013, with written comment accepted until August 16, 2013. No one attended the public hearing, and no written comments were received. This amendment is identical to that published under Notice.

After analysis and review of this rule making, there is no anticipated impact on jobs.

This amendment is intended to implement Iowa Code section 272.2(1)"a."

This amendment will become effective November 20, 2013.

The following amendment is adopted.

Adopt the following **new** rule 282—22.6(272):

282—22.6(272) School administration manager authorization.

22.6(1) Application for authorization. Effective July 1, 2014, a person who is interested in a school administration manager authorization will be required to apply for an authorization. The following persons must obtain an authorization:

- a. A Model 1 SAM, a person who is hired to be a full-time SAM and who is authorized to assume the responsibilities of a SAM;
- b. A Model 2 SAM, a person whose position in the school is reconfigured to include the responsibilities of being a SAM and is authorized as a SAM; and
- c. A Model 3 SAM, a person who is a secretary/administrative assistant and is also authorized as a SAM.

22.6(2) Responsibilities. A school administration manager authorization allows an individual to assist a school administrator in performing noninstructional, administrative-type duties.

22.6(3) Application process. Any person interested in the school administration manager authorization shall submit to the board of educational examiners an application which includes a written verification of employment from a school district administrator. Application materials are available from the office of the board of educational examiners, online at <http://www.boee.iowa.gov/>.

A person serving as a school administration manager prior to July 1, 2014, is eligible for the standard school administration manager authorization, subject to the Iowa division of criminal investigation and national criminal history background checks. The person will be assessed the background check fee. The school administration manager must have completed the school administration manager training and be listed on the Basic Educational Data Survey as a school administration manager by October 31, 2013. The application fee for such persons will be waived if the application is received prior to June 30, 2014.

EDUCATIONAL EXAMINERS BOARD[282](cont'd)

22.6(4) *Specific requirements for an initial school administration manager authorization.* Applicants for an initial school administration manager authorization shall have completed the following requirements:

- a. *Education.* Applicants must hold a high school degree or general equivalency diploma.
- b. *Minimum age.* Applicants must have attained a minimum age of 18 years.
- c. *Iowa division of criminal investigation background check.* Applicants must have successfully completed an Iowa division of criminal investigation background check. The background check fee will be assessed to the applicant.
- d. *National criminal history background check.* Applicants must have successfully completed a national criminal history background check. The background check fee will be assessed to the applicant.

22.6(5) *Specific requirements for a standard school administration manager authorization.* The initial school administration manager authorization shall be converted to the standard school administration manager authorization provided the following requirements are met.

a. *Training.* A school administration manager shall attend an approved training program at the onset of the individual's hire as a school administration manager. The training for school administration managers is set forth in 281—subrule 82.7(2).

b. *Competencies.* Applicants shall demonstrate completion of or competency in the following:

(1) Each school administration manager shall demonstrate competence in technology appropriate to the school administration manager position. The school administration manager will:

1. Become proficient in the use of the approved time-tracking software tool;
2. Schedule the administrator's time using the approved software, update and reconcile the calendar daily, and attempt to pre-calendar the administrator at or above the administrator's goal; and
3. Regularly schedule, review, and reflect with the administrator on the graphs and data provided through the software.

(2) Each school administration manager shall demonstrate appropriate personal skills. The school administration manager:

1. Is an effective communicator with all stakeholders, including but not limited to colleagues, community members, parents, and students;
 2. Works effectively with employees, students, and stakeholders;
 3. Maintains confidentiality when dealing with student, parent, and staff issues;
 4. Clearly understands the administrator's philosophy of behavior expectations and consequences;
- and
5. Maintains an environment of mutual respect, rapport, and fairness.

22.6(6) *Validity.*

a. The initial school administration manager authorization shall be valid for three years.

b. The standard school administration manager authorization shall be valid for five years.

22.6(7) *Renewal.*

a. The initial school administration manager authorization may be renewed once if the applicant has not previously had employment as a school administration manager but can at the time of application provide evidence of employment as a school administration manager.

b. The standard school administration manager authorization may be renewed upon application and verification of successful completion of the following:

(1) *Renewal activities.* The applicant for renewal must complete three semester hours of credit through authorized SAM training or online training courses approved by the board of educational examiners in collaboration with the department of education.

(2) *Child and dependent adult abuse mandatory reporter training.* Every renewal applicant must submit documentation of completion of the child and dependent adult abuse mandatory reporter training approved by the state abuse education review panel. A waiver of this requirement may apply under any of the following appropriately documented conditions:

1. The person is engaged in active duty in the military service of this state or of the United States.

EDUCATIONAL EXAMINERS BOARD[282](cont'd)

2. The person has previously renewed a license or another authorization issued by the board of educational examiners and, at that time, reported the completion, within the past five years, of child and dependent adult abuse mandatory reporter training approved by the state abuse education review panel.

22.6(8) Extension. A one-year extension of the school administration manager authorization may be issued if the applicant does not meet the renewal requirements. The applicant must secure the signature of the superintendent or designee before the extension will be issued.

22.6(9) Revocation and suspension. Criteria of professional practice and rules of the board of educational examiners shall be applicable to the holders of the school administration manager authorization.

22.6(10) Approval of courses. Each institution of higher education, private college or university, community college, area education agency and professional organization that wishes to offer the semester credit hours for the school administration manager authorization must submit course descriptions for each offering to the board of educational examiners for approval. After initial approval, any changes by agencies or institutions in course offerings shall be filed with the board of educational examiners.

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ARC 1115C

EDUCATION DEPARTMENT[281]

Adopted and Filed

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

2013 Iowa Acts, House File 215, sections 79 to 83 (amending Iowa Code sections 256.7(19), 256F.4(5), 279.10(1) and (2) and 299.1(2)), enacted education reform, including provisions to allow local school districts and accredited nonpublic schools to continue with the traditional 180-day school calendar or change to a schedule based on 1,080 hours. These changes will occur starting in the 2014-2015 school year. Certain provisions concerning the traditional school day were struck in the legislation, requiring modifications to the relevant administrative rules. The amendments reflect the legislative changes made in allowing districts flexibility with their local school day and annual attendance requirements to meet the state standard in this area.

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

Notice of Intended Action was published in the August 21, 2013, Iowa Administrative Bulletin as **ARC 0954C**. Public comments were allowed until 4:30 p.m. on September 10, 2013. A public hearing was held on that date, at which no person appeared. One written comment was received, which concerned the underlying law instead of the rule and commented on school start time, which was removed in an earlier rule making.

These amendments are identical to those published under Notice.

After analysis and review of this rule making, no impact on jobs has been found.

These amendments are intended to implement Iowa Code sections 256.7(19), 256F.4(5), 279.10(1) and (2) and 299.1(2) as amended by 2013 Iowa Acts, House File 215, sections 79 to 83, and Iowa Code section 279.10(4).

These amendments shall become effective on November 20, 2013.

The following amendments are adopted.

ITEM 1. Amend subrule 12.1(7) as follows:

12.1(7) Minimum school calendar ~~and day~~: set by annual hours or days of instruction. ~~Each~~ The board of directors of a school district and the authorities in charge of an accredited nonpublic school shall adopt a school calendar that ~~identifies specific~~ sets the number of days or hours of required attendance for student instruction, staff development and in-service time, and time for parent-teacher conferences.

EDUCATION DEPARTMENT[281](cont'd)

Prior to adopting the school calendar, the board of directors of a school district shall hold a public hearing on any proposed school calendar. The board and authorities in charge of an accredited nonpublic school shall notify the department annually of their decision to have a calendar based on days or based on hours. The length of the school calendar does not dictate the length of contract hours or days of employment for instructional and noninstructional staff. Time recorded under either a days or hours calendar system may include passing time between classes but shall exclude the lunch period. Time spent on parent-teacher conferences shall be considered instructional time. The school calendar may be operated any time during the school year of July 1 to June 30 as defined by Iowa Code section 279.10 as amended by 2013 Iowa Acts, House File 215, section 81. A minimum of 180 days or 1,080 hours of instruction shall be set in the school calendar, for school districts and accredited nonpublic schools beginning no sooner than a day during the calendar week in which the first day of September falls, and shall be used for student instruction. However, if the first day of September falls on a Sunday, school may begin any day during the calendar week preceding September 1. These 180 days shall meet the requirements of "day of school" for those districts or accredited nonpublic schools that are utilizing a schedule based on days, defined in subrule 12.1(8), paragraph 12.1(8) "a," "minimum school day" defined in subrule 12.1(9), and "day or hour of attendance" defined in subrule 12.1(10). (Exception: A school or school district may, by board policy, excuse graduating seniors up to five days or 30 hours of instruction after school or school district requirements for graduation have been met.) If additional days are added to the regular school calendar because of inclement weather, a graduating senior who has met the school district's requirements for graduation may be excused from attendance during the extended school calendar. A school or school district may begin its school calendar earlier for other educational purposes involving instructional and noninstructional staff, employment of instructional and noninstructional staff, for in-service training and development purposes, earlier than the first day of school. A school or school district choosing a schedule based on hours shall follow the definition of "hour of school" set forth in paragraph 12.1(8) "b."

ITEM 2. Amend subrule 12.1(8) as follows:

12.1(8) Day and hour of school.

a. Day of school. A day of school is a day during which the school or school district is in session and students are under the guidance and instruction of the instructional professional staff. School shall be considered in session during parent-teacher conferences as well as during activities such as field trips if students are engaged in programs or activities under the guidance and direction of the instructional professional staff. All grade levels of the school or school district must be operated and available for attendance by all students. An exception is if either the elementary or secondary grades are closed and provided that this the time missed is made up at some other point during the school calendar so as to meet the minimum of 180 days or 1,080 hours of instruction for all grades 1 through 12. ~~If a classroom or attendance center is closed for emergency health or safety reasons but the remainder of the school or school district is in operation, the day may be counted as a day of school.~~

b. Hour of school. For schools or school districts adopting a calendar based on a 1,080-hour minimum schedule, an official hour of school is an hour in which the school or school district is in session and students are under the guidance and instruction of the instructional professional staff. For purposes of this rule, an "hour" is defined as 60 minutes. The calculation of minimum hours shall exclude the lunch period. Passing time between classes may be counted as part of the hour requirement. School shall be considered in session during parent-teacher conferences as well as during activities such as field trips if students are engaged in programs or activities under the guidance and direction of the instructional professional staff. All grade levels of the school or school district must be operated and available for attendance by all students. Schools or school districts have flexibility on how they can reach the threshold of 1,080 hours of instruction but must keep annual documentation of how they met that standard. The school calendar may include more than or less than or may equal the 180-day schedule. The hours included in an individual day under an hours format may vary.

ITEM 3. Amend subrules 12.1(9) to 12.1(11) as follows:

12.1(9) Minimum school day. A school day, for those utilizing a school calendar based on days, shall consist of a minimum of $5\frac{1}{2}$ 6 hours of instructional time for all grades 1 through 12. The minimum

EDUCATION DEPARTMENT[281](cont'd)

hours shall be ~~exclusive of~~ exclude the lunch period. ~~Passing time between classes as well as time spent on parent-teacher conferences~~ may be counted as part of the ~~5½~~ 6-hour requirement. ~~The school or school district may record a day of school with less than the minimum instructional hours if emergency health or safety factors require the late arrival or early dismissal of students on a specific day; or if the total hours of instructional time for all grades 1 through 12 in any five consecutive school days equal a minimum of 27½ hours, even though any one day of school is less than the minimum instructional hours because staff development is provided for the instructional professional staff or because parent-teacher conferences have been scheduled beyond the regular school day.~~ School shall be considered in session during parent-teacher conferences as well as during activities such as field trips if students are engaged in programs or activities under the guidance and direction of the instructional professional staff.

~~Furthermore, if the total hours of instructional time for the first four consecutive days equal at least 27½ hours because parent-teacher conferences are held beyond the regular school day, a school or school district may record zero hours of instructional time on the fifth consecutive school day as a minimum school day.~~

12.1(10) *Day or hour of attendance.* A day or hour of attendance shall be a day or hour during which students were present and under the guidance and instruction of the instructional professional staff. When staff development designated by the board or by authorities in charge of an accredited nonpublic school occurs outside of the time required for a “minimum school day,” students shall be counted in attendance. (Note exceptions in subrules 12.1(8) and 12.1(9).)

12.1(11) *Kindergarten.* The number of instructional days or hours within the school calendar and the length of the school day for kindergarten shall be defined by the board or by authorities in charge of an accredited nonpublic school that operates a kindergarten program. This subrule applies to an ~~accredited nonpublic school only if it offers kindergarten.~~

[Filed 9/26/13, effective 11/20/13]

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ARC 1116C

EDUCATION DEPARTMENT[281]

Adopted and Filed

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

Competency-based education differs in style from traditional educational delivery models. In providing proper assessment of work completed in this new manner of delivery, traditional Carnegie units of measurement do not properly cover student work that is based on mastery of subject instead of hours of seat time in a class. The amendments allow for proper assessment and delivery of instruction from a competency-based classroom structure versus the traditional mode of instruction which existing rule 281—12.5(256) was intended to address. These amendments cover delivery of instruction and assessment in both educational delivery systems and also define “competency-based education.”

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

Notice of Intended Action was published in the August 21, 2013, Iowa Administrative Bulletin as **ARC 0958C**. Public comments were allowed until 4:30 p.m. on September 10, 2013. A public hearing was held on that date, at which no person appeared. No written comments were submitted to the Department on this issue.

These amendments are identical to those published under Notice.

After analysis and review of this rule making, no impact on jobs has been found.

These amendments are intended to implement Iowa Code section 256.7(26)“a”(2).

These amendments shall become effective on November 20, 2013.

The following amendments are adopted.

EDUCATION DEPARTMENT[281](cont'd)

ITEM 1. Adopt the following new definition of “Competency-based education” in rule **281—12.2(256)**:

“*Competency-based education*” means that learners advance through content or earn credit based on demonstration of proficiency of competencies. Proficiency for this context is the demonstrated skill or knowledge required to advance to and be successful in higher levels of learning in that content area. Some students may advance through more content or earn more credit than in a traditional school year while others might take more than a traditional school year to advance through the same content and to earn credit. A student must meet the requirements of 12.5(14) to be awarded credit in a competency-based system of education.

ITEM 2. Amend subrule 12.5(14) as follows:

12.5(14) Unit. A unit is a course which meets one of the following criteria: it is taught for at least 200 minutes per week for 36 weeks; it is taught for the equivalent of 120 hours of instruction; it requires the demonstration of proficiency of formal competencies associated with the course according to the State Guidelines for Competency-Based Education or its successor organization; or it is an equated requirement as a part of an innovative program filed as prescribed in rule 281—12.9(256). A fractional unit shall be calculated in a manner consistent with this subrule. ~~Multiple~~ Unless the method of instruction is competency-based, multiple-section courses taught at the same time in a single classroom situation by one teacher do not meet this unit definition for the assignment of a unit of credit. However, the third and fourth years of a foreign language may be taught at the same time by one teacher in a single classroom situation each yielding a unit of credit.

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ARC 1118C

EDUCATION DEPARTMENT[281]

Adopted and Filed

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

2013 Iowa Acts, House File 215, section 89, changed the law concerning accreditation to include a new manner in which an Iowa nonpublic school may choose to be accredited. Independent accreditation is a manner in which schools would be accredited under Chapter 12 by an approved independent accrediting agency, not by the Department and State Board of Education which hold traditional authority in this policy area. New rule 281—12.10(256) provides direction to both the participants in this program and the independent agencies wishing to accredit such Iowa schools. Due to a legislative sunset, this rule will expire on July 1, 2020.

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

Notice of Intended Action was published in the August 21, 2013, Iowa Administrative Bulletin as **ARC 0964C**. Public comments were allowed until 4:30 p.m. on September 10, 2013. A public hearing was held on that date, at which seven persons appeared. One written comment was received with four oral comments received at the meeting. The participants believed the new law provided flexibility to the five existing agencies, which should be given more discretion than the proposed rule provides. The participants cited the quality they perceived from the current accrediting agencies and that current hiring practices should continue when schools transfer to independent accreditation. All comments were in favor of more flexibility for local schools in this process.

There is one change from the amendments published under Notice. In subrule 12.10(3), a sentence was added for clarity. Each accrediting agency that qualifies for automatic entry upon enactment of the rule is now listed by name in the rule. The new sentence reads as follows:

EDUCATION DEPARTMENT[281](cont'd)

“Agencies that met this standard as of November 20, 2013, are the Independent Schools Association of the Central States (ISACS), Christian Schools International (CSI), AdvancEd, the National Lutheran Schools Association (NLSA), and the Association of Christian Schools International (ASCI).”

After analysis and review of this rule making, no impact on jobs has been found.

These amendments are intended to implement 2013 Iowa Acts, House File 215, section 89.

These amendments shall become effective on November 20, 2013.

The following amendments are adopted.

ITEM 1. Adopt the following new Division X heading in **281—Chapter 12**:

DIVISION X
INDEPENDENT ACCREDITING AGENCIES

ITEM 2. Adopt the following new rule 281—12.10(256):

281—12.10(256) Independent accrediting agencies. Notwithstanding subsections 1 through 12 of Iowa Code section 256.11 and this chapter, a nonpublic school may be accredited by an independent accrediting agency that appears on a list maintained by the state board of education instead of being accredited by the state board.

12.10(1) Compliance required by a nonpublic school. A nonpublic school that participates in the accreditation process offered by an independent accrediting agency on the approved list published pursuant to this rule shall be deemed to meet the education standards of Iowa Code section 256.11 as amended by 2013 Iowa Acts, House File 215, section 89, and this chapter. However, such a school shall comply with statutory health and safety requirements for school facilities. A nonpublic school accredited under this chapter shall abide by all state and federal laws and regulations. Notwithstanding Iowa Code section 256.11 as amended by 2013 Iowa Acts, House File 215, section 89, the department is not precluded from enforcing compliance with all state and federal laws and regulations.

12.10(2) Compliance required by accrediting agency. Agencies approved under subrule 12.10(3) shall abide by all state and federal laws and regulations and shall enforce those laws and regulations on the schools they accredit. Notwithstanding Iowa Code section 256.11 as amended by 2013 Iowa Acts, House File 215, section 89, the department is not precluded from enforcing compliance with all state and federal laws and regulations.

12.10(3) List maintained by state board. The state board shall maintain a list of approved independent accrediting agencies comprised of at least six regional or national nonprofit, nongovernmental agencies recognized as reliable authorities concerning the quality of education offered by a school and shall publish the list of independent accrediting agencies on the department’s Internet site. The list shall include accrediting agencies that, as of January 1, 2013, accredited a nonpublic school in this state that was concurrently accredited under this rule and shall include any agency that has a formalized partnership agreement with another agency on the list and has member schools in this state as of January 1, 2013. Agencies that met this standard as of November 20, 2013, are the Independent Schools Association of the Central States (ISACS), Christian Schools International (CSI), AdvancEd, the National Lutheran Schools Association (NLSA), and the Association of Christian Schools International (ASCI).

12.10(4) Criteria for recognizing an agency as a “reliable authority concerning the quality of education offered by a school.” In any decision to add an agency to the list maintained pursuant to subrule 12.10(1) or to remove an agency from the list pursuant to subrule 12.10(3), the following criteria may be applied:

a. Whether the agency’s accreditation standards require a school to set high academic and nonacademic standards for all students, including preparation of students for postsecondary success.

b. Whether the agency’s accreditation standards require a school to monitor and assess all students’ progress toward high academic and nonacademic standards.

c. Whether the agency’s accreditation standards require a school to recruit and retain properly licensed quality professional staff, and provide those staff members with ongoing professional development.

EDUCATION DEPARTMENT[281](cont'd)

- d.* Whether the agency's accreditation standards set requirements for fiscal, data, and contract management.
- e.* Whether the agency monitors compliance with its standards and takes appropriate corrective action when standards are not met.
- f.* Whether the agency itself has appropriate fiscal, data, and contract management policies and procedures.
- g.* Any uncorrected citation of noncompliance by any governmental or nongovernmental agency or organization with jurisdiction or oversight of an accrediting agency listed pursuant to subrule 12.10(1).
- h.* Any uncorrected negative audit finding of an accrediting agency listed pursuant to subrule 12.10(1).
- i.* Any judgments, orders, decrees, consent decrees, settlement agreements, or verdicts concerning the agency listed pursuant to subrule 12.10(1) entered by any state or federal court of competent jurisdiction.
- j.* Whether the agency listed pursuant to subrule 12.10(1) continues to retain its nonprofit status.
- k.* Whether the agency listed pursuant to subrule 12.10(1) has received any form of recognition for innovation or excellence concerning its work.
- l.* Any other criterion used by the agency to determine accreditation.
- m.* Any other reports or findings sent to the nonpublic school regarding accreditation, including findings related to Iowa Code section 256.11 as amended by 2013 Iowa Acts, House File 215, section 89.

12.10(5) *Removal of agency from approved independent accrediting agencies.* If the state board takes preliminary action to remove an agency from the approved list published on the department's Internet site pursuant to subrule 12.10(1), the department shall, at least one year prior to removing the agency from the approved list, notify the nonpublic schools participating in the accreditation process offered by the agency of the state board's intent to remove the accrediting agency from its approved list of independent accrediting agencies. The department shall give notice to the independent accrediting agency, along with an opportunity to respond. The notice shall also be posted on the department's Internet site and shall contain the proposed date of removal. If a nonpublic school receives notice pursuant to this subrule and it chooses to remain accredited, the nonpublic school shall attain accreditation under this rule or otherwise attain accreditation in a manner provided by this chapter or Iowa Code section 256.11 as amended by 2013 Iowa Acts, House File 215, section 89, not later than one year following the date on which the state board removes the agency from its list of independent accrediting agencies.

12.10(6) *Rule of construction: "at least six."* The obligation to maintain a list of at least six agencies in subrule 12.10(1) shall not be construed to require the list to contain an agency that is not a regional or national nonprofit, nongovernmental agency recognized as a reliable authority concerning the quality of education offered by a school.

12.10(7) *Adoption by the department of standard procedures.* The department shall adopt standard procedures, schedules, and forms for the implementation of this rule, including procedures for adding independent accrediting agencies from the list maintained by the state board pursuant to subrule 12.10(1) and removing agencies from that list pursuant to subrule 12.10(3).

12.10(8) *Automatic repeal.* Pursuant to the repeal clause in 2013 Iowa Acts, House File 215, section 89, this rule is rescinded July 1, 2020.

[Filed 9/26/13, effective 11/20/13]

[Published 10/16/13]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 10/16/13.

ARC 1117C

EDUCATION DEPARTMENT[281]

Adopted and Filed

Pursuant to the authority of Iowa Code section 256.7(5), the State Board of Education hereby amends Chapter 79, "Standards for Practitioner and Administrator Preparation Programs," Iowa Administrative Code.

2013 Iowa Acts, House File 215, sections 45 and 110(2), establishes a Teach Iowa student teaching pilot project. Two institutions, one Regents institution and one accredited private institution, shall establish a full-year student teaching preparation pilot project. The new subrule provides structure on how those sites will be selected and how the pilot project will be enacted at those sites for the duration of the project.

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

Notice of Intended Action was published in the August 21, 2013, Iowa Administrative Bulletin as **ARC 0968C**. Public comments were allowed until 4:30 p.m. on September 10, 2013. A public hearing was held on that date, at which no person appeared. No written comments were submitted to the Department.

Two nonsubstantive changes were made to the amendment published under Notice. In subparagraph 79.14(13)"d"(1), the word "project" was added at the end of the paragraph. In subparagraph 79.14(13)"d"(5), the words "of the" were added after the word "evaluation" and the article "the" was added before the words "pilot project."

After analysis and review of this rule making, no impact on jobs has been found.

This amendment is intended to implement 2013 Iowa Acts, House File 215, sections 45 and 110(2).

This amendment shall become effective on November 20, 2013.

The following amendment is adopted.

Adopt the following **new** subrule 79.14(13):

79.14(13) Teacher preparation clinical practice standard—Teach Iowa student teaching pilot project. The Iowa department of education shall establish and administer a Teach Iowa year-long student teaching pilot project. The year-long student teaching pilot project must meet all existing student teaching requirements of 281—Chapter 79, in addition to the following:

a. Two Iowa institutions of higher education with state board of education-accredited teacher preparation programs will collaborate with the Iowa department of education to conduct this year-long, co-teaching-based student teaching pilot project. One of the two institutions collaborating on the pilot project will be under the control of the state board of regents; the other, an accredited private institution as defined in Iowa Code section 261.9.

b. The Teach Iowa student teaching pilot project shall provide students in teacher preparation programs with a one-year student teaching experience. A student teaching experience provided under the pilot project must include all of the following requirements:

(1) A participating institution of higher education shall work with one or more accredited schools or school districts (public or private), individually or collaboratively, to place groups of students in a co-teaching student teaching experience for an entire academic year. A participating institution of higher education shall take into consideration geographic diversity in the selection of accredited schools or school districts for participation in the pilot project. A participating institution of higher education will place an emphasis on supporting students in their development as teachers who will raise student achievement.

(2) A participating institution of higher education shall supervise the student teachers in the classroom and shall provide the student teachers with weekly on-site instruction in pedagogy in the participating school districts.

c. The participating institutions of higher education will collaborate with the department of education to develop and administer a monitoring system to evaluate and periodically provide a report on the effectiveness of the Teach Iowa year-long student teaching pilot project.

EDUCATION DEPARTMENT[281](cont'd)

d. Institutions selected to participate in the pilot project will be chosen by a panel established by the director of the Iowa department of education using a scaled score of application requirements. Interested institutions will apply for the pilot project by describing:

- (1) Capacity to carry out the work of the pilot project;
- (2) Extent of partnership with local district/school to include documented agreement of district/school administrator(s);
- (3) Budget;
- (4) Curriculum plans for on-site instruction to include alignment with institutions' current curricula;
- (5) Plans for evaluation of the effectiveness of the pilot project on student teacher growth in learning and preparedness for teaching.

e. Selected institutions will develop and administer a year-long student teaching pilot project that will:

- (1) Place a cohort of candidates in a PK-12 school in a co-teaching model of student teaching for the duration of an entire academic year.
- (2) Provide weekly instruction for student teachers in the same PK-12 school (or schools) in which the student teachers are teaching.
- (3) Evaluate the effectiveness of year-long student teaching.
- (4) Meet all requirements in subrule 79.14(13).
- (5) Meet all other requirements of 281—Chapter 79.

f. This subrule is rescinded at the conclusion of the pilot project.

[Filed 9/26/13, effective 11/20/13]

[Published 10/16/13]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 10/16/13.

ARC 1119C

EDUCATION DEPARTMENT[281]

Adopted and Filed

Pursuant to the authority of Iowa Code section 256.7(5), the State Board of Education hereby amends Chapter 97, "Supplementary Weighting," Iowa Administrative Code.

This amendment is intended to comply with recent legislative changes that reauthorized and modified the current statute for supplementary weighting. Additional classifications of employees were allowed to be shared between districts. In addition, districts no longer need to be adjoining to participate in this program. The amendment reflects these changes and provides clarity for the operation of the program for participating districts.

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

Notice of Intended Action was published in the August 21, 2013, Iowa Administrative Bulletin as **ARC 0967C**. Public comments were allowed until 4:30 p.m. on September 10, 2013. A public hearing was held on that date, at which 53 individuals were present. A petition was presented with 230 signatures of superintendents representing school districts opposed to the proposed amendment. Printed materials in opposition to the rule making were presented at the hearing, and nearly an hour of public comment was heard from representatives of the group of 53. In general, commenters understood that the cost of the program was more excessive than planned under this law and that the Department was being conservative in this rule because of the higher-than-anticipated expenses; nevertheless, the commenters asserted that educational opportunities should be stressed and that many school districts have hired staff based upon the new law. Other district representatives shared that they hoped that a compromise could come forward that would protect the financial interests of the state while still allowing for the expansion of roles within this program with true cost coverage. In sum, commenters thought the rule was too strictly interpreted and would like to see expansion of the rule.

EDUCATION DEPARTMENT[281](cont'd)

This amendment is identical to that published under Notice.

After analysis and review of this rule making, no impact on jobs has been found.

This amendment is intended to implement 2013 Iowa Acts, House File 472, and Senate File 452, section 20(1).

This amendment shall become effective on November 20, 2013.

The following amendment is adopted.

Amend rule 281—97.7(257) as follows:

281—97.7(257) Supplementary weighting plan for operational services.

97.7(1) No change.

97.7(2) Operational function area eligibility. “Operational function sharing” means sharing of managerial personnel in the discrete operational function areas of superintendent management, business management, human resources management, student transportation management, or facility operation or maintenance management, social worker, school nurse, school counselor, or school librarian. “Operational function sharing” does not mean sharing of clerical personnel, ~~librarians, counselors, nurses, and curriculum directors~~ or school principals. The operational function sharing arrangement does not need to be a newly implemented sharing arrangement in order to be eligible for supplementary weighting.

a. to e. No change.

f. Curriculum director.

(1) Shared personnel must perform the services of a curriculum director for each of the sharing partners. An individual performing the function of a curriculum director must be properly licensed for that position.

(2) Clerical, paraprofessional, or other support services personnel in the improvement of instruction function area shall not be considered a shared curriculum director under this subrule.

(3) Shared curriculum director services shall not include contracting for services from a private provider even if another political subdivision is contracting for services from the same private provider.

g. School administration manager.

(1) Shared personnel must perform the services of a school administration manager for each of the sharing partners. An individual performing the function of a school administration manager must be properly licensed for that position.

(2) Principals, assistant principals, deans of students, or paraprofessional, clerical or other support services personnel in the school administration function area shall not be considered a shared school administration manager under this subrule.

(3) Shared school administration manager services shall not include contracting for services from a private provider even if another political subdivision is contracting for services from the same private provider.

h. Social worker.

(1) Shared personnel must perform the services of a social worker for each of the sharing partners. An individual performing the function of a social worker must be properly licensed for that position by holding a statement of professional recognition from the board of educational examiners.

(2) Assistants in social work or clerical, paraprofessional, or other support services personnel in the attendance and social work services function area shall not be considered a shared social worker under this subrule.

(3) Shared social worker services shall not include contracting for services from a private provider even if another political subdivision is contracting for services from the same private provider.

i. School nurse.

(1) Shared personnel must perform the services of a school nurse for each of the sharing partners. An individual performing the function of a school nurse must be properly licensed for that position by holding a statement of professional recognition from the board of educational examiners.

EDUCATION DEPARTMENT[281](cont'd)

(2) Assistants, licensed practical nurses, or paraprofessionals, aides, clerical or other support services personnel in the health or psychological services function area shall not be considered a shared school nurse under this subrule.

(3) Shared school nurse services shall not include contracting for services from a private provider even if another political subdivision is contracting for services from the same private provider.

j. School counselor.

(1) Shared personnel must perform the services of a school counselor for each of the sharing partners. An individual performing the function of a school counselor must be properly licensed for that position.

(2) Deans of students or clerical, paraprofessional, or other support services personnel in the guidance services function area shall not be considered a shared school counselor under this subrule.

(3) Shared school counselor services shall not include contracting for services from a private provider even if another political subdivision is contracting for services from the same private provider.

k. School librarian.

(1) Shared personnel must perform the services of a school librarian for each of the sharing partners. An individual performing the function of a school librarian must be properly licensed for that position.

(2) Technology directors, media specialists, or paraprofessional, aide, clerical or other support services personnel in the library media services function area shall not be considered a shared school librarian under this subrule.

(3) Shared school librarian services shall not include contracting for services from a private provider even if another political subdivision is contracting for services from the same private provider.

97.7(3) Years of eligibility. A school district participating in an operational function sharing arrangement shall be eligible for supplementary weighting under this rule for a maximum of five years. The five years of eligibility shall include each year in which any shared operational function is included for supplementary weighting. The supplementary weighting for eligible shared operational functions may be included beginning on October 1, ~~2007~~ 2013.

a. Receipt of supplementary weighting after the first year shall be conditioned upon the submission of cost information provided in the format prescribed by the department of education as part of the BEDS fall data collection and certified annual report documenting cost savings directly attributable to the shared operational functions.

b. The documentation on the BEDS fall data collection shall be filed no later than the published deadline for that data collection and the documentation on the certified annual report shall be filed no later than September 15 preceding the October 1 on which the second, third, fourth, or fifth year of operational function sharing is included for supplementary weighting.

97.7(4) Contiguous districts. School districts that share operational functions with other school districts ~~must be not required to~~ be contiguous school districts. ~~If two or more sharing partner districts are not contiguous to each other, all districts separating those districts must be a party to the operational function sharing arrangement.~~

97.7(5) Consecutive years. A school district that is eligible to add a supplementary weighting for resident students for a shared operational function is not required to utilize consecutive years. However, the final year in which a supplementary weighting may be added on October 1 for this purpose shall not be later than the school year that begins July 1, ~~2012~~ 2018, and the total of all years in which a supplementary weighting may be added on October 1 for this purpose shall not exceed five years.

97.7(6) to 97.7(8) No change.

97.7(9) Multiple shared individuals in an operational function. A school district that implements more than one sharing arrangement within any discrete operational function area shall not be eligible for supplementary weighting if more than one shared individual is licensed and qualified for the same position. If the school district had utilized its own employees, the sharing arrangement or arrangements would not have been necessary.

97.7(9) 97.7(10) Weighting. Resident students eligible for supplementary weighting pursuant to rule 281—97.7(257) shall be eligible for a weighting of two-hundredths per pupil included in the actual enrollment in the district. The supplementary weighting shall be assigned to each discrete operational

EDUCATION DEPARTMENT[281](cont'd)

function shared. The maximum number of years for which a supplementary weighting shall be assigned for all operational functions shared is five years.

~~a.—The supplementary weighting for operational functions shared is decreased each year based on the following schedule:~~

~~(1) The total supplementary weighting calculated for all operational function sharing in the second year of any operational function sharing, after application of minimum and maximum supplementary weighting, shall be reduced by 20 percent of the total supplementary weighting for all operational function sharing in each of the previous years of any operational function sharing, but not reduced to less than zero.~~

~~(2) The total supplementary weighting calculated for all operational function sharing in the third year of any operational function sharing, after application of minimum and maximum supplementary weighting, shall be reduced by 20 percent of the total supplementary weighting for all operational function sharing in each of the previous years of any operational function sharing, but not reduced to less than zero.~~

~~(3) The total supplementary weighting calculated for all operational function sharing in the fourth year of any operational function sharing, after application of minimum and maximum supplementary weighting, shall be reduced by 20 percent of the total supplementary weighting for all operational function sharing in each of the previous years of any operational function sharing, but not reduced to less than zero.~~

~~(4) The total supplementary weighting calculated for all operational function sharing in the fifth year of any operational function sharing, after application of minimum and maximum supplementary weighting, shall be reduced by 20 percent of the total supplementary weighting for all operational function sharing in each of the previous years of any operational function sharing, but not reduced to less than zero.~~

~~b.—The decrease in the total supplementary weighting as described in paragraph “a” of this subrule shall be applied after any adjustment for minimum or maximum weighting has been applied.~~

~~e.—The department shall reserve the authority to determine if an operational sharing arrangement constitutes a discrete arrangement, new arrangement, or continuing arrangement if the circumstances have not been clearly described in the Iowa Code or the Iowa Administrative Code.~~

~~97.7(10) 97.7(11) *Maximum weighting.* The maximum amount of additional weighting for which a school district participating in operational function sharing shall be eligible is an amount corresponding to 40 full-time equivalent pupils prior to any reduction pursuant to subrule 97.7(9). The maximum additional weighting applies to the total of all operational function sharing rather than to each discrete operational function.~~

~~97.7(11) 97.7(12) *Minimum weighting.* The minimum amount of additional weighting for which a school district participating in operational function sharing shall be eligible is an amount corresponding to ten additional pupils prior to any reduction pursuant to subrule 97.7(9). The minimum additional weighting applies to the total of all operational function sharing rather than each discrete operational function.~~

~~97.7(12) 97.7(13) *Filing cost-savings documentation.* Each school district that receives supplementary weighting for sharing one or more operational functions shall file with the department of education documentation of cost savings directly attributable to the shared operational functions. This documentation shall be submitted in the format prescribed by the department of education as part of the certified annual report and the BEDS fall data collection. The district or AEA shall report the FTE for each discrete operational function area eligible for supplementary weighting on its BEDS fall data collection. The documentation certified annual report shall be filed no later than September 15 preceding the October 1 on which the second, third, fourth, or fifth year of operational function sharing is included for supplementary weighting and the BEDS fall data collection shall be filed no later than its published deadline. If a district or AEA does not file in a timely manner its certified annual report and its BEDS fall data collection, it will not be eligible to request operational function sharing supplementary weighting.~~

EDUCATION DEPARTMENT[281](cont'd)

~~97.7(13)~~ **97.7(14)** *Determining cost savings.* The criteria considered by the department of education in determining shared operational function cost savings and increased student opportunities shall include, but not be limited to, the following:

a. The level of FTE for each discrete operational function area eligible for supplementary weighting as compared to the level of FTE for that same discrete operational function area in the 2012-2013 school year as reported on the BEDS fall data collection.

b. If, in the opinion of department staff, the FTE is not sufficient documentation on which to determine eligibility for operational function sharing supplementary weighting, the department may also review the following from the certified annual report:

~~a. (1) The percent of costs calculated as the total of general fund expenditures for all operational functions that could be shared, in function codes 2300 and greater, divided by the total of all general fund expenditures, multiplied by 100, in the current prior fiscal year compared to the previous 2012-2013 fiscal year. The current prior fiscal year is the fiscal year ending on June 30 as reported on the certified annual report that includes the was due on September 15, prior to October 1 on which the district included any operational function shared for supplementary weighting. The decrease in percent shall be a measurable decrease of at least one-tenth of one percent in the first fiscal year for which cost savings are determined cost savings and increased student opportunities shall be evidenced by the percent which is less than or equal to the percent in the 2012-2013 fiscal year. In a year after the first fiscal year for which cost savings are determined, the percent of costs shall not be greater than the percent in the previous fiscal year.~~

~~b. The percent of costs calculated as the total of general fund expenditures for all instruction, student support, and instructional staff support functions divided by the total of all general fund expenditures, multiplied by 100, in the current year compared to the previous year. The current year is the fiscal year ending on June 30 that includes the October 1 on which the district included any operational function shared for supplementary weighting. The increase in percent must be a measurable increase of at least one-tenth of 1 percent in the first fiscal year for which increased student opportunities are determined. In a year after the first fiscal year for which increased student opportunities are determined, the percent of costs shall not be less than the percent in the previous fiscal year.~~

~~e. (2) The department of education will adjust the total expenditures to exclude distorting financial transactions or interagency financial transactions. Distorting financial transactions shall be determined by the department of education.~~

c. If the district increases the total FTE of personnel in any discrete operational function area eligible for supplementary weighting, the district will not be eligible for supplementary weighting for operational function sharing for that discrete operational function area until the fiscal year in which the FTE is decreased to or below the level reported by the district on its BEDS staff data collection in fiscal year 2012-2013.

d. If the district cannot demonstrate cost savings directly attributable to the shared operational function or increased student opportunities, the district will not be eligible for supplementary weighting for operational function sharing for that fiscal year.

~~97.7(14)~~ **97.7(15)** *Area education agency maximum funding.* The provisions of rule 281—97.7(257) also apply to an area education agency except for per-pupil weightings, minimum weightings, and maximum weightings.

a. In lieu of minimum weightings, an area education agency shall be eligible for a minimum amount of additional funding of \$50,000 for the total of all operational function sharing arrangements. The dollar amount calculated in the first year of any operational function sharing will be used to determine the annual reductions.

b. In lieu of maximum weightings, an area education agency shall be eligible for a maximum amount of additional funding of \$200,000 for the total of all operational function sharing arrangements. The dollar amount calculated in the first year of any operational function sharing will be used to determine the annual reductions.

EDUCATION DEPARTMENT[281](cont'd)

c. In lieu of supplementary weighting of students, the department of management shall annually set a weighting for each area education agency to generate the approved operational function sharing dollars using each area education agency's special education cost-per-pupil amount and foundation level.

[Filed 9/26/13, effective 11/20/13]

[Published 10/16/13]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 10/16/13.

ARC 1100C

ENVIRONMENTAL PROTECTION COMMISSION[567]

Adopted and Filed

Pursuant to the authority of Iowa Code section 455B.474(3)"d," the Environmental Protection Commission adopts an amendment to Chapter 135, "Technical Standards and Corrective Action Requirements for Owners and Operators of Underground Storage Tanks," Iowa Administrative Code.

Notice of Intended Action to rescind paragraph 135.5(1)"e" and adopt a new paragraph 135.5(1)"e" in lieu thereof was published in the Iowa Administrative Bulletin on January 9, 2013, as **ARC 0560C**. The amendment was also Adopted and Filed Emergency and published as **ARC 0559C** on the same date. An Amended Notice of Intended Action was published in the Iowa Administrative Bulletin on July 24, 2013, as **ARC 0836C**. The Amended Notice proposed to rescind the paragraph 135.5(1)"e" that was Adopted and Filed Emergency (**ARC 0559C**) and to adopt a new paragraph 135.5(1)"e" that would change certain leak detection and notification requirements applicable to unstaffed facilities operating underground storage tank (UST) systems with pressurized piping. "Unstaffed facilities" are those facilities that do not have an operator present on-site at all times when the UST system is operating and available to dispense fuel to a customer.

The new paragraph 135.5(1)"e" proposed in the Amended Notice and adopted herein allows current in-line leak detection methods to be used when the UST facility is unattended, with additional requirements to ensure that detected releases are addressed. The paragraph allows for immediate shutdown of the submersible pump when a release is detected. In the alternative, the paragraph allows for the restriction of the flow of product or the triggering of an audible or visual alarm when a leak is detected and either notification to or a daily visit by the facility's operator or designee. Notification can occur either by immediate electronic communication of a release from the leak detection monitor or by signage at the site with a telephone number directing the customer to call the Class B operator or designee when a potential release is indicated.

The Amended Notice was the result of working with stakeholders to identify leak detection methods that are both cost-effective and environmentally protective. The Notice of Intended Action published on January 9, 2013, as **ARC 0560C** had extended the deadline for unstaffed facility owners to comply with the existing 135.5(1)"e" requirements to January 1, 2014. The extension also allowed time for the Department and stakeholders to work together to address concerns raised following the adoption of paragraph 135.5(1)"e" in **ARC 0559C**.

Following publication of Notice **ARC 0560C**, the Department conducted four stakeholder meetings to discuss and receive suggestions for meeting the intent of the paragraph. Based on extensive public comment, it was determined that an extensive revision to the paragraph would be required, resulting in the Amended Notice of Intended Action published on July 24, 2013, as **ARC 0836C**. The Department continued to work with stakeholders to produce this revised paragraph that addresses the concerns of all parties.

A public hearing was held on August 13, 2013, and no comments were received. No written comments were received during the comment period. This amendment is identical to that published under Amended Notice of Intended Action.

After analysis and review of this rule making, a positive impact on jobs could exist as the new requirements will allow for compliance that is less financially burdensome to the regulated community.

ENVIRONMENTAL PROTECTION COMMISSION[567](cont'd)

This amendment is intended to implement Iowa Code sections 455B.474 and 455B.474A.

This amendment shall become effective November 20, 2013, at which time the Adopted and Filed Emergency amendment is hereby rescinded.

The following amendment is adopted.

Rescind paragraph **135.5(1)“e”** and adopt the following **new** paragraph in lieu thereof:

e. Any UST facility that uses pressurized piping and dispenses product in the absence of a Class A, B, or C operator shall comply with the following requirements:

(1) Employ automatic line leak detectors that do one or more of the following:

1. Shut down the submersible pump when a leak is detected.
2. Restrict the flow of product when a leak is detected.
3. Trigger an audible or visual alarm when a leak is detected.

(2) At facilities implementing 135.5(1)“e”(1)“2” or “3,” the facility’s operator shall be notified or shall conduct a visit through one of the following methods:

1. Notification of the Class B operator by immediate electronic communication.
2. Signage directing the customer to contact the Class B operator or a designated contact person.

The sign must be immediately visible to the customer and state that slow flow or an audible or visual alarm is an indication of a possible release. The sign must provide a 24-hour telephone number of the Class B operator or designee and direct the customer to stop dispensing product.

3. Daily visit to the site by a Class A, B, or C operator or designee. Visits shall include observation of every automatic line leak detector for shutdown, alarm, or restricted flow conditions. Methods of observing for restricted flow conditions may include dispensing product into a proper container or personal vehicle, observing a customer dispense product into a vehicle, or another method approved by the department. Owners and operators shall maintain an onsite log of site visits to demonstrate compliance with this provision. The log shall include the name of the observer and method used to observe the status of the automatic line leak detectors.

(3) All UST facilities subject to 135.5(1)“e” must comply with its provisions by July 1, 2014.

[Filed 9/24/13, effective 11/20/13]

[Published 10/16/13]

EDITOR’S NOTE: For replacement pages for IAC, see IAC Supplement 10/16/13.

ARC 1114C

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

Adopted and Filed

Pursuant to the authority of Iowa Code section 418.7, the Department of Homeland Security and Emergency Management adopts a new Chapter 14, “Flood Mitigation Program,” Iowa Administrative Code.

Chapter 14 implements Iowa Code chapter 418, which creates the Flood Mitigation Program. Chapter 14 specifies how the Flood Mitigation Board will implement and administer the program.

Notice of Intended Action was published in the Iowa Administrative Bulletin on August 21, 2013, as **ARC 0956C**.

A public hearing was conducted on September 12, 2013. Two public comments were received by the Department.

Comments submitted by the Iowa Department of Revenue recommended an amendment that related to the historical sales tax revenue data that the Department of Revenue can provide to potential applicants. The proposed change would clarify that the Department of Revenue can provide historical data but is not able to provide accurate projections of future sales tax revenue.

HOMELAND SECURITY AND EMERGENCY MANAGEMENT DEPARTMENT[605](cont'd)

The city of Dubuque submitted comments expressing support of the process used for this rule making as well as support of the Department of Revenue's suggested change.

The Flood Mitigation Board considered these comments on September 23, 2013, and approved adoption of the Department of Revenue's proposed change. Thus, subrules 14.4(3) and 14.5(3) as published under Notice of Intended Action have been revised to incorporate the change suggested by the Department of Revenue.

After analysis and review of this rule making, it has been determined that new jobs are likely to be created as a result of the Flood Mitigation Program.

These rules are intended to implement Iowa Code chapter 418.

These rules will become effective November 20, 2013.

The following amendment is adopted.

Adopt the following new 605—Chapter 14:

CHAPTER 14
FLOOD MITIGATION PROGRAM

605—14.1(418) Purpose. In accordance with Iowa Code section 418.7, the flood mitigation board establishes the policies and procedures for the creation and administration of an Iowa flood mitigation program.

605—14.2(418) Definitions.

“Board” means the flood mitigation board as created in Iowa Code section 418.5.

“Department” means the department of homeland security and emergency management.

“Director” means the director of the department of homeland security and emergency management.

“Governmental entity” means any of the following:

1. A county.
2. A city.
3. A joint board or other legal or administrative entity established or designated in an agreement pursuant to Iowa Code chapter 28E between any of the following:
 - Two or more cities located in whole or in part within the same county.
 - A county and one or more cities that are located in whole or in part within the county.
 - A county, one or more cities that are located in whole or in part within the county, and a drainage district formed by mutual agreement under Iowa Code section 468.142 located in whole or in part within the county.

“Project” means the construction and reconstruction of levees, embankments, impounding reservoirs, conduits or other means that are necessary for the protection of property from the effects of floodwaters and may include the deepening, widening, alteration, change, diversion, or other improvement of watercourses if necessary for the protection of such property from the effects of floodwaters. A project may consist of one or more phases of construction or reconstruction that are contracted for separately if the larger project, of which the project is a part, otherwise meets the requirements of Iowa Code section 418.4.

“Sales tax” means the sales and services tax imposed pursuant to Iowa Code section 423.2.

605—14.3(418) Flood mitigation board.

14.3(1) The flood mitigation board is established and housed, for administrative purposes, within the department. The director shall provide office space, staff assistance, supplies and equipment, and budget funds to pay the necessary expenses of the board.

14.3(2) The board shall be comprised of nine voting members and four ex-officio nonvoting members.

- a. The voting members shall include all of the following:

HOMELAND SECURITY AND EMERGENCY MANAGEMENT DEPARTMENT[605](cont'd)

(1) Four members of the general public appointed by the governor and confirmed by the senate in accordance with Iowa Code sections 69.16 and 69.16A. These members shall be appointed to three-year staggered terms, and the terms shall commence and end as provided in Iowa Code section 69.19.

1. Two members of the general public shall have demonstrable experience or expertise in the field of natural disaster recovery.

2. Two members of the general public shall have demonstrable experience or expertise in the field of flood mitigation.

(2) The director of the department of natural resources or the director's designee.

(3) The secretary of agriculture or the secretary's designee.

(4) The director of the department or the director's designee.

(5) The treasurer of state or the treasurer's designee.

(6) The executive director of the Iowa finance authority or the executive director's designee.

b. The ex-officio nonvoting members shall include four members of the general assembly with one each appointed by the following:

(1) The majority leader of the senate.

(2) The minority leader of the senate.

(3) The speaker of the house of representatives.

(4) The minority leader of the house of representatives.

14.3(3) The governor shall designate a chairperson and vice chairperson from the voting members.

14.3(4) The board shall meet at a time and place determined by the board. Additional meetings may be called by:

a. The chairperson,

b. The vice chairperson, or

c. The director.

14.3(5) All meetings of the board are public meetings and shall be conducted in accordance with Iowa Code chapter 21. A majority of the voting members constitutes a quorum.

605—14.4(418) Flood mitigation project eligibility.

14.4(1) An eligible applicant is a governmental entity as defined in rule 605—14.2(418).

14.4(2) Eligible project types include construction and reconstruction of levees, embankments, impounding reservoirs, conduits, or other means that are necessary for the protection of property from the effects of floodwaters and may include the deepening, widening, alteration, change, diversion, or other improvement of watercourses if necessary for the protection of such property from the effects of floodwaters. A project may consist of one or more phases of construction or reconstruction that are contracted for separately if the larger project, of which the project is a part, otherwise meets the requirements of this subrule.

14.4(3) For the project to be eligible for flood mitigation funding from the sales tax increment fund, the project, or an earlier phase of the project, is required to have been approved to receive federal financial assistance under the Water Resources Development Act (WRDA), the Environmental Protection Agency (EPA), or other federal programs providing assistance specifically for hazard mitigation. Prior to submission of an application, a governmental entity shall request a report from the Iowa department of revenue that provides recent historical data on sales tax revenue and trends in sales tax revenue growth. If a project is eligible for state financial assistance under Iowa Code section 29C.6(17), such project is ineligible for flood mitigation funding under this chapter. The federal award must be in an amount equal to at least 20 percent of the total project cost or \$30 million, whichever is less.

14.4(4) For the project to be eligible for flood mitigation funding from the flood mitigation fund or sales tax increment fund, the governmental entity shall provide a local match of at least 50 percent of the total cost of the project less any federal financial assistance. The sales tax increment shall fund a maximum of 50 percent of the total project cost. The federal share of the total project cost shall be a minimum of 20 percent of the total project cost or \$30 million, whichever is less. The local match,

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when combined with the federal share, shall fund a minimum of 50 percent of the total project cost. The governmental entity shall provide funding for the local match.

14.4(5) The project must result in nonpublic investment in the governmental entity's area, as defined in Iowa Code section 418.11(3), of an amount equal to 50 percent of the total cost of the project. For purposes of this subrule, "nonpublic investment" means investment by nonpublic entities consisting of capital investment or infrastructure improvements occurring in anticipation of or as a result of the project during the period of time between July 1, 2008, and ten years after the board approves the project.

14.4(6) A governmental entity shall not seek approval from the board for a project if the governmental entity previously had a board-approved project or if the governmental entity was part of a governmental entity as defined in rule 605—14.2(418) that had a board-approved project.

605—14.5(418) Applications.

14.5(1) The board shall prescribe the form of the application, instructions and associated documents. Applications, instructions, programmatic guidance and forms are available through the department and its Web site, www.homelandsecurity.iowa.gov.

14.5(2) A governmental entity shall submit an application to the board for approval of a project plan prior to January 1, 2016.

14.5(3) The application shall specify whether the governmental entity is requesting financial assistance from the flood mitigation fund or approval for the use of sales tax revenues. Applications for financial assistance from the flood mitigation fund shall describe the type and amount of assistance requested. Applications for the use of sales tax revenues shall state the amount of sales tax revenues necessary for completion of the project and shall contain a report from the Iowa department of revenue, as requested by the governmental entity, that provides recent historical data on sales tax revenue and trends in sales tax revenue growth.

14.5(4) Each application shall include or have attached to the application the governmental entity's project plan adopted under Iowa Code section 418.4(2). The application package shall include all of the following:

- a.* The project plan that includes:
 - (1) A detailed description of the project, including all phases of construction or reconstruction included in the project, maintenance plans for the completed project, the estimated cost of the project, and the maximum amount of debt to be incurred for purposes of funding the project; and
 - (2) A detailed description of all anticipated funding sources for the project, including information relating to either the proposed use of financial assistance from the flood mitigation fund or the proposed use of sales tax increment revenues.
- b.* A copy of the application for federal funds and subsequent approval letter as specified under Iowa Code section 418.4(3) "b."
- c.* A detailed budget.
- d.* A statement about whether the project is designed to mitigate future flooding of existing property and infrastructure that have sustained significant flood damage and are likely to sustain significant flood damage in the future. Detailed information on the existing property and infrastructure shall be included.
- e.* A statement about whether the project plan addresses the impact of flooding both upstream and downstream from the area where the project is to be undertaken and whether the project conforms to any applicable floodplain ordinance.
- f.* A statement about whether the area that would benefit from the project's flood mitigation efforts is sufficiently valuable to the economic viability of the state or is of sufficient historic value to the state to justify the cost of the project.
- g.* A statement about the extent to which the project would utilize local matching funds. The board shall not approve a project unless at least 50 percent of the total cost of the project, less any federal financial assistance for the project, is funded using local matching funds, and unless the project will result in nonpublic investment in the governmental entity's area, as defined in Iowa Code section 418.11(3), of an amount equal to 50 percent of the total cost of the project. For purposes of this paragraph, "nonpublic

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investment” means investment by nonpublic entities consisting of capital investment or infrastructure improvements occurring in anticipation of or as a result of the project during the period of time between July 1, 2008, and ten years after the board approves the project.

h. A statement about the extent of nonfinancial support committed to the project from public and nonpublic sources.

i. A statement about whether the project is designed in coordination with other watershed management measures adopted by the governmental entity or adopted by the participating jurisdictions of the governmental entity, as applicable.

j. A statement about whether the project plan is consistent with the applicable comprehensive, countywide emergency operations plan in effect and other applicable local hazard mitigation plans.

k. A statement about whether financial assistance through the flood mitigation program is essential to meet the necessary expenses or serious needs of the governmental entity related to flood mitigation.

l. Any other documents requested by the board to assist the board in the consideration of the application.

m. If the governmental entity intends to issue bonds in accordance with Iowa Code section 418.14, the governmental entity shall provide information from the proposed bonding company as to the viability of the bond issuance.

605—14.6(418) Flood mitigation fund.

14.6(1) A flood mitigation fund is created as a separate and distinct fund in the state treasury under the control of the board and consists of money appropriated by the general assembly and any other moneys available to and obtained or accepted by the board for placement in the fund. Payments of interest, repayments of moneys loaned, and recaptures of grants provided by the board shall be deposited in the fund.

14.6(2) Moneys in the fund shall be used by the board to provide financial assistance in accordance with this chapter to a governmental entity in the form of grants, loans and forgivable loans. The board shall specify the terms of any grants or loans made from the fund. The board may make a multiyear commitment to a governmental entity of up to \$4 million in any one fiscal year.

14.6(3) Moneys received by a governmental entity from the fund shall be deposited in the governmental entity’s flood project fund as created in rule 605—14.8(418).

14.6(4) If any portion of the moneys appropriated to the fund have not been awarded during the fiscal year in which they were appropriated, the portion which has not been awarded may be utilized by the board to provide financial assistance in subsequent fiscal years.

14.6(5) Following completion of all projects approved to utilize financial assistance from the fund and upon determination by the board that the remaining funds are no longer needed for the program, the funds that were appropriated by the general assembly shall be credited to the general fund of the state. Other funds shall be credited to the granting agency in accordance with any grant agreements.

605—14.7(418) Sales tax increment calculation and sales tax increment fund. The calculation of the sales tax increment and operation of the fund is addressed in Iowa department of revenue 701—Chapter 238.

605—14.8(418) Flood project fund.

14.8(1) Each governmental entity that has a project approved by the board and is awarded funds from either the flood mitigation fund or sales tax increment fund shall create a separate flood project fund. The fund shall be used to pay the costs associated with the governmental entity’s approved project and to pay the principal and interest on bonds issued pursuant to Iowa Code section 418.14.

14.8(2) The governmental entity may deposit any other moneys lawfully received into the fund. Other moneys include but are not limited to local sales and services tax receipts collected under Iowa Code chapter 423B.

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605—14.9(418) Board application review.

14.9(1) The board shall not approve a project for inclusion in the program if the application is received after January 1, 2016.

14.9(2) The board may request an independent engineering review of the project to determine the technical feasibility, engineering standards, and total estimated cost of the project. Such review may be completed by the United States Army Corps of Engineers. All costs related to the review shall be the responsibility of the governmental entity.

14.9(3) The board shall not approve any project plan that includes financial assistance pursuant to this chapter that would be used to pay principal and interest on or refinance any debt or other obligation existing prior to the approval of the project.

14.9(4) The board shall not approve a project plan application for which the amount of sales tax increment revenue remitted to the governmental entity would exceed \$15 million in any one fiscal year or if approval of the project would result in total remittances in any one fiscal year for all approved projects to exceed, in the aggregate, \$30 million.

14.9(5) The board may contract with or otherwise consult with the Iowa flood center, established in Iowa Code section 466C.1, to assist in administering the flood mitigation program and review of applications.

14.9(6) The board, after consulting with the economic development authority, shall approve, defer, or deny the applications.

14.9(7) If the application is denied, the board shall state the reasons for the denial. The governmental entity may resubmit the application for consideration anytime prior to January 1, 2016.

14.9(8) If the application is approved, the board shall specify whether the governmental entity is approved for use of the sales tax revenues under Iowa Code section 418.12 or whether the governmental entity is approved to receive financial assistance from the flood mitigation fund under Iowa Code section 418.10.

14.9(9) If the board approves an application that includes the use of sales tax increment revenues, the board shall establish the annual maximum amount of such revenues that may be remitted to the governmental entity not to exceed \$15 million or 70 percent of the total yearly amount of increased sales tax revenue in the governmental entity's applicable area and deposited in the governmental entity's account, whichever is less. The board may, however, establish remittance limitations for the project lower than those specified in this subrule.

14.9(10) If the board approves an application that includes financial assistance from the flood mitigation fund, the board shall negotiate and execute on behalf of the department all necessary agreements to provide such financial assistance.

14.9(11) Upon approval of an application for financial assistance under the program, the board shall notify the treasurer of state regarding the amount of moneys needed to satisfy the award of financial assistance and the terms of the award.

14.9(12) If, following approval of an application, it is determined that the amount of federal financial assistance exceeds the amount of federal financial assistance specified in the application, the board shall reduce the award of financial assistance from the flood mitigation fund or reduce the amount of sales tax revenue to be received for the project by a corresponding amount.

14.9(13) Following the approval of an application which proposes to use sales tax increment revenues, the governmental entity shall adopt a resolution authorizing the use of sales tax increment from the governmental entity's flood project fund. Within ten days of adoption, the governmental entity shall provide a copy of the resolution to the Iowa department of revenue.

605—14.10(418) Reports.

14.10(1) Following the approval of a project application, the governmental entity shall, on or before December 15 of each year, submit a report to the board detailing the following:

- a. The current status of the project.
- b. The total expenditures and types of expenditures that have been made related to the project.
- c. The amount of total project cost remaining as of the date the report is submitted.

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- d. The amounts, types, and sources of funding being used.
- e. The amount of bonds issued or other indebtedness incurred for the project, including information related to the rate of interest, length of term, cost of issuance, and net proceeds. This report shall also include the amounts and types of moneys used for payment of such bonds or indebtedness.

14.10(2) The board shall submit a written report to the governor and the general assembly on or before January 15 of each year. The report shall contain information relating to all projects that have been approved by the board and contain summaries of the individual project reports required by this chapter. The board shall also convey in the report any recommendations for legislative action to modify this chapter.

14.10(3) The treasurer of state shall report to the department any moneys that are disbursed to a recipient of financial assistance under the program.

14.10(4) Any governmental entity that receives assistance in the form of sales tax revenues under the program shall provide to the board all reports that are required as part of receiving federal financial assistance.

605—14.11(418) Flood project bonds. A governmental entity receiving sales tax revenues in accordance with this chapter is authorized to issue bonds that are payable from revenues deposited in the flood project fund created in rule 605—14.8(418). Issuance and administration of such bonds shall be done in accordance with Iowa Code sections 418.14 and 384.83.

These rules are intended to implement Iowa Code chapter 418.

[Filed 9/26/13, effective 11/20/13]

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EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 10/16/13.

ARC 1096C

HUMAN SERVICES DEPARTMENT[441]

Adopted and Filed

Pursuant to the authority of Iowa Code chapter 331 and 2012 Iowa Acts, chapter 1120, section 15, the Department of Human Services amends Chapter 25, "Disability Services Management," Iowa Administrative Code.

These amendments define core services that mental health and disability services (MHDS) regions must offer to eligible individuals. Access standards and provider practice standards for these services are also defined. These amendments are not definitive of all possible services an MHDS region may provide. An MHDS region may provide other services, and these amendments identify the requirements an MHDS region must meet when its ability to provide other services is determined.

2012 Iowa Acts, chapter 1120, section 15, requires that the Department define regional core services. These amendments provide that MHDS regions must identify and contract with core service providers to ensure adequate access to service providers and that regions must also incorporate this information into their regional service system management plans.

Notice of Intended Action was published in the Iowa Administrative Bulletin as **ARC 0885C** on July 24, 2013.

The Department received comments from 12 respondents on the proposed amendments. The comments and corresponding responses from the Department are divided into six topic areas as follows:

A. General format of rules. There were two comments in this topic area.

1. One respondent commented that the rule format can be difficult to understand with the definitions first. The Department's response is that standard chapter formatting puts the definitions rule first and follows with the remaining rules. These rules are within Chapter 25, which includes a preamble that is being amended herein and in a proposed rule making to reflect the purpose of the chapter.

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2. One respondent requested that the rules not cross reference the Iowa Code but instead include the original language from the Iowa Code in the administrative rules. The Department's response is that the purpose of administrative rules is not to restate the Iowa Code but is to provide clarification. No changes were made as the result of this comment.

B. Definitions. There were 34 comments in this topic area.

1. One respondent commented that several of the definitions include standards within the definition because the definition states who should provide each service. The Department's response is that adding "who provides the service" to service definitions clarifies who is to perform the service and is an integral part of the service definitions. No changes to the amendments were made as the result of this comment.

2. One respondent suggested that the definition for "case management" include that the service preserve an individual's ability to access services and supports. The Department's response is that the definition includes this expectation. No changes to the amendments were made as the result of this comment.

3. Two respondents commented that the definition of "case management" should limit the type of case management to only targeted case management and not include other types of case management. The Department's response is that the rule does not limit case management to only targeted case management. The respondents did not offer an alternative solution. No changes to the amendments were made as the result of these comments.

4. The third comment about "case management" requested that case management be called a function rather than a service. The Department's response is that case management is listed as a service in Iowa Code section 331.397(4)"f." No changes to the amendments were made as the result of this comment.

5. One respondent suggested that the definition of "crisis evaluation" be changed to activities necessary to evaluate the immediate situation and resources available to address the crisis. The Department feels this suggestion is already incorporated in the definition as written in rule 441—25.1(331). No changes to the amendments were made as the result of this comment.

6. One respondent suggested changing the definition of "crisis care coordination" to make it more specific regarding who must work together to create a plan. The Department's response is that adding more specificity will take away from the provider's and region's flexibility in determining who should be working on the plan and who works on the plan may be different depending on the individual's needs, current service plan and current providers. No changes to the amendments were made as the result of this comment.

7. Another respondent suggested that the definition of "crisis care coordination" should be a core service. Iowa Code section 331.397(4) does not delineate crisis care coordination as a core service. Crisis care coordination is a component of community-based crisis intervention service, which is a core service. No changes to the amendments were made as the result of this comment.

8. One respondent suggested that the definition of "day habilitation" include services delivered in the community as preferable. The Department supports community-based integrated settings for service delivery, but stating preferences for service models does not fit a regular paradigm. The definitions are created to allow flexibility to meet the individual needs of those served. No changes to the amendments were made as the result of this comment.

9. One respondent recommended the definition of "emergency service" be changed to "emergency care" so that the terminology matches the cross reference in the definition. The Department made this change as the result of this comment.

10. Two respondents commented that the definition of "family support" should include that the service is helping the family and individual to live successfully in the community by providing intervention and support. The Department's response is that home- and community-based services are to support individuals' living successfully in the community and that the additional wording is not needed. No changes to the amendments were made as the result of these comments.

11. One respondent requested that the service called "family support" be changed to "individualized family support." The Department's response is that Iowa Code section 331.397(4) calls the service "family support." The rules need to be consistent with the statute. No changes to the amendments were made as the result of this comment.

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12. One respondent commented that the definition of “family support” is unclear. The Department’s response is that the support is meant for the family so that the individual can live successfully in the family or community. No changes to the amendments were made as the result of this comment.

13. One respondent requested that the definition of “family support peer specialist” include that the specialist have similar life experiences. The Department feels that the definition is specific enough without additions. No changes to the amendments were made as the result of this comment.

14. One respondent suggested that the definition of “group supported employment” include career exploration and planning and other activities leading to individual employment. The Department’s response is that this definition is consistent with definitions currently used. No changes to the amendments were made as the result of this comment.

15. One respondent requested that the definition of “health homes” include strengths-based support and requested moving the order of the wording. The Department’s response is that the definition corresponds to Medicaid’s state plan amendment. No changes to the amendments were made as the result of this comment.

16. One respondent requested that the definition of “home health aide services” include direct personal care that supports medical services. The Department’s response is that this definition is consistent with the Medicaid definition. No changes to the amendments were made as the result of this comment.

17. One respondent suggested that the definition of “individual supported employment” include job coaching, career planning, benefits and financial education, assistive technology training and other options. The Department’s response is that this definition is consistent with definitions currently used and is broad enough that the respondent’s suggestions could be provided for an individual within the scope of the definition. No changes to the amendments were made as the result of this comment.

18. One respondent requested to add a definition of “integrated treatment for co-occurring substance abuse and mental health disorders.” The Department agreed with the request and added a definition for this consistent with evidence-based practice standards published by the Substance Abuse and Mental Health Services Administration (SAMHSA).

19. One respondent suggested that the definition of “job development” should include all individual supported employment. The Department’s response is that this definition is consistent with definitions currently used and is broad enough that these activities could be provided for an individual within the scope of the definition. No changes to the amendments were made as the result of this comment.

20. One respondent commented that “job development” usually refers to the process of working with employers to secure employment opportunities for individuals. The Department’s response is that this definition is broad enough that the respondent’s suggestion could be provided for an individual within the scope of the definition. No changes to the amendments were made as the result of this comment.

21. One respondent requested a change to the definition of “medication prescribing” to include a definition of a “service with an individual present” so it is less confusing. The Department’s response is that there are definitions for “medication management” and “medication prescribing,” and the Department feels that these definitions are sufficient to differentiate between the services of medication management and medication prescribing. No changes to the amendments were made as the result of this comment.

22. Two respondents requested that a definition for “mental health inpatient treatment” be included. The Department’s response is that mental health inpatient treatment is on the list of services in rule 441—25.2(331) but does not require a definition. No changes to the amendments were made as the result of these comments.

23. Two respondents recommended that the Iowa Code reference used in the definition of “mental health outpatient therapy” be changed from Iowa Code section 230A.106“a” to Iowa Code section 230A.106(2)“a.” The Department agrees with these comments, and the aforementioned change to this definition was made prior to publication of the proposed amendments.

24. One respondent requested that the definition of “peer support specialist” include others than just persons who have experienced a severe and persistent mental illness. The Department’s response is that the definition is intended to reflect that the individual providing the service has experienced a severe and persistent mental illness. No changes to the amendments were made as the result of this comment.

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25. One respondent suggested that the definition of “prevocational services” include career exploration and planning, benefits and financial training and related activities with the desired outcome of the service being a career plan or referral to supported employment or vocational rehabilitation. The respondent also suggested to include that it is preferable to provide these services delivered in an integrated setting. The Department’s response is that this definition is consistent with definitions currently used and is broad enough that these activities could be provided to an eligible individual within the scope of the definition. The Department supports community-based integrated settings for service delivery, but stating preferences for service models does not fit a regular paradigm. No changes to the amendments were made as the result of this comment.

26. Another respondent suggested that the definition of “prevocational services” include that it is preferable to provide these services delivered in an integrated setting. The Department supports community-based integrated settings for service delivery, but stating preferences for service models does not fit a regular paradigm. The definitions are created to allow flexibility to meet the individual needs of those served. No changes to the amendments were made as the result of this comment.

27. Two respondents commented that the definition of “reasonably close proximity” is not adequate for a person’s access to services. They commented that 100 miles from the county seat is too far away for services and that the county seat does not relate to the individual. It was suggested to use the individual’s home and to make the distance 55 miles from the individual’s home. The Department’s response is that Iowa Code section 331.389(3) requires that a region have a hospital with an inpatient psychiatric unit or state mental health institute located within the region or within “reasonably close proximity” to the region. The Department defined this definition in a previous rule making and remained consistent with the definition and did not use “reasonably close proximity” for any other access standards related to core services. Inpatient psychiatric services are a higher level of service, and not every hospital provides this service of care. No changes to the amendments were made as the result of these comments.

28. One respondent recommended using alternative words in the definition of “respite services.” The respondent suggested using the words “temporary” instead of “brief” and “relief” instead of “rest.” The Department agreed with this comment and made the corresponding changes to the definition of “respite services.”

29. One respondent suggested that the definition of “supported employment” include career exploration and planning, benefits and financial training and related activities with the desired outcome of the service being employment in an integrated community-based setting or wages above minimum wage. The Department’s response is that this definition is consistent with the evidence-based practices definition of “supported employment” and is broad enough that these activities could be provided to an eligible individual within the scope of this definition. No changes to the amendments were made as the result of this comment.

30. One respondent requested that the definition of “trauma-informed care” be changed from using the words “expressed violence” to “experienced violence.” The Department agreed with this comment and made the corresponding change to the definition of “trauma-informed care.”

31. One respondent requested adding “developmental trauma” to the definition of “trauma-informed care.” The Department’s response is that according to Iowa Code section 331.397(5), “trauma-informed care” is a practice in which each region must have trained providers accessible and this definition is consistent with the nationally recognized training by the National Center for Trauma-Informed Care. No changes to the amendments were made as the result of this comment.

32. One respondent requested that a definition of “brain injury resource facilitation” be added. The Department’s response is that Iowa Code section 331.397(4) does not require this as a service and the rules must remain consistent with the statute. No changes to the amendments were made as the result of this comment.

33. One respondent commented that legislation left out a key core service domain, “prevention and wellness.” The Department’s response is that Iowa Code section 331.397(4) does not list “prevention and wellness” as a core service domain and the rules must remain consistent with the statute. No changes to the amendments were made as the result of this comment.

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34. One respondent requested that the additional core services known as “core plus” be defined in the rule making in order to ensure that they will be added. The Department’s response is that these rules are focused on the current requirements for MHDS regions. Rules will be proposed regarding additional requirements for the MHDS system. No changes to the amendments were made as the result of this comment.

C. Core service domains. There were comments from eight respondents in this topic area.

1. Two respondents requested that work services and residential care services be added to core services. The Department’s response is that work services and residential care services are not listed as required services in Iowa Code section 331.397(4) and the rules must be consistent with the statute. Regions are permitted to fund these services under the provisions of Iowa Code section 331.397(7) and rule 441—25.2(331). No changes to the amendments were made as the result of these comments.

2. Two respondents commented that a large number of persons served are utilizing services that are not part of the core services list. These respondents are seeing that individuals may be placed at risk based on funding decisions. Current experiences include individuals moving to other facilities further away from their homes, moving so Medicaid funding can be accessed, and losing employment through sheltered work. The respondents requested that the rules definitively state that no person will be denied services or be placed at risk for arbitrary funding decisions. The Department’s response is that Iowa Code section 331.397(7) states that regions may provide services in addition to the core services. The statute directs that core services must be available in regions. However, not every provider must provide each service, and core services do not preclude regions from offering additional services. No changes to the amendments were made as the result of these comments.

3. Two respondents commented that an appeal process should be included in the rules and that the appeal process should be independent of the funding entity of the services. The Department’s response is that the independent appeal process is in the regional service system rule making to amend Chapter 25 (see Notice of Intended Action published as **ARC 0974C** in the August 21, 2013, Iowa Administrative Bulletin). No changes to the amendments were made as the result of these comments.

4. One respondent stated that subrule 25.2(2) states that additional services must be identified along with the projected need and funding available but does not say where this is to be reported. The Department’s response is that the specifics to reporting are in **ARC 0974C** as noted in paragraph “3” above. No changes to the amendments were made as the result of this comment.

5. One respondent requested that “may” be replaced with “shall” in the statement located in proposed subrule 25.2(3) (subrule 25.2(5) herein) which states that the regional service system may provide funding for other services. The Department’s response is that this use of “may” is consistent with Iowa Code section 331.397(7). No changes to the amendments were made as a result of this comment.

6. One respondent commented that legislation states that regions are to provide core services “within funds available.” The Department agreed with this comment and added a new subrule (25.2(1) herein) which states that regions must ensure core service domains are available in the region in accordance with Iowa Code section 331.397.

7. Two respondents requested that services be listed by core service domains rather than by individual services. The Department’s response is that the core service domains are in Iowa Code section 331.397(4) and do not require further definition, but the core services need to be defined. The Department agreed with these comments and, as mentioned in paragraph “6” above, has added new subrule 25.2(1) to clarify that regions must ensure core service domains are available in the region in accordance with Iowa Code section 331.397.

8. Two respondents commented that language should be added that the transition to new services includes and respects the recommendations of the person and the person’s care team. The Department agreed with these comments and that this is consistent with person-centered care. The Department added new subrule 25.2(2) herein to incorporate the suggested change and renumbered the subsequent subrules accordingly.

D. Access standards. Five respondents made comments in this topic area.

1. One respondent requested that a supported employment initial evaluation be completed within 30 days of request and that services begin within 60 days of request. The Department’s response is that

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these rules are consistent with the Iowa Vocational Rehabilitation Program requirements that an initial referral be made within 60 days of the request for services. No changes to the amendments were made as the result of this comment.

2. Two respondents felt that limiting the regions to paying no less than the Medicaid rate for home and vehicle modifications would limit the regions from identifying less costly services. The Department's response is that the Medicaid reimbursement rate is appropriate for providers across the payment spectrum. The provision is also consistent with requirements that Medicaid not pay more than other payers. No changes to the amendments were made as the result of these comments.

3. One respondent felt there should be no lifetime limit added to the non-Medicaid home and vehicle modification service. The Department's response is that the home and vehicle modification limits are set so that a region is not expected to incur unlimited expenses related to modifications. The limits are consistent with the Medicaid limits. No changes to the amendments were made as the result of this comment.

4. One respondent commented that regions have no control on how fast providers must see individuals requesting treatment and that it is dependent on how many practitioners a provider hires. The respondent requested that standards be changed to targets. The Department's response is that standards are needed to implement desired system change and serve as an expectation for the provider and the individual receiving the service. Since regions contract with providers and are payers, the Department believes regions do have control over access. No changes to the amendments were made as the result of this comment.

5. One respondent commented that all core services should be required to be available within each region's borders and should be in an individual's home county or no farther away than two counties. The Department's response is that Iowa Code section 331.389(3) requires a region to have the capacity to provide all required core services. The statute does not require that regions provide services in each county. No changes to the amendments were made as the result of this comment.

6. One respondent requested that ineligible individuals be referred to appropriate services, such as brain injury resource facilitation, and that brain injury resource facilitation should be added to the access standard for treatment services. The Department's response is that the access standards are addressing the core service domains and brain injury resource facilitation is not a required service in Iowa Code section 331.397(4). No changes to the amendments were made as the result of this comment.

E. Practice standards. Several respondents provided comments in this topic area.

1. One respondent requested that Brain Injury Alliance of Iowa be added to subrule 25.4(1). The Department's response is that the subrule allows for the region to identify a "generally recognized professional organization" for co-occurring training in the region's regional service system management plan. No changes to the amendments were made as the result of this comment.

2. One respondent commented that the word "applicant" was used in subrule 25.4(3) and was not defined. The Department agreed with this comment and changed the word "applicant" to the word "region" in subrule 25.4(3).

3. Two respondents requested that the rules be revised to add language that ensures the regions have services available in each core service domain that reflect the principles of *Olmstead* and community integration. The Department's response is that Iowa Code section 331.397(4) does not require this for core services and the rules must be consistent with the statute. No changes to the amendments were made as the result of these comments.

4. One respondent urged those providing services to move forward to provide quality, integrated, effective care and that funding and technical assistance should be made available to move redesign forward. The Department's response is that funding is not addressed in rules and there are provider standards in these rules. No changes to the amendments were made as the result of this comment.

F. Evidence-based practices. Three respondents provided comments in this topic area.

1. One respondent suggested that it is a duplication of effort to have regions independently verify the fidelity of services if the service is determined to meet standards by the Department, Magellan or a national accrediting body. The Department's response is that an independent verification of the fidelity of an evidence-based practice is not a duplication of work. The Department, Magellan, and national

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accrediting bodies are not measuring the fidelity of an evidence-based practice when they accredit a provider to provide a service. Evidence-based practices are not services. Fidelity is measuring the likeness to the evidence-based practice research. No changes to the amendments were made as the result of this comment.

2. The respondent also suggested that the Department not prescribe the use of evidence-based practices like co-occurring services, assertive community treatment and strengths-based case management until the Department follows similar requirements in state facilities. The Department's response is that Iowa Code section 331.397(5) requires that a region ensure access to providers that demonstrate competencies in evidence-based practices; it does not require all providers to provide evidence-based practices nor does it preclude the region from providing other evidence-based practices. No changes to the amendments were made as the result of this comment.

3. The respondent also stated that assertive community treatment and strengths-based case management are models for persons with mental illness and that the Department is eliminating case management for persons with mental illness. The Department's response is that Division I, regional core services, of Chapter 25 is defining non-Medicaid core services for the MHDS regions according to Iowa Code section 331.397. No changes to the amendments were made as the result of this comment.

4. The same respondent also stated that strengths-based case management is characterized by SAMHSA as a promising practice, not an evidence-based practice. The Department's response is that Iowa Code section 331.393(4) "g" requires an MHDS region to implement evidence-based models of case management. Strengths-based case management has a number of empirical studies to support the efficacy of the practice. No changes to the amendments were made as the result of this comment.

5. The respondent requested that the Department not prescribe the use of specific evidence-based practices as it limits the practitioner from using evidence-based principles to tailor person-centered and cost-effective interventions to meet specific needs of individuals. The Department's response is that Iowa Code section 331.397(5) requires that a region ensure access to providers that demonstrate competencies in evidence-based practices; it does not require all providers to provide evidence-based practices nor does it preclude the region from providing other evidence-based practices. No changes to the amendments were made as the result of this comment.

6. The respondent suggested that the evidence-based practice of permanent supportive housing should be available to persons with intellectual and developmental disabilities and not just a psychiatric disability. The Department's response is that the research supporting the evidence-based practice has only been demonstrated for persons with mental illness. No changes to the amendments were made as the result of this comment.

7. The final comment from this respondent stated that the definition of "supported employment" only references the definition used by SAMHSA for the evidence-based practice of supported employment and that most of the supported employment services provided in Iowa are provided to individuals with intellectual disabilities. The respondent suggested using the definition in the federal Rehabilitation Act. The Department's response is that the evidence-based practices are required in the region according to Iowa Code section 331.397(5). Regions may provide other services. No changes to the amendments were made as the result of this comment.

8. Another respondent commented that the National Alliance for Mental Illness Family-to-Family class and Mental Health First Aid are on SAMHSA's register of evidence-based practices. The Department's response is that the evidence-based practices listed in subrule 25.4(3) herein are consistent with a previous rule making and that regions may provide other evidence-based practices. No changes to the amendments were made as the result of this comment.

9. One respondent requested that nationally recognized core principles for providing family support and core indicators of success be added to practice standards. The Department's response is that these rules are focused on the current requirements for MHDS regions. Rules will be proposed regarding additional requirements for the MHDS system. No changes to the amendments were made as the result of this comment.

The Mental Health and Disability Services Commission adopted these amendments on September 19, 2013.

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

After analysis and review of this rule making, it has been determined that there will be a positive impact on private sector jobs. MHDS regions will be able to assess the workforce needs for their MHDS region including adequately trained and qualified professionals.

These amendments are intended to implement Iowa Code chapter 331 and 2012 Iowa Acts, chapter 1120, section 15.

These amendments will become effective November 20, 2013.

The following amendments are adopted.

ITEM 1. Amend **441—Chapter 25**, Preamble, as follows:

PREAMBLE

This chapter provides for definitions of regional core services, access and practice standards, reporting of county expenditures, development and submission of management plans, data collection, and applications for funding as they relate to county service systems for people with mental illness, chronic mental illness, intellectual disabilities, developmental disabilities, or brain injury.

ITEM 2. Adopt the following new Division I title in **441—Chapter 25**:

DIVISION I
REGIONAL CORE SERVICES

ITEM 3. Adopt the following new rules 441—25.1(331) to 441—25.4(331):

441—25.1(331) Definitions.

“Assertive community treatment” means a program of comprehensive outpatient services provided in the community directed toward the amelioration of symptoms and the rehabilitation of behavioral, functional, and social deficits of individuals with severe and persistent mental disorders and individuals with complex symptomatology who require multiple mental health and supportive services to live in the community consistent with evidence-based practice standards published by the Substance Abuse and Mental Health Services Administration.

“Assessment and evaluation” means the clinical review by a mental health professional of the current functioning of the individual using the service in regard to the individual's situation, needs, strengths, abilities, desires and goals to determine the appropriate level of care.

“Case management” means service provided by a case manager who assists individuals in gaining access to needed medical, social, educational, and other services through assessment, development of a care plan, referral, monitoring and follow-up using a strengths-based service approach that helps individuals achieve specific desired outcomes leading to a healthy self-reliance and interdependence with their community.

“Case manager” means a person who has completed specified and required training to provide case management through the medical assistance program or the Iowa Behavioral Health Care Plan.

“Community-based crisis intervention service” means a program designed to stabilize an acute crisis episode and to restore an individual and family to their pre-crisis level of functioning. Crisis services are available 24 hours a day, 365 days a year, including telephone and walk-in crisis service and crisis care coordination.

“Crisis care coordination” means a service provided during an acute crisis episode that facilitates working together to organize a plan and service transition programing, including working agreements with inpatient behavioral health units and other community programs. The service shall include referrals to mental health services and other supports necessary to maintain community-based living capacity, including case management as defined herein.

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“Crisis evaluation” means the process used with an individual to collect information related to the individual’s history and needs, strengths, and abilities in order to determine appropriate services or referral during an acute crisis episode.

“Day habilitation” means services that assist or support the individual in developing or maintaining life skills and community integration. Services shall enable or enhance the individual’s functioning, physical and emotional health and development, language and communication development, cognitive functioning, socialization and community integration, functional skill development, behavior management, responsibility and self-direction, daily living activities, self-advocacy skills, or mobility.

“Emergency care” means the same as defined in rule 441—88.21(249A).

“Evidence-based services” means using interventions that have been rigorously tested, have yielded consistent, replicable results, and have proven safe, beneficial and effective and have established standards for fidelity of the practice.

“Family psychoeducation” means services including the provision of emotional support, education, resources during periods of crisis, and problem-solving skills consistent with evidence-based practice standards published by the Substance Abuse and Mental Health Services Administration.

“Family support” means services provided by a family support peer specialist that assist the family of an individual to live successfully in the family or community including, but not limited to, education and information, individual advocacy, family support groups, and crisis response.

“Family support peer specialist” means a parent, primary caregiver, foster parent or family member of an individual who has successfully completed standardized training to provide family support through the medical assistance program or the Iowa Behavioral Health Care Plan.

“Group supported employment” means the job and training activities in business and industry settings for groups of no more than eight workers with disabilities. Group settings include enclaves, mobile crews, and other business-based workgroups employing small groups of workers with disabilities in integrated, sustained, paid employment.

“Health homes” means a service model that facilitates access to an interdisciplinary array of medical care, behavioral health care, and community-based social services and supports for both children and adults with chronic conditions. Services may include comprehensive care management; care coordination and health promotion; comprehensive transitional care from inpatient to other settings, including appropriate follow-up; individual and family support, which includes authorized representatives; referral to community and social support services, if relevant; and the use of health information technology to link services, as feasible and appropriate.

“Home and vehicle modification” means a service that provides physical modifications to the home or vehicle that directly address the medical health or remedial needs of the individual that are necessary to provide for the health, welfare, and safety of the member and to increase or maintain independence.

“Home health aide services” means unskilled medical services which provide direct personal care. This service may include assistance with activities of daily living, such as helping the recipient to bathe, get in and out of bed, care for hair and teeth, exercise, and take medications specifically ordered by the physician.

“Illness management and recovery” means a broad set of strategies designed to help individuals with serious mental illness collaborate with professionals, reduce the individuals’ susceptibility to the illness, and cope effectively with the individuals’ symptoms consistent with evidence-based practice standards published by the Substance Abuse and Mental Health Services Administration.

“Individual” means any person seeking or receiving services in a regional service system.

“Individual supported employment” means services including ongoing supports needed by an individual to acquire and maintain a job in the integrated workforce at or above the state’s minimum wage. The outcome of this service is sustained paid employment that meets personal and career goals.

“Integrated treatment for co-occurring substance abuse and mental health disorders” means effective dual diagnosis programs that combine mental health and substance abuse interventions tailored for the complex needs of individuals with co-morbid disorders. Critical components of effective programs include a comprehensive, long-term, staged approach to recovery; assertive outreach; motivational interviews; provision of help to individuals in acquiring skills and supports to manage

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both illnesses and pursue functional goals with cultural sensitivity and competence consistent with evidence-based practice standards published by the Substance Abuse and Mental Health Services Administration.

“Job development” means services that assist individuals in preparing for, securing and maintaining gainful, competitive employment. Employment shall be integrated into normalized work settings, shall provide pay of at least minimum wage, and shall be based on the individual’s skills, preferences, abilities, and talents. Services assist individuals seeking employment to develop or re-establish skills, attitudes, personal characteristics, interpersonal skills, work behaviors, and functional capacities to achieve positive employment outcomes.

“Medication management” means services provided directly to or on behalf of the individual by a licensed professional as authorized by Iowa law including, but not limited to, monitoring effectiveness of and compliance with a medication regimen; coordination with care providers; investigating potentially negative or unintended psychopharmacologic or medical interactions; reviewing laboratory reports; and activities pursuant to licensed prescriber orders.

“Medication prescribing” means services with the individual present provided by an appropriately licensed professional as authorized by Iowa law including, but not limited to, determining how the medication is affecting the individual; determining any drug interactions or adverse drug effects on the individual; determining the proper dosage level; and prescribing medication for the individual for the period of time before the individual is seen again.

“Mental health outpatient therapy” means the same as defined in Iowa Code section 230A.106(2)“a.”

“Mental health professional” means the same as defined in Iowa Code section 228.1(6).

“Peer support services” means a program provided by a peer support specialist including but not limited to education and information, individual advocacy, family support groups, crisis response, and respite to assist individuals in achieving stability in the community.

“Peer support specialist” means an individual who has experienced a severe and persistent mental illness and who has successfully completed standardized training to provide peer support services through the medical assistance program or the Iowa Behavioral Health Care Plan.

“Permanent supportive housing” means voluntary, flexible supports to help individuals with psychiatric disabilities choose, get, and keep housing that is decent, safe, affordable, and integrated into the community. Tenants have access to an array of services that help them keep their housing, such as case management, assistance with daily activities, conflict resolution, and crisis response consistent with evidence-based practice standards published by the Substance Abuse and Mental Health Services Administration.

“Personal emergency response system” means an electronic device connected to a 24-hour staffed system which allows the individual to access assistance in the event of an emergency.

“Prevocational services” means services that focus on developing generalized skills that prepare an individual for employment. Prevocational training topics include but are not limited to attendance, safety skills, following directions, and staying on task.

“Reasonably close proximity” means a distance of 100 miles or less or a driving distance of two hours or less from the county seat or county seats of the region.

“Respite services” means a temporary period of relief and support for individuals and their families provided in a variety of settings. The intent is to provide a safe environment with staff assistance for individuals who lack an adequate support system to address current issues related to a disability. Respite may be provided for a defined period of time; respite is either planned or provided in response to a crisis.

“Routine care” means the same as defined in rule 441—88.21(249A).

“Rural” means any area that is not defined as urban.

“Strengths-based case management” means a service that focuses on possibilities rather than problems and strives to identify and develop strengths to assist individuals reach their goals leading to a healthy self-reliance and interdependence with their community. Identifiable strengths and resources include family, cultural, spiritual, and other types of social and community-based assets and networks.

“Supported community living services” means services as defined in Iowa Code section 225C.21(1).

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“Supported employment” means an approach to helping individuals participate as much as possible in competitive work in integrated work settings that are consistent with the strengths, resources, priorities, concerns, abilities, capabilities, interests, and informed choice of the individuals. Services are targeted for individuals with significant disabilities for whom competitive employment has not traditionally occurred; or for whom competitive employment has been interrupted or intermittent as a result of a significant disability including either individual or group supported employment, or both, consistent with evidence-based practice standards published by the Substance Abuse and Mental Health Services Administration.

“Telephone crisis service” means a program that operates a crisis hotline either directly or through a contract. The service shall be available 24 hours a day and seven days a week including, but not limited to, relief of distress in pre-crisis and crisis situations, reduction of the risk of escalation, arrangements for emergency on-site responses when necessary, and referral of callers to appropriate services.

“Trauma-focused services” means services provided by caregivers and professionals that recognize when an individual who has been exposed to violence is in need of help to recover from adverse impacts; recognize and understand the impact that exposure to violence has on victims’ physical, psychological, and psychosocial development and well-being; and respond by helping in ways that reflect awareness of adverse impacts and consistently support the individual’s recovery.

“Trauma-informed care” means services that are based on an understanding of the vulnerabilities or triggers of those who have experienced violence, that recognize the role violence has played in the lives of those individuals, that are supportive of recovery, and that avoid retraumatization including trauma-focused services and trauma-specific treatment.

“Trauma-specific treatment” means services provided by a mental health professional using therapies that are free from the use of coercion, restraints, seclusion and isolation; and designed specifically to promote recovery from the adverse impacts of violence exposure on physical, psychological, psychosocial development, health and well-being.

“Urban” means a county that has a total population of 50,000 or more residents or includes a city with a population of 20,000 or more.

“Urgent nonemergency need” means the same as defined in rule 441—88.21(249A).

“Walk-in crisis service” means a program that provides unscheduled face-to-face support and intervention at an identified location or locations. The service may be provided directly by the program or through a contract with another mental health provider.

441—25.2(331) Core service domains.

25.2(1) The region shall ensure that core service domains are available in regions as determined in Iowa Code section 331.397.

25.2(2) The region shall include and respect the recommendation of the individual and the individual’s care team in the process of transition to new services.

25.2(3) The region shall ensure that the following services are available in the region:

- a. Assessment and evaluation.
- b. Case management.
- c. Crisis evaluation.
- d. Day habilitation.
- e. Family support.
- f. Health homes.
- g. Home and vehicle modification.
- h. Home health aide.
- i. Job development.
- j. Medication prescribing and management.
- k. Mental health inpatient treatment.
- l. Mental health outpatient treatment.
- m. Peer support.
- n. Personal emergency response system.

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- o.* Prevocational services.
- p.* Respite.
- q.* Supported employment.
- r.* Supportive community living.
- s.* Twenty-four-hour access to crisis response.

Regions may fund or provide other services in addition to the required core services consistent with requirements set forth in subrules 25.2(4) and 25.2(5).

25.2(4) A regional service system shall consider the scope of services included in addition to the required core services. Each service included shall be described and projection of need and the funding necessary to meet the need shall be included.

25.2(5) A regional service system may provide funding for other appropriate services or other support. In considering whether to provide such funding, a region may consider the following criteria:

a. Applying a person-centered planning process to identify the need for the services or other support.

b. The efficacy of the services or other support is recognized as an evidence-based practice, is deemed to be an emerging and promising practice, or providing the services is part of a demonstration and will supply evidence as to the effectiveness of the services.

c. A determination that the services or other support provides an effective alternative to existing services that have been shown by the evidence base to be ineffective, to not yield the desired outcome, or to not support the principles outlined in *Olmstead v. L.C.*, 527 U.S. 581.

441—25.3(331) Access standards. The region shall include:

25.3(1) A sufficient provider network which shall include:

a. A community mental health center or federally qualified health center that provides psychiatric and outpatient mental health services in the region.

b. A hospital with an inpatient psychiatric unit or state mental health institute located in or within reasonably close proximity that has the capacity to provide inpatient services to the applicant.

25.3(2) Crisis services shall be available 24 hours per day, seven days per week, 365 days per year for mental health and disability-related emergencies.

25.3(3) The region shall provide the following treatment services:

a. Outpatient.

(1) Emergency: During an emergency, outpatient services shall be initiated to an individual within 15 minutes of telephone contact.

(2) Urgent: Outpatient services shall be provided to an individual within one hour of presentation or 24 hours of telephone contact.

(3) Routine: Outpatient services shall be provided to an individual within four weeks of request for appointment.

(4) Distance: Outpatient services shall be offered within 30 miles for an individual residing in an urban community and 45 miles for an individual residing in a rural community.

b. Inpatient.

(1) An individual in need of emergency inpatient services shall receive treatment within 24 hours.

(2) Inpatient services shall be available within reasonably close proximity to the region.

c. Assessment and evaluation. An individual who has received inpatient services shall be assessed and evaluated within four weeks.

25.3(4) A region shall provide the following basic crisis response:

a. Twenty-four-hour access to crisis response, 24 hours per day, seven days per week, 365 days per year.

b. Crisis evaluation within 24 hours.

25.3(5) Support for community living. The first appointment shall occur within four weeks of the individual's request of support for community living.

25.3(6) Support for employment. The initial referral shall take place within 60 days of the individual's request of support for employment.

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25.3(7) Recovery services. An individual receiving recovery services shall not have to travel more than 30 miles if residing in an urban area or 45 miles if residing in a rural area to receive services.

25.3(8) Service coordination:

a. An individual receiving service coordination shall not have to travel more than 30 miles if residing in an urban area or 45 miles if residing in a rural area to receive services.

b. An individual shall receive service coordination within 10 days of the initial request for such service or being discharged from an inpatient facility.

25.3(9) The following limitations apply to home and vehicle modification for an individual receiving mental health and disability services:

a. A lifetime limit equal to that established for the home- and community-based services waiver for individuals with intellectual disabilities in the medical assistance program.

b. A provider reimbursement payment will be no lower than that provided through the home- and community-based services waiver for individuals with intellectual disabilities in the medical assistance program.

441—25.4(331) Practices. A region shall ensure that access is available to providers of core services that demonstrate the following competencies:

25.4(1) Regions shall have service providers that are trained to provide effective services to individuals with two or more of the following co-occurring conditions:

- a.* Mental illness.
- b.* Intellectual disability.
- c.* Developmental disability.
- d.* Brain injury.
- e.* Substance use disorder.

Training for serving individuals with co-occurring conditions provided by the region shall be training identified by the Substance Abuse and Mental Health Services Administration, the Dartmouth Psychiatric Research Center or other generally recognized professional organization specified in the regional service system management plan.

25.4(2) Regions shall have service providers that are trained to provide effective trauma-informed care. Trauma-informed care training provided by the region shall be recognized by the National Center for Trauma-Informed Care or other generally recognized professional organization specified in the regional service system management plan.

25.4(3) Regions must have evidence-based practices that the region has independently verified as meeting established fidelity to evidence-based service models including, but not limited to, assertive community treatment or strengths-based case management; integrated treatment of co-occurring substance abuse and mental health disorders; supported employment; family psychoeducation; illness management and recovery; and permanent supportive housing.

These rules are intended to implement Iowa Code chapter 331 and 2012 Iowa Acts, chapter 1120, section 15.

[Filed 9/20/13, effective 11/20/13]

[Published 10/16/13]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 10/16/13.

ARC 1111C

INSURANCE DIVISION[191]

Adopted and Filed

Pursuant to the authority of Iowa Code section 505.8 and 2013 Iowa Acts, Senate File 182, section 5, the Insurance Division hereby amends Chapter 5, "Regulation of Insurers—General Provisions," Iowa Administrative Code.

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The purpose of rule 191—5.33(510), Credit for Reinsurance, is to set forth the procedural requirements which the Insurance Commissioner deems necessary to carry out the provisions of 2013 Iowa Acts, Senate File 182, sections 1 to 6. The actions and information required by this rule are necessary and appropriate to the public interest and for the protection of the ceding insurers in this state.

These amendments add the procedural requirements that allow for the reduction of collateral required to be posted by assuming reinsurers that are neither licensed nor accredited in the ceding insurer's state of domicile. The Division intends that domestic insurance companies shall comply with these amendments beginning January 1, 2014.

These amendments were proposed and published under Notice of Intended Action in the August 21, 2013, Iowa Administrative Bulletin as **ARC 0960C**. A public hearing was held on September 11, 2013, at the offices of the Iowa Insurance Division, Two Ruan Center, 601 Locust Street, 5th Floor, Des Moines, Iowa. The Division also accepted written comments on the proposed amendments through September 11, 2013.

Allstate Insurance Company, American Insurance Association, Iowa Insurance Institute, Lloyd's America, Inc., and Reinsurance Association of America provided letters of support for the amendments.

Upon review, the Division made two editorial changes. Subparagraph 5.33(7)"a"(4) has been changed to add the following sentence: "When determining what constitutes a catastrophic occurrence, the commissioner will consult with the NAIC and consider both natural and human events." Subrule 5.33(14) has been revised to change "July 1, 2014" to "January 1, 2014."

These amendments are intended to implement Iowa Code chapter 521B.

These amendments will become effective January 1, 2014.

The following amendments are adopted.

ITEM 1. Amend subparagraph **5.33(4)"a"(4)** as follows:

(4) Maintains a surplus as regards policyholders in an amount not less than \$20 million ~~and whose accreditation has not been denied by the commissioner within 90 days of its submission or, in the case of companies with a surplus as regards policyholders of less than \$20 million, whose accreditation has been approved by the commissioner~~ or obtains the affirmative approval of the commissioner upon a finding that the accredited reinsurer has adequate financial capacity to meet its reinsurance obligations and is otherwise qualified to assume reinsurance from domestic insurers.

ITEM 2. Amend paragraph **5.33(4)"b"** as follows:

b. If the commissioner determines that the assuming insurer has failed to meet or maintain any of these qualifications, the commissioner may upon written notice and hearing suspend or revoke the accreditation. No credit shall be allowed a domestic ceding insurer with respect to reinsurance ceded after January 1, 1990, if the assuming insurer's accreditation has been denied or revoked by the commissioner after notice and hearing. A domestic ceding insurer shall not be allowed credit under this subrule if the assuming insurer's accreditation has been revoked by the commissioner or if the reinsurance was ceded while the assuming insurer's accreditation was under suspension by the commissioner.

ITEM 3. Amend subparagraph **5.33(6)"b"(1)** as follows:

(1) The trust fund for a single assuming insurer shall consist of funds in trust in an amount not less than the assuming insurer's liabilities attributable to ~~business written in the United States and, in addition, a trustee surplus of not less than \$20 million~~ reinsurance ceded by United States domiciled insurers, and in addition, the assuming insurer shall maintain a trustee surplus of not less than \$20 million, except as provided in subparagraph 5.33(6)"b"(4).

ITEM 4. Adopt the following new subparagraph **5.33(6)"b"(4)**:

(4) At any time after the assuming insurer has permanently discontinued underwriting new business secured by the trust for at least three full years, the commissioner with principal regulatory oversight of the trust may authorize a reduction in the required trustee surplus, but only after a finding, based on an assessment of the risk, that the new required surplus level is adequate for the protection of United States ceding insurers, policyholders and claimants in light of reasonably foreseeable adverse loss development. The risk assessment may involve an actuarial review, including an independent analysis of reserves and

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cash flows, and shall consider all material risk factors, including, when applicable, the lines of business involved, the stability of the incurred loss estimates and the effect of the surplus requirements on the assuming insurer's liquidity or solvency. The minimum required trusteed surplus may not be reduced to an amount less than 30 percent of the assuming insurer's liabilities attributable to reinsurance ceded by United States ceding insurers covered by the trust.

ITEM 5. Renumber subrules **5.33(7)** to **5.33(13)** as **5.33(8)** to **5.33(14)**.

ITEM 6. Adopt the following **new** subrule 5.33(7):

5.33(7) Certified reinsurers.

a. The commissioner shall allow credit for reinsurance ceded by a domestic insurer to an assuming insurer that has been certified as a reinsurer in this state at all times for which statutory financial statement credit for reinsurance is claimed under this subrule. The credit allowed shall be based upon the security held by or on behalf of the ceding insurer in accordance with a rating assigned to the certified reinsurer by the commissioner. The security shall be in a form consistent with subrules 5.33(10), 5.33(11) and 5.33(12) of this rule and 2013 Iowa Acts, Senate File 182, sections 2(5) and 3. The amount of security required in order for full credit to be allowed shall correspond with the following requirements:

(1) Ratings/security.

Ratings	Security Required
Secure – 1	0%
Secure – 2	10%
Secure – 3	20%
Secure – 4	50%
Secure – 5	75%
Vulnerable – 6	100%

(2) Affiliated reinsurance transactions shall receive the same opportunity for reduced security requirements as all other reinsurance transactions.

(3) The commissioner shall require the certified reinsurer to post 100 percent, for the benefit of the ceding insurer or its estate, security upon the entry of an order of rehabilitation, liquidation or conservation against the ceding insurer.

(4) In order to facilitate the prompt payment of claims, a certified reinsurer shall not be required to post security for catastrophe recoverables for a period of one year from the date of the first instance of a liability reserve entry by the ceding company as a result of a loss from a catastrophic occurrence as recognized by the commissioner. When determining what constitutes a catastrophic occurrence, the commissioner will consult with the NAIC and consider both natural and human events. The one-year deferral period is contingent upon the certified reinsurer's continuing to pay claims in a timely manner. Reinsurance recoverables for only the following lines of business as reported on the NAIC annual financial statement related specifically to the catastrophic occurrence will be included in the deferral:

1. Line 1: Fire
2. Line 2: Allied Lines
3. Line 3: Farmowners multiple peril
4. Line 4: Homeowners multiple peril
5. Line 5: Commercial multiple peril
6. Line 9: Inland Marine
7. Line 12: Earthquake
8. Line 21: Auto physical damage

(5) Credit for reinsurance under this subrule shall apply only to reinsurance contracts entered into or renewed on or after the effective date of the certification of the assuming insurer. Any reinsurance contract entered into prior to the effective date of the certification of the assuming insurer that is subsequently amended after the effective date of the certification of the assuming insurer, or a new

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reinsurance contract, covering any risk for which collateral was provided previously, shall only be subject to this subrule with respect to losses incurred and reserves reported from and after the effective date of the amendment or new contract.

(6) Nothing in this subrule shall prohibit the parties to a reinsurance agreement from agreeing to provisions establishing security requirements that exceed the minimum security requirements established for certified reinsurers under this subrule.

b. Certification procedure.

(1) The commissioner shall post notice on the division's Web site promptly upon receipt of any application for certification, including instructions on how members of the public may respond to the application. The commissioner may not take final action on the application until at least 30 days after posting the notice required by this subparagraph.

(2) The commissioner shall issue written notice to an assuming insurer that has made application and been approved as a certified reinsurer. Included in such notice shall be the rating assigned the certified reinsurer in accordance with paragraph 5.33(7) "a." The commissioner shall publish a list of all certified reinsurers and their ratings.

(3) In order to be eligible for certification, the assuming insurer shall meet the following requirements:

1. The assuming insurer must be domiciled and licensed to transact insurance or reinsurance in a qualified jurisdiction, as determined by the commissioner pursuant to paragraph 5.33(7) "c."

2. The assuming insurer must maintain capital and surplus, or their equivalents, of no less than \$250 million calculated in accordance with paragraph 5.33(7) "b"(4)"8." This requirement may also be satisfied by an association including incorporated and individual unincorporated underwriters having minimum capital and surplus equivalents (net of liabilities) of at least \$250 million and a central fund containing a balance of at least \$250 million.

3. The assuming insurer must maintain financial strength ratings from two or more rating agencies deemed acceptable by the commissioner. These ratings shall be based on interactive communication between the rating agency and the assuming insurer and shall not be based solely on publicly available information. These financial strength ratings will be one factor used by the commissioner in determining the rating that is assigned to the assuming insurer. Acceptable rating agencies include the following:

- Standard & Poor's;
- Moody's Investors Service;
- Fitch Ratings;
- A.M. Best Company; or
- Any other nationally recognized statistical rating organization.

4. The certified reinsurer must comply with any other requirements reasonably imposed by the commissioner.

(4) Each certified reinsurer shall be rated on a legal entity basis, with due consideration being given to the group rating where appropriate, except that an association including incorporated and individual unincorporated underwriters that has been approved to do business as a single certified reinsurer may be evaluated on the basis of its group rating. Factors that may be considered as part of the evaluation process include, but are not limited to, the following:

1. The certified reinsurer's financial strength rating from an acceptable rating agency. The maximum rating that a certified reinsurer may be assigned will correspond to its financial strength rating as outlined in the table below. The commissioner shall use the lowest financial strength rating received from an approved rating agency in establishing the maximum rating of a certified reinsurer. Failure to obtain or maintain at least two financial strength ratings from acceptable rating agencies will result in loss of eligibility for certification.

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Ratings	Best	S&P	Moody's	Fitch
Secure – 1	A++	AAA	Aaa	AAA
Secure – 2	A+	AA+, AA, AA-	Aa1, Aa2, Aa3	AA+, AA, AA-
Secure – 3	A	A+, A	A1, A2	A+, A
Secure – 4	A-	A-	A3	A-
Secure – 5	B++, B+	BBB+, BBB, BBB-	Baa1, Baa2, Baa3	BBB+, BBB, BBB-
Vulnerable – 6	B, B-, C++, C+, C, C-, D, E, F	BB+, BB, BB-, B+, B, B-, CCC, CC, C, D, R	Ba1, Ba2, Ba3, B1, B2, B3, Caa, Ca, C	BB+, BB, BB-, B+, B, B-, CCC+, CC, CCC-, DD

2. The business practices of the certified reinsurer in dealing with its ceding insurers, including its record of compliance with reinsurance contractual terms and obligations.

3. For certified reinsurers domiciled in the United States, a review of the most recent applicable NAIC Annual Statement Blank, either Schedule F (for property/casualty reinsurers) or Schedule S (for life and health reinsurers).

4. For certified reinsurers not domiciled in the United States, a review annually of Form CR-F (for property/casualty reinsurers) or Form CR-S (for life and health reinsurers) (Forms CR-F and CR-S are available from the division).

5. The reputation of the certified reinsurer for prompt payment of claims under reinsurance agreements, based on an analysis of ceding insurers' Schedule F reporting of overdue reinsurance recoverables, including the proportion of obligations that are more than 90 days past due or are in dispute, with specific attention given to obligations payable to companies that are in administrative supervision or receivership.

6. Regulatory actions against the certified reinsurer.

7. The report of the independent auditor on the financial statements of the insurance enterprise, on the basis described in paragraph 5.33(7) "b"(4)"8."

8. For certified reinsurers not domiciled in the United States, audited financial statements (audited United States GAAP basis if available; audited IFRS basis statements are allowed but must include an audited footnote reconciling equity and net income to a United States GAAP basis; or, with the permission of the state insurance commissioner, audited IFRS statements with reconciliation to United States GAAP certified by an officer of the company), regulatory filings, and actuarial opinion (as filed with the non-United States jurisdiction supervisor). Upon the initial application for certification, the commissioner will consider audited financial statements for the last three years filed with the certified reinsurer's non-United States jurisdiction supervisor.

9. The liquidation priority of obligations to a ceding insurer in the certified reinsurer's domiciliary jurisdiction in the context of an insolvency proceeding.

10. A certified reinsurer's participation in any solvent scheme of arrangement, or similar procedure, which involves United States ceding insurers. The commissioner shall receive prior notice from a certified reinsurer that proposes participation by the certified reinsurer in a solvent scheme of arrangement.

11. Any other information deemed relevant by the commissioner.

(5) Based on the analysis conducted under paragraph 5.33(7) "b"(4)"5" of a certified reinsurer's reputation for prompt payment of claims, the commissioner may make appropriate adjustments in the security that the certified reinsurer is required to post to protect its liabilities to United States ceding insurers, provided that the commissioner shall, at a minimum, increase the security that the certified reinsurer is required to post by one rating level under paragraph 5.33(7) "b"(4)"1" if the commissioner finds that:

1. More than 15 percent of the certified reinsurer's ceding insurance clients have overdue reinsurance recoverables on paid losses of 90 days or more which are not in dispute and which exceed \$100,000 for each ceding; or

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2. The aggregate amount of reinsurance recoverables on paid losses which are not in dispute that are overdue by 90 days or more exceeds \$50 million.

(6) The assuming insurer must submit a properly executed Form CR-1 as evidence of its submission to the jurisdiction of this state, appointment of the commissioner as an agent for service of process in this state, and agreement to provide security for 100 percent of the assuming insurer's liabilities attributable to reinsurance ceded by United States ceding insurers if the assuming insurer resists enforcement of a final United States judgment. The commissioner shall not certify any assuming insurer that is domiciled in a jurisdiction that the commissioner has determined does not adequately and promptly enforce final United States judgments or arbitration awards.

(7) The certified reinsurer must agree to meet applicable information filing requirements as determined by the commissioner, both with respect to an initial application for certification and on an ongoing basis. All information submitted by certified reinsurers which is not otherwise public information subject to disclosure shall be exempted from disclosure under Iowa Code chapter 22 and shall be withheld from public disclosure. The applicable information filing requirements are as follows:

1. Notification within ten days of any regulatory actions taken against the certified reinsurer, any change in the provisions of its domiciliary license or any change in rating by an approved rating agency, including a statement describing such changes and the reasons therefor.

2. Annually, Form CR-F or CR-S, as applicable.

3. Annually, the report of the independent auditor on the financial statements of the insurance enterprise, on the basis described in paragraph 5.33(7) "b"(7)"4."

4. Annually, audited financial statements (audited United States GAAP basis if available; audited IFRS basis statements are allowed but must include an audited footnote reconciling equity and net income to a United States GAAP basis; or, with the permission of the state insurance commissioner, audited IFRS statements with reconciliation to United States GAAP certified by an officer of the company), regulatory filings, and actuarial opinion (as filed with the certified reinsurer's supervisor). Upon the initial certification, audited financial statements for the last three years filed with the certified reinsurer's supervisor.

5. At least annually, an updated list of all disputed and overdue reinsurance claims regarding reinsurance assumed from United States domestic ceding insurers.

6. A certification from the certified reinsurer's domestic regulator that the certified reinsurer is in good standing and maintains capital in excess of the jurisdiction's highest regulatory action level.

7. Any other information that the commissioner may reasonably require.

(8) Change in rating or revocation of certification.

1. In the case of a downgrade by a rating agency or other disqualifying circumstance, the commissioner shall upon written notice assign a new rating to the certified reinsurer in accordance with the requirements of paragraph 5.33(7) "b"(4)"1."

2. The commissioner shall have the authority to suspend, revoke, or otherwise modify a certified reinsurer's certification at any time if the certified reinsurer fails to meet its obligations or security requirements under this subrule, or if other financial or operating results of the certified reinsurer, or documented significant delays in payment by the certified reinsurer, lead the commissioner to reconsider the certified reinsurer's ability or willingness to meet its contractual obligations.

3. If the rating of a certified reinsurer is upgraded by the commissioner, the certified reinsurer may meet the security requirements applicable to its new rating on a prospective basis, but the commissioner shall require the certified reinsurer to post security under the previously applicable security requirements as to all contracts in force on or before the effective date of the upgraded rating. If the rating of a certified reinsurer is downgraded by the commissioner, the commissioner shall require the certified reinsurer to meet the security requirements applicable to its new rating for all business it has assumed as a certified reinsurer.

4. Upon revocation of the certification of a certified reinsurer by the commissioner, the assuming insurer shall be required to post security in accordance with subrule 5.33(9) of this rule in order for the ceding insurer to continue to take credit for reinsurance ceded to the assuming insurer. If funds continue to be held in trust in accordance with subrule 5.33(6) of this rule, the commissioner may allow

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additional credit equal to the ceding insurer's pro rata share of such funds, discounted to reflect the risk of uncollectibility and anticipated expenses of trust administration. Notwithstanding the change of a certified reinsurer's rating or revocation of its certification, a domestic insurer that has ceded reinsurance to that certified reinsurer may not be denied credit for reinsurance for a period of three months for all reinsurance ceded to that certified reinsurer, unless the reinsurance is found by the commissioner to be at high risk of uncollectibility.

c. Qualified jurisdictions.

(1) If, upon conducting an evaluation under this subrule with respect to the reinsurance supervisory system of any non-United States assuming insurer, the commissioner determines that the jurisdiction qualifies to be recognized as a qualified jurisdiction, the commissioner shall publish notice and evidence of such recognition in an appropriate manner. The commissioner may establish a procedure to withdraw recognition of those jurisdictions that are no longer qualified.

(2) In order to determine whether the domiciliary jurisdiction of a non-United States assuming insurer is eligible to be recognized as a qualified jurisdiction, the commissioner shall evaluate the reinsurance supervisory system of the non-United States jurisdiction, both initially and on an ongoing basis, and consider the rights, benefits and the extent of reciprocal recognition afforded by the non-United States jurisdiction to reinsurers licensed and domiciled in the United States. The commissioner shall determine the appropriate approach for evaluating the qualifications of such jurisdictions, and create and publish a list of jurisdictions whose reinsurers may be approved by the commissioner as eligible for certification. A qualified jurisdiction must agree to share information and cooperate with the commissioner with respect to all certified reinsurers domiciled within that jurisdiction. Additional factors to be considered in determining whether to recognize a qualified jurisdiction, in the discretion of the commissioner, include but are not limited to the following:

1. The framework under which the assuming insurer is regulated.
2. The structure and authority of the domiciliary regulator with regard to solvency regulation requirements and financial surveillance.
3. The substance of financial and operating standards for assuming insurers in the domiciliary jurisdiction.
4. The form and substance of financial reports required to be filed or made publicly available by reinsurers in the domiciliary jurisdiction and the accounting principles used.
5. The domiciliary regulator's willingness to cooperate with United States regulators in general and the commissioner in particular.
6. The history of performance by assuming insurers in the domiciliary jurisdiction.
7. Any documented evidence of substantial problems with the enforcement of final United States judgments in the domiciliary jurisdiction. A jurisdiction will not be considered to be a qualified jurisdiction if the commissioner has determined that it does not adequately and promptly enforce final United States judgments or arbitration awards.
8. Any relevant international standards or guidance with respect to mutual recognition of reinsurance supervision adopted by the International Association of Insurance Supervisors or successor organization.
9. Any other matters deemed relevant by the commissioner.

(3) A list of qualified jurisdictions shall be published through the NAIC committee process. The commissioner shall consider this list in determining qualified jurisdictions. If the commissioner approves a jurisdiction as qualified that does not appear on the list of qualified jurisdictions, the commissioner shall provide thoroughly documented justification with respect to the criteria provided under paragraphs 5.33(7) "c"(2)"1" to "9."

(4) United States jurisdictions that meet the requirements for accreditation under the NAIC Financial Standards and Accreditation Program shall be recognized as qualified jurisdictions.

d. Recognition of certification issued by an NAIC-accredited jurisdiction.

(1) If an applicant for certification has been certified as a reinsurer in an NAIC-accredited jurisdiction, the commissioner has the discretion to defer to that jurisdiction's certification, and to defer to the rating assigned by that jurisdiction, if the assuming insurer submits a properly executed Form

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CR-1 and such additional information as the commissioner requires. The assuming insurer shall be considered to be a certified reinsurer in this state.

(2) Any change in the certified reinsurer's status or rating in the other jurisdiction shall apply automatically in this state as of the date it takes effect in the other jurisdiction. The certified reinsurer shall notify the commissioner of any change in its status or rating within ten days after receiving notice of the change.

(3) The commissioner may withdraw recognition of the other jurisdiction's rating at any time and assign a new rating in accordance with paragraph 5.33(7) "b"(7)"1."

(4) The commissioner may withdraw recognition of the other jurisdiction's certification at any time, with written notice to the certified reinsurer. Unless the commissioner suspends or revokes the certified reinsurer's certification in accordance with paragraph 5.33(7) "b"(7)"2," the certified reinsurer's certification shall remain in good standing in this state for a period of three months, which shall be extended if additional time is necessary to consider the assuming insurer's application for certification in this state.

e. Mandatory funding clause. In addition to the clauses required under subrule 5.33(13) of this rule, reinsurance contracts entered into or renewed under this subrule shall include a proper funding clause, which requires the certified reinsurer to provide and maintain security in an amount sufficient to avoid the imposition of any financial statement penalty on the ceding insurer under this subrule for reinsurance ceded to the certified reinsurer.

f. The commissioner shall comply with all reporting and notification requirements that may be established by the NAIC with respect to certified reinsurers and qualified jurisdictions.

ITEM 7. Amend renumbered subrule **5.33(9)**, paragraphs "b" and "c," as follows:

b. Securities listed by the Securities Valuation Office of the National Association of Insurance Commissioners, including those deemed exempt from filing as defined by the Purposes and Procedures Manual of the Securities Valuation Office, and qualifying as admitted assets.

c. Clean, irrevocable, unconditional and "evergreen" letters of credit issued or confirmed by a qualified United States institution, as determined by the commissioner, effective no later than December 31 of the year for which filing is being made, and in the possession of, or in trust for, the ceding ~~company~~ insurer on or before the filing date of its annual statement. Letters of credit meeting applicable standards of issuer acceptability as of the dates of their issuance (or confirmation) shall, notwithstanding the issuing (or confirming) institution's subsequent failure to meet applicable standards of issuer acceptability, continue to be acceptable as security until their expiration, extension, renewal, modification or amendment, whichever first occurs.

ITEM 8. Amend renumbered subrule 5.33(10), catchwords, as follows:

5.33(10) *Trust agreements qualified under subrule ~~5.33(8)~~ 5.33(9).*

ITEM 9. Amend renumbered subrule **5.33(10)**, paragraph "b," subparagraph (12), as follows:

(12) The reinsurance agreement entered into in conjunction with the trust agreement may, but need not, contain the provisions required by subparagraph ~~5.33(9)"d"(1)~~ 5.33(10)"d"(1) so long as these required conditions are included in the trust agreement.

ITEM 10. Adopt the following **new** subparagraph **5.33(10)"b"(13)**:

(13) Either the reinsurance agreement or the trust agreement must stipulate that assets deposited in the trust account shall be valued according to their current fair market value and shall consist only of cash in United States dollars, certificates of deposit issued by a United States bank and payable in United States dollars, and investments permitted by Iowa law or any combination of the above, provided investments in or issued by an entity controlling, controlled by or under common control with either the grantor or the beneficiary of the trust shall not exceed 5 percent of total investments. The agreement may further specify the types of investments to be deposited. If the reinsurance agreement covers life, annuities or accident and health risks, then the provisions required by this subparagraph must be included in the reinsurance agreement.

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ITEM 11. Amend renumbered subrule 5.33(11), catchwords, as follows:

5.33(11) *Letters of credit qualified under subrule ~~5.33(8)~~ 5.33(9).*

ITEM 12. Amend renumbered subrule **5.33(11)**, paragraphs “e” and “f,” as follows:

e. The letter of credit shall state whether it is subject to and governed by the laws of this state or the Uniform Customs and Practice for Documentary Credits of the International Chamber of Commerce (~~Publication 400~~) Publication 600 (UCP 600) or International Standby Practices of the International Chamber of Commerce Publication 590 (ISP98), or any successor publication, and all drafts drawn thereunder shall be presentable at an office in the United States of a qualified United States financial institution.

f. If the letter of credit is made subject to the Uniform Customs and Practice for Documentary Credits of the International Chamber of Commerce (~~Publication 400~~ 500), or any successor publication, then the letter of credit shall specifically address and make provision for an extension of time to draw against the letter of credit in the event that one or more of the occurrences specified in Article ~~19~~ 17 of ~~Publication 400~~ 500 or any other successor publication, occur.

ITEM 13. Amend renumbered subrule 5.33(13) as follows:

5.33(13) *Reinsurance contract.* Credit will not be granted, nor an asset or reduction from liability allowed, to a ceding insurer for reinsurance effected with assuming insurers meeting the requirements of subrules 5.33(4), 5.33(5), 5.33(6), 5.33(7), 5.33(8), or ~~5.33(9)~~ 5.33(10) after the adoption of this rule unless the reinsurance agreement:

a. Includes a proper insolvency clause, which stipulates that reinsurance is payable directly to the liquidator or successor without diminution regardless of the status of the ceding company, pursuant to Iowa Code section 507C.32; and

b. Includes a provision whereby the assuming insurer, if an unauthorized assuming insurer, has submitted to the jurisdiction of an alternative dispute resolution panel or court of competent jurisdiction within the United States, has agreed to comply with all requirements necessary to give such court or panel jurisdiction, has designated an agent upon whom service of process may be effected, and has agreed to abide by the final decision of such court or panel; and

c. Includes a proper reinsurance intermediary clause, if applicable, which stipulates that the credit risk for the intermediary is carried by the assuming insurer.

ITEM 14. Amend renumbered subrule 5.33(14) as follows:

5.33(14) *Contracts affected.* All new and renewal reinsurance transactions entered into after ~~January 1, 1992~~ January 1, 2014, shall conform to the requirements of this rule if credit is to be given to the ceding insurer for such reinsurance.

ITEM 15. Adopt the following **new** subrule 5.33(15):

5.33(15) *Severability.* If any provision of this rule, or the application of the provision to any person or circumstance, is held invalid, the remainder of the rule, and the application of the provision to persons or circumstances other than those to which it is held invalid, shall not be affected.

[Filed 9/26/13, effective 1/1/14]

[Published 10/16/13]

EDITOR’S NOTE: For replacement pages for IAC, see IAC Supplement 10/16/13.

ARC 1125C

INSURANCE DIVISION[191]

Adopted and Filed

Pursuant to the authority of Iowa Code subsection 515.102(2), the Insurance Division hereby adopts an amendment to Chapter 20, “Property and Casualty Insurance,” Iowa Administrative Code.

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The rules in Chapter 20 provide duties and procedures for insurance companies required to file rates or forms with the Insurance Division for property and casualty insurance. This amendment changes an Iowa Code section reference in rule 191—20.11(515).

Notice of Intended Action for this amendment was published in the July 24, 2013, Iowa Administrative Bulletin as **ARC 0892C**.

A public hearing was held on August 20, 2013, at the offices of the Insurance Division, Two Ruan Center, 601 Locust St., 4th Floor, Des Moines, Iowa. The Division also accepted written comments on the proposed amendment through August 20, 2013. No comments were received, and no one appeared at the public hearing. This amendment is identical to that published under Notice.

After analysis and review of this rule making, no impact on jobs has been found.

This amendment is intended to implement Iowa Code subsection 515.102(2).

This amendment shall become effective November 20, 2013.

The following amendment is adopted.

Amend subrule 20.11(1) as follows:

20.11(1) The following lines of insurance shall be exempt from the form filing requirements of Iowa Code section ~~515.109~~ 515.102:

Aircraft hull and aviation liability

Difference-in-conditions

Kidnap-ransom

Manuscript policies and endorsements issued to not more than two insureds in Iowa

Political risk

Reinsurance

Terrorism

War risk

Weather insurance

[Filed 9/27/13, effective 11/20/13]

[Published 10/16/13]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 10/16/13.

ARC 1110C

INSURANCE DIVISION[191]

Adopted and Filed

Pursuant to the authority of Iowa Code section 505.8, the Insurance Division hereby amends Chapter 43, "Annuity Mortality Tables for Use in Determining Reserve Liabilities for Annuities," Iowa Administrative Code.

The rules in Chapter 43 utilize mortality tables for determining the minimum standard of valuation for annuity and pure endowment contracts. These amendments incorporate the 2012 IAR Mortality Table, thereby updating the industry mortality tables to consider recent mortality improvement. The Division intends that companies writing or assuming annuities shall comply with these amendments beginning January 1, 2015.

These amendments were proposed and published under Notice of Intended Action in the August 21, 2013, Iowa Administrative Bulletin as **ARC 0959C**.

A public hearing was held on September 11, 2013, at the offices of the Iowa Insurance Division, Two Ruan Center, 601 Locust Street, 5th Floor, Des Moines, Iowa. The Division also accepted written comments on the proposed amendments through September 11, 2013.

The American Council of Life Insurers and Federation of Iowa Insurers provided letters of support for the amendments and one comment. Both asked that compliance with these amendments be moved from January 1, 2014, to January 1, 2015.

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Upon review, the Division made the following editorial change: The January 1, 2014, date in subrule 43.3(5) was changed to January 1, 2015.

These amendments are intended to implement Iowa Code chapter 508.

These amendments will become effective January 1, 2015.

The following amendments are adopted.

ITEM 1. Amend rule 191—43.1(508) as follows:

191—43.1(508) Purpose. The purpose of this chapter is to recognize the following mortality tables for use in determining the minimum standard of valuation for annuity and pure endowment contracts: the 1983 Table “a” and 1983 Group Annuity Mortality (1983 GAM) Table, the Annuity 2000 Mortality Table, the 2012 Individual Annuity Reserving (2012 IAR) Table, and the 1994 Group Annuity Reserving (1994 GAR) Table.

ITEM 2. Adopt the following **new** definitions in rule **191—43.2(508)**:

“2012 IAR Table” means the generational mortality table developed by the Society of Actuaries Committee on Life Insurance Research and containing rates, q_x^{2012+n} , derived from a combination of the 2012 IAM Period Table and Projection Scale G2, using the methodology stated in subrule 43.3(6).

“2012 Individual Annuity Mortality Period Life Table” or “2012 IAM Period” means the period table containing loaded mortality rates for calendar year 2012. This table contains rates, q_x^{2012+n} , developed by the Society of Actuaries Committee on Life Insurance Research and is shown in Appendices I and II.

“Generational mortality table” means a mortality table containing a set of mortality rates that decrease for a given age from one year to the next based on a combination of a period table and a projection scale containing rates of mortality improvement.

“Period table” means a table of mortality rates applicable to a given calendar year (the period).

“Projection Scale G2” or “Scale G2” means a table of annual rates, $G2_x$, of mortality improvement by age for projecting future mortality rates beyond calendar year 2012. This table was developed by the Society of Actuaries Committee on Life Insurance Research and is shown in Appendices III and IV.

ITEM 3. Adopt the following **new** subrule 43.3(5):

43.3(5) Except as provided in subrule 43.3(4), the 2012 IAR Mortality Table shall be used for determining the minimum standard of valuation for any individual annuity or pure endowment contract issued on or after January 1, 2015.

ITEM 4. Renumber rule **191—43.6(508)** as **191—43.7(508)**.

ITEM 5. Adopt the following **new** rule 191—43.6(508):

191—43.6(508) Application of the 2012 IAR Mortality Table. In using the 2012 IAR Mortality Table, the mortality rate for a person age x in year $(2012 + n)$ is calculated as follows:

$$q_x^{2012+n} = q_x^{2012} (1 - G2_x)^n$$

The resulting q_x^{2012+n} shall be rounded to three decimal places per 1,000, e.g., 0.741 deaths per 1,000. Also, the rounding shall occur according to the formula above, starting at the 2012 period table rate.

For example, for a male age 30, $q_x^{2012} = 0.741$.

$q_x^{2013} = 0.741 * (1 - 0.010) ^ 1 = 0.73359$, which is rounded to 0.734.

$q_x^{2014} = 0.741 * (1 - 0.010) ^ 2 = 0.7262541$, which is rounded to 0.726.

A method leading to incorrect rounding would be to calculate q_x^{2014} as $q_x^{2013} * (1 - 0.010)$, or $0.734 * 0.99 = 0.727$.

It is incorrect to use the already rounded q_x^{2013} to calculate q_x^{2014} .

ITEM 6. Adopt the following **new** Appendix I to Appendix IV in **191—Chapter 43**:

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APPENDIX I
2012 IAM Period Table
Female, Age Nearest Birthday

AGE	1000 · q_x^{2012}	AGE	1000 · q_x^{2012}	AGE	1000 · q_x^{2012}	AGE	1000 · q_x^{2012}
0	1.621	30	0.300	60	3.460	90	88.377
1	0.405	31	0.321	61	3.916	91	97.491
2	0.259	32	0.338	62	4.409	92	107.269
3	0.179	33	0.351	63	4.933	93	118.201
4	0.137	34	0.365	64	5.507	94	130.969
5	0.125	35	0.381	65	6.146	95	146.449
6	0.117	36	0.402	66	6.551	96	163.908
7	0.110	37	0.429	67	7.039	97	179.695
8	0.095	38	0.463	68	7.628	98	196.151
9	0.088	39	0.504	69	8.311	99	213.150
10	0.085	40	0.552	70	9.074	100	230.722
11	0.086	41	0.600	71	9.910	101	251.505
12	0.094	42	0.650	72	10.827	102	273.007
13	0.108	43	0.697	73	11.839	103	295.086
14	0.131	44	0.740	74	12.974	104	317.591
15	0.156	45	0.780	75	14.282	105	340.362
16	0.179	46	0.825	76	15.799	106	362.371
17	0.198	47	0.885	77	17.550	107	384.113
18	0.211	48	0.964	78	19.582	108	400.000
19	0.221	49	1.051	79	21.970	109	400.000
20	0.228	50	1.161	80	24.821	110	400.000
21	0.234	51	1.308	81	28.351	111	400.000
22	0.240	52	1.460	82	32.509	112	400.000
23	0.245	53	1.613	83	37.329	113	400.000
24	0.247	54	1.774	84	42.830	114	400.000
25	0.250	55	1.950	85	48.997	115	400.000
26	0.256	56	2.154	86	55.774	116	400.000
27	0.261	57	2.399	87	63.140	117	400.000
28	0.270	58	2.700	88	71.066	118	400.000
29	0.281	59	3.054	89	79.502	119	400.000
						120	1000.000

APPENDIX II
2012 IAM Period Table
Male, Age Nearest Birthday

AGE	1000 · q_x^{2012}	AGE	1000 · q_x^{2012}	AGE	1000 · q_x^{2012}	AGE	1000 · q_x^{2012}
0	1.605	30	0.741	60	5.096	90	109.993
1	0.401	31	0.751	61	5.614	91	123.119
2	0.275	32	0.754	62	6.169	92	137.168
3	0.229	33	0.756	63	6.759	93	152.171
4	0.174	34	0.756	64	7.398	94	168.194
5	0.168	35	0.756	65	8.106	95	185.260

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AGE	1000 · q_x^{2012}	AGE	1000 · q_x^{2012}	AGE	1000 · q_x^{2012}	AGE	1000 · q_x^{2012}
6	0.165	36	0.756	66	8.548	96	197.322
7	0.159	37	0.756	67	9.076	97	214.751
8	0.143	38	0.756	68	9.708	98	232.507
9	0.129	39	0.800	69	10.463	99	250.397
10	0.113	40	0.859	70	11.357	100	268.607
11	0.111	41	0.926	71	12.418	101	290.016
12	0.132	42	0.999	72	13.675	102	311.849
13	0.169	43	1.069	73	15.150	103	333.962
14	0.213	44	1.142	74	16.860	104	356.207
15	0.254	45	1.219	75	18.815	105	380.000
16	0.293	46	1.318	76	21.031	106	400.000
17	0.328	47	1.454	77	23.540	107	400.000
18	0.359	48	1.627	78	26.375	108	400.000
19	0.387	49	1.829	79	29.572	109	400.000
20	0.414	50	2.057	80	33.234	110	400.000
21	0.443	51	2.302	81	37.533	111	400.000
22	0.473	52	2.545	82	42.261	112	400.000
23	0.513	53	2.779	83	47.441	113	400.000
24	0.554	54	3.011	84	53.233	114	400.000
25	0.602	55	3.254	85	59.855	115	400.000
26	0.655	56	3.529	86	67.514	116	400.000
27	0.688	57	3.845	87	76.340	117	400.000
28	0.710	58	4.213	88	86.388	118	400.000
29	0.727	59	4.631	89	97.634	119	400.000
						120	1000.000

APPENDIX III
 Projection Scale G2
 Female, Age Nearest Birthday

AGE	G2 _x	AGE	G2 _x	AGE	G2 _x	AGE	G2 _x
0	0.010	30	0.010	60	0.013	90	0.006
1	0.010	31	0.010	61	0.013	91	0.006
2	0.010	32	0.010	62	0.013	92	0.005
3	0.010	33	0.010	63	0.013	93	0.005
4	0.010	34	0.010	64	0.013	94	0.004
5	0.010	35	0.010	65	0.013	95	0.004
6	0.010	36	0.010	66	0.013	96	0.004
7	0.010	37	0.010	67	0.013	97	0.003
8	0.010	38	0.010	68	0.013	98	0.003
9	0.010	39	0.010	69	0.013	99	0.002
10	0.010	40	0.010	70	0.013	100	0.002
11	0.010	41	0.010	71	0.013	101	0.002
12	0.010	42	0.010	72	0.013	102	0.001
13	0.010	43	0.010	73	0.013	103	0.001
14	0.010	44	0.010	74	0.013	104	0.000

INSURANCE DIVISION[191](cont'd)

AGE	G2 _x	AGE	G2 _x	AGE	G2 _x	AGE	G2 _x
15	0.010	45	0.010	75	0.013	105	0.000
16	0.010	46	0.010	76	0.013	106	0.000
17	0.010	47	0.010	77	0.013	107	0.000
18	0.010	48	0.010	78	0.013	108	0.000
19	0.010	49	0.010	79	0.013	109	0.000
20	0.010	50	0.010	80	0.013	110	0.000
21	0.010	51	0.010	81	0.012	111	0.000
22	0.010	52	0.011	82	0.012	112	0.000
23	0.010	53	0.011	83	0.011	113	0.000
24	0.010	54	0.011	84	0.010	114	0.000
25	0.010	55	0.012	85	0.010	115	0.000
26	0.010	56	0.012	86	0.009	116	0.000
27	0.010	57	0.012	87	0.008	117	0.000
28	0.010	58	0.012	88	0.007	118	0.000
29	0.010	59	0.013	89	0.007	119	0.000
						120	0.000

APPENDIX IV
 Projection Scale G2
 Male, Age Nearest Birthday

AGE	G2 _x	AGE	G2 _x	AGE	G2 _x	AGE	G2 _x
0	0.010	30	0.010	60	0.015	90	0.007
1	0.010	31	0.010	61	0.015	91	0.007
2	0.010	32	0.010	62	0.015	92	0.006
3	0.010	33	0.010	63	0.015	93	0.005
4	0.010	34	0.010	64	0.015	94	0.005
5	0.010	35	0.010	65	0.015	95	0.004
6	0.010	36	0.010	66	0.015	96	0.004
7	0.010	37	0.010	67	0.015	97	0.003
8	0.010	38	0.010	68	0.015	98	0.003
9	0.010	39	0.010	69	0.015	99	0.002
10	0.010	40	0.010	70	0.015	100	0.002
11	0.010	41	0.010	71	0.015	101	0.002
12	0.010	42	0.010	72	0.015	102	0.001
13	0.010	43	0.010	73	0.015	103	0.001
14	0.010	44	0.010	74	0.015	104	0.000
15	0.010	45	0.010	75	0.015	105	0.000
16	0.010	46	0.010	76	0.015	106	0.000
17	0.010	47	0.010	77	0.015	107	0.000
18	0.010	48	0.010	78	0.015	108	0.000
19	0.010	49	0.010	79	0.015	109	0.000
20	0.010	50	0.010	80	0.015	110	0.000
21	0.010	51	0.011	81	0.014	111	0.000
22	0.010	52	0.011	82	0.013	112	0.000
23	0.010	53	0.012	83	0.013	113	0.000

INSURANCE DIVISION[191](cont'd)

AGE	G2 _x	AGE	G2 _x	AGE	G2 _x	AGE	G2 _x
24	0.010	54	0.012	84	0.012	114	0.000
25	0.010	55	0.013	85	0.011	115	0.000
26	0.010	56	0.013	86	0.010	116	0.000
27	0.010	57	0.014	87	0.009	117	0.000
28	0.010	58	0.014	88	0.009	118	0.000
29	0.010	59	0.015	89	0.008	119	0.000
						120	0.000

[Filed 9/26/13, effective 1/1/15]

[Published 10/16/13]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 10/16/13.

ARC 1091C**IOWA PUBLIC INFORMATION BOARD[497]****Adopted and Filed Without Notice**

Pursuant to the authority of 2012 Iowa Acts, chapter 1115, section 9, the Iowa Public Information Board hereby amends Chapter 1, "Organization and General Administration," Chapter 3, "Declaratory Orders," Chapter 4, "Contested Cases," Chapter 5, "Petitions for Rule Making," Chapter 6, "Agency Procedure for Rule Making," and Chapter 7, "Fair Information Practices," Iowa Administrative Code.

These amendments to the rules insert the Board's address, e-mail address, and fax number, the telephone number of its office and the Board's Web address that were unavailable at the time these rules were Adopted and Filed as **ARC 0741C** in the May 15, 2013, Iowa Administrative Bulletin.

In compliance with Iowa Code section 17A.4(3), the Board finds that notice and public participation in the adoption of these amendments are unnecessary and impractical because these amendments merely make changes to insert actual information where appropriate in these chapters where there now appears "[address]," "[e-mail address]," "[fax number]," "[telephone number]," and "[Web address]."

In compliance with 2013 Iowa Acts, House File 586, section 1, the Administrative Rules Review Committee at its September 10, 2013, meeting reviewed the Board's findings and the amendments and approved the adoption of this rule making.

After analysis and review of this rule making, no impact on jobs has been found.

These amendments are intended to implement 2012 Iowa Acts, chapter 1115, section 3.

These amendments will become effective on November 20, 2013.

The following amendments are adopted.

ITEM 1. Amend subrule 1.1(8) as follows:

1.1(8) The board is available to assist in achieving compliance with open meetings and public records laws in alternative ways. Information is available on the board's Web site at ~~[Web address]~~ <https://ipib.iowa.gov/>. The members of governmental bodies and the public may call the board for informal answers to questions during office hours from 8 a.m. to 4:30 p.m. on Monday through Friday at ~~[telephone number]~~ (515)725-1781. Written guidance about compliance with the open meetings and public records laws may be provided by advisory opinions (see rules 497—1.2(84GA,ch1115) and 497—1.3(84GA,ch1115)) or by declaratory orders (see rules 497—3.1(84GA,ch1115) to 497—3.8(84GA,ch1115)). In addition, complaints may be filed alleging violations of open meetings or public records laws under rule 497—2.1(84GA,ch1115).

ITEM 2. Amend subrule 1.3(1) as follows:

1.3(1) Requests for board advisory opinions may be mailed to the Iowa Public Information Board, ~~[address]~~ Wallace State Office Building, 502 East 9th Street, Des Moines, Iowa 50319. Requests may also be submitted by fax to ~~[fax number]~~ (515)725-1789 or by e-mail to ~~[e-mail address]~~ ipib@iowa.gov.

IOWA PUBLIC INFORMATION BOARD[497](cont'd)

ITEM 3. Amend subrule 1.3(4) as follows:

1.3(4) Board advisory opinions are open records and shall be made available at the board office and via the board's Web site at ~~{Web address}~~ <https://ipib@iowa.gov/>.

ITEM 4. Amend rule 497—3.1(17A), introductory paragraph, as follows:

497—3.1(17A) Petition for declaratory order. Any person may file a petition with the board for a declaratory order as to the applicability to specified circumstances of a statute, rule, or order within the primary jurisdiction of the board, at Iowa Public Information Board, ~~{address}~~ Wallace State Office Building, 502 East 9th Street, Des Moines, Iowa 50319. A petition is deemed filed when it is received by that office. The board shall provide the petitioner with a file-stamped copy of the petition if the petitioner provides the board an extra copy for this purpose. The petition must be typewritten or legibly handwritten in ink and must substantially conform to the following form:

ITEM 5. Amend subrule 3.3(3), introductory paragraph, as follows:

3.3(3) A petition for intervention shall be filed at Iowa Public Information Board, ~~{address}~~ Wallace State Office Building, 502 East 9th Street, Des Moines, Iowa 50319. Such a petition is deemed filed when it is received by that office. The board will provide the petitioner with a file-stamped copy of the petition for intervention if the petitioner provides an extra copy for this purpose. A petition for intervention must be typewritten or legibly handwritten in ink and must substantially conform to the following form:

ITEM 6. Amend rule 497—3.5(17A) as follows:

497—3.5(17A) Inquiries. Inquiries concerning the status of a declaratory order proceeding may be made to the board's executive director at Iowa Public Information Board, ~~{address}~~ Wallace State Office Building, 502 East 9th Street, Des Moines, Iowa 50319.

ITEM 7. Amend subrule 3.6(2) as follows:

3.6(2) Filing—when required. All petitions for declaratory orders, petitions for intervention, briefs, or other papers in a proceeding for a declaratory order shall be filed with the Iowa Public Information Board, ~~{address}~~ Wallace State Office Building, 502 East 9th Street, Des Moines, Iowa 50319. All petitions, briefs, or other papers that are required to be served upon a party shall be filed simultaneously with the board.

ITEM 8. Amend subrule 4.11(3) as follows:

4.11(3) Filing—when required. After the notice of hearing, all pleadings, motions, documents or other papers in a contested case proceeding shall be filed with the board at ~~{address}~~ Iowa Public Information Board, Wallace State Office Building, 502 East 9th Street, Des Moines, Iowa 50319. All pleadings, motions, documents or other papers that are required to be served upon a party shall be filed simultaneously with the Iowa public information board.

ITEM 9. Amend rule 497—5.1(17A), introductory paragraph, as follows:

497—5.1(17A) Petition for rule making. Any person or agency may file a petition for rule making with the board at Iowa Public Information Board, ~~{address}~~ Wallace State Office Building, 502 East 9th Street, Des Moines, Iowa 50319. A petition is deemed filed when it is received by the board. The board must provide the petitioner with a file-stamped copy of the petition if the petitioner provides the board an extra copy for this purpose. The petition must be typewritten or legibly handwritten in ink and must substantially conform to the following form:

ITEM 10. Amend rule 497—5.3(17A) as follows:

497—5.3(17A) Inquiries. Inquiries concerning the status of a petition for rule making may be made to the board at Iowa Public Information Board, ~~{address}~~ Wallace State Office Building, 502 East 9th Street, Des Moines, Iowa 50319.

IOWA PUBLIC INFORMATION BOARD[497](cont'd)

ITEM 11. Amend subrule 6.5(1) as follows:

6.5(1) *Written comments.* For at least 20 days after publication of the Notice of Intended Action, persons may submit argument, data, and views, in writing, on the proposed rule. Such written submissions should identify the proposed rule to which they relate and should be submitted to Iowa Public Information Board, [address] Wallace State Office Building, 502 East 9th Street, Des Moines, Iowa 50319, or the person designated in the Notice of Intended Action.

ITEM 12. Amend subrule 6.5(5) as follows:

6.5(5) *Accessibility.* The board shall schedule oral proceedings in rooms accessible to and functional for persons with physical disabilities. Persons who have special requirements should contact the board's executive director at [telephone number] (515)725-1781 in advance to arrange access or other needed services.

ITEM 13. Amend subrule 6.6(2), introductory paragraph, as follows:

6.6(2) *Mailing list.* Small businesses or organizations of small businesses may be registered on the board's small business impact list by making a written application addressed to Iowa Public Information Board, [address] Wallace State Office Building, 502 East 9th Street, Des Moines, Iowa 50319. The application for registration shall state:

ITEM 14. Amend subrule 6.11(1) as follows:

6.11(1) *General.* When requested by a person, either prior to the adoption of a rule or within 30 days after its publication in the Iowa Administrative Bulletin as an adopted rule, the board shall issue a concise statement of reasons for the rule. Requests for such a statement must be in writing and be delivered to Iowa Public Information Board, [address] Wallace State Office Building, 502 East 9th Street, Des Moines, Iowa 50319. The request should indicate whether the statement is sought for all or only a specified part of the rule. Requests will be considered made on the date received.

ITEM 15. Amend subrule 7.3(1) as follows:

7.3(1) *Location of record.* A request for access to a board record shall be directed to the Iowa Public Information Board, [address] Wallace State Office Building, 502 East 9th Street, Des Moines, Iowa 50319. If the requested record is not on file in the board office, the custodian will arrange for it to be retrieved from state archives and made available in the board office.

ITEM 16. Amend subrule 7.3(2) as follows:

7.3(2) *Office hours.* Records of the board shall be made available during customary office hours of 8 a.m. to 4:30 p.m. on Monday through Friday, excluding Saturdays, Sundays, and legal holidays. Records made available via the board's Web site at [Web address] https://ipib@iowa.gov/ are available at all hours and on all days.

ITEM 17. Amend rule 497—7.6(17A,22) as follows:

497—7.6(17A,22) Procedure by which additions, dissents or objections may be entered into certain records. Except as otherwise provided by law, the subject shall have the right to have a written statement of additions, dissents or objections entered into the record. The subject shall send the statement to the Executive Director, Iowa Public Information Board, [address] Wallace State Office Building, 502 East 9th Street, Des Moines, Iowa 50319. The statement shall be dated and signed by the subject and shall include the subject's current address and telephone number.

[Filed Without Notice 9/19/13, effective 11/20/13]

[Published 10/16/13]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 10/16/13.

ARC 1089C**PUBLIC HEALTH DEPARTMENT[641]****Adopted and Filed**

Pursuant to the authority of Iowa Code section 105.4 as amended by 2013 Iowa Acts, Senate File 427, section 5, the Plumbing and Mechanical Systems Board hereby amends Chapter 25, “State Plumbing Code,” Iowa Administrative Code.

The rules in Chapter 25 describe the minimum standards for plumbing materials and plumbing methods in buildings and on premises in Iowa.

These amendments include the adoption by reference of the Uniform Plumbing Code, 2012 Edition. The amendments also describe and identify the sections of the UPC 2012 that are modified with language from the International Plumbing Code and other referenced codes. A Table, IPC 2012 403.1, that identifies the minimum number of required plumbing fixtures for the specific type of buildings is also inserted. A modification has been made to Table 1002.2 Horizontal Lengths of Trap Arms. In addition, the rule related to backflow prevention and containment is amended.

Notice of Intended Action was published in the June 26, 2013, Iowa Administrative Bulletin as **ARC 0811C**. One comment was received in support of the amendments.

One change has been made to the amendments published under Notice of Intended Action. The address of the International Association of Plumbing and Mechanical Officials has been updated in Item 1.

The Plumbing and Mechanical Systems Board adopted these amendments on September 17, 2013.

After analysis and review of this ruling, no impact on jobs has been found.

These amendments are intended to implement Iowa Code section 105.4 as amended by 2013 Iowa Acts, Senate File 427, sections 5 and 36.

These amendments will become effective November 20, 2013.

The following amendments are adopted.

ITEM 1. Amend rule 641—25.1(105) as follows:

641—25.1(105) Adoption. Section 101 ~~except as noted below~~ and Chapters 2 to ~~16~~ 17 of the Uniform Plumbing Code, ~~2009~~ 2012 Edition, as published by the International Association of Plumbing and Mechanical Officials, ~~20001 South Walnut Drive, Walnut~~ 4755 E. Philadelphia Street, Ontario, California ~~91789-2825~~ 91761-2816, are hereby adopted by reference with amendments as the state plumbing code authorized by Iowa Code section 105.4 as amended by 2013 Iowa Acts, Senate File 427, section 5. Portions of this chapter reproduce excerpts from the 2012 International Plumbing Code, International Code Council, Inc., Washington, D.C. Such excerpts are reproduced with permission, all rights reserved.

~~Exception to Section 101: Delete “, except as provided for in Section 103.5.5.2” from the end of subsection 101.5.6.~~

ITEM 2. Amend rule 641—25.3(105) as follows:

641—25.3(105) Fuel gas piping. Fuel gas piping shall comply with the requirements of Chapter 12 of the Uniform Plumbing Code, ~~2009~~ 2012 Edition, unless the provisions conflict with 661—Chapter 226, Liquefied Petroleum Gas, Iowa Administrative Code. Where Chapter 12 conflicts with 661—Chapter 226, the provisions of 661—Chapter 226 shall be followed.

ITEM 3. Rescind rule 641—25.4(105) and adopt the following new rule in lieu thereof:

641—25.4(105) Amendments to Uniform Plumbing Code. The Uniform Plumbing Code (UPC), as adopted by reference in rule 641—25.1(105), shall be amended as follows:

25.4(1) The following amendment shall apply to UPC Chapter 1:

Subsection 101.11.5 Moved Buildings. Modify the subsection by deleting “except as provided for in Section 103.5.8.2” from the last sentence in the subsection.

PUBLIC HEALTH DEPARTMENT[641](cont'd)

25.4(2) The following amendment shall apply to UPC Chapter 3:
Subsection 301.4.1 Permit Application. Delete the subsection.

25.4(3) The following amendments shall apply to UPC Chapter 4:

a. Subsection 421.1 General. Modify the subsection by deleting “Table 1401.1 of this code” and inserting the following in lieu thereof: “Chapter 11 of the 2012 International Building Code.”

b. Section 422.1 Fixture Count. Modify the section by deleting the first paragraph and inserting the following in lieu thereof: “Plumbing fixtures shall be provided in each building, for the type of building occupancy, and in the minimum number shown in Table 422.1. The design occupant load and occupancy classification shall be determined in accordance with Section 1004 of the 2012 International Building Code. Required public facilities shall be designated by a legible sign for each sex. Signs shall be readily visible and located near the entrance to each toilet facility.”

c. Subsection 422.1.1 Family or Assisted-Use Toilet and Bathing Facilities. Modify the subsection by adding the following sentence to the end of the subsection: “Required family or assisted-use fixtures are permitted to be included in the number of required fixtures for either the male or female occupants in assembly and mercantile occupancies.”

d. Table 422.1 Minimum Plumbing Facilities. Delete the table and insert the following table in lieu thereof:

TABLE 422.1 MINIMUM NUMBER OF REQUIRED PLUMBING FIXTURES^a
(Reprinted, with permission,* from the 2012 International Plumbing Code, IPC Table 403.1)

NO.	CLASSIFICATION	OCCUPANCY	DESCRIPTION	WATER CLOSETS (Urinals, see Sections 411.0 and 412.0)		LAVATORIES		BATHTUBS/ SHOWERS	DRINKING FOUNTAIN ^{e, f} (See Section 415.0)	OTHER
				MALE	FEMALE	MALE	FEMALE			
1	Assembly	A-1 ^d	Theaters and other buildings for the performing arts and motion pictures	1 per 125	1 per 65	1 per 200		—	1 per 500	1 service sink
		A-2 ^d	Nightclubs, bars, taverns, dance halls and buildings for similar purposes	1 per 40	1 per 40	1 per 75		—	1 per 500	1 service sink
			Restaurants, banquet halls and food courts	1 per 75	1 per 75	1 per 200		—	1 per 500	1 service sink
		A-3 ^d	Auditoriums without permanent seating, art galleries, exhibition halls, museums, lecture halls, libraries, arcades and gymnasiums	1 per 125	1 per 65	1 per 200		—	1 per 500	1 service sink
			Passenger terminals and transportation facilities	1 per 500	1 per 500	1 per 750		—	1 per 1,000	1 service sink
			Places of worship and other religious services	1 per 150	1 per 75	1 per 200		—	1 per 1,000	1 service sink
		A-4	Coliseums, arenas, skating rinks, pools and tennis courts for indoor sporting events and activities	1 per 75 for the first 1,500 and 1 per 120 for the remainder exceeding 1,500	1 per 40 for the first 1,520 and 1 per 60 for the remainder exceeding 1,520	1 per 200	1 per 150		—	1 per 1,000

TABLE 422.1 MINIMUM NUMBER OF REQUIRED PLUMBING FIXTURES^a
(Reprinted, with permission,* from the 2012 International Plumbing Code, IPC Table 403.1)

NO.	CLASSIFICATION	OCCUPANCY	DESCRIPTION	WATER CLOSETS (Urinals, see Sections 411.0 and 412.0)		LAVATORIES		BATHTUBS/ SHOWERS	DRINKING FOUNTAIN ^{e, f} (See Section 415.0)	OTHER
				MALE	FEMALE	MALE	FEMALE			
1	Assembly (cont'd)	A-5	Stadiums, amusement parks, bleachers and grandstands for outdoor sporting events and activities	1 per 75 for the first 1,500 and 1 per 120 for the remainder exceeding 1,500	1 per 40 for the first 1,520 and 1 per 60 for the remainder exceeding 1,520	1 per 200	1 per 150	—	1 per 1,000	1 service sink
2	Business	B	Buildings for the transaction of business, professional services, other services involving merchandise, office buildings, banks, light industrial and similar uses	1 per 25 for the first 50 and 1 per 50 for the remainder exceeding 50		1 per 40 for the first 80 and 1 per 80 for the remainder exceeding 80		—	1 per 100	1 service sink ^g
3	Educational	E	Educational facilities	1 per 50		1 per 50		—	1 per 100	1 service sink
4	Factory and Industrial	F-1 and F-2	Structures in which occupants are engaged in work fabricating, assembly or processing of products or materials	1 per 100		1 per 100		(See Section 416)	1 per 400	1 service sink
5	Institutional	I-1	Residential care	1 per 10		1 per 10		1 per 8	1 per 100	1 service sink
		I-2	Hospitals, ambulatory nursing home recipient	1 per room ^c		1 per room ^c		1 per 15	1 per 100	1 service sink per floor
			Employees, other than residential care ^b	1 per 25		1 per 35		—	1 per 100	—
			Visitors, other than residential care	1 per 75		1 per 100		—	1 per 500	—

TABLE 422.1 MINIMUM NUMBER OF REQUIRED PLUMBING FIXTURES^a (Reprinted, with permission,* from the 2012 International Plumbing Code, IPC Table 403.1)										
NO.	CLASSIFICATION	OCCUPANCY	DESCRIPTION	WATER CLOSETS (Urinals, see Sections 411.0 and 412.0)		LAVATORIES		BATHTUBS/ SHOWERS	DRINKING FOUNTAIN ^{e, f} (See Section 415.0)	OTHER
				MALE	FEMALE	MALE	FEMALE			
5	Institutional (cont'd)	I-3	Prisons ^b	1 per cell		1 per cell		1 per 15	1 per 100	1 service sink
			Reformatories, detention centers, and correctional centers ^b	1 per 15		1 per 15		1 per 15	1 per 100	1 service sink
			Employees ^b	1 per 25		1 per 35		—	1 per 100	—
		I-4	Adult day care and child care	1 per 15		1 per 15		1	1 per 100	1 service sink
6	Mercantile	M	Retail stores, service stations, shops, salesrooms, markets and shopping centers	1 per 500		1 per 750		—	1 per 1,000	1 service sinks ^g
7	Residential	R-1	Hotels, motels, boarding houses (transient)	1 per sleeping unit		1 per sleeping unit		1 per sleeping unit	—	1 service sink
		R-2	Dormitories, fraternities, sororities and boarding houses (not transient)	1 per 10		1 per 10		1 per 8	1 per 100	1 service sink
		R-2	Apartment house	1 per dwelling unit		1 per dwelling unit		1 per dwelling unit	—	1 kitchen sink per dwelling unit; 1 automatic clothes washer connection per 20 dwelling units

TABLE 422.1 MINIMUM NUMBER OF REQUIRED PLUMBING FIXTURES^a (Reprinted, with permission,* from the 2012 International Plumbing Code, IPC Table 403.1)										
NO.	CLASSIFICATION	OCCUPANCY	DESCRIPTION	WATER CLOSETS (Urinals, see Sections 411.0 and 412.0)		LAVATORIES		BATHTUBS/ SHOWERS	DRINKING FOUNTAIN ^{e, f} (See Section 415.0)	OTHER
				MALE	FEMALE	MALE	FEMALE			
7	Residential (cont'd)	R-3	One- and two-family dwellings	1 per dwelling unit		1 per dwelling unit		1 per dwelling unit	—	1 kitchen sink per dwelling unit; 1 automatic clothes washer connection per dwelling unit
		R-3	Congregate living facilities with 16 or fewer persons	1 per 10		1 per 10		1 per 8	1 per 100	1 service sink
		R-4	Congregate living facilities with 16 or fewer persons	1 per 10		1 per 10		1 per 8	1 per 100	1 service sink
8	Storage	S-1 and S-2	Structures for the storage of goods, warehouses, storehouses and freight depots. Low and Moderate Hazard.	1 per 100		1 per 100		See Section 416	1 per 1,000	1 service sink

PUBLIC HEALTH DEPARTMENT[641](cont'd)

- a The fixtures shown are based on one fixture being the minimum required for the number of persons indicated or any fraction of the number of persons indicated. The number of occupants shall be determined by the International Building Code.
- b Toilet facilities for employees shall be separate from facilities for inmates or care recipients.
- c A single-occupant toilet room with one water closet and one lavatory serving not more than two adjacent patient sleeping units shall be permitted where such room is provided with direct access from each patient sleeping unit and with provisions for privacy.
- d The occupant load for seasonal outdoor seating and entertainment areas shall be included when determining the minimum number of facilities required.
- e The minimum number of required drinking fountains shall comply with Table 403.1 and Chapter 11 of the International Building Code.
- f Drinking fountains are not required for an occupant load of 15 or fewer.
- g For business and mercantile occupancies with an occupant load of 15 or fewer, service sinks shall not be required.

*Reprinted from the 2012 International Plumbing Code (with modifications) with permission of the International Code Council.

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e. Insert the following text at the end of Chapter 4, reprinted with permission from the 2012 International Plumbing Code:

“422.6 Pay Facilities. Where pay facilities are installed, such facilities shall be in excess of the required minimum facilities. Required facilities shall be free of charge. (Reprinted from IPC 403.3.5)

“422.7 Substitution for Water Closets. In each bathroom or toilet room, urinals shall not be substituted for more than 67 percent of the required water closets in assembly and educational occupancies. Urinals shall not be substituted for more than 50 percent of the required water closets in all other occupancies. (Reprinted from IPC 419.2)”

25.4(4) The following amendment shall apply to UPC Chapter 5:

Sections 503.0 through 503.2 Inspection. Delete the sections.

25.4(5) The following amendment shall apply to UPC Chapter 7:

Section 710.1 Backflow Protection. Modify the section by adding the following sentences to the end of the section: “The requirement for the installation of a backwater valve shall apply only when determined necessary by the authority having jurisdiction based on local conditions. When a valve is required by the authority having jurisdiction, it shall be a manually operated gate valve or fullway ball valve. An automatic backwater valve may also be installed but is not required.”

25.4(6) The following amendment shall apply to UPC Chapter 8:

Section 804.7 Domestic Dishwashing Machine. Modify the section by deleting the section and inserting the following language in lieu thereof: “No domestic dishwashing machine shall be directly connected to a drainage system or food waste disposer without the use of an approved dishwasher air gap fitting on the discharge side of the dishwashing machine, or by looping the discharge line of the dishwasher as high as possible near the flood level of the kitchen sink where the waste disposer is connected. Listed air gap fittings shall be installed with the flood level (FL) marking at or above the flood level of the sink or drainboard, whichever is higher.”

25.4(7) The following amendment shall apply to UPC Chapter 9:

Section 906.7 Frost or Snow Closure. Modify the section by deleting “two (2) inches (50.8 mm)” in the first sentence and inserting “three (3) inches (76.2 mm)” in lieu thereof.

25.4(8) The following amendment shall apply to UPC Chapter 10:

Table 1002.2 Horizontal Lengths of Trap Arms. Delete the table and insert the following table in lieu thereof:

TABLE 1002.2
Horizontal Lengths of Trap Arms
(Except for Water Closets and Similar Features)^{1,2}

Trap Arm Diameter (inches)	Distance Trap to Vent Minimum (inches)	Length Maximum (feet)
1¼	2½	5
1½	3	6
2	4	8
3	6	12
4	8	12
Exceeding 4	2 × Diameter	12

For SI units: 1 inch = 25.4 mm

Notes:

¹Maintain ¼ inch per foot slope (20.8 mm/m).

²The developed length between the trap of a water closet or similar fixture (measured from the top of the closet flange to the inner edge of the vent) and its vent shall not exceed 6 feet (1829 mm).

25.4(9) The following amendments shall apply to UPC Chapter 12:

- a. Sections 1203.0 through 1203.4 Inspection. Delete the sections.
- b. Sections 1204.0 through 1204.3 Certificate of Inspection. Delete the sections.
- c. Sections 1205.0 through 1205.2 Authority to Render Gas Service. Delete the sections.
- d. Sections 1207.0 and 1207.1 Temporary Use of Gas. Delete the sections.

25.4(10) The following amendments shall apply to UPC Chapter 13:

- a. Sections 1311.0 through 1311.4 Plan Review. Delete the sections.
- b. Section 1326.3 Advance Notice. Delete the section.
- c. Section 1326.4 Responsibility. Delete the section.
- d. Section 1326.5 Testing. Delete the section.
- e. Section 1326.6 Retesting. Modify the section by deleting “the Authority Having Jurisdiction finds that” and “or inspection” from the first sentence.
- f. Section 1327.4 Report Items. Modify the section by deleting “Authority Having Jurisdiction” and inserting “responsible facility authority” in lieu thereof.

25.4(11) The following amendment shall apply to UPC Chapter 15:

Sections 1506.0 through 1506.4 Required Inspection. Delete the sections.

25.4(12) The following amendments shall apply to UPC Chapter 16:

- a. Section 1601.3 Permit. Delete the section.
- b. Section 1601.6 Operation and Maintenance Manual. Modify the section by deleting “required to have a permit in accordance with Section 1601.3” from the first sentence.
- c. Section 1603.2 Permit. Delete the section.
- d. Subsection 1603.11.2.1 Visual System Inspection. Modify the subsection by deleting “by the Authority Having Jurisdiction and other authorities having jurisdiction” from the first sentence.
- e. Subsection 1603.11.2.2 Cross-Connection Test. Modify the subsection by deleting “by the applicant in the presence of the Authority Having Jurisdiction and other authorities having jurisdiction” from the first sentence.
- f. Subsection 1603.11.2.3 Discovery of Cross-Connection. Modify the subsection by deleting “in the presence of the Authority Having Jurisdiction.”
- g. Section 1604.2 Plumbing Plan Submission. Delete the section.
- h. Section 1604.5 Initial Cross-Connection Test. Modify the section by deleting “by the applicant in the presence of the Authority Having Jurisdiction and other authorities having jurisdiction,” and by deleting the final sentence (“The test shall be ruled successful by the Authority Having Jurisdiction before final approval is granted.”).
- i. Subsection 1604.12.2.1 Visual System Inspection. Modify the subsection by deleting “by the Authority Having Jurisdiction and other authorities having jurisdiction.”

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j. Subsection 1604.12.2.2 Cross-Connection Test. Modify the subsection by deleting “in the presence of the Authority Having Jurisdiction and other authorities having jurisdiction.”

k. Subsection 1604.12.2.3 Discovery of Cross-Connection. Modify the subsection by deleting “in the presence of the Authority Having Jurisdiction.”

25.4(13) The following amendments shall apply to UPC Chapter 17:

a. Section 1702.2 Plumbing Plan Submission. Delete the section.

b. Section 1702.5 Initial Cross-Connection Test. Modify the section by deleting the second and third sentences (“Before the building is occupied or the system is activated, the installer shall perform the initial cross-connection test in the presence of the Authority Having Jurisdiction and other authorities having jurisdiction. The test shall be ruled successful by the Authority Having Jurisdiction before final approval is granted.”).

c. Subsection 1702.11.2.1 Visual System Inspection. Modify the subsection by deleting “by the Authority Having Jurisdiction and other authorities having jurisdiction.”

d. Subsection 1702.11.2.2 Cross-Connection Test. Modify the subsection by deleting “by the applicant in the presence of the Authority Having Jurisdiction and other authorities having jurisdiction.”

e. Subsection 1702.11.2.3 Discovery of Cross-Connection. Modify the subsection by deleting “in the presence of the Authority Having Jurisdiction.”

ITEM 4. Amend rule 641—25.5(105), introductory paragraph, as follows:

641—25.5(105) Backflow prevention with containment. Cities with populations of 15,000 or greater as determined by the 1990 census or any subsequent regular or special census shall have a backflow prevention program with containment. The minimum requirements for a program are given in subrules 25.5(1) through 25.5(5). These requirements are in addition to the applicable requirements of Section 603 of the Uniform Plumbing Code, ~~2009~~ 2012 Edition.

ITEM 5. Amend subrule 25.5(1), introductory paragraph, as follows:

25.5(1) Definitions. The following definitions are added to those in Chapter 2 and Section 603 of the Uniform Plumbing Code, ~~2009~~ 2012 Edition, or are modified from those definitions for the purposes of rule 641—25.5(105) only.

ITEM 6. Amend paragraph **25.5(1)“a”** as follows:

a. Administrative authority. The administrative authority for this rule is the city council and its designees or, with respect to private water utilities, the Iowa utilities board.

ITEM 7. Amend subrule 25.5(3) as follows:

25.5(3) Existing water services.

~~*a.* The administrative authority shall publish the standards which it uses to determine the degree of hazard for a water service. These shall be consistent with standards published by the Iowa department of public health.~~

~~*b. a.* Each customer shall survey the activities and processes which receive water from the water service and shall report to the administrative authority if cross connections exist and the degree of hazard.~~

~~*e. b.* The administrative authority may inspect the plumbing of any building, property and private water system which has a water service to determine if cross connections exist and the degree of hazard.~~

~~*d. c.* If, based on information provided through 25.5(3)“~~b~~”“~~a~~” and “~~e,~~” “~~b,~~” the administrative authority determines that a water service may contaminate the public water supply, the administrative authority shall require that the customer install the appropriate backflow prevention assembly for containment.~~

~~*e. d.* If a customer refuses to install a backflow prevention assembly for containment when it is required by the administrative authority, the administrative authority may order that water service to the customer be discontinued until an appropriate backflow prevention assembly is installed.~~

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ITEM 8. Amend **641—Chapter 25**, implementation sentence, as follows:

These rules are intended to implement Iowa Code chapter 105 as amended by 2013 Iowa Acts, Senate File 427.

[Filed 9/18/13, effective 11/20/13]

[Published 10/16/13]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 10/16/13.

ARC 1101C

REVENUE DEPARTMENT[701]

Adopted and Filed

Pursuant to the authority of Iowa Code sections 421.14 and 422.68, the Department of Revenue hereby adopts amendments to Chapter 40, "Determination of Net Income," Chapter 41, "Determination of Taxable Income," Chapter 42, "Adjustments to Computed Tax and Tax Credits," Chapter 45, "Partnerships," Chapter 52, "Filing Returns, Payment of Tax, Penalty and Interest, and Tax Credits," Chapter 53, "Determination of Net Income," and Chapter 59, "Determination of Net Income," Iowa Administrative Code.

Notice of Intended Action was published in IAB Vol. XXXVI, No. 4, p. 488, on August 21, 2013, as **ARC 0976C**.

Item 1 amends subrule 40.2(2) to correct a citation to a United States Supreme Court decision referenced in the subrule.

Item 2 amends rule 701—40.3(422) to update the list of bonds issued by the state of Iowa or its political subdivisions for which the interest income is exempt for both federal and Iowa income tax.

Item 3 amends rule 701—40.60(422) to state that bonus depreciation does not apply for Iowa individual income tax for assets acquired in 2013.

Items 4 and 5 amend rule 701—40.65(422) and the implementation sentence for rule 701—40.65(422) to provide that the increase in the expensing allowance for qualifying property authorized in section 179(b) of the Internal Revenue Code is allowed for Iowa individual income tax for the 2012 and 2013 tax years.

Item 6 rescinds and reserves subrules 41.3(5) and 41.3(6), which are outdated rules regarding a federal rebate received in 2001 and a federal rate reduction credit for the 2002 tax year.

Item 7 amends subrule 41.5(2) to provide that the election to deduct state sales and use tax as an itemized deduction for individual income tax is available for the 2012 and 2013 tax years.

Item 8 updates the implementation sentence for rule 701—41.5(422).

Items 9 and 10 amend paragraph 42.11(3)"d" and the implementation sentence for rule 701—42.11(15,422) to update the date for which Iowa is coupled with federal changes to the credit for increasing research activities which is the basis for the Iowa credit for increasing research activities for Iowa individual income tax.

Item 11 amends rules 701—45.1(422) and 701—45.2(422) to provide for changes in the criteria for partnerships, limited partnerships and limited liability companies which are required to file Iowa partnership returns for tax years.

Items 12, 13, 14 and 15 amend paragraphs 52.7(3)"d," 52.7(5)"d," and 52.7(6)"d," and the implementation sentence for rule 701—52.7(422) to update the date for which Iowa is coupled with federal changes to the credit for increasing research activities which is the basis for the Iowa credit for increasing research activities for Iowa corporation income tax. This is similar to the changes in Items 9 and 10.

Item 16 amends rule 701—53.22(422) to state that bonus depreciation does not apply for Iowa corporation income tax for assets acquired in 2013. This is similar to the change in Item 3.

Items 17 and 18 amend rule 701—53.23(422) and the implementation sentence for rule 701—53.23(422) to provide that the increase in the expensing allowance for qualifying property

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authorized in section 179(b) of the Internal Revenue Code is allowed for Iowa corporation income tax for the 2012 and 2013 tax years. This is similar to the change in Items 4 and 5.

Item 19 amends rule 701—59.23(422) to state that bonus depreciation does not apply for Iowa franchise tax for assets acquired in 2013. This is similar to the change in Items 3 and 16.

Items 20 and 21 amend rule 701—59.24(422) and the implementation sentence for rule 701—59.24(422) to provide that the increase in the expensing allowance for qualifying property authorized in section 179(b) of the Internal Revenue Code is allowed for Iowa franchise tax for the 2012 and 2013 tax years. This is similar to the change in Items 4, 5, 17 and 18.

These amendments are identical to those published under Notice of Intended Action.

After analysis and review of this rule making, no adverse impact on jobs has been found.

These amendments are intended to implement Iowa Code sections 422.7, 422.9, 422.35 and 422.61 as amended by 2013 Iowa Acts, House File 575; Iowa Code sections 15.335, 422.3, 422.9, 422.10, 422.32 and 422.33 as amended by 2013 Iowa Acts, Senate File 106; and Iowa Code section 422.15 as amended by 2013 Iowa Acts, Senate File 452.

These amendments will become effective November 20, 2013, after filing with the Administrative Rules Coordinator and publication in the Iowa Administrative Bulletin.

EDITOR'S NOTE: Pursuant to recommendation of the Administrative Rules Review Committee published in the Iowa Administrative Bulletin, September 10, 1986, the text of these amendments [amendments to Chs 40 to 42, 45, 52, 53, 59] is being omitted. These amendments are identical to those published under Notice as **ARC 0976C**, IAB 8/21/13.

[Filed 9/25/13, effective 11/20/13]

[Published 10/16/13]

[For replacement pages for IAC, see IAC Supplement 10/16/13.]

ARC 1102C

REVENUE DEPARTMENT[701]

Adopted and Filed

Pursuant to the authority of Iowa Code sections 421.14 and 422.68, the Department of Revenue hereby adopts amendments to Chapter 42, "Adjustments to Computed Tax and Tax Credits," Chapter 50, "Apportionment of Income for Resident Shareholders of S Corporations," Chapter 52, "Filing Returns, Payment of Tax, Penalty and Interest, and Tax Credits," and Chapter 89, "Fiduciary Income Tax," Iowa Administrative Code.

Notice of Intended Action was published in IAB Vol. XXXVI, No. 4, p. 496, on August 21, 2013, as **ARC 0975C**.

Item 1 amends subrule 42.13(2) to reflect the increase in the Iowa earned income tax credit for individual income tax for tax years beginning on or after January 1, 2013.

Item 2 amends the implementation sentence for rule 701—42.13(422).

Items 3 and 4 amend subrule 42.22(4) and the implementation sentence for rule 701—42.22(15E,422) for individual income tax to provide for changes in the innovation fund investment tax credit for tax years beginning on or after January 1, 2013.

Item 5 amends paragraph 42.32(4)"a," for individual income tax to provide for the increase in the cap for the school tuition organization tax credit starting with the 2014 tax year.

Item 6 amends subrule 42.32(5) for individual income tax to provide that partnerships, limited liability companies, S corporations, estates, and trusts are eligible to claim the school tuition organization tax credit for tax years beginning on or after January 1, 2013.

Item 7 amends the implementation sentence for rule 701—42.32(422).

Item 8 amends subrule 42.41(1) for individual income tax to provide for the increase in the redevelopment tax credit for fiscal years beginning on or after July 1, 2012.

Item 9 updates the implementation sentence for rule 701—42.41(15,422).

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Item 10 amends rule 701—42.45(15) for individual income tax to reflect the increase in the aggregate tax credit limit for certain economic development programs for fiscal years beginning on or after July 1, 2012.

Item 11 amends 701—Chapter 42 by adopting new rule 701—42.50(422) to provide for the Iowa taxpayers trust fund tax credit for individual income tax for tax years beginning on or after January 1, 2013.

Item 12 amends rule 701—50.1(422) to provide that estates and trusts with a situs in Iowa which are shareholders in S corporations that carry on business within and without Iowa are entitled to take advantage of the apportionment provisions of S corporation income that is currently available to Iowa resident shareholders of S corporations.

Item 13 rescinds and reserves rules 701—50.2(422) and 701—50.9(422) which are outdated rules regarding the apportionment of income for shareholders of S corporations.

Item 14 amends rule 701—50.10(422) to correct terminology used in an example regarding the apportionment of income for shareholders of S corporations.

Items 15 and 16 amend subrule 52.21(4) and the implementation sentence for rule 701—52.21(15E,422) for corporation income tax to provide for changes in the innovation fund investment tax credit for tax years beginning on or after January 1, 2013. This is similar to the change in Items 3 and 4.

Item 17 amends rule 701—52.38(422) for corporation income tax to provide for changes in the school tuition organization tax credit. This is similar to the change in Items 5 and 6.

Item 18 amends subrule 52.39(2) for corporation income tax to provide for the increase in the redevelopment tax credit for fiscal years beginning on or after July 1, 2012. This is similar to the change in Item 8.

Item 19 amends the implementation sentence for rule 701—52.39(15,422).

Item 20 amends rule 701—42.45(15) for corporation income tax to reflect the increase in the aggregate tax credit limit for certain economic development programs for fiscal years beginning on or after July 1, 2012. This is similar to the change in Item 10.

Item 21 amends paragraph 89.8(11)“e,” for fiduciary income tax to provide for estates and trusts with a situs in Iowa which are shareholders in S corporations that carry on business within and without Iowa are entitled to take advantage of the apportionment provisions of S corporation income. This is similar to the change in Item 12.

These amendments are identical to those published under Notice of Intended Action.

After analysis and review of this rule making, no adverse impact on jobs has been found. The tax credits may positively impact job and economic growth for businesses and individuals in the state of Iowa.

These amendments are intended to implement Iowa Code section 15E.52 as amended by 2013 Iowa Acts, House File 615; Iowa Code section 15.119 as amended by 2013 Iowa Acts, House File 620; Iowa Code section 422.11S as amended by 2013 Iowa Acts, House File 625; Iowa Code section 422.12B as amended by 2013 Iowa Acts, Senate File 295, section 70; and Iowa Code sections 422.5 and 422.8 as amended by 2013 Iowa Acts, Senate File 452; and 2013 Iowa Acts, Senate File 295, section 43.

These amendments will become effective November 20, 2013, after filing with the Administrative Rules Coordinator and publication in the Iowa Administrative Bulletin.

The following amendments are adopted.

ITEM 1. Amend subrule 42.13(2), introductory paragraph, as follows:

42.13(2) *Tax years beginning on or after January 1, 2007.* Effective for tax years beginning on or after January 1, 2007, but beginning before January 1, 2013, an individual is allowed an Iowa earned income credit equal to 7 percent of the earned income credit to which the taxpayer is entitled on the taxpayer's federal income tax return as authorized in Section 32 of the Internal Revenue Code. For tax years beginning on or after January 1, 2013, but beginning before January 1, 2014, an individual is allowed an Iowa earned income tax credit equal to 14 percent of the earned income credit to which the taxpayer is entitled on the taxpayer's federal income tax return as authorized in Section 32 of the

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Internal Revenue Code. For tax years beginning on or after January 1, 2014, an individual is allowed an Iowa earned income tax credit equal to 15 percent of the earned income credit to which the taxpayer is entitled on the taxpayer's federal income tax return as authorized in Section 32 of the Internal Revenue Code. The Iowa earned income credit is refundable; therefore, the credit may exceed the remaining income tax liability of the taxpayer after the personal exemption credits and other nonrefundable credits are deducted.

ITEM 2. Amend rule **701—42.13(422)**, implementation sentence, as follows:

This rule is intended to implement Iowa Code section 422.12B as amended by 2013 Iowa Acts, Senate File 295.

ITEM 3. Amend subrule 42.22(4) as follows:

42.22(4) Innovation fund investment tax credit. See 261—Chapter 116 for information regarding eligibility for an innovation fund, applications for the investment tax credit for investments in an innovation fund, and the issuance of tax credit certificates by the economic development authority.

The department of revenue will be notified by the economic development authority when the tax credit certificates are issued. The credit is equal to 20 percent of the taxpayer's equity investment in the form of cash in an innovation fund for tax years beginning and investments made on or after January 1, 2011, and before January 1, 2013. For tax years beginning and investments made on or after January 1, 2013, the taxpayer may claim a tax credit equal to 25 percent of the taxpayer's equity investment in the form of cash in an innovation fund. An investment shall be deemed to have been made on the same date as the date of acquisition of the equity interest as determined by the Internal Revenue Code. A taxpayer shall not claim the tax credit prior to the third tax year following for the tax year in which the investment is made. For example, if an individual taxpayer makes an equity investment during the 2012 calendar year, the individual taxpayer cannot claim the tax credit until the tax year ending December 31, 2015. For fiscal years beginning July 1, 2011, the amount of tax credits authorized cannot exceed \$8 million. No tax credit certificates will be issued prior to September 1, 2014. The tax credit certificate must be attached to the taxpayer's return for the tax year in which the credit may be redeemed investment was made as stated on the tax credit certificate.

If a tax credit is carried over and issued for the tax year immediately following the year in which the investment was made because the \$8 million cap has been reached, the tax credit may be claimed by the taxpayer for the third tax year following the tax year for which the credit is issued. For example, if an individual taxpayer makes an equity investment in December 2012 2013 and the \$8 million cap for the fiscal year ending June 30, 2013 2014, had already been reached, the tax credit will be issued for the tax year ending December 31, 2013 2014, and cannot can be redeemed until for the tax year ending December 31, 2016 2014.

Any credit in excess of the tax liability for the tax year may be credited to the tax liability for the following five years or until depleted, whichever is the earlier. The tax credit cannot be carried back to a tax year prior to the tax year in which the taxpayer claims the tax credit. The tax credit is not transferable to any other taxpayer.

The innovation fund tax credit certificate may be transferred once to any person or entity.

Within 90 days of transfer of the tax credit certificate, the transferee must submit the transferred tax credit certificate to the department, along with a statement which contains the transferee's name, address and tax identification number and the amount of the tax credit being transferred. Within 30 days of receiving the transferred tax credit certificate and the statement from the transferee, the department will issue a replacement tax credit certificate to the transferee. If the transferee is a partnership, limited liability company, S corporation, or estate or trust claiming the credit for individual or corporation income tax, the transferee shall provide a list of the partners, members, shareholders or beneficiaries and information on how the innovation fund tax credit should be divided among the partners, members, shareholders or beneficiaries. The transferee shall also provide the tax identification numbers and addresses of the partners, members, shareholders or beneficiaries. The replacement tax credit certificate must contain the same information as that on the original tax credit certificate and must have the same

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effective taxable year and the same expiration date as the original tax credit certificate. The replacement tax credit certificate may reflect a different tax type than the original tax credit certificate.

The transferee may use the amount of the tax credit for any tax year for which the original transferor could have claimed the tax credit. Any consideration received for the transfer of the tax credit certificate shall not be included in Iowa taxable income for individual income, corporation income or franchise tax purposes. Any consideration paid for the transfer of the tax credit certificate shall not be deducted from Iowa taxable income for individual income, corporation income or franchise tax purposes.

For equity investments made in an innovation fund, an individual may claim the credit if the investment was made by a partnership, S corporation, limited liability company, estate or trust electing to have the income directly taxed to the individual. The amount claimed by an individual must be based on the individual's pro-rata share of the individual's earnings of the partnership, S corporation, limited liability company, or estate or trust.

ITEM 4. Amend rule **701—42.22(15E,422)**, implementation sentence, as follows:

This rule is intended to implement Iowa Code ~~section~~ sections 15E.43, ~~as amended by 2011 Iowa Acts, Senate File 517; sections~~ 15E.51, 15E.66, 422.11F, and 422.11G; ~~and 2011 Iowa Acts, Senate File 517, section 40~~ section 15E.52 as amended by 2013 Iowa Acts, House File 615.

ITEM 5. Amend paragraph **42.32(4)“a”** as follows:

a. By December 1 of each year, the department will authorize school tuition organizations to issue tax credit certificates for the following tax year. For the tax year beginning in the 2006 calendar year only, the department, by September 1, 2006, will authorize school tuition organizations to issue tax credit certificates for the 2006 calendar year only. The total amount of tax credit certificates that may be authorized is \$2.5 million for the 2006 calendar year, \$5 million for the 2007 calendar year, \$7.5 million for the 2008 through 2011 calendar years, ~~and~~ \$8.75 million for the 2012 and 2013 calendar years, and \$12 million for 2014 and subsequent calendar years.

ITEM 6. Amend subrule 42.32(5) as follows:

42.32(5) Issuance of tax credit certificates. The school tuition organization shall issue tax credit certificates to each taxpayer who made a cash or noncash contribution to the school tuition organization. The tax credit certificate, which will be designed by the department, will contain the name, address and tax identification number of the taxpayer, the amount and date that the contribution was made, the amount of the credit, the tax year that the credit may be applied, the school tuition organization to which the contribution was made, and the tax credit certificate number.

For tax years beginning on or after July 1, 2009, a tax credit certificate may be issued to corporation income taxpayers. For tax years beginning on or after January 1, 2013, a tax credit certificate may be issued to a partnership, limited liability company, S corporation, estate or trust. The amount of credit claimed by an individual shall be based on the pro-rata share of the individual's earnings of the partnership, limited liability company, S corporation, estate or trust.

ITEM 7. Amend rule **701—42.32(422)**, implementation sentence, as follows:

This rule is intended to implement Iowa Code section 422.11S as amended by ~~2011~~ 2013 Iowa Acts, ~~Senate House File 533~~ 625.

ITEM 8. Amend subrule 42.41(1) as follows:

42.41(1) Eligibility for the credit. The economic development authority is responsible for developing a system for registration and authorization of projects receiving redevelopment tax credits. For the fiscal year beginning July 1, 2009, the maximum amount of tax credits allowed was \$1 million, and the amount of credits authorized for any one redevelopment project could not exceed \$100,000. For the fiscal year beginning July 1, 2011, ~~and subsequent fiscal years~~, the maximum amount of tax credits allowed cannot exceed \$5 million, and the amount of credit authorized for any one redevelopment project cannot exceed \$500,000. For the fiscal year beginning July 1, 2012, and subsequent fiscal years, the maximum amount of tax credits allowed cannot exceed \$10 million, and the amount of credit authorized for any one redevelopment project cannot exceed \$1 million.

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ITEM 9. Amend rule **701—42.41(15,422)**, implementation sentence, as follows:

This rule is intended to implement Iowa Code ~~section~~ sections 15.293A as amended by 2011 Iowa Acts, Senate File 514, and section 422.11V and section 15.119 as amended by 2013 Iowa Acts, House File 620.

ITEM 10. Amend rule 701—42.45(15) as follows:

701—42.45(15) Aggregate tax credit limit for certain economic development programs. Effective for the fiscal year beginning July 1, 2009, awards made under certain economic development programs cannot exceed \$185 million during a fiscal year. ~~These programs include the assistive device tax credit program, the enterprise zone program, the housing enterprise zone program, the film, television and video project promotion program and the high quality jobs program.~~ Effective for fiscal years beginning on or after July 1, 2010, but beginning before July 1, 2012, awards made under these economic development programs cannot exceed \$120 million during a fiscal year. Effective for fiscal years beginning on or after July 1, 2012, awards made under these economic development programs cannot exceed \$170 million. These programs include the assistive device tax credit program, the enterprise zone program, the housing enterprise zone program, the high quality jobs program, the redevelopment tax credit program, tax credits for investments in qualifying businesses and community-based seed capital funds, and the innovation fund tax credit program. The administrative rules for the aggregate tax credit limit for the Iowa ~~department of~~ economic development authority may be found at 261—Chapter 76.

This rule is intended to implement ~~2009 Iowa Code Supplement~~ section 15.119 as amended by 2010 2013 Iowa Acts, Senate House File 2380 620.

ITEM 11. Adopt the following new rule 701—42.50(422):

701—42.50(422) Taxpayers trust fund tax credit. For tax years beginning on or after January 1, 2013, a taxpayers trust fund tax credit is available for Iowa individual income tax. The credit is available for all individual income tax filers, including residents, nonresidents and part-year residents of Iowa, and individuals who file as part of a composite return as described in rule 701—48.1(422), as long as the Iowa return is filed within the extended due date to file an Iowa return.

42.50(1) Calculation of the amount of tax credit. The credit is calculated by taking the amount in the Iowa taxpayers trust fund and dividing it by the number of individual income taxpayers who filed Iowa returns by October 31 of the year preceding the year in which the credit is allowed.

EXAMPLE: There is \$120 million in the Iowa taxpayers trust fund at the end of the fiscal year ending June 30, 2013. There were 2,150,000 individuals who filed Iowa income tax returns by October 31, 2013, for tax years beginning on or after January 1, 2012, but beginning before January 1, 2013. This results in an Iowa taxpayers trust fund tax credit of \$55 for the tax year beginning on or after January 1, 2013, but beginning before January 1, 2014 (\$120,000,000 divided by 2,150,000 equals \$55.81, which is rounded down to the nearest whole dollar). All taxpayers who file their Iowa individual income tax return by October 31, 2014, for the tax period beginning on or after January 1, 2013, but beginning before January 1, 2014, will be entitled to claim a \$55 Iowa taxpayers trust fund tax credit.

If the amount of Iowa taxpayers trust fund tax credits claimed on tax returns for a particular year is less than the amount authorized, the difference will be transferred to the Iowa taxpayers trust fund for the next year and will be available as an Iowa taxpayers trust fund tax credit for the next year. There must be a balance in the Iowa taxpayers trust fund of at least \$30 million in order for the Iowa taxpayers trust fund tax credit to be available.

EXAMPLE: There is \$120 million in the Iowa taxpayers trust fund at the end of the fiscal year ending June 30, 2013. The total amount of Iowa taxpayers trust fund tax credit claimed on Iowa tax returns for tax years beginning on or after January 1, 2013, but beginning before January 1, 2014, which were filed on or before October 31, 2014, is \$90 million. The difference of \$30 million will be transferred to the Iowa taxpayers trust fund for the fiscal year ending June 30, 2014. The legislature approves an additional \$60 million to be deposited in the Iowa taxpayers trust fund for the fiscal year ending June 30,

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2014. This will result in \$90 million in the Iowa taxpayers trust fund for the fiscal year ending June 30, 2014. If 2,150,000 individuals file Iowa individual income tax returns for tax years beginning on or after January 1, 2013, but beginning before January 1, 2014, by October 31, 2014, this will result in a \$41 Iowa taxpayers trust fund tax credit for the tax year beginning on or after January 1, 2014, but beginning before January 1, 2015 (\$90,000,000 divided by 2,150,000 equals \$41.86, which is rounded down to the nearest whole dollar).

42.50(2) Claiming the credit on the tax return. The Iowa taxpayers trust fund is claimed on the amount of Iowa tax computed after all other nonrefundable credits allowed in division II of Iowa Code chapter 422 (excluding the Iowa taxpayers trust fund tax credit) are deducted, after the amount of school district surtax described in rule 701—42.1(257,422) and emergency medical services income surtax described in rule 701—42.2(422D) is added, and after all refundable credits (excluding estimated payments and tax withheld) allowed in division II of Iowa Code chapter 422 are deducted. Any Iowa taxpayers trust fund tax credit in excess of the tax liability is not refundable and shall not be carried back to the tax year prior to the tax year in which the credit is claimed and cannot be carried forward to a tax year for any following year.

EXAMPLE: A taxpayer reported a tax liability of \$100 on the taxpayer's 2013 Iowa income tax return. The taxpayer claimed a \$40 personal exemption credit and a \$25 franchise tax credit. This resulted in tax due of \$35 before applying the school district surtax. Taxpayer was subject to a \$2 school district surtax which resulted in total tax due of \$37. Taxpayer was entitled to claim a \$55 Iowa taxpayers trust fund tax credit, but only \$37 of credit could be applied on the 2013 Iowa return. The remaining \$18 of credit cannot be refunded, cannot be applied to a prior year tax liability, and cannot be carried forward to be applied to a subsequent year tax liability.

This rule is intended to implement 2013 Iowa Acts, Senate File 295, section 43.

ITEM 12. Amend rule 701—50.1(422) as follows:

701—50.1(422) Apportionment of income for resident shareholders of S corporations. For tax years beginning on or after January 1, 1998, resident shareholders of all S corporations which carry on business within and without Iowa may, at their election, determine the S corporation income allocable to sources within Iowa by allocation and apportionment of the S corporation income. Estates For tax years beginning on or after January 1, 2013, estates and trusts with a situs in Iowa which are shareholders in S corporations cannot which carry on business within and without Iowa can take advantage of these apportionment provisions. The criteria to determine whether the S corporation is carrying on business within and without Iowa is set forth in 701—subrule 54.1(4).

For tax years beginning on or after January 1, 1997, a shareholder in an S corporation which carries on business within and without Iowa which has elected to apportion income and then elects not to apportion income shall not reelect to apportion income for three tax years immediately following the first tax year in which the shareholder elected not to apportion income, unless the director of revenue consents to the election.

This rule is intended to implement Iowa Code section 422.5, subsection 1, paragraph "~~j.~~" "j." as amended by 2013 Iowa Acts, Senate File 452.

ITEM 13. Rescind and reserve rules **701—50.2(422)** and **701—50.9(422)**.

ITEM 14. Amend rule 701—50.10(422) as follows:

701—50.10(422) Example for tax periods beginning on or after January 1, 2002.

EXAMPLE. The following example is based on the following facts. The taxpayers are a husband and wife who have two dependent children. Their income consists of husband's wages of \$50,000; rental loss (\$5,000); wife's S corporation income of \$500,000; joint interest income of \$35,000. They have Iowa itemized deductions of \$20,000, and an out-of-state tax credit of \$1,150 on the S corporation income. The actual cash distribution from the S corporation was \$289,840, none of which has been previously taxed by Iowa. Federal income tax paid during the year totals \$191,214. The S corporation is a value-added corporation which carries on business within and without Iowa with 10 percent of its sales in Iowa.

REVENUE DEPARTMENT[701](cont'd)

a. Computation of tax on a joint return basis.

Wages	\$50,000
S corporation income	500,000
Interest	35,000
Rent	(5,000)
Total income	\$580,000
Less federal tax deduction	(191,214)
Subtotal	\$388,786
Less itemized deductions	(20,000)
Taxable income	\$368,786
Tax	\$31,696
Less personal credits husband & wife & two dependents	(160)
Subtotal	\$31,536
Less out-of-state tax credit	(1,150)
Iowa individual tax	\$30,386

Computation of refund credit

Total income	\$580,000
Less S corporation income	(500,000)
Subtotal	\$80,000
Add the greater of cash distributions not previously taxed, \$289,840 less 100% of federal taxes on S corporation income of \$164,840 = \$125,000, or income attributable to Iowa sources \$50,000	125,000
Income attributable to Iowa sources	\$205,000
Total income	\$580,000
Taxable percentage	35.3449%
Iowa individual tax before credit	\$31,696
Credit percentage	64.6551%
Subtotal	\$20,493
Less out-of-state tax credit	(1,150)
S corporation tax credit	\$19,343
Amount of refund	\$19,343

Computation of 100 percent of federal income tax attributable to S corporation income: $\$191,214 \times \$500,000 / \$580,000 = \$164,840$.

Computation of percent of income attributable to Iowa sources: $100 \times \$205,000 / \$580,000 = 35.3449\%$.

Computation of percent of income attributable to non-Iowa sources: $100 - 35.3449\% = 64.6551\%$.

b. Computation on a separate filing on a combined return basis.

REVENUE DEPARTMENT[701](cont'd)

	Spouse	Taxpayer
Wages	\$50,000	-0-
S corporation income	-0-	\$500,000
Interest	17,500	17,500
Rent	(5,000)	-0-
Total income	\$62,500	\$517,500
Less federal tax deduction	(20,613)	(170,601)
Subtotal	\$41,887	\$346,899
Less itemized deductions	(2,156)	(17,844)
Taxable income	\$39,731	\$329,055
Tax	\$2,293	\$28,128
Less personal credits taxpayer & spouse & two dependents	(120)	(40)
Subtotal	\$2,173	\$28,088
Less out-of-state tax credit	(-0-)	(1,150)
Iowa individual tax	\$2,173	\$26,938
Computation of refund credit		
Total income	\$517,500	
Less S corporation income	(500,000)	
Subtotal	\$17,500	
Add the greater of cash distributions not previously taxed, \$289,840 less 100% of federal taxes on S corporation income of \$164,840 = \$125,000, or income attributable to Iowa sources \$50,000	125,000	
Income attributable to Iowa sources	\$142,500	
Total income	\$517,500	
Taxable percentage	27.5362%	
Iowa individual tax before credit	\$28,128	
Credit percentage	72.4638%	
Subtotal	\$20,383	
Less out-of-state tax credit	(1,150)	
S corporation tax credit	\$19,233	
Amount of refund	\$19,233	

Taxpayer's computation of 100 percent of federal income tax attributable to S corporation income:
 $\$170,601 \times \$500,000 / \$517,500 = \$164,832$.

Taxpayer's computation of percent of income attributable to Iowa sources: $100 \times \$142,500 / \$517,500 = 27.5362\%$.

Taxpayer's computation of percent of income attributable to non-Iowa sources: $100 - 27.5362\% = 72.4638\%$.

This rule is intended to implement Iowa Code section 422.8, subsection 2, paragraph "b," as amended by 2002 Iowa Acts, House File 2078. "b."

ITEM 15. Amend subrule 52.21(4) as follows:

52.21(4) Innovation fund investment tax credit. See 261—Chapter 116 for information regarding eligibility for an innovation fund, applications for the investment tax credit for investments in an innovation fund, and the issuance of tax credit certificates by the economic development authority.

REVENUE DEPARTMENT[701](cont'd)

The department of revenue will be notified by the economic development authority when the tax credit certificates are issued. The credit is equal to 20 percent of the taxpayer's equity investment in the form of cash in an innovation fund for tax years beginning and investments made on or after January 1, 2011, and before January 1, 2013. For tax years beginning and investments made on or after January 1, 2013, the taxpayer may claim a tax credit equal to 25 percent of the taxpayer's equity investment in the form of cash in an innovation fund. An investment shall be deemed to have been made on the same date as the date of acquisition of the equity interest as determined by the Internal Revenue Code. A taxpayer shall ~~not~~ claim the tax credit ~~prior to the third tax year following~~ for the tax year in which the investment is made. ~~For example, if a corporation taxpayer whose tax year ends on December 31, 2012, makes an equity investment during the 2012 calendar year, the corporation taxpayer cannot claim the tax credit until the tax year ending December 31, 2015.~~ For fiscal years beginning July 1, 2011, the amount of tax credits authorized cannot exceed \$8 million. No tax credit certificates will be issued prior to September 1, 2014. The tax credit certificate must be attached to the taxpayer's return for the tax year in which the ~~credit may be redeemed~~ investment was made as stated on the tax credit certificate.

If a tax credit is carried over and issued for the tax year immediately following the year in which the investment was made because the \$8 million cap has been reached, the tax credit may be claimed by the taxpayer for the ~~third~~ tax year following the tax year for which the credit is issued. For example, if a corporation taxpayer whose tax year ending on December 31, ~~2012~~ 2013, makes an equity investment in December ~~2012~~ 2013 and the \$8 million cap for the fiscal year ending June 30, ~~2013~~ 2014, had already been reached, the tax credit will be issued for the tax year ending December 31, ~~2013~~ 2014, and ~~cannot~~ can be redeemed ~~until~~ for the tax year ending December 31, ~~2016~~ 2014.

Any credit in excess of the tax liability for the tax year may be credited to the tax liability for the following five years or until depleted, whichever is the earlier. The tax credit cannot be carried back to a tax year prior to the tax year in which the taxpayer claims the tax credit. ~~The tax credit is not transferable to any other taxpayer.~~

The innovation fund tax credit certificate may be transferred once to any person or entity.

Within 90 days of transfer of the tax credit certificate, the transferee must submit the transferred tax credit certificate to the department, along with a statement which contains the transferee's name, address and tax identification number and the amount of the tax credit being transferred. Within 30 days of receiving the transferred tax credit certificate and the statement from the transferee, the department will issue a replacement tax credit certificate to the transferee. If the transferee is a partnership, limited liability company, S corporation, or estate or trust claiming the credit for individual or corporation income tax, the transferee shall provide a list of the partners, members, shareholders or beneficiaries and information on how the innovation fund tax credit should be divided among the partners, members, shareholders or beneficiaries. The transferee shall also provide the tax identification numbers and addresses of the partners, members, shareholders or beneficiaries. The replacement tax credit certificate must contain the same information as that on the original tax credit certificate and must have the same effective taxable year and the same expiration date as the original tax credit certificate. The replacement tax credit certificate may reflect a different tax type than the original tax credit certificate.

The transferee may use the amount of the tax credit for any tax year for which the original transferor could have claimed the tax credit. Any consideration received for the transfer of the tax credit certificate shall not be included in Iowa taxable income for individual income, corporation income or franchise tax purposes. Any consideration paid for the transfer of the tax credit certificate shall not be deducted from Iowa taxable income for individual income, corporation income or franchise tax purposes.

For equity investments made in an innovation fund, an individual may claim the credit if the investment was made by a partnership, S corporation, limited liability company, or an estate or trust electing to have the income directly taxed to the individual. The amount claimed by an individual must be based on the individual's pro-rata share of the individual's earnings of the partnership, S corporation, limited liability company, or estate or trust.

REVENUE DEPARTMENT[701](cont'd)

ITEM 16. Amend rule **701—52.21(15E,422)**, implementation sentence, as follows:

This rule is intended to implement Iowa Code ~~section 15E.66~~; sections 15E.42, 15E.43, 15E.66, and 422.33 as amended by 2011 Iowa Acts, Senate File 517; and 2011 section 15E.22 as amended by 2013 Iowa Acts, Senate House File 517, section 40 615.

ITEM 17. Amend rule 701—52.38(422) as follows:

701—52.38(422) School tuition organization tax credit. Effective for tax years beginning on or after July 1, 2009, a school tuition organization tax credit is available which is equal to 65 percent of the amount of the voluntary cash or noncash contribution made by a corporation taxpayer to a school tuition organization. ~~The~~ For tax years beginning on or after January 1, 2013, the credit is not available for S corporations, partnerships, and limited liability companies, estates and trusts where the income is taxed directly to the individual shareholders, partners, or members or beneficiaries. The amount of credit claimed by an individual shall be based on the pro-rata share of the individual's earnings of the corporation, partnership, limited liability company, estate or trust. For information on the initial registration, participation forms and reporting requirements for school tuition organizations, see rule ~~701—42.30(422) 701—42.32(422).~~

52.38(1) Amount of tax credit authorized. Of the \$7.5 million of school tuition organization tax credits authorized for the 2009 through 2011 calendar years, no more than 25 percent, or \$1,875,000, can be authorized for corporation income tax taxpayers. Of the \$8.75 million of school tuition organization tax credits authorized for 2012 and ~~subsequent calendar years 2013~~, no more than 25 percent, or \$2,187,500, can be authorized for corporation income tax taxpayers. Of the \$12 million of school tuition organization tax credits authorized for 2014 and subsequent calendar years, no more than 25 percent, or \$3 million, can be authorized for corporation income tax taxpayers.

52.38(2) and 52.38(3) No change.

This rule is intended to implement Iowa Code section 422.33.

ITEM 18. Amend subrule 52.39(1) as follows:

52.39(1) Eligibility for the credit. The economic development authority is responsible for developing a system for registration and authorization of projects receiving redevelopment tax credits. For the fiscal year beginning July 1, 2009, the maximum amount of tax credits allowed was \$1 million, and the amount of credits authorized for any one redevelopment project could not exceed \$100,000. For fiscal years beginning July 1, 2011, ~~and subsequent fiscal years~~, the maximum amount of tax credits allowed cannot exceed \$5 million, and the amount of credit authorized for any one redevelopment project cannot exceed \$500,000. For the fiscal year beginning July 1, 2012, and subsequent fiscal years, the maximum amount of tax credits allowed cannot exceed \$10 million, and the amount of credit authorized for any one redevelopment project cannot exceed \$1 million.

ITEM 19. Amend rule **701—52.39(15,422)**, implementation sentence, as follows:

This rule is intended to implement Iowa Code ~~section sections~~ 15.293A as amended by 2011 Iowa Acts, Senate File 514, and ~~section~~ 422.33 and section 15.119 as amended by 2013 Iowa Acts, House File 620.

ITEM 20. Amend rule 701—52.41(15) as follows:

701—52.41(15) Aggregate tax credit limit for certain economic development programs. Effective for the fiscal year beginning July 1, 2009, awards made under certain economic development programs cannot exceed \$185 million during a fiscal year. ~~These programs include the assistive device tax credit program, the enterprise zone program, the housing enterprise zone program, the film, television and video project promotion program, and the high quality jobs program.~~ Effective for fiscal years beginning on or after July 1, 2010, but beginning before July 1, 2012, awards made under these economic development programs cannot exceed \$120 million during a fiscal year. Effective for fiscal years beginning on or after July 1, 2012, awards made under these economic development programs cannot exceed \$170 million. These programs include the assistive device tax credit program, the enterprise zone program, the housing enterprise zone program, the high quality jobs program, the redevelopment

REVENUE DEPARTMENT[701](cont'd)

tax credit program, tax credits for investments in qualifying businesses and community-based seed capital funds, and the innovation fund tax credit program. The administrative rules for the aggregate tax credit limit for the Iowa ~~department~~ of economic development authority may be found at 261—Chapter 76.

This rule is intended to implement ~~2009~~ Iowa Code Supplement section 15.119 as amended by ~~2010~~ 2013 Iowa Acts, ~~Senate House File 2380~~ Senate House File 620.

ITEM 21. Amend paragraph **89.8(11)“e”** as follows:

e. Other tax credits. All other tax credits set forth in Iowa Code chapter 422, division II, are also available for any estate or trust that meets the criteria for claiming these tax credits. For tax years beginning on or after January 1, 2013, estates and trusts with a situs in Iowa which are shareholders in S corporations which carry on business within and without Iowa can take advantage of the apportionment provisions for S corporation income set forth in 701—Chapter 50. The criteria to determine whether the S corporation is carrying on business within and without Iowa is set forth in 701—subrule 54.1(4).

[Filed 9/25/13, effective 11/20/13]

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EDITOR’S NOTE: For replacement pages for IAC, see IAC Supplement 10/16/13.

ARC 1105C

REVENUE DEPARTMENT[701]

Adopted and Filed

Pursuant to the authority of Iowa Code sections 17A.3 and 421.17, the Department of Revenue hereby amends Chapter 75, “Property Tax Administration,” and Chapter 77, “Determination of Value of Utility Companies,” and adopts a new Chapter 78, “Replacement Tax and Statewide Property Tax on Rate-Regulated Water Utilities,” Iowa Administrative Code.

These amendments implement changes required as a result of 2013 Iowa Acts, Senate File 451, which created a replacement tax imposed on rate-regulated water utilities.

Item 1 amends rule 701—75.5(428,433,434,437,437A,438) to state that the release of information contained in any reports filed under 2013 Iowa Acts, Senate File 451, sections 10 to 30, (new Iowa Code chapter 437B) or obtained by the Department in the administration of that chapter is governed by the general provisions of Iowa Code chapter 22.

Item 2 amends subrule 77.1(1) to state that beginning with property tax assessment years and replacement tax years beginning on or after January 1, 2013, any utility company subject to taxation under 2013 Iowa Acts, Senate File 451, sections 10 to 30, (new Iowa Code chapter 437B) shall not be subject to valuation under 701—Chapter 77, Iowa Administrative Code.

Item 3 adopts new Chapter 78 to implement 2013 Iowa Acts, Senate File 451, sections 10 to 30 (new Iowa Code chapter 437B).

Section 34 of 2013 Iowa Acts, Senate File 451, required the Department of Revenue to adopt emergency administrative rules pursuant to Iowa Code section 17A.4, subsection 3, and section 17A.5, subsection 2, paragraph “b,” to implement rules requiring water utilities to report all information and data necessary for the Department of Revenue to carry out the provisions of 2013 Iowa Acts, Senate File 451.

Notice of Intended Action for these amendments was published in the Iowa Administrative Bulletin as **ARC 0966C** on August 21, 2013. The amendments were also Adopted and Filed Emergency and published as **ARC 0965C** on the same date. No comments were received from the public. These amendments are identical to those published under Notice of Intended Action and Adopted and Filed Emergency.

After analysis and review of this rule making, no impact on jobs has been found.

These amendments are intended to implement 2013 Iowa Acts, Senate File 451.

REVENUE DEPARTMENT[701](cont'd)

These amendments will become effective November 20, 2013, at which time the Adopted and Filed Emergency amendments are hereby rescinded.

The following amendments are adopted.

ITEM 1. Amend rule 701—75.5(428,433,434,437,437A,438) as follows:

701—75.5(428,433,434,437,437A,438,85GA,SF451) Central assessment confidentiality. The release of information contained in any reports filed under Iowa Code chapters 428, 433, 434, 437, 437A, and 438 and 2013 Iowa Acts, Senate File 451, sections 10 to 30, or obtained by the department in the administration of those chapters, is governed by the general provisions of Iowa Code chapter 22 since there are no specific provisions relating to confidential information contained in those chapters. Any request for information must be made pursuant to rule 701—6.2(17A). See rule 701—6.3(17A).

Any request for information pertaining to a taxpayer's business affairs, operations, source of income, profits, losses, or expenditures must be made in writing to the director. The taxpayer to whom the information relates will be notified of the request for information and will be allowed 20 days to substantiate any claim of confidentiality under Iowa Code chapter 22 or any other statute such as Iowa Code section 422.72. If substantiated, the request will be denied; otherwise, the information will be released to the requesting party. This rule will not prevent the exchange of information between state and federal agencies.

This rule is intended to implement Iowa Code chapters 428, 433, 434, 437, 437A, and 438 and 2013 Iowa Acts, Senate File 451, sections 10 to 30.

ITEM 2. Amend subrule 77.1(1) as follows:

77.1(1) The term "*utility company*" shall mean and include all persons engaged in the operating of gasworks, waterworks, telephones, including telecommunication companies and cities that own or operate a municipal utility providing local exchange services pursuant to Iowa Code chapter 476, pipelines, electric transmission lines, and electric light or power plants, as set forth in Iowa Code chapters 428, 433, 437, and 438. Any utility company subject to taxation under Iowa Code chapter 437A shall not be subject to valuation under this chapter. Beginning with property tax assessment years and replacement tax years beginning on or after January 1, 2013, any utility company subject to taxation under 2013 Iowa Acts, Senate File 451, sections 10 to 30, shall not be subject to valuation under this chapter.

ITEM 3. Adopt the following **new** 701—Chapter 78:

CHAPTER 78
REPLACEMENT TAX AND STATEWIDE PROPERTY
TAX ON RATE-REGULATED WATER UTILITIES

REPLACEMENT TAX

701—78.1(85GA,SF451) Who must file return. Beginning with property tax years and replacement tax years beginning on or after January 1, 2013, each taxpayer, as defined in 2013 Iowa Acts, Senate File 451, section 11(13), shall file a true and accurate return with the director. The return shall include all of the information prescribed in 2013 Iowa Acts, Senate File 451, section 13(1) "a" and "b," and any other information or schedules requested by the director. The return shall be signed by an officer or other person duly authorized by the taxpayer and must be certified as correct. If the taxpayer was inactive or ceased the conduct of any activity subject to the replacement tax during the tax year, the return must contain a statement to that effect.

701—78.2(85GA,SF451) Time and place for filing return. The return must be filed with the director on or before March 31 following the tax year. There is no authority for the director to grant an extension of time to file a return. Therefore, any return which is not filed on or before March 31 following the tax year is untimely.

REVENUE DEPARTMENT[701](cont'd)

A taxpayer whose replacement tax liability before credits is \$300 or less is not required to file a return. A taxpayer should not file a replacement tax return under such circumstances.

When the due date falls on a Saturday or Sunday, the return will be due the first business day following the Saturday or Sunday. If a return is placed in the mails, properly addressed and postage paid in ample time to reach the director or the department on or before the due date for filing, no penalty will attach should the return not be received until after the due date for filing. The functional meaning of this requirement is that if the return is placed in the mails, properly addressed and postage paid, on or before the due date for filing, no penalty will attach. Mailed returns should be addressed to Department of Revenue, Attention: Property Tax Division, Hoover State Office Building, Des Moines, Iowa 50319.

701—78.3(85GA,SF451) Form for filing. Returns must be made by taxpayers on forms supplied by the department. Taxpayers not supplied with the proper forms shall make application for proper forms to the department in ample time to have the taxpayers' returns made, verified and filed on or before the due date. Each taxpayer shall carefully prepare the taxpayer's return so as to fully and clearly set forth the data required. All information shall be supplied and each direction complied with in the same manner as if the forms were embodied in these rules.

Failure to receive the proper forms does not relieve the taxpayer from the obligation of making the replacement tax return.

Returns received which are not completed, but merely state "see schedule attached," "no tax due," or some other conclusionary statement are not considered to be properly filed returns and may be returned to the taxpayer for proper completion. This may result in the imposition of penalties and interest due to the return's being filed after the due date.

701—78.4(85GA,SF451) Payment of tax. Payment of tax shall not accompany the filing of the replacement tax return with the director. Payment of tax shall not be made to the director or the state of Iowa. Payment of the proper amount of tax due shall be made to the appropriate county treasurer upon notification by the county treasurer to the taxpayer of the taxpayer's replacement tax obligation.

701—78.5(85GA,SF451) Statute of limitations.

78.5(1) The director has three years after a return is filed to determine the tax due if the return is found to be incorrect and to give notice to the taxpayer of the determination. This three-year statute of limitations does not apply in the instances specified in subrule 78.5(2).

78.5(2) If a taxpayer files a false or fraudulent return with the intent to evade any tax, the correct amount of tax due may be determined by the director at any time after the return has been filed.

78.5(3) If a taxpayer fails to file a return, the three-year statute of limitations does not begin until the return is filed with the director.

78.5(4) Waiver of statute of limitations. The department and the taxpayer may extend the three-year period of limitations provided in subrule 78.5(1) above by signing a waiver agreement form provided by the department. The agreement shall designate the period of extension and the tax year for which the extension applies. The agreement shall provide that the taxpayer may file a claim for refund of replacement tax at any time prior to the expiration of the agreement.

701—78.6(85GA,SF451) Billings.

78.6(1) Notice of adjustments.

a. Authorization to send notice of adjustments. An agent, auditor, clerk, or employee of the department, designated by the director to examine returns and make audits, who discovers discrepancies in returns or learns that items subject to tax may not have been listed or included as taxable, in whole or in part, or that no return was filed when one was due is authorized to notify the taxpayer of this discovery by ordinary mail. This notice is not an assessment. It informs the taxpayer what amount would be due if the information discovered is correct. A copy of such notice shall also be sent to the appropriate county treasurer.

REVENUE DEPARTMENT[701](cont'd)

b. Right of taxpayer upon receipt of notice of adjustment. A taxpayer who has received notice of an adjustment in connection with a return may pay the additional amount stated to be due to the appropriate county treasurer. If payment is made, and the taxpayer wishes to contest the matter, the taxpayer should file a timely claim for refund. However, payment will not be required until an assessment has been made, although interest will continue to accrue if timely payment is not made. If no payment has been made, the taxpayer may discuss with the agent, auditor, clerk, or employee who notified the taxpayer of the discrepancy, either in person or through correspondence, all matters of fact and law which may be relevant to the situation. The taxpayer may also ask for a conference with the Department of Revenue, Property Tax Division, Hoover State Office Building, Des Moines, Iowa. Documents and records supporting the taxpayer's position may be required.

c. Power of agent, auditor, or employee to compromise tax claim. No employee of the department has the power to compromise any tax claims. The power of the agent, auditor, clerk, or employee who notified the taxpayer of the discrepancy is limited to the determination of the correct amount of tax.

78.6(2) Notice of assessment. If, after following the procedure outlined in paragraph 78.6(1) "b," no agreement is reached and the taxpayer does not pay the amount determined to be correct to the appropriate county treasurer, a notice of the amount of tax due shall be sent to the taxpayer. This notice of assessment shall bear the signature of the director and will be sent by ordinary mail to the taxpayer with a copy sent to the appropriate county treasurer.

A taxpayer has 60 days from the date of the notice of assessment to file a protest according to the provisions of rule 701—7.8(17A) or, if the taxpayer fails to timely appeal a notice of assessment, the taxpayer may make payment pursuant to rule 701—7.8(17A) to the appropriate county treasurer and file a refund claim with the director within the applicable period provided in 2013 Iowa Acts, Senate File 451, section 19(1) "b," for filing such claims.

78.6(3) Supplemental assessments and refund adjustments. The director may, at any time within the period prescribed for assessment or refund adjustment, make a supplemental assessment or refund adjustment whenever it is ascertained that any assessment or refund adjustment is imperfect or incomplete in any respect.

If an assessment or refund adjustment is appealed (protested under rule 701—7.8(17A)) and is resolved whether by informal proceedings or by adjudication, the director shall notify the appropriate county treasurer. Such resolution shall preclude the director and the taxpayer from making a supplemental assessment or refund adjustment concerning the same issue involved in the appeal for the same tax year unless there is a showing of mathematical or clerical error or showing of fraud or misrepresentation.

701—78.7(85GA,SF451) Refunds.

78.7(1) A claim for refund of replacement tax may be made on a form obtainable from the department. All claims for refund should be filed with the director and not with the county treasurer. In the case of a refund claim filed by an agent or representative of the taxpayer, a power of attorney must accompany the claim. All claims for refund must be in writing.

78.7(2) A taxpayer shall not offset a refund or overpayment of tax for one tax year as a prior payment of tax of a subsequent tax year on the tax return of a subsequent year unless the provisions of 2013 Iowa Acts, Senate File 451, section 13(5), are applicable.

78.7(3) Refunds—statute of limitations. The statute of limitations with respect to which refunds or credits may be claimed are:

a. The later of three years after the due date of the tax payment upon which the refund or credit is claimed or one year after which such payment was actually made.

b. Ninety days after the due date of the tax payment upon which refund or credit is claimed if the tax is alleged to be unconstitutional.

78.7(4) No credit or refund of taxes alleged to be unconstitutional shall be allowed if such taxes were not paid to the appropriate county treasurer under written protest which specifies the particulars of the alleged unconstitutionality.

REVENUE DEPARTMENT[701](cont'd)

78.7(5) The taxpayer responsible for paying the tax, or the taxpayer's successors, are the only persons eligible to file claims for refund or credit of the tax with the director and are the only persons eligible to receive such refunds or credits.

78.7(6) The director will promptly notify the appropriate county treasurer of the acceptance or denial of any refund claim or credit. The county treasurer shall pay the refund claim or portion thereof accepted by the director.

78.7(7) A taxpayer has 60 days from the date of the notice of denial of a refund or credit, in whole or in part, to file a protest according to the provisions of rule 701—7.8(17A).

701—78.8(85GA,SF451) Abatement of tax. The provisions of rule 701—7.31(421) are applicable to replacement tax. In the event that the taxpayer files a request for abatement with the director, the appropriate county treasurer shall be notified. The director's decision on the abatement request shall be sent to the taxpayer and the appropriate county treasurer.

701—78.9(85GA,SF451) Taxpayers required to keep records.

78.9(1) Records required by taxpayers taxed under 2013 Iowa Acts, Senate File 451, sections 10 to 30. The records required in this rule must be made available for examination upon request by the director or the director's authorized representative. The records must include all of those which would support the entries required to be made on the tax return. These records include but are not limited to:

a. Records associated with the total number of gallons of water carried through the taxpayer's distribution system during the tax year and during each of the immediately preceding five calendar years. For calendar years prior to tax year 2013, the total number of gallons of water carried through the taxpayer's distribution system is calculated as though 2013 Iowa Acts, Senate File 451, sections 10 to 30, was in effect for such calendar year.

b. Records associated with the total amount of nonrevenue water, as that term is defined in 2013 Iowa Acts, Senate File 451, section 11(9), carried through the taxpayer's distribution system during the tax year and during each of the immediately preceding five calendar years. For calendar years prior to tax year 2013, the total number of gallons of nonrevenue water carried through the taxpayer's distribution system is calculated as though 2013 Iowa Acts, Senate File 451, sections 10 to 30, was in effect for such calendar year.

c. Records associated with the total taxable gallons of water delivered by the taxpayer to consumers, as that term is defined in 2013 Iowa Acts, Senate File 451, section 11(2), within the service area during the tax year and during each of the immediately preceding five calendar years. For calendar years prior to tax year 2013, the total taxable gallons delivered by the taxpayer to consumers by the water utility is the difference between the gallons of water calculated in paragraphs 78.9(1) "a" and "b."

d. For tax years 2013, 2014, and 2015, records associated with property tax amounts due and payable as the result of assessment years 2010 and 2011.

e. Records associated with the taxpayer's calculation of the tentative replacement taxes due for the tax year and required to be shown on the tax return.

f. Records associated with increases or decreases in the tentative replacement tax required to be shown to be due where the replacement delivery tax rates are subject to recalculation under the provisions of 2013 Iowa Acts, Senate File 451, section 13(5).

g. All work papers associated with any of the records described in this subrule.

h. Records pertaining to any additions or deletions of property described as exempt from local property tax in 2013 Iowa Acts, Senate File 451, section 21.

i. Records associated with allocation of property described in paragraph 78.9(1) "h" above among local taxing districts.

78.9(2) The records required to be maintained by this rule shall be maintained by taxpayers for a period of ten years following the later of the original due date for the filing of a tax return in which the replacement taxes are reported or the date on which such return is filed. Upon application to the director and for good cause shown, the director may shorten the period for which any records should be maintained by a taxpayer.

REVENUE DEPARTMENT[701](cont'd)

701—78.10(85GA,SF451) Credentials. Employees of the department have official credentials, and the taxpayer should require proof of the identity of persons claiming to represent the department. No charges shall be made nor gratuities of any kind accepted by an employee of the department for assistance given in or out of the office of the department.

701—78.11(85GA,SF451) Audit of records. The director or the director's authorized representative shall have the right to examine or cause to be examined the books, papers, records, memoranda or documents of a taxpayer for the purpose of verifying the correctness of a tax return filed or of information presented or for estimating the tax liability of a taxpayer. When a taxpayer fails or refuses to produce the records for examination upon request, the director shall have authority to require, by a subpoena, the attendance of the taxpayer and any other witness(es) whom the director deems necessary or expedient to examine and compel the taxpayer and witness(es) to produce books, papers, records, memoranda or documents relating in any manner to the replacement tax.

701—78.12(85GA,SF451) Information confidential. 2013 Iowa Acts, Senate File 451, sections 19(2) and 19(3), apply generally to the director, deputies, auditors, and present or former officers and employees of the department. Disclosure of the gallons of water delivered by a taxpayer taxed under 2013 Iowa Acts, Senate File 451, sections 10 to 30, in a service area disclosed on a tax return, return information, or investigative or audit information is prohibited. Other persons having acquired this confidential information will be bound by the same rules of secrecy under these Iowa Code provisions as any member of the department and will be subject to the same penalties for violations as provided by law.

STATEWIDE PROPERTY TAX

701—78.13(85GA,SF451) Who must file return. Each taxpayer shall file a true and accurate return with the director. The return shall include all of the information prescribed in 2013 Iowa Acts, Senate File 451, section 26, and any other information or schedules requested by the director. The return shall be signed by an officer or other person duly authorized by the taxpayer and must be certified as correct. If the taxpayer was inactive or ceased the conduct of any activity for which the taxpayer's property was subject to the statewide property tax during the tax year, the return must contain a statement to that effect.

701—78.14(85GA,SF451) Time and place for filing return. The return must be filed with the director on or before March 31 following the tax year. There is no authority for the director to grant an extension of time to file a return. Therefore, any return which is not filed on or before March 31 following the tax year is untimely.

When the due date falls on a Saturday or Sunday, the return will be due the first business day following the Saturday or Sunday. If a return is placed in the mails, properly addressed and postage paid in ample time to reach the director or the department on or before the due date for filing, no penalty will attach should the return not be received until after that date. The functional meaning of this requirement is that if the return is placed in the mails, properly addressed and postage paid, on or before the due date for filing, no penalty will attach. Mailed returns should be addressed to Department of Revenue, Attention: Property Tax Division, Hoover State Office Building, Des Moines, Iowa 50319.

701—78.15(85GA,SF451) Form for filing. Rule 701—78.3(85GA,SF451) is incorporated herein by reference.

701—78.16(85GA,SF451) Payment of tax. Payment of the tax required to be shown due on the statewide property tax return shall accompany the filing of the return. All checks shall be made payable to Treasurer, State of Iowa. Failure to pay the tax required to be shown due on the tax return by the due date shall render the tax delinquent.

REVENUE DEPARTMENT[701](cont'd)

701—78.17(85GA,SF451) Statute of limitations. Rule 701—78.5(85GA,SF451) is incorporated herein by reference.

701—78.18(85GA,SF451) Billings.

78.18(1) Notice of adjustments. Subrule 78.6(1) is incorporated herein by reference.

78.18(2) Notice of assessment. If, after following the procedure outlined in paragraph 78.6(1) “b,” no agreement is reached and the person does not pay the amount determined to be correct to the director, a notice of the amount of tax due shall be sent to the taxpayer. This notice of assessment shall bear the signature of the director and will be sent by ordinary mail to the taxpayer.

A taxpayer has 60 days from the date of the notice of assessment to file a protest according to the provisions of rule 701—7.8(17A) or, if the taxpayer fails to timely appeal a notice of assessment, the taxpayer may make payment pursuant to rule 701—7.8(17A) to the director and file a refund claim with the director within the applicable period provided in 2013 Iowa Acts, Senate File 451, sections 19 and 27, for filing such claims.

78.18(3) Supplemental assessments. Subrule 78.6(3) is incorporated herein by reference.

701—78.19(85GA,SF451) Refunds. Subrules 78.7(1) to 78.7(3), 78.7(5) and 78.7(7) are incorporated herein by reference.

No credit or refund of taxes alleged to be unconstitutional shall be allowed if such taxes were not paid under written protest which specifies the particulars of the alleged unconstitutionality.

701—78.20(85GA,SF451) Abatement of tax. The provisions of rule 701—7.31(421) are applicable to the statewide property tax.

701—78.21(85GA,SF451) Taxpayers required to keep records.

78.21(1) Records required. The records required in this rule must be made available for examination upon request by the director or the director’s authorized representative. The records must include all of those which would support the entries required to be made on the tax return. These records include but are not limited to:

- a. Records associated with the assessed value and base year assessed value of property subject to the statewide property tax.
- b. Records associated with the computation of the statewide property tax required to be shown due on the tax return.
- c. Records associated with the book value of the local amount of any major addition by the local taxing district.
- d. Records associated with the book value of the statewide amount of any major addition.
- e. Records associated with the transfer or disposal of all operating property, as that term is defined in 2013 Iowa Acts, Senate File 451, section 11(10), in the preceding calendar year, by local taxing district.
- f. Records associated with the book value of all other taxpayer property subject to the statewide property tax.
- g. Records associated with the book value of any major addition, by situs, eligible for the urban revitalization exemption provided for in Iowa Code chapter 404.
- h. All work papers associated with any of the records described in this rule.
- i. Records associated with allocation of property subject to statewide property tax among local taxing districts.

78.21(2) The records required to be maintained by these rules shall be maintained by taxpayers for a period of ten years following the later of the original due date for the filing of a tax return in which the statewide property tax is reported or the date on which such return is filed. Upon application to the director and for good cause shown, the director may shorten the period for which any records should be maintained by a taxpayer.

701—78.22(85GA,SF451) Credentials. Rule 701—78.10(85GA,SF451) is incorporated herein by reference.

REVENUE DEPARTMENT[701](cont'd)

701—78.23(85GA,SF451) Audit of records. Rule 701—78.11(85GA,SF451) is incorporated herein by reference.

These rules are intended to implement 2013 Iowa Acts, Senate File 451.

[Filed 9/25/13, effective 11/20/13]

[Published 10/16/13]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 10/16/13.

ARC 1103C

REVENUE DEPARTMENT[701]

Adopted and Filed

Pursuant to the authority of Iowa Code sections 17A.3 and 421.17, the Department of Revenue hereby adopts new Chapter 238, "Flood Mitigation Program," Iowa Administrative Code.

The subject matter of Chapter 238 is the administration of the sales tax increment fund for the Flood Mitigation Program.

Notice of Intended Action was published in the Iowa Administrative Bulletin as **ARC 0955C** on August 21, 2013. No comments were received from the public. These rules are identical to those published under Notice of Intended Action.

After analysis and review of this rule making, it is likely that new jobs will be created as a result of the Flood Mitigation Program.

These rules are intended to implement Iowa Code sections 418.11 and 418.12.

These rules will become effective November 20, 2013.

The following amendment is adopted.

Adopt the following new 701—Chapter 238:

CHAPTER 238

FLOOD MITIGATION PROGRAM

701—238.1(418) Flood mitigation program. The flood mitigation program is a program administered by the flood mitigation board with the assistance of the Iowa department of homeland security and emergency management to assist governmental entities in undertaking projects approved under Iowa Code chapter 418. This chapter sets forth the revenue department's administration of the calculation of sales tax increment funding and the remittance of such funding to governmental entities. The administrative rules for other aspects of the flood mitigation program may be found at 605—Chapter 14.

This rule is intended to implement Iowa Code chapter 418 and section 423.2(11).

701—238.2(418) Definitions.

"*Area*" means the area used to determine the sales tax increment as described in subrule 238.3(2).

"*Base year*" means the fiscal year ending during the calendar year in which the governmental entity's project is approved by the flood mitigation board under Iowa Code section 418.1.

"*Board*" means the flood mitigation board as created in Iowa Code section 418.5.

"*Corresponding quarter*" means the quarter in the base year and the quarter in the year in which the increment is measured that end in the same month. For example, if the base year is fiscal year 2013 and the year in which the increment is first measured is 2014, then the quarter ending in September 2012 of the base year would correspond to the quarter ending in September 2014 of the calendar year.

"*Department*" means the Iowa department of revenue.

"*Governmental entity*" means any of the following:

1. A county.
2. A city.

REVENUE DEPARTMENT[701](cont'd)

3. A joint board or other legal or administrative entity established or designated in an agreement pursuant to Iowa Code chapter 28E between any of the following:

- Two or more cities located in whole or in part within the same county.
- A county and one or more cities that are located in whole or in part within the county.
- A county, one or more cities that are located in whole or in part within the county, and a drainage district formed by mutual agreement under Iowa Code section 468.142 located in whole or in part within the county.

“*Project*” means the construction and reconstruction of levees, embankments, impounding reservoirs, or conduits that are necessary for the protection of property from the effects of floodwaters and may include the deepening, widening, alteration, change, diversion, or other improvement of watercourses if necessary for the protection of such property from the effects of floodwaters. A project may consist of one or more phases of construction or reconstruction that are contracted for separately if the larger project, of which the project is a part, otherwise meets the requirements of Iowa Code section 418.4.

“*Retail establishment*” means a business operated by a retailer as defined in Iowa Code section 423.1.

“*Sales subject to the tax*” means the sales made by retail establishments in the area that are taxable under Iowa Code section 423.2.

“*Sales tax*” means the sales and services tax imposed pursuant to Iowa Code section 423.2.

This rule is intended to implement Iowa Code section 418.1.

701—238.3(418) Sales tax increment calculation.

238.3(1) *Sales tax increment calculation formula.* The department shall calculate quarterly the amount of increased sales tax revenues for each governmental entity approved to use sales tax increment revenues and the amount of such revenues to be transferred to the sales tax increment fund pursuant to Iowa Code section 423.2(11) “*b.*” The department shall calculate the amount of the sales tax increment as follows:

a. Determine the amount of sales subject to the tax under Iowa Code section 423.2 in each applicable area specified in subrule 238.3(2) during the corresponding quarter in the base year from retail establishments in such areas. The base year shall be calculated when the period for processing returns for the final quarter in the base year is complete.

b. Determine the amount of sales subject to the tax under Iowa Code section 423.2 in each applicable area specified in subrule 238.3(2) during the corresponding quarter in each subsequent calendar year from retail establishments in such areas.

c. Subtract the base year quarterly amount determined under paragraph 238.3(1) “*a.*” from the subsequent calendar year quarterly amount in paragraph 238.3(1) “*b.*”

d. If the amount determined under paragraph 238.3(1) “*c.*” is positive, the product of the amount determined under paragraph 238.3(1) “*c.*” multiplied by the tax rate imposed under Iowa Code section 423.2 shall constitute the amount of increased sales tax revenue.

e. Only sales that are made by retail establishments in the area are taken into consideration when the sales subject to tax are determined. Sales otherwise sourced to the area are not considered in the calculation.

238.3(2) *Area used to determine the increment.* The area used to determine the sales tax increment shall include:

a. For projects approved for a governmental entity as defined in Iowa Code section 418.1(4) “*a.*,” only the unincorporated areas of the county.

b. For projects approved for a governmental entity as defined in Iowa Code section 418.1(4) “*b.*,” only the incorporated areas of the city.

c. For projects approved for a governmental entity as defined in Iowa Code section 418.1(4) “*c.*,” the incorporated areas of each city that is participating in the chapter 28E agreement, the unincorporated areas of the participating county, and the area of any participating drainage district not otherwise included in the areas of the participating cities or county, as applicable.

REVENUE DEPARTMENT[701](cont'd)

238.3(3) Identification of retailers. Each governmental entity shall assist the department of revenue in identifying retail establishments in the governmental entity's applicable area that are collecting sales tax. This process shall be ongoing until the governmental entity ceases to utilize sales tax revenue under this chapter.

This rule is intended to implement Iowa Code section 418.11.

701—238.4(418) Sales tax increment fund.

238.4(1) Establishment of the sales tax increment fund. A sales tax increment fund is established as a separate and distinct fund in the state treasury under the control of the department. The fund consists of the amount of the increased state sales and services tax revenues collected by the department within each applicable area specified in Iowa Code section 418.11(3) and deposited in the fund pursuant to Iowa Code section 423.2(11) "b." Moneys deposited in the fund are appropriated to the department for the purposes of this rule. Moneys in the fund shall only be used for the purposes of this rule.

238.4(2) Sales tax increment accounts. An account is created within the fund for each governmental entity that has adopted a resolution under Iowa Code section 418.4(3) "d."

238.4(3) Deposits into the sales tax increment fund. The department shall deposit in the fund the moneys described in subrule 238.4(1) beginning the first day of the quarter following receipt of a resolution under Iowa Code section 418.4(3) "d." However, in no case shall a sales tax increment be calculated under Iowa Code section 418.11 or such moneys be deposited in the fund under this rule prior to January 1, 2014. Additionally, moneys will not be deposited in the fund before the period for processing returns for a given quarter is complete.

238.4(4) Requests for remittances; limitations.

a. Upon request of a governmental entity, the department shall remit the moneys in the governmental entity's account within the fund to the governmental entity for deposit in the governmental entity's flood project fund. Such requests shall be made not more than quarterly. Requests for remittance shall be submitted on forms prescribed by the department.

b. In lieu of quarterly requests, a governmental entity may submit a certified schedule of principal and interest payments on bonds issued under Iowa Code section 418.4. If such a certified schedule is submitted, the department shall, subject to the remittance limitations of this chapter, remit from the governmental entity's account to the governmental entity for deposit in the governmental entity's flood project fund the amounts necessary for such principal and interest payments in accordance with the certified schedule.

c. Requests for remittance shall be made for the amount of moneys in the governmental entity's account necessary to pay the governmental entity's costs or obligations related to the project, according to the sales tax revenue funding needs specified in the approved project plan. A governmental entity shall not, however, during any fiscal year receive remittances under this rule exceeding \$15 million or 70 percent of the total yearly amount of increased sales tax increment revenue in the governmental entity's applicable area and deposited in the governmental entity's account or the annual maximum amount established by the board pursuant to Iowa Code section 418.9(4), whichever is less.

d. The total amount of remittances during any fiscal year for all governmental entities approved to use sales tax revenues under this chapter shall not exceed, in the aggregate, \$30 million. Remittances from the department of revenue shall be deposited in the governmental entity's flood project fund under Iowa Code section 418.13.

e. Each quarter, the department will transfer into the sales tax increment fund the full amount of the increased sales tax subject to the limitations stated in this rule. The director of the department may adjust the amount transferred during the year if it becomes apparent that the total amount transferred will exceed the limitations stated in this rule. If, when the total of all the transfers made to a governmental entity during the year is calculated at the end of the fiscal year, it is determined that the governmental entity received more than the maximum amount permissible under this rule, the department may withhold funds in the subsequent fiscal year to recoup the excess payments.

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f. If the governmental entity has unused funds from a prior quarter in its account within the sales tax increment fund, subject to paragraphs 238.4(4) “a” to “e,” those funds will be available in subsequent quarters so long as the amount is necessary for the purposes of this chapter.

238.4(5) Remittance of funds to the general fund. If the department determines that the revenue accruing to the fund or accounts within the fund exceeds \$30 million, or exceeds the amount necessary for the purposes of this chapter if the amount necessary is less than \$30 million, then those excess moneys shall be credited by the department for deposit in the general fund of the state. The board shall assist the department in determining whether the fund or accounts within the fund have met the limitations of this rule.

238.4(6) Reporting requirements. Each governmental entity approved by the board to use sales tax increment revenues for a project under this chapter shall submit two reports to the board certifying the total amount of nonpublic investment, as defined in Iowa Code section 418.9(2) “d,” that has occurred in the governmental entity’s area as defined in Iowa Code section 418.11(3). The first report shall be submitted not later than five years after the board approved the project. The second report shall be submitted to the board not later than ten years after the board approved the project.

238.4(7) Failure to meet nonpublic investment requirements. If the nonpublic investment requirements of Iowa Code section 418.9(2) “d” are not satisfied, the board shall reduce the governmental entity’s amount of sales tax increment revenues eligible to be remitted during the remaining period of time for receiving remittances by an amount equal to the shortfall in nonpublic investment. However, such a reduction shall not be to an amount less than zero.

This rule is intended to implement Iowa Code section 418.12.

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ARC 1104C

SOIL CONSERVATION DIVISION[27]

Adopted and Filed

Pursuant to the authority of Iowa Code section 161A.71(3) “a,” the Division of Soil Conservation adopts new Chapter 16, “Water Quality Initiative,” Iowa Administrative Code.

This amendment supports the Water Quality Initiative of the Department of Agriculture and Land Stewardship by establishing a new chapter for the initiative. The chapter provides the rules for the targeted watershed demonstration projects and supports individual conservation practices. Eligible practices are identified and requirements for targeted watershed demonstration projects are provided.

Notice of Intended Action for these rules was published in the August 21, 2013, Iowa Administrative Bulletin as **ARC 0979C**.

Three comments were received from the public. Two comments suggested specific changes, some of which were incorporated into the rules. One comment was directed toward the nutrient strategy. The following changes were made to the rules published under Notice:

The word “total” was added to the definition of “nutrient” in rule 27—16.2(161A).

In the definition of “nutrient reduction strategy” in rule 27—16.2(161A), the date reference was changed.

A requirement was added in rule 27—16.4(161A) to clarify that an eligible practice must meet applicable Natural Resources Conservation Service (NRCS) standards and specifications or applicable standards and specifications set out by the Department.

Rule 27—16.7(161A) was changed to clarify that the Division will conduct evaluations within supported subwatersheds.

After analysis and review of this rule making, a positive impact on jobs has been found.

SOIL CONSERVATION DIVISION[27](cont'd)

These rules are intended to implement 2013 Iowa Acts, House File 648, section 20, and Senate File 435, sections 8, 10, 60 and 61.

These rules will become effective November 20, 2013.

The following amendment is adopted.

Adopt the following new 27—Chapter 16:

CHAPTER 16
WATER QUALITY INITIATIVE

27—16.1(161A) Purpose. The purpose of these rules is to support the reduction of nutrient losses and exports over time through the adoption of water quality practices and through the establishment and administration of targeted watershed demonstration projects and individual cost-share practices. The purpose is also to assist education and outreach about the feasibility and value of establishing water quality practices.

27—16.2(161A) Definitions.

“*Council*” means the water resources coordinating council established pursuant to Iowa Code section 466B.3.

“*Department*” means the department of agriculture and land stewardship.

“*Division*” means the division of soil conservation, department of agriculture and land stewardship.

“*Eligible cost-share applicants*” means persons who hold a legal interest in agricultural land used in farming.

“*Eligible targeted watershed demonstration project applicants*” means individual or multiple soil and water conservation districts, counties, county conservation boards, cities, not-for-profit organizations authorized by the secretary of state, public water supply utilities or watershed management authorities.

“*Funds*” include the water quality initiative fund in Iowa Code section 466B.45 and may include other moneys appropriated to the department from the environment first fund created in Iowa Code section 8.57A for cost sharing to match federal funds or other nongovernmental funds.

“*Identified watersheds*” means the area identified by the council or by the division.

“*Maintenance/performance agreement*” means an agreement between the division, the recipient and the landowner. The recipient and landowner agree to maintain the soil conservation practices for which financial incentives from the division through the district have been received. The agreement states that the recipient and landowner will maintain, repair, or reconstruct the practices if they are not maintained according to the terms specified in the agreement. The terms of the agreement shall be specified by the division.

“*Nutrient*” includes total nitrogen and total phosphorus.

“*Nutrient reduction strategy*” means the document created by the department, the department of natural resources, and Iowa State University of Science and Technology dated May 29, 2013.

“*Recipient*” means an eligible applicant who has qualified for and received cost-share payments under this chapter or a project participant who has qualified for and received cost-share payments.

“*Secretary*” means the Iowa secretary of agriculture.

“*Watershed management authority*” means an authority as defined in Iowa Code section 466B.21.

27—16.3(161A) Cost share. The division’s share of the practice cost shall not exceed the lesser of 50 percent of the estimated cost of establishing the practice as determined by the division or 50 percent of the actual cost of the practice.

27—16.4(161A) Eligible practices. Only practices applied to agricultural crop and pasture land whose primary function is to improve water quality will be eligible for funds. These practices are identified in the nutrient reduction strategy or by the division. Practices shall meet applicable Natural Resources Conservation Service conservation standards and specifications or applicable standards and specifications set out by the department. Permanent practices eligible for funding include but are not

SOIL CONSERVATION DIVISION[27](cont'd)

limited to wetlands, bioreactors, and buffers. Management practices eligible for funding include but are not limited to cover crops and living mulches. Application may be made to the division for cost-share funding for individual cost-share practices or for targeted watershed demonstration projects.

27—16.5(161A) Ineligible practices. Repair and maintenance of existing practices are not eligible for funding.

27—16.6(161A) Statewide cost-share practices. Individual statewide cost-share practices may be eligible for funding as determined by the division.

27—16.7(161A) Targeted watershed demonstration projects. Projects shall be conducted in the identified watersheds. The division shall conduct water quality evaluations within supported subwatersheds.

27—16.8(161A) Project threshold application requirements.

16.8(1) General application requirements. Project applications shall include the demonstration, outreach, and education objectives of the project and the plan for implementation; project costs, including the estimated cost of each measure to be implemented for each year of participation; anticipated landowner contributions; requested cost-share match; and expected contributions from project participants. Personnel needs and contributions should be outlined.

16.8(2) Landowner interest. An assessment of the interest and participation of the eligible applicants shall be included. A majority of the eligible applicants must reside or own land in the demonstration project. Collaborative participation by eligible applicants in the same identified subwatershed will be viewed favorably.

16.8(3) Project maintenance. Measures to be taken to ensure the long-term viability of the project through maintenance agreements, easements, or other such measures will be outlined in the agreement.

16.8(4) Time frame. The time frame for implementation will be identified in the application and set out in the agreement.

16.8(5) Project evaluation. The criteria for evaluation plans will be identified in the request for applications, and an evaluation plan will be contained in the project application.

27—16.9(161A) Application review. Identified watershed projects meeting the threshold requirements will be reviewed, evaluated and ranked by the division using criteria described in the request for applications. Funding recommendations will take into account the program objective to demonstrate and promote a variety of conservation practices in combination with education and outreach.

27—16.10(161A) Annual review. The division will review each project annually. The division may establish a budget for the next project year; renegotiate with the applicant or recipient about the objectives, procedures, budget, reports or time schedule; or terminate the project.

27—16.11(161A) Contract requirements. Recipients must complete performance and maintenance of the practice as required by the contract. Practices shall meet applicable Natural Resources Conservation Service conservation standards and specifications or applicable standards and specifications set out in the contract. The division may, for cause, find that a recipient is not in compliance with the requirements. At the division's discretion, remedies for noncompliance may include penalties up to and including the return of funds to the division. Reasons for a finding of noncompliance include but are not limited to the recipient's use of funds for activities not described in the contract, the recipient's failure to complete funded projects in a timely manner, the recipient's failure to carry out the terms of the performance/maintenance agreement, the recipient's failure to comply with applicable state or local rules or regulations, or the lack of a continuing capacity of the recipient to carry out the approved project in a timely manner.

SOIL CONSERVATION DIVISION[27](cont'd)

27—16.12(161A) Appeal. A recipient who has been ordered to maintain, repair or reconstruct a temporary or permanent practice subject to a maintenance/performance agreement may, as appropriate, review the order with the division. When a recipient wishes to appeal an order to maintain, repair or reconstruct a temporary or permanent practice subject to a maintenance/performance agreement, the recipient may file a written request for review with the division. The division review shall be conducted by the division director or the director's designee. This proceeding shall be informal. The recipient shall request the review with the secretary in writing within 30 days following the review with the division. The secretary or the secretary's designee will either affirm, modify, or vacate the administrative order following the completion of the contested case hearing.

These rules are intended to implement 2013 Iowa Acts, House File 648, section 20, and Senate File 435, sections 8, 10, 60 and 61.

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AGENCY	RULE	DELAY
Public Health Department[641]	95.6(2) [IAB 10/2/13, ARC 1074C]	Effective date of January 1, 2014, delayed 70 days by the Administrative Rules Review Committee at its meeting held October 8, 2013. [Pursuant to §17A.4(7)]