



IOWA ADMINISTRATIVE BULLETIN

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CONTENTS IN THIS ISSUE

Pages 676 to 793 include **ARC 4605B** to **ARC 4654B**

AGRICULTURE AND LAND STEWARDSHIP DEPARTMENT[21]

Notice Terminated, Fertilizers and agricultural lime,
43.6"8" **ARC 4605B** 676

ALL AGENCIES

Schedule for rule making 668
Publication procedures 669
Administrative rules on CD-ROM 669
Agency identification numbers 674

CITATION OF ADMINISTRATIVE RULES 673

ECONOMIC DEVELOPMENT, IOWA DEPARTMENT OF[261]

Filed, Iowa economic development board,
amendments to ch 1 **ARC 4633B** 729
Filed, Grow Iowa values fund assistance,
ch 2 **ARC 4634B** 729
Filed, Iowa jobs training program; workforce training
and economic development funds; ACE program,
amendments to chs 7, 9, 20 **ARC 4635B** 730
Filed, Economic development region initiatives,
ch 31 **ARC 4636B** 731
Filed, Tax credits for economic development region
revolving loan fund, ch 32 **ARC 4637B** 731
Filed, Endow Iowa grants program, 46.1 to 46.6
ARC 4638B 732
Filed, Endow Iowa tax credits, 47.1 to 47.5
ARC 4639B 732
Filed, Community economic betterment program,
amendments to ch 53 **ARC 4640B** 732
Filed, New jobs and income program; new capital
investment program; high quality job creation
program, 58.16, 64.8, ch 68 **ARC 4642B** 733
Filed, Enterprise zones, amendments to ch 59
ARC 4641B 744
Filed, Loan and credit guarantee program,
69.1 to 69.7 **ARC 4643B** 745
Filed, Program wage thresholds calculations,
168.201 to 168.203 **ARC 4644B** 745

EDUCATIONAL EXAMINERS BOARD[282] EDUCATION DEPARTMENT[281]"umbrella"

Notice, Testing requirement—applicants from
recognized non-Iowa institutions, 14.103,
14.115, 14.120(1) **ARC 4607B** 676

ENVIRONMENTAL PROTECTION COMMISSION[567]

NATURAL RESOURCES DEPARTMENT[561]"umbrella"

Notice, Equipment and processes for which
construction permits are not required, 20.2,
22.1(2) **ARC 4651B** 677
Notice, Fee structure for wastewater permits,
64.16 **ARC 4652B** 679
Notice, List of major water sources—technical
corrections and additions, ch 65 Table 1
ARC 4649B 681
Notice, Solid waste comprehensive planning
requirements, 101.12 to 101.14 **ARC 4650B** 702
Notice, Regional collection centers and mobile unit
collection and consolidation centers; financial
assistance for the collection of household hazardous
materials and hazardous waste from conditionally
exempt small quantity generators, chs 123, 211
ARC 4648B 703
Notice, Compliance inspector certification program;
annual inspection of underground storage tank
systems, 134.6 to 134.17, 135.20 **ARC 4653B** ... 710
Filed, Federal emission standards for hazardous
air pollutants—adoption by reference, 23.1(4)
ARC 4647B 746
Filed Without Notice, Update of references—federal
effluent and pretreatment standards and associated
analytical methods, 60.2, 62.4, 62.5, 63.1(1)"a"
ARC 4645B 746
Filed, Financial responsibility for underground
storage tanks, 136.1, 136.6(3), 136.8(2),
136.18(1), 136.22 **ARC 4646B** 747

HUMAN SERVICES DEPARTMENT[441]

Notice, Medicaid reimbursement—temporary increase
for nonemergency transportation, transportation
allowance for PROMISE JOBS activities,
78.13(5)"a," 93.110(6)"b" **ARC 4627B** 713

PREFACE

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

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

The Bulletin may also contain public funds interest rates [12C.6]; workers' compensation rate filings [515A.6(7)]; usury rates [535.2(3)“a”]; agricultural credit corporation maximum loan rates [535.12]; and regional banking—notice of application and hearing [524.1905(2)].

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

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Des Moines, IA 50319
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HUMAN SERVICES DEPARTMENT[441] (Cont'd)

Filed, Grounds for terminating social services, 7.5(2), 130.5(2) ARC 4623B	748
Filed, Use of intergovernmental transfers in Medicaid, amendments to chs 36, 79, 81 ARC 4624B	748
Filed, Eligibility—SSA category of Medicare and Medicaid eligibles, 51.6 ARC 4621B	749
Filed, Medicaid premiums for employed people with disabilities, 75.1(39)“b”(1) ARC 4625B ...	749
Filed, Medicaid—exclusion of “covered Part D drugs” from coverage, 78.1, 78.31(4), 78.36(1), 81.10(5), 84.3(3) ARC 4628B	750
Filed, Medicaid drug coverage and reimbursement, 78.1(2), 78.28(1), 79.1(8), 79.1(13), 79.8(3) ARC 4629B	751
Filed Emergency, Medicaid reimbursement— temporary increase for nonemergency transportation, transportation allowance for PROMISE JOBS activities, 78.13(5)“a,” 93.110(6)“b” ARC 4626B	727
Filed Emergency After Notice, Medicaid— reimbursement for most providers, 79.1(2), 79.1(5), 79.1(8), 79.1(16) ARC 4630B	727
Filed, Medicare drug subsidy, ch 91 ARC 4620B ..	751
Filed, Payments—social service providers, foster families, shelter care, amendments to chs 150, 156 ARC 4618B	752
Filed, Flexible family-centered service components of child welfare services system, amend chs 150, 152, 185; rescind ch 180; adopt ch 182 ARC 4631B	753
Filed, Juvenile court services directed programs, amendments to chs 151 ARC 4632B	754
Filed, Child care services, 170.2, 170.4, 170.5 ARC 4622B	755
Filed, Child protective services, amendments to ch 175 ARC 4619B	756

INSURANCE DIVISION[191]

COMMERCE DEPARTMENT[181]“umbrella”

Notice of approval of workers’ compensation rate filing	714
--	-----

**LANDSCAPE ARCHITECTURAL EXAMINING
BOARD[193D]**

Professional Licensing and Regulation Division[193]

COMMERCE DEPARTMENT[181]“umbrella”

Filed, Examinations and licensing; continuing education, 2.8, 3.3 ARC 4609B	756
---	-----

NATURAL RESOURCE COMMISSION[571]

NATURAL RESOURCES DEPARTMENT[561]“umbrella”

Filed, State parks and recreation areas; state forest camping, chs 61, 62 ARC 4654B	757
---	-----

PROFESSIONAL LICENSURE DIVISION[645]

PUBLIC HEALTH DEPARTMENT[641]“umbrella”

Notice, Chiropractic physicians, 41.8(2), 44.3(2), 45.2(25), 46.1 ARC 4606B	714
Notice, Nursing home administrators, 141.9, 144.2(28), 145.1 ARC 4612B	715
Notice, Physician assistants, 328.3(2)“c,” 329.2(25), 330.1 ARC 4615B	716

PUBLIC HEARINGS

Summarized list	670
-----------------------	-----

RACING AND GAMING COMMISSION[491]

INSPECTIONS AND APPEALS DEPARTMENT[481]“umbrella”

Filed, License revocation; state fire and building codes; trifecta wagering, amendments to chs 1, 4, 5, 8 ARC 4608B	771
--	-----

REVENUE DEPARTMENT[701]

Notice, Property taxes—assessments, appeal process, protests, credits and exemptions, amendments to chs 70 to 75, 78 to 80, 120, 122 to 124 ARC 4613B	716
Filed, Tax credits—historic preservation and cultural and entertainment district, eligible housing business, endow Iowa, amendments to chs 39, 42, 52, 58 ARC 4614B	772

TRANSPORTATION DEPARTMENT[761]

Notice, Administration of the airport improvement program, 710.1, 710.3 to 710.5 ARC 4610B	723
Notice, General aviation vertical infrastructure program, 717.2 to 717.4, 717.7, 717.8, 717.10 ARC 4611B	725

USURY

Notice	726
--------------	-----

UTILITIES DIVISION[199]

COMMERCE DEPARTMENT[181]“umbrella”

Filed, Revised procedural rules, 1.8(4); chs 7, 26; 32.9(4) ARC 4617B	773
Filed, Quality of service reporting by eligible telecommunications carriers, 39.3(1)“b,” 39.5 ARC 4616B	793

Schedule for Rule Making 2005

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. 31 '04	Jan. 19 '05	Feb. 8 '05	Feb. 23 '05	Feb. 25 '05	Mar. 16 '05	Apr. 20 '05	July 18 '05
Jan. 14 '05	Feb. 2	Feb. 22	Mar. 9	Mar. 11	Mar. 30	May 4	Aug. 1
Jan. 28	Feb. 16	Mar. 8	Mar. 23	Mar. 25	Apr. 13	May 18	Aug. 15
Feb. 11	Mar. 2	Mar. 22	Apr. 6	Apr. 8	Apr. 27	June 1	Aug. 29
Feb. 25	Mar. 16	Apr. 5	Apr. 20	Apr. 22	May 11	June 15	Sept. 12
Mar. 11	Mar. 30	Apr. 19	May 4	May 6	May 25	June 29	Sept. 26
Mar. 25	Apr. 13	May 3	May 18	***May 18***	June 8	July 13	Oct. 10
Apr. 8	Apr. 27	May 17	June 1	June 3	June 22	July 27	Oct. 24
Apr. 22	May 11	May 31	June 15	June 17	July 6	Aug. 10	Nov. 7
May 6	May 25	June 14	June 29	***June 29***	July 20	Aug. 24	Nov. 21
May 18	June 8	June 28	July 13	July 15	Aug. 3	Sept. 7	Dec. 5
June 3	June 22	July 12	July 27	July 29	Aug. 17	Sept. 21	Dec. 19
June 17	July 6	July 26	Aug. 10	Aug. 12	Aug. 31	Oct. 5	Jan. 2 '06
June 29	July 20	Aug. 9	Aug. 24	***Aug. 24***	Sept. 14	Oct. 19	Jan. 16 '06
July 15	Aug. 3	Aug. 23	Sept. 7	Sept. 9	Sept. 28	Nov. 2	Jan. 30 '06
July 29	Aug. 17	Sept. 6	Sept. 21	Sept. 23	Oct. 12	Nov. 16	Feb. 13 '06
Aug. 12	Aug. 31	Sept. 20	Oct. 5	Oct. 7	Oct. 26	Nov. 30	Feb. 27 '06
Aug. 24	Sept. 14	Oct. 4	Oct. 19	Oct. 21	Nov. 9	Dec. 14	Mar. 13 '06
Sept. 9	Sept. 28	Oct. 18	Nov. 2	Nov. 4	Nov. 23	Dec. 28	Mar. 27 '06
Sept. 23	Oct. 12	Nov. 1	Nov. 16	***Nov. 16***	Dec. 7	Jan. 11 '06	Apr. 10 '06
Oct. 7	Oct. 26	Nov. 15	Nov. 30	Dec. 2	Dec. 21	Jan. 25 '06	Apr. 24 '06
Oct. 21	Nov. 9	Nov. 29	Dec. 14	***Dec. 14***	Jan. 4 '06	Feb. 8 '06	May 8 '06
Nov. 4	Nov. 23	Dec. 13	Dec. 28	Dec. 30	Jan. 18 '06	Feb. 22 '06	May 22 '06
Nov. 16	Dec. 7	Dec. 27	Jan. 11 '06	Jan. 13 '06	Feb. 1 '06	Mar. 8 '06	June 5 '06
Dec. 2	Dec. 21	Jan. 10 '06	Jan. 25 '06	Jan. 27 '06	Feb. 15 '06	Mar. 22 '06	June 19 '06
Dec. 14	Jan. 4 '06	Jan. 24 '06	Feb. 8 '06	Feb. 10 '06	Mar. 1 '06	Apr. 5 '06	July 3 '06
Dec. 30	Jan. 18 '06	Feb. 7 '06	Feb. 22 '06	Feb. 24 '06	Mar. 15 '06	Apr. 19 '06	July 17 '06

PRINTING SCHEDULE FOR IAB

<u>ISSUE NUMBER</u>	<u>SUBMISSION DEADLINE</u>	<u>ISSUE DATE</u>
12	Wednesday, November 16, 2005	December 7, 2005
13	Friday, December 2, 2005	December 21, 2005
14	Wednesday, December 14, 2005	January 4, 2006

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

PUBLICATION PROCEDURES

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FROM: Kathleen K. West, Iowa Administrative Code Editor
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AGENCY	HEARING LOCATION	DATE AND TIME OF HEARING
EDUCATIONAL EXAMINERS BOARD[282]		
Applicants from recognized non-Iowa institutions, 14.103, 14.115, 14.120(1) IAB 11/9/05 ARC 4607B	Room 3 North, Third Floor Grimes State Office Bldg. Des Moines, Iowa	November 29, 2005 1 p.m.
ENVIRONMENTAL PROTECTION COMMISSION[567]		
Air pollution—equipment and processes for which construction permits are not required, 20.2, 22.1(2) IAB 11/9/05 ARC 4651B	Conference Rooms Air Quality Bureau 7900 Hickman Rd. Urbandale, Iowa	December 12, 2005 1 p.m.
Fee structure for wastewater permits, 64.16 IAB 11/9/05 ARC 4652B (ICN Network)	ICN Room, Sixth Floor Department of Public Health Lucas State Office Bldg. Des Moines, Iowa	November 29, 2005 10 a.m.
	LeMars Community High School 921 Third Ave. SW LeMars, Iowa	November 29, 2005 10 a.m.
	High School 710 W. Main New Hampton, Iowa	November 29, 2005 10 a.m.
	Alden High School 1903 N. Taylor Iowa Falls, Iowa	November 29, 2005 10 a.m.
	Loess Hills AEA 13 24997 Hwy. 92 Council Bluffs, Iowa	November 29, 2005 10 a.m.
	High School 501 N. Grand Chariton, Iowa	November 29, 2005 10 a.m.
	Great River AEA 16 3601 West Ave. Burlington, Iowa	November 29, 2005 10 a.m.
	ICN Room, Sixth Floor Department of Public Health Lucas State Office Bldg. Des Moines, Iowa	November 30, 2005 2 p.m.
	Iowa Central Community College 916 N. Russell Storm Lake, Iowa	November 30, 2005 2 p.m.
	NIACC – 1 500 College Dr. Mason City, Iowa	November 30, 2005 2 p.m.
	Public Library 304 N. Franklin St. Manchester, Iowa	November 30, 2005 2 p.m.

ENVIRONMENTAL PROTECTION COMMISSION[567] (Cont'd)
(ICN Network)

	Southwestern Community College – 1 1501 W. Townline Rd. Creston, Iowa	November 30, 2005 2 p.m.
	Saydel High School 5601 NE Seventh St. Des Moines, Iowa	December 1, 2005 7 p.m.
	Public Library 21 E. Third St. Spencer, Iowa	December 1, 2005 7 p.m.
	St. Edmond High School 501 N. 22nd St. Fort Dodge, Iowa	December 1, 2005 7 p.m.
	High School 800 Third Ave. Audubon, Iowa	December 1, 2005 7 p.m.
	Kimberly Center 1002 Kimberly Davenport, Iowa	December 1, 2005 7 p.m.
	Prairie High School 401 76th Ave. SW Cedar Rapids, Iowa	December 1, 2005 7 p.m.
Major water sources, ch 65 table 1 IAB 11/9/05 ARC 4649B	Fourth Floor East Conference Room Wallace State Office Bldg. Des Moines, Iowa	December 1, 2005 1:30 p.m.
Solid waste comprehensive planning requirements, 101.12 to 101.14 IAB 11/9/05 ARC 4650B	Fourth Floor East Conference Room Wallace State Office Bldg. Des Moines, Iowa	December 2, 2005 10 a.m. to 12 noon
Regional collection centers and mobile unit collection and consolidation centers; financial assistance for collection of household hazardous materials and hazardous waste from conditionally exempt small quantity generators, chs 123, 211 IAB 11/9/05 ARC 4648B	Fifth Floor West Conference Room Wallace State Office Bldg. Des Moines, Iowa	December 5, 2005 1 to 2 p.m.
Compliance inspector certification program; annual inspection of underground storage tank system, ch 134 title, 134.6 to 134.17, 135.20 IAB 11/9/05 ARC 4653B	Public Library 1401 Fifth St. Coralville, Iowa	November 29, 2005 1 p.m.
	Community Hall 111 N. Main St. Denison, Iowa	November 30, 2005 1 p.m.
	Fourth Floor Conference Room Wallace State Office Bldg. Des Moines, Iowa	December 2, 2005 1 p.m.

IOWA PUBLIC EMPLOYEES' RETIREMENT SYSTEM[495]

Investment board; benefits advisory committee; benefits, 2.1, 3.2 to 3.4, 4.6, 11.7, 12.8, 17.13, 26.3 IAB 10/26/05 ARC 4601B	7401 Register Dr. Des Moines, Iowa	November 15, 2005 9 a.m.
---	---------------------------------------	-----------------------------

LAW ENFORCEMENT ACADEMY[501]

Hearing standards for law enforcement officers, 2.1(10) IAB 10/26/05 ARC 4591B	Conference Room Law Enforcement Acad., Camp Dodge Johnston, Iowa	November 17, 2005 10 a.m.
Training requirements for law enforcement officers and jailers, 3.5, 3.6, 3.8, 3.9, 8.1, 9.1, 9.3, 10.10 IAB 10/26/05 ARC 4592B	Conference Room Law Enforcement Acad., Camp Dodge Johnston, Iowa	November 17, 2005 11 a.m.

NATURAL RESOURCE COMMISSION[571]

Whitetail hunting preserves, ch 115 IAB 10/26/05 ARC 4586B (See also ARC 4585B)	Fourth Floor East Conference Room Wallace State Office Bldg. Des Moines, Iowa	November 15, 2005 10 a.m.
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PROFESSIONAL LICENSURE DIVISION[645]

Chiropractic physicians, 41.8(2), 44.3(2), 45.2(25), 46.1 IAB 11/9/05 ARC 4606B	Fifth Floor Board Conference Rm. Lucas State Office Bldg. Des Moines, Iowa	November 29, 2005 9 to 9:30 a.m.
Nursing home administrators, 141.9, 144.2(28), 145.1 IAB 11/9/05 ARC 4612B	Fifth Floor Board Conference Rm. Lucas State Office Bldg. Des Moines, Iowa	November 29, 2005 8:30 to 9 a.m.
Optometrists—continuing education, 180.1, 180.3, 180.11, 181.1 to 181.4 IAB 10/26/05 ARC 4598B	Fifth Floor Board Conference Rm. Lucas State Office Bldg. Des Moines, Iowa	November 15, 2005 9:30 to 10 a.m.
Optometrists, 180.5(2), 183.2(25), 184.1 IAB 10/26/05 ARC 4599B	Fifth Floor Board Conference Rm. Lucas State Office Bldg. Des Moines, Iowa	November 15, 2005 9:30 to 10 a.m.
Podiatrists, 220.9(2), 224.2(26), 225.1 IAB 10/26/05 ARC 4593B	Fifth Floor Board Conference Rm. Lucas State Office Bldg. Des Moines, Iowa	November 15, 2005 9 to 9:30 a.m.
Physician assistants, 328.3(2), 329.2(25), 330.1 IAB 11/9/05 ARC 4615B	Fifth Floor Board Conference Rm. Lucas State Office Bldg. Des Moines, Iowa	November 29, 2005 9:30 to 10 a.m.

REAL ESTATE COMMISSION[193E]

Prohibition of licensees' participation in certain arrangements with persons not licensed in Iowa, 7.4(8) IAB 10/26/05 ARC 4584B	Second Floor Professional Licensing Conference Room 1920 SE Hulsizer Ankeny, Iowa	November 15, 2005 10 a.m.
--	---	------------------------------

STATE PUBLIC DEFENDER[493]

Claims for indigent defense services, 7.1, 10.5, 10.7, 12.2, 12.6 to 12.9, 13.2, 14.3, 14.4 IAB 10/26/05 ARC 4595B	Conference Room 422 Lucas State Office Bldg. Des Moines, Iowa	November 15, 2005 9 a.m.
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TRANSPORTATION DEPARTMENT[761]

Regulations applicable to carriers, 520.1 IAB 10/26/05 ARC 4604B	DOT Conference Room Park Fair Mall 100 Euclid Ave. Des Moines, Iowa	November 17, 2005 10 a.m. (If requested)
Airport improvement program, 710.1, 710.3 to 710.5 IAB 11/9/05 ARC 4610B	Modal Division Conference Room 800 Lincoln Way Ames, Iowa	December 1, 2005 10 a.m. (If requested)
General aviation vertical infrastructure program, amendments to ch 717 IAB 11/9/05 ARC 4611B	Modal Division Conference Room 800 Lincoln Way Ames, Iowa	December 1, 2005 11 a.m. (If requested)

CITATION of Administrative Rules

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

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

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

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

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

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

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

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

The following list will be updated as changes occur:

ADMINISTRATIVE SERVICES DEPARTMENT[11]
 AGRICULTURE AND LAND STEWARDSHIP DEPARTMENT[21]
 Agricultural Development Authority[25]
 Soil Conservation Division[27]
 ATTORNEY GENERAL[61]
 AUDITOR OF STATE[81]
 BEEF INDUSTRY COUNCIL, IOWA[101]
 BLIND, DEPARTMENT FOR THE[111]
 CAPITAL INVESTMENT BOARD, IOWA[123]
 CITIZENS’ AIDE[141]
 CIVIL RIGHTS COMMISSION[161]
 COMMERCE DEPARTMENT[181]
 Alcoholic Beverages Division[185]
 Banking Division[187]
 Credit Union Division[189]
 Insurance Division[191]
 Professional Licensing and Regulation Division[193]
 Accountancy Examining Board[193A]
 Architectural Examining Board[193B]
 Engineering and Land Surveying Examining Board[193C]
 Landscape Architectural Examining Board[193D]
 Real Estate Commission[193E]
 Real Estate Appraiser Examining Board[193F]
 Savings and Loan Division[197]
 Utilities Division[199]
 CORRECTIONS DEPARTMENT[201]
 Parole Board[205]
 CULTURAL AFFAIRS DEPARTMENT[221]
 Arts Division[222]
 Historical Division[223]
 ECONOMIC DEVELOPMENT, IOWA DEPARTMENT OF[261]
 City Development Board[263]
 Grow Iowa Values Board[264]
 Iowa Finance Authority[265]
 EDUCATION DEPARTMENT[281]
 Educational Examiners Board[282]
 College Student Aid Commission[283]
 Higher Education Loan Authority[284]
 Iowa Advance Funding Authority[285]
 Libraries and Information Services Division[286]
 Public Broadcasting Division[288]
 School Budget Review Committee[289]
 EGG COUNCIL, IOWA[301]
 ELDER AFFAIRS DEPARTMENT[321]
 EMPOWERMENT BOARD, IOWA[349]
 ETHICS AND CAMPAIGN DISCLOSURE BOARD, IOWA[351]
 EXECUTIVE COUNCIL[361]
 FAIR BOARD[371]
 GENERAL SERVICES DEPARTMENT[401]
 HUMAN INVESTMENT COUNCIL[417]
 HUMAN RIGHTS DEPARTMENT[421]
 Community Action Agencies Division[427]
 Criminal and Juvenile Justice Planning Division[428]
 Deaf Services Division[429]
 Persons With Disabilities Division[431]
 Latino Affairs Division[433]
 Status of African-Americans, Division on the[434]
 Status of Women Division[435]

HUMAN SERVICES DEPARTMENT[441]
INFORMATION TECHNOLOGY DEPARTMENT[471]
INSPECTIONS AND APPEALS DEPARTMENT[481]
 Employment Appeal Board[486]
 Foster Care Review Board[489]
 Racing and Gaming Commission[491]
 State Public Defender[493]
IOWA PUBLIC EMPLOYEES' RETIREMENT SYSTEM[495]
LAW ENFORCEMENT ACADEMY[501]
LIVESTOCK HEALTH ADVISORY COUNCIL[521]
LOTTERY AUTHORITY, IOWA[531]
MANAGEMENT DEPARTMENT[541]
 Appeal Board, State[543]
 City Finance Committee[545]
 County Finance Committee[547]
NARCOTICS ENFORCEMENT ADVISORY COUNCIL[551]
NATURAL RESOURCES DEPARTMENT[561]
 Energy and Geological Resources Division[565]
 Environmental Protection Commission[567]
 Natural Resource Commission[571]
 Preserves, State Advisory Board for[575]
PERSONNEL DEPARTMENT[581]
PETROLEUM UNDERGROUND STORAGE TANK FUND
 BOARD, IOWA COMPREHENSIVE[591]
PREVENTION OF DISABILITIES POLICY COUNCIL[597]
PUBLIC DEFENSE DEPARTMENT[601]
 Homeland Security and Emergency Management Division[605]
 Military Division[611]
PUBLIC EMPLOYMENT RELATIONS BOARD[621]
PUBLIC HEALTH DEPARTMENT[641]
 Substance Abuse Commission[643]
 Professional Licensure Division[645]
 Dental Examiners Board[650]
 Medical Examiners Board[653]
 Nursing Board[655]
 Pharmacy Examiners Board[657]
PUBLIC SAFETY DEPARTMENT[661]
RECORDS COMMISSION[671]
REGENTS BOARD[681]
 Archaeologist[685]
REVENUE DEPARTMENT[701]
SECRETARY OF STATE[721]
SEED CAPITAL CORPORATION, IOWA[727]
SHEEP AND WOOL PROMOTION BOARD, IOWA[741]
TELECOMMUNICATIONS AND TECHNOLOGY COMMISSION, IOWA[751]
TRANSPORTATION DEPARTMENT[761]
 Railway Finance Authority[765]
TREASURER OF STATE[781]
TURKEY MARKETING COUNCIL, IOWA[787]
UNIFORM STATE LAWS COMMISSION[791]
VETERANS AFFAIRS COMMISSION[801]
VETERINARY MEDICINE BOARD[811]
VOLUNTEER SERVICE, IOWA COMMISSION ON[817]
VOTER REGISTRATION COMMISSION[821]
WORKFORCE DEVELOPMENT DEPARTMENT[871]
 Labor Services Division[875]
 Workers' Compensation Division[876]
 Workforce Development Board and
 Workforce Development Center Administration Division[877]

ARC 4605B**AGRICULTURE AND LAND
STEWARDSHIP DEPARTMENT[21]****Notice of Termination**

Pursuant to the authority of Iowa Code sections 159.5(11) and 200.14, the Department of Agriculture and Land Stewardship terminates the rule making initiated by its Notice of Intended Action published in the Iowa Administrative Bulletin on June 22, 2005, as **ARC 4246B**, amending Chapter 43, "Fertilizers and Agricultural Lime," Iowa Administrative Code.

The Notice proposed to amend Chapter 43 by striking an exception to the requirement of nameplates on anhydrous ammonia tanks and adding a new rule pertaining to the certification/renaming of anhydrous ammonia applicators and nurse tanks with unreadable or missing nameplates under the jurisdiction of the Department. This proposed rule delegated the certification/renaming process to firms that hold a valid R-stamp, in compliance with the current edition of the National Board Inspection Code. The federal Department of Transportation regulations require legible nameplates on applicators and nurse tanks.

The Department is terminating the rule making commenced in **ARC 4246B** because, simultaneously with its filing, the rule was also Adopted and Filed Emergency as **ARC 4247B**. The Department has concluded the public participation portion of the noticed rule making and did not receive any comments on the rule. As a result, the Department does not intend to make any modifications to the rule that was Adopted and Filed Emergency as **ARC 4247B**.

ARC 4607B**EDUCATIONAL EXAMINERS
BOARD[282]****Notice of Intended Action**

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

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

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

The proposed amendments add a testing requirement for individuals who apply for licensure after completing a teacher education program at a non-Iowa institution. It is the intent of the proposed amendments to meet the No Child Left Behind (NCLB) requirements by providing an option for out-of-state applicants to demonstrate an equivalent assessment similar to the multiple measures used by in-state teacher preparation programs.

A waiver provision is not included. The Board has adopted a uniform waiver rule.

Any interested party or persons may present their views either orally or in writing at the public hearing that will be held Tuesday, November 29, 2005, at 1 p.m. in Room

3 North, Third Floor, Grimes State Office Building, East 14th Street and Grand Avenue, Des Moines, Iowa.

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 proposed amendments. Persons who wish to make oral presentations at the public hearing may contact the Executive Director, Board of Educational Examiners, Grimes State Office Building, East 14th Street and Grand Avenue, Des Moines, Iowa 50319-0147, or at (515)281-5849, prior to the date of the public hearing.

Any person who intends to attend the public hearing and requires special accommodations for specific needs, such as a sign language interpreter, should contact the office of the Executive Director at (515)281-5849.

Any interested person may make written comments or suggestions on the proposed amendments before 4 p.m. on Friday, December 2, 2005. Written comments and suggestions should be addressed to Barbara F. Hendrickson, Board Secretary, Board of Educational Examiners, at the above address, or sent by E-mail to barbara.hendrickson@iowa.gov, or by fax to (515)281-7669.

These amendments are intended to implement Iowa Code chapter 272.

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

The following amendments are proposed.

ITEM 1. Rescind rule 282—14.103(272) and adopt the following **new** rule in lieu thereof:

282—14.103(272) Applicants from recognized non-Iowa institutions. An applicant for initial licensure who completes the teacher, administrator, or school service personnel preparation program from a recognized non-Iowa institution must verify the requirements of either 14.103(1) or 14.103(2).

14.103(1) Provided all requirements for Iowa licensure have been met, the applicant shall:

a. Have the recommendation for the specific license and endorsement(s) from the designated recommending official at the recognized institution where the preparation was completed; and

b. Submit a copy of a valid regular teaching certificate or license exclusive of a temporary, emergency or substitute license or certificate; and

c. Provide verification of successfully passing mandated tests in the state in which the applicant is currently licensed if the applicant has completed fewer than three years of teaching experience.

14.103(2) An applicant who holds a valid license from another state and whose preparation was completed through a state-approved alternative teacher preparation program must verify the following:

a. The applicant shall have the recommendation for the specific license and endorsement(s) from the designated recommending official at the recognized institution where the alternative teacher preparation was completed or shall have the recommendation for the specific license and endorsement(s) from the state licensing agency/department in the state where the alternative teacher preparation program was completed, provided all requirements for Iowa licensure have been met; and

b. The applicant must submit a copy of a valid regular teaching certificate or license exclusive of a temporary, emergency or substitute license or certificate from the state

EDUCATIONAL EXAMINERS BOARD[282](cont'd)

where the alternative teacher preparation program was completed; and

c. If the applicant has completed fewer than three years of teaching experience, the applicant must provide verification from the state licensing agency/department in the state where the alternative preparation program was completed indicating that the applicant has successfully passed that state's mandated tests.

A recognized non-Iowa teacher preparation institution is one that is state-approved and is accredited by the regional accrediting agency for the territory in which the institution is located.

ITEM 2. Amend rule 282—14.115(272) as follows:

282—14.115(272) Requirements for a Class A license. A nonrenewable Class A license valid for one year may be issued to an individual who has completed a teacher education program under any one of the following conditions:

1. to 5. No change.

6. *Based on a mentoring and induction program. An applicant may be eligible for a Class A license if the school district, after conducting a comprehensive evaluation, recommends and verifies that the applicant shall participate in the mentoring program for a third year.*

7. *Based on a nonlicensed out-of-state applicant. If an applicant completes a teacher education program at a non-Iowa institution and has never held a valid regular license or certificate exclusive of a temporary, emergency or substitute license or certificate, then the applicant must provide verification of successfully passing the testing requirements in the state where the teacher preparation program was completed.*

8. *Based on an administrative decision. The bureau of practitioner preparation and licensure executive director is authorized to issue a Class A license to applicants an applicant whose services are needed to fill a position in unique need circumstances.*

ITEM 3. Amend subrule **14.120(1)**, paragraphs “a” and “c,” as follows:

a. A two-year nonrenewable exchange license may be issued to an individual applicant under the following conditions:

(1) The individual applicant has completed a state-approved teacher education program in a college or university approved by the state board of education or the state board of educational examiners in the home state; and

(2) The individual applicant holds a valid regular certificate or license in the state in which the preparation was completed; and

(3) The individual applicant is not subject to any pending disciplinary proceedings in any state; and

(4) The applicant for the exchange license complies with all requirements with regard to application processes and payments of licensure fees; and

(5) *If the applicant has fewer than three years of teaching experience, the applicant must verify successful completion of mandated tests in the state in which the applicant is currently licensed.*

c. Each individual receiving the two-year exchange license must complete any identified licensure deficiencies in order to be eligible for an initial regular license in Iowa.

ARC 4651B**ENVIRONMENTAL PROTECTION COMMISSION[567]****Notice of Intended Action**

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

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

Pursuant to the authority of Iowa Code section 455B.133, the Environmental Protection Commission hereby gives Notice of Intended Action to amend Chapter 20, “Scope of Title—Definitions—Forms—Rules of Practice,” and Chapter 22, “Controlling Pollution,” Iowa Administrative Code.

The purpose of this rule making is to list additional equipment and processes that, due to their low emissions of regulated air pollutants, are not required to obtain construction permits.

In July 2005, the Department and representatives from Iowa industrial facilities, the Iowa Department of Economic Development, the University of Northern Iowa Air Emissions Assistance Program, and Region VII of the U.S. Environmental Protection Agency (EPA) met again to develop additional exemptions from construction permitting. The work group first convened in January 2005 to specify how “indoor” sources of air pollution are addressed in construction permitting. Indoor sources are sources of air pollution that are not directly vented to the outside but have emissions that leave the building through doors, vents, or other means. The Department has historically required that equipment or processes at these sources be permitted only if they were part of a significant project or if the emissions were exhausted indoors in a manner that was intended to circumvent the requirement to obtain a construction permit.

These amendments develop a more extensive list of exemptions from the requirement to obtain a construction permit for equipment and processes with emissions that are expected to have little or no environmental or human health consequences. The Department believes that these amendments do not represent a relaxation of air pollution permitting or control requirements but represent historical expectations for construction permitting.

It is important to note that all construction permitting exemptions apply only to the requirement to obtain a construction permit and that the owner or operator of a source retains the obligation to determine whether other air permitting requirements still apply to exempted equipment or processes and, if such obligations exist, to meet them.

Technical justifications were prepared by the work group members to support the validity of exempting certain equipment and processes from the requirement to obtain a construction permit. Additional safeguards were built into some of the exemptions to further protect human health and the environment as a result of the technical reviews.

Item 1 amends the definitions in Chapter 20 to add a definition of “research and development activities.” This definition is being added to clarify which activities can be exempted under the proposed research and development exemption.

Item 2 amends an existing construction permit exemption in Chapter 22. The exemption in 22.1(2)“m” is being modified in response to a change in the federal new source perfor-

ENVIRONMENTAL PROTECTION COMMISSION[567](cont'd)

mance standard (NSPS) for storage tanks. The NSPS was revised in 2003, and the exemption limits were increased. Amending 22.1(2)“m” will keep the exemption aligned with the federal regulations.

Item 3 adds applications using hot melt adhesives to the list of exempt equipment, processes and activities in 22.1(2)“x.” Paragraph “x” of subrule 22.1(2) includes various equipment, processes, and activities which are generally listed as “trivial” activities in EPA’s 1995 “White Paper for Streamlined Development of Part 70 Permit Applications.” Equipment, processes, and activities that have no specific applicable requirements and result in extremely small emissions are considered to be trivial activities for purposes of Part 70 (Title V) operating permit applications. Based on the Department’s technical review, applications that use hot melt adhesives can also be considered to be a trivial activity in that these applications generate emissions that have little or no environmental or human health consequences and can therefore be exempted from the requirement to obtain a construction permit.

Item 4 adds four new construction permitting exemptions to Chapter 22. The new exemptions are for product labeling, research and development, regional collection centers, and cold solvent cleaning machines.

Any person may make written suggestions or comments on the proposed amendments on or before December 14, 2005. Written comments should be directed to Wendy Rains, Iowa Department of Natural Resources, Air Quality Bureau, 7900 Hickman Road, Suite 1, Urbandale, Iowa 50322; fax (515)242-5094; or by electronic mail to wendy.rains@dnr.state.ia.us.

A public hearing will be held at 1 p.m. on December 12, 2005, in the conference rooms of the Department’s Air Quality Bureau offices located at 7900 Hickman Road, Urbandale, Iowa, at which time comments may be submitted orally or in writing. All comments must be received no later than December 14, 2005.

Any persons who intend to attend the public hearing and have special requirements, such as those relating to hearing or mobility impairments, should contact Wendy Rains at (515)281-6061 to advise of any specific needs.

These amendments are intended to implement Iowa Code section 455B.133.

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

The following amendments are proposed.

ITEM 1. Amend rule **567—20.2(455B)** by adopting the following **new** definition in alphabetical order:

“Research and development activities” means activities:

(1) operated under the close supervision of technically trained personnel; (2) conducted for the primary purpose of theoretical research or research and development into new or improved processes and products; (3) that do not manufacture more than de minimis amounts of commercial products; and (4) that do not contribute to the manufacture of commercial products by collocated sources in more than a de minimis manner.

ITEM 2. Amend paragraph **22.1(2)“m”** as follows:

m. Storage tanks with a capacity of less than ~~40,570~~ **19,812** gallons and an annual throughput of less than ~~40,000~~ **200,000** gallons.

ITEM 3. Amend paragraph **22.1(2)“x”** by adopting the following **new** subparagraph:

(27) Application of hot melt adhesives from closed-pot systems using polyolefin compounds, polyamides, acrylics, ethylene vinyl acetate and urethane material when stored and applied at the manufacturer’s recommended temperatures. Equipment used to apply hot melt adhesives shall have a safety device that automatically shuts down the equipment if the hot melt temperature exceeds the manufacturer’s recommended application temperature.

ITEM 4. Amend subrule **22.1(2)** by adopting the following **new** paragraphs:

jj. Product labeling using laser and ink-jet printers with target distances less than or equal to six inches and an annual material throughput of less than 1,000 gallons per year as calculated on a stationary source-wide basis.

kk. Equipment related to research and development activities at a stationary source, provided that:

(1) Actual emissions from all research and development activities at the stationary source based on a 12-month rolling total are less than the following levels:

40 pounds per year of lead and lead compounds expressed as lead;

5 tons per year of sulfur dioxide;

5 tons per year of nitrogen oxides;

5 tons per year of volatile organic compounds;

5 tons per year of carbon monoxide;

5 tons per year of particulate matter (particulate matter as defined in 40 CFR Part 51.100(pp) as amended through November 29, 2004);

2.5 tons per year of PM10; and

5 tons per year of hazardous pollutants (as defined in rule 22.100(455B)); and

(2) The owner or operator maintains records of actual operations demonstrating that the annual emissions from all research and development activities conducted under this exemption are below the levels listed above. These records shall:

1. Include a list of equipment that is included under the exemption;

2. Include records of actual operation and detailed calculations of actual annual emissions, reflecting the use of any control equipment and demonstrating that the emissions are below the levels specified in the exemption;

3. Include, if air pollution equipment is used in the calculation of emissions, a copy of any report of manufacturer’s testing, if available. The department may require a test if it believes that a test is necessary for the exemption claim; and

4. Be maintained on site for a minimum of two years, be made available for review during normal business hours and for state and EPA on-site inspections, and be provided to the director or the director’s designee upon request. Facilities designated as major sources pursuant to rules 22.4(455B) and 22.101(455B), or subject to any applicable federal requirements, shall retain all records demonstrating compliance with this exemption for five years.

(3) An owner or operator using this exemption obtains a construction permit or ceases operation of equipment if operation of the equipment would cause the emission levels listed in this exemption to be exceeded.

ll. A regional collection center (RCC), as defined in 567—Chapter 211, involved in the processing of permitted hazardous material from households and conditionally exempt small quantity generators (CESQG), not to exceed 1,200,000 pounds of VOC containing material in a 12-month rolling period. Latex paint drying may not exceed 120,000

ENVIRONMENTAL PROTECTION COMMISSION[567](cont'd)

pounds per year on a 12-month rolling total. Other nonprocessing emission units (e.g., standby generators and waste oil heaters) shall not be eligible to use this exemption.

mm. Cold solvent cleaning machines that are not in-line cleaning machines, where the maximum vapor pressure of the solvents used shall not exceed 0.7 kPa (5 mmHg or 0.1 psi) at 20°C (68°F). The machine must be equipped with a tightly fitted cover or lid that shall be closed at all times except during parts entry and removal. This exemption cannot be used for cold solvent cleaning machines that use solvent containing methylene chloride (CAS # 75-09-2), perchloro-ethylene (CAS # 127-18-4), trichloroethylene (CAS # 79- 01-6), 1,1,1-trichloroethane (CAS # 71-55-6), carbon tetrachloride (CAS # 56-23-5) or chloroform (CAS # 67-66-3), or any combination of these halogenated HAP solvents in a total concentration greater than 5 percent by weight.

ARC 4652B**ENVIRONMENTAL PROTECTION
COMMISSION[567]****Notice of Intended Action**

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

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

Pursuant to the authority of Iowa Code sections 455B.173 and 455B.105(11), the Environmental Protection Commission proposes to amend Chapter 64, “Wastewater Construction and Operation Permits,” Iowa Administrative Code.

This amendment will add a fee structure for wastewater permits.

Any person may submit written suggestions or comments on the proposed amendment through December 2, 2005. Such written material should be submitted to Courtney Cswercko, Iowa Department of Natural Resources, Wallace State Office Building, 502 East 9th Street, Des Moines, Iowa 50319-0034; fax (515)281-8895; or E-mail to courtney.cswercko@dnr.state.ia.us. Persons who have questions may contact Courtney Cswercko at (515)281-7206.

Persons are invited to present oral or written comments at public hearings which will be held through the ICN as follows:

November 29, 2005 10 a.m.

Department of Public Health
Lucas State Office Building
ICN Room, 6th Floor
Des Moines, Iowa

Le Mars Community High School
921 3rd Avenue SW
Le Mars, Iowa

New Hampton High School
710 W. Main
New Hampton, Iowa

Alden High School
1903 North Taylor
Iowa Falls, Iowa

Loess Hills Area Education Agency 13
24997 Hwy. 92
Council Bluffs, Iowa

Chariton High School
501 N. Grand
Chariton, Iowa

Great River Area Education Agency 16
3601 West Avenue
Burlington, Iowa

November 30, 2005 2 p.m.

Department of Public Health
Lucas State Office Building
ICN Room, 6th Floor
Des Moines, Iowa

Iowa Central Community College
916 North Russell
Storm Lake, Iowa

North Iowa Area Community College – 1
500 College Drive
Mason City, Iowa

Manchester Public Library
304 N. Franklin Street
Manchester, Iowa

Southwestern Community College – 1
1501 West Townline Road
Creston, Iowa

December 1, 2005 7 p.m.

Saydel High School
5601 NE 7th Street
Des Moines, Iowa

Spencer Public Library
21 East Third Street
Spencer, Iowa

St. Edmond High School
501 N. 22nd Street
Fort Dodge, Iowa

Audubon High School
800 3rd Avenue
Audubon, Iowa

Kimberly Center
1002 Kimberly
Davenport, Iowa

Prairie High School
401 76th Avenue SW
Cedar Rapids, Iowa

This amendment is intended to implement Iowa Code sections 455B.173 and 455B.105(11).

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

The following amendment is proposed.

Amend rule 567—64.16(455B) as follows:

ENVIRONMENTAL PROTECTION COMMISSION[567](cont'd)

567—64.16(455B) Fees.

64.16(1) A person who applies for an individual permit or coverage under a general permit to construct, install, modify or operate a disposal system shall submit along with the application an application fee and or a permit fee or both as specified in 64.16(3). Certain individual facilities shall also be required to submit annual fees as specified in 63.16(3)“b.” Fees shall be assessed based on the type of permit coverage the applicant requests, either as general permit coverage or as an individual permit. At the time the application is submitted, For a construction permit, an application fee must be submitted with the application. For general permits Nos. 1, 2, 3, and 5 and for individual storm water permits, the applicant has the option of paying an annual permit fee or a multi-year permit fee at the time the application is submitted. For individual non-storm water NPDES permits, the applicant must submit an application fee at the time of application and the appropriate annual fee on a yearly basis.

Fees are nontransferable. If the application is returned to the applicant by the department, the permit fee will be returned. No fees will be returned if the permit or permit coverage is suspended, revoked, or modified, or if the activity is discontinued. Failure to submit the appropriate permit fee at the time of application renders the application incomplete and the department shall suspend processing of the application until the fee is received. Failure to submit the appropriate annual fee may result in revocation or suspension of the permit as noted in 64.3(11)“f.”

64.16(2) Payment of fees. Fees For general and individual storm water permits (General Permits Nos. 1, 2, and 3 and individual storm water permits), fees shall be paid by check or money order made payable to the “Iowa Department of Natural Resources.”

For all other wastewater permits (construction permits, General Permit No. 5 and non-storm water NPDES permits), fees shall be paid by check or money order made payable to “Treasurer, State of Iowa.”

64.16(3) Fee schedule. The following fees have been adopted:

a. For coverage under the NPDES General Permit general permits, the following fees apply:

(1) Storm Water Discharges Associated with Industrial Activity, NPDES General Permit No. 1.

Annual Permit Fee \$150 (per year)
or

Five-year Permit Fee \$600
Four-year Permit Fee \$450
Three-year Permit Fee \$300

(Coverage provided by the five-year, four-year, and three-year permit fees expires no later than the expiration date of the general permit. Maximum coverage is five years, four years, and three years, respectively.) All fees are to be submitted with the permit application.

(2) Storm Water Discharge Associated with Industrial Activity for Construction Activities, NPDES General Permit No. 2. The fees are the same as those specified for General Permit No. 1 in subparagraph (1) of this paragraph.

(3) Storm Water Discharge Associated with Industrial Activity from Asphalt Plants, Concrete Batch Plants, and Rock Crushing Plants, NPDES General Permit No. 3. The fees are the same as those specified for General Permit No. 1 in subparagraph (1) of this paragraph.

(4) “Discharge from Onsite Wastewater Treatment and Disposal Systems,” NPDES Permit No. 4. No fees shall be assessed.

(5) “Discharge from Mining and Processing Facilities,” NPDES General Permit No. 5. No fees shall be assessed.

Annual Permit Fee \$125 (per year)
or

Five-year Permit Fee \$500
Four-year Permit Fee \$400
Three-year Permit Fee \$300

(Coverage provided by the five-year, four-year, and three-year permit fees expires no later than the expiration date of the general permit. Maximum coverage is five years, four years, and three years, respectively.) All fees are to be submitted with the permit application.

b. Individual NPDES permit fees. The following fees are applicable for the described individual NPDES permit:

(1) For storm water discharge associated with industrial activity, submitted on Form 2F, where the storm water is composed entirely of storm water or combined with process wastewater or other non-storm water wastewater, a five-year permit fee of \$1,250 must accompany the application.

Annual Permit Fee \$300 (per year)
or

Five-year Permit Fee \$1,250

(2) For storm water discharges from municipal separate storm sewer systems, a five-year permit fee of \$1,250 must accompany the application.

Annual Permit Fee \$300 (per year)
or

Five-year Permit Fee \$1,250

(3) For participants in an approved group application and EPA has issued a model general permit and no industry-specific general permit is available or being developed.

Annual Permit Fee \$300 (per year)
or

Five-year Permit Fee \$1,250

(3) For a construction permit, an application fee of \$100 must be submitted with the application.

(4) For every non-storm water permit (subparagraphs (5) to (14) below), a single application fee of \$85 is due at the time of application. The application fee is to be submitted with the application form (Form 30 for municipal and semi-public facilities; Form 1, 2, 3, or 4 for industrial facilities) at the time of a new application, renewal application, or amendment application.

(5) For a major municipal facility, an annual fee of \$1,500 per year is due by July 1 of each year.

(6) For every minor municipal facility, an annual fee of \$250 per year is due by July 1 of each year.

(7) For every semipublic facility, an annual fee of \$400 per year is due by January 1 of each year.

(8) For every facility that holds an operation permit (no wastewater discharge into surface waters), an annual fee of \$200 is due by January 1 of each year.

(9) For a municipal water treatment facility, no annual wastewater fee shall be assessed.

(10) For a major industrial facility, an annual fee of \$4,000 per year is due by January 1 of each year.

(11) For every minor industrial facility, an annual fee of \$350 per year is due by January 1 of each year.

(12) For an open feedlot animal feeding operation, an annual fee of \$400 per year is due by January 1 of each year.

(13) For a confinement animal feeding operation, an annual fee of \$250 per year is due by January 1 of each year.

(14) For a new facility (one that does not currently have a non-storm water NPDES permit), a prorated amount (annual fee amount multiplied by the number of months re-

ENVIRONMENTAL PROTECTION COMMISSION[567](cont'd)

maintaining before the next annual fee due date divided by 12) is due 30 days after the new permit is issued.

(15) For a facility covered under an existing non-storm water NPDES permit, a prorated amount (annual fee amount multiplied by the number of months remaining before the next annual fee due date divided by 12) is due 30 days after [insert effective date of this rule].

ARC 4649B**ENVIRONMENTAL PROTECTION COMMISSION[567]****Notice of Intended Action**

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

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

Pursuant to the authority of Iowa Code sections 455A.6 and 459.103, the Environmental Protection Commission hereby gives Notice of Intended Action to amend Chapter 65, “Animal Feeding Operations,” Iowa Administrative Code.

The proposed amendment provides technical corrections and additions to the list of major water sources—rivers and

streams listed in Table 1 of Chapter 65. The corrections and additions provide a more consistent and accurate representation of these water sources for the state, as the current list is lacking some stream and river segments and was not consistently developed.

Any interested person may make written comments or suggestions on or before December 1, 2005. Comments should be directed to Gene Tinker, Department of Natural Resources, 502 East 9th Street, Des Moines, Iowa 50319-0034, fax (515)281-8895, E-mail gene.tinker@dnr.state.ia.us.

Also, a public hearing will be held on December 1, 2005, at 1:30 p.m. in the Fourth Floor East Conference Room of the Wallace State Office Building. Comments may be submitted orally or in writing.

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 Department of Natural Resources and advise of specific needs.

This amendment is intended to implement Iowa Code section 459.310.

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

The following amendment is proposed.

Amend **567—Chapter 65**, Table 1, as follows:

TABLE 1
Major Water Sources—Rivers and Streams

County	River/Stream	Location
Adair	Bush Branch	East county line (S13, T75N, R30W) to confluence with unnamed tributary (S13, T75N, R30W)
	Middle Nodaway River	Adams/Adair Line South county line (S31, T74N, R33W) to Hwy. 92 (S14, T75N, R32W)
	Middle River	All East county line (S36, T76N, R30W) to north county line (S1, T77N, R32W)
	North Turkey Creek	Mouth (S35, T77N, R31W) to confluence with South Turkey Creek (S33, T77N, R31W)
	Shanghai Creek	South county line (S34, T74N, R32W) to confluence with unnamed tributary (SW1/4, S34, T74N, R32W)
	Thompson River	East county line (S12, T74N, R30W) to confluence with Ninemile Creek (S35, T75N, R30W)
	West Fork Middle Nodaway River	Mouth (S33, T74N, R33W) to County Road N51 (S20, T76N, R33W)
Adams	East Nodaway River	Adams/Taylor Line South county line (S31, T71N, R35W) to County Road H24 confluence with Shanghai Creek (S16, T73N, R32W)
	Middle Nodaway River	All West county line (S31, T72N, R35W) to north county line (S6, T73N, R33W)
	Platte River	East line (S24, T71N, R32W) to east line (S36, T72N, R32W)
Allamakee	Shanghai Creek	Mouth (S16, T73N, R32W) to north county line (S3, T73N, R32W)
	Bear Creek	Mouth (S1, T99N, R6W R06W) to West Line west county line (S30, T100N, R6W R06W)
	Mississippi River	All South county line (S34, T96N, R03W) to north county line (S8, T100N, R03W)
	Paint Creek	Mouth (S9, T99N, R06W) to west county line (S18, T99N, R06W)
	Paint Creek	Mouth (S15, T96N, R03W) to road crossing in (S18, T97N, R4W R04W)
	Upper Iowa River	Mouth, S36 (S19, T100N, R4W R03W) to West Line west county line (S31, T100N, T99N, R6W R06W)
	Village Creek	Mouth, (S33, T99N, R3W R03W), upstream to confluence confluence with Unnamed Creek in Erickson Spring Branch (S23, T98N, R4W R04W)

ENVIRONMENTAL PROTECTION COMMISSION[567](cont'd)

County	River/Stream	Location
	Waterloo Creek	Mouth, (S35, T100N, R6W R06W) to North Line S8 north county line (S04, T100N, R6W R06W)
	Winnebago Creek	Mouth (S12, T100N, R04W) to north county line (S1, T100N, R04W)
	Yellow River	Mouth, (S34, T96N, R3W R03W) to Confluence with Upper Branch Yellow River, S4 west county line (S18, T96N, R6W R06W)
Appanoose	Chariton River	Missouri Line South county line (S21, T67N, R16W) to Rathbun Dam west county line (S6, T70N, R19W)
	Packard Creek	Mouth (S8, T67N, R16W) to confluence with Pigeon Creek (S6, T67N, R16W)
	Soap Creek	East county line (S13, T70N, R16W) to north county line (S4, T70N, R16W)
	South Fork Chariton River	Appanoose/Wayne Line to Rathbun Lake Lake Rathbun (S14, T70N, R19W) to west county line (S31, T70N, R19W)
	South Soap Creek	East county line (S25, T70N, R16W) to Lake Sundown (S29, T70N, R16W)
	Walnut Creek	Mouth (S1, T69N, R18W) to confluence with Little Walnut Creek (S1, T69N, R18W)
Audubon	Brushy Creek	East county line (S1, T81N, R34W) to north county line (S1, T81N, R34W)
	East Branch West Nishnabotna River	West county line (S18, T80N, R36W) to confluence with unnamed tributary (NW 1/4, S19, T81N, R35W)
	East Nishnabotna River	South county line (S36, T78N, R36W) to confluence with unnamed tributary (NW 1/4, S12, T81N, R35W)
	Troublesome Creek	South county line (S35, T78N, R35W) to east county line (S36, T79N, R34W)
Benton	Bear Creek	North County Line county line (S1, T86N, R10W) to Mouth at Cedar River mouth (S21, T86N, R10W)
	Bear Creek	East county line (S13, T84N, R09W) to confluence of Wildcat Creek and Opossum Creek (S8, T84N, R09W)
	Blue Creek	East county line (S24, T86N, R09W) to confluence with West Branch Blue Creek (S24, T86N, R09W)
	Cedar River	All East county line (S13, T85N, R09W) to north county line (S6, T86N, R10W)
	Iowa River	All South county line (S31, T82N, R12W) to west county line (S31, T82N, R12W)
	Opossum Creek	SE ¼ S5, T84N, R9W to East County Line
	Prairie Creek 2	Road Crossing N ½ S24, T83N, R12W to Benton/Linn Line Confluence with unnamed tributary (middle of S 1/2, S13, T83N, R12W) to east county line (S12, T82N, R09W)
	Salt Creek	Mouth (S6, T82N, R12W) to west county line (S6, T82N, R12W)
	Walnut Creek	Mouth (S6, T82N, R12W) to south county line (S6, T82N, R12W)
	Wolf Creek	All North county line (S2, T86N, R12W) to west county line (S19, T86N, R12W)
Black Hawk	Beaver Creek	Mouth, (S34, T90N, R14W) to West County Line west county line (S31, T90N, R14W)
	Black Hawk Creek	Mouth, (S22, T89N, R13W) to West County Line west county line (S6, T87N, R14W)
	Buck Creek	All East county line (S12, T90N, R11W) to north county line (S1, T90N, R11W)
	Cedar River	All East county line (S36, T87N, R11W) to north county line (S2, T90N, R14W)
	Crane Creek	Mouth (S26, T90N, R11W) to North County Line north county line (S3, T90N, R12W)
	Miller's Miller Creek	Mouth (S2, T87N, R12W) to West Line confluence with unnamed tributary (NE 1/4, S5 S24, T87N, R12W R13W)
	Shell Rock River	Mouth, (S4, T90N, R14W) to North County Line, north county line (S4, T90N, R14W)
	Spring Creek	Mouth (S34, T87N, R11W) to Confluence confluence with Little East Branch Spring Creek, (S11, T87N, R11W)
	Wapsipinicon River	All East county line (S1, T89N, R11W) to north county line (S4, T90N, R11W)
	West Fork Cedar River	All Mouth (S16, T90N, R14W) to west county line (S7, T90N, R14W)

ENVIRONMENTAL PROTECTION COMMISSION[567](cont'd)

County	River/Stream	Location
	Wolf Creek	Mouth, S19 (S29, T87N, R11W) to South County Line south county line (S35, T87N, R12W)
Boone	Beaver Creek	West Line of S10, T82N, Confluence with Middle Beaver Creek (S21, T83N, R28W) to South County Line south county line (S35, T82N, R28W)
	Des Moines River	All South county line (S34, T82N, R26W) to north county line (S3, T85N, R27W)
	Squaw Creek	West Line of S8 North line (S9, T85N, R25W) to East County Line east county line (S12, T84N, R25W)
Bremer	Cedar River	All South county line (S35, T91N, R14W) to north county line (S5, T93N, R14W)
	Crane Creek	South County Line county line (S34, T91N, R12W) to North Line north line (S9, T91N, R12W)
	Dry Run	Mouth (S33, T93N, R14W) to confluence with Horton Creek (S33, T93N, R14W)
	East Fork Branch Wapsipinicon River	Mouth (S34, T93N, R12W) to North County Line north county line (S3, T93N, R12W)
	Little Wapsipinicon River	East County Line county line (S13, T92N, R11W) to North Line north line (S2, T92N, R11W)
	Quarter Section Run	Mouth (S19, T91N, R13W) to West Line, confluence with unnamed tributary (SW 1/4, S35, T91N, R13W)
	Shell Rock River	All South county line (S33, T91N, R14W) to west county line (S18, T91N, R14W)
	Wapsipinicon River	All South county line (S33, T91N, R11W) to north county line (S1, T93N, R13W)
Buchanan	Buck Creek	Mouth (S32, T90N, R10W) to West County Line west county line (S7, T90N, R10W)
	Buffalo Creek	Mouth East county line (S13, T87N, R07W) to Confluence confluence of East and West Branches, (S35, T90N, R8W R08W)
	Cedar River	South county line (S31, T87N, R10W) to west county line (S31, T87N, R10W)
	Little Wapsipinicon River	Mouth (S9, T89N, R10W) to North County Line north county line (S5, T90N, R10W)
	Otter Creek	Mouth (S19, T89N, R09W) to Confluence with Unnamed Creek, S9 north county line (S4, T90N, R9W R09W)
	South Fork Maquoketa River	East county line (S24, T90N, R07W) to confluence with Lamont Creek (S23, T90N, R07W)
	Wapsipinicon River	All South county line (S31, T87N, R07W) to west county line (S6, T89N, R10W)
Buena Vista	Little Sioux River	All North county line (S2, T93N, R38W) to north county line (S5, T93N, R36W)
	North Raccoon River	South County Line county line (S36, T90N, R36W) to North Line of north line (S15, T91N, R36W)
Butler	Beaver Creek	All East county line (S36, T90N, R15W) to west county line (S31, T90N, R18W)
	Boylan Creek	Mouth (S1, T91N, R18W) to North Line, S23 confluence with Parmentar Creek (S14, T92N, R18W)
	Coldwater Creek	Mouth (S29, T93N, R16W) to West Line west line (S5, T93N, R17W)
	Flood Creek	Mouth (S27, T93N, R16W) to North County Line north county line (S3, T93N, R16W)
	Hartgrave Creek	Mouth (S34, T92N, R18W) to West County Line west county line (S30, T92N, R18W)
	Johnson Creek	West County Line county line (S19, T91N, R18W) to Confluence with Beaver Creek mouth (S20, T90N, R16W)
	Maynes Creek	West County Line county line (S18, T91N, R18W) to Mouth at West Fork of Cedar River mouth (S7, T91N, R17W)
	Shell Rock River	All East county line (S13, T91N, R15W) to north county line (S2, T93N, R17W)
	South Beaver Creek	Mouth (S25, T90N, R17W) to South County Line south county line (S35, T90N, R17W)
	West Fork Cedar River	All East county line (S12, T90N, R15W) to west county line (S7, T92N, R18W)

ENVIRONMENTAL PROTECTION COMMISSION[567](cont'd)

County	River/Stream	Location
Calhoun	Lake Creek	Mouth to North Line S25, T87N, R33W
	Cedar Creek	South County Line to Confluence with West Cedar Creek
	Camp Creek	Mouth (S7, T86N, R34W) to West Line west line (S25, T87N T88N, R34W)
	Cedar Creek	South county line (S34, T86N, R32W) to confluence with West Cedar Creek (S31, T87N, R31W)
	Lake Creek	Mouth (S23, T86N, R34W) to north line (S25, T87N, R33W)
Carroll	North Raccoon River	All South county line (S31, T86N, R33W) to west county line (S6, T86N, R34W)
	Brushy Creek	South county line (S36, T82N, R34W) to confluence with Dedham Creek (S16, T82N, R34W)
	Middle Raccoon River	South County Line county line (S34, T82N, R33W) to West Line of S23 confluence with unnamed tributary (NW 1/4, NW 1/4, S6, T84N, R35W)
	North Raccoon River	All East county line (S12, T84N, R33W) to north county line (S6, T85N, R33W)
Cass	West Nishnabotna River	West county line (S31, T82N, R36W) to confluence with unnamed tributary (S34, T83N, R36W)
	East Nishnabotna River	All West county line (S31, T75N, R37W) to north county line (S1, T77N, R36W)
	Indian Creek	Mouth (S17, T75N, R37W) to north county line (S5, T77N, R37W)
	Sevenmile Creek	South county line (S31, T74N, R36W) to confluence with unnamed tributary (center of S32, T76N, R34W)
	Troublesome Creek	Mouth (S32, T77N, R36W) to north county line (S2, T77N, R35W)
Cedar	Turkey Creek	Mouth (S2, T75N, R37W) to confluence with Lone Tree Branch (S28, T76N, R36W)
	West Nodaway River	South county line (SW 1/4, S34, T74N, R36W) to confluence with Williams Creek (S35, T74N, R36W)
	Cedar River	All South county line (S31, T79N, R02W) to west county line (S18, T81N, R04W)
	Mud Creek	South county line (S34, T79N, R01W) to south county line (S35, T79N, R01W)
	Rock Creek	Road Crossing North Line crossing north line (S1, T81N, R3W R03W) to Mouth at Cedar Creek mouth (S3, T79N, R03W)
	Sugar Creek	Road Crossing North Line crossing north line (S29, T81N, R2W R02W) to South County Line south county line (S34, T79N, R02W)
Cerro Gordo	Wapsipinicon River	All East county line (S12, T82N, R01W) to north county line (S1, T82N, R01W)
	West Branch Wapsinonoc Creek	South county line (S33, T79N, R04W) to confluence with unnamed tributary (NE 1/4, S32, T79N, R04W)
	Beaverdam Creek	I-35 (S8, T95N, R21W) to Franklin County Line south county line (S35, T94N, R20W)
	East Branch Beaverdam Creek	Hwy. 65 (S9, T94N, R20W) to Mouth mouth (S21, T94N, R20W)
	Shell Rock River	All East county line (S12, T96N, R19W) to north county line (S5, T97N, R19W)
	Spring Creek	County Road B15 (S9, T97N, R20W) to Mouth at Winnebago River mouth (S28, T97N, R20W)
Cherokee	West Fork Cedar River	South county line (S35, T94N, R20W) to confluence of Beaverdam Creek and East Branch Beaverdam Creek (S21, T94N, R20W)
	Willow Creek	Hwy. 18 (S12, T96N, R21W) to Mouth at Winnebago River mouth (S3, T96N, R20W)
	Winnebago River	All East county line (S36, T96N, R19W) to west county line (S19, T97N, R22W)
	Gray Creek	North Line of line (S22, T93N, R40W) to Mouth at Mill Creek mouth (S10, T92N, R40W)
	Little Sioux River	All South county line (S31, T90N, R41W) to north county line (S3, T93N, R39W)
Cherokee	Maple Creek	Mouth (S5, T91N, R39W) to confluence with unnamed tributary (S1, T91N, R39W)
	Maple River	North Line of Confluence with Maple Creek (S5, T90N T91N, R39W) to Ida County Line south county line (S34, T90N, R39W)

ENVIRONMENTAL PROTECTION COMMISSION[567](cont'd)

County	River/Stream	Location
	Mill Creek	North Line S13 county line (S3, T93N, R41W) to Mouth at Little Sioux River mouth (S14, T92N, R40W)
	Perry Creek	North Line of line (S5, T91N, R40W) to Mouth at Little Sioux River mouth (S28, T91N, R40W)
	Rock Creek	East Line of line (S4, T91N, R41W) to Mouth at Little Sioux River mouth (S10, T90N, R41W)
	Silver Creek	Mouth (S32, T91N, R40W) to North Line of north line (S34, T90N, R40W)
	West Fork, Little Sioux River	North Line of line (S12, T92N, R42W) to Plymouth County Line west county line (S31, T91N, R42W)
	Willow Creek	North Line line (S30, T91N, R41W) to Mouth at Little Sioux River mouth (S30, T90N, R41W)
Chickasaw	Cedar River	All South county line (S32, T94N, R14W) to west county line (S7, T94N, R14W)
	Crane Creek	All East county line (S25, T95N, R11W) to north county line (S21, T97N, R12W)
	East Fork Branch Wapsipinicon River	South County Line county line (S34, T94N, R12W) to Confluence confluence with Plum Creek S16 (S15, T95N, R12W)
	Little Cedar River	All Mouth (S20, T94N, R14W) to west county line (S6, T95N, R14W)
	Little Turkey River	All East county line (S25, T96N, R11W) to north county line (S19, T97N, R11W)
	Little Wapsipinicon River	Mouth (S3, T94N, R13W) to North County Line north county line (S24, T97N, R14W)
	Wapsipinicon River	All South county line (S36, T94N, R13W) to north county line (S20, T97N, R14W)
Clarke	Squaw Creek	North county line (S1, T73N, R25W) to confluence with Walnut Creek (S3, T73N, R25W)
	White Breast Creek	East county line (S1, T71N, R24W) to confluence with South White Breast Creek (S3, T71N, R24W)
Clay	Big Muddy Creek	Mouth (S15, T96N, R36W) to confluence with Little Muddy Creek (S10, T96N, R36W)
	Little Sioux River	All West county line (S30, T94N, R38W) to north county line (S5, T97N, R37W)
	Ocheyedan River	All Mouth (S13, T96N, R37W) to west county line (S7, T97N, R38W)
	Stony Creek	Mouth (S7, T96N, R36W) to north county line (S3, T97N, R38W)
Clayton	Bloody Run	Mouth; (S15, T95N, R3W R03W) upstream to second road bridge crossing the stream in the western portion of Basil Giard Claim No. 1
	Cox Creek	Mouth (S21, T92N, R05W) to confluence with Kleinlein Creek (S36, T92N, R06W)
	Elk Creek	Mouth (S36, T92N, R04W) to Steeles Branch S26 south county line (S35, T91N, R4W R04W)
	Howard Creek	Mouth (S25, T94N, R05W) to confluence with Dry Hollow (S19, T94N, R04W)
	Little Turkey River	Mouth (S10, T91N, R02W) to confluence with White Pine Hollow (S31, T91N, R02W)
	Maquoketa River	South County Line county line (S32, T91N, R06W) to North Line north line (S31, T91N, R6W R06W)
	Mink Creek	Mouth (S30, T93N, R06W) to confluence with unnamed tributary (SW 1/4, S19, T93N, R06W)
	Mississippi River	East county line (S25, T91N, R01W) to north county line (S3, T95N, R03W)
	Robert's Roberts Creek	Mouth (S25, T93N, R05W) to Confluence confluence with Silver Creek; S17 (S16, T94N, R5W R05W)
	Sny Magill Creek	Mouth; (S23, T94N, R3W R03W) upstream to Confluence confluence with North Cedar Creek; (S8, T94N, R3W R03W)
	South Cedar Creek	Mouth (S33, T92N, R03W) to confluence with unnamed tributary (SW 1/4, NE 1/4, SE 1/4, S7, T92N, R03W)
	Turkey River	All Mouth (S12, T91N, R02W) to west county line (S18, T94N, R06W)
	Volga River	All Mouth (S36, T92N, R04W) to west county line (S30, T93N, R06W)
Clinton	Brophys Creek	South Line of line (S4, T81N, R5E R05E) to Mouth at the Wapsipinicon River mouth (S1, T80N, R04E)

ENVIRONMENTAL PROTECTION COMMISSION[567](cont'd)

County	River/Stream	Location
	<i>Deep Creek</i>	North county line (S6, T83N, R05E) to confluence with Bear Creek (S8, T83N, R05E)
	Drainage Ditch 12	West Line of line (S30, T82N, R2E R02E) to Mouth at the Wapsipinicon River mouth (S13, T81N, R01E)
	Elk River	South Line of line (S5, T83N, R6E R06E) to Mouth at the Mississippi River mouth (S20, T83N, R07E)
	Harts Mill Creek	East Line of line (S8, T81N, R6E R06E) to Mouth at Mill Creek mouth (S15, T81N, R06E)
	Mill Creek	South Line of S14 Confluence with Harts Mill Creek (S15, T81N, R6E R06E) to Mouth with Mississippi River mouth (S23, T81N, R06E)
	Mississippi River	All South county line (S13, T80N, R05E) to north county line (S5, T83N, R07E)
	Silver Creek	South Line of line (S22, T82N, R3E R03E) to mouth (S6, T80N, R4E R04E)
	Wapsipinicon River	All Mouth (S13, T80N, R05E) to west county line (S7, T82N, R01E)
Crawford	Boyer River	All South county line (S34, T82N, R41W) to north county line (S6, T85N, R37W)
	<i>East Boyer River</i>	Mouth (S10, T83N, R39W) to confluence with unnamed tributary (NW 1/4, S15, T84N, R37W)
	<i>East Soldier River</i>	West county line (S31, T84N, R41W) to confluence with Emigrant Creek (S23, T84N, R41W)
	Soldier River	All West county line (S30, T85N, R41W) to north county line (S1, T85N, R41W)
	<i>West Fork West Nishnabotna River</i>	South county line (S32, T82N, R38W) to confluence with unnamed tributary (NE 1/4, S14, T82N, R38W)
	<i>West Nishnabotna River</i>	South county line (S35, T82N, R37W) to east county line (S36, T82N, R37W)
Dallas	Beaver Creek	All East county line (S13, T80N, R26W) to north county line (S2, T81N, R28W)
	Des Moines River	All East county line (S25, T81N, R26W) to north county line (S3, T81N, R26W)
	Middle Raccoon River	All Mouth (S9, T78N, R29W) to west county line (S31, T79N, R29W)
	<i>Mosquito Creek</i>	Mouth (S34, T79N, R29W) to west county line (NW 1/4, NW 1/4, S6, T80N, R29W)
	<i>North Raccoon River</i>	Mouth (S21, T78N, R27W) to north county line (S5, T81N, R29W)
	Raccoon River	All East county line (S25, T78N, R26W) to confluence of North and South Raccoon Rivers (S21, T78N, R27W)
	South Raccoon River	All Mouth (S21, T78N, R27W) to west county line (S7, T78N, R29W)
Davis	<i>Chequest Creek</i>	East county line (S12, T69N, R12W) to confluence with South Chequest Creek (S12, T69N, R12W)
	Des Moines River	All East county line (S12, T70N, R12W) to north county line (S2, T70N, R12W)
	<i>Fox River</i>	East county line (S1, T68N, R12W) to confluence with South Fox Creek (S28, T69N, R15W)
	<i>Soap Creek</i>	Mouth (S2, T70N, R12W) to west county line (S18, T70N, R15W)
	<i>South Chequest Creek</i>	Mouth (S12, T69N, R12W) to confluence with Burr Oak Creek (S15, T69N, R12W)
	<i>South Soap Creek</i>	Mouth (S21, T70N, R15W) to west county line (S30, T70N, R15W)
Decatur	Elk Creek	Mouth (S18, T68N, R26W) to confluence with West Elk Creek (S34, T69N, R27W)
	<i>Little River</i>	South county line (S25, T67N, R25W) to confluence with West Little River (S31, T69N, R25W)
	Long Creek	DeKalb Wildlife Area to Mouth at the Thompson River Mouth (S8, T69N, R26W) to confluence with Bee Creek (S9, T70N, R26W)
	<i>Steel Creek</i>	Mouth (S10, T67N, R24W) to confluence with Hog Creek (S26, T68N, R24W)
	Thompson River	All South county line (S25, T67N, R26W) to west county line (S6, T70N, R27W)
	Weldon River	Missouri Border South county line (S27, T67N, R24W) to Hwy. 2 (S20, T69N, R24W)
	<i>West Elk Creek</i>	Mouth (S34, T69N, R27W) to confluence with unnamed tributary (NE 1/4, S32, T69N, R27W)

ENVIRONMENTAL PROTECTION COMMISSION[567](cont'd)

County	River/Stream	Location
Delaware	<i>Buck Creek</i>	<i>Mouth (S11, T87N, R04W) to confluence with Lime Creek (S17, T87N, R04W)</i>
	<i>Buffalo Creek</i>	<i>All South county line (S33, T87N, R06W) to west county line (S18, T87N, R06W)</i>
	<i>Coffin's Coffins Creek</i>	<i>Mouth (S19, T89N, R05W) to Road Crossing, Center of road crossing center (S26, T89N, R06W)</i>
	<i>Elk Creek</i>	<i>North county line (S2, T90N, R04W) to confluence with Schechtman Branch (S14, T90N, R04W)</i>
	<i>Honey Creek</i>	<i>Mouth (S19, T89N, R05W) to confluence with Lindsey Creek (S3, T89N, R05W)</i>
	<i>Maquoketa River</i>	<i>All South county line (S31, T87N, R03W) to north county line (S5, T90N, R06W)</i>
	<i>North Fork Maquoketa River</i>	<i>All East county line (S24, T87N, R03W) to east county line (S12, T88N, R03W)</i>
	<i>Plum Creek</i>	<i>Mouth (S11, T87N, R04W) to Confluence confluence with Penn's Br., S18, T88N, R3W unnamed tributary (SE 1/4, S24, T89N, R04W)</i>
	<i>Sand Creek</i>	<i>Mouth (S9, T88N, R05W) to confluence with Todds Creek (S8, T88N, R05W)</i>
	<i>South Fork Maquoketa River</i>	<i>Mouth (S16, T90N, R06W) to West County Line west county line (S19, T90N, R06W)</i>
Des Moines	<i>Brush Creek</i>	<i>South Line of line (S5, T69N, R3W R03W) to Mouth at the Skunk River mouth (S2, T68N, R03W)</i>
	<i>Cedar Fork Creek</i>	<i>West Line of line (S31, T72N, R3W R03W) to Mouth at the Flint River mouth (S25, T71N, R04W)</i>
	<i>Cottonwood Drain</i>	<i>Mouth (S1, T70N, R02W) to confluence with unnamed tributary (middle S7, T71N, R01W)</i>
	<i>Dolbee Creek</i>	<i>East Line of S24, T72N, R2W to S31, T71N, R1W</i>
	<i>Flint River Creek</i>	<i>County Line West county line (S18, T71N, R04W) to Mouth at the Mississippi River mouth (S28, T70N, R02W)</i>
	<i>Knotty Creek</i>	<i>East Line of S25, T71N, R03W to the Mouth at the Flint River</i>
	<i>Hawkeye Creek</i>	<i>North Line of East line (S30, T72N, R3W R02W) to Mouth at the Mississippi River mouth (S19, T72N, R01W)</i>
	<i>Hawkeye-Dolbee Channel</i>	<i>Confluence with Hawkeye Creek (S19, T72N, R01W) to mouth (S22, T72N, R01W)</i>
	<i>Honey Creek</i>	<i>North county line (NE 1/4, S5, T72N, R03W) to north county line (NW 1/4, S5, T72N, R03W)</i>
	<i>Knotty Creek</i>	<i>East line (S25, T71N, R03W) to mouth (S24, T70N, R03W)</i>
	<i>Long Creek</i>	<i>South Line of line (S3, T69N, R4W R04W) to the Mouth at the Skunk River mouth (S30, T69N, R03W)</i>
	<i>Mississippi River</i>	<i>All South county line (S8, T68N, R02W) to north county line (S3, T72N, R01W)</i>
	<i>Running Slough Drain</i>	<i>East line (S24, T72N, R02W) to mouth (S31, T71N, R01W)</i>
	<i>Skunk River</i>	<i>All East county line (S8, T68N, R02W) to west county line (S2, T69N, R05W)</i>
	<i>Smith Creek</i>	<i>North county line (S6, T72N, R02W) to north county line (NW 1/4, NE 1/4, S1, T72N, R03W)</i>
	<i>Spring Creek</i>	<i>South Line of line (S15, T69N, R3W R03W) to Mouth at the Mississippi River mouth (S32, T69N, R02W)</i>
	<i>Tributary to Flint River Unnamed Creek</i>	<i>South Line of line (S27, T71N, R3W R03W) to Mouth at the Flint River mouth (S4, T70N, R03W)</i>
Dickinson	<i>Little Sioux River</i>	<i>All South county line (S32, T98N, R37W) to north county line (S10, T100N, R37W)</i>
	<i>Milford Creek</i>	<i>Middle (S12, T98N, R37W) to Mouth at Little Sioux River mouth (S14, T98N, R37W)</i>
	<i>Stony Creek</i>	<i>South county line (S34, T98N, R38W) to confluence with Drainage Ditch 41 (S27, T98N, R38W)</i>
	<i>West Branch Little Sioux River</i>	<i>South Line of line (S27, T100N, R38W) to Mouth at West Fork of Little Sioux River mouth (S36, T100N, R38W)</i>
	<i>West Fork Little Sioux River</i>	<i>South Line of line (S24, T100N, R38W) to Mouth at Little Sioux River mouth (S7, T99N, R37W)</i>
Dubuque	<i>Catfish Creek</i>	<i>Mouth (S5, T88N, R03E) to North Line north line (S16, T88N, R2E R02E)</i>

ENVIRONMENTAL PROTECTION COMMISSION[567](cont'd)

County	River/Stream	Location
	Hewitt Creek	Mouth (S30, T89N, R02W) to confluence with Hickory Creek (S21, T89N, R02W)
	Little Maquoketa River	Mouth (S26, T90N, R02E) to Confluence confluence with North Fork Little Maquoketa River; (S31, T90N, R1E R02E)
	Lytle Creek	South County Line county line (S31, T87N, R02E) to Confluence confluence with Buncombe Prairie Creek; S19 (S24, T87N, R2E R01E)
	Mississippi River	All South county line (S34, T88N, R04E) to west county line (S30, T91N, R01E)
	North Fork Little Maquoketa River	Mouth (S31, T90N, R02E) to Confluence confluence with Middle Fork Little Maquoketa River; (S35, T90N, R1E R01E)
	North Fork, Maquoketa River	South County Line county line (S32, T87N, R01W) to Confluence confluence with Hewitt Creek; See (S29, T89N, R2W R02W)
	Tetes Des Morts Creek	Mouth (S34, T88N, R04E) to south county line (S34, T88N, R04E)
	Whitewater Creek	South County Line county line (S35, T87N, R01W) to Confluence confluence with John's Curran Creek; S25 (S12, T87N, R1W R01W)
Emmet	East Fork, Des Moines River	Tuttle Lake Outlet South county line (S33, T98N, R33W) to East County Line north county line (S7, T100N, R34W)
	West Fork, East Branch Des Moines River	All Tuttle Lake (S11, T100N, R32W) to east county line (S36, T99N, R31W)
Fayette	Crane Creek	Mouth (S31, T95N, R09W) to west county line (S30, T95N, R10W)
	Little Turkey River	Mouth; (S18, T95N, R8W R08W) to North Line north county line (S5, T95N, R10W)
	Little Volga River	Mouth (S2, T92N, R09W) to confluence with unnamed tributary (S2, T92N, R09W)
	Little Wapsipinicon River	All South county line (S32, T91N, R10W) to west county line (S18, T92N, R10W)
	Otter Creek	South county line (S33, T91N, R09W) to confluence with unnamed tributary (S18, T91N, R09W)
	Turkey River	All East county line (S13, T94N, R07W) to north county line (S3, T95N, R09W)
	Volga River	East County Line county line (S25, T93N, R07W) to Confluence confluence with Little Volga River; (S2, T92N, R9W R09W)
Floyd	Cedar River	All East county line (S12, T94N, R15W) to north county line (S24, T97N, R17W)
	Flood Creek	South County Line county line (S34, T94N, R16W) to Road Crossing road crossing (S32, T96N, R17W)
	Little Cedar River	All East county line (S1, T95N, R15W) to north county line (S24, T97N, R16W)
	Rock Creek	Mouth; (S24, T97N, R17W) to North County Line north county line (S22, T97N, R17W)
	Shell Rock River	All Mouth (S35, T94N, R17W) to west county line (S7, T96N, R18W)
	Winnebago River	All Mouth (S14, T95N, R18W) to west county line (NW 1/4, S31, T96N, R18W)
Franklin	Bailey Creek	South Line of East line (S13, T93N, R20W) to Mouth at the West Fork, mouth (S19, T93N, R19W)
	Beaverdam Creek	North County Line county line (S2, T93N, R20W) to Mouth at the West Fork, Cedar River mouth (S19, T93N, R19W)
	Hartgraves Hartgrave Creek	South Line of S28 Confluence of Otter Creek and Spring Creek (S29, T92N, R19W) to East County Line east county line (S25, T92N, R19W)
	Iowa River	All South county line (S36, T90N, R22W) to west county line (S19, T91N, R22W)
	Maynes Creek	East Line of line (S30, T91N, R20W) to East County Line east county line (S13, T91N, R19W)
	Otter Creek	East Line of line (S31, T93N, R20W) to Mouth at Hartgraves Creek mouth (S29, T92N, R19W)
	Spring Creek	Beeds Lake Outlet (S20, T92N, R20W) to Mouth at Otter Creek mouth (S29, T92N, R19W)
	West Fork, Cedar River	East Line of Confluence of Bailey Creek and Beaverdam Creek (S19, T93N, R19W) to East County Line east county line (S12, T92N, R19W)
Fremont	East Nishnabotna River	Mouth at Nishnabotna River (S2, T67N, R42W) to East County Line east county line (S13, T69N, R40W)

ENVIRONMENTAL PROTECTION COMMISSION[567](cont'd)

County	River/Stream	Location
	Missouri River	All South county line (S34, T67N, R43W) to north county line (S5, T70N, R43W)
	Nishnabotna River	Missouri/Iowa Line to South Line of S25, T68N, R41W South county line (S35, T67N, R42W) to confluence of East and West Nishnabotna Rivers (S2, T67N, R42W)
	West Nishnabotna River	Mouth at Nishnabotna River (S2, T67N, R42W) to North County Line north county line (S5, T70N, R41W)
Greene	Buttrick Creek	Mouth (S26, T83N, R30W) to North County Line confluence of East and West Branch (S25, T84N, R30W)
	Cedar Creek	Mouth at North Raccoon River (S33, T85N, R32W) to North County Line north county line (S3, T85N, R32W)
	North Raccoon River	All South county line (S32, T82N, R29W) to west county line (S18, T84N, R32W)
	Willow Creek	South county line (S31, T82N, R32W) to confluence with Drainage Ditch 117 (S21, T82N, R32W)
Grundy	Black Hawk Creek	East Line of line (S35, T88N, R17W) to Black Hawk Line east county line (S1, T87N, R15W)
	Middle Fork South Beaver Creek	Mouth (S28, T89N, R17W) to confluence with North Fork South Beaver Creek (S28, T89N, R17W)
	North Black Hawk Creek	NE 1/4, S8, T88N, R15W to Mouth mouth (S1, T87N, R15W)
	South Beaver Creek	E 1/2 of, S3, T88N, R18W to Butler County Line north county line (S2, T89N, R17W)
	Wolf Creek	N 1/2 of, S31, T86N, R17W to Tama County Line east county line (S36, T86N, R17W)
Guthrie	Beaver Creek	Mouth (S5, T78N, R30W) to confluence with Spring Branch (S3, T78N, R31W)
	Brushy Creek	Mouth (S22, T79N, R31W) to North Line of west county line (S35, T81N, R33W) (County Road F24)
	Middle Raccoon River	All East county line (S36, T79N, R30W) to north county line (S3, T81N, R33W)
	Middle River	South County Line county line (S36, T78N, R32W) to County Road N54 (S36, T79N, R33W)
	Mosquito Creek	S36, T81N, R32W East county line (SE 1/4, S1, T80N, R30W) to Hwy. 4, (S17, T81N, R30W)
	South Raccoon River	East County Line county line (S12, T78N, R30W) to County Road F32 confluence with Frost Creek (S18, T80N, R32W)
	Troublesome Creek	West county line (S31, T79N, R33W) to confluence with North Branch Troublesome Creek (S20, T79N, R33W)
	Willow Creek	Mouth (S27, T81N, R32W) to North County Line north county line (S6, T81N, R32W)
Hamilton	Boone River	All West county line (S30, T87N, R26W) to north county line (S3, T89N, R26W)
	Brewers Creek	Mouth at Boone River (S6, T88N, R25W) to County Road R27 (S12, T88N, R26W)
	Eagle Creek	Mouth at Boone River (S6, T89N, R25W) to Wright County Line north county line (S6, T89N, R25W)
	South Skunk River	South County Line county line (S31, T86N, R23W) to County Road D41 (S36, T88N, R24W)
	White Fox Creek	Mouth at Boone River (S33, T89N, R25W) to Wright County Line north county line (S3, T89N, R25W)
Hancock	East Fork, Branch Iowa River	South County Line county line (S32, T94N, R23W) to Hwy. 18 (S25, T96N, R24W)
	West Fork, Branch Iowa River	South County Line county line (S35, T94N, R24W) to County Road B55 (S31, T95N, R24W)
	Winnebago River	All East county line (S24, T97N, R23W) to north county line (S1, T97N, R24W)
Hardin	Elk Creek	Mouth at Iowa River (S28, T88N, R19W) to County Road D35 (S27, T88N, R19W)
	Honey Creek	South County Line county line (S31, T86N, R19W) to County Road D65 (S24, T86N, R20W)
	Iowa River	All South county line (SW 1/4, S35, T86N, R19W) to north county line (NW 1/4, NW 1/4, S1, T89N, R22W)

ENVIRONMENTAL PROTECTION COMMISSION[567](cont'd)

County	River/Stream	Location
	South Fork, Iowa River	Mouth at Iowa River (S4, T86N, R19W) to Hwy. 359 (S11, T88N, R22W)
Harrison	Boyer River	All South county line (S33, T78N, R44W) to north county line (S3, T81N, R41W)
	Little Sioux River	All Mouth (S27, T81N, R45W) to north county line (S5, T81N, R44W)
	Missouri River	All South county line (S32, T78N, R45W) to north county line (S1, T81N, R46W)
	Monona Harrison Ditch	Mouth (S22, T81N, R45W) to north county line (S1, T81N, R45W)
	Soldier River	All Mouth (S16, T80N, R45W) to north county line (S1, T81N, R44W)
Henry	Big Creek	North Line of South county line (S31, T72N, R5W R05W) to mouth (S19, T70N, R5W R05W)
	Brush Creek	West county line (S31, T72N, R07W) to mouth (S30, T72N, R07W)
	Cedar Creek	County Line West county line (S6, T70N, R07W) to Mouth at the Skunk River mouth (S6, T71N, R07W)
	Crooked Creek	All West county line (S6, T73N, R07W) to north county line (S6, T73N, R07W)
	East Fork, Crooked Creek	All North county line (S1, T73N, R06W) to east county line (S36, T73N, R05W)
	Little Cedar Creek	South County Line county line (S33, T70N, R07W) to Mouth at Cedar Creek mouth (S17, T70N, R07W)
	Mud Creek	South Line of line (S15, T70N, R5W R05W) to Mouth at the Skunk River mouth (S34, T70N, R05W)
	Skunk River	All South county line (S35, T70N, R05W) to west county line (S19, T73N, R07W)
Howard	Crane Creek	South County Line county line (S16, T97N, R12W) to Hwy. 9 (S29, T99N, R13W)
	Little Wapsipinicon River	South County Line county line (S13, T97N, R14W) to North Line northwest line (S23, T98N, R14W)
	North Branch Turkey River	Mouth (S31, T99N, R11W) to Highway Hwy. 9 (S25, T99N, R12W)
	Turkey River	East County Line county line (S12, T98N, R11W) to West Line of west line (S1, T98N, R12W)
	Upper Iowa River	All East county line (S12, T100N, R11W) to north county line (NW 1/4, NE 1/4, S11, T100N, R14W)
	Wapsipinicon River	All South county line (S17, T97N, R14W) to west county line (S18, T98N, R14W)
Humboldt	Des Moines River	South County Line county line (S31, T91N, R28W) to Confluence of East and West Fork of Des Moines River west county line (S6, T92N, R30W)
	East Fork, Des Moines River	Mouth at the Des Moines River to North County Line
	West Fork, East Branch Des Moines River	Mouth at the Des Moines River (S19, T91N, R28W) to West County Line north county line (S1, T93N, R29W)
	Prairie Creek	West county line (S25, T93N, R27W) to north county line (S4, T93N, R27W)
Ida	Little Sioux River	All West county line (S7, T89N, R41W) to north county line (S6, T89N, R41W)
	Maple River	All West county line (S7, T86N, R41W) to north county line (S3, T89N, R39W)
	Odebolt Creek	Mouth (S15, T87N, R40W) to confluence with unnamed tributary (S24, T87N, R39W)
	Soldier River	South county line (S36, T86N, R41W) to confluence with unnamed tributary (NW 1/4, SE 1/4, S20, T86N, R40W)
Iowa	Big Bear Creek	West County Line county line (S18, T80N, R12W) to Mouth at the Iowa River mouth (S24, T81N, R11W)
	Honey Creek	Mouth (S12, T81N, R12W) to confluence with unnamed tributary (NE 1/4, SW 1/4, S28, T81N, R12W)
	Iowa River	All East county line (S36, T81N, R09W) to north county line (S6, T81N, R12W)
	North Fork, English River	All South county line (S31, T78N, R09W) to west county line (S19, T79N, R12W)

ENVIRONMENTAL PROTECTION COMMISSION[567](cont'd)

County	River/Stream	Location	
Jackson	Old Man Mans Creek	West Line of line (S35, T79N, R10W) to East County Line east county line (S36, T79N, R09W)	
	Price Creek	Mouth (S36, T81N, R09W) to confluence with Mill Race (S26, T81N, R09W)	
	Walnut Creek	North county line (S6, T81N, R12W) to west county line (S6, T81N, R12W)	
	Bear Creek	Mouth (S13, T84N, R01E) to West County Line west county line (S30, T84N, R01E)	
	Big Mill Creek	Confluence with Little Mill Creek, S13, T86N, R4E upstream to West Line S9, T86N, R4E	
	Brush Creek	North Line, line (S23, T85N, R3E R03E) upstream to Hwy. 62 bridge in (S11, T85N, R3E R03E)	
	Deep Creek	Mouth (S18, T84N, R05E) to South County Line south county line (S31, T84N, R05E)	
	Little Mill Creek	Mouth, (S13, T86N, R4E R04E) upstream to West Line west line (S23, T86N, R4E R04E)	
	Lytle Creek	Mouth (S8, T85N, R02E) to North County Line north county line (S6, T86N, R02E)	
	Maquoketa River	All Mouth (S7, T85N, R06E) to west county line (S18, T85N, R01E)	
	Mill Creek	Mouth (S19, T86N, R05E) to west line (S9, T86N, R04E)	
	Mississippi River	All South county line (S32, T84N, R07E) to north county line (S3, T87N, R04E)	
	Jasper	North Fork, Maquoketa River	West County Line county line (S31, T86N, R01E) to Mouth at the Maquoketa River mouth (S13, T84N, R02E)
Prairie Creek		Mouth (S17, T84N, R03E) to Hwy. 64, (S20, T84N, R3E R03E)	
Tetes Des Morts Creek		North county line (S3, T87N, R04E) to confluence with unnamed tributary (S23, T87N, R03E)	
Clear Creek		Mouth (S2, T80N, R21W) to confluence with Mud Creek (S24, T81N, R21W)	
Indian Creek		All Mouth (S32, T80N, R20W) to west county line (S18, T81N, R21W)	
North Skunk River		All East county line (S13, T78N, R17W) to north county line (S6, T81N, R19W)	
South Skunk River		All South county line (S32, T78N, R18W) to west county line (S30, T80N, R21W)	
Squaw Creek		Mouth (S2, T79N, R21W) to confluence with unnamed tributary (S10, T79N, R21W)	
Jefferson		Brush Creek	South Line of line (S18, T72N, R8W R08W) to the East County Line east county line (S36, T72N, R08W)
		Cedar Creek	All South county line (S35, T71N, R08W) to west county line (S18, T72N, R11W)
		Competine Creek	West County Line county line (S31, T73N, R11W) to Mouth at Cedar Creek mouth (S28, T72N, R11W)
		Crooked Creek	All Mouth (S1, T73N, R08W) to east county line (S1, T73N, R08W)
		Lick Creek	South county line (S32, T71N, R10W) to confluence with East Branch Lick Creek (S30, T71N, R10W)
	Middle Walnut Creek	Mouth (S26, T73N, R09W) to east line (S22, T73N, R09W)	
	Skunk River	All East county line (S13, T72N, R08W) to north county line (S1, T73N, R08W)	
Johnson	Walnut Creek	East Line of S22 Confluence of South and Middle Walnut Creeks (S26, T73N, R9W R09W) to the Mouth at the Skunk River mouth (S2, T72N, R08W)	
	Buck Creek	Mouth (S2, T77N, R06W) to confluence with Pechman Creek (S2, T77N, R06W)	
	Cedar River	All East county line (S13, T81N, R05W) to north county line (S3, T81N, R05W)	
	Clear Creek	West County Line county line (S30, T80N, R08W) to Mouth at the Iowa River mouth (S8, T79N, R06W)	
	Iowa River	All South county line (S32, T77N, R05W) to west county line (S31, T81N, R08W)	
	Old Mans Creek	West County Line county line (S31, T79N, R08W) to Mouth at the Iowa River mouth (S27, T78N, R06W)	

ENVIRONMENTAL PROTECTION COMMISSION[567](cont'd)

County	River/Stream	Location
	Rapid Creek	Mouth (S34, T80N, R06W) to confluence with unnamed tributary (S21, T80N, R05W)
Jones	Bear Creek	East county line (S25, T84N, R01W) to confluence with Little Bear Creek (S30, T84N, R01W)
	Buffalo Creek	West County-Line county line (S19, T85N, R04W) to Mouth at the Wapsipinicon River mouth (S10, T84N, R04W)
	Maquoketa River	All East county line (SE1/4, S24, T85N, R01W) to north county line (S6, T86N, R03W)
	North Fork, Maquoketa River	All East county line (SE1/4, S36, T86N, R01W) to north county line (S6, T86N, R01W)
	Silver Creek	Mouth (S8, T86N, R03W) to confluence with Grove Creek (S11, T86N, R04W)
	Walnut Creek	Mouth (S18, T83N, R02W) to confluence of North and South Fork Walnut Creeks (S13, T83N, R04W)
	Wapsipinicon River	All South county line (S36, T83N, R01W) to west county line (S6, T84N, R04W)
	Whitewater Creek	Mouth (S10, T86N, R01W) to North County-Line north county line (S2, T86N, R01W)
Keokuk	Bridge Creek	South Line of line (S23, T76N, R12W) to the Mouth at the North Skunk River mouth (S18, T75N, R11W)
	Cedar Creek	East Line of line (S19, T76N, R13W) to the Mouth at the North Skunk River mouth (S15, T75N, R12W)
	North Skunk River	West County-Line county line (S6, T75N, R13W) to Mouth at the Skunk River mouth (S5, T74N, R10W)
	Rock Creek	South Line of line (S21, T76N, R12W) to Mouth at Cedar Creek mouth (S9, T75N, R12W)
	Skunk River	East county line (S12, T74N, R10W) to confluence of North and South Skunk Rivers (S5, T74N, R10W)
	South Fork, English River	All East county line (S12, T77N, R10W) to west county line (S6, T77N, R13W)
	South Skunk River	West County-Line county line (S30, T75N, R13W) to Mouth at the Skunk River mouth (S5, T74N, R10W)
	Skunk River	All
Kossuth	Buffalo Creek	West Line of line (S4, T97N, R27W) to Mouth at the East Fork, Des Moines River mouth (S21, T97N, R28W)
	East Fork, Branch Des Moines River	All South county line (S36, T94N, R29W) to west county line (S31, T99N, R30W)
	Prairie Creek	South county line (S33, T94N, R27W) to confluence with Drainage Ditch 177 (S5, T94N, R27W)
Lee	Big Sugar Creek	South Line of S26, T69N, R6W to Mouth at the Mississippi River
	Des Moines River	All Mouth (S34, T65N, R05W) to west county line (S19, T67N, R07W)
	Little Sugar Creek	South Line of S24, T68N, R7W to Mouth at the Des Moines River
	Lost Creek	South Line of line (S32, T69N, R4W R04W) to Mouth at the Mississippi River mouth (S36, T68N, R04W)
	Mississippi River	All South county line (S34, T65N, R05W) to north county line (S8, T68N, R02W)
	Pitman Creek	South Line of line (S10, T68N, R5W R05W) to Mouth at the Mississippi River mouth (S29, T68N, R05W)
	Skunk River	All Mouth (S8, T68N, R02W) to north county line (S2, T69N, R05W)
	Sugar Creek	South line (S24, T68N, R07W) to mouth (S25, T65N, R06W)
	Sugar Creek	South line (S26, T69N, R06W) to mouth (S26, T67N, R05W)
Linn	Bear Creek	West county line (S18, T84N, R08W) to mouth (S21, T84N, R08W)
	Big Creek	Mouth (S9, T82N, R06W) to confluence with Abbe Creek (S34, T83N, R06W)
	Blue Creek	Mouth (S18, T85N, R08W) to west county line (S19, T86N, R08W)
	Buffalo Creek	All East county line (S24, T85N, R05W) to north county line (S4, T86N, R06W)
	Cedar River	All South county line (S34, T82N, R05W) to west county line (S18, T85N, R08W)
	Indian Creek	Mouth (S30, T83N, R06W) to confluence with Dry Creek (S1, T83N, R07W)

ENVIRONMENTAL PROTECTION COMMISSION[567](cont'd)

County	River/Stream	Location
	Prairie Creek	West County Line county line (S7, T82N, R08W) to Mouth at Cedar River mouth (S34, T83N, R07W)
	Wapsipinicon River	All East county line (S1, T84N, R05W) to north county line (S6, T86N, R07W)
Louisa	Big Slough Creek	East Line of line (S7, T74N, R5W R05W) to Mouth at Buffington Creek mouth (S14, T74N, R05W)
	Buffington Creek	Mouth (S13, T74N, R05W) to West Line of west line (S18, T74N, R5W R05W)
	Cedar River	All Mouth (S20, T75N, R04W) to north county line (S5, T75N, R04W)
	East Fork Crooked Creek	All West county line (S31, T73N, R04W) to south county line (S32, T73N, R04W)
	Goose Creek	West County Line county line (S19, T76N, R05W) to Mouth at the Iowa River mouth (S27, T76N, R05W)
	Honey Creek	Mouth (S1, T75N, R05W) to East Line of east county line (S25, T76N, R5W R05W)
	Honey Creek	Mouth (S14, T73N, R03W) to South Line of south county line (S32, T73N, R3W R03W) (Morning Sun Twp.)
	Indian Creek	Mouth (S7, T74N, R03W) to North Line of south line (S1, T75N, R4W R04W)
	Iowa River	All Mouth (S31, T74N, R01W) to north county line (NW 1/4, S6, T76N, R05W)
	Johnny Creek	Mouth (S12, T74N, R05W) to East Line of east line (S6, T74N, R4W R04W)
	Long Creek	South Line of West line (S30, T75N, R5W R05W) to the Mouth at the Iowa River mouth (S1, T74N, R04W)
	Mississippi River	All South county line (S34, T73N, R01W) to north county line (S3, T75N, R02W)
	Muscatine Slough	North County Line county line (S1, T75N, R03W) to county road bridge in (S31, T75N, R3W R02W)
	Muskrat Lake	S16, T74N, R3W to Mouth at the Iowa River (S16, T74N, R03W) to SE 1/4, S16, T74N, R03W
	Otter Creek	Mouth (S19, T73N, R02W) to South Line of middle (S16, T73N, R4W R04W)
	Roff Creek	Mouth (S1, T73N, R04W) to South Line of south county line (S36, T73N, R4W R04W)
	Short Creek	Mouth (S19, T75N, R04W) to West Line of west county line (S6, T75N, R5W R05W)
	Smith Creek	Mouth (S28, T73N, R02W) to West and South Lines of south county line (S35, T73N, R3W R03W)
Lucas	Chariton River	Rathbun Lake (S36, T71N, R20W) to Hwy. 14 (S32, T72N, R21W)
	Otter Creek	North county line (S5, T73N, R23W) to confluence with South Otter Creek (S8, T73N, R23W)
	White Breast Creek	North county line (S2, T73N, R22W) to west county line (S6, T71N, R23W)
Lyon	Big Sioux River	All South county line (S31, T98N, R48W) to north county line (S11, T100N, R49W)
	Kanaranzi Creek	Mouth (S28, T100N, R45W) to north county line (S11, T100N, R45W)
	Little Rock River	East County Line county line (S25, T100N, R43W) to Mouth at Rock River mouth (S35, T98N, R46W)
	Mud Creek	Mouth (S26, T98N, R46W) to confluence with first unnamed tributary (SW 1/4, S29, T99N, R46W)
	Otter Creek	Mouth (S21, T98N, R44W) to west county line (S36, T98N, R43W)
	Rock River	All South county line (S35, T98N, R46W) to north county line (S8, T100N, R45W)
	Tom Creek	Mouth (S4, T99N, R45W) to confluence with unnamed tributary (S22, T100N, R44W)
Madison	Badger Creek	East county line (S24, T77N, R26W) to confluence with Cherry Creek (S13, T77N, R26W)
	Bush Branch	Mouth (S8, T75N, R29W) to west county line (S18, T75N, R29W)
	Clanton Creek	South Line of S32 East county line (S12, T75N, R26W) to the East County Line confluence of North and South Fork Clanton Creek (S15, T74N, R27W)

ENVIRONMENTAL PROTECTION COMMISSION[567](cont'd)

County	River/Stream	Location
	Middle River	All West county line (NW 1/4, S31, T76N, R29W) to east county line (S25, T76N, R26W)
	North Branch North River	Mouth (S35, T77N, R27W) to West County Line west county line (S7, T77N, R29W)
	North River	East County Line county line (S1, T76N, R26W) to East Line of east line (S17, T76N, R28W)
	South Fork Clanton Creek	Mouth (S15, T74N, R27W) to confluence with Bird Creek (S15, T74N, R27W)
	Thompson River	All South county line (S34, T74N, R29W) to west county line (S7, T74N, R29W)
	West Branch Creek	Mouth (S34, T74N, R29W) to confluence with unnamed tributary (S19, T74N, R29W)
Mahaska	Cedar Creek	West County Line county line (S31, T75N, R17W) to Mouth at Des Moines River mouth (S33, T75N, R17W)
	Coal Creek	Mouth (S1, T74N, R17W) to confluence with North Coal Creek (S1, T74N, R17W)
	Des Moines River	All South county line (S36, T74N, R16W) to west county line (S18, T75N, R17W)
	English Creek	Mouth (S18, T75N, R17W) to west county line (S18, T75N, R17W)
	Middle Creek	Mouth (S35, T76N, R14W) to confluence with unnamed tributary (S16, T76N, R15W)
	Moon Creek	Mouth (S30, T77N, R14W) to north county line (S1, T77N, R15W)
	Muchakinock Creek	South county line (S36, T74N, R16W) to confluence with Little Muchakinock Creek (S34, T75N, R16W)
	North Skunk River	All East county line (S1, T75N, R14W) to north county line (S1, T77N, R16W)
	South English River	East county line (S1, T77N, R14W) to confluence with unnamed tributary (S1, T77N, R14W)
	South Skunk River	All East county line (S25, T75N, R14W) to west county line (S19, T77N, R17W)
Marion	Carruthers Creek	Mouth (S33, T74N, R19W) to confluence with Hickory Creek (S33, T74N, R19W)
	Cedar Creek	East county line (S36, T75N, R18W) to south county line (S31, T74N, R18W)
	Coal Creek	West county line (S7, T76N, R21W) to confluence with Coon Creek (S29, T76N, R21W)
	Des Moines River	All East county line (S13, T75N, R18W) to west county line (S7, T77N, R21W)
	English Creek	East county line (S13, T75N, R18W) to confluence with Long Branch (S16, T74N, R20W)
	North Cedar Creek	Mouth (S15, T74N, R18W) to confluence with Carruthers Creek (S33, T74N, R19W)
	South Skunk River	All East county line (S24, T77N, R18W) to north county line (S5, T77N, R18W)
	White Breast Creek	West County Line county line (S18, T74N, R21W) to Mouth at Des Moines River mouth (S16, T76N, R19W)
Marshall	Honey Creek	North County Line county line (S6, T85N, R19W) to Mouth at Iowa River mouth (S27, T85N, R19W)
	Iowa River	All East county line (S1, T83N, R17W) to north county line (S2, T85N, R19W)
	Minerva Creek	Mouth (S2, T84N, R19W) to NW 1/4, S9, T85N, R20W to Mouth at Iowa River
	South Timber Creek	Mouth (S17, T83N, R17W) to confluence with Brush Creek (S32, T83N, R17W)
	Timber Creek	County road bridge in (S24, T83N, R18W) to Mouth at Iowa River mouth (S3, T83N, R17W)
	Wolf Creek	North county line (S2, T85N, R17W) to north county line (S2, T85N, R17W)
Mills	Farm Creek	Mouth (S9, T73N, R40W) to north county line (S1, T73N, R40W)
	Keg Creek	Mouth (S6, T71N, R43W) to confluence with Snake Creek (S8, T73N, R42W)

ENVIRONMENTAL PROTECTION COMMISSION[567](cont'd)

County	River/Stream	Location
	Missouri River	All South county line (S32, T71N, R43W) to north county line (S2, T73N, R44W)
	Silver Creek	Mouth (S21, T71N, R41W) to north county line (S6, T73N, R41W)
	West Nishnabotna River	All South county line (S32, T71N, R41W) to north county line (S3, T73N, R40W)
Mitchell	Cedar River	South Line county line (S13, T97N, R17W) to North-Line north county line (S8, T100N, R18W)
	Deer Creek	Mouth (S23, T99N, R18W) to West-County-Line west county line (S6, T99N, R18W)
	Little Cedar River	South Line county line (S13, T97N, R15W R16W) to North-Line S7 north county line (S9, T100N, R16W)
	Otter Creek	Mouth at (S21, T100N, R18W) to North-Line north county line (S11, T100N, R18W)
	Rock Creek	South County-Line county line (S14, T97N, R17W) to Road-Crossing, West-Line west line (S7, T97N, R17W)
	Spring Creek	Mouth (S13, T97N, R17W) to North-Line of north line (S29, T98N, R16W)
	Turtle Creek	Mouth (S23, T99N, R18W) to North-Line S7 north line (S8, T99N, R15W R17W)
	Wapsipinicon River	East-County-Line upstream county line (S13, T98N, R15W) to North-Line of north line (S20, T100N, R15W)
Monona	East Soldier River	Mouth (S34, T84N, R42W) to east county line (S36, T84N, R42W)
	Farmers Garretson Outlet Ditch	Mouth (S9, T85N, R45W) to north county line (S5, T85N, R45W)
	Haitz Ditch	Mouth (S12, T84N, R45W) to north county line (S2, T85N, R45W)
	Little Sioux River	All South county line (S32, T82N, R44W) to north county line (S2, T85N, R44W)
	Maple River	Mouth at Little-Sioux River (S16, T83N, R44W) to North-County-Line north county line (S5, T85N, R42W)
	Missouri River	All South county line (S36, T82N, R46W) to north county line (S6, T85N, R47W)
	Monona Harrison Ditch	South county line (S31, T82N, R44W) to confluence of West Fork Ditch and Haitz Ditch (S12, T84N, R45W)
	Soldier River	All South county line (S31, T82N, R43W) to east county line (S25, T85N, R42W)
	West Fork, Little-Sioux River Ditch	Mouth at Little-Sioux River (S12, T84N, R45W) to North-County-Line north county line (S4, T85N, R45W)
Monroe	Cedar Creek	North county line (S6, T73N, R18W) to confluence with Mormon Branch (S5, T71N, R18W)
	Des Moines River	East county line (S1, T73N, R16W) to north county line (S1, T73N, R16W)
	Mormon Branch	Mouth (S5, T71N, R18W) to confluence with Moffatt Branch (S21, T71N, R18W)
	Muchakinock Creek	East county line (S1, T73N, R16W) to north county line (S1, T73N, R16W)
	Soap Creek	South county line (S32, T71N, R16W) to confluence with Mormon Creek (S31, T71N, R16W)
	Whites Creek	Mouth (S21, T73N, R18W) to confluence with English Branch (S30, T73N, R18W)
Montgomery	East Nishnabotna River	All South county line (S36, T71N, R39W) to north county line (S1, T73N, R38W)
	Middle Nodaway River	Mouth at Nodaway River (S33, T71N, R36W) to East-County-Line east county line (S36, T72N, R36W)
	Sevenmile Creek	Mouth (S33, T73N, R36W) to north county line (S6, T73N, R36W)
	Tarkio River	South county line (S32, T71N, R37W) to confluence with Little Tarkio Creek (S4, T71N, R37W)
	West Nodaway River	All South county line (S33, T71N, R36W) to north county line (S2, T73N, R36W)
Muscatine	Cedar River	All South county line (S32, T76N, R04W) to north county line (S6, T78N, R02W)
	Mississippi River	All South county line (S34, T76N, R02W) to east county line (S24, T77N, R01E)

ENVIRONMENTAL PROTECTION COMMISSION[567](cont'd)

County	River/Stream	Location
	Mud Creek	West Line of Mouth (S10, T78N, R02W) to west line (S5, T78N, R1E R01E) to Mouth at Sugar Creek
	Muscatine Slough	South Line of S4 county line (S36, T76N, R2W R03W) to South County Line south line (S5, T76N, R02W)
	Pike Run	South Line of Mouth (S19, T77N, R03W) to south line (S34, T78N, R3W R03W) to S19, T77N, R3W
	Pine Creek	Wildcat Den State Park to Mouth at Mississippi River Mouth (S21, T77N, R01E) to confluence with East Branch Pine Creek (S17, T77N, R01E)
	Sugar Creek	North County Line to Mouth at the Cedar River Mouth (S17, T78N, R02W) to north county line (S3, T78N, R02W)
	Wapsinonoc Creek	North County Line to Mouth at the Cedar River Mouth (S19, T77N, R03W) to confluence of East Branch and Middle Branch (S6, T78N, R03W)
	Weise Slough	S19, T78N, R3W R02W
	West Branch Wapsinonoc Creek	Mouth (S24, T78N, R04W) to north county line (S4, T78N, R04W)
O'Brien	Floyd River	West county line (S30, T97N, R42W) to confluence with North Fork Floyd River (S9, T97N, R41W)
	Little Sioux River	All South county line (S34, T94N, R39W) to east county line (S25, T94N, R39W)
	Mill Creek	South county line (S34, T94N, R41W) to confluence with West Branch Mill Creek (S4, T95N, R41W)
	Ocheyedan River	All East county line (S12, T97N, R39W) to north county line (S2, T97N, R39W)
	Waterman Creek	Mouth (S26, T94N, R39W) to confluence with Little Waterman Creek (S4, T95N, R39W)
Osceola	Little Rock River	All West county line (S30, T100N, R42W) to north county line (S7, T100N, R42W)
	Ocheyedan River	All South county line (S35, T98N, R39W) to north county line (S12, T100N, R41W)
	Otter Creek	West county line (S31, T98N, R42W) to confluence with Cloverdale Creek (S31, T99N, R41W)
Page	East Nishnabotna River	All West county line (S18, T69N, R39W) to north county line (S1, T70N, R39W)
	East Nodaway River	East County Line to Mouth at the Nodaway River Mouth (S7, T67N, R36W) to east county line (S1, T69N, R36W)
	Nodaway River	All South county line (S31, T67N, R36W) to confluence of East and West Nodaway Rivers (S7, T67N, R36W)
	Tarkio River	Hwy. 2 to South County Line county line (S32, T67N, R38W) to north county line (S5, T70N, R37W)
	West Nodaway River	Mouth (S7, T67N, R36W) to north county line (S4, T70N, R36W)
Palo Alto	Cylinder Creek	Mouth (S28, T94N, R31W) to Confluence confluence with DD#21, Dry Ditch (S24, T95N, R32W)
	Des Moines River	South county line (S35, T94N, R31W) to north county line (S4, T97N, R33W)
	Jack Creek	Mouth (S35, T97N, R33W) to West Line of west line (S11, T97N, R33W)
	West Fork, Des Moines River	All
Plymouth	Big Sioux River	All South county line (S34, T90N, R48W) to north county line (S5, T93N, R48W)
	Broken Kettle Creek	Mouth (S9, T90N, R48W) to confluence with Bull Run (S25, T92N, R48W)
	Deep Creek	Mouth (S2, T92N, R45W) to confluence with unnamed tributary (SE 1/4, NW 1/4, S28, T93N, R43W)
	Floyd River	All South county line (S31, T90N, R46W) to north county line (S6, T93N, R44W)
	Indian Creek	Mouth (S9, T93N, R48W) to north county line (S4, T93N, R47W)
	Mink Creek	Mouth (S35, T92N, R46W) to confluence with unnamed tributary (S16, T92N, R46W)

ENVIRONMENTAL PROTECTION COMMISSION[567](cont'd)

County	River/Stream	Location
	<i>Perry Creek</i>	<i>South county line (S33, T90N, R47W) to confluence with West Branch Perry Creek (S33, T90N, R47W)</i>
	<i>West Branch Floyd River</i>	<i>Mouth (S2, T91N, R46W) to north county line (S5, T93N, R45W)</i>
	<i>West Fork Little Sioux River</i>	All <i>South county line (S34, T90N, R44W) to east county line (S36, T91N, R43W)</i>
	<i>Whiskey Creek</i>	<i>Mouth (S36, T91N, R43W) to confluence with unnamed tributary (NE 1/4, NW 1/4, S2, T91N, R43W)</i>
	<i>Willow Creek</i>	<i>Mouth (S9, T92N, R45W) to confluence with Deep Creek (S2, T92N, R45W)</i>
Pocahontas	<i>Des Moines River</i>	<i>East county line (S1, T92N, R31W) to north county line (S2, T93N, R31W)</i>
	<i>Lizard Creek</i>	West Line of East county line (S13, T90N, R31W) to west line (S2, T90N, R31W) to East County Line
	<i>North Branch Lizard Creek</i>	Mouth (S2, T90N, R31W) to North Line of north line (S6, T91N, R31W)
	<i>Pilot Creek</i>	West Line of S9, T92N, R31W to Mouth with the West Fork, Des Moines River <i>Mouth (S1, T92N, R31W) to west line (S4, T92N, R31W)</i>
	West Fork, Des Moines River	All
Polk	<i>Beaver Creek</i>	All <i>Mouth (S17, T79N, R24W) to west county line (S18, T80N, R25W)</i>
	<i>Des Moines River</i>	All <i>East county line (S12, T77N, R22W) to west county line (S30, T81N, R25W)</i>
	<i>Fourmile Creek</i>	<i>Mouth (S16, T78N, R23W) to South Line of south line (S1, T80N, R24W)</i>
	<i>Indian Creek</i>	All <i>East county line (S13, T81N, R22W) to north county line (S3, T81N, R22W)</i>
	<i>North River</i>	All <i>Mouth (S36, T78N, R23W) to south county line (SW 1/4, SW 1/4, S34, T78N, R23W)</i>
	<i>Raccoon River</i>	All <i>Mouth (S10, T78N, R24W) to east county line (S30, T78N, R25W)</i>
	<i>South River</i>	<i>Mouth (S12, T77N, R22W) to south county line (S12, T77N, R22W)</i>
	<i>South Skunk River</i>	All <i>East county line (S25, T80N, R22W) to north county line (S3, T81N, R23W)</i>
	<i>Walnut Creek</i>	All <i>Mouth (S13, T78N, R25W) to west county line (S30, T79N, R25W)</i>
Pottawattamie	<i>Boyer River</i>	<i>Mouth (S20, T77N, R44W) to north county line (S4, T77N, R44W)</i>
	<i>East Branch West Nishnabotna River</i>	<i>Mouth (S29, T77N, R39W) to north county line (S3, T77N, R39W)</i>
	<i>East Nishnabotna River</i>	All <i>South county line (S36, T74N, R38W) to east county line (S36, T75N, R38W)</i>
	<i>Farm Creek</i>	<i>South county line (S36, T74N, R40W) to confluence with Jordan Creek (S31, T74N, R39W)</i>
	<i>Missouri River</i>	All <i>South county line (S35, T74N, R44W) to north county line (S3, T77N, R45W)</i>
	<i>Mosquito Creek</i>	<i>Mouth (S30, T74N, R43W) to confluence with unnamed tributary (NW 1/4, S10, T76N, R42W)</i>
	<i>Pigeon Creek</i>	<i>Mouth (S3, T75N, R44W) to confluence with Potato Creek (S23, T77N, R43W)</i>
	<i>Pony Creek</i>	<i>Mouth (S30, T74N, R43W) to confluence with unnamed tributary (center of S28, T74N, R43W)</i>
	<i>Silver Creek</i>	<i>South county line (S31, T74N, R41W) to confluence with Middle Silver Creek (S31, T74N, R41W)</i>
	<i>West Nishnabotna River</i>	All <i>South county line (S34, T74N, R40W) to north county line (S5, T77N, R39W)</i>
Poweshiek	<i>Big Bear Creek</i>	<i>East county line (S13, T80N, R13W) to confluence with unnamed tributary (NW 1/4, S8, T80N, R14W) to the East County Line</i>
	<i>North Fork, English River</i>	North Line of S23, T79N, R14W to East County Line <i>county line (S24, T79N, R13W) to confluence with Dugout Creek (S15, T79N, R14W)</i>
	<i>Moon Creek</i>	<i>South county line (S36, T78N, R15W) to confluence with unnamed tributary (NE 1/4, S26, T78N, R15W)</i>
	<i>North Skunk River</i>	All <i>South county line (S36, T78N, R16W) to west county line (S18, T78N, R16W)</i>
	<i>Sugar Creek</i>	<i>Mouth (S20, T78N, R16W) to confluence with unnamed tributary (NW 1/4, S31, T79N, R16W)</i>

ENVIRONMENTAL PROTECTION COMMISSION[567](cont'd)

County	River/Stream	Location
	<i>Walnut Creek</i>	<i>East county line (S1, T81N, R13W) to confluence with North Walnut Creek (S7, T81N, R13W)</i>
Ringgold	East Fork, Grand River	South County Line to Hwy. 2 county line (S25, T67N, R30W) to confluence with Hackberry Creek (S13, T70N, R29W)
	Grand River	South County Line to Hwy. 66 county line (S30, T67N, R31W) to confluence with Plum Creek (S29, T70N, R30W)
	Platte River	All West county line (S31, T68N, R31W) to north county line (S6, T70N, R31W)
	Thompson River	All East county line (S1, T70N, R28W) to north county line (S1, T70N, R28W)
Sac	Big Cedar Creek	West Line of S10, T88N, R35W to the Mouth at the North Raccoon River
	Boyer River	West Line of South county line (S31, T86N, R37W) to west line (S5, T89N, R37W) to South County Line
	<i>Cedar Creek</i>	<i>Mouth (S25, T88N, R36W) to west line (S10, T88N, R35W)</i>
	<i>Drainage Ditch 57</i>	<i>Mouth (S23, T87N, R36W) to east line (S35, T87N, R36W)</i>
	Indian Creek	North Line of Mouth (S24, T87N, R36W) to north line (S7, T87N, R36W) to Mouth at the North Raccoon River
	North Raccoon River	All East county line (S1, T86N, R35W) to north county line (S1, T89N, R36W)
	Outlet Creek	East Line of S35, T87N, R36W to Mouth at Indian Creek
Scott	<i>Hickory Creek</i>	<i>Mouth (S31, T80N, R02E) to confluence with unnamed tributary (S8, T79N, R02E)</i>
	Lost Creek	North Line of S32, T80N, R5E to Mouth at the Wapsipinicon River <i>Mouth (S15, T80N, R05E) to east line (S32, T80N, R05E)</i>
	Mississippi River	All West county line (S19, T77N, R02E) to north county line (S13, T80N, R05E)
	Mud Creek	Country Road Bridge in Mouth (S12, T80N, R02E) to county road bridge (S11, T79N, R1E R01E) to Mouth at the Wapsipinicon River
	Wapsipinicon River	All Mouth (S13, T80N, R05E) to north county line (S1, T80N, R01E)
Shelby	<i>East Branch West Nishnabotna River</i>	<i>South county line (S34, T78N, R39W) to east county line (S13, T80N, R37W)</i>
	<i>Indian Creek</i>	<i>South county line (S32, T78N, R37W) to confluence with unnamed tributary (S8, T78N, R37W)</i>
	<i>West Fork West Nishnabotna River</i>	<i>Mouth (S17, T79N, R38W) to north county line (S5, T81N, R38W)</i>
	<i>West Nishnabotna River</i>	<i>South county line (S32, T78N, R39W) to north county line (S2, T81N, R37W)</i>
Sioux	Big Sioux River	All South county line (S32, T94N, R48W) to west county line (S6, T97N, R48W)
	Floyd River	Hwy. 18 to South County Line county line (S31, T94N, R44W) to east county line (S25, T97N, R43W)
	<i>Indian Creek</i>	<i>South county line (S33, T94N, R47W) to confluence with unnamed tributary (S33, T94N, R47W)</i>
	<i>Otter Creek</i>	<i>North county line (S2, T97N, R44W) to north county line (S1, T97N, R43W)</i>
	Rock River	All Mouth (S1, T95N, R48W) to north county line (S2, T97N, R46W)
	<i>Sixmile Creek</i>	<i>Mouth (S28, T94N, R48W) to confluence with unnamed tributary (S19, T95N, R46W)</i>
	<i>West Branch Floyd River</i>	<i>South county line (S32, T94N, R45W) to confluence with unnamed tributary (S8, T96N, R44W)</i>
Story	East Indian Creek	Mouth (S16, T82N, R22W) to Highway Hwy. 30 (S14, T83N, R22W)
	Indian Creek	South County Line to Confluence with East and West Branches in S16, T82N, R22W <i>Mouth (S34, T82N, R22W) to confluence of East and West Indian Creeks (S16, T82N, R22W)</i>
	<i>South Skunk River</i>	<i>All South county line (S34, T82N, R23W) to north county line (S6, T85N, R23W)</i>
	Squaw Creek	Mouth (S12, T83N, R24W) to West County Line west county line (S7, T84N, R24W)
	West Indian Creek	Mouth (S16, T82N, R22W) to Highway Hwy. 30 (S18, T83N, R22W)
Tama	<i>Deer Creek</i>	<i>Mouth (S34, T83N, R15W) to confluence with Crystal Creek (S10, T84N, R16W)</i>

ENVIRONMENTAL PROTECTION COMMISSION[567](cont'd)

County	River/Stream	Location
	<i>East Branch Salt Creek</i>	<i>Mouth (S34, T84N, R13W) to confluence with Stein Creek (S26, T84N, R13W)</i>
	Iowa River	All <i>East county line (S36, T82N, R13W) to west county line (S6, T83N, R16W)</i>
	Salt Creek	West Line of S28, T84N, R13W to Mouth at the Iowa River <i>East county line (S36, T82N, R13W) to confluence with Simpson Creek (S18, T84N, R13W)</i>
	<i>Stein Creek</i>	<i>Mouth (S26, T84N, R13W) to confluence with unnamed tributary (S24, T84N, R13W)</i>
	<i>Twelvemile Creek</i>	<i>Mouth (S19, T86N, R13W) to confluence with Rock Creek (S23, T86N, R14W)</i>
	Wolf Creek	All <i>East county line (S24, T86N, R13W) to west county line (S31, T86N, R16W)</i>
Taylor	East Fork, 102 One Hundred Two River	Hwy. 49 to South County Line <i>South county line (S31, T67N, R34W) to Hwy. 49 (S1, T69N, R33W)</i>
	<i>East Nodaway River</i>	<i>West county line (S6, T69N, R25W) to north county line (S6, T70N, R35W)</i>
	Platte River	All <i>South county line (S28, T67N, R32W) to east county line (S36, T68N, R32W)</i>
	West Fork, 102 Branch One Hundred Two River	Hwy. 2 to South County Line <i>Mouth (S10, T68N, R35W) to confluence with Middle Branch One Hundred Two River (S6, T69N, R34W)</i>
	<i>West Fork One Hundred Two River</i>	<i>South county line (S34, T67N, R35W) to confluence with West Branch One Hundred Two River (S10, T68, R35W)</i>
Union	Platte River	All <i>South county line (S31, T71N, R31W) to S2, T73N, R31W</i>
	Thompson River	All <i>South county line (S36, T71N, R28W) to north county line (S3, T73N, R29W)</i>
	<i>Threemile Creek</i>	<i>Mouth (S18, T72N, R28W) to confluence with Twomile Creek (S11, T72N, R29W)</i>
	<i>West Branch Creek</i>	<i>North county line (NE 1/4, S3, T73N, R29W) to north county line (NW 1/4, S3, T73N, R29W)</i>
Van Buren	Cedar Creek	All <i>East county line (SE 1/4, S12, T70N, R08W) to north county line (S5, T70N, R08W)</i>
	<i>Chequest Creek</i>	<i>Mouth (S27, T69N, R10W) to west county line (S7, T69N, R11W)</i>
	Des Moines River	All <i>East county line (S13, T67N, R08W) to west county line (S7, T70N, R11W)</i>
	<i>Fox River</i>	<i>South county line (S17, T67N, R09W) to west county line (S6, T68N, R11W)</i>
	<i>Lick Creek</i>	<i>Mouth (S1, T69N, R10W) to north county line (S5, T70N, R10W)</i>
Wapello	Cedar Creek	<i>East county line (S13, T72N, R12W) to confluence with Spring Creek (S17, T73N, R13W)</i>
	Des Moines River	All <i>South county line (S35, T71N, R12W) to west county line (S6, T73N, R15W)</i>
	<i>Muchakinock Creek</i>	<i>Mouth (S6, T73N, R15W) to west county line (S6, T73N, R15W)</i>
	<i>Soap Creek</i>	<i>South county line (S35, T71N, R12W) to south county line (S34, T71N, R12W)</i>
Warren	<i>Badger Creek</i>	<i>Mouth (S33, T77N, R25W) to west county line (S19, T77N, R25W)</i>
	Clanton Creek	West County Line to Mouth at Des Moines River <i>Mouth (S28, T76N, R25W) to west county line (S7, T75N, R25W)</i>
	<i>Coal Creek</i>	<i>Mouth (S14, T77N, R22W) to east county line (S12, T76N, R22W)</i>
	<i>Des Moines River</i>	<i>East county line (S12, T77N, R22W) to north county line (S6, T77N, R22W)</i>
	Middle River	West County Line to Mouth at Des Moines River <i>Mouth (S9, T77N, R22W) to west county line (S30, T76N, R25W)</i>
	North River	All <i>North county line (S2, T77N, R23W) to west county line (S6, T76N, R25W)</i>
	<i>Otter Creek</i>	<i>Mouth (S34, T76N, R23W) to south county line (S32, T74N, R23W)</i>
	South River	All <i>Mouth (S12, T77N, R22W) to west county line (S19, T74N, R25W)</i>
	<i>Squaw Creek</i>	<i>Mouth (S2, T75N, R24W) to south county line (S36, T74N, R25W)</i>
	Whitebreast White Breast <i>White Creek</i>	All <i>East county line (S13, T74N, R22W) to south county line (S35, T74N, R22W)</i>
Washington	Camp Creek	North Line of Mouth (S17, T77N, R07W) to north line (S33, T77N, R7W R07W) to the Mouth at English River

ENVIRONMENTAL PROTECTION COMMISSION[567](cont'd)

County	River/Stream	Location
	Clemons Creek	West Line of Mouth (S14, T75N, R08W) to west line (S9, T75N, R8W R08W) to the South Line S14, T75N, R8W
	Crooked Creek	East Line of S28, T76N, R9W to Henry County Line South county line (S31, T74N, R07W) to confluence of East and West Forks (S24, T74N, R07W)
	Dutch Creek	South Line of Mouth (S8, T74N, R09W) to south line (S21, T75N, R9W R09W) to the Mouth at the Skunk River
	East Fork, Crooked Creek	All Mouth (S24, T74N, R07W) to south county line (S35, T74N, R06W)
	English River	All East county line (S11, T77N, R06W) to north county line (S6, T77N, R09W)
	Goose Creek	East County Line county line (S24, T76N, R06W) to East Line of east line (S22, T76N, R6W R06W)
	Honey Creek	Mouth (S9, T74N, R09W) to Lake Darling (S21, T74N, R09W) to Mouth at the Skunk River
	Iowa River	All East county line (S36, T77N, R06W) to north county line (S3, T77N, R06W)
	Lime Creek	Mouth (S9, T77N, R08W) to confluence with Smith Creek (S16, T77N, R08W)
	Long Creek	East County Line county line (S25, T75N, R06W) to confluence of North and South Forks to West Line of (S26, T75N, R6W R06W)
	North Fork, Long Creek	East Line of Mouth (S26, T75N, R06W) to east line (S3, T75N, R7W R07W) to Mouth at Long Creek
	Skunk River	All South county line (S36, T74N, R08W) to west county line (S6, T74N, R09W)
	Smith Creek	West County Line to Mouth at the English River Mouth (S16, T77N, R08W) to west county line (S19, T77N, R09W)
	South English River	Mouth (S6, T77N, R09W) to west county line (S7, T77N, R09W)
	South Fork, Long Creek	Mouth (S26, T75N, R06W) to County Road H61 W61 (S4, T75N, R07W) to Mouth at Long Creek
	West Fork Crooked Creek	Mouth (S24, T74N, R07W) to east line (S28, T76N, R09W)
	Williams Creek	South County Line to Mouth at East Fork, Crooked Creek Mouth (S31, T74N, R07W) to south county line (S32, T74N, R06W)
Wayne	Chariton River	All East county line (S1, T70N, R20W) to north county line (S1, T70N, R20W)
	South Fork Chariton River	Rathbun Lake to County Road 556 East county line (S36, T70N, R20W) to confluence with Dick Creek (S16, T69N, R22W)
Webster	Boone River	Mouth (S36, T87N, R27W) to east county line (S25, T87N, R27W)
	Brushy Creek	North Line of Mouth (S15, T87N, R27W) to north line (S8, T88N, R27W) to Mouth at the Des Moines River
	Deer Creek	North Line of Mouth (S24, T90N, R29W) to north line (S16, T90N, R29W) to Mouth at the Des Moines River
	Des Moines River	All South county line (S34, T86N, R27W) to north county line (S6, T90N, R28W)
	North Branch, Lizard Creek	West County Line to Mouth at Des Moines River Mouth (S19, T89N, R28W) to west county line (S18, T90N, R30W)
	Prairie Creek	West Line of Mouth (S35, T88N, R28W) to west line (S29, T88N, R28W) to Mouth at the Des Moines River
	South Branch, Lizard Creek	Mouth (S23, T89N, R29W) to West County Line west county line (S7, T89N, R30W)
Winnebago	Winnebago River	All South county line (S36, T98N, R24W) to north county line (S9, T100N, R23W)
Winneshiek	Bear Creek	East County Line county line (S25, T100N, R07W) to County Road A24 in S34, T100N, R15W confluence of North and South Bear Creeks (S25, T100N, R07W)
	Canoe Creek	East County Line Mouth (S25, T99N, R07W) to West Line west line (S8, T99N, R8W R08W)
	Little Turkey River	All South county line (S32, T96N, R10W) to west county line (S30, T96N, R10W)
	North Bear Creek	Mouth (S25, T100N, R7W R07W) upstream to Confluence confluence with Middle Bear Creek in (S14, T100N, R7W R07W)
	Paint Creek	East Line county line (S13, T99N, R7W R07W) to West Line west line (S11, T99N, R7W R07W)

ENVIRONMENTAL PROTECTION COMMISSION[567](cont'd)

County	River/Stream	Location
	<i>South Bear Creek</i>	<i>Mouth (S25, T100N, R07W) to confluence with unnamed tributary (NW 1/4, S34, T100N, R07W)</i>
	Turkey River	All <i>South county line (S34, T96N, R09W) to west county line (S7, T98N, R10W)</i>
	Upper Iowa River	All <i>East county line (NE 1/4, NE 1/4, S25, T99N, R07W) to west county line (S7, T100N, R10W)</i>
	<i>Yellow River</i>	<i>East county line (S13, T96N, R07W) to confluence with North Fork Yellow River (S13, T96N, R07W)</i>
Woodbury	Big Sioux River	All <i>Mouth (S31, T89N, R47W) to north county line (S3, T89N, R48W)</i>
	<i>Farmers Ditch</i>	<i>Mouth (S32, T86N, R45W) to confluence with Big Whiskey Creek (S31, T88N, R46W)</i>
	<i>Farmers Garretson Outlet Ditch</i>	<i>South county line (S32, T86N, R45W) to confluence with Farmers Ditch (S32, T86N, R45W)</i>
	Floyd River	All <i>Mouth (S33, T89N, R47W) to north county line (S6, T89N, R46W)</i>
	<i>Garretson Ditch</i>	<i>Mouth (S32, T86N, R45W) to confluence with Camp Creek (S15, T87N, R46W)</i>
	<i>Haitz Ditch</i>	<i>South county line (S35, T86N, R45W) to confluence with Cottonwood Hollow (S35, T86N, R45W)</i>
	Little Sioux River	All <i>South county line (S35, T86N, R44W) to east county line (S12, T89N, R42W)</i>
	Maple River	All <i>South county line (S32, T86N, R42W) to east county line (S13, T86N, R42W)</i>
	Missouri River	All <i>South county line (S31, T86N, R47W) to confluence with Big Sioux River (S31, T89N, R47W)</i>
	<i>Perry Creek</i>	<i>Mouth (S32, T89N, R47W) to north county line (S4, T89N, R47W)</i>
	<i>West Fork Ditch</i>	<i>South county line (S33, T86N, R45W) to confluence with West Fork Little Sioux River (S9, T86N, R45W)</i>
	West Fork, Little Sioux River	All <i>Confluence with West Fork Ditch (S9, T86N, R45W) to north county line (S2, T89N, R44W)</i>
	<i>Wolf Creek</i>	<i>South county line (S35, T86N, R45W) to confluence with East Fork Wolf Creek (S30, T87N, R44W)</i>
Worth	Beaver Creek	Mouth (S34, T98N, R22W) to Hwy. 9 (S28, T98N, R22W) to Mouth at Winnebago River
	Deer Creek	East county line (S1, T99N, R19W) to County Road S56 (S17, T100N, R19W) to East County Line
	Elk Creek	Mouth (S27, T99N, R20W) to Hwy. 105 (S5, T99N, R22W) to Mouth at Shell Rock River
	Shell Rock River	All <i>South county line (S32, T98N, R19W) to north county line (S12, T100N, R21W)</i>
	Willow Creek	Mouth (S32, T98N, R21W) to Hwy. 9 (S20, T98N, R21W) to Mouth at Winnebago River
	Winans Creek	Mouth (S36, T98N, R22W) to Hwy. 9 (S24, T98N, R22W) to Mouth at Winnebago River
	<i>Winnebago River</i>	<i>South county line (SE 1/4, SW 1/4, S32, T98N, R21W) to south county line (S34, T98N, R22W)</i>
Wright	Boone River	All <i>South county line (S34, T90N, R26W) to north county line (S2, T93N, R26W)</i>
	Eagle Creek	South county line (S31, T90N, R25W) to County Road R33 (S30, T91N, R25W) to South County Line
	East Fork, Branch Iowa River	North County Line to Mouth at Iowa River Mouth (S19, T93N, R23W) to north county line (S6, T93N, R23W)
	Iowa River	South Line of S19, T93N, R23W to East County Line <i>county line (S13, T90N, R23W) to confluence of East Branch Iowa River and West Branch Iowa River (S19, T93N, R23W)</i>
	Otter Creek	Mouth (S29, T92N, R26W) to West Line S14 west line (S11, T92N, R26W)
	<i>Prairie Creek</i>	<i>Mouth (S30, T93N, R26W) to west county line (S30, T93N, R26W)</i>
	West Fork, Branch Iowa River	North County Line to Mouth at Iowa River Mouth (S19, T93N, R23W) to north county line (S2, T93N, R24W)
	White Fox Creek	South county line (S34, T90N, R25W) to County Road R38 (S36, T91N, R25W) to South County Line

ARC 4650B**ENVIRONMENTAL PROTECTION
COMMISSION[567]****Notice of Intended Action**

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

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

Pursuant to the authority of Iowa Code sections 455B.304, 455B.305, 455B.306, 455B.310 and 455D.7, the Environmental Protection Commission hereby gives Notice of Intended Action to amend Chapter 101, “Solid Waste Comprehensive Planning Requirements,” Iowa Administrative Code.

The proposed amendments pertain to solid waste comprehensive planning and the disposal of solid waste by planning areas in sanitary landfills outside the planning area. The amendments are needed to implement 2005 Iowa Acts, House File 399. The amendments will add some flexibility for planning areas in addressing the comprehensive planning requirements. Under these amendments, a planning area that closes all of its municipal solid waste sanitary landfills and uses a transfer station to send all waste to a Resource Conservation and Recovery Act Subtitle D compliant sanitary landfill located in another planning area is allowed to retain its autonomy for solid waste comprehensive planning purposes.

Any interested person may make written suggestions or comments pertaining to the proposed amendments on or before December 2, 2005. Such written materials should be directed to Chad Stobbe, Energy and Waste Management Bureau, Iowa Department of Natural Resources, 502 East 9th Street, Wallace State Office Building, Des Moines, Iowa 50319-0034; fax (515)281-8895 or E-mail Chad.Stobbe@dnr.state.ia.us. Persons wishing to convey their views orally should contact Chad Stobbe at (515)242-5851.

When submitting comments, stakeholders are encouraged by the Energy and Waste Management Bureau to utilize the following guidelines. These guidelines aid the Bureau in accurately understanding and creating a record of your input.

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

A public hearing will be held on December 2, 2005, from 10 a.m. to 12 noon in the Wallace State Office Building, Fourth Floor East Conference Room, at which time persons may present their views either orally or in writing. At the hearing, persons will be asked to give their names and addresses for the record and to confine their remarks to the subject of the amendments.

Any persons who intend to attend the public hearing and have special requirements, such as those relating to hearing

or mobility impairments, should contact the Department of Natural Resources to advise of special needs.

These amendments are intended to implement Iowa Code sections 455B.304, 455B.305, 455B.306, 455B.310 and 455D.7.

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

The following amendments are proposed.

ITEM 1. Amend 567—Chapter 101 by adopting the following **new** rule and renumbering existing rules **567—101.12(455B,455D)** and **567—101.13(455B,455D)** as **567—101.13(455B,455D)** and **567—101.14(455B,455D)**, respectively:

567—101.12(455B,455D) Solid waste comprehensive plan categories. Public or private entities operating or planning to operate a sanitary disposal project in Iowa, in conjunction with all local governments using the sanitary disposal project, shall file with the director one of two categories of comprehensive plans detailing the method by which the public or private entity, in conjunction with all local governments using the sanitary disposal project, will comply with solid waste comprehensive planning requirements. The first category is a comprehensive plan in which municipal solid waste is disposed of in a sanitary landfill within the planning area. The second category is a comprehensive plan in which all municipal solid waste is consolidated at and transported from a permitted transfer station for disposal at a sanitary landfill in another comprehensive planning area.

101.12(1) A planning area that closes all of the municipal solid waste sanitary landfills located in the planning area and chooses to use a municipal solid waste sanitary landfill in another planning area that complies with all requirements under Subtitle D of the federal Resource Conservation and Recovery Act, with all solid waste generated within the planning area being consolidated at and transported from a permitted transfer station, may elect to retain autonomy as a planning area and shall not be required to join the planning area where the landfill being used for final disposal of solid waste is located.

101.12(2) If a planning area makes the election to retain autonomy under subrule 101.12(1), the planning area receiving the solid waste from the planning area making the election shall not be required to include the planning area making the election in a comprehensive plan provided no services are shared between the two planning areas other than the acceptance of solid waste for sanitary landfill disposal. The planning area receiving the solid waste shall only be responsible for the permitting, planning, and waste reduction and diversion programs in the planning area receiving the solid waste.

101.12(3) If the department determines that solid waste cannot reasonably be consolidated and transported from a particular transfer station (e.g., asbestos or bulky construction and demolition waste), the department may establish permit conditions to address the transport and disposal of the solid waste. An election may be made under this subrule only if the two comprehensive planning areas enter into an agreement, pursuant to Iowa Code chapter 28E, that includes, at a minimum, all of the following:

- a. A detailed methodology of the manner in which solid waste will be tracked and reported between the two planning areas.

ENVIRONMENTAL PROTECTION COMMISSION[567](cont'd)

b. A detailed methodology of the manner in which the receiving sanitary landfill will collect, remit, and report tonnage fees, pursuant to Iowa Code section 455B.310, paid by the planning area that is transporting the solid waste. The methodology shall include both the remittances of tonnage fees to the state and the retained tonnage fees.

ITEM 2. Amend renumbered rule 567—101.13(455B, 455D), introductory paragraph, as follows:
567—101.13(455B,455D) Types of comprehensive plan submittals to be filed. ~~Public or private entities operating or planning to operate a sanitary disposal project in Iowa shall, in conjunction with all local governments using the sanitary disposal project, meet all comprehensive plan submittal requirements described in this rule. There are three types of comprehensive plan submittals: initial, updates, and amendments. The purpose of these types of comprehensive plans is the development of a specific plan and schedule for implementing technically and economically feasible solid waste management methods that will prevent or minimize any adverse environmental impact and meet the state's waste volume reduction and recycling goals pursuant to rule 567—101.6(455B,455D).~~

ITEM 3. Amend renumbered subrule 101.14(4) as follows:

101.14(4) Form, manner, time and place of filing.

a. Form. Any person to whom or entity to which this rule applies shall file a completed DNR Form 542-3276, Quarterly Solid Waste Fee Schedule and Retained Fees Report.

b. Manner, time and place. Fees are to be paid on a quarterly basis. *Sanitary landfills serving more than one planning area, as expressed in rule 101.12(455B,455D), shall submit separate Quarterly Solid Waste Fee Schedule and Retained Fees Reports for each planning area.* The fees and report on retained fees will be due January 1, April 1, July 1, and October 1 for the quarters ending September 30, December 31, March 31, and June 30, respectively. The completed form shall be submitted with the appropriate fees to Accounting, Department of Natural Resources, Wallace State Office Building, 502 East 9th Street, Des Moines, Iowa 50319.

ITEM 4. Amend renumbered subrule **101.14(5)**, paragraph **"a,"** as follows:

a. Operating records. Those sanitary landfill operators who are subject to the fee assessment requirements of this rule shall maintain adequate records to determine and document the weight of solid waste received at and disposed of in the sanitary landfill during the calendar year. *Planning areas entering into an agreement pursuant to 2005 Iowa Acts, House File 399, section 3, shall submit documentation to the department and a planning area receiving the solid waste under such an agreement shall, in addition, submit evidence to the department demonstrating that required retained fees were returned in a timely manner to other planning area(s) under the agreement.*

ARC 4648B**ENVIRONMENTAL PROTECTION COMMISSION[567]****Notice of Intended Action**

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

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

Pursuant to the authority of Iowa Code sections 455B.304 and 455D.7, the Environmental Protection Commission hereby gives Notice of Intended Action to adopt new Chapter 123, "Regional Collection Centers and Mobile Unit Collection and Consolidation Centers," and to rescind Chapter 211, "Grants for Regional Collection Centers of Conditionally Exempt Small Quantity Generators and Household Hazardous Wastes," and adopt new Chapter 211, "Financial Assistance for the Collection of Household Hazardous Materials and Hazardous Waste from Conditionally Exempt Small Quantity Generators," Iowa Administrative Code.

Chapter 211 will be rescinded; however, the requirements are split into two new chapters and updated. New Chapter 211 will be dedicated to the financial assistance to Regional Collection Centers (RCCs) and Mobile Unit Collection and Consolidation Centers (MUCCCs). New Chapter 123 will be dedicated to the permitting requirements for Regional Collection Centers and Mobile Unit Collection and Consolidation Centers.

In Chapter 211, the application ranking will be relocated from the rules to the application guidelines to allow greater flexibility in funding projects that best meet the intent and goals of the program. New Chapter 211 also outlines the eligibility requirements for semiannual assistance payments to RCCs and MUCCCs.

Chapter 123 will consolidate all the RCC permitting requirements from 567—Chapters 102, 104 and 211 into one chapter. In this reorganization, there are several changes to the RCC permit requirements. First, all permitted RCCs will be required to file a semiannual report, rather than just those RCCs seeking reimbursement. Second, the closure plan requirements will be revised so that they are more applicable to the concerns of an RCC. Furthermore, an education plan will be required as part of the permit.

Chapter 123 also establishes a new permit, Mobile Unit Collection and Consolidation Center (MUCCC), for collection systems that utilize mobile collection events on a regular basis, but do not provide public access to a fixed facility. The permit requirements for an MUCCC are very similar to the RCC permit requirements; however, the MUCCC must provide the dates and locations of the mobile events. The events must total at least 16 hours a month in each county served.

Finally, 2005 Iowa Acts, House File 602, amended Iowa Code chapter 455F which is the basis for RCC reimbursements. 2005 Iowa Acts, House File 602, changes the transition of the moneys the Department utilizes for RCCs from a primary allocation toward establishment grants to a primary allocation to reimbursement. Moreover, 2005 Iowa Acts, House File 602, allows eligible private agencies that collect household hazardous materials (HHM) and are part of a comprehensive plan to receive assistance. Thus, minor amendments to administrative rules have been made to reflect these changes to the Iowa Code.

ENVIRONMENTAL PROTECTION COMMISSION[567](cont'd)

Any interested person may make written suggestions or comments pertaining to the proposed rules on or before December 5, 2005. Such written materials should be directed to Theresa Stiner, Energy and Waste Management Bureau, Iowa Department of Natural Resources, Wallace State Office Building, 502 East 9th Street, Des Moines, Iowa 50319-0034; fax (515)281-8895; or E-mail Theresa.Stiner@dnr.state.ia.us. Persons wishing to convey their views orally should contact Theresa Stiner at (515)281-8646.

When submitting comments, stakeholders are encouraged by the Energy and Waste Management Bureau to utilize the following guidelines. These guidelines aid the Bureau in accurately understanding and creating a record of your input.

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

A public hearing will be held on Monday, December 5, 2005, from 1 to 2 p.m. in the Wallace State Office Building, Fifth Floor West Conference Room, 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 rules.

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

These rules are intended to implement Iowa Code sections 455B.304, 455D.7, and 455F.8 and section 455F.8A as amended by 2005 Iowa Acts, House File 602, section 1.

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

The following amendments are proposed.

ITEM 1. Adopt **new** 567—Chapter 123 as follows:

CHAPTER 123
REGIONAL COLLECTION CENTERS
AND MOBILE UNIT COLLECTION
AND CONSOLIDATION CENTERS

567—123.1(455B,455D,455F) Purpose. The purpose of this chapter is to implement permitting requirements for two systems which provide for the collection of household hazardous waste (HHM) and hazardous waste from conditionally exempt small quantity generators (CESQGs). Two types of permits are established:

1. Regional collection center (RCC) permits for operations that collect hazardous materials at a facility; and
2. Mobile unit collection and consolidation center (MUCCC) permits for facilities that collect hazardous materials at various temporary locations.

567—123.2(455B,455D,455F) Definitions. The definitions set out in Iowa Code section 455B.301 shall be considered to

be incorporated verbatim in these rules. For the purposes of this chapter, these terms shall have the following meanings:

“Conditionally exempt small quantity generator” or “CESQG” means a generator that in a calendar month generates no more than 100 kilograms of hazardous waste in that month and is further defined by 40 CFR 261.5.

“Consolidation center for CESQG and HHM” means a building for the sorting, packaging, and temporary storage of materials collected from mobile events. Household hazardous materials (HHM) are not collected from the public at the consolidation center.

“Hazardous waste contractor” means a private company that provides proper management (e.g., disposal, recycling) of hazardous waste. “Hazardous waste contractor” does not include regional collection centers.

“Household hazardous materials” or “HHM” means the same as defined in Iowa Code subsection 455F.1(4).

“Mobile unit collection and consolidation center” or “MUCCC” means a government agency or private agency under contract with a government agency as part of a solid waste comprehensive plan that provides HHM collection events at temporary sites. Collection events are held a minimum of 16 hours per month in each county served by the MUCCC. MUCCCs do not provide public access to a fixed facility. Materials collected are consolidated and stored for removal by a hazardous waste contractor. MUCCCs do not include RCCs that utilize a mobile collection unit along with access to a permanent facility.

“Mobile unit for CESQG and HHM” means a unit that can be moved to different sites within a service area. The mobile unit is used to perform collection events and to transport collected materials to a fixed RCC or consolidation center.

“Public access” means the public has regularly scheduled right of access during the facility's hours of operation as specified in the facility's permit.

“Regional collection center” or “RCC” means a secured facility at which collection, sorting, and packaging of household hazardous materials and hazardous materials from CESQGs is accomplished prior to transportation of these wastes to the final disposal site. RCCs have regular hours during which the public may drop off hazardous materials. An RCC may be a government agency or a private agency under contract with a government agency as part of a solid waste comprehensive plan. RCCs are referred to as temporary collection sites in Iowa Code subsection 455F.8A(1).

“Secondary containment” means providing an impervious surface that is curbed, sloped, or sumped to retain spilled materials with storage volume equal to the largest container or 10 percent of all containers, whichever is larger.

567—123.3(455B,455D,455F) Regional collection center and mobile unit collection and consolidation center permits.

123.3(1) Permit required. An RCC or MUCCC shall not be constructed or operated without a permit from the department.

123.3(2) RCC and MUCCC permit exemption. If an RCC or MUCCC is located at a permitted recycling or composting facility or sanitary disposal project, the RCC or MUCCC shall not be required to have its own permit; instead, the RCC or MUCCC activities may be amended into the host facility's permit.

123.3(3) Compliance. Every RCC and MUCCC must be in compliance with all state and federal statutes and regulations regarding the management, storage, transportation and disposition of household hazardous materials and hazardous

ENVIRONMENTAL PROTECTION COMMISSION[567](cont'd)

materials from conditionally exempt small quantity generators.

123.3(4) Construction and operation. An RCC or MUCCC shall be constructed and operated according to the plans and specifications approved by the department and the conditions of the permit. The approved plans and specifications shall constitute a condition of the permit.

123.3(5) Transfer of title and permit. If title to an RCC or MUCCC is transferred, then the department shall transfer the permit within 60 days if the department has found that the following requirements have been met:

a. The title transferee has applied in writing to the department to request a transfer of the permit within 30 days of the transfer of title.

b. The permitted facility is in compliance with Iowa Code chapters 455B, 455D and 455F, this chapter and the conditions of the permit.

123.3(6) Permit conditions. Any permit may be issued subject to conditions that are specified in writing by the department and that are necessary to ensure that the facility is constructed and operated in compliance with Iowa Code chapters 455B, 455D and 455F, this chapter and local fire codes.

123.3(7) Effect of revocation. If a permit held by any public or private agency is revoked by the director, then no new permit for an RCC or MUCCC shall be issued to that agency for a period of one year from the date of revocation. Such revocation shall not prohibit the issuance of a permit for the facility to another public or private agency.

123.3(8) Inspection prior to commencing new operation. The department shall be notified before a facility begins operations. No household hazardous materials or hazardous waste from conditionally exempt small quantity generators shall be accepted by the facility until it has been inspected and approved by the department.

123.3(9) Duration and renewal of permits. A permit shall be issued and may be renewed for a period of three years, unless otherwise authorized by the department. If the permit applicant is a private agency under contract with a local government, the permit shall not extend past the end date of the contract.

123.3(10) Request and approval of permit renewal. A facility shall file a request for permit renewal by submitting Form 50H (542-1542) to the department at least 90 days before the expiration of the current permit. The department may request that additional information be submitted for review to make a permit renewal decision. The department shall renew the permit if, after a review and inspection of the facility and its compliance history, the department finds that the facility is in compliance with Iowa Code chapters 455B, 455D and 455F, this chapter, and the conditions of the permit, and is making a good-faith effort to maintain compliance. If the facility is found not to be in compliance with Iowa Code chapters 455B, 455D, and 455F, this chapter, and the conditions of the permit, or if a good-faith effort to maintain compliance is not being made, the facility shall be brought into compliance or placed on a compliance schedule approved by the department before the permit is renewed.

123.3(11) Request for permit modification. A facility shall submit a request for permit modification in writing to the department with supporting documentation and materials. The department may request that additional information be submitted for review to make a permit modification decision.

567—123.4(455B,455D,455F) Permit application requirements for regional collection centers.

123.4(1) An applicant for a regional collection center permit must submit the following information to the department:

- a. The name, address, and telephone number of:
 - (1) The owner of the site where the regional collection center will be located.
 - (2) The permit applicant.
 - (3) The site where the regional collection center will be located.
 - (4) The individual responsible for the operation of the RCC.
 - b. A legal description of the RCC site.
 - c. A map or aerial photograph locating the boundaries of the site and identifying:
 - (1) North or other principal compass points.
 - (2) Zoning and land use within one-half mile.
 - (3) Homes and other buildings within one-half mile.
 - (4) Section lines or other legal boundaries.
 - d. Days and hours of operation.
 - e. Area to be served.
 - f. Type, source, and expected volume or weight of waste to be handled per day, week or year.
 - g. An organizational chart.
 - h. Site plans detailing how the facility will comply with rule 123.6(455B,455D,455F).
 - i. Schematic plans of facilities detailing how the facility will comply with rule 123.7(455B,455D,455F).
 - j. For mobile operations, schematic plans or a description and photographs of mobile unit.
 - k. Documentation of staff qualifications pursuant to rule 123.8(455B,455D,455F).
 - l. A plan of operations detailing how the facility will comply with subrule 123.9(1).
 - m. An education plan detailing how the facility will comply with subrule 123.9(2).
 - n. Proof of the applicant's ownership of the RCC site or legal entitlement to use the site for the disposal of solid waste for the term of the permit for which application is made.
 - o. A closure plan detailing how the facility will comply with subrule 123.9(3).
 - p. An emergency response and remedial action plan (ERRAP) detailing how the facility will comply with rule 123.10(455B,455D,455F).
- 123.4(2)** Incomplete applications. If the department finds the permit application to be incomplete, the department shall notify the applicant of that fact and of the specific deficiencies. If the applicant fails to correct the noted deficiencies within 30 days, the department may reject the application and return the application materials to the applicant. The applicant may reapply without prejudice.

567—123.5(455B,455D,455F) Permit application requirements for mobile unit collection and consolidation centers.

123.5(1) An applicant for a mobile unit collection and consolidation center permit must submit the following information to the department:

- a. The name, address, and telephone number of:
 - (1) The owner of the site where the consolidation center will be located.
 - (2) The permit applicant.
 - (3) The site where the consolidation center will be located.

ENVIRONMENTAL PROTECTION COMMISSION[567](cont'd)

(4) The individual responsible for the operation of the MUCCC.

b. A legal description of the consolidation center site.
c. A map or aerial photograph locating the boundaries of the consolidation center for CESQG and HHM site and identifying:

(1) North or other principal compass points.
(2) Zoning and land use within one-half mile.
(3) Homes and other buildings within one-half mile.
(4) Section lines or other legal boundaries.
d. Days, hours and locations of mobile collection events for HHM and CESQG.

e. Area to be served.
f. Type, source, and expected volume or weight of waste to be handled per day, week or year.

g. An organizational chart.
h. Site plans detailing how the facility will comply with rule 123.6(455B,455D,455F).

i. Schematic plans of facilities detailing how the facility will comply with rule 123.7(455B,455D,455F).

j. Schematic plans or a description and photographs of mobile unit.

k. Documentation of staff qualifications pursuant to rule 123.8(455B,455D,455F).

l. A plan of operations detailing how the facility will comply with subrule 123.9(1).

m. An education plan detailing how the facility will comply with subrule 123.9(2).

n. Proof of the applicant's ownership of the consolidation center for CESQG and HHM site or legal entitlement to use the site for the term of the permit for which application is made.

o. Agreements from the owners of the sites where the mobile collections for CESQG and HHM will take place.

p. A closure plan detailing how the facility will comply with subrule 123.9(3).

q. An emergency response and remedial action plan (ERRAP) detailing how the facility will comply with rule 123.10(455B,455D,455F).

123.5(2) Incomplete applications. If the department finds the permit application to be incomplete, the department shall notify the applicant of that fact and of the specific deficiencies. If the applicant fails to correct the noted deficiencies within 30 days, the department may reject the application and return the application materials to the applicant. The applicant may reapply without prejudice.

567—123.6(455B,455D,455F) Site selection. A site selected for an RCC or MUCCC shall meet the following criteria:

123.6(1) An RCC site or a mobile unit collection for CESQG and HHM site shall be sited on public property, or on private property if an agreement exists that guarantees public access. Documentation of the private property agreement shall be provided to the department. A consolidation center for CESQG and HHM does not need to be sited on public property.

123.6(2) The site of an RCC or a consolidation center shall be designed to provide adequate secondary containment in case of a spill or other possible onsite contamination.

123.6(3) The site shall meet all applicable zoning requirements.

123.6(4) The site shall be adequately sized to accommodate all structures, units and activities that will take place on the site.

123.6(5) An RCC site or a consolidation center for CESQG and HHM site shall be fenced to control access, and

a gate shall be provided at the entrance to the site and be locked when personnel are not on duty.

567—123.7(455B,455D,455F) Structures. The structures for regional collection centers and consolidation centers for CESQG and HHM shall meet the following criteria:

123.7(1) All structures shall be sized to adequately accommodate the sorting, bulk and lab packing, and temporary storage of household hazardous materials and hazardous materials from conditionally exempt small quantity generators brought to the RCC or collected at mobile events.

123.7(2) All permanent structures shall meet the requirements of applicable building codes.

123.7(3) The structures and mobile units shall be so designed to prevent run-on from entering from adjacent areas.

123.7(4) All mobile units and the containers used to package collected materials shall comply with applicable Iowa department of transportation (DOT) rules and guidelines. At each mobile unit site, the unit shall rest on a pad of an impervious, smooth material that provides secondary containment in case of a spill, and a canopy or roof shall be provided as protection from inclement weather.

123.7(5) All receiving areas shall have a storage capacity of at least one day's processing capacity.

123.7(6) All receiving, sorting, bulking, transfer and storage area surfaces shall be constructed of an impervious, smooth material so designed to be easily cleaned, nonreactive with the waste, and with proper drainage, in the form of plastic-lined pits or concrete sumps, according to applicable codes. Areas used for the receiving, bulking, transferring, lab packing and storing of exempt hazardous materials shall be provided with secondary containment and shall be protected from exposure to the weather.

123.7(7) The construction plans and specifications for the RCC shall include a receiving area, sorting area, separate storage areas for incompatible materials, roads, structures, fences and gates, landscaping and screening devices, personnel and maintenance facilities, and utility lines. The construction plans and specifications for the consolidation center shall include a sorting area, separate storage areas for incompatible materials, roads, structures, fences and gates, landscaping and screening devices, personnel and maintenance facilities, and utility lines.

567—123.8(455B,455D,455F) Staff qualifications. All RCC and MUCCC staff handling hazardous materials shall have received applicable training including but not limited to the following:

1. OSHA 24-hour health and safety training as described by 29 CFR 1910.120.

2. Hazardous materials chemistry.

3. Personnel and site safety.

4. Proper lab packing techniques.

5. Proper transporting of hazardous materials.

6. U.S. Department of Transportation 8-hour hazardous materials training for the operation of a mobile unit for hazardous materials collection.

567—123.9(455B,455D,455F) Plans and procedures. The applicant must prepare and maintain a plan of operations, an education plan and a closure plan.

123.9(1) Operations plan. The operations plan shall include, at a minimum, the following information.

a. Schedule of operations including hours of operations for RCCs and a schedule of collection events including dates, hours, and locations for MUCCCs. MUCCC collections shall total, at a minimum, 16 hours per month in each county

ENVIRONMENTAL PROTECTION COMMISSION[567](cont'd)

in the service area. At least 4 of the 16 hours shall be on a Saturday.

- b. Site selection procedures for mobile unit collections.
- c. Standard receiving procedures for household and CESQG wastes.
- d. Procedures for managing unknown materials.
- e. Procedures for handling open or leaking containers.
- f. Procedures for managing large quantities of wastes.
- g. Recycling procedures for usable materials.
- h. Disposal of nonhazardous waste.
- i. Personal protection equipment (PPE).
- j. Initial training requirements and continuing education of staff.

123.9(2) Education plan. The education plan shall demonstrate a commitment to educate the local population through a program that addresses alternatives to the purchase of toxic materials and the proper disposal for toxic materials. Education shall be directed to both the general population and CESQGs.

123.9(3) Closure plan. The permit holder shall notify the department at least 30 days prior to ceasing operations. The closure plan shall include, at a minimum, the following information.

- a. A description of how the RCC will notify the public within its service area that the facility is closing and how household hazardous materials should be managed after closure of the facility.
- b. A description of how all household hazardous materials and hazardous waste from CESQGs will be removed from the facility and properly managed within 45 days of the RCC's or MUCCC's ceasing operations.

567—123.10(455B,455D,455F) Emergency response and remedial action plans.

123.10(1) Purpose. The purpose of this rule is to implement Iowa Code section 455B.306(6)“d” by providing the criteria for developing a detailed emergency response and remedial action plan (ERRAP) for permitted sanitary disposal projects.

123.10(2) Update. An updated ERRAP shall be included with any request for permit modification to incorporate a facility expansion or significant changes in facility operation that require modification of the currently approved ERRAP.

123.10(3) Content. The content of ERRAP documents shall be concise and readily usable as a reference manual by facility managers and operators under emergency conditions. The ERRAP document content shall address at least the following primary issues in detail, unless project conditions render the specific issue not applicable. The rationale for exclusion of any issue areas that are determined not to be applicable must be provided in either the body of the plan or as a supplement to facilitate department review. Additional emergency response and remedial action plan requirements unique to the facility shall be addressed, as applicable.

- a. Facility information.
 - (1) Permitted agency.
 - (2) DNR permit number.
 - (3) Facility description.
 - (4) Responsible official and contact information.
 - (5) Project location.
 - (6) Site and environs map.
- b. Regulatory requirements.
 - (1) Iowa Code section 455B.306(6)“d” criteria citation.
 - (2) Reference to provisions of the permit.
- c. Emergency conditions—response activities—remedial action.
 - (1) Failure of utilities.

- 1. Short-term (48 hours or less).
- 2. Long-term (over 48 hours).
- (2) Weather-related events.
 - 1. Tornado.
 - 2. Windstorms.
 - 3. Intense rainstorms and erosion.
 - 4. Lightning strikes.
 - 5. Flooding.
 - 6. Event and postevent conditions.
- (3) Fire and explosions.
 - 1. Waste materials.
 - 2. Buildings and site.
 - 3. Equipment.
 - 4. Fuels.
 - 5. Utilities.
 - 6. Facilities.
 - 7. Working area.
 - 8. Hot loads.
 - 9. Waste gases.
 - 10. Evacuation.
- (4) Regulated waste spills and releases.
 - 1. Waste materials.
 - 2. Leachate.
 - 3. Waste gases.
 - 4. Waste stockpiles and storage facilities.
 - 5. Waste transport systems.
 - 6. Litter and airborne particulate.
 - 7. Site drainage systems.
 - 8. Off-site releases.
- (5) Hazardous material spills and releases.
 - 1. Load check control points.
 - 2. Mixed waste deliveries.
 - 3. Fuels.
 - 4. Waste gases.
 - 5. Site drainage systems.
 - 6. Off-site releases.
- (6) Mass movement of land and waste.
 - 1. Earthquakes.
 - 2. Slope failure.
 - 3. Waste shifts.
 - 4. Waste subsidence.
- (7) Emergency and release notifications and reporting.
 - 1. Federal agencies.
 - 2. State agencies.
 - 3. County and city agencies.
 - 4. News media.
 - 5. Public and private facilities with special populations within five miles.
 - 6. Emergency response agencies and contact information.
 - 7. Reporting requirements and forms.
- (8) Emergency waste management procedures.
 - 1. Communications.
 - 2. Temporary discontinuation of services, short-term and long-term.
 - 3. Facilities access and rerouting.
 - 4. Waste acceptance.
 - 5. Wastes in process.
- (9) Primary emergency equipment inventory.
 - 1. Major equipment.
 - 2. Fire hydrants and water sources.
 - 3. Off-site equipment resources.
- (10) Emergency aid.
 - 1. Responder contacts.
 - 2. Medical services.
 - 3. Contracts and agreements.

ENVIRONMENTAL PROTECTION COMMISSION[567](cont'd)

- (11) ERRAP training requirements.
 1. Training providers.
 2. Employee orientation.
 3. Annual training updates.
 4. Training completion and record keeping.
- (12) Reference tables, figures and maps.

567—123.11(455B,455D,455F) Reporting requirements.

On a form supplied by the department, each RCC and MUCCC shall submit to the department a completed hazardous material collection semiannual report. The report shall include, but is not limited to, the pounds of materials managed through a reuse program, hazardous waste contractors, and by nonhazardous waste contractors. All hazardous waste contractor invoices shall be attached. Such invoices shall depict hazardous material types, net weight of hazardous materials, and associated disposal costs charged by the hazardous waste contractor to the RCC or MUCCC. Hazardous material collection semiannual reports shall be submitted by September 1 for the portion of the fiscal year January 1 through June 30, and by March 1 for the portion of the fiscal year July 1 through December 31.

These rules are intended to implement Iowa Code sections 455B.304, 455D.7 and 455F.8B and section 455F.8A as amended by 2005 Iowa Acts, House File 602, section 1.

ITEM 2. Rescind 567—Chapter 211 and adopt the following **new** chapter in lieu thereof:

CHAPTER 211

FINANCIAL ASSISTANCE FOR THE COLLECTION
OF HOUSEHOLD HAZARDOUS MATERIALS AND
HAZARDOUS WASTE FROM CONDITIONALLY
EXEMPT SMALL QUANTITY GENERATORS

567—211.1(455F) Purpose. The purpose of this program is to reduce the amount of hazardous materials disposed in Iowa's sanitary landfills, thereby protecting groundwater resources, the health and safety of Iowa citizens, and the environment.

The costs and accessibility of hazardous materials management can be improved by the establishment and maintenance of a system of regional collection centers (RCCs) for the safe and proper disposal of household hazardous materials and hazardous materials from conditionally exempt small quantity generators (CESQGs). Therefore, the department may provide financial assistance for costs associated with establishing RCCs, when such funding is available. The department may also provide financial assistance for ongoing disposal costs for RCCs and MUCCCs whether they are operated by public agencies or eligible private agencies, when such funding is available.

567—211.2(455F) Definitions. The definitions set out in Iowa Code section 455B.301 shall be considered to be incorporated verbatim in these rules. For the purposes of this chapter, these terms shall have the following meanings:

“Applicant for an RCC establishment grant” means a local government or a public agency representing local governments pursuant to Iowa Code chapter 28E.

“Conditionally exempt small quantity generator (CESQG)” means a generator that in a calendar month generates no more than 100 kilograms of hazardous waste in that month and is further defined by 40 CFR 261.5.

“Department” means the Iowa department of natural resources.

“Eligible private agency” means a privately owned landfill, transfer station or citizen convenience center which acts

as an RCC or MUCCC as part of an approved comprehensive plan pursuant to Iowa Code section 455B.306. The facility must either include hazardous waste collection activities in its SDP permit or have an RCC or MUCCC permit in accordance with the requirements of 567—Chapter 123.

“Financial assistance” means monetary assistance including grants, cash payments, or support by other financial means.

“Hazardous materials disposal costs” means costs incurred from a hazardous waste contractor for disposal of household hazardous materials and hazardous waste from conditionally exempt small quantity generators. Costs may include, but are not limited to, transportation to the hazardous waste contractor, incineration, fuel blending, hazardous waste landfilling, and waste profile testing. “Hazardous materials disposal costs” does not include transportation from a satellite to a main RCC facility, staff time, equipment, overhead costs, or costs to dispose of waste that is not HHM or a hazardous material.

“Hazardous waste contractor” means a private company that provides management (e.g., recycling, disposal) of hazardous waste in compliance with federal regulations. “Hazardous waste contractor” does not include regional collection centers.

“Household hazardous materials” or “HHM” means the same as defined in Iowa Code subsection 455F.1(4).

“Indirect costs” means costs that are not identifiable with a specific product, function or activity.

“Mobile unit collection and consolidation center” or “MUCCC” means a government agency or private agency under contract with a government agency as part of a solid waste comprehensive plan that provides HHM collection events at temporary sites. Collection events are held a minimum of 16 hours per month in each county served by the MUCCC. MUCCCs do not provide public access to a fixed facility. Materials collected are consolidated and stored for removal by a hazardous waste contractor. MUCCCs do not include RCCs that utilize a mobile collection unit along with access to a permanent facility.

“Overhead costs” means expenses not chargeable to a particular part of the work or product including, but not limited to, utilities and insurance.

“RCC mobile unit” means a truck or trailer belonging to a regional collection center that can be moved to different sites within a region. A mobile unit is used to perform collection events and to transport collected materials to the fixed RCC.

“Regional collection center” or “RCC” means a secured facility at which collection, sorting, and packaging of household hazardous materials and hazardous materials from CESQGs is accomplished prior to transportation of these wastes to the final disposal site. RCCs have regular hours during which the public may drop off hazardous materials. An RCC may be a government agency or a private agency under contract with a government agency as part of a solid waste comprehensive plan. RCCs are referred to as temporary collection sites in Iowa Code subsection 455F.8A(1).

“Staffing costs” means salaries and benefits related to payment of personnel.

567—211.3(455F) Role of the department. The department is responsible for the administration of funds for projects sponsored under this chapter. The department shall ensure that funds disbursed meet guidelines established by the groundwater protection Act (Iowa Code 455E) and Iowa Code section 455B.484. An applicant for an RCC establishment grant under this chapter may submit any eligible project.

ENVIRONMENTAL PROTECTION COMMISSION[567](cont'd)

The department shall determine which projects, if any, will receive funding after review of all applications.

567—211.4(455F) Funding sources. The department will use funds appropriated by Iowa Code section 455E.11(2)“a”(2)(d) to achieve the purpose of this chapter. The department shall ensure that moneys appropriated meet both federal and state guidelines pertaining to the use of the moneys.

567—211.5(455F) Eligible costs. An RCC applicant for an RCC establishment grant may request monetary assistance for the purpose of project development and implementation that includes funds for the following expense categories.

1. Materials and labor for construction, and the purchase cost of structures or mobile units, or both, to be used as an RCC, including but not limited to site excavation for the structure and modifications to control runoff.

2. A three-year education program for households and CESQGs within the RCC service area. Eligible education expenses may include but are not limited to:

- Supplies, including paper and postage.
- The purchase of books, resource materials, slide shows, video materials, and other media for education of the local population or donation to local libraries or schools.
- Fees for public service announcements.

3. Equipment relating directly to RCC operation.

4. First-year staffing costs.

5. Site and building design fees.

6. Computers and software used for tracking hazardous materials.

567—211.6(455F) Ineligible costs. RCC applicants for RCC establishment grants cannot request monetary assistance for the following costs:

1. Taxes.
2. Vehicle registration.
3. Indirect or overhead costs.
4. Legal costs.
5. Contingency funds.
6. Land acquisition.
7. Disposal of hazardous materials.
8. Office equipment.

567—211.7(455F) Criteria for the selection of an RCC establishment grant.

211.7(1) An applicant for an RCC establishment grant shall submit to the department a completed application and a comment form. The comment form shall be completed by the agency responsible for the submission of a solid waste comprehensive plan for the area in which the RCC will be established. The comment form shall be submitted to the department within seven days of the application deadline or points may be deducted by the department during the application review process.

211.7(2) The department shall coordinate the evaluation of proposals, and applicants will be awarded financial assistance based on selection criteria contained in the application form. Prior to receiving financial assistance from the department, applicants must obtain a regional collection center permit or amend the SDP permit of the host facility to include regional collection center activities.

211.7(3) Applicants shall submit a completed application on a form provided by the department and three photocopies, and shall address criteria in the order presented in the application and guidelines. An application that fails to address all of the criteria may not receive further consideration.

567—211.8(455F) Grant denial. An application may be denied for the following reasons, including but not limited to:

1. The applicant does not meet eligibility requirements pursuant to the provisions of this chapter.

2. The applicant does not provide sufficient information requested in the application proposal pursuant to this chapter.

3. The project goals or scope is not consistent with this chapter.

4. Funds are insufficient to award financial assistance to all qualified applicants.

5. The applicant has not met contractual obligations of previous grant awards.

6. The department received the application after the deadline stated in the application and guidelines.

567—211.9(455F) RCC and MUCCC household hazardous material disposal funding.

211.9(1) All RCCs and MUCCCs, whether they are operated by a public agency or an eligible private agency, may receive funding from the department to offset the cost associated with proper disposal of household hazardous waste. The source for this funding is described in Iowa Code section 455E.11(2)“a”(2)(d) and (e).

211.9(2) To be eligible to receive disposal-funding assistance, an RCC or MUCCC must:

a. Have hazardous materials removed by a licensed hazardous waste contractor.

b. Complete the hazardous materials collection semi-annual report on a form supplied by the department.

c. Attach the hazardous waste contractor invoices depicting hazardous material types, net weight of hazardous materials, and associated management fees charged by the hazardous waste contractor.

d. Submit semiannual reports by September 1 for the portion of the fiscal year January 1 through June 30, and by March 1 for the portion of the fiscal year July 1 through December 31. Reports submitted after the due date without prior approval by the department are not eligible for reimbursement.

211.9(3) The fall payments will be based on the report due September 1 and on available funding. An RCC or MUCCC will receive a percentage of the available funding in an amount proportional to the amount of HHM the RCC or MUCCC disposed of through a hazardous waste contractor, as reported on the hazardous materials collection semiannual report form, compared to the total amount of HHM disposed of by all RCCs and MUCCCs. The fall payment shall not exceed total disposal costs for the reporting period.

The spring payments will be based on the total pounds reported for the calendar year and on available funding. An RCC or MUCCC will receive a percentage of the available funding for the calendar year minus the amount received for the fall payment, in an amount proportional to the amount of HHM the RCC or MUCCC disposed of through a hazardous waste contractor, as reported on the hazardous materials semiannual report form for the calendar year, compared to the total amount of HHM disposed of by all RCCs and MUCCCs. The spring payment shall not exceed an RCC's or MUCCC's total disposal costs for the calendar year.

These rules are intended to implement Iowa Code section 455F.8A as amended by 2005 Iowa Acts, House File 602, section 1, and section 455F.8B.

ARC 4653B**ENVIRONMENTAL PROTECTION
COMMISSION[567]****Notice of Intended Action**

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

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

Pursuant to the authority of Iowa Code section 455B.474, the Environmental Protection Commission proposes to amend Chapter 134, "Certification of Groundwater Professionals," and Chapter 135, "Technical Standards and Corrective Action Requirements for Owners and Operators of Underground Storage Tanks," Iowa Administrative Code.

The amendments to Chapter 134 establish a compliance inspector certification program to be administered by the Department of Natural Resources. The amendments set forth minimum qualifications for education and experience, training requirements, and provisions for certification suspension and revocation.

The amendment to Chapter 135 requires owners and operators to have their underground storage tank systems inspected every year for compliance using a Department certified third-party inspector. Pursuant to Iowa Code section 455B.475, the Department has the responsibility to conduct compliance inspections of UST facilities. Iowa Code section 455B.474(1) grants broad rule-making authority to the Environmental Protection Commission to adopt UST operation and maintenance rules applicable to owners and operators of USTs.

The proposed third-party certification and annual inspection program derives from the Department's authority and decision to partially delegate this inspection authority and responsibility to certified private inspectors subject to oversight by Department inspectors. This will allow the Department to more effectively audit and target its inspection program as well as assist owners and operators to maintain consistent compliance with Department operation and maintenance rules.

The third-party inspection program has been developed as the result of a series of meetings with representatives for petroleum marketers, the UST insurance community, the environmental community and other stakeholders with a common objective of increasing compliance and preventing leaks from USTs.

Any interested person may submit written comments on the proposed amendments on or before Friday, December 2, 2005. Written comments should be sent to the Iowa Department of Natural Resources, Attention: Paul Nelson, Wallace State Office Building, Des Moines, Iowa 50319; fax (515) 281-8895; or E-mail paul.nelson@dnr.state.ia.us.

Three public hearings will be held as follows:

Tuesday, November 29, 2005 1 p.m.
Coralville Public Library
1401 Fifth Street
Coralville, Iowa

Wednesday, November 30, 2005 1 p.m.
Denison Community Hall
111 North Main Street

Denison, Iowa

Friday, December 2, 2005 1 p.m.
Wallace State Office Building
Fourth Floor Conference Room
502 East Ninth Street
Des Moines, Iowa

These amendments are intended to implement Iowa Code section 455B.474.

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

The following amendments are proposed.

ITEM 1. Amend **567—Chapter 134**, title, as follows:

CHAPTER 134
CERTIFICATION OF GROUNDWATER
PROFESSIONALS AND UNDERGROUND STORAGE
TANK (UST) COMPLIANCE INSPECTORS

ITEM 2. Amend **567—Chapter 134** by adopting the following **new** heading to precede rule 567—134.1(455G):

PART A
CERTIFICATION OF GROUNDWATER PROFESSIONALS

ITEM 3. Amend **567—Chapter 134** by adopting the following **new** heading to precede rule 567—134.6(455B):

PART B
CERTIFICATION OF UST COMPLIANCE INSPECTORS

ITEM 4. Adopt the following **new** rules:

567—134.6(455B) Definition.

"UST compliance inspector" means a person who inspects a regulated underground storage tank (UST) to satisfy the requirements of 567—135.20(455B) for compliance with technical UST standards in 567—Chapter 135.

567—134.7(455B) Certification requirements for UST compliance inspectors. A person retained by an owner or operator of an UST facility for the purpose of establishing compliance with the annual UST compliance inspection required by the department under 567—135.20(455B) must hold a current UST compliance inspector certification issued by the department. Inspector certification will be issued by the department only to a person who:

1. Possesses minimum experience and qualifications as provided in 567—134.8(455B).
2. Attends the required training approved by the department.
3. Achieves a passing grade on a certification examination administered or approved by the department.
4. Submits an accurate and complete application.
5. Is not found to be in violation of this chapter and has not had a certification revoked by the department pursuant to rule 567—134.17(455B) or by the underground storage tank fund board pursuant to 591—Chapter 15.

567—134.8(455B) Certified inspector experience and qualifications. An applicant must be an Iowa-licensed UST installer or installation inspector under 591—Chapter 15.

567—134.9(455B) Temporary certification.

ENVIRONMENTAL PROTECTION COMMISSION[567](cont'd)

134.9(1) Until training and testing procedures are developed, the department may issue a temporary inspector certification to any person who:

- a. Meets the minimum experience requirements under 567—134.8(455B).
- b. Completes the U.S. EPA UST Web-based training modules: “Introduction to the Underground Storage Tanks (UST) Program” and “Basic UST Inspector Training” with a minimum passing grade of 85 percent.

134.9(2) A person issued a temporary UST compliance inspector certification must complete the approved training and pass the examination in accordance with 567—134.11(455B) by April 1, 2007. Failure to achieve a passing grade on the examination before April 1, 2007, will result in revocation of temporary certification.

567—134.10(455B) Application for inspector certification.

134.10(1) The applicant shall be an individual.

134.10(2) An applicant for inspector certification shall submit, in addition to all applicable fees, an application on forms provided by the department. The application shall contain the following information:

- a. Evidence that the applicant meets the experience and qualification prerequisites contained in 567—134.8(455B).
- b. The applicant’s name, address and telephone number.
- c. Other information necessary for a determination of the applicant’s qualifications.

134.10(3) Training and certification fees. A nonrefundable fee of \$500 in the form of a check or money order payable to the Department of Natural Resources must accompany the initial application for certification and each renewal application. The department will assess an additional fee for each training course and examination based upon the cost of administration.

134.10(4) An application for certification must be received by the department no later than 90 days prior to the announced date of the certification examination.

134.10(5) An application must be complete upon submission.

134.10(6) An applicant meeting the requirements of this rule will be granted admission to the examination for inspector certification.

567—134.11(455B) Training and certification examination.

134.11(1) Prior to taking the compliance inspector examination, the applicant must:

- a. Complete the U.S. EPA UST Web-based training modules: “Introduction to the Underground Storage Tanks (UST) Program” and “Basic UST Inspector Training” with a minimum passing grade of 85 percent.
- b. Attend the department’s inspector training course or designated approved course.

134.11(2) The department will establish administrative and technical content for the examination and the standards and criteria against which the department will evaluate candidates in determining the fitness of candidates for inspector certification.

134.11(3) At least once in each calendar year, the department will schedule a date and location for the examination for certification of inspectors.

134.11(4) Only applicants who have been authorized by the department to take an examination will be admitted to an examination or issued a certification as a result of passing an examination. Authorization to take an examination will be

based on the applicant’s compliance with the requirements of this chapter.

134.11(5) To receive a passing grade on the examination, the applicant for certification must achieve a minimum score of 85 percent. An applicant who fails an initial examination may take a second examination.

134.11(6) The application of an applicant who fails the second examination will be terminated. An applicant who fails the second examination may reapply for inspector certification but may not retake the examination until the applicant has successfully completed a regularly scheduled course of instruction that is administered or approved by the department. Successful completion means attendance at all sessions of training and attainment of the minimum passing grade established by the department for the approved training course.

567—134.12(455B) Renewal of certification.

134.12(1) Renewal period. Certification shall be for a two-year period and must be renewed by January 1 of each odd-numbered year. Applications for renewal must be submitted no later than 60 days prior to the expiration date. If a certified inspector fails to renew the certification by the expiration date, the department may grant, upon a showing of good cause, a 30-day grace period during which the applicant may submit the application and payment of the renewal fee.

134.12(2) Continuing education. Certified inspectors must successfully complete eight hours of training approved by the department to maintain certification.

134.12(3) Minimum inspections. In order to renew certification, an inspector must have conducted at least 25 compliance inspections each year.

567—134.13(455B) Environmental liability insurance requirements.

134.13(1) All certified compliance inspectors are required to have environmental liability insurance with minimum liability limits of \$250,000 per occurrence and in the aggregate.

134.13(2) Forms of acceptable insurance. All parties covered by the certification provisions of this chapter shall provide evidence of environmental liability insurance to the director upon request.

a. Environmental liability insurance may be provided by a private insurer authorized to do business in Iowa.

b. Evidence of environmental liability insurance may be provided using methods of self-insurance as outlined in 567—Chapter 136.

567—134.14(455B) Licensed company. A company employing certified UST compliance inspectors shall be registered with the department as a licensed UST compliance company. A company shall lose its license if it fails to employ at least one certified inspector or if it employs uncertified individuals to do compliance inspections required by the department. The annual license fee is \$50.

567—134.15(455B) Compliance inspection. The UST compliance inspector shall conduct a compliance inspection in accordance with the standards set out in 567—135.20(455B) and with department written instructions and guidelines.

134.15(1) The inspector shall record the inspection on a form provided by the department and conduct the inspection to address all items contained on the inspection form.

134.15(2) Any problems observed during the inspection must be photographed using at least a 4.0 megapixel digital

ENVIRONMENTAL PROTECTION COMMISSION[567](cont'd)

camera. The digital photographs must be included as part of the inspection report.

134.15(3) The compliance inspector must submit the inspection report electronically to the department within 14 days of the inspection.

134.15(4) A printed copy of the inspection report must be submitted to the owner and operator of the UST system. The inspector shall require the owner and operator to address any compliance violations or deficiencies in accordance with 567—Chapter 135 or, if no time frames are established by rule, within 60 days or another reasonable time period approved by the department.

134.15(5) The compliance inspector shall follow up on any actions required of the owner and operator to correct any compliance violations or deficiencies found during the inspection. Any documentation of violations or deficiencies for which corrections are required must be submitted to the department.

134.15(6) Any product releases found during the inspection must be reported to the department within 24 hours.

134.15(7) Any records provided by the owner and operator to the compliance inspector must be forwarded to the department.

134.15(8) An inspector shall not conduct compliance inspections at UST facilities owned or operated by the inspector's employer or at facilities at which the inspector has been directly responsible for the installation or repair of the UST system.

134.15(9) A licensed company may not conduct compliance inspections at UST facilities where the company has been directly responsible for the installation or repair of the UST system or at facilities owned or operated by a company which has a controlling interest in the licensed company.

567—134.16(455B) Disciplinary actions.

134.16(1) The department may impose disciplinary actions which may include, but are not limited to, notices of deficiency, probationary notices, suspension of a certification or license and, pursuant to 567—134.17(455B), revocation of a certification or license.

134.16(2) A notice of deficiency or probationary notice shall not be an appealable decision. The recipient of a notice may contest the basis for the notice in writing, and such response shall be made part of the certification record.

134.16(3) The department may suspend the certification of a certified inspector or licensed company for good cause, and based on single acts or omissions or repeated acts or omissions. The suspension may require the certified inspector to take remedial measures intended to correct or prevent future acts and omissions. Good cause includes, but is not limited to:

- a. A violation of these rules.
- b. Negligent misrepresentation of material facts in a compliance report.
- c. Negligent failure to identify a material violation of UST operation and maintenance standards set out in 567—135.20(455B).
- d. Repeated failure to conduct compliance inspections and submit reports in accordance with the standards set out in 567—135.20(455B).
- e. Incompetence on the part of the certified inspector as evidenced by errors in the performance of duties and activities for which the certification was issued.
- f. In the case of a certified inspector:

(1) Failure to inform the owner or operator and the department of conditions or procedures that are not in accordance with the manufacturer's technical and procedural specifica-

tions for installation, construction, modification or operation of the storage tank system or storage tank facility.

(2) Failure to conduct, review or observe an activity required by the department.

(3) Repeated failure to submit reports of inspection activities to the department within 14 days of conducting the inspection activities or to provide the owner and operator a copy of the inspection report.

134.16(4) The suspension of a company license or inspector certification shall prevent the company or person from engaging in activities for which certification or licensure is required.

134.16(5) The department may require that the certified inspector successfully complete a special training program, examination or other remedial measures sponsored or approved by the department and designed to strengthen the specific weakness in the certified inspector's performance of duties as identified in the suspension order.

134.16(6) A certified inspector or licensed company shall immediately surrender the certificate or license, as applicable, to the department as of the effective date of a suspension order. The department may reinstate the certification or license if it is determined:

- a. The person has satisfied the terms of the suspension order.
- b. The person is competent to execute duties and responsibilities for which the certificate or license was issued.

567—134.17(455B) Revocation of inspector certification or company license.

134.17(1) The department may revoke the inspector certification or company license for one or more of the following:

- a. Willful disregard of, or willful or repeated violations of, this chapter or 567—Chapter 135.
- b. Fraudulent omissions or misstatements of material facts in a compliance inspection report or in other written or oral communications with the department.
- c. A knowing and willful failure to detect and report a material violation of UST operation and maintenance standards as part of a compliance inspection required by 567—135.20(455B).
- d. Acts or omissions warranting suspension after having certification or license previously suspended.
- e. The revocation of a certification as an installer or installation inspector under 591—Chapter 15.

134.17(2) A certified inspector or licensed company shall immediately surrender certification or licensing documents after the effective date of a revocation decision.

These rules are intended to implement Iowa Code section 455B.474.

ITEM 5. Amend 567—Chapter 135 by adding the following **new** rule:

567—135.20(455B) Annual inspection of UST system.

135.20(1) The owner or operator of an UST system must have the UST system inspected annually by an UST compliance inspector certified by the department under 567—Chapter 134.

a. For an active petroleum UST system, the inspection must be conducted prior to the annual expiration date of the financial responsibility mechanism.

b. For a temporarily closed UST system, the inspection must be conducted prior to the anniversary date of the temporary closure of the UST system.

c. For an UST system containing hazardous substances, the inspection must be conducted prior to July 1 of each year.

ENVIRONMENTAL PROTECTION COMMISSION[567](cont'd)

d. Within seven days of the inspection, the certified UST compliance inspector must submit to the department the inspection report in an electronic format provided by the department.

135.20(2) An inspector of an UST system must check for compliance with the technical standards of Chapter 135 following the department's guidance and inspection form. The inspection of an UST system currently in operation shall include, but not be limited to, the following:

- a. The material currently stored in the UST.
- b. The type of tank and lines currently at the site as compared to the registered information on the department's database.
- c. Checking site records demonstrating operational compliance, 135.4(5).
- d. Checking release detection records, 135.5(6).
- e. Visually checking for releases or other violations by opening covers of dispensers, manways, and containment sumps for submersible pumps and other piping connections for:
 - (1) Indications of a product release and leaking equipment.
 - (2) Deteriorating product lines or excessive bends in product lines or flex connectors.
 - (3) Proper anchoring of breakaways (dispensers only).
- f. Current operating status of cathodic protection system, if present.
- g. Presence and operational condition of spill and overfill equipment, 135.3(1)"c."

Any problems observed during the inspection must be photographed using at least a 4.0 megapixel digital camera. The digital photographs must be included as part of the inspection report.

135.20(3) A temporarily closed UST system inspection must include, but not be limited to, the following:

- a. The type of tank and lines currently at the site as compared to the registered information on the department's database.
- b. Checking site records demonstrating applicable operational compliance, 135.4(5).
- c. Current operating status of cathodic protection system, if present.
- d. Checking for compliance with temporary closure requirements in 135.15(1).

135.20(4) When the compliance inspection finds violations of the department's rules:

- a. The owner and operator have 60 days from the date of the inspection to correct the violation.
- b. Documentation that the violation has been corrected must be submitted to the compliance inspector within 60 days of the inspection.
- c. The department may require a follow-up inspection in instances where there are serious problems or a history of repeated violations.

135.20(5) An owner or operator shall not contract with a compliance inspector who is an employee of the owner or operator or who has been directly responsible for installation or repair of the UST system. An owner or operator shall not contract with a licensed company in which the owner or operator has a controlling interest.

ARC 4627B**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 sections 239B.4(4), 239B.8(2), and 249A.4, the Department of Human Services proposes to amend Chapter 78, "Amount, Duration, and Scope of Medical and Remedial Services," and Chapter 93, "PROMISE JOBS Program," Iowa Administrative Code.

These amendments temporarily increase Medicaid reimbursement for nonemergency transportation and the transportation allowance for participation in PROMISE JOBS activities to \$0.30 per mile.

The Medicaid program reimbursed mileage at the rate payable to state employees until December 1, 2002, when reimbursement was lowered from \$0.29 per mile (the state employee rate at that time) to \$0.20 per mile as a cost-saving measure. PROMISE JOBS transportation reimbursement was increased from \$0.16 per mile to \$0.21 per mile on July 1, 2001. Fuel prices have risen dramatically since these rates were established. For comparison, the state employee reimbursement rate is now \$0.34 per mile, and the federal employee rate and Internal Revenue Service mileage deduction are set at \$0.485 per mile.

The current low reimbursement rates are a disincentive to Medicaid members' receiving needed medical care, especially in rural areas, and a barrier to their finding volunteers to provide transportation. The current reimbursement rates are a barrier to Family Investment Program participants' carrying out education, training, and work activities under the PROMISE JOBS program that will lead to self-sufficiency.

The Department believes that it has sufficient funds within the State Fiscal Year 2006 Family Investment Program appropriation to pay for the increased PROMISE JOBS allowances. Continuation of the \$0.30 rate beyond this fiscal year depends on legislative appropriations. Funding for the Medicaid increase will be included in the request for supplemental appropriations for State Fiscal Year 2006.

The increase is temporary. The expiration date of June 30, 2006, will allow the Department to reevaluate fuel prices at that time and allow the legislature to make a policy decision whether to continue the higher reimbursement rates in State Fiscal Year 2007.

These amendments do not provide for waivers in specified situations because all clients should be subject to the same limits as a matter of fairness.

Any interested person may make written comments on the proposed amendments on or before November 30, 2005. Comments should be directed to Mary Ellen Imlau, Office of Policy Analysis, Department of Human Services, Hoover State Office Building, 1305 East Walnut Street, Des Moines, Iowa 50319-0114. Comments may be sent by fax to (515) 281-4980 or by E-mail to policyanalysis@dhs.state.ia.us.

These amendments were also Adopted and Filed Emergency and are published herein as **ARC 4626B**. The purpose

HUMAN SERVICES DEPARTMENT[441](cont'd)

of this Notice is to solicit comment on that submission, the subject matter of which is incorporated by reference.

These amendments are intended to implement Iowa Code sections 239B.19 and 249A.4.

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

INSURANCE DIVISION

Notice of Approval of Workers' Compensation Rate Filing

Pursuant to the provisions of Iowa Code chapter 515A, the National Council on Compensation Insurance, Inc. (NCCI) submitted a rate filing on August 15, 2005. Notice of the filing was published in the Iowa Administrative Bulletin on September 14, 2005. No request for a hearing on the rate filing was received.

The rate filing proposes an overall increase in rates of 1.8%. Based on an independent review of the NCCI proposal, the Commissioner finds the proposed manual rates not to be excessive, inadequate, or unfairly discriminatory.

Susan Voss, Commissioner of Insurance, ordered that the August 15, 2005, rate filing is approved to be effective January 1, 2006.

ARC 4606B

PROFESSIONAL LICENSURE DIVISION[645]

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 147.76, the Board of Chiropractic Examiners hereby gives Notice of Intended Action to amend Chapter 41, "Licensure of Chiropractic Physicians," Chapter 44, "Continuing Education for Chiropractic Physicians," Chapter 45, "Discipline of Chiropractic Physicians," and Chapter 46, "Fees," Iowa Administrative Code.

The proposed amendments amend subrule 41.8(2) to allow a licensee who renews within six months of a new licensing cycle to wait until the subsequent renewal period to renew the license, correct discipline rules by removing references to a lapsed license, clarify the number of hours a teacher may claim for teaching a course, provide for continuing education hour credit to be claimed for proctoring the national examination and rescind rule 645—46.1(147,154) and adopt a new rule in lieu thereof. The new rule raises fees to fund changes to an antiquated software system and to provide other services for licensees such as online renewals. The Board prenoticed the rule to provide licensees and the public an opportunity to comment on the proposed rule. The Board did not receive any comments during this prenotice period.

Any interested person may make written comments on the proposed amendments no later than November 29, 2005, addressed to Pierce Wilson, Professional Licensure Division, Department of Public Health, Lucas State Office Building, Des Moines, Iowa 50319-0075; E-mail pwilson@idph.state.ia.us.

A public hearing will be held on November 29, 2005, from 9 to 9:30 a.m. in the Fifth Floor Board Conference Room, Lucas State Office Building, at which time persons may present their views either orally or in writing. At the hearing, persons will be asked to give their names and addresses for the record and to confine their remarks to the subject of the proposed amendments.

These amendments are intended to implement Iowa Code chapters 21, 147, 151 and 272C.

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

The following amendments are proposed.

ITEM 1. Amend subrule 41.8(2) as follows:

41.8(2) An individual who was issued an ~~initial~~ *a* license within six months of the license renewal date will not be required to renew the license until the subsequent renewal two years later.

ITEM 2. Amend subrule **44.3(2)**, paragraph "**b**," subparagraphs (1) and (3), as follows:

(1) Teaching at a Council on Chiropractic Education (CCE)-approved program or board of chiropractic examiners-approved institution. ~~Hours may be used only for the initial session. A maximum of 15 hours per biennium may be obtained for each course taught.~~

(3) A licensee who is a presenter of a continuing education program that meets criteria in 645—44.3(151,272C) may receive credit ~~on a one-time basis~~ *once per biennium* for the initial presentation of the program.

ITEM 3. Adopt **new** subparagraph **44.3(2)"b"(5)** as follows:

(5) Proctoring at the NBCE examination. Fifteen hours of continuing education hours per NBCE examination event may be claimed up to a maximum of 30 hours of continuing education credit per biennium. The proctoring hours may apply toward the clinical requirement.

ITEM 4. Amend subrule 45.2(25) as follows:

45.2(25) Representing oneself as a chiropractic physician when one's license has been suspended or revoked, or when one's license is ~~lapsed or has been placed~~ on inactive status.

ITEM 5. Rescind rule 645—46.1(147,154) and adopt the following **new** rule in lieu thereof:

645—46.1(151) License fees. All fees are nonrefundable.

46.1(1) Licensure fee for license to practice chiropractic is \$270.

46.1(2) Fee for issuance of annual temporary certificate is \$120.

46.1(3) Biennial license renewal fee is \$120.

46.1(4) Late fee for failure to renew before the expiration date is \$60.

46.1(5) Reactivation fee is \$180.

46.1(6) Duplicate or reissued license certificate or wallet card fee is \$20.

46.1(7) Fee for verification of license is \$20.

PROFESSIONAL LICENSURE DIVISION[645](cont'd)

46.1(8) Returned check fee is \$25.

46.1(9) Disciplinary hearing fee is a maximum of \$75.

This rule is intended to implement Iowa Code chapters 17A, 151 and 272C.

ARC 4612B

PROFESSIONAL LICENSURE DIVISION[645]

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 147.76, the Board of Examiners for Nursing Home Administrators hereby gives Notice of Intended Action to amend Chapter 141, "Licensure of Nursing Home Administrators," Chapter 144, "Discipline for Nursing Home Administrators," and Chapter 145, "Fees," Iowa Administrative Code.

These proposed amendments correct discipline rules by removing references to a "lapsed license," adopt a new subrule for mandatory reporter training which is required by the Code of Iowa, and rescind rule 145.1(147,155) and adopt a new rule in lieu thereof. The new rule raises fees to fund changes to an antiquated software system and to provide other services for licensees such as online renewals. The Board prenoticed the rule to provide licensees and the public an opportunity to comment on the proposed rule. The Board did not receive any comments during this prenotice period.

Any interested person may make written comments on the proposed amendments no later than November 29, 2005, addressed to Pierce Wilson, Professional Licensure Division, Department of Public Health, Lucas State Office Building, Des Moines, Iowa 50319-0075; E-mail pwilson@idph.state.ia.us.

A public hearing will be held on November 29, 2005, from 8:30 to 9 a.m. in the Fifth Floor Board Conference Room, Lucas State Office Building, at which time persons may pre-sent 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 proposed amendments.

These amendments are intended to implement Iowa Code chapters 21, 147, 155 and 272C.

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

The following amendments are proposed.

ITEM 1. Amend **141.9(3)**, paragraph "a," as follows:

a. Meet the continuing education requirements of rule 645—143.2(272C) and the mandatory reporting requirements of subrule 141.9(8). A licensee whose license was reactivated during the current renewal compliance period may use continuing education credit earned during the compliance period for the first renewal following reactivation; and

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

141.9(8) Mandatory reporter training requirements.

a. A licensee who, in the scope of professional practice or in the licensee's employment responsibilities, attends, counsels or treats children in Iowa shall indicate on the renewal application completion of two hours of training in child abuse identification and reporting in the previous five years or condition(s) for waiver of this requirement as identified in paragraph "e."

b. A licensee who, in the course of employment, examines, attends, counsels or treats adults in Iowa shall indicate on the renewal application completion of two hours of training in dependent adult abuse identification and reporting in the previous five years or condition(s) for waiver of this requirement as identified in paragraph "e."

c. A licensee who, in the scope of professional practice or in the course of employment, examines, attends, counsels or treats both adults and children in Iowa shall indicate on the renewal application completion of training in abuse identification and reporting for dependent adults and children in the previous five years or condition(s) for waiver of this requirement as identified in paragraph "e."

Training may be completed through separate courses as identified in paragraphs "a" and "b" or in one combined two-hour course that includes curricula for identifying and reporting child abuse and dependent adult abuse. The course shall be a curriculum approved by the Iowa department of public health abuse education review panel.

d. The licensee shall maintain written documentation for five years after mandatory training as identified in paragraphs "a" to "c," including program date(s), content, duration, and proof of participation.

e. The requirement for mandatory training for identifying and reporting child and dependent adult abuse shall be suspended if the board determines that suspension is in the public interest or that a person at the time of license renewal:

(1) Is engaged in active duty in the military service of this state or the United States.

(2) Holds a current waiver by the board based on evidence of significant hardship in complying with training requirements, including an exemption of continuing education requirements or extension of time in which to fulfill requirements due to a physical or mental disability or illness as identified in 645—Chapter 143.

f. The board may select licensees for audit of compliance with the requirements in paragraphs "a" to "e."

ITEM 3. Amend subrule 144.2(28) as follows:

144.2(28) Representing oneself as a licensed nursing home administrator when one's license has been suspended or revoked, or when one's license is ~~lapsed or has been placed~~ on inactive status.

ITEM 4. Rescind rule 645—145.1(147,155) and adopt the following **new** rule in lieu thereof:

645—145.1(147,155) License fees. All fees are nonrefundable.

145.1(1) Licensure fee for license to practice nursing home administration is \$120.

145.1(2) Biennial license renewal fee for each license for each biennium is \$60.

145.1(3) Late fee for failure to renew before expiration is \$60.

145.1(4) Reactivation fee is \$120.

145.1(5) Duplicate or reissued license certificate or wallet card fee is \$20.

145.1(6) Verification of license fee is \$20.

145.1(7) Returned check fee is \$25.

PROFESSIONAL LICENSURE DIVISION[645](cont'd)

145.1(8) Disciplinary hearing fee is a maximum of \$75.

145.1(9) Provisional license fee is \$120.

This rule is intended to implement Iowa Code section 147.80 and Iowa Code chapter 155.

ARC 4615B**PROFESSIONAL LICENSURE
DIVISION[645]****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 147.76, the Board of Physician Assistant Examiners hereby gives Notice of Intended Action to amend Chapter 328, “Continuing Education for Physician Assistants,” Chapter 329, “Discipline for Physician Assistants,” and Chapter 330, “Fees,” Iowa Administrative Code.

These proposed amendments correct discipline rules by removing references to a “lapsed license,” correct statements in continuing education criteria, and rescind rule 645—330.1(148C) and adopt a new rule in lieu thereof. The new rule raises fees to fund changes to an antiquated software system and to provide other services for licensees such as online renewals. The Board prenoticed the fee rule to provide licensees and the public an opportunity to comment on the proposed rule. The Board did not receive any comments during this prenotice period.

Any interested person may make written comments on the proposed amendments no later than November 29, 2005, addressed to Pierce Wilson, Professional Licensure Division, Department of Public Health, Lucas State Office Building, Des Moines, Iowa 50319-0075; E-mail pwilson@idph.state.ia.us.

A public hearing will be held on November 29, 2005, from 9:30 to 10 a.m. in the Fifth Floor Board Conference Room, Lucas State Office Building, at which time persons may present their views either orally or in writing. At the hearing, persons will be asked to give their names and addresses for the record and to confine their remarks to the subject of the proposed amendments.

These amendments are intended to implement Iowa Code chapters 21, 147, 148C and 272C.

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

The following amendments are proposed.

ITEM 1. Amend subrule **328.3(2)**, paragraph “c,” as follows:

c. Completing a minimum requirement of 40 hours which shall be earned in Category I and Category II.

ITEM 2. Amend subrule 329.2(25) as follows:

329.2(25) Representing oneself as a physician assistant when one’s license has been suspended or revoked, or when one’s license is lapsed or has been placed on inactive status.

ITEM 3. Rescind rule 645—330.1(148C) and adopt the following **new** rule in lieu thereof:

645—330.1(148C) Fees. All fees are nonrefundable.

330.1(1) Application fee for a license is \$120.

330.1(2) Fee for a temporary license is \$120.

330.1(3) Renewal of license fee is \$120.

330.1(4) Late fee for failure to renew before expiration is \$60.

330.1(5) Reactivation fee is \$180.

330.1(6) Duplicate or reissued license certificate or wallet card fee is \$20.

330.1(7) Fee for verification of license is \$20.

330.1(8) Returned check fee is \$25.

330.1(9) Disciplinary hearing fee is a maximum of \$75.

This rule is intended to implement Iowa Code section 147.8 and chapters 17A, 148C and 272C.

ARC 4613B**REVENUE DEPARTMENT[701]****Notice of Intended Action**

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

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

Pursuant to the authority of Iowa Code sections 421.14, 425.8, 425.37, 426A.7, 437A.25, and 441.21(2), the Department of Revenue hereby gives Notice of Intended Action to amend Chapter 70, “Replacement Tax and Statewide Property Tax,” Chapter 71, “Assessment Practices and Equalization,” Chapter 72, “Examination and Certification of Assessors and Deputy Assessors,” Chapter 73, “Property Tax Credit and Rent Reimbursement,” Chapter 74, “Mobile, Modular, and Manufactured Home Tax,” Chapter 75, “Property Tax Administration,” Chapter 78, “Property Tax Exemptions,” Chapter 79, “Real Estate Transfer Tax and Declarations of Value,” Chapter 80, “Property Tax Credits and Exemptions,” Chapter 120, “Organization and Operation,” Chapter 122, “Administration,” Chapter 123, “Certification,” and Chapter 124, “Courses,” Iowa Administrative Code.

Item 1 amends rule 70.12(437A) to allow persons qualifying for renewable energy tax credits to receive a reimbursement of replacement tax paid.

Item 2 amends Chapter 71 to substitute the words “department of revenue” in place of the words “department of revenue and finance” wherever they appear.

Item 3 amends rule 71.3(421,428,441) to clarify the method used to value agricultural real estate including buildings and structures.

Item 4 amends paragraph 71.20(4)“a” to permit a taxpayer to combine protests for separately assessed properties on one form if the taxpayer is using the same grounds for protest.

Item 5 amends paragraph 71.20(4)“c” to require the taxpayer to provide written notice to the Board of Review within 20 days of the Board’s adjournment or May 31, whichever date is later, if the taxpayer appeals the Board’s decision to district court and amends the implementation clause for rule 71.20(441).

REVENUE DEPARTMENT[701](cont'd)

Item 6 amends Chapter 71 by adding rule 71.21(81GA, HF868) which establishes a statewide Property Assessment Appeal Board to provide a consistent, fair, and equitable property assessment appeal process.

Item 7 adds new rule 71.26(441) mandating that the assessors value property in accordance with Department rules and the real property appraisal manual prepared by the Department.

Item 8 amends Chapter 72 to substitute the words "department of revenue" in place of the words "department of revenue and finance" wherever they appear.

Items 9 and 10 amend subrule 72.16(1) to provide that an assessor is automatically reappointed to the position if the conference board fails to provide the assessor with timely notice that the assessor is not to be reappointed and also amend the implementation clause for rule 72.16(441).

Item 11 amends Chapter 73 to substitute the words "department of revenue" in place of the words "department of revenue and finance" wherever they appear.

Item 12 amends Chapter 73 by adding new rule 73.33(425) to require that property tax credit and rent reimbursement claims for the elderly and disabled be prorated by the same percentage if the amount of state funding is insufficient to pay all claims in full.

Item 13 amends Chapter 74 to substitute the words "department of revenue" in place of the words "department of revenue and finance" wherever they appear.

Items 14 and 15 amend subrule 74.8(1) to delete the authority for the county treasurer to establish a minimum payment amount for the partial payment of property taxes and amend the implementation clause for rule 74.8(435).

Item 16 amends Chapter 75 to substitute the words "department of revenue" in place of the words "department of revenue and finance" wherever they appear.

Item 17 amends rule 75.2(445) to delete the authority for the county treasurer to establish a minimum payment amount for the partial payment of property taxes.

Item 18 amends Chapter 78 to substitute the words "department of revenue" in place of the words "department of revenue and finance" wherever they appear.

Item 19 amends Chapter 78 by adding new rule 78.8(427) to allow the board of supervisors to abate the taxes for a nonprofit organization that receives property by gift after the deadline for filing a claim for tax exemption.

Items 20 and 21 amend Chapters 79 and 80 to substitute the words "department of revenue" in place of the words "department of revenue and finance" wherever they appear.

Item 22 amends subrule 80.1(2) to clarify that an heir occupying property that is part of an estate is eligible for the homestead property tax credit.

Item 23 amends subrule 80.1(4) to provide that the county treasurer is required to extend to a homestead tax credit claimant only that portion of the credit funded by the state.

Item 24 amends paragraph 80.2(2)"c" to permit former members of the United States armed forces to qualify for the military service property tax exemption if they performed at least three years of active duty. Previously, it was a requirement to have served during a war or conflict time period.

Items 25, 26, and 29 amend subrule 80.2(2) to permit current members of the Iowa national guard and reserve forces of the United States to qualify for the military service property tax exemption and amend the implementation clause for rule 80.2(22,35,426A).

Item 27 amends subrule 80.2(2) to clarify that an heir of property that is part of an estate is eligible for the military service tax exemption.

Item 28 amends subrule 80.2(3) to provide that the county treasurer is required to extend to a military service exemption claimant only that portion of the exemption funded by the state.

Items 30, 31, and 32 amend rule 80.4(427) to permit a low-rent housing agency providing housing to the elderly and disabled to refinance the mortgage on the property without losing the property's tax exemption and amend the implementation clause.

Item 33 amends subrule 80.13(2) to change the dates that an electrical production facility is required to have been placed in service to qualify for a wind energy production tax credit and amends the implementation clause.

Item 34 amends subrule 80.14(3) to increase the percentage of exemption for property used partially as a mobile home park storm shelter from 25 percent to 50 percent and amends the implementation clause.

Item 35 amends Chapter 80 to add new rules 80.19(427) through 80.22(427) to provide a property tax exemption for dwelling unit property owned by a nonprofit organization in a city with a population of more than 110,000; nursing facilities licensed under Iowa Code section 135C.1 and exempt from federal income tax under Section 501(c)(3) of the Internal Revenue Code; property annexed by a city; and property of a port authority created under 2005 Iowa Acts, House File 868, section 90.

Items 36, 37 and 38 amend Chapters 120, 122 and 123 to substitute the words "department of revenue" in place of the words "department of revenue and finance" wherever they appear.

Items 39, 40, and 41 amend rules 123.3(441), 123.4(441), and 123.8(441), including the implementation clauses, to allow the Director to waive the continuing education requirements for an assessor or deputy assessor for good cause.

Item 42 amends Chapter 124 to substitute the words "department of revenue" in place of the words "department of revenue and finance" wherever they appear.

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

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

The Department has determined that these proposed amendments may have an impact on small business. The Department has considered the factors listed in Iowa Code section 17A.4A. The Department will issue a regulatory analysis as provided in Iowa Code section 17A.4A if a written request is filed by delivery or by mailing postmarked no later than December 12, 2005, to the Policy Section, Compliance Division, Department of Revenue, Hoover State Office Building, P.O. Box 10457, Des Moines, Iowa 50306. The request may be made by the Administrative Rules Review Committee, the Administrative Rules Coordinator, at least 25 persons signing that request who each qualify as a small business or an organization representing at least 25 such persons.

Any interested person may make written suggestions or comments on these proposed amendments on or before November 29, 2005. Such written comments should be directed to the Policy Section, Compliance Division, Department of Revenue, Hoover State Office Building, P.O. Box 10457, Des Moines, Iowa 50306.

Persons who want to convey their views orally should contact the Policy Section, Compliance Division, Depart-

REVENUE DEPARTMENT[701](cont'd)

ment of Revenue, at (515)281-8036 or at the Department of Revenue offices on the fourth floor of the Hoover State Office Building.

Requests for a public hearing must be received by November 30, 2005.

These amendments are intended to implement 2005 Iowa Acts, Senate Files 265, 390, and 413, and House Files 374, 868, and 882.

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

The following amendments are proposed.

ITEM 1. Amend rule 701—70.12(437A) as follows:

701—70.12(437A) Collections/reimbursements. Neither the director nor the department is empowered to receive any payment of replacement tax. Therefore, taxpayers should never pay any replacement tax to the director or the state of Iowa. All payments of replacement tax are to be made to the appropriate county treasurer.

A person in possession of a renewable energy tax credit certificate issued pursuant to 2005 Iowa Acts, Senate File 390, sections 7 to 13, may apply to the director for a reimbursement of the amount of taxes imposed and paid by the person pursuant to Iowa Code chapter 437A in an amount not more than the person received in renewable energy tax credit certificates pursuant to 2005 Iowa Acts, Senate File 390, sections 7 to 13. To obtain the reimbursement, the person shall attach to the return required under Iowa Code section 437A.8 the renewable energy tax credit certificates issued to the person pursuant to 2005 Iowa Acts, Senate File 390, sections 7 to 13, and provide any other information the director may require. The director shall direct that a warrant be issued to the person for an amount equal to the tax imposed and paid by the person. Any credit in excess of the person's tax liability may be claimed as a refund for the following seven years.

This rule is intended to implement 2005 Iowa Acts, Senate File 390, section 6.

ITEM 2. Amend **701—Chapter 71** by changing the phrases “department of revenue and finance” and “director of revenue and finance” to “department of revenue” and “director of revenue,” respectively, wherever these phrases appear.

ITEM 3. Amend rule **701—71.3(421,428,441)** by adding the following **new** third unnumbered paragraph:

In order to determine a productivity value for agricultural buildings and structures, assessors shall make an agricultural adjustment to the market value of these buildings and structures by developing an “agricultural factor” for their jurisdiction. The agricultural factor for each jurisdiction shall be the product of the ratio of the productivity and net earning capacity value per acre as determined under subrule 71.12(1) over the market value of agricultural land within the assessing jurisdiction. The resulting ratio is then applied to the actual value of the agricultural buildings and structures as determined under the Iowa real property appraisal manual prepared by the department. As an example, if a building's actual value is \$500,000 and the agricultural factor is 50 percent, the productivity value of that building is \$250,000. See *H & R Partnership v. Davis County Board of Review*, 654 N.W.2d 521 (Iowa 2002).

ITEM 4. Amend subrule **71.20(4)**, paragraph “a,” as follows:

a. A board of review may act only upon written protests which have been filed with the board of review between April 16 and May 5, inclusive. In the event May 5 falls on a Saturday or Sunday, protests filed the following Monday shall be considered to have been timely filed. Protests post-marked by May 5 or the following Monday if May 5 falls on a Saturday or Sunday shall also be considered to have been timely filed. All protests must be in writing and signed by the taxpayer or the taxpayer's authorized agent. A written request for an oral hearing must be made at the time of filing the protest and may be made by checking the appropriate box on the form prescribed by the department of revenue and finance. Protests may be filed for previous years if the taxpayer discovers that a mathematical or clerical error was made in the assessment, provided the taxes have not been fully paid or otherwise legally discharged. *The protester may combine on one form assessment protests on parcels separately assessed if the same grounds are relied upon as the basis for protesting each separate assessment. If an oral hearing is requested on more than one of the protests, the person making the combined protests may request that the oral hearings be held consecutively.*

ITEM 5. Amend subrule **71.20(4)**, paragraph “c,” subparagraph (4), and the implementation clause for rule **701—71.20(441)** as follows:

(4) That the board of review's decision may be appealed to the district court within 20 days of the board's adjournment or May 31, whichever date is later. If the adjournment date is known, the date shall be stated on the notice. If the adjournment date is not known, the notice shall state the date will be no earlier than May 31. Written notice of appeal shall be filed with the clerk of district court, and notice of the appeal shall be served on the chairperson, presiding officer, or clerk of the board of review *within 20 days of the board's adjournment or May 31, whichever is later.*

This rule is intended to implement Iowa Code section ~~441.31~~ sections 441.37 and 441.38 as amended by 1997 2005 Iowa Acts, ~~House File 4~~ Senate File 413, and sections ~~441.32~~ 441.31 to ~~441.38~~ 441.36.

ITEM 6. Amend 701—Chapter 71 by adding the following **new** rule and renumbering existing rule **701—71.21(428,441)** as **701—71.22(428,441)**:

701—71.21(81GA,HF868) Property assessment appeal board.

71.21(1) Establishment, membership, and location of the property assessment appeal board.

a. A statewide property assessment appeal board is created for the purpose of establishing a consistent, fair, and equitable property assessment appeal process. The statewide property assessment appeal board is established within the department of revenue. The board's principal office shall be in the office of the department of revenue.

b. The property assessment appeal board shall consist of three members appointed by the governor and subject to confirmation by the senate. The members shall be appointed to staggered six-year terms beginning initially on January 1, 2007, and ending as provided in Iowa Code section 69.19. Members' subsequent terms shall begin and end as provided in Iowa Code section 69.19. The governor shall appoint from the members a chairperson, subject to confirmation by the senate, of the board to a two-year term. Vacancies on the board shall be filled for the unexpired portion of the term in the same manner as regular appointments are made.

REVENUE DEPARTMENT[701](cont'd)

Each member of the property assessment appeal board shall be qualified by virtue of at least two years' experience in the area of government, corporate, or private practice relating to property appraisal and property tax administration. One member of the board shall be a certified real estate appraiser or hold a professional appraisal designation, one member shall be an attorney practicing in the area of state and local taxation or property tax appraisals, and one member shall be a professional with experience in the field of accounting or finance and with experience in state and local taxation matters. No more than two members of the board may be from the same political party as that term is defined in Iowa Code section 43.2.

c. The property assessment appeal board shall organize by appointing a secretary who shall take the same oath of office as the members of the board. The board may employ additional personnel as it finds necessary. All personnel employed by the board shall be considered state employees and are subject to the merit system provisions of Iowa Code chapter 8A, subchapter IV.

71.21(2) Powers and duties of the board. The property assessment appeal boards shall:

a. Review any final decision, finding, ruling, determination, or order of a local board of review relating to assessment protests, valuation, or application of an equalization order.

b. Affirm, reverse, or modify a final decision, finding, ruling, determination, or order of a local board of review.

c. Order the payment or refund of property taxes in a matter over which the board has jurisdiction.

d. Grant other relief or issue writs, orders, or directives that the board deems necessary or appropriate in the process of disposing of a matter over which the board has jurisdiction.

e. Subpoena documents and witnesses and administer oaths.

f. Adopt administrative rules pursuant to Iowa Code chapter 17A for the administration and implementation of its powers, including rules for practice and procedure for protests filed with the board, the manner in which hearings on appeals of assessments shall be conducted, filing fees to be imposed by the board, and for the determination of the correct assessment of property which is the subject of an appeal.

g. Adopt administrative rules pursuant to Iowa Code chapter 17A necessary for the preservation of order and the regulation of proceedings before the board, including forms or notice and the service thereof, which rules shall conform as nearly as possible to those in use in the courts of this state.

71.21(3) General counsel. The property assessment appeal board shall employ a competent attorney to serve as its general counsel, and assistants to the general counsel as it finds necessary for the full and efficient discharge of its duties. The general counsel is the attorney for, and legal advisor of, the board. The general counsel or an assistant to the general counsel shall provide the necessary legal advice to the board in all matters and shall represent the board in all actions instituted in a court challenging the validity of a rule or order of the board. The general counsel shall devote full time to the duties of the office. During employment as general counsel to the board, the counsel shall not be a member of a political committee, contribute to a political campaign, participate in a political campaign, or be a candidate for partisan political office. The general counsel and assistants to the general counsel shall be considered state employees and are subject to the merit system provisions of Iowa Code chapter 8A, subchapter IV.

71.21(4) Compensation. The members of the property assessment appeal board shall receive compensation from the state commensurate with the salary of a district judge. The members of the board shall not be considered state employees for purposes of salary and benefits and are not subject to the merit system provisions of Iowa Code chapter 8A, subchapter IV. This includes, for example, IPERS, vacation, sick leave, death benefits, health insurance, dental insurance, and life insurance. Members of the board and any employees of the board, when required to travel in the discharge of official duties, shall be paid their actual and necessary expenses incurred in the performance of their duties.

71.21(5) Appeal board review committee. Effective January 1, 2012, a property assessment appeal board review committee is established. Staffing assistance to the committee shall be provided by the department of revenue. The committee shall consist of six members of the general assembly, two appointed by the majority leader of the senate, one appointed by the minority leader of the senate, two appointed by the speaker of the house of representatives, and one appointed by the minority leader of the house of representatives; the director of revenue or the director's designee; a county assessor appointed by the Iowa state association of counties; and a city assessor appointed by the Iowa league of cities.

The property assessment appeal board review committee shall review the activities of the property assessment appeal board since its inception. The review committee may recommend the revision of any rules, regulations, directives, or forms relating to the activities of the property assessment appeal board.

The review committee shall report to the general assembly by January 15, 2013. The report shall include any recommended changes in laws relating to the property assessment appeal board, the reasons for the committee's recommendations, and any other information the committee deems advisable.

This rule is intended to implement 2005 Iowa Acts, House File 868, section 121.

ITEM 7. Amend 701—Chapter 71 by adding the following **new** rule:

701—71.26(441) Assessor compliance. The assessor shall determine the value of real property in accordance with rules adopted by the department of revenue and in accordance with forms and guidelines contained in the Iowa real property appraisal manual prepared by the department.

If the department finds that an assessor is not in compliance with the rules of the department relating to valuation of property or has disregarded the forms and guidelines contained in the real property appraisal manual, the department shall notify the assessor and each member of the conference board for that assessing jurisdiction. The notice shall be mailed by restricted certified mail and shall specify the areas of noncompliance and the steps necessary to achieve compliance. The notice shall also inform the assessor and conference board that if compliance is not achieved, a penalty may be imposed.

The conference board shall respond to the department within 30 days of receipt of the notice of noncompliance. The conference board may respond to the notice by asserting that the assessor is in compliance with the rules, guidelines, and forms of the department or by informing the department that the conference board intends to submit a plan of action to achieve compliance. If the conference board responds to the notification by asserting that the assessor is in compliance, a

REVENUE DEPARTMENT[701](cont'd)

hearing before the director of revenue shall be held on the matter within 60 days of receipt of the notice of noncompliance. If it is agreed that the assessor is not in compliance, the conference board shall submit a plan of action within 60 days of receipt of the notice of noncompliance.

The plan shall contain a time frame under which compliance shall be achieved, which shall be no later than January 1 of the following assessment year. The plan of action shall contain the signature of the assessor and of the chairperson of the conference board. The department shall review the plan to determine whether the plan is sufficient to achieve compliance. Within 30 days of receipt of the plan, the department shall notify the assessor and the chairperson of the conference board that it has accepted the plan or that it is necessary to submit an amended plan of action.

By January 1 of the assessment year following the calendar year in which the plan was submitted to the department, the conference board shall submit a report to the department verifying that the plan of action was followed and compliance has been achieved. The department may conduct a field inspection to ensure that the assessor is in compliance. By January 31, the department shall notify the assessor and the conference board, by restricted certified mail, either that compliance has been achieved or that the assessor remains in noncompliance. If the department determines that the assessor remains in noncompliance, the department shall take steps to withhold up to 5 percent of the reimbursement payment authorized in Iowa Code section 425.1 until the director of revenue determines that the assessor is in compliance.

If the conference board disputes the determination of the department, the chairperson of the conference board may appeal the determination to the state board of tax review.

This rule is intended to implement Iowa Code section 441.21 as amended by 2005 Iowa Acts, House File 868.

ITEM 8. Amend **701—Chapter 72** by changing the phrases “department of revenue and finance” and “director of revenue and finance” to “department of revenue” and “director of revenue,” respectively, wherever these phrases appear.

ITEM 9. Amend subrule 72.16(1) as follows:

72.16(1) Time for reappointment. A conference board must decide whether to reappoint an incumbent assessor at least 90 days before the expiration of the incumbent’s term. If the incumbent is not to be reappointed, the conference board shall so notify the incumbent in writing at least 90 days before the expiration of the incumbent’s term. *Failure of the conference board to provide timely notification of the decision not to reappoint the assessor shall result in the assessor being reappointed.*

ITEM 10. Amend rule **701—72.16(441)**, implementation clause, as follows:

This rule is intended to implement Iowa Code section 441.8 as amended by 2005 Iowa Acts, Senate File 413.

ITEM 11. Amend **701—Chapter 73** by changing the phrases “department of revenue and finance” and “director of revenue and finance” to “department of revenue” and “director of revenue,” respectively, wherever these phrases appear.

ITEM 12. Amend 701—Chapter 73 by adding the following **new** rule:

701—73.33(425) Proration of claims. If the director determines that the amount of funding provided pursuant to Iowa

Code section 425.39 will be insufficient to pay all property tax credit and rent reimbursement claims filed, the director shall estimate the percentage at which the claims will be paid and shall prorate the payment of each property tax credit and rent reimbursement claim by the same estimated percentage. The county treasurer shall, pursuant to Iowa Code section 25B.7, be required to extend to the claimant only that portion of the credit estimated by the department to be funded by the state appropriation.

This rule is intended to implement Iowa Code sections 25B.7 and 425.39.

ITEM 13. Amend **701—Chapter 74** by changing the phrases “department of revenue and finance” and “director of revenue and finance” to “department of revenue” and “director of revenue,” respectively, wherever these phrases appear.

ITEM 14. Amend subrule 74.8(1) as follows:

74.8(1) Partial payment of tax. Partial payments of taxes may be allowed at the discretion of the county treasurer. If the treasurer elects to permit partial payments, the authorization shall apply to all taxpayers within the county. ~~The treasurer may establish a minimum payment amount that must be made for partial payments to be accepted.~~ If the partial payments made are insufficient to fully satisfy an installment due by the delinquency date, the unpaid portion of the installment shall draw interest as provided in Iowa Code section 445.39. Current year taxes may be paid at any time regardless of any prior year delinquent taxes. The minimum payment for delinquent taxes must be equal to or exceed the interest, fees, and costs attributed to the oldest delinquent of the installment due being paid.

ITEM 15. Amend rule **701—74.8(435)**, implementation clause, as follows:

This rule is intended to implement Iowa Code sections ~~section 435.24 as amended by 2005 Iowa Acts, Senate File 265, and sections 435.25 and Iowa Code section 445.37 as amended by 1995 Iowa Acts, Senate File 458.~~

ITEM 16. Amend **701—Chapter 75** by changing the phrases “department of revenue and finance” and “director of revenue and finance” to “department of revenue” and “director of revenue,” respectively, wherever these phrases appear.

ITEM 17. Amend rule 701—75.2(445) as follows:

701—75.2(445) Partial payment of tax. Partial payments of taxes may be allowed at the discretion of the county treasurer. If the treasurer elects to permit partial payments, the authorization shall apply to all taxpayers within the county. ~~The treasurer may establish a minimum payment amount that must be made for partial payments to be accepted.~~ If the partial payments made are insufficient to fully satisfy an installment due by the delinquency date, the unpaid portion of the installment shall draw interest at the rate specified in Iowa Code section 445.39. Current year taxes may be paid at any time regardless of any outstanding prior year delinquent tax. The minimum payment for delinquent taxes must be equal to or exceed the interest, fees, and costs attributed to the oldest delinquent of the installment due being paid.

This rule is intended to implement Iowa Code section 445.36A as amended by 2005 Iowa Acts, Senate File 265.

ITEM 18. Amend **701—Chapter 78** by changing the phrases “department of revenue and finance” and “director of revenue and finance” to “department of revenue” and

REVENUE DEPARTMENT[701](cont'd)

“director of revenue,” respectively, wherever these phrases appear.

ITEM 19. Amend 701—Chapter 78 by adding the following **new** rule:

701—78.8(427) Abatement of taxes. The board of supervisors may abate the taxes levied against property acquired by gift if the property was acquired after the deadline for filing for property tax exemption if the property would have been exempt under Iowa Code section 427.1, subsection 8 or 9, if a timely claim had been filed, or was acquired after July 1 if the property would have been exempt under Iowa Code section 427.1, subsection 7.

ITEM 20. Amend **701—Chapter 79** by changing the phrases “department of revenue and finance” and “director of revenue and finance” to “department of revenue” and “director of revenue,” respectively, wherever these phrases appear.

ITEM 21. Amend **701—Chapter 80** by changing the phrases “department of revenue and finance” and “director of revenue and finance” to “department of revenue” and “director of revenue,” respectively, wherever these phrases appear.

ITEM 22. Amend subrule **80.1(2)** by adding the following **new** paragraph “**f**”:

1. An heir occupying homestead property that is part of an estate in the process of administration is considered an owner of the property and is eligible for the homestead credit. (1938 O.A.G. 272)

ITEM 23. Amend subrule **80.1(4)** by adding the following **new** paragraph “**h**”:

h. The county treasurer shall, pursuant to Iowa Code section 25B.7, be required to extend to the claimant only that portion of the credit estimated by the department to be funded by the state appropriation.

ITEM 24. Amend subrule **80.2(2)**, paragraph “**c**,” as follows:

c. Former members of the United States armed forces, including members of the Coast Guard, *who were on active duty for less than three years* must have served on active duty during one of the war or conflict time periods enumerated in Iowa Code section 35.1. *If former members were on active duty for at least three years, it is not necessary that their service be performed during one of the war or conflict time periods.* Former members who opted to serve five years in the reserve forces of the United States qualify if any portion of their enlistment would have occurred during the Korean Conflict (June 25, 1950, to January 31, 1955). There is no minimum number of days a former member of the armed forces of the United States must have served on active duty *if the service was performed during one of the war or conflict time periods.* Former and current members of the Iowa national guard and reserve forces of the United States need not have performed any active duty if they served at least 20 years ~~after January 28, 1973.~~ Otherwise, they must have been activated for federal duty, for purposes other than training, for a minimum of 90 days. Also, it is not a requirement for a member of the Iowa national guard or a reservist to have performed service within a designated war or conflict time period.

ITEM 25. Amend subrule **80.2(2)**, paragraph “**d**,” as follows:

d. *With the exception of members of the Iowa national guard and members of the reserve forces of the United States who have served at least 20 years and continue to serve,* A military service tax exemption shall not be allowed unless the veteran has received a complete and final separation from active duty service. (Jones v. Iowa State Tax Commission, 247 Iowa 530, 74 N.W.2d 563, 567-1956; In re Douglas A. Coyle, State Board of Tax Review, No. 197, August 14, 1979; 1976 O.A.G. 44)

ITEM 26. Amend subrule **80.2(2)**, paragraph “**t**,” as follows:

t. The person claiming the exemption shall have recorded in the office of the county recorder evidence of property ownership and *either* the military certificate of satisfactory service *or, for a current member of the Iowa national guard or a member of the reserve forces of the United States, the veteran's retirement points accounting statement issued by the armed forces of the United States or the state adjutant general.* The military certificate of satisfactory service shall be considered a confidential record pursuant to Iowa Code section 22.7.

ITEM 27. Amend subrule **80.2(2)** by adding the following **new** paragraph “**u**”:

u. An heir of property that is part of an estate in the process of administration is considered an owner of the property and is eligible for the military exemption.

ITEM 28. Amend subrule **80.2(3)** by adding the following **new** paragraph “**e**”:

e. The county treasurer shall, pursuant to Iowa Code section 25B.7, be required to extend to the claimant only that portion of the exemption estimated by the department to be funded by the state appropriation.

ITEM 29. Amend rule **701—80.2(22,35,426A)**, implementation clause, as follows:

This rule is intended to implement Iowa Code section 22.7 as amended by 2003 Iowa Acts, Senate File 94; section sections 35.1 and 35.2; and chapter 426A as amended by 2003 2005 Iowa Acts, House File 674; and chapter 426A 374.

ITEM 30. Amend subrule 80.4(5) as follows:

80.4(5) The exemption granted in Iowa Code subsection 427.1(21) extends only to property which is both owned and operated, *or controlled,* by a nonprofit organization *recognized as such by the Internal Revenue Service.* Property ~~either~~ owned ~~or~~ and operated, *or controlled,* by a private person is not eligible for exemption under Iowa Code subsection 427.1(21).

ITEM 31. Amend subrule 80.4(8) as follows:

80.4(8) The exemption authorized by Iowa Code subsection 427.1(21) extends only until *the final payment due date of the borrower's* original low-rent housing development mortgage on the property *or until the borrower's original low-rent housing development mortgage is paid in full or expires, whichever is sooner.* ~~If an additional mortgage has been secured, the exemption shall extend only until the original mortgage is paid in full or otherwise discharged.~~ *If the original mortgage is refinanced, the exemption shall apply only until what would have been the final payment due date under the original mortgage or until the refinanced mortgage is paid in full or expires, whichever is sooner.*

ITEM 32. Amend rule **701—80.4(427)**, implementation clause, as follows:

REVENUE DEPARTMENT[701](cont'd)

This rule is intended to implement Iowa Code subsections *section 427.1(14)* and *section 427.1(21) as amended by 2005 Iowa Acts, House File 882*.

ITEM 33. Amend subrule 80.13(2) and the implementation clause for rule **701—80.13(427B)** as follows:

80.13(2) Property that qualifies for the wind energy production tax credit. The wind energy production tax credit applies to electrical production facilities placed in service on or after July 1, 2004, 2005, but prior to July 1, 2007 2008. These facilities are to be assessed by the department of revenue for a period of 12 years, and the taxes payable on the facilities are to be paid to the department at the same time as regular property taxes. The owner of the facility shall file an annual report with the department by May 1 of each year during the 12-year assessment period, and the department shall certify the assessed value of the facility by November 1 of each year to the county auditor. The board of supervisors shall notify the county treasurer to state on the tax statement that the property taxes are to be paid to the department of revenue. The board shall also notify the department of those facilities that are required to pay the property taxes to the department. The department of revenue shall notify the county treasurer of the date the taxes were paid within five business days of receipt, and the notification shall authorize the county treasurer to mark the record as paid in the county system.

This rule is intended to implement Iowa Code section 427B.26 and 2004 Iowa Acts, Senate File 2298, sections 404 to 417 chapter 476B as amended by 2005 Iowa Acts, House File 882.

ITEM 34. Amend subrule 80.14(3) as follows:

80.14(3) Valuation exempted. If the structure is used exclusively as a storm shelter, it shall be fully exempt from taxation. If *the structure is not used exclusively as a storm shelter*, the exemption shall be limited to 25 50 percent of the structure's *commercial* valuation.

This rule is intended to implement Iowa Code section 427.1(30) as amended by 2004 2005 Iowa Acts, House File 736 882.

ITEM 35. Amend 701—Chapter 80 by adding the following **new** rules:

701—80.19(427) Dwelling unit property within certain cities. Dwelling unit property owned and managed by a non-profit organization that owns and manages more than 40 dwelling units in a city with a population of more than 110,000 which has a public housing authority that does not own or manage housing stock for purposes of low-rent housing is exempt from tax. The exemption does not extend to dwelling units located outside the city.

This rule is intended to implement 2005 Iowa Acts, House File 882, section 68.

701—80.20(427) Nursing facilities. If the assessor determines that property is being used for a charitable purpose pursuant to Iowa Code section 427.1(8), it shall be fully exempt from tax if it is licensed under Iowa Code section 135C.1(13) by the department of inspections and appeals, exempt from federal income tax under Section 501(c)(3) of the Internal Revenue Code, and a valid application for exemption has been filed with the assessor by February 1 of the assessment year.

This rule is intended to implement Iowa Code section 427.1(14) as amended by 2005 Iowa Acts, House File 589.

701—80.21(368) Annexation of property by a city. A city council may provide a partial tax exemption from city taxes against annexed property for a period of ten years. The exemption schedule is contained in Iowa Code section 368.11(3)“m.”

This rule is intended to implement Iowa Code section 368.11(3)“m” as amended by 2005 Iowa Acts, Senate File 78.

701—80.22(427) Port authority. The property of a port authority created pursuant to 2005 Iowa Acts, House File 868, section 90, when devoted to public use and not held for pecuniary profit is exempt from taxation.

This rule is intended to implement 2005 Iowa Acts, House File 868, section 118.

ITEM 36. Amend **701—Chapter 120** by changing the phrases “department of revenue and finance” and “director of revenue and finance” to “department of revenue” and “director of revenue,” respectively, wherever these phrases appear.

ITEM 37. Amend **701—Chapter 122** by changing the phrases “department of revenue and finance” and “director of revenue and finance” to “department of revenue” and “director of revenue,” respectively, wherever these phrases appear.

ITEM 38. Amend **701—Chapter 123** by changing the phrases “department of revenue and finance” and “director of revenue and finance” to “department of revenue” and “director of revenue,” respectively, wherever these phrases appear.

ITEM 39. Amend rule 701—123.3(441), introductory paragraph, to read as follows:

701—123.3(441) Certification of assessors. An assessor who has received credit equal to at least 150 hours of classroom instruction, of which at least 90 hours are tested credit, during the assessor's current term shall be certified to the assessor's conference board as eligible for reappointment to that position. *Upon written request by an assessor seeking a waiver of the continuing education requirements, the director may waive the requirements for good cause.* Certification shall be only that the incumbent has met the requirements to be eligible for reappointment. No scores or other information will be given to the conference board.

ITEM 40. Amend rule **701—123.4(441)**, last paragraph, as follows:

If a deputy assessor fails to comply with continuing education requirements, the deputy shall be removed from that position and not reinstated until successful completion of the required hours of credit. *Upon written request by a deputy seeking a waiver of the continuing education requirements, the director may waive the requirements for good cause.* The number of credit hours required for the deputy to be eligible for appointment as a deputy in another jurisdiction shall be prorated according to the completed portion of the deputy's six-year term.

ITEM 41. Amend **701—Chapter 123**, implementation clause, as follows:

Rules 123.1(441) to 123.8(441) are intended to implement Iowa Code sections *section 441.8 as amended by 2005 Iowa Acts, Senate File 413*, and *section 441.11 both amended by 1997 Iowa Acts, House File 266*.

ITEM 42. Amend **701—Chapter 124** by changing the phrases “department of revenue and finance” and “director

REVENUE DEPARTMENT[701](cont'd)

of revenue and finance” to “department of revenue” and “director of revenue,” respectively, wherever these phrases appear.

ARC 4610B

TRANSPORTATION DEPARTMENT[761]

Notice of Intended Action

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 307.10 and 307.12, the Department of Transportation hereby gives Notice of Intended Action to amend Chapter 710, “Airport Improvement Program,” Iowa Administrative Code.

These amendments relate to the administration of the airport improvement program. The amendments:

- Move language under correct heading.
- Correct contact information.
- Clarify language for readability, understanding, and to better describe the process for federal preapplications.
- Clarify language for readability, understanding, and streamlining the application process for the state airport improvement program.
- Add primary commercial service airports to eligible applicants.
- Remove items from the rule that are included in agreements.

These rules do not provide for waivers. Any person who believes that the person’s circumstances meet the statutory criteria for a waiver may petition the Department for a waiver under 761—Chapter 11.

Any person or agency may submit written comments concerning these proposed amendments or may submit a written request to make an oral presentation. The comments or request shall:

1. Include the name, address, and telephone number of the person or agency authoring the comments or request.
2. Reference the number and title of the proposed rule, as given in this Notice, that is the subject of the comments or request.
3. Indicate the general content of a requested oral presentation.
4. Be addressed to the Department of Transportation, Director’s Staff Division, 800 Lincoln Way, Ames, Iowa 50010; fax (515)239-1639; Internet E-mail address tracy.george@dot.iowa.gov.
5. Be received by the Director’s Staff Division no later than November 29, 2005.

A meeting to hear requested oral presentations is scheduled for Thursday, December 1, 2005, at 10 a.m. in the Modal Division Conference Room of the Department of Transportation, 800 Lincoln Way, Ames, Iowa.

The meeting will be canceled without further notice if no oral presentation is requested.

These amendments are intended to implement Iowa Code chapters 328, 329 and 330.

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

Proposed rule-making actions:

ITEM 1. Amend rule 761—710.1(328) as follows:

761—710.1(328) Purpose. These rules establish the procedures for a governmental subdivision to apply for state or federal funds for the improvement of airports and air navigation facilities. ~~These rules do not apply to an airport that receives federal primary commercial service entitlement funds if the airport files a copy of the preapplication for federal funds with the department.~~

This rule is intended to implement Iowa Code sections 328.12 and 330.13.

ITEM 2. Amend rule 761—710.3(17A) as follows:

761—710.3(17A) Location and information. Requests for information, forms or assistance in completing the forms, and all submissions shall be sent to: Office of Aviation, Iowa Department of Transportation, 800 Lincoln Way, Ames, Iowa 50010; telephone (515)239-1694 239-1875. Information and forms are also available through the Internet at <http://www.iawings.com>.

This rule is intended to implement Iowa Code section 17A.3.

ITEM 3. Amend rule 761—710.4(330) as follows:

761—710.4(330) Federal airport improvement funds.

710.4(1) Applicant eligibility. A governmental subdivision owning a public airport that is listed in the Federal Aviation Administration’s (FAA) National Plan of Integrated Airport Systems (NPIAS) is eligible to apply for federal funds. ~~This publication is available upon request from the department. The NPIAS published report is available at the FAA Web site: www.faa.gov/arp/planning/npias. An airport that receives federal primary commercial service entitlement funds is not required to submit preapplications through the department.~~

710.4(2) Project eligibility. ~~The project must be consistent with the priorities and criteria of the Iowa aviation system plan. The Iowa aviation system plan is distributed annually by the department to each publicly owned airport in Iowa. Projects must meet the FAA eligibility guidelines for federal airport improvement projects. Federal airport improvement program guidelines are available at the FAA Web site: www.faa.gov/arp/ace/aip/aip-guide.cfm.~~

710.4(3) Preapplication.

a. The department shall distribute preapplication instructions and forms annually to each ~~publicly owned airport in Iowa~~ eligible applicant.

b. The completed preapplication for federal airport improvement funds shall be sent to the department at the address in rule 710.3(17A) ~~according to the time frame specified in the instructions. The preapplication must be received by the department by the due date requested by the office of aviation to be considered for funding in the subsequent federal fiscal year.~~

710.4(4) Project programming prioritization.

a. The department shall review each completed preapplication for consistency with the Iowa aviation system plan and shall recommend approval or disapproval of the preapplication ~~on that basis project eligibility and consistency with the state aviation system plan.~~ The department shall rank all of the projects according to the Iowa aviation system plan priorities and present the list of projects to the transportation commission review and prioritize projects based on the goals and objectives in the state aviation system plan.

TRANSPORTATION DEPARTMENT[761](cont'd)

b. The commission may ~~approve or disapprove~~ *is responsible for approving the prioritization of the projects, or approve a portion of a project preapplications.* The department shall notify each applicant of the commission's action on the applicant's preapplication. ~~The department shall return the preapplications that were not approved by the commission to the applicant.~~

c. The department shall send the approved preapplications *with priorities identified* to the FAA and the FAA will contact the applicant directly concerning all subsequent action on the preapplication.

This rule is intended to implement Iowa Code section 330.13.

ITEM 4. Amend rule 761—710.5(328) as follows:

761—710.5(328) State airport improvement funds.

710.5(1) Applicant eligibility. A governmental subdivision owning or establishing a public airport is eligible to apply to the department for state airport improvement funds if the airport does not receive federal primary commercial service entitlement funds.

710.5(2) Project eligibility and requirements.

a. An airport improvement project is eligible for funding if the proposed improvement will *must* benefit and be accessible to the flying public. Eligible and ineligible projects are identified in the Iowa aviation system plan that the department distributes annually to all publicly owned Iowa airports.

b. *Airport projects may include, but are not limited to: runway, taxiway, and apron surfaces; lighting and navigational aids; obstruction removal; grading, drainage, and surfacing airfield surfaces and protection areas; signage, security access control and lighting; and planning.* The A project that involves airfield infrastructure shall comply with the airport master plan or airport layout plan as adopted by the governmental subdivision and approved by the department.

c. ~~The governmental subdivision shall have complied with all prior project agreements with the department.~~

d. ~~The airport for which improvement funds are requested shall comply with the following:~~

(1) Have zoning ordinances to protect the airport environment from encroachment by tall structures if within an airport hazard area as defined by Iowa Code chapter 329.

(2) Be owned by the governmental subdivision requesting funds.

(3) Have approaches to the airport runways protected by the governmental subdivision's control of the runway protection zones.

710.5(3) Application for funding.

a. The department shall distribute the application instructions and forms annually to each publicly owned airport in Iowa. The applicant shall send the completed application to the department at the address in rule 710.3(17A). The application must be received by the due date specified in the application instructions to be considered for funding in the subsequent state fiscal year.

b. *Project applications shall be submitted to the office of aviation by the due date specified in the instructions.*

c. *Emergency operations project applications may be submitted at any time during the year to the office of aviation.*

d. *The department shall send applications for any special projects to all eligible airports. Airport sponsors shall submit applications for special projects to the department as specified in the application instructions.*

710.5(4) ~~Application review~~ *Review and approval.* The department shall review each completed application and

~~evaluate it according to the criteria and priority order established in the Iowa aviation system plan the impact of the project on the aviation system considering the following factors: state system plan airport roles, goals and objectives; justification provided in the application; and ability to enhance aeronautical activity for the airport and system.~~ The department shall ~~present~~ *recommend* the list of projects to the transportation commission for approval. The commission may ~~approve or disapprove~~ *is responsible for approving* the list of projects, or approve a portion of a project subject to fiscal year funding appropriations *to be funded.* The department shall notify each applicant of the commission's action on the application. When the amount of funds appropriated for this program is established, the department shall notify the applicants whose projects received tentative commission approval of the final funding disposition of their applications. The department shall notify the applicants whose projects received funding ~~to proceed with their projects.~~

710.5(5) Project agreement and responsibilities. Upon notification from the department to proceed, the department and the governmental subdivision shall execute an agreement.

a. *After a project has been approved by the commission, the department shall enter into an agreement with the airport sponsor that specifies the responsibilities of the sponsor.*

b. The agreement shall specify the amount of state funds, the contract period, and the responsibilities for project planning, development, construction, inspection, and documentation and the criteria for each *and the payment process.*

a. ~~The governmental subdivision shall submit all plans and specifications to the department for approval and authorization to advertise for bids on the improvement.~~

b. ~~The governmental subdivision shall conduct the bidding in compliance with Iowa Code sections 384.95 to 384.103 and shall submit the tabulation of all bids and recommendations for award of contract to the department for concurrence before awarding the contract.~~

c. ~~The governmental subdivision shall be responsible for accomplishing the project work in accordance with the approved plans and specifications. Any modification to the plans or specifications must be approved by the department before work is begun. The governmental subdivision shall supervise the actual improvement and verify compliance with the terms of the contract and shall submit periodic field reports to the department, including copies of all laboratory reports on the strength and quality of the materials.~~

d. ~~Upon completion of the improvement, the governmental subdivision shall send the department the project engineer's certificate of completion, a tabulation of final costs, and an "as built" plan of the completed improvement.~~

e c. The department may inspect the improvement for compliance with the agreement and ~~will~~ *may* audit all project costs incurred before sending the final payment to the governmental subdivision.

710.5(6) Consultants.

a. ~~The governmental subdivision shall select a project engineer before work on the improvement begins. The project engineer may be a city or county engineer or a consulting engineering firm that is prequalified with the department under 761—Chapter 20.~~

b. ~~Engineering fees shall be considered an eligible project expense and shall be reimbursed in compliance with the agreement.~~

710.5(7) 710.5(6) Contract payments.

TRANSPORTATION DEPARTMENT[761](cont'd)

a.—Costs that are incurred prior to commission approval and the execution of a funding agreement are not eligible for reimbursement.

b.—During the project, the governmental subdivision may submit progressive billings to the department for reimbursement of eligible costs paid for completed work. The governmental subdivision should have adequate funds available to ensure that costs have been paid prior to reimbursement.

c.—The department may withhold 5 percent of eligible costs until the completed project has been inspected and project costs have been audited for compliance with the agreement. When the final billing is approved, the department shall process the final payment.

a. *Payments to the airport sponsor for eligible project costs shall be made on a cost reimbursement basis.*

b. *Engineering fees are an eligible project expense and shall be reimbursed in compliance with the agreement.*

This rule is intended to implement Iowa Code chapters 328 and 329 and sections 384.95 to 384.103 and 573.12.

ARC 4611B**TRANSPORTATION
DEPARTMENT[761]****Notice of Intended Action**

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 307.10 and 307.12, the Department of Transportation hereby gives Notice of Intended Action to amend Chapter 717, "General Aviation Airport Vertical Infrastructure Program," Iowa Administrative Code.

These amendments relate to the administration of the General Aviation Vertical Infrastructure Program. The amendments:

- Delete a definition and correct a Code citation to a definition.
- Correct contact information.
- Change the state level of participation, remove the funding cap and clarify project priorities.
- Remove items that are not needed.

These rules do not provide for waivers. Any person who believes that the person's circumstances meet the statutory criteria for a waiver may petition the Department for a waiver under 761—Chapter 11.

Any person or agency may submit written comments concerning these proposed amendments or may submit a written request to make an oral presentation. The comments or request shall:

1. Include the name, address, and telephone number of the person or agency authoring the comments or request.
2. Reference the number and title of the proposed rule, as given in this Notice, that is the subject of the comments or request.
3. Indicate the general content of a requested oral presentation.
4. Be addressed to the Department of Transportation, Director's Staff Division, 800 Lincoln Way, Ames, Iowa 50010; fax (515)239-1639; Internet E-mail address tracy.george@dot.iowa.gov.
5. Be received by the Director's Staff Division no later than November 29, 2005.

A meeting to hear requested oral presentations is scheduled for Thursday, December 1, 2005, at 11 a.m. in the Modal Division Conference Room of the Department of Transportation, 800 Lincoln Way, Ames, Iowa.

The meeting will be canceled without further notice if no oral presentation is requested.

These amendments are intended to implement Iowa Code chapter 328.

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

Proposed rule-making actions:

ITEM 1. Amend rule 761—717.2(328) as follows:

761—717.2(328) Definitions. The definitions in Iowa Code section 328.1 and rule 761—700.1(328) apply to these rules. In addition:

"General aviation airport" means a public-use airport that is owned by a governmental subdivision of the state of Iowa and that does not have scheduled commercial air service.

"Vertical infrastructure" is defined in Iowa Code section 8.57, subsection 5 6.

ITEM 2. Amend rule 761—717.3(328) as follows:

761—717.3(328) Information and forms. Information, instructions, and application forms may be obtained from the Office of Aviation, Iowa Department of Transportation, 800 Lincoln Way, Ames, Iowa 50010; telephone (515)233-7703 239-1875.

ITEM 3. Amend rule 761—717.4(328) as follows:

761—717.4(328) Eligible airports Applicant eligibility. Eligible airports are those general aviation airports that are in compliance with minimum state safety standards (see 761—Chapter 720). The applicant must be the governmental subdivision charged with managing the general aviation airport.

ITEM 4. Amend rule 761—717.7(328) as follows:

761—717.7(328) Funding.

717.7(1) ~~The funding ratio for all projects is 70/30 (70 percent state funds, 30 percent local funds) department may fund up to 85 percent of an eligible project.~~

717.7(2) ~~Maximum state participation. Using the appropriated funds, the maximum state participation for any one airport is \$50,000 per airport per year.~~

ITEM 5. Amend rule 761—717.8(328) as follows:

761—717.8(328) Project priorities. Priority shall be given to projects which produce revenue for the airport such as hangars, terminal buildings and fuel facilities. ~~New construction shall have priority over rehabilitation of existing infrastructure provided that adequate demonstration of need is submitted. The department shall consider the following in project selection: airport role and objectives defined in the state aviation system plan; demonstration of increased aeronautical activity; and justification showing the ability to produce additional income for the airport.~~

ITEM 6. Amend rule 761—717.10(328) as follows:

761—717.10(328) Review and approval. Department staff shall review project applications and submit recommendations to the transportation commission. The commission is responsible for approving the projects to be funded and the amount to be funded for each project.

NOTICE—USURY

In accordance with the provisions of Iowa Code section 535.2, subsection 3, paragraph “a,” the Superintendent of Banking has determined that the maximum lawful rate of interest shall be:

November 1, 2004 — November 30, 2004	6.25%
December 1, 2004 — December 31, 2004	6.00%
January 1, 2005 — January 31, 2005	6.25%
February 1, 2005 — February 28, 2005	6.25%
March 1, 2005 — March 31, 2005	6.25%
April 1, 2005 — April 30, 2005	6.25%
May 1, 2005 — May 31, 2005	6.50%
June 1, 2005 — June 30, 2005	6.25%
July 1, 2005 — July 31, 2005	6.25%
August 1, 2005 — August 31, 2005	6.00%
September 1, 2005 — September 30, 2005	6.25%
October 1, 2005 — October 31, 2005	6.00%
November 1, 2005 — November 30, 2005	6.25%

ARC 4626B**HUMAN SERVICES
DEPARTMENT[441]****Adopted and Filed Emergency**

Pursuant to the authority of Iowa Code sections 239B.4(4), 239B.8(2), and 249A.4, the Department of Human Services amends Chapter 78, "Amount, Duration, and Scope of Medical and Remedial Services," and Chapter 93, "PROMISE JOBS Program," Iowa Administrative Code.

These amendments temporarily increase Medicaid reimbursement for nonemergency transportation and the transportation allowance for participation in PROMISE JOBS activities to \$0.30 per mile.

The Medicaid program reimbursed mileage at the rate payable to state employees until December 1, 2002, when reimbursement was lowered from \$0.29 per mile (the state employee rate at that time) to \$0.20 per mile as a cost-saving measure. PROMISE JOBS transportation reimbursement was increased from \$0.16 per mile to \$0.21 per mile on July 1, 2001. Fuel prices have risen dramatically since these rates were established. For comparison, the state employee reimbursement rate is now \$0.34 per mile, and the federal employee rate and Internal Revenue Service mileage deduction are set at \$0.485 per mile.

The current low reimbursement rates are a disincentive to Medicaid members' receiving needed medical care, especially in rural areas, and a barrier to their finding volunteers to provide transportation. The current reimbursement rates are a barrier to Family Investment Program participants' carrying out education, training, and work activities under the PROMISE JOBS program that will lead to self-sufficiency.

The Department believes that it has sufficient funds within the State Fiscal Year 2006 Family Investment Program appropriation to pay for the increased PROMISE JOBS allowances. Continuation of the \$0.30 rate beyond this fiscal year depends on legislative appropriations. Funding for the Medicaid increase will be included in the request for supplemental appropriations for State Fiscal Year 2006.

The increase is temporary. The expiration date of June 30, 2006, will allow the Department to reevaluate fuel prices at that time and allow the legislature to make a policy decision whether to continue the higher reimbursement rates in State Fiscal Year 2007.

These amendments do not provide for waivers in specified situations because they provide a benefit to the people affected.

The Council on Human Services adopted these amendments on October 20, 2005.

The Department finds that notice and public participation on these amendments are impracticable and contrary to the public interest because the time required for regular rule making would eliminate most of the potential benefits of the rules. Therefore, these amendments are filed pursuant to Iowa Code section 17A.4(2).

The Department finds that these amendments confer a benefit by increasing reimbursement to be more commensurate with costs. Therefore, these amendments are filed pursuant to Iowa Code section 17A.5(2)"b"(2), and the normal effective date of these amendments is waived.

These amendments are also published herein under Notice of Intended Action as **ARC 4627B** to allow for public comment.

These amendments are intended to implement Iowa Code sections 239B.19 and 249A.4.

These amendments became effective November 1, 2005.

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

The following amendments are adopted.

ITEM 1. Amend subrule **78.13(5)**, paragraph "a," as follows:

a. When transportation is by car, the maximum payment which may be made will be the actual charge made by the provider for transportation to and from the source of medical care, but not in excess of 20 cents per mile. *EXCEPTION: For transportation provided from November 1, 2005, through June 30, 2006, the maximum payment shall be 30 cents per mile.*

ITEM 2. Amend subrule **93.110(6)**, paragraph "b," as follows:

b. For participants who use a motor vehicle they operate themselves or who hire private transportation, the transportation allowance shall be based on a formula which uses the normally scheduled days of participation in the PROMISE JOBS activity for the period covered by the allowance times the participant's anticipated daily round-trip miles times the mileage rate of \$.21 per mile. *EXCEPTION: From November 1, 2005, through June 30, 2006, the mileage rate shall be 30 cents per mile.*

[Filed Emergency 10/21/05, effective 11/1/05]

[Published 11/9/05]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 11/9/05.

ARC 4630B**HUMAN SERVICES
DEPARTMENT[441]****Adopted and Filed Emergency After Notice**

Pursuant to the authority of Iowa Code sections 249A.4 and 249A.20A(10), the Department of Human Services amends Chapter 79, "Other Policies Relating to Providers of Medical and Remedial Care," Iowa Administrative Code.

These amendments:

- Implement a 3 percent increase in reimbursement rates for most Medicaid providers;
- Set the percentage difference used to calculate the excess payment allowance for direct and indirect care in nursing facilities at 0 percent, effectively eliminating excess payment allowances as directed in 2005 Iowa Acts, House File 825, section 31;
- Update language on the basis of reimbursement for rehabilitative treatment services to reflect current practice;
- Restructure the payment methodology table to collapse lists of services for the home- and community-based services waivers into a single combined list;
- Make other technical corrections as described below.

Notice of Intended Action on these amendments was published in the Iowa Administrative Bulletin on July 6, 2005, as **ARC 4333B**, to solicit public comment on rules Adopted and Filed Emergency and published in the Iowa Administrative

HUMAN SERVICES DEPARTMENT[441](cont'd)

Bulletin on the same date as **ARC 4318B**. The Department received one comment on these amendments, pointing out an error in transferring adult day care rate language for the HCBS mental retardation waiver into the combined list. Errors were also made in transferring limits for home and vehicle modification for several of the waivers.

After further review by waiver program staff, the Department has corrected the language in subrule 79.1(2), provider category "HCBS waiver service," numbered paragraphs "1," "6," "9," "11," "15," "23," and "24" as follows:

- The upper limit in paragraph "1" for payments for adult day care under the mental retardation waiver now reads as follows: "County contract rate or, in the absence of a contract rate, \$28.33 per half day, \$56.55 per full day, or \$72.10 per extended day." These limits reflect an increase of 3 percent for noncontract providers. County governments set rates for county contracts.

- The basis for reimbursement in paragraph "6" for respite care provided by facilities, including hospitals, nursing facilities, adult day care facilities, intermediate and residential care facilities for persons with mental retardation, foster group care facilities and child care facilities is changed to "fee schedule." The Department pays the facility's charges up to a fixed maximum price.

- The upper limits in paragraph "9" for payments for home and vehicle modification now read as follows: "For elderly waiver: \$1000 lifetime maximum; For mental retardation waiver: \$5,000 lifetime maximum; For brain injury, ill and handicapped, and physical disability waivers: \$6,000 per year." This change restores the previous language that was inadvertently omitted. These limits are not increased.

- The upper limits in paragraph "11" for transportation services now reads as follows: "County contract rate or, in the absence of a contract rate, the rate set by the area agency on aging." The limit for individual providers is removed because individual providers are no longer eligible to provide transportation services under HCBS waivers. County governments set rates for county contracts.

- The provider category name in paragraph "15" for consumer-directed attendant care services provided by an agency has been reworded to clarify that the limit applies to all waivers.

- The upper limits in paragraph "23" for prevocational services under the mental retardation waiver now read as follows: "County contract rate or in absence of a contract rate, \$46.35 per day." County governments set rates for county contracts.

- The basis for reimbursement in paragraph "24" for interim medical monitoring and treatment provided by a child development home or center now reads "Fee schedule." Reference to contracts developed under the Child Care Assistance Program is removed.

These amendments also reflect new numbered paragraphs "27," "28" and "29" added to provider category "HCBS waiver service" through Adopted and Filed Emergency rules published in the Iowa Administrative Bulletin on October 12, 2005, as **ARC 4562B**.

The Department has added technical changes to subrule 79.1(5), paragraphs "a" and "c," and subrule 79.1(16), paragraphs "a," "d," and "i," to:

- Update dates for cost reports used in calculating hospital inpatient and outpatient reimbursement rates to reflect that 2005 marks the beginning of a new three-year rebasing and recalibration cycle;

- Clarify that new rates based on rebasing and recalibration of diagnosis-related groups for inpatient care and of ambulatory patient groups for outpatient care took effect on October 1, 2005; and

- Update the reference to the version of software used in analyzing outpatient claims.

The Department has added technical changes to paragraph 79.1(5)"p" to replace references to the Iowa Foundation for Medical Care with references to the Iowa Medicaid Enterprise Medical Services Unit, reflecting the Department's current organization.

The Department has added a technical change to paragraph 79.1(5)"r" to update the editions of federal Medicare regulations referenced for definition of a psychiatric unit.

These technical changes do not represent changes in policy or payment methodology.

These amendments do not provide for waivers in specified situations. Providers that wish to do so may request a waiver under the Department's general rule on exceptions at 441—1.8(17A,217).

The Council on Human Services adopted these amendments on October 20, 2005.

The Department finds that these amendments confer a benefit on the public by removing inaccurate and misleading language. Therefore, these amendments are filed pursuant to Iowa Code section 17A.5(2)"b"(2), and the normal effective date of these amendments is waived.

These amendments are intended to implement Iowa Code section 249A.4 and 2005 Iowa Acts, House File 825, sections 29 and 31.

These amendments became effective October 21, 2005, at which time the Adopted and Filed Emergency amendments are hereby rescinded.

EDITOR'S NOTE: Pursuant to recommendation of the Administrative Rules Review Committee published in the Iowa Administrative Bulletin, September 10, 1986, the text of these amendments [79.1(2), 79.1(5)"a," "c," "p," "r," and "y," 79.1(8)"g," 79.1(16)"a," "d," "i," and "v"] is being omitted. With the exception of the changes noted above, these amendments are identical to those published under Notice as **ARC 4333B** and Adopted and Filed Emergency as **ARC 4318B**, IAB 7/6/05.

[Filed Emergency After Notice 10/21/05, effective 10/21/05]
[Published 11/9/05]

[For replacement pages for IAC, see IAC Supplement 11/9/05.]

ARC 4633B**ECONOMIC DEVELOPMENT, IOWA
DEPARTMENT OF[261]****Adopted and Filed**

Pursuant to the authority of Iowa Code sections 15.104 and 15.106, the Iowa Department of Economic Development hereby adopts amendments to Chapter 1, "Organization," Iowa Administrative Code.

Notice of Intended Action was published as **ARC 4419B** in the Iowa Administrative Bulletin on August 3, 2005. These amendments were also Adopted and Filed Emergency and published as **ARC 4374B** on the same date.

The amendments update the description of the Iowa Economic Development Board to incorporate changes to this Board pursuant to 2005 Iowa Acts, House File 868. The amendments add descriptions of three new committees that the IDED Board is directed under the Act to establish: the Due Diligence Committee, the Loan and Credit Guarantee Committee, and the Technology Commercialization Committee. Additional amendments include updating the chapter to include information about Board meeting procedures and processes, updating the Department's Web site address, and making other technical corrections to Iowa Code references.

The Iowa Economic Development Board held seven public hearings around the state beginning on August 23, 2005, and ending on September 7, 2005, to receive comments about the Department's proposed rule makings that are intended to implement 2005 legislation. No requests were received to modify these proposed amendments. These rules are identical to those published under Notice of Intended Action.

These amendments are intended to implement 2005 Iowa Acts, House File 868 and House File 809.

The Iowa Economic Development Board adopted these amendments on October 20, 2005.

These amendments will become effective on December 14, 2005, at which time the Adopted and Filed Emergency amendments are hereby rescinded.

EDITOR'S NOTE: Pursuant to recommendation of the Administrative Rules Review Committee published in the Iowa Administrative Bulletin, September 10, 1986, the text of these amendments [amendments to Ch 1] is being omitted. These amendments are identical to those published under Notice as **ARC 4419B** and Adopted and Filed Emergency as **ARC 4374B**, IAB 8/3/05.

[Filed 10/21/05, effective 12/14/05]

[Published 11/9/05]

[For replacement pages for IAC, see IAC Supplement 11/9/05.]

ARC 4634B**ECONOMIC DEVELOPMENT, IOWA
DEPARTMENT OF[261]****Adopted and Filed**

Pursuant to the authority of Iowa Code sections 15.104 and 15.106, the Iowa Department of Economic Development adopts new Chapter 2, "Grow Iowa Values Fund Assistance," Iowa Administrative Code.

Notice of Intended Action was published as **ARC 4420B** in the Iowa Administrative Bulletin on August 3, 2005. These rules were also Adopted and Filed Emergency and published as **ARC 4370B** on the same date.

The new chapter is intended to implement 2005 Iowa Acts, House File 868 and House File 809, which establish and provide funding to the Grow Iowa Values Fund. The rules describe the allocation of moneys in the Grow Iowa Values Fund (IVF), the allowable uses of IVF assistance, application procedures, IVF wage requirements, approval procedures and contract administration provisions.

The Iowa Economic Development Board held seven public hearings around the state beginning on August 23, 2005, and ending on September 7, 2005, to receive comments about the Department's proposed rule makings that are intended to implement 2005 legislation. A commentator at one of the public hearings asked that the IVF wage waiver rules be revised to give extra consideration to wage waivers that involve a Value-Added Agricultural Processes and Products Financial Assistance Program (VAAPFAP) application or applications from a rural area where the project wages will meet the IVF wage requirements in the foreseeable future. As a result of this public comment, paragraph 2.4(2)"c" was revised to add a provision that permits the Board to give extra consideration to wage waiver requests when the request is for a Value-Added Agricultural Products and Processes Financial Assistance Program (VAAPFAP) project or for a project located in an economic enterprise area. An "economic enterprise area" is defined in the revised subrule. The subparagraphs in paragraph "c" were also renumbered to accommodate the new paragraphs. Paragraph 2.4(2)"c" now reads as follows:

"c. IVF wage requirement waiver.

"(1) Applicants may request that the board waive the IVF wage requirement upon a showing of good cause. For purposes of this paragraph, 'good cause' includes but is not limited to the following:

"1. The community in which the project will be located can demonstrate economic distress based on a combination of factors including but not limited to:

"• A county family poverty rate significantly higher than the state average.

"• A county unemployment rate significantly higher than the state average.

"• A unique opportunity to use existing unutilized facilities in the community.

"• A significant downsizing or closure by one of the community's major employers.

"• An immediate threat posed to the community's workforce due to the downsizing or closure of a business.

"2. The proposed project meets all of the following criteria:

"• The business is in one of the state's targeted industry clusters: life sciences, information solutions, and advanced manufacturing.

"• All jobs created as a result of the project will have a starting wage, not including benefits, equal to or greater than 100 percent of the average county wage.

"• The business is headquartered in Iowa or, as a result of the proposed project, will be headquartered in Iowa. In lieu of the business's being headquartered in Iowa, the project has unique aspects which will assist the department in meeting one or more of its strategic objectives.

"(2) Requests to waive an eligibility requirement must be submitted in writing to the department when the business's application is submitted. The waiver request shall include documentation from other sources confirming the sta-

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

tistical data cited in the request. The waiver request will be reviewed as part of the application review process and acted upon by the board. If the request for a waiver is approved, the board will proceed with a final decision on the application.

“(3) The board will give extra consideration to wage waiver requests when the request is for a value-added agricultural products and processes financial assistance program (VAAPFAP) project or for a project located in an economic enterprise area. An ‘economic enterprise area’ means an area that consists of at least one county containing no city with a population of more than 23,500 and that shall meet at least three of the following criteria:

“1. A per capita income of 80 percent or less than the national average.

“2. A household median income of 80 percent or less than the national average.

“3. Twenty-five percent or more of the population of the economic enterprise area with an income level of 150 percent or less of the United States poverty level as defined by the most recently revised poverty income guidelines published by the United States Department of Health and Human Services.

“4. A population density in the economic enterprise area of less than ten people per square mile.

“5. A loss of population as shown by the 2000 certified federal census when compared with the 1990 certified federal census.

“6. An unemployment rate greater than the national rate of unemployment.

“7. More than 20 percent of the population of the economic enterprise area consists of people over the age of 65.”

At a number of the public hearings, there were questions about how the “average county wage” was calculated and what industry sectors were excluded. The commentators suggested revising this definition to provide more clarity. In the final rules, subparagraph 2.4(2)“b”(1) was revised to provide more details about the calculation methodology used and to be more consistent with the same definitions used in the Community Economic Betterment (CEBA) and Enterprise Zone program rules. The subparagraph now reads as follows:

“(1) In order to receive financial assistance from the grow Iowa values fund, applicants shall demonstrate that the average annual wage, including benefits, of project jobs will be equal to or exceed 130 percent of the average county wage. ‘Average county wage’ means the average the department calculates using the most current four quarters of wage and employment information as provided in the quarterly covered wage and employment data report as provided by the Iowa department of workforce development. Agricultural/mining and governmental employment categories are deleted in compiling the wage information. ‘Benefits’ means all of the following: medical and dental insurance plans, pension and profit-sharing plans, child care services, life insurance coverage, vision insurance plan, and disability coverage.”

These rules are intended to implement 2005 Iowa Acts, House File 868 and House File 809.

The Iowa Economic Development Board adopted these rules on October 20, 2005.

These rules will become effective on December 14, 2005, at which time the Adopted and Filed Emergency rules are hereby rescinded.

EDITOR’S NOTE: Pursuant to recommendation of the Administrative Rules Review Committee published in the Iowa Administrative Bulletin, September 10, 1986, the text of these rules [Ch 2] is being omitted. With the exception of the

changes noted above, these rules are identical to those published under Notice as **ARC 4420B** and Adopted and Filed Emergency as **ARC 4370B**, IAB 8/3/05.

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[For replacement pages for IAC, see IAC Supplement 11/9/05.]

ARC 4635B

ECONOMIC DEVELOPMENT, IOWA DEPARTMENT OF[261]

Adopted and Filed

Pursuant to the authority of Iowa Code sections 15.104 and 15.106, the Iowa Department of Economic Development hereby adopts amendments to Chapter 7, “Iowa Jobs Training Program,” Chapter 9, “Workforce Training and Economic Development Funds,” and Chapter 20, “Accelerated Career Education (ACE) Program,” Iowa Administrative Code.

Notice of Intended Action was published as **ARC 4421B** in the Iowa Administrative Bulletin on August 3, 2005. These amendments were also Adopted and Filed Emergency and published as **ARC 4368B** on the same date.

The amendments to Chapters 7, 9, and 20 update statutory references and replace Values Fund Board references with IDED Board references. The amendments to Chapter 7 revise language related to 2005 Iowa Acts, House File 868, such as board designations and statutory references. These amendments, following consultation with the community colleges, include minor revisions related to how the funds are distributed to accounts within the program, allow the community colleges to establish accounts for administration and payment of funds for training provided, and allow prospective employee training to meet limited short-term training for individuals to be hired upon completion of the training. The amendments to Chapter 9 also add a provision to permit operational expenses associated with vocational technical training.

The Iowa Economic Development Board held seven public hearings around the state beginning on August 23, 2005, and ending on September 7, 2005, to receive comments about the Department’s proposed rule makings that are intended to implement 2005 legislation. One commentator from a community college requested a few revisions to the proposed amendments, each of which has been incorporated into the final amendments:

In subrule 7.4(3), the Iowa Code reference should have been to section 260C.18, not 260C.18(4). The subrule now reads as follows:

“**7.4(3)** Sixty-seven point five percent of the funds from the community college 260F account shall be distributed to each community college using the distribution formula established in Iowa Code section 260C.18.”

In subrule 9.4(3), the words “and performance measures” should have been deleted to be consistent with the deletion of this phrase in paragraphs 9.9(2)“b” and 9.9(2)“c.” The introductory paragraph of paragraph 9.4(3)“a” now reads as follows:

“a. Each college shall prepare an annual progress report on the two-year plan’s implementation. This progress report shall address the following goals established by the general assembly for the GIVE:”

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

In the introductory paragraph of rule 9.7(81GA, HF868), the correct acronym "IDED" should have been used instead of "GIVF" in the second sentence. The sentence now reads as follows:

"For the fiscal year beginning July 1, 2003, the plan shall be submitted to the department with a copy filed with the IDED board prior to the community college's receiving its allocation."

These amendments are intended to implement 2005 Iowa Acts, House File 868 and House File 809.

The Iowa Economic Development Board adopted these amendments on October 20, 2005.

These amendments will become effective on December 14, 2005, at which time the Adopted and Filed Emergency amendments are hereby rescinded.

EDITOR'S NOTE: Pursuant to recommendation of the Administrative Rules Review Committee published in the Iowa Administrative Bulletin, September 10, 1986, the text of these amendments [amendments to Chs 7, 9, 20] is being omitted. With the exception of the changes noted above, these amendments are identical to those published under Notice as **ARC 4421B** and Adopted and Filed Emergency as **ARC 4368B**, IAB 8/3/05.

[Filed 10/21/05, effective 12/14/05]
[Published 11/9/05]

[For replacement pages for IAC, see IAC Supplement 11/9/05.]

ARC 4636B

ECONOMIC DEVELOPMENT, IOWA DEPARTMENT OF[261]

Adopted and Filed

Pursuant to the authority of Iowa Code sections 15.104 and 15.106, the Iowa Department of Economic Development hereby adopts new Chapter 31, "Economic Development Region Initiatives," Iowa Administrative Code.

Notice of Intended Action was published as **ARC 4413B** in the Iowa Administrative Bulletin on August 3, 2005.

The new chapter is intended to implement 2005 Iowa Acts, House File 868 and House File 809, which establish and provide funding for economic development region activities through the Grow Iowa Values Fund. The rules describe the economic development region activities for which funding is available, application procedures, and approval procedures.

The Board held seven public hearings around the state beginning on August 23, 2005, and ending on September 7, 2005, to receive comments about the Department's proposed rule makings that are intended to implement 2005 legislation. No requests to modify the proposed rules were received from the public, but Department staff identified one rule that was somewhat unclear. To clarify the intent of rule 261—31.8(81GA, HF868, HF809), the introductory paragraph was revised to clarify that an "economic enterprise area" means a designated "economic development region" that meets the listed criteria. The paragraph now reads as follows:

"261—31.8(81GA, HF868, HF809) Description. An 'economic enterprise area' means a designated 'economic development region' that shall consist of at least one county containing no city with a population of more than 23,500 and shall meet at least three of the following criteria:"

These rules are intended to implement 2005 Iowa Acts, House File 868 and House File 809.

The Iowa Economic Development Board adopted these rules on October 20, 2005.

These rules will become effective on December 14, 2005.

EDITOR'S NOTE: Pursuant to recommendation of the Administrative Rules Review Committee published in the Iowa Administrative Bulletin, September 10, 1986, the text of these rules [Ch 31] is being omitted. With the exception of the change noted above, these rules are identical to those published under Notice as **ARC 4413B**, IAB 8/3/05.

[Filed 10/21/05, effective 12/14/05]
[Published 11/9/05]

[For replacement pages for IAC, see IAC Supplement 11/9/05.]

ARC 4637B

ECONOMIC DEVELOPMENT, IOWA DEPARTMENT OF[261]

Adopted and Filed

Pursuant to the authority of Iowa Code sections 15.104 and 15.106, the Iowa Department of Economic Development hereby adopts new Chapter 32, "Tax Credits for Economic Development Region Revolving Loan Fund," Iowa Administrative Code.

Notice of Intended Action was published as **ARC 4414B** in the Iowa Administrative Bulletin on August 3, 2005.

The new chapter is intended to implement 2005 Iowa Acts, House File 868 and House File 809, which authorize tax credits for investments in economic development region revolving loan funds. The rules describe the amount of tax credits available, application procedures and other requirements applicable to this new tax credit program.

The Iowa Economic Development Board held seven public hearings around the state beginning on August 23, 2005, and ending on September 7, 2005, to receive comments about the Department's proposed rule makings that are intended to implement 2005 legislation. No requests were received to modify the proposed rules. The final rules are identical to the rules published under Notice of Intended Action.

These rules are intended to implement 2005 Iowa Acts, House File 868 and House File 809.

The Iowa Economic Development Board adopted these rules on October 20, 2005.

These rules will become effective on December 14, 2005.

EDITOR'S NOTE: Pursuant to recommendation of the Administrative Rules Review Committee published in the Iowa Administrative Bulletin, September 10, 1986, the text of these rules [Ch 32] is being omitted. These rules are identical to those published under Notice as **ARC 4414B**, IAB 8/3/05.

[Filed 10/21/05, effective 12/14/05]
[Published 11/9/05]

[For replacement pages for IAC, see IAC Supplement 11/9/05.]

ARC 4638B**ECONOMIC DEVELOPMENT, IOWA
DEPARTMENT OF[261]****Adopted and Filed**

Pursuant to the authority of Iowa Code sections 15.104 and 15.106, the Iowa Department of Economic Development hereby adopts amendments to Chapter 46, "Endow Iowa Grants Program," Iowa Administrative Code.

Notice of Intended Action was published as **ARC 4415B** in the Iowa Administrative Bulletin on August 3, 2005.

The amendments add a new definition of "endow Iowa qualified community foundation," include Endow Iowa Qualified Community Foundations as eligible applicants, and update Iowa Code references.

The Iowa Economic Development Board held seven public hearings around the state beginning on August 23, 2005, and ending on September 7, 2005, to receive comments about the Department's proposed rule makings that are intended to implement 2005 legislation. No requests were received to modify these proposed amendments. The final amendments are identical to the amendments published under Notice of Intended Action.

These amendments are intended to implement 2005 Iowa Acts, House File 868.

The Iowa Economic Development Board adopted these amendments on October 20, 2005.

These amendments will become effective on December 14, 2005.

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 [46.1 to 46.6] is being omitted. These amendments are identical to those published under Notice as **ARC 4415B**, IAB 8/3/05.

[Filed 10/21/05, effective 12/14/05]
[Published 11/9/05]

[For replacement pages for IAC, see IAC Supplement 11/9/05.]

ARC 4639B**ECONOMIC DEVELOPMENT, IOWA
DEPARTMENT OF[261]****Adopted and Filed**

Pursuant to the authority of Iowa Code sections 15.104 and 15.106, the Iowa Department of Economic Development hereby adopts amendments to Chapter 47, "Endow Iowa Tax Credits," Iowa Administrative Code.

Notice of Intended Action was published as **ARC 4416B** in the Iowa Administrative Bulletin on August 3, 2005.

The amendments add new definitions of "community affiliate organization" and "endow Iowa qualified community foundation," revise the allocation amount from an aggregate of \$2 million to a total of \$2 million annually, set aside 25 percent of the annual amount available for tax credits for those permanent endowment gifts made to community affiliate organizations or made in conjunction with the endow Iowa grants program, update Iowa Code references, and

make other technical corrections to correspond to recent legislative revisions.

The Iowa Economic Development Board held seven public hearings around the state beginning on August 23, 2005, and ending on September 7, 2005, to receive comments about the Department's proposed rule makings that are intended to implement 2005 legislation. The Department received one written comment requesting that the amendments be revised to describe what happens if requests received in one year exceed the amount of funds available. The commentator asked if the applications would be prioritized and held over to the next year. In response to this comment, subrule 47.3(3) was amended to clarify that, if the number of applications exceeds the amount of annual tax credits available, the Department will establish a wait list for the next year's allocation of tax credits and applications shall first be funded in the order listed on the wait list. Subrule 47.3(3) now reads as follows:

"47.3(3) The amount of tax credits authorized pursuant to this rule shall not exceed a total of \$2 million annually. The maximum amount of tax credits granted to a single taxpayer shall not exceed 5 percent of the annual amount of tax credits authorized. If the department receives applications for tax credits in excess of the amount available, the applications shall be prioritized by the date the department received the applications. If the number of applications exceeds the amount of annual tax credits available, the department shall establish a wait list for the next year's allocation of tax credits and applications shall first be funded in the order listed on the wait list."

The Iowa Economic Development Board adopted these amendments on October 20, 2005.

These amendments will become effective on December 14, 2005.

These amendments are intended to implement 2005 Iowa Acts, House File 868.

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 [47.1 to 47.5] is being omitted. With the exception of the change noted above, these amendments are identical to those published under Notice as **ARC 4416B**, IAB 8/3/05.

[Filed 10/21/05, effective 12/14/05]
[Published 11/9/05]

[For replacement pages for IAC, see IAC Supplement 11/9/05.]

ARC 4640B**ECONOMIC DEVELOPMENT, IOWA
DEPARTMENT OF[261]****Adopted and Filed**

Pursuant to the authority of Iowa Code sections 15.104 and 15.106, the Iowa Department of Economic Development hereby amends Chapter 53, "Community Economic Betterment Program," Iowa Administrative Code.

Notice of Intended Action was published as **ARC 4417B** in the Iowa Administrative Bulletin on August 3, 2005.

The amendments remove a reference to the Community Economic Betterment Review Committee and replace it with a cross reference to the Due Diligence Committee created by

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

the IDED Board to review financial applications; clarify the wage requirements for projects receiving over \$500,000; and revise the wage requirements for modernization projects.

The Iowa Economic Development Board held seven public hearings around the state beginning on August 23, 2005, and ending on September 7, 2005, to receive comments about the Department's proposed rule makings that are intended to implement 2005 legislation. No requests to modify the amendments were received from the public. During the review of the proposed amendments, Department staff identified that the definition of "average county wage" in the Community Economic Betterment (CEBA) rules was now inconsistent with the wage threshold calculation described in the simultaneously proposed amendments to Chapter 168, "Additional Program Requirements." Under those amendments, wage calculations will be quarterly, not annually as stated in the CEBA rules. In the final rules, the CEBA "average county wage" definition was revised by deleting the reference to an "annual" calculation. The definition was revised to refer to a "quarterly" calculation to be consistent with the amendments to Chapter 168 that the Board adopted on October 20, 2005.

These amendments are intended to implement 2005 Iowa Acts, House File 868 and House File 809.

The Iowa Economic Development Board adopted these amendments on October 20, 2005.

These amendments will become effective on December 14, 2005.

The following amendments are adopted.

ITEM 1. Amend the definitions of "average county wage" and "committee" in rule ~~261—53.2(15)~~ as follows:

"Average county wage" means the average the department calculates ~~annually~~ *quarterly* using the most current four quarters of wage and employment information as provided in the Quarterly Covered Wage and Employment Data report as provided by the Iowa workforce development department, audit and analysis section. Agricultural/mining and governmental employment categories are deleted in compiling the wage information.

"Committee" means the ~~community economic betterment review committee due diligence committee~~ described in rule 53.3(15).

ITEM 2. Amend rule 261—53.3(15) as follows:

~~261—53.3(15) Board and committee. The chairperson of the board shall appoint a five member project review committee to review applications requesting CEBA funding. The committee shall be composed of five board members, one of whom shall be either the board chairperson or the vice chairperson. The director shall be a nonvoting member of an active committee. A quorum of three committee members is necessary for taking action and at least three members shall concur before making recommendations to the board. The due diligence committee created by the board and described in 261—subrule 1.3(4) shall review applications requesting CEBA funding. The committee shall make funding recommendations to the board.~~

ITEM 3. Amend subparagraph ~~53.6(1)~~"e"(3) as follows:

(3) The business shall agree to pay a median wage for new full-time jobs of at least 130 percent of the average county wage in the county in which the community is located. This requirement may be waived by the department in the case of a float loan described in 53.5(2)"4" if the net value of the award is determined by the department to be less than \$500,000.

ITEM 4. Amend subrule 53.11(1) as follows:

~~53.11(1) Additional criteria and targeting for modernization projects. Modernization projects shall meet the following additional requirements:~~

a. Applications for this component must be for businesses with projects that offer a quality economic opportunity to Iowans.

~~b. References to wage level requirements in subrule 53.6(1) do not apply to modernization projects, and all such references are specifically modified as follows: Modernization projects shall pay at least 100 percent of the average county wage.~~

e b. The business shall demonstrate that it is modernizing and retooling to remain competitive.

d c. The business shall demonstrate how employee job skills are being enhanced through advanced training and educational opportunities.

[Filed 10/21/05, effective 12/14/05]

[Published 11/9/05]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 11/9/05.

ARC 4642B

ECONOMIC DEVELOPMENT, IOWA DEPARTMENT OF[261]

Adopted and Filed

Pursuant to the authority of Iowa Code sections 15.104 and 15.106, the Iowa Department of Economic Development hereby amends Chapter 58, "New Jobs and Income Program," and Chapter 64, "New Capital Investment Program," and adopts new Chapter 68, "High Quality Job Creation Program," Iowa Administrative Code.

Notice of Intended Action was published as **ARC 4409B** in the Iowa Administrative Bulletin on August 3, 2005. These rules were also Adopted and Filed Emergency and published as **ARC 4372B** on the same date.

The new rules address:

- The applicability of contracts and awards made under the New Jobs and Income Program and the New Capital Investment Program, both of which were repealed effective July 1, 2005.

- The eligibility requirements; the application review process; the determination of award amounts; and the agreement, compliance, and repayment provisions of the new High Quality Job Creation Program.

The Iowa Economic Development Board held seven public hearings around the state beginning on August 23, 2005, and ending on September 7, 2005, to receive comments about the Department's proposed rule makings that are intended to implement 2005 legislation. As a result of internal review by staff, comments from the public, and discussion at the Board meeting, the following revisions were made to the proposed rules:

- The definition of "average county wage" was revised to match the definition used in other IDED program rules (Chapter 2, "Grow Iowa Values Fund Assistance," Chapter 53, "CEBA," and Chapter 59, "Enterprise Zone").

- The definition of "high quality jobs" and paragraphs 68.4(7)"a" and "b" were revised to clarify that "high quality jobs" means 130 percent of the average county wage or the

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

wage established by the Board as a result of the wage waiver process.

- New subrule 68.2(9) was added to rule 261—68.2(81GA, HF868) to clarify that if a project is creating jobs, but none of them are high quality jobs, then the project is not eligible to receive benefits and assistance under this program.

- Subrule 68.3(2), “wage waiver,” was revised to add a provision that permits the Board to give extra consideration to wage waiver requests when the request is for a value-added agricultural products and processes financial assistance program (VAAPFAP) project or for a project located in an economic enterprise area. An “economic enterprise area” is defined in paragraph 68.3(2)“b.”

- Paragraph 68.4(4)“a,” “claiming the tax credit,” and paragraph 68.4(4)“c,” “refunds,” were revised by restructuring for greater clarity; these paragraphs have been divided into subparagraphs, each with catchwords, to identify the subject matter.

The Iowa Economic Development Board adopted these rules on October 20, 2005.

These rules are intended to implement 2005 Iowa Acts, House File 868 and House File 809.

These rules will become effective on December 14, 2005, at which time the Adopted and Filed Emergency rules are hereby rescinded.

The following rules are adopted.

ITEM 1. Amend 261—Chapter 58 by adopting the following **new** rule:

261—58.16(81GA, HF868) Applicability of new jobs and income program after July 1, 2005.

58.16(1) Effective July 1, 2005, the NJIP program is rescinded by 2005 Iowa Acts, House File 868, and replaced with a new tax credit program, the high quality job creation program. Rules for the high quality job creation program may be found in 261—Chapter 68.

58.16(2) For awards made or contracts entered into prior to July 1, 2005, the rules of 261—Chapter 58 shall govern for purposes of contract administration and closeout of projects. A contract amendment is not allowable if the result of the amendment is to increase the benefits available.

This rule is intended to implement 2005 Iowa Acts, House File 868.

ITEM 2. Amend 261—Chapter 64 by adopting the following **new** rule:

261—64.8(81GA, HF868) Applicability of new capital investment program after July 1, 2005.

64.8(1) Effective July 1, 2005, the NCIP program is rescinded by 2005 Iowa Acts, House File 868, and replaced with a new tax credit program, the high quality job creation program. Rules for the high quality job creation program may be found in 261—Chapter 68.

64.8(2) For awards made or contracts entered into prior to July 1, 2005, the rules of 261—Chapter 64 shall govern for purposes of contract administration and closeout of projects. A contract amendment is not allowable if the result of the amendment is to increase the benefits available.

This rule is intended to implement 2005 Iowa Acts, House File 868.

ITEM 3. Adopt the following **new** 261—Chapter 68:

CHAPTER 68

HIGH QUALITY JOB CREATION PROGRAM

261—68.1(81GA, HF868) Definitions.

“Act” means 2005 Iowa Acts, House File 868.

“Annual base rent” means the business’s annual lease payment minus taxes, insurance and operating or maintenance expenses.

“Average county wage” means the average the department calculates using the most current four quarters of wage and employment information as provided in the Quarterly Covered Wage and Employment Data report as provided by the Iowa department of workforce development. Agricultural/mining and governmental employment categories are deleted in compiling the wage information.

“Benefits” means all of the following:

1. Medical and dental insurance plans.
2. Pension and profit-sharing plans.
3. Child care services.
4. Life insurance coverage.
5. Vision insurance plan.
6. Disability coverage.

“Biotechnology-related processes” means the use of cellular and biomolecular processes to solve problems or make products. For purposes of this definition, farming activities shall not be included.

“Board” means the Iowa department of economic development board.

“Community” means a city, county, or other entity established pursuant to Iowa Code chapter 28E.

“Community base jobs” means the total number of full-time jobs the business employs at the time of application for tax incentives and assistance less any retained jobs.

“Created jobs” means the new full-time jobs the business will create over and above the number of community base jobs or retained jobs or both.

“Department” means the Iowa department of economic development.

“Full-time” means the equivalent of employment of one person:

1. For 8 hours per day for a 5-day, 40-hour workweek for 52 weeks per year, including paid holidays, vacations, and other paid leave, or
2. The number of hours or days per week, including paid holidays, vacations and other paid leave, currently established by schedule, custom or otherwise, as constituting a week of full-time work for the kind of service an individual performs for an employing unit.

“High quality jobs” means created jobs that, at minimum, have a starting wage, including benefits, equal to or greater than 130 percent of the average county wage or the wage established by the board as a result of the wage waiver process.

“Job creation goal” means the number of new created jobs, which includes a specified number of high quality jobs, which the business pledged to create in its application.

“Program” means the high quality job creation program.

“Project” means the activity, or set of activities, proposed in the application by the business which will result in accomplishing the goals of the program and for which the business is requesting tax incentives and assistance. A project shall include the start-up, location, expansion, or modernization of a business.

“Project completion” means:

1. For new manufacturing facilities, the first date upon which the average annualized production of finished product for the preceding 90-day period at the manufacturing facility is at least 50 percent of the initial design capacity of the facility.

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

2. For all other projects, the date of completion of all improvements necessary for the start-up, location, expansion or modernization of a business.

“Project initiation” means any one of the following:

1. The start of construction of new or expanded buildings;
2. The start of rehabilitation of existing buildings;
3. The purchase or leasing of existing buildings; or
4. The installation of new machinery and equipment or new computers to be used in the operation of the business's project.

The purchase of land or signing an option to purchase land or earth moving or other site development activities not involving actual building construction, expansion or rehabilitation shall not constitute project initiation.

“Qualifying investment” means a capital investment in:

1. Real property including the purchase price of land and existing buildings and structures.
2. Site preparation.
3. Improvements to real property.
4. Building construction.
5. Long-term lease costs.
6. Depreciable assets.

“Retained jobs” means the full-time jobs that are at risk of being eliminated if the project does not proceed as planned.

“Value-added agricultural products” means agricultural products which, through a series of activities or processes, can be sold at a higher price than the original purchase price.

261—68.2(81GA,HF868) Eligibility requirements.

68.2(1) Community approval. If the qualifying investment is \$10 million or more, the community in which the business's project is or will be located shall approve by ordinance or resolution the start-up, location, expansion, or modernization of the business for purposes of receiving tax incentives and assistance under this program.

68.2(2) Closures or relocations. The business shall not close or substantially reduce its operation in one area of the state and relocate substantially the same operation in the community. This subrule does not prohibit the business from expanding its operation in the community if existing operations of a similar nature in the state are not closed or substantially reduced.

68.2(3) No retail or service businesses. The business shall not be a retail or service business. For purposes of this subrule, a service business is a business providing services to a local consumer market which does not have a significant proportion of its sales coming from outside the state.

68.2(4) Required elements. The business shall meet at least four of the following required elements in order to be eligible for tax incentives and assistance under this program:

a. The business shall offer a pension or profit-sharing plan to all full-time employees. For purposes of this requirement, a retirement program offered by the business, such as a 401(k) plan, and to which the business makes a monetary contribution shall be considered the equivalent of a pension plan.

b. The business shall produce or manufacture high value-added goods or services or be engaged in one of the following industries:

- (1) Value-added agricultural products.
- (2) Insurance and financial services.
- (3) Plastics.
- (4) Metals.
- (5) Printing paper or packaging products.
- (6) Drugs and pharmaceuticals.
- (7) Software development.

(8) Instruments and measuring devices and medical instruments.

(9) Recycling and waste management.

(10) Telecommunications.

(11) Trucking and warehousing.

c. The business shall provide and pay at least 80 percent of the cost of a standard medical and dental insurance plan for all full-time employees working at the facility in which the new qualifying investment occurs. For purposes of this requirement, the department will consider single or employee-only medical and dental coverage in determining if the business meets this required element.

d. The business shall make child care services available to its employees. The business shall satisfy this required element if it provides on-site child care services at the facility in which the project will occur or if it subsidizes 50 percent or more of off-site child care services costs incurred by an employee.

e. The business shall invest annually no less than 1 percent of pretax profits, from the facility located to Iowa or expanded or modernized under the program, in research and development in Iowa. The business must be able to demonstrate, using generally accepted accounting principles, the facility's history of pretax profits or a reasonable expectation of pretax profits from the facility in order to utilize this element.

f. The business shall invest annually no less than 1 percent of pretax profits, from the facility located to Iowa or expanded or modernized under the program, in worker training and skills enhancement. The business must be able to demonstrate, using generally accepted accounting principles, the facility's history of pretax profits or a reasonable expectation of pretax profits from the facility in order to utilize this element.

g. The business shall have an active productivity and safety improvement program(s). The program(s) will involve both management and workers and have benchmarks for gauging compliance.

h. The business shall purchase and occupy an existing facility that includes at least one vacant building which is at least 20,000 square feet.

68.2(5) Violations of law. If the department finds that a business has a record of violations of law, including but not limited to environmental and worker safety statutes, rules, and regulations, over a period of time that tends to show a consistent pattern, the business shall not qualify for tax incentives and assistance under this program, unless the department finds that the violations did not seriously affect public health or safety, or the environment, or if the department did find that the violations seriously affected public health or safety, or the environment, that there were mitigating circumstances. In making the findings and determinations regarding violations, mitigating circumstances, and whether the business is disqualified for tax incentives and assistance under this program, the department shall be exempt from Iowa Code chapter 17A.

68.2(6) Waiver of eligibility requirements. The department may waive any of the requirements listed above when good cause is shown.

a. Good cause includes:

(1) The community in which the project will be located can demonstrate economic distress based on a combination of factors including but not limited to:

1. A county family poverty rate significantly higher than the state average.
2. A county unemployment rate significantly higher than the state average.

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

3. A unique opportunity to use existing unutilized facilities in the community.

4. A significant downsizing or closure by one of the community's major employers.

5. An immediate threat posed to the community's workforce due to downsizing or closure of a business.

(2) The proposed project meets all of the following criteria:

1. The business is in one of the state's targeted industry clusters: life sciences, information solutions, and advanced manufacturing.

2. All jobs created as a result of the project will have a starting wage, not including benefits, equal to or greater than 100 percent of the average county wage.

3. The business is headquartered in Iowa or, as a result of the proposed project, will be headquartered in Iowa. In lieu of the business's being headquartered in Iowa, the project has unique aspects which will assist the department in meeting one or more of the department's strategic objectives.

b. Requests to waive an eligibility requirement must be submitted in writing to the department when the business's application is submitted. The waiver request shall include documentation from other sources confirming the statistical data cited in the request. The waiver request will be reviewed as part of the application review process and acted upon by the board or the director subject to the decision-making guidelines in paragraph 68.3(1)"e." If the request for a waiver is approved, the board or the director may proceed with a final decision on the application.

68.2(7) Competition. The department shall consider the impact of the proposed project on other Iowa businesses in competition with the business that is seeking tax incentives and assistance. The department shall make a good faith effort to identify existing Iowa businesses within an industry in competition with the business that is seeking tax incentives and assistance. The department shall make a good faith effort to determine the probability that the proposed financial assistance will negatively impact other existing Iowa businesses including but not limited to displacing employees of the existing business.

68.2(8) Other benefits. A business may seek benefits and assistance for its project from other applicable federal, state, and local programs in addition to those provided in this program. However, a business which has received assistance for its project from the wage-benefit tax credit program or the enterprise zone program shall not be eligible for tax incentives and assistance under this program. A business which has received assistance for its project from the new jobs and income program or the new capital investment program shall not be eligible for tax incentives and assistance under this program for the same project. However, the business may receive tax incentives and assistance under this program for subsequent projects.

68.2(9) Ineligibility—no high quality jobs created. If a project is creating jobs, but none are high quality jobs, then the project is not eligible to receive benefits and assistance under this program.

261—68.3(81GA,HF868) Application process and review.

68.3(1) Application. The department shall develop a standardized application and make it available to a business applying for tax incentives and assistance. The application procedures are as follows:

a. The business is encouraged to apply prior to project initiation; however, an application may be submitted at any time up to 12 months following project completion.

b. A signature from the appropriate community official shall be required on the application as indication that the community is aware of and supports the project. For a project with a qualifying investment of \$10 million or more, the community ordinance or resolution approving the project shall accompany the application.

c. Each application will be reviewed by the department. The department may request additional information from the business that is applying for tax incentives and assistance or may use other resources to obtain the needed information.

d. If the business meets the eligibility requirements, the department staff will prepare a report which includes a summary of the project and a recommendation on the amount of tax incentives and assistance to be offered to the business.

e. Decision making on applications.

(1) Applications which involve 50 or more created jobs and a qualifying investment of \$10 million or more shall be referred to the board. The board will make the final decision to approve, defer or deny the application.

(2) For all other applications, department staff will pre-sent their recommendation to the director. The director will make the final decision to approve, defer, or deny the application. The director shall report to the board, at its regularly scheduled meetings, all actions taken by the director under this subparagraph.

(3) Applications involving a wage waiver request shall be referred to the board.

68.3(2) Wage waiver.

a. A community on behalf of the business requesting tax incentives and assistance may apply to the board for a waiver of the average wage calculation used to determine the amount of tax incentives and assistance the business may receive. A request to waive the average wage calculation must be submitted in writing to the department when the business's application is submitted. The waiver request will include documentation from other sources confirming the statistical data cited in the request. The board may grant a waiver of this nature for a specific project based on good cause as defined in subrule 68.2(6).

b. The board will give extra consideration to wage waiver requests when the request is for a value-added agricultural products and processes financial assistance program (VAAPFAP) project or for a project located in an economic enterprise area. An "economic enterprise area" means an area that consists of at least one county containing no city with a population of more than 23,500 and shall meet at least three of the following criteria:

(1) A per capita income of 80 percent or less than the national average.

(2) A household median income of 80 percent or less than the national average.

(3) Twenty-five percent or more of the population of the economic enterprise area with an income level of 150 percent or less of the United States poverty level as defined by the most recently revised poverty income guidelines published by the United States Department of Health and Human Services.

(4) A population density in the economic enterprise area of less than ten people per square mile.

(5) A loss of population as shown by the 2000 certified federal census when compared with the 1990 certified federal census.

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

(6) An unemployment rate greater than the national rate of unemployment.

(7) More than 20 percent of the population of the economic enterprise area consisting of people over the age of 65.

c. The board may elect to use one of the following wage criteria in lieu of the average county wage:

(1) The average county wage calculated without wage data from the business in the county employing the greatest number of full-time employees.

(2) The average regional wage calculated without wage data from up to two adjacent counties.

(3) The average county wage calculated without wage data from the largest city in the county.

(4) A qualifying wage guideline for a specific project based upon unusual economic circumstances present in the city or county.

68.3(3) Benefit values. For purposes of calculating the starting wage of each created job, the department shall place a value on each benefit the business makes available to all full-time employees as described below:

a. Medical, dental, or vision insurance plans. The department shall use the business's portion of the annual premium for employee-only or single coverage in the wage calculation. If the business's plan is self-insured, the department will look at the amount paid by the business for costs associated with employee-only or single coverage during the past three years and determine the average annual contribution per employee for that three-year period when determining the value of the medical, dental, or vision plan for the wage calculation.

b. Pension and profit-sharing plans. A retirement program offered by the business, such as a 401(k) plan, and to which the business makes a monetary contribution shall be considered the equivalent of a pension plan.

(1) For a pension plan, the department shall use the same calculation used by the business to determine the annual contribution per employee. The annual contribution per employee will be used in determining the value for the wage calculation.

(2) For a 401(k) plan or similar retirement program, the department shall use the average percentage of salary matched or contributed annually by the business on a per-employee basis in determining the value for the wage calculation.

(3) For profit-sharing plans, the department shall look at the amount paid out over the past three years and determine the average annual bonus or contribution per employee for that three-year period when determining the value for the wage calculation.

c. Child care services. Child care services include on-site child care services at the facility in which the project will occur or off-site child care services subsidized by the business at the rate of 50 percent or more of the child care services costs incurred by an employee. The child care services valuation will be based on contributions made by the business

for that service, as determined by the department, less any employee-paid costs for that service. The department may consider comparable costs in the local child care market in determining the value of the contribution made by the business. With respect to the wage calculation, the value of this benefit will be applied using the same percentage as the percentage of employees utilizing the business's child care benefit.

d. Life insurance and disability coverage. The portion of the annual premium or cost paid by the business for life insur-

ance and disability coverage will be used in determining the value for the wage calculation. Life insurance premiums paid by the business for dependent coverage will not be included.

68.3(4) Negotiations. The department reserves the right to enter into negotiations with the business regarding the amount of tax incentives and assistance the business shall receive. All forms of tax incentives and assistance available under the program may be subject to negotiations. The department shall consider all of the following factors with respect to entering into negotiations with the business:

a. Level of need. The three general justifiable reasons for assistance are as follows:

(1) The business can raise only a portion of the debt and equity necessary to complete the project. A gap between sources and uses exists and state or federal funds or both are needed to fill the gap.

(2) The business can raise sufficient debt and equity to complete the project, but the returns are inadequate to motivate a company decision maker to proceed with the project. Project risks outweigh the rewards.

(3) The business is deciding between a site in Iowa (site A) and a site in another state (site B) for its project. The business argues that the project will cost less at site B and will require a subsidy to equalize costs in order to locate at site A. The objective is to quantify the cost differential between site A and site B.

Projects that have already been initiated will be considered as having minimal need.

b. Quality of the jobs. The department shall place greater emphasis on projects involving created or retained jobs that:

(1) Have a higher wage scale. Businesses that have wage scales substantially higher than those of existing Iowa businesses in that industry shall be considered as providing the highest quality of jobs.

(2) Have a lower turnover rate.

(3) Are full-time or career-type positions.

(4) Provide comprehensive health benefits. For purposes of this subparagraph, "comprehensive health benefits" means a standard medical insurance plan provided by the business and for which the business pays 80 percent of the premiums for employee-only coverage. The department shall determine what constitutes a standard medical insurance plan. Additional health benefits provided and paid for by the business may be considered in situations in which the business is paying a lesser percentage of the medical premiums. Additional health benefits include dental insurance, vision insurance, prescription drug coverage and health promotion programs. Safety-related equipment and programs shall not be considered a health benefit for purposes of this subparagraph. Businesses that provide comprehensive health benefits shall be considered as providing the highest quality of jobs.

c. Percentage of created jobs defined as high quality jobs. The department will consider the number of high quality jobs to be created versus the total number of created jobs in determining what amount of tax incentives and assistance to offer the business.

d. Economic impact. The department will consider the economic costs and benefits to the state in determining what amount of tax incentives and assistance to offer the business.

261—68.4(81GA, HF868) Tax incentives and assistance.

68.4(1) Sales and use tax refund. Pursuant to Iowa Code section 15.331A, the approved business may be entitled to a refund of the sales and use taxes paid under Iowa Code chap-

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

ter 423 for gas, electricity, water, or sewer utility services, goods, wares, or merchandise, or on services rendered, furnished, or performed to or for a contractor or subcontractor and used in the fulfillment of a written contract relating to the construction or equipping of a facility of the approved business. Taxes attributable to intangible property and furniture and furnishings shall not be refunded.

a. Filing a claim. To receive the refund, the approved business shall file a claim with the department of revenue as follows:

(1) The contractor or subcontractor shall state under oath, on forms provided by the department of revenue, the amount of sales or goods, wares, or merchandise, or services rendered, furnished, or performed, including water, sewer, gas, and electric utility services upon which sales or use tax has been paid prior to the project completion, and shall file the forms with the approved business before final settlement is made.

(2) The approved business shall, not more than 12 months following project completion, make application to the department of revenue for any refund of the amount of the sales and use taxes paid pursuant to Iowa Code chapter 423 upon any goods, wares, or merchandise, or services rendered, furnished, or performed, including water, sewer, gas, and electric utility services.

b. Racks, shelving, and conveyor equipment. If the project is the location, expansion, or modernization of a warehouse or distribution center, the approved business may be entitled to a refund of sales and use taxes attributable to racks, shelving, and conveyor equipment. The approved business shall, not more than 12 months following project completion, make written application to the department for a refund. The application must include the refund amount being requested and documentation such as invoices or contracts which substantiate the requested amount. The department, in consultation with the department of revenue, will validate the refund amount and instruct the department of revenue to issue the refund.

The aggregate combined total amount of refunds and tax credits attributable to sales and use taxes on racks, shelving, and conveyor equipment issued by the department to businesses approved for high quality job creation program, new capital investment program, new jobs and income program, and enterprise zone program benefits shall not exceed \$500,000 during a fiscal year. Tax refunds and tax credits will be issued on a first-come, first-served basis. If an approved business's application does not receive a refund or tax credits due to the \$500,000 fiscal year limitation, the approved business's application shall be considered in the succeeding fiscal year.

68.4(2) Corporate tax credit for certain sales taxes paid by third-party developer. Pursuant to Iowa Code section 15.331C, the approved business may claim a corporate tax credit up to an amount equal to the sales and use taxes paid by a third-party developer under Iowa Code chapter 423 for gas, electricity, water, or sewer utility services, goods, wares, or merchandise, or on services rendered, furnished, or performed to or for a contractor or subcontractor and used in the fulfillment of a written contract relating to the construction or equipping of a facility of the approved business. Taxes attributable to intangible property and furniture and furnishings shall not be refunded.

Any tax credit in excess of the tax liability for the tax year may be credited to the tax liability for the following seven years or until depleted, whichever occurs earlier. An ap-

proved business may elect to receive a refund of all or a portion of an unused tax credit.

a. Filing a claim. To receive the tax credit, the approved business shall file a claim with the department as follows:

(1) The third-party developer shall state under oath, on forms provided by the department of revenue, the amount of sales and use taxes paid and submit the forms to the approved business.

(2) The approved business shall, not more than 12 months following project completion, submit the completed forms to the department.

(3) In consultation with the department of revenue, the department shall issue a tax credit certificate in an amount equal to all or a portion of the sales and use taxes paid by a third-party developer under Iowa Code chapter 423 for gas, electricity, water, or sewer utility services, goods, wares, or merchandise, or on services rendered, furnished, or performed to or for a contractor or subcontractor and used in the fulfillment of a written contract relating to the construction or equipping of a facility of the approved business.

(4) The approved business shall not claim the tax credit provided in this subrule unless a tax credit certificate issued by the department is attached to the approved business's tax return for the tax year in which the tax credit is claimed. A tax credit certificate shall contain the approved business's name, address, tax identification number, the amount of the tax credit, and other information required by the department of revenue.

b. Racks, shelving, and conveyor equipment. If the project is the location, expansion, or modernization of a warehouse or distribution center, the approved business may claim a corporate tax credit up to the amount of sales and use taxes paid by a third-party developer and attributable to racks, shelving, and conveyor equipment. The approved business shall, not more than 12 months following project completion, make written application to the department for a tax credit. The application must include the tax credit amount being requested and documentation from the third-party developer such as invoices or contracts which substantiate the requested amount. The department, in consultation with the department of revenue, will confirm the tax credit amount and issue a tax credit certificate in an amount equal to all or a portion of the sales and use taxes attributable to racks, shelving, and conveyor equipment. The approved business shall not claim the tax credit provided in this subrule unless a tax credit certificate issued by the department is attached to the approved business's tax return for the tax year in which the tax credit is claimed. A tax credit certificate shall contain the approved business's name, address, tax identification number, the amount of the tax credit, and other information required by the department of revenue. Any tax credit in excess of the tax liability for the tax year may be credited to the tax liability for the following seven years or until depleted, whichever occurs earlier. An approved business may elect to receive a refund of all or a portion of an unused tax credit.

The aggregate combined total amount of refunds and tax credits attributable to sales and use taxes on racks, shelving, and conveyor equipment issued by the department to businesses approved for high quality job creation program, new capital investment program, new jobs and income program, and enterprise zone program benefits shall not exceed \$500,000 during a fiscal year. Tax refunds and tax credits will be issued on a first-come, first-served basis. If an approved business's application does not receive a refund or tax credits due to the \$500,000 fiscal year limitation, the ap-

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

proved business's application shall be considered in the succeeding fiscal year.

68.4(3) Value-added property tax exemption. Pursuant to Iowa Code section 15.332, the community may exempt from taxation all or a portion of the actual value added by improvements to real property directly related to new jobs created by the location or expansion of the approved business and used in the operations of the approved business. The exemption may be allowed for a period not to exceed 20 years beginning the year the improvements are first assessed for taxation. For purposes of this subrule, improvements include new construction and rehabilitation of and additions to existing structures. The exemption shall apply to all taxing districts in which the real property is located. The community shall provide the department and the local assessor with a copy of the resolution adopted by its governing body which indicates the estimated value and duration of the authorized exemption.

68.4(4) Investment tax credit. Pursuant to Iowa Code section 15.333, the approved business may claim an investment tax credit equal to a percentage of the new investment directly related to new jobs created by the start-up, location, expansion, or modernization of the approved business under the program.

a. Claiming the investment tax credit. Pursuant to Iowa Code section 15.333, the approved business may claim an investment tax credit equal to a percentage of the new investment directly related to new jobs created by the start-up, location, expansion, or modernization of the approved business under the program. The tax credit shall be earned when the qualifying asset is placed in service.

(1) Five-year amortization period. The tax credit shall be amortized equally over a five-year period which the department will, in consultation with the approved business, define. The five-year amortization period will be specified in the agreement referenced in subrule 68.5(1). The tax credit shall be allowed against taxes imposed under Iowa Code chapter 422, division II, III, or V and against the moneys and credits tax imposed in Iowa Code section 533.24.

(2) Flow-through of tax credits. If the business is a partnership, S corporation, limited liability company, cooperative organized under Iowa Code chapter 501 or 501A and filing as a partnership for federal tax purposes, or estate or trust electing to have the income taxed directly to the individual, an individual may claim the tax credit allowed. The amount claimed by the individual shall be based upon the pro rata share of the individual's earnings of the partnership, S corporation, limited liability company, cooperative organized under Iowa Code chapter 501 or 501A and filing as a partnership for federal tax purposes, or estate or trust.

(3) Seven-year carryforward. A tax credit in excess of the tax liability for the tax year may be credited to the tax liability for the following seven years or until depleted, whichever occurs first.

b. Investment qualifying for the tax credit. For purposes of this subrule, new investment directly related to new jobs created by the start-up, location, expansion or modernization of the approved business under the program means all of the following:

(1) The cost of machinery and equipment, as defined in Iowa Code section 427A.1, subsection I, paragraphs "e" and "j," purchased for use in the operation of the approved business.

(2) The purchase price of real property and any buildings and structures located on the real property.

(3) The cost of improvements made to real property which is used in the operation of the approved business.

(4) The annual base rent paid to a third-party developer by an approved business for a period equal to the term of the lease agreement but not to exceed the maximum term of the agreement referenced in subrule 68.5(1), provided the cumulative cost of the base rent payments for that period does not exceed the cost of the land and the third-party developer's costs to build or renovate the building for the approved business. Annual base rent shall be considered only when the project includes the construction of a new building or the major renovation of an existing building. The approved business shall enter into a lease agreement with the third-party developer for a minimum of five years.

Pursuant to subrule 68.4(9), the approved business shall not claim a tax credit above the amount defined in the final award documentation.

c. Refunds.

(1) Refund of unused tax credit. Subject to prior approval by the department, in consultation with the department of revenue, an approved business whose project primarily involves the production of value-added agricultural products or uses biotechnology-related processes may elect to receive a refund of all or a portion of an unused tax credit.

(2) IRS Section 521. For purposes of this paragraph, an approved business includes a cooperative, described in Section 521 of the Internal Revenue Code, that is not required to file an Iowa corporate income tax return and whose project primarily involves the production of ethanol.

(3) Refund of unused tax credit procedures. For application to receive a refund of all or a portion of an unused tax credit, the following procedures apply:

1. Department approval required. The department will determine whether an approved business's project primarily involves the production of value-added agricultural products or uses biotechnology-related processes.

2. Application for a tax credit certificate. The approved business shall apply for a tax credit certificate using the form provided by the department. Requests for tax credit certificates will be accepted between May 1 and May 15 of each fiscal year. Only those approved businesses that have been issued final award documentation pursuant to subrule 68.4(9) before the May 1 filing date may apply for a tax credit certificate.

The department shall require the cooperative, as described in Section 521 of the Internal Revenue Code, to submit a list of members whom the cooperative wishes to receive a tax credit certificate for their prorated share of ownership. The cooperative shall submit its list in a computerized electronic format that is compatible with the system used or designated by the department. For each cooperative member approved for a tax credit certificate, the computerized list shall, at a minimum, include the name, address, social security number or taxpayer identification number, business telephone number and ownership percentage, carried out to six decimal places. The cooperative shall also submit a total dollar amount of the unused investment tax credit for which the cooperative's members are requesting a tax credit certificate.

(4) Issuance of tax credit certificates. The department shall not issue tax credit certificates to approved businesses in the high quality job creation program, the new capital investment program, the new jobs and income program, and the enterprise zone program which total more than \$4 million during a fiscal year. If the department receives applications for tax credit certificates in excess of \$4 million, the applicants shall receive certificates for a prorated amount. In such a case, the tax credit requested by an approved business will be prorated based upon the total dollar amount of requested

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

tax credit certificates received during the fiscal year. This proportion will be applied to the amount requested by each approved business to determine the amount of the tax credit certificate that will be distributed to each business for the fiscal year. For example, if an approved business submits a request in the amount of \$1 million and the total amount of requested tax credit certificates equals \$8 million, the business will be issued a tax credit certificate in the amount of \$500,000 (\$4 million / \$8 million = 50% × \$1 million = \$500,000). The department will issue tax credit certificates within a reasonable period of time following the May 15 application deadline.

(5) Claiming the tax credit certificate. Tax credit certificates shall not be valid until the tax year following the date the final award documentation was issued. The tax credit certificates shall not be transferred except in the case of a cooperative as described in Section 521 of the Internal Revenue Code whose approved project primarily involves the production of ethanol. For such cooperative, the individual members of the cooperative are approved to receive the tax credit certificates. The approved business may not claim a tax credit refund unless a tax credit certificate issued by the department is attached to the taxpayer's tax return for the tax year in which the tax credit refund is claimed.

(6) Carryforward. An approved business may apply for a tax credit certificate once each year for up to seven years after the final award documentation is issued or until the approved business's unused tax credit is depleted, whichever occurs first. For example, an approved business which receives its final award documentation in October 2005 and has an investment tax credit of \$1 million may apply for a tax credit certificate in May 2006. If, because of proration of the \$4 million of available refundable credits for the fiscal year, the business is awarded a tax credit certificate in the amount of \$300,000, the business may claim the \$300,000 refund and carry forward the unused investment tax credit of \$700,000 up to seven years or until the credit is depleted, whichever occurs first.

68.4(5) Insurance premium tax credit. Pursuant to Iowa Code section 15.333A, the approved business may claim an insurance premium tax credit equal to a percentage of the new investment directly related to new jobs created by the start-up, location, expansion, or modernization of the approved business under the program.

a. Claiming the tax credit. The tax credit shall be earned when the qualifying asset is placed in service. The tax credit shall be amortized equally over a five-year period which the department will, in consultation with the eligible business, define. The five-year amortization period shall be specified in the agreement referenced in subrule 68.5(1). The tax credit shall be allowed against taxes imposed under Iowa Code chapter 432. A tax credit in excess of the tax liability for the tax year may be credited to the tax liability for the following seven years or until depleted, whichever occurs first.

b. Investment qualifying for the tax credit. For purposes of this subrule, new investment directly related to new jobs created by the start-up, location, expansion or modernization of the approved business under the program means all of the following:

(1) The cost of machinery and equipment, as defined in Iowa Code section 427A.1, subsection 1, paragraphs "e" and "j," purchased for use in the operation of the approved business.

(2) The purchase price of real property and any buildings and structures located on the real property.

(3) The cost of improvements made to real property which is used in the operation of the approved business.

(4) The annual base rent paid to a third-party developer by an approved business for a period equal to the term of the lease agreement but not to exceed the maximum term of the agreement referenced in subrule 68.5(1), provided the cumulative cost of the base rent payments for that period does not exceed the cost of the land and the third-party developer's costs to build or renovate the building for the approved business. Annual base rent shall be considered only when the project includes the construction of a new building or the major renovation of an existing building. The approved business shall enter into a lease agreement with the third-party developer for a minimum of five years.

Pursuant to subrule 68.4(9), the approved business shall not claim a tax credit above the amount defined in the final award documentation.

68.4(6) Research activities credit. Pursuant to Iowa Code section 15.335, the approved business may claim a corporate tax credit for increasing research activities in Iowa during the period the approved business is participating in the program.

a. Calculation. The credit equals the sum of the following:

(1) Six and one-half percent of the excess of qualified research expenses during the tax year over the base amount for the tax year based upon the state's apportioned share of the qualifying expenditures for increasing research activities.

(2) Six and one-half percent of the basic research payments determined under Section 41(e)(1)(A) of the Internal Revenue Code during the tax year based upon the state's apportioned share of the qualifying expenditures for increasing research activities.

The state's apportioned share of the qualifying expenditures for increasing research activities is a percent equal to the ratio of qualified research expenditures in this state to total qualified research expenditures.

b. Alternate calculation. In lieu of the credit amount computed in subparagraph 68.4(6)"a"(1), the approved business may elect to compute the credit amount for qualified research expenses incurred in Iowa in a manner consistent with the alternative incremental credit described in Section 41(c)(4) of the Internal Revenue Code. The taxpayer may make this election regardless of the method used for the taxpayer's federal income tax. The election made under subrule 68.4(6) is for the tax year and the taxpayer may use either the method outlined in paragraph "a" or in this paragraph for any subsequent year.

For purposes of this alternate credit computation method, the credit percentages applicable to the qualified research expenses described in clauses (i), (ii), and (iii) of Section 41(c)(4)(A) of the Internal Revenue Code are 1.65 percent, 2.20 percent, and 2.75 percent, respectively.

c. Additional research activities credit. The credit allowed in this subrule is in addition to the credit authorized in Iowa Code sections 422.10 and 422.33(5). However, if the alternative credit computation method is used in Iowa Code section 422.10 or 422.33(5), the credit allowed in this subrule shall also be computed using that method.

d. Flow-through of tax credits. If the eligible business is a partnership, S corporation, limited liability company, or estate or trust electing to have the income taxed directly to the individual, an individual may claim the tax credit allowed. The amount claimed by the individual shall be based upon the pro rata share of the individual's earnings from the partnership, S corporation, limited liability company, or estate or trust.

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

e. Definitions. For purposes of this subrule, “base amount,” “basic research payment,” and “qualified research expense” mean the same as defined for the federal credit for increasing research activities under Section 41 of the Internal Revenue Code except that, for the alternative incremental credit, such amounts are for research conducted within Iowa. For purposes of this subrule, “Internal Revenue Code” means the Internal Revenue Code in effect on January 31, 2005.

f. Refunds. Any credit in excess of the tax liability for the taxable year shall be refunded with interest computed under Iowa Code section 422.25. In lieu of claiming a refund, a taxpayer may elect to have the overpayment shown on its final, completed return credited to the tax liability for the following year.

g. Renewable energy generation components. For purposes of this subrule, “research activities” includes the development and deployment of innovative renewable energy generation components manufactured or assembled in Iowa. A renewable energy generation component will no longer be considered innovative when more than 200 megawatts of installed effective nameplate capacity has been achieved. Research activities credits awarded under this program and the enterprise zone program for innovative renewable energy generation components shall not exceed \$1 million.

68.4(7) Maximum tax incentives available. Tax incentives and assistance awarded under this program are based upon the number of new high quality jobs created by the approved business and the amount of qualifying investment. The maximum possible award is based on the following schedule:

a. “High quality jobs” means created jobs with a starting wage, including benefits, equal to or greater than 130 percent of the average county wage but less than 160 percent of the average county wage or the wage established by the board as a result of the wage waiver process.

(1) No high quality jobs are created but economic activity is furthered by the qualifying investment. For purposes of this subparagraph, “economic activity” means a modernization project which will result in increased skills and wages for the current employees or a project involving retained jobs.

1. Less than \$100,000 in qualifying investment.
 - Investment tax credit or insurance premium tax credit of up to 1 percent.
2. \$100,000 to \$499,999 in qualifying investment.
 - Investment tax credit or insurance premium tax credit of up to 1 percent.
 - Sales and use tax refund or corporate tax credit for certain sales taxes paid by third-party developer, or both, if applicable.
3. \$500,000 or more in qualifying investment.
 - Investment tax credit or insurance premium tax credit of up to 1 percent.
 - Sales and use tax refund or corporate tax credit for certain sales taxes paid by third-party developer, or both, if applicable.
 - Research activities credit.

(2) 1 to 5 high quality jobs are created.

1. Less than \$100,000 in qualifying investment.
 - Investment tax credit or insurance premium tax credit of up to 2 percent.
2. \$100,000 to \$499,999 in qualifying investment.
 - Investment tax credit or insurance premium tax credit of up to 2 percent.

- Sales and use tax refund or corporate tax credit for certain sales taxes paid by third-party developer, or both, if applicable.

3. \$500,000 or more in qualifying investment.

- Investment tax credit or insurance premium tax credit of up to 2 percent.

- Sales and use tax refund or corporate tax credit for certain sales taxes paid by third-party developer, or both, if applicable.

- Research activities credit.

(3) 6 to 10 high quality jobs are created.

1. Less than \$100,000 in qualifying investment.

- Investment tax credit or insurance premium tax credit of up to 3 percent.

2. \$100,000 to \$499,999 in qualifying investment.

- Investment tax credit or insurance premium tax credit of up to 3 percent.

- Sales and use tax refund or corporate tax credit for certain sales taxes paid by third-party developer, or both, if applicable.

3. \$500,000 or more in qualifying investment.

- Investment tax credit or insurance premium tax credit of up to 3 percent.

- Sales and use tax refund or corporate tax credit for certain sales taxes paid by third-party developer, or both, if applicable.

- Research activities credit.

(4) 11 to 15 high quality jobs are created.

1. Less than \$100,000 in qualifying investment.

- Investment tax credit or insurance premium tax credit of up to 4 percent.

2. \$100,000 to \$499,999 in qualifying investment.

- Investment tax credit or insurance premium tax credit of up to 4 percent.

- Sales and use tax refund or corporate tax credit for certain sales taxes paid by third-party developer, or both, if applicable.

3. \$500,000 or more in qualifying investment.

- Investment tax credit or insurance premium tax credit of up to 4 percent.

- Sales and use tax refund or corporate tax credit for certain sales taxes paid by third-party developer, or both, if applicable.

- Research activities credit.

(5) 16 or more high quality jobs are created.

1. Less than \$100,000 in qualifying investment.

- Investment tax credit or insurance premium tax credit of up to 5 percent.

2. \$100,000 to \$499,999 in qualifying investment.

- Investment tax credit or insurance premium tax credit of up to 5 percent.

- Sales and use tax refund or corporate tax credit for certain sales taxes paid by third-party developer, or both, if applicable.

3. \$500,000 or more in qualifying investment.

- Investment tax credit or insurance premium tax credit of up to 5 percent.

- Sales and use tax refund or corporate tax credit for certain sales taxes paid by third-party developer, or both, if applicable.

- Research activities credit.

b. “High quality jobs” means created jobs with a starting wage, including benefits, equal to or greater than 160 percent of the average county wage or the wage established by the board as a result of the wage waiver process.

(1) 21 to 30 high quality jobs are created.

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

1. Less than \$100,000 in qualifying investment.
 - Investment tax credit or insurance premium tax credit of up to 5 percent.
 2. \$100,000 to \$499,999 in qualifying investment.
 - Investment tax credit or insurance premium tax credit of up to 5 percent.
 - Sales and use tax refund or corporate tax credit for certain sales taxes paid by third-party developer, or both, if applicable.
 3. \$500,000 to \$9,999,999 in qualifying investment.
 - Investment tax credit or insurance premium tax credit of up to 5 percent.
 - Sales and use tax refund or corporate tax credit for certain sales taxes paid by third-party developer, or both, if applicable.
 - Research activities credit.
 4. \$10 million or more in qualifying investment.
 - Investment tax credit or insurance premium tax credit of up to 6 percent.
 - Investment tax credit or insurance premium tax credit of up to 6 percent.
 - Sales and use tax refund or corporate tax credit for certain sales taxes paid by third-party developer, or both, if applicable.
 - Research activities credit.
 - Value-added property tax exemption.
 - (2) 31 to 40 high quality jobs are created.
 1. Less than \$100,000 in qualifying investment.
 - Investment tax credit or insurance premium tax credit of up to 5 percent.
 2. \$100,000 to \$499,999 in qualifying investment.
 - Investment tax credit or insurance premium tax credit of up to 5 percent.
 - Sales and use tax refund or corporate tax credit for certain sales taxes paid by third-party developer, or both, if applicable.
 3. \$500,000 to \$9,999,999 in qualifying investment.
 - Investment tax credit or insurance premium tax credit of up to 5 percent.
 - Sales and use tax refund or corporate tax credit for certain sales taxes paid by third-party developer, or both, if applicable.
 - Research activities credit.
 - \$10 million or more in qualifying investment.
 - Investment tax credit or insurance premium tax credit of up to 7 percent.
 - Sales and use tax refund or corporate tax credit for certain sales taxes paid by third-party developer, or both, if applicable.
 - Research activities credit.
 - Value-added property tax exemption.
 - (3) 41 to 50 high quality jobs are created.
 1. Less than \$100,000 in qualifying investment.
 - Investment tax credit or insurance premium tax credit of up to 5 percent.
 2. \$100,000 to \$499,999 in qualifying investment.
 - Investment tax credit or insurance premium tax credit of up to 5 percent.
 - Sales and use tax refund or corporate tax credit for certain sales taxes paid by third-party developer, or both, if applicable.
 3. \$500,000 to \$9,999,999 in qualifying investment.
 - Investment tax credit or insurance premium tax credit of up to 5 percent.
 - Sales and use tax refund or corporate tax credit for certain sales taxes paid by third-party developer, or both, if applicable.
 - Research activities credit.
 4. \$10 million or more in qualifying investment.
 - Investment tax credit or insurance premium tax credit of up to 8 percent.
 - Sales and use tax refund or corporate tax credit for certain sales taxes paid by third-party developer, or both, if applicable.
 - Research activities credit.
 - Value-added property tax exemption.
 - (4) 51 to 60 high quality jobs are created.
 1. Less than \$100,000 in qualifying investment.
 - Investment tax credit or insurance premium tax credit of up to 5 percent.
 2. \$100,000 to \$499,999 in qualifying investment.
 - Investment tax credit or insurance premium tax credit of up to 5 percent.
 - Sales and use tax refund or corporate tax credit for certain sales taxes paid by third-party developer, or both, if applicable.
 3. \$500,000 to \$9,999,999 in qualifying investment.
 - Investment tax credit or insurance premium tax credit of up to 5 percent.
 - Sales and use tax refund or corporate tax credit for certain sales taxes paid by third-party developer, or both, if applicable.
 - Research activities credit.
 4. \$10 million or more in qualifying investment.
 - Investment tax credit or insurance premium tax credit of up to 9 percent.
 - Sales and use tax refund or corporate tax credit for certain sales taxes paid by third-party developer, or both, if applicable.
 - Research activities credit.
 - Value-added property tax exemption.
 - (5) 61 or more high quality jobs are created.
 1. Less than \$100,000 in qualifying investment.
 - Investment tax credit or insurance premium tax credit of up to 5 percent.
 2. \$100,000 to \$499,999 in qualifying investment.
 - Investment tax credit or insurance premium tax credit of up to 5 percent.
 - Sales and use tax refund or corporate tax credit for certain sales taxes paid by third-party developer, or both, if applicable.
 3. \$500,000 to \$9,999,999 in qualifying investment.
 - Investment tax credit or insurance premium tax credit of up to 5 percent.
 - Sales and use tax refund or corporate tax credit for certain sales taxes paid by third-party developer, or both, if applicable.
 - Research activities credit.
 4. \$10 million or more in qualifying investment.
 - Investment tax credit or insurance premium tax credit of up to 10 percent.
 - Sales and use tax refund or corporate tax credit for certain sales taxes paid by third-party developer, or both, if applicable.
 - Research activities credit.
 - Value-added property tax exemption.
- 68.4(8)** Award limitations. Each calendar year, the department shall not approve more than \$3.6 million worth of investment tax credits and insurance premium tax credits for projects with qualifying investments of less than \$1 million. Tax credits subject to this limitation will be awarded on a first-come, first-served basis.
- 68.4(9)** Final award amounts. The approved business shall, upon attainment of project completion and the job cre-

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

ation goal, submit to the department information on the final created jobs, including starting wages and benefit values, and the final qualifying investment. This submission must be in writing on the form provided by the department and must be received by the department within 12 months of completion of the project and the creation of the jobs. Upon receipt of the completed form, the department shall review and confirm the information and shall prepare the final award amounts based on the final results. Final award amounts may still be subject to certain limitations put in place when the initial award was made.

If, upon receipt of the final award amount from the department, the department of revenue determines that the approved business has claimed tax incentives and assistance in amounts that exceed the amounts stipulated in the final award, the approved business shall be required to repay any tax credits and refunds it received in excess of the final award amounts. The department of revenue shall have the authority to collect the amount to be repaid to the state including interest and penalties.

261—68.5(81GA, HF868) Agreement, compliance and repayment provisions.

68.5(1) Agreement. After the department negotiates the amount of benefits that the approved business shall receive and approves the application, the department shall enter into an agreement with the approved business. This agreement shall include, but is not limited to:

- a. Provisions governing the requirements of the Act and these rules which the approved business agreed to satisfy as described in the approved application;
- b. Reporting requirements such as an annual certification by the approved business that it is in compliance with the Act and these rules;
- c. The amount or level of tax benefits the approved business shall receive as negotiated by the department; and
- d. The method of determining the amount of benefits received by the approved business, which will be repaid in the event of the failure to maintain the requirements of the Act and these rules.

In addition the agreement shall specify that an approved business that fails to maintain the requirements of the Act and these rules shall not receive benefits for each year during which the business is not in compliance. The approved business and the department must execute the agreement within 180 days from the application approval date. If the agreement is not signed by that date, the department may rescind the benefits awarded to the approved business unless the approved business has received prior written permission from the department to exceed the time frame for an agreed-upon time period.

68.5(2) Performance and maintenance periods. An approved business planning to create 15 or fewer high quality jobs shall have up to three years to complete the project and shall be required to maintain all the created jobs for an additional two years. An approved business planning to create 16 or more high quality jobs shall have up to five years to complete a project and shall be required to maintain all the created jobs for an additional two years.

68.5(3) Annual certification. An approved business shall certify annually to the department and, when applicable, to the community, that the business is in compliance with the Act, these rules, and the agreement it has entered into with the department.

68.5(4) On-site monitoring. The approved business shall, upon prior reasonable notice and at any time during normal business hours, permit the department, its representatives or

the state auditor to examine, audit or copy any plans and work details pertaining to the project; all of the approved business's books, records, and accounts relating to the project; and all other documentation or materials related to the agreement.

68.5(5) Repayment of benefits. If the approved business has received benefits and fails to meet and maintain any of the requirements of the Act, these rules, or the agreement, the business shall repay all or a portion of the tax incentives and assistance that it has received. The repayment shall be calculated as follows:

a. Job maintenance. If the approved business fails to maintain the required number of created or retained jobs or both as defined in the agreement and the final award documentation, the business shall repay a percentage of the tax incentives and assistance that it has received. The repayment percentage will be equal to the percentage of jobs that the approved business failed to maintain.

b. Required elements. If the approved business fails to meet the four required elements as defined in the agreement in any one year, the business must meet that requirement in the following year or repay all the tax incentives and assistance that it has received.

c. Selling, disposing, or razing of property. If, within five years of purchase, the approved business sells, disposes of, razes, or otherwise renders unusable all or a part of the land, building, or other existing structures for which an investment tax credit or insurance premium tax credit was claimed, the income tax liability of the approved business for the year in which all or part of the property is sold, disposed of, razed, or otherwise rendered unusable shall be increased by one of the following amounts:

(1) One hundred percent of the tax credit claimed if the property ceases to be approved for the tax credit within one full year after being placed in service.

(2) Eighty percent of the tax credit claimed if the property ceases to be approved for the tax credit within two full years after being placed in service.

(3) Sixty percent of the tax credit claimed if the property ceases to be approved for the tax credit within three full years after being placed in service.

(4) Forty percent of the tax credit claimed if the property ceases to be approved for the tax credit within four full years after being placed in service.

(5) Twenty percent of the tax credit claimed if the property ceases to be approved for the tax credit within five full years after being placed in service.

68.5(6) Layoffs or closures. If an approved business experiences a layoff within the state or closes any of its facilities within the state prior to receiving the tax incentives and assistance, the department may reduce or eliminate all or a portion of the tax incentives and assistance. If an approved business experiences a layoff within the state or closes any of its facilities within the state after receiving tax incentives and assistance, the business may be subject to repayment of all or a portion of the tax incentives and assistance that it has received.

68.5(7) Extensions. If an approved business fails to meet its requirements under the Act, these rules, or the agreement, the department may elect to grant the business a one-year period to meet the requirements. Only one 12-month extension will be granted to the approved business. Extensions may be granted only when one of the following conditions applies:

a. The delay in completing the project was caused by events over which the approved business had no control and could not have reasonably predicted and there is a reasonable

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

probability that the originally proposed project can be achieved; or

b. The project does not fit under paragraph "a" and the approved business has demonstrated to the department's satisfaction the existence of special circumstances.

These rules are intended to implement 2005 Iowa Acts, House File 868.

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ECONOMIC DEVELOPMENT, IOWA DEPARTMENT OF[261]

Adopted and Filed

Pursuant to the authority of Iowa Code sections 15.104 and 15.106, the Iowa Department of Economic Development hereby adopts amendments to Chapter 59, "Enterprise Zones," Iowa Administrative Code.

Notice of Intended Action was published as **ARC 4418B** in the Iowa Administrative Bulletin on August 3, 2005.

The amendments add a definition of "annual base rent"; extend the time period for zone certification from July 1, 2005, to March 1, 2006; require amortization of the investment tax credit over five years; remove the limitations concerning when the Department may negotiate an award; rescind references to the New Jobs Tax Credit; and update provisions applicable to the housing enterprise zone component.

The Iowa Economic Development Board held seven public hearings around the state beginning on August 23, 2005, and ending on September 7, 2005, to receive comments about the Department's proposed rule makings that are intended to implement 2005 legislation.

Item 10 of the proposed amendments governs the investment tax credit benefit. The comments received indicated that subrule 59.6(3), paragraph "c," subparagraph (1), was confusing because it involves multiple topics. To improve the clarity of subparagraph (1), it has been divided into numbered paragraphs, each with catchwords that identify the subject matter. It was also discovered that Item 10 should have included the same five-year amortization period in subrule 59.6(3), paragraph "c," subparagraph (2), which is applicable to the insurance premium tax credit. The amendment in Item 10 adds the five-year amortization requirement to subparagraph (2) and also divides the subparagraph into numbered paragraphs, each with catchwords to identify the subject matter.

Subrule 59.6(3), paragraph "c," subparagraphs (1) and (2), now read as follows:

"(1) Investment tax credit. An eligible business may claim an investment tax credit as provided in Iowa Code section 15.333. A corporate income tax credit may be claimed of up to a maximum of 10 percent of the new investment which is directly related to new jobs created by the location or expansion of the business in the enterprise zone. The credit may be used against a tax liability imposed for individual income tax, corporate income tax, franchise tax, or against the moneys and credits tax imposed in Iowa Code section 533.24.

"1. Five-year amortization period. For projects approved on or after July 1, 2005, the tax credit shall be amortized equally over a five-year period which the department, in consultation with the eligible business, will define. The five-year amortization period will be specified in the agreement referenced in rule 261—59.13(15E).

"2. Flow-through of tax credits. If the business is a partnership, subchapter S corporation, limited liability company, cooperative organized under Iowa Code chapter 501 or 501A and filing as a partnership for federal tax purposes, or an estate or trust electing to have the income taxed directly to the individual, an individual may claim the tax credit allowed.

"3. Seven-year carryforward. Any credit in excess of tax liability for the tax year may be credited to the tax liability for the following seven years or until depleted, whichever occurs first.

"4. Refund of unused tax credit. Subject to prior approval by the department in consultation with the department of revenue, an eligible business whose project primarily involves the production of value-added agricultural products or biotechnology-related processes may elect to apply for a refund for all or a portion of an unused tax credit.

"5. IRS Section 521. For purposes of this paragraph, an eligible business includes a cooperative as described in Section 521 of the United States Internal Revenue Code which is not required to file an Iowa corporate income tax return.

"6. Maximum capital expenditures stated in agreement. The business participating in the enterprise zone may not claim an investment tax credit for capital expenditures above the amount stated in the agreement described in 261—59.12(15E). An eligible business may instead, prior to project completion, seek to amend the contract, allowing the business to receive an investment tax credit for additional capital expenditures.

"(2) Insurance premium tax credit. The insurance premium tax credit benefit is available for a business that submits an application for enterprise zone participation on or after July 1, 1999. If the business is an insurance company, the business may claim an insurance premium tax credit as provided in Iowa Code section 15E.96.

"1. Five-year amortization period. For projects approved on or after July 1, 2005, the tax credit shall be amortized equally over a five-year period which the department, in consultation with the eligible business, will define. The five-year amortization period will be specified in the agreement referenced in rule 261—59.13(15E).

"2. Credit of up to 10 percent of new investment. An Iowa insurance premium tax credit may be claimed of up to a maximum of 10 percent of the new investment which is directly related to new jobs created by the location or expansion of the business in the enterprise zone.

"3. Seven-year carryforward. Any credit in excess of tax liability for the tax year may be credited to the tax liability for the following seven years or until depleted, whichever occurs first.

"4. Maximum capital expenditures as stated in agreement. The business participating in the enterprise zone may not claim an investment tax credit for capital expenditures above the amount stated in the agreement described in 261—59.12(15E). An eligible business may instead seek to amend the contract, allowing the business to receive an investment tax credit for additional capital expenditures, or may elect to submit a new application within the enterprise zone."

These amendments are intended to implement 2005 Iowa Acts, House File 868 and House File 809.

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

The Iowa Economic Development Board adopted these amendments on October 20, 2005.

These amendments will become effective on December 14, 2005.

EDITOR'S NOTE: Pursuant to recommendation of the Administrative Rules Review Committee published in the Iowa Administrative Bulletin, September 10, 1986, the text of these amendments [amendments to Ch 59] is being omitted. With the exception of the changes noted above, these amendments are identical to those published under Notice as **ARC 4418B**, IAB 8/3/05.

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[For replacement pages for IAC, see IAC Supplement 11/9/05.]

ARC 4643B

ECONOMIC DEVELOPMENT, IOWA DEPARTMENT OF[261]

Adopted and Filed

Pursuant to the authority of Iowa Code sections 15.104 and 15.106, the Iowa Department of Economic Development hereby amends Chapter 69, "Loan and Credit Guarantee Program," Iowa Administrative Code.

Notice of Intended Action was published as **ARC 4410B** in the Iowa Administrative Bulletin on August 3, 2005, and the amendments were simultaneously Adopted and Filed Emergency as **ARC 4373B**.

The amendments add microenterprises as eligible applicants, remove references to the Loan and Credit Guarantee Advisory Board and replace them with references to the Loan and Credit Guarantee Committee established by the IDED Board, clarify that the IDED Board has final decision-making authority on applications, and add a provision applicable to the loan and credit guarantee authorization fee for projects involving a line of credit.

These amendments are intended to implement Iowa Code sections 15E.221 to 15E.227 and 2005 Iowa Acts, House File 868.

The Iowa Economic Development Board held seven public hearings around the state beginning on August 23, 2005, and ending on September 7, 2005, to receive comments about the Department's proposed rule makings that are intended to implement 2005 legislation. No requests were received to modify these proposed amendments. The final amendments are identical to the amendments published under Notice of Intended Action.

These rules are intended to implement 2005 Iowa Acts, House File 868 and House File 809.

The Iowa Economic Development Board adopted these amendments on October 20, 2005.

These amendments will become effective on December 14, 2005, at which time the Adopted and Filed Emergency amendments are hereby rescinded.

EDITOR'S NOTE: Pursuant to recommendation of the Administrative Rules Review Committee published in the Iowa Administrative Bulletin, September 10, 1986, the text of these amendments [69.1 to 69.7] is being omitted. These amendments are identical to those published under Notice as

ARC 4410B and Adopted and Filed Emergency as **ARC 4373B**, IAB 8/3/05.

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[For replacement pages for IAC, see IAC Supplement 11/9/05.]

ARC 4644B

ECONOMIC DEVELOPMENT, IOWA DEPARTMENT OF[261]

Adopted and Filed

Pursuant to the authority of Iowa Code sections 15.104 and 15.106, the Iowa Department of Economic Development hereby adopts amendments to Chapter 168, "Additional Program Requirements," Iowa Administrative Code.

Notice of Intended Action was published as **ARC 4411B** in the Iowa Administrative Bulletin on August 3, 2005, and the rules were simultaneously Adopted and Filed Emergency as **ARC 4412B**.

Pursuant to 2005 Iowa Acts, House File 868, section 50(4), the Department is required to update program wage thresholds on a quarterly basis under the High Quality Job Creation Act (HQJCA). For purposes of consistency among other Department-administered financial assistance programs, the quarterly program wage thresholds calculations under HQJCA will be used for all IDED financial assistance programs. This amendment establishes a new Division IV, Program Wage Thresholds Calculations. The amendment describes the Department's process for updating program wage thresholds, clarifies that the thresholds apply to other Department-administered programs, and provides a transition period for pending applications.

The Iowa Economic Development Board held seven public hearings around the state beginning on August 23, 2005, and ending on September 7, 2005, to receive comments about the Department's proposed rule makings that are intended to implement 2005 legislation. No requests were received to modify this proposed amendment. The final amendment is identical to the amendment published under Notice of Intended Action.

These rules are intended to implement 2005 Iowa Acts, House File 868.

The Iowa Economic Development Board adopted this amendment on October 20, 2005.

These rules will become effective on December 14, 2005, at which time the Adopted and Filed Emergency rules are hereby rescinded.

EDITOR'S NOTE: Pursuant to recommendation of the Administrative Rules Review Committee published in the Iowa Administrative Bulletin, September 10, 1986, the text of these rules [168.201 to 168.203] is being omitted. These rules are identical to those published under Notice as **ARC 4411B** and Adopted and Filed Emergency as **ARC 4412B**, IAB 8/3/05.

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ARC 4647B**ENVIRONMENTAL PROTECTION
COMMISSION[567]****Adopted and Filed**

Pursuant to the authority of Iowa Code section 455B.133, the Environmental Protection Commission hereby amends Chapter 23, "Emission Standards for Contaminants," Iowa Administrative Code.

Notice of Intended Action was published in the Iowa Administrative Bulletin on August 17, 2005, as **ARC 4434B**. A public hearing was held on September 16, 2005. No comments were received at the public hearing. No comments were received prior to the close of the public comment period.

No changes were made to the amendment as proposed in the published Notice of Intended Action.

This amendment of subrule 23.1(4) adopts by reference several national emission standards for hazardous air pollutants for source categories (commonly known as NESHAPS) which were promulgated by the U.S. Environmental Protection Agency (EPA) into 40 Code of Federal Regulations (CFR) Part 63 between 1996 and 2003. The Department did not adopt these standards in the past because there were no source categories in Iowa subject to these standards. This status has not changed. However, the Department has a delegation agreement with EPA specifying that Iowa will adopt all federal NESHAPS. To fulfill this agreement and to ensure that these federal standards are adopted should subject-sources locate in Iowa in the future, the Department adopts this amendment.

The NESHAPS to be adopted either regulate source categories or specify air emission control provisions for source categories, as follows:

- Primary Aluminum Reduction Plants (source category);
- Tanks – Level 1 (emission control);
- Containers (emission control);
- Surface Impoundments (emission control);
- Individual Drain Systems (emission control);
- Oil-Water Separators and Organic-Water Separators (emission control);
- Semiconductor Manufacturing (source category);
- Site Remediation (source category);
- Taconite Iron Ore Processing (source category); and
- Primary Magnesium Refining (source category).

This amendment is intended to implement Iowa Code section 455B.133.

This amendment shall become effective on December 14, 2005.

EDITOR'S NOTE: Pursuant to recommendation of the Administrative Rules Review Committee published in the Iowa Administrative Bulletin, September 10, 1986, the text of this amendment [23.1(4)"al," "ao," "ap," "aq," "ar," "av," "db," "dg," "dr," "dt"] is being omitted. This amendment is identical to that published under Notice as **ARC 4434B**, IAB 8/17/05.

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[Published 11/9/05]

[For replacement pages for IAC, see IAC Supplement 11/9/05.]

ARC 4645B**ENVIRONMENTAL PROTECTION
COMMISSION[567]****Adopted and Filed Without Notice**

Pursuant to the authority of Iowa Code sections 455B.105 and 455B.173, the Environmental Protection Commission hereby amends Chapter 60, "Scope of Title—Definitions—Forms—Rules of Practice," Chapter 62, "Effluent and Pretreatment Standards: Other Effluent Limitations or Prohibitions," and Chapter 63, "Monitoring, Analytical and Reporting Requirements," Iowa Administrative Code.

The purpose of these amendments is to update references to federal effluent and pretreatment standards and associated analytical methods. References to federal effluent and pretreatment standards found in rules 62.4(455B) and 62.5(455B) are amended to reflect updates to 40 Code of Federal Regulations (CFR). The amendment to rule 60.2(455B) updates the definition of "Act" to include amendments to the Water Pollution Control Act through July 1, 2005. The change to subrule 63.1(1) updates the reference to the latest federally approved methods for the analysis of wastewater samples.

There have been no amendments to the Clean Water Act or to federal toxic effluent standards, rule 62.5(455B), since these rules were last updated in 2004. On July 9, 2004, EPA established standards for cooling water intake structures at large steam electric power plants to protect fish and shellfish losses due to impingement and entrainment. On August 23, 2004, EPA promulgated effluent guidelines and new source performance standards applicable to concentrated aquatic animal production facilities that require implementation of best management practices to control discharge of pollutants from these facilities, rather than establishing numeric limits. Effluent standards applicable to meat and poultry products point source category were amended on September 8, 2004. These amended guidelines reduce the amounts of pollutants that may be discharged directly to waters of the U.S. by meat processors and establish for the first time effluent limits for poultry processors.

In accordance with Iowa Code section 17A.4(2), the Commission finds that notice and public participation are unnecessary. Under rule 62.2(455B), the Commission has determined previously that good cause exists for exempting from the notice and public participation requirements of Iowa Code section 17A.4(1) the adoption by reference of certain federal effluent and pretreatment standards. The Commission found that public participation is unnecessary since the Commission must adopt effluent and pretreatment standards at least as stringent as the enumerated promulgated federal standards in order to have continued approval of the Environmental Protection Agency (EPA) of the Department's NPDES program. Iowa Code section 455B.173(3) requires that the effluent and pretreatment standards adopted by the Commission not be more stringent than the enumerated promulgated federal standards. The Commission also found that public participation is unnecessary when updating the reference to approved methods for analysis because these methods are required by EPA to be used to implement federal effluent and pretreatment standards.

The Commission adopted these amendments on October 17, 2005.

These amendments will become effective on December 14, 2005.

ENVIRONMENTAL PROTECTION COMMISSION[567](cont'd)

These amendments may have an impact upon small businesses.

These amendments are intended to implement Iowa Code chapter 455B, division III, part 1.

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

The following amendments are adopted.

ITEM 1. Amend rule **567—60.2(455B)**, definition of "Act," to read as follows:

"Act" means the Federal Water Pollution Control Act as amended through July 1, 2004-2005, 33 U.S.C. §1251 et seq.

ITEM 2. Amend rule 567—62.4(455B), introductory paragraph, to read as follows:

567—62.4(455B) Federal effluent and pretreatment standards. The federal standards, 40 Code of Federal Regulations (CFR), revised as of July 1, 2004 2005, are applicable to the following categories:

ITEM 3. Amend subrule 62.4(2) to read as follows:

62.4(2) Cooling water intake structures. The following is adopted by reference: 40 CFR Part 125, ~~Subpart I Subparts I and J.~~

ITEM 4. Amend subrule 62.4(32) to read as follows:

62.4(32) Meat and poultry products point source category. The following is adopted by reference: 40 CFR Part 432.

ITEM 5. Adopt the following new subrule 62.4(50):

62.4(50) Concentrated aquatic animal production point source category. The following is adopted by reference: 40 CFR Part 451.

ITEM 6. Amend rule 567—62.5(455B) to read as follows:

567—62.5(455B) Federal toxic effluent standards. The following is adopted by reference: 40 CFR Part 129, revised as of July 1, 2004 2005.

ITEM 7. Amend subrule **63.1(1)**, paragraph "a," to read as follows:

a. The following is adopted by reference: 40 Code of Federal Regulations (CFR) Part 136, revised as of July 1, 2004 2005.

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ARC 4646B

ENVIRONMENTAL PROTECTION COMMISSION[567]

Adopted and Filed

Pursuant to the authority of Iowa Code section 455B.474, the Environmental Protection Commission hereby amends Chapter 136, "Financial Responsibility for Underground Storage Tanks," Iowa Administrative Code.

The amendments clarify rules, remove outdated rules, and add new requirements.

Subrule 136.6(3) has been revised to clarify existing state and federal requirements that must be met for self-insurance.

A change in paragraphs 136.8(2)"a" and "b" inserts language into the insurance endorsement and certificate of insurance required to be submitted as proof of financial responsibility. The change requires insurance providers of claims-made policies to notify the insured and any additional named insureds of the six-month extended reporting period expiration date in any written final cancellation or nonrenewal notice. Under claims-made policies, the insured has a six-month period under which a claim for coverage can be made. If a claim is not submitted, the policy bars any claim for coverage even if it can be demonstrated that the release occurred during the coverage period. This notice provision reminds the insured of the final date a claim can be filed. The insurance provider may either use its own language or may insert a standard paragraph provided in amended subrule 136.18(1).

New provisions in paragraphs 136.8(2)"a" and "b" require specified language in an insurance endorsement or certificate of insurance which would allow the Department to take necessary steps on behalf of an insured to preserve existing coverage under the terms of the policy. The provisions provide that timely notice of a release or claim by the Department as provided in the policy will be considered sufficient notice under the terms of the insurance policy to preserve any coverage that the insured might otherwise have. The Department has experienced a number of situations in which an insured responsible party has failed to give timely notice of a release or claim, thereby forfeiting coverage.

A sentence has been added to subrule 136.18(1) stating that, for claims-made policies, the notice of final cancellation must clearly advise the insured and any named additional insureds of the effective termination date and the applicable extended reporting period under which a claim must be made to preserve coverage. Under a claims-made policy, an insured has six months from the policy cancellation date to submit a claim for coverage; if the insured does not, coverage is forever barred even if a release can be demonstrated to have occurred during the coverage period. This provision is intended to give insureds full disclosure of their policy rights and obligations with regard to filing a timely notice of release and claim. The rules allow the insurance provider to choose the language it wishes to use or to insert a standard notice into the provider's letter of final cancellation.

Notice of Intended Action was published in the Iowa Administrative Bulletin on July 20, 2005, as **ARC 4353B**. No written or oral comments were received on the proposed amendments. The Department did not make any changes from the Notice of Intended Action.

These amendments will become effective December 14, 2005.

These amendments are intended to implement Iowa Code section 455B.474.

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 [136.1, 136.6(3), 136.8(2), 136.18(1), 136.22] is being omitted. These amendments are identical to those published under Notice as **ARC 4353B**, IAB 7/20/05.

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[For replacement pages for IAC, see IAC Supplement 11/9/05.]

ARC 4623B**HUMAN SERVICES
DEPARTMENT[441]****Adopted and Filed**

Pursuant to the authority of Iowa Code section 234.6 and 2003 Iowa Acts, chapter 178, section 44, the Department of Human Services amends Chapter 7, "Appeals and Hearings," and Chapter 130, "General Provisions," Iowa Administrative Code.

These amendments clarify the grounds for terminating social services and specify that clients will not be granted a hearing on an appeal of service termination when the reason for the action is that the Department no longer offers the service. Existing rules around this issue reference the Social Services Block Grant Preexpenditure Report (formerly the Title XX Plan), which at one time addressed all social services offered by the Department. Changes in service funding have reduced the applicability of this report to only a few services, so the report is no longer an effective vehicle for addressing service availability.

The impetus for this rule making comes from the mandated redesign of child welfare services, "Better Results for Kids," which has resulted in the Department's refocusing eligibility criteria and available services toward children at risk of repeated maltreatment. The Department has adopted a series of emergency rules limiting eligibility and services as part of the redesign: **ARC 4019B**, published in the Iowa Administrative Bulletin on March 2, 2005, **ARC 4138B**, published on May 11, 2005, and **ARC 4223B**, published June 8, 2005. Existing rules on service termination do not make clear that failure to meet eligibility criteria is grounds for terminating service, and that services can be eliminated other than through the Social Services Block Grant Preexpenditure Report.

These amendments do not provide for waivers in specified situations because a waiver of policy on grounds for termination and hearing policy would not be appropriate. If a service is no longer available through the Department, there is no remedy that a hearing can apply.

Notice of Intended Action on these amendments was published in the Iowa Administrative Bulletin on July 6, 2005, as **ARC 4336B** to solicit comment on identical amendments that were Adopted and Filed Emergency and were published in the Iowa Administrative Bulletin as **ARC 4323B** on the same date. The Department received no comments on the Notice of Intended Action. These amendments are identical to those published under Notice of Intended Action and Adopted and Filed Emergency.

The Council on Human Services adopted these amendments on October 20, 2005.

These amendments are intended to implement Iowa Code section 234.6 and 2003 Iowa Acts, chapter 178, section 44.

These amendments shall become effective December 14, 2005, at which time the Adopted and Filed Emergency amendments are rescinded.

The following amendments are adopted.

ITEM 1. Amend subrule **7.5(2)**, paragraph "a," as follows:

Amend subparagraph (1) as follows:

(1) ~~Services are changed from one plan year to the next in the social service block grant preexpenditure report and as a~~

~~result the~~ The service is no longer available *through the department.*

Rescind and reserve subparagraph (2).

ITEM 2. Amend subrule **130.5(2)**, paragraphs "d" and "e," as follows:

d. The client's income or resources exceed the financial guidelines, or *the client no longer meets other eligibility criteria established by the department for the service, or*

e. ~~The service is no longer offered or available in the Social Services Block Grant Pre-Expenditure Report from the department, or~~

[Filed 10/21/05, effective 12/14/05]

[Published 11/9/05]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 11/9/05.

ARC 4624B**HUMAN SERVICES
DEPARTMENT[441]****Adopted and Filed**

Pursuant to the authority of Iowa Code section 249A.4 and 2005 Iowa Acts, House File 841, section 66, the Department of Human Services amends Chapter 36, "Facility Assessments," Chapter 79, "Other Policies Relating to Providers of Medical and Remedial Care," and Chapter 81, "Nursing Facilities," Iowa Administrative Code.

These amendments reflect Iowa's settlement with the federal Centers for Medicare and Medicaid Services (CMS) over the use of intergovernmental transfers in Medicaid. The amendments eliminate:

- Supplemental payments to physicians employed at publicly owned acute-care teaching hospitals, which were adopted in **ARC 2577B**, published in the Iowa Administrative Bulletin on July 9, 2003, but have not been implemented, pending CMS approval. The Department plans to implement these payments for state fiscal years 2004 and 2005 only.

- The nursing facility quality assurance assessment, which was adopted in **ARC 3021B**, published in the Iowa Administrative Bulletin on December 10, 2003, but has not been implemented, pending CMS approval. The Department has no plans to implement this assessment.

- The high-cost adjustment for Iowa state-owned hospitals with more than 500 beds, which was adopted in **ARC 3461B**, published in the Iowa Administrative Bulletin on July 7, 2004, but has not been implemented, pending CMS approval. The Department plans to implement this adjustment for state fiscal year 2005 only.

These amendments implement a limit on payments to public hospitals and public nursing facilities to the facility's actual medical assistance program costs.

Existing mechanisms for hospitals to receive supplemental disproportionate-share and graduate medical education payments are replaced by new methodology.

Notice of Intended Action on these amendments was published in the Iowa Administrative Bulletin on July 6, 2005, as **ARC 4335B** to solicit comment on identical amendments that were Adopted and Filed Emergency and published in the Iowa Administrative Bulletin on the same date as **ARC 4322B**. The Department received no comments on the Notice of Intended Action. These amendments are identical to

HUMAN SERVICES DEPARTMENT[441](cont'd)

the Notice of Intended Action and Adopted and Filed Emergency.

These amendments do not provide for waivers in specified situations because all providers should be subject to the same payment methodologies.

The Council on Human Services adopted these amendments on October 20, 2005.

These amendments are intended to implement Iowa Code section 249A.4 and 2005 Iowa Acts, House File 841, sections 22, 35, 36, and 38.

These amendments shall become effective December 14, 2005, at which time the Adopted and Filed Emergency amendments are hereby rescinded.

EDITOR'S NOTE: Pursuant to recommendation of the Administrative Rules Review Committee published in the Iowa Administrative Bulletin, September 10, 1986, the text of these amendments [amendments to Chs 36, 79, 81] is being omitted. These amendments are identical to those published under Notice as **ARC 4335B** and Adopted and Filed Emergency as **ARC 4322B**, IAB 7/6/05.

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[For replacement pages for IAC, see IAC Supplement 11/9/05.]

ARC 4621B**HUMAN SERVICES
DEPARTMENT[441]****Adopted and Filed**

Pursuant to the authority of Iowa Code section 234.6, the Department of Human Services amends Chapter 51, "Eligibility," Iowa Administrative Code.

In compliance with 2005 Iowa Acts, House File 825, section 108, these amendments change eligibility standards for the State Supplementary Assistance category of Medicare and Medicaid eligibles as follows:

- The minimum income limit is lowered from 135 percent of the federal poverty level to 120 percent of the federal poverty level. This change allows the Department to collect federal financial participation on the Medicare premiums it pays for additional Medicaid recipients.
- The Medicaid eligibility requirement is clarified to refer to full medical assistance benefits (as opposed to limited benefits, such as are available under IowaCare, the family planning waiver, or the Medicare savings programs).

Notice of Intended Action on these amendments was published in the Iowa Administrative Bulletin on July 6, 2005, as **ARC 4334B** to solicit comments on identical amendments Adopted and Filed Emergency and published in the Iowa Administrative Bulletin as **ARC 4321B** on the same date. The Department received no comments on the Notice of Intended Action. These amendments are identical to those published under Notice of Intended Action and Adopted and Filed Emergency.

These amendments do not provide for waivers in specified situations because the changes are based on statutory language that the Department has no authority to waive.

The Council on Human Services adopted these amendments on October 20, 2005.

These amendments are intended to implement Iowa Code section 249.3 as amended by 2005 Iowa Acts, House File 825, section 108.

These amendments shall become effective December 14, 2005, at which time the Adopted and Filed Emergency amendments are rescinded.

The following amendments are adopted.

ITEM 1. Amend subrule 51.6(1) as follows:

51.6(1) Medicaid eligibility. The recipient must be eligible for and receiving *full* medical assistance benefits under Iowa Code chapter 249A without regard to eligibility based on receipt of state supplementary assistance under this rule, and without being required to meet a spenddown or pay a premium to be eligible for medical assistance benefits.

ITEM 2. Amend subrule 51.6(6) as follows:

51.6(6) Income. Income of a recipient shall be within the income limit for the person's Medicaid eligibility group, but must exceed ~~135~~ 120 percent of the federal poverty level.

ITEM 3. Amend rule ~~441~~—**51.6(249)**, implementation sentence, as follows:

This rule is intended to implement Iowa Code section 249.3 as amended by ~~2004~~ 2005 Iowa Acts, House File ~~2134~~ 825, section ~~4~~ 108.

[Filed 10/21/05, effective 12/14/05]
[Published 11/9/05]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 11/9/05.

ARC 4625B**HUMAN SERVICES
DEPARTMENT[441]****Adopted and Filed**

Pursuant to the authority of Iowa Code section 249A.4, the Department of Human Services amends Chapter 75, "Conditions of Eligibility," Iowa Administrative Code.

This amendment increases the premiums assessed for coverage under the group "Medicaid for employed people with disabilities." When the gross income of a disabled person in this coverage group exceeds 150 percent of the federal poverty level, the Department assesses premiums on a sliding scale, based on a percentage of the person's income. Approximately one-fourth of the recipients in this group pay premiums for the coverage.

Iowa Code section 249A.3(2) requires the maximum premium to be "commensurate with the cost of state employees' group health insurance." This amendment increases existing premium amounts by 10.76 percent, based on the increases in the cost of Iowa state employees' group health insurance that took effect in January 2005. The maximum premium amount is charged when the average cost for state employees insurance is equal to 7.5 percent of the disabled person's gross income.

Currently, the maximum premium amount is \$381 per month and is assessed to all recipients with incomes over 632 percent of the federal poverty level. Under the amendment, the highest premium amount is \$422 per month and is assessed when the recipient's income is over 705 percent of the federal poverty level. Because the poverty level has not in-

HUMAN SERVICES DEPARTMENT[441](cont'd)

creased as fast as the cost of state employees' health insurance, the income range covered by the premiums is larger and the poverty level increments at which increases in the premium apply have been adjusted.

Notice of Intended Action on this amendment was published in the Iowa Administrative Bulletin on August 31, 2005, as **ARC 4478B**. The Department received one comment asking when members of this coverage group would be notified of the increased premium. In early November, the Department will send a notice showing the new premium table to each member household currently paying premiums. A member who does not want to pay the new premium has the choice of receiving Medicaid under the Medically Needy group after meeting a spenddown.

This amendment does not provide for waivers in specified situations because the Department believes that all recipients with similar incomes should be subject to the same premium collection. Members may request a waiver of the premium level under the Department's general rule on exceptions at 441—1.8(17A,217).

The Council on Human Services adopted this amendment on October 20, 2005.

This amendment is intended to implement Iowa Code section 249A.3, subsection 2.

This amendment shall become effective on January 1, 2006.

The following amendment is adopted.

Amend subrule **75.1(39)**, paragraph **"b,"** subparagraph (1), as follows:

(1) Premiums shall be assessed as follows:

<i>If the Income of the Eligible Individual Is Above:</i>	<i>The Monthly Premium Is:</i>
150% of federal poverty level	\$24 \$27
174% 178% of federal poverty level	\$45 \$50
198% 206% of federal poverty level	\$67 \$74
222% 234% of federal poverty level	\$87 \$96
246% 262% of federal poverty level	\$108 \$120
270% 290% of federal poverty level	\$130 \$144
294% 318% of federal poverty level	\$151 \$167
318% 346% of federal poverty level	\$173 \$192
342% 374% of federal poverty level	\$193 \$214
366% 402% of federal poverty level	\$215 \$238
390% 430% of federal poverty level	\$237 \$262
438% 485% of federal poverty level	\$265 \$292
486% 540% of federal poverty level	\$293 \$325
534% 595% of federal poverty level	\$321 \$356
582% 650% of federal poverty level	\$349 \$387
632% 705% of federal poverty level	\$381 \$422

[Filed 10/21/05, effective 1/1/06]

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ARC 4628B

HUMAN SERVICES DEPARTMENT[441]

Adopted and Filed

Pursuant to the authority of Iowa Code section 249A.4, the Department of Human Services amends Chapter 78, "Amount, Duration, and Scope of Medical and Remedial Services," Chapter 81, "Nursing Facilities," and Chapter 84, "Early and Periodic Screening, Diagnosis, and Treatment," Iowa Administrative Code.

These amendments exclude Medicaid coverage for "covered Part D drugs" for people who are eligible for the new Medicare Part D drug benefit. Effective January 1, 2006, Medicaid recipients who are also eligible for the new Medicare Part D drug benefit are required to receive drugs through the new Medicare Part D drug benefit. Amendments to the federal Medicaid statute enacted with the new Medicare drug benefit prohibit state Medicaid programs from providing "covered Part D drugs" to people who are eligible for Part D, regardless of whether they have actually applied for the benefit.

"Covered Part D drugs" includes most prescription drugs formerly covered by Medicaid for people eligible for both Medicaid and Medicare. Some categories of drugs are not "covered Part D drugs," such as nonprescription drugs, prescription drugs used for symptomatic relief of cough and colds, prescription vitamins and minerals, barbiturates, and benzodiazepines. To the extent these drugs are currently covered by the Iowa Medicaid program, they will continue to be covered for recipients eligible for the Medicare Part D drug benefit.

This restriction on coverage would present a savings to the Iowa Medicaid program, except that the Medicare Prescription Drug, Improvement, and Modernization Act of 2003 contains a "claw back" provision to shift costs back to the state.

Notice of Intended Action on these amendments was published in the Iowa Administrative Bulletin on August 31, 2005, as **ARC 4477B**. The Department received no comments on the Notice of Intended Action. These amendments are identical to those published in the Notice of Intended Action.

These amendments do not provide for waivers in specified situations because the federal law does not allow waivers.

The Council on Human Services adopted these amendments on October 20, 2005.

These amendments are intended to implement Iowa Code section 249A.4, subsections 6 and 9.

These amendments shall become effective on January 1, 2006.

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 [78.1(2)"a"(2), 78.1(3)"g," 78.31(4)"d"(7)"3," 78.36(1)"a"(6), 81.10(5)"a"(4), 81.10(5)"d"(1), 81.10(5)"e"(3), 84.3(3)] is being omitted. These amendments are identical to those published under Notice as **ARC 4477B**, IAB 8/31/05.

[Filed 10/21/05, effective 1/1/06]

[Published 11/9/05]

[For replacement pages for IAC, see IAC Supplement 11/9/05.]

ARC 4629B**HUMAN SERVICES
DEPARTMENT[441]****Adopted and Filed**

Pursuant to the authority of Iowa Code sections 249A.4 and 249A.20A(10), the Department of Human Services amends Chapter 78, "Amount, Duration, and Scope of Medical and Remedial Services," and Chapter 79, "Other Policies Relating to Providers of Medical and Remedial Care," Iowa Administrative Code.

These amendments incorporate three Notices of Intended Action that solicited public comment on emergency rule makings affecting Medicaid drug coverage and reimbursement:

- Notice of Intended Action **ARC 4134B**, published in the Iowa Administrative Bulletin on May 11, 2005, corresponds to rules Adopted and Filed Emergency and published in the Iowa Administrative Bulletin on the same date as **ARC 4138B**. These filings amend Chapter 78 and Chapter 79 to rescind transitional provisions on drug prior authorization now unnecessary due to the implementation of the preferred drug list, add nonprescription drugs designated as preferred drugs to the list of nonprescription drugs payable under Medicaid, and simplify and clarify the rule on drug pricing.

- Notice of Intended Action **ARC 4331B**, published in the Iowa Administrative Bulletin on July 6, 2005, corresponds to rules Adopted and Filed Emergency and published in the Iowa Administrative Bulletin on the same date as **ARC 4316B**. These filings further amend Chapter 79 to change the copayment requirements for drugs covered under the Medicaid program and clarify that copayments apply to all Medicaid-covered drugs. The amendments increase from \$0.50 to \$1.00 the copayment for all brand-name drugs that cost the state \$10 or less and set the copayment for generic drugs and higher-cost preferred brand-name drugs at \$1.00.

- Notice of Intended Action **ARC 4332B**, published in the Iowa Administrative Bulletin on July 6, 2005, corresponds to rules Adopted and Filed Emergency and published in the Iowa Administrative Bulletin on the same date as **ARC 4317B**. These filings further amend Chapter 79 to change the source of the data file used in determining Medicaid drug reimbursement due to the implementation of the new Iowa Medicaid Enterprise contract for pharmacy claims processing.

The Department received no comments on **ARC 4331B** or **ARC 4332B**.

The Department received comments on **ARC 4134B** from two groups. The Department met with representatives of the Iowa Psychiatric Society to clarify how the preferred drug list (PDL) incorporates the prior authorization process and to explain the procedures used by the Pharmaceutical and Therapeutics Committee and the Drug Utilization Review Commission in preparing recommendations for Medicaid drug coverage.

Commenters questioned the integration of prior authorization requirements into the PDL instead of publishing them in administrative rules. The Department believes that Iowa Code section 249A.20A, adopted in 2003, authorizes the publication and dissemination of prior authorization criteria as part of a preferred drug list, without rule making. The Department holds that procedures used by the Pharmaceutical and Therapeutics Committee and the Drug Utilization Review Commission for public meetings and public comment

provide an adequate forum for public participation in decisions about drug prior authorization. Following up these decisions with rule-making procedures would not add value and would significantly hinder the timely application of these decisions.

Commenters also questioned current prior authorization requirements for psychostimulant drugs. In response to this comment, the Department has restored the list of medications included in the psychostimulant category to the prior authorization criteria as published in the PDL.

The Department has added one technical change to paragraph 79.8(3)"a" to clarify that notices of both drug prior authorization approval and denial are faxed to the prescriber and the pharmacy, not mailed. Otherwise, these amendments are identical to the cumulative effect of the Notices of Intended Action.

These amendments do not provide for waivers in specified situations. Providers may request waivers under the Department's general rule on exceptions at 441—1.8(17A,217). Copayment amounts are set by law, and the Department has no authority to waive them.

The Council on Human Services adopted these amendments on October 20, 2005.

These amendments are intended to implement Iowa Code sections 249A.4 and 249A.20A and 2005 Iowa Acts, House File 841, section 42.

These amendments shall become effective December 14, 2005, at which time the Adopted and Filed Emergency amendments are hereby rescinded.

EDITOR'S NOTE: Pursuant to recommendation of the Administrative Rules Review Committee published in the Iowa Administrative Bulletin, September 10, 1986, the text of these amendments [78.1(2)"a" and "f," 78.28(1)"a," "b," and "d," 79.1(8), 79.1(13), 79.8(3)"a"] is being omitted. With the exception of the change noted above, these amendments are identical to those published under Notice as **ARC 4134B** and Adopted and Filed Emergency as **ARC 4138B**, IAB 5/11/05; and Notice **ARC 4331B** and Adopted and Filed Emergency **ARC 4316B** and Notice **ARC 4332B** and Adopted and Filed Emergency **ARC 4317B**, IAB 7/6/05.

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ARC 4620B**HUMAN SERVICES
DEPARTMENT[441]****Adopted and Filed**

Pursuant to the authority of Iowa Code sections 217.6 and 249A.4 and 2004 Iowa Acts, chapter 1175, section 112, the Department of Human Services adopts new Chapter 91, "Medicare Drug Subsidy," Iowa Administrative Code.

These rules provide for state eligibility determination for a federal subsidy to reduce or eliminate costs associated with the Medicare drug benefit created by Public Law 108-173, the Medicare Modernization Act of 2003. Under this legislation, state Medicaid agencies are required to accept applications for the Medicare drug subsidy, determine eligibility, and maintain cases for applicants who are determined eligible for the subsidy.

HUMAN SERVICES DEPARTMENT[441](cont'd)

The subsidy itself is administered by the Social Security Administration and is not part of the Medicaid program. The Social Security Administration refers to the subsidy as "extra help for Medicare prescription drug costs." The subsidy is intended to assist low-income people with payment for premiums, copayments, deductibles, and coverage gaps in the new Medicare Part D benefit that is scheduled to take effect on January 1, 2006.

Notice of Intended Action on these rules was published in the Iowa Administrative Bulletin on July 6, 2005, as **ARC 4329B** to solicit comments on identical rules Adopted and Filed Emergency and published in the Iowa Administrative Bulletin as **ARC 4314B** on the same date. The Department received no comment on the Notice of Intended Action. These rules are identical to those published under Notice of Intended Action and Adopted and Filed Emergency.

These rules do not provide for waivers in specified situations. Individuals who believe themselves disadvantaged by these procedural requirements may request a waiver under rule 441—1.8(17A,217). The Department has no authority to waive federal eligibility standards for the subsidy.

The Council on Human Services adopted these rules on October 20, 2005.

These rules are intended to implement Iowa Code sections 217.6 and 249A.4 and Section 1935(a) of the Social Security Act (42 U.S.C. § 1396u-5).

These rules shall become effective December 14, 2005, at which time the Adopted and Filed Emergency rules are rescinded.

EDITOR'S NOTE: Pursuant to recommendation of the Administrative Rules Review Committee published in the Iowa Administrative Bulletin, September 10, 1986, the text of these rules [Ch 91] is being omitted. These rules are identical to those published under Notice as **ARC 4329B** and Adopted and Filed Emergency as **ARC 4314B**, IAB 7/6/05.

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ARC 4618B**HUMAN SERVICES
DEPARTMENT[441]****Adopted and Filed**

Pursuant to the authority of Iowa Code section 234.6 and 2005 Iowa Acts, House File 825, section 29, the Department of Human Services amends Chapter 150, "Purchase of Service," and Chapter 156, "Payments for Foster Care and Foster Parent Training," Iowa Administrative Code.

These amendments:

- Clarify conditions for initiation of a contract proposal when the Department uses a request for proposal to select service providers.
- Allow the Department to require performance measures in a purchase of social service agency contract.
- Increase the maximum payments to social service providers (for adoption home studies, family planning, supervised apartment living, and shelter care) by 3 percent.
- Increase the foster family home payment schedule to 65 percent of the U.S. Department of Agriculture's estimate of the cost to raise a child in the Midwest.

- Change the payment provisions for shelter care by removing the option of payment of a monthly fixed sum and by substituting procedures for a guaranteed minimum payment as provided by the Department in a request for proposal.

- Remove obsolete language allocating child care funds for foster parents and requiring a custodial parent's signature to assign child support payments to the Department.

- Update organizational names and form references.

On April 15, 2005, the Department issued a request for proposal to select competitive bids for emergency juvenile shelter care. The intent of the request was to contract with a finite number of programs that would maintain shelter care availability across Iowa and to provide a more stable source of income for those programs. The Department has awarded 22 one-year contracts for shelter care that began on July 1, 2005.

These amendments were Adopted and Filed Emergency and were published in the Iowa Administrative Bulletin on July 6, 2005, as **ARC 4313B**. Notice of Intended Action on these amendments was published in the Iowa Administrative Bulletin as **ARC 4328B** on the same date. The Department received one comment on the Notice of Intended Action, requesting clarification on whether the Department had met the legislative intent for the increased funding allocated for shelter care.

Shelter contracts were amended effective October 1, 2005, in order to comply with legislative intent as it was defined by the Administrative Rules Review Committee at its meeting on September 13, 2005. To demonstrate compliance with the legislative intent, the Department has made the following changes to subrule 156.11(3):

- Amend paragraph "a," subparagraphs (1) through (4), to reflect monthly reconciliation of guaranteed payments instead of biannual reconciliation. The amended subparagraphs read as follows:

"(1) Guaranteed payment shall be calculated monthly.

"(2) The guaranteed level of payment shall be calculated by multiplying the number of beds for which daily payment is guaranteed times the number of days in the month.

"(3) When the actual unit billings for a facility do not equal the daily guaranteed level of payment for the month, the facility may submit a supplemental billing for the deficiency.

"(4) The amount of the supplemental billing shall be determined by multiplying the facility's unit cost for shelter care by the number of units below the daily guaranteed level for the month for which the facility was not reimbursed."

- Add new paragraph "c" as follows:

"c. Shelter contracts for the state fiscal year beginning July 1, 2005, shall provide for the statewide availability of a daily average of 273 guaranteed emergency juvenile shelter care beds during the fiscal year. For the fiscal year beginning July 1, 2005, state funding for shelter care shall be limited to \$7,452,955, including \$200,000 for unallocated beds."

These amendments do not provide for waivers in specified situations. Individuals or agencies that believe themselves disadvantaged by these rules may request a waiver under the Department's general rule on exceptions at 441—1.8(17A, 217).

The Council on Human Services adopted these amendments on September 14, 2005.

These amendments are intended to implement Iowa Code sections 234.6 and 234.35 and 2005 Iowa Acts, House File 825, section 29.

These amendments shall become effective December 14, 2005, at which time the Adopted and Filed Emergency amendments are hereby rescinded.

HUMAN SERVICES DEPARTMENT[441](cont'd)

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 150, 156] is being omitted. With the exception of the changes noted above, these amendments are identical to those published under Notice as **ARC 4328B** and Adopted and Filed Emergency as **ARC 4313B**, IAB 7/6/05.

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ARC 4631B

HUMAN SERVICES DEPARTMENT[441]

Adopted and Filed

Pursuant to the authority of Iowa Code section 234.6 and 2003 Iowa Acts, chapter 178, section 44, the Department of Human Services amends Chapter 150, "Purchase of Service," and Chapter 152, "Contracting," rescinds Chapter 180, "Respite Care Services," and Chapter 182, "Family-Centered Services," adopts a new Chapter 182 with the same title, and amends Chapter 185, "Rehabilitative Treatment Services," Iowa Administrative Code.

These amendments combine three Notices of Intended Action that were published to solicit comment on identical amendments that were Adopted and Filed Emergency. **ARC 4133B** and its corresponding emergency filing **ARC 4135B** were published in the Iowa Administrative Bulletin on May 11, 2005. **ARC 4224B** and its corresponding emergency filing **ARC 4223B** were published in the Iowa Administrative Bulletin on June 8, 2005. **ARC 4325B** and its corresponding emergency filing **ARC 4310B** were published in the Iowa Administrative Bulletin on July 6, 2005. The Department has received no comments on any of these Notices of Intended Action.

The amendments published in **ARC 4133B** implement flexible family-centered service components as part of the legislatively mandated redesign of the child welfare services system through:

- Adopting a new Chapter 182, "Family-Centered Services," to offer new, more flexible family-centered service components to support children and families.
- Changing Chapters 150, 152, and 185 to set the contracting requirements necessary to provide additional service flexibility in the family-centered program and to make technical changes related to Department organization.

The new service components are family team meeting facilitation, parental counseling and education, relative home studies, and community resource procurement. Providers that have contracts for purchase of social services or rehabilitative treatment or supportive services will add the new services to their existing contracts. Providers that wish to offer only the new services of family team meeting facilitation, relative home studies, community resource procurement, or flexible family support fund may enter into an individual service contract with the state pursuant to rules of the Department of Administrative Services.

These amendments establish statewide fixed reimbursement rates for community resource procurement and relative

home studies based on review of available data. Rates for parental counseling and education are an average of rates for therapy and counseling and skill development services, based either on the lowest rates currently in effect for the provider in each category or on the weighted average rates for providers that do not currently have a rate in effect. Rates for family team meeting facilitation are negotiated with the provider.

These amendments also create a flexible family support fund, which allows providers to receive state reimbursement when they purchase approved goods or support for a family, such as food, furniture, or short-term rent assistance.

Under these amendments, service availability is as follows:

- All family-centered services are available when the Department has opened a child welfare service case due to an allegation of child abuse or neglect or due to the child's adjudication as a "child in need of assistance."
- Supervision, family team meeting facilitation, relative home study, community resource procurement, and flexible family support fund services are available when the Department has initiated a child protective assessment on a child or an order has been issued setting the date for an adjudication hearing or a prehearing conference on a "child in need of assistance" petition.
- Supervision and nonrehabilitative treatment services are available when Juvenile Court Services has opened a case on a youth who has been adjudicated delinquent or is the subject of a consent decree.
- Voluntary requests for services do not establish eligibility.

The goal of these amendments is to increase purchasing flexibility and add new types of services that support the Department's model of child welfare practice and better meet the needs of the population of children and families being served in the child welfare system. Provider documentation requirements have been streamlined where possible.

The amendments published in **ARC 4224B** end the family-centered respite care services program for children with mental retardation or other developmental disabilities. The amendments rescind Chapter 180 and amend new Chapter 182 to remove references to Chapter 180. Respite services are now available through other programs, primarily the Medicaid home- and community-based mental retardation waiver program.

The amendments published in **ARC 4325B** amend Chapter 185 to implement a 3 percent cost-of-living adjustment to reimbursement rates negotiated for rehabilitative treatment and supportive services, including family preservation, family-centered services, and foster care services. Most of the increases will be applied to a provider's negotiated rates as in effect on June 30, 2005. For family-centered relative home studies and community resource procurement services, the fixed fee stated in the rules is increased by 3 percent.

The Department has made four changes from the Notices of Intended Action.

Two technical changes to Chapter 152 have been made to:

- Remove from the preamble a cross reference to rescinded Chapter 180.

- Restate policy in rule 441—152.6(234) to replace references to a 1989 Executive Order and a rescinded Iowa Department of Personnel rule with a direct statement of the provider requirement for maintaining a drug-free workplace. Rule 441—152.6(234) now reads as follows:

"441—152.6(234) Drug-free workplace. The provider shall operate a drug-free workplace. Owners, employees,

HUMAN SERVICES DEPARTMENT[441](cont'd)

subcontractors, and volunteers shall not report to work while under the influence of alcohol or illegal drugs. The unauthorized use, possession, sale, purchase, manufacture, distribution, or transfer of any illegal drug or alcoholic beverage while a person is engaged in state-funded business is prohibited. The provider shall take disciplinary action on any person who does not comply with this policy, up to and including discharge. Violation of this rule may be grounds for termination of the contract."

In working through implementation issues for the new family-centered services, the Department and Juvenile Court Services have agreed to a modification of paragraph 182.4(3)"b," on obtaining supervisory approval for services. The amended text reads as follows:

"b. Cases managed by juvenile court services. For nonrehabilitative treatment and supervision services when a juvenile court officer is the referral worker, the juvenile court officer shall, before approving services, communicate with the department supervisor designated by the service area manager to confirm that the officer has explored alternative funding streams and that funding is available in the service area's child welfare budget to support the services proposed for the child.

"(1) The juvenile court officer shall provide the department with a copy of the court order or consent decree for the child.

"(2) Department service area managers shall regularly discuss with chief juvenile court officers funding available for family-centered services within their respective service area so that funding information is available to juvenile court services.

"(3) Chief juvenile court services officers shall work with department service area managers to manage services within the funds available to the service area."

A technical change has been made to subparagraph 185.3(5)"a"(1) to state the title of Form 470-3453 correctly as "Family Case Plan."

These amendments do not provide for waivers in specified situations. Individuals who believe themselves disadvantaged by the rules may request a waiver under the Department's general rule on exceptions at 441—1.8(17A,217).

The Council on Human Services adopted these amendments on October 20, 2005.

These amendments are intended to implement Iowa Code sections 234.6 and 234.35; 2003 Iowa Acts, chapter 178, section 44; and 2005 Iowa Acts, House File 825, section 29.

These amendments shall become effective December 14, 2005, at which time the Adopted and Filed Emergency amendments are rescinded.

EDITOR'S NOTE: Pursuant to recommendation of the Administrative Rules Review Committee published in the Iowa Administrative Bulletin, September 10, 1986, the text of these amendments [amend Chs 150, 152, 185; rescind Chs 180, 182; adopt new Ch 182] is being omitted. With the exception of the changes noted above, these amendments are identical to those published under Notice and Adopted and Filed Emergency as follows: Notice **ARC 4133B** and Adopted and Filed Emergency **ARC 4135B**, IAB 5/11/05; Notice **ARC 4224B** and Adopted and Filed Emergency **ARC 4223B**, IAB 6/8/05; and Notice **ARC 4325B** and Adopted and Filed Emergency **ARC 4310B**, IAB 7/6/05.

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ARC 4632B

HUMAN SERVICES DEPARTMENT[441]

Adopted and Filed

Pursuant to the authority of Iowa Code section 234.6, the Department of Human Services amends Chapter 151, "Juvenile Court Services Directed Programs," Iowa Administrative Code.

Chapter 151 is revised to correspond with changes to the Iowa Code, appropriations Acts, and current desired practice. Changes include the following:

- The definition of "child" is modified to include children under court order through 19½ years of age, and a definition of "at risk" is provided to ensure that children identified with the legal definition of "informal status" and who would otherwise be referred for formal adjudication are served.

- Responsibilities of the judicial district planning committee, removed from the appropriations Acts, are replaced by responsibilities specified for the state court administrator and the chief juvenile court officers. A procedure for application and certification by the court is included for court-ordered services.

- Court-ordered services payment is allowed for medical cost sharing for one deductible or coinsurance payment when insurance or Medicaid is available to pay the remainder of the court-ordered services cost. Court-ordered services payment is also allowed for General Education Development (GED) tests and credits ordered by the court and not required to be paid by the state.

- An "eligible child" is defined for both court-ordered services and graduated sanction services.

- The portion of funds allowed for the administrative cost of graduated sanction services is increased from 5 percent to 10 percent. The administrative cost includes the cost of operating expenses and of salaries for one court accountant auditor in each judicial district.

- Changes regarding the contracting process are made to ensure compliance with the Accountable Government Act. Payment is tied to performance. Providers must provide information for each child discharged from services. The Department and Juvenile Court Services will determine whether the child is being served elsewhere in the system 6 months or 12 months following the child's discharge.

- Some contract-related rules are deleted from Chapter 151 as they are now covered by rules promulgated by the Department of Administrative Services at 11—Chapters 106 and 107.

- Payment and record retention requirements are changed for Juvenile Court Services. Juvenile Court Services, rather than the Department, is required to retain certain back-up documents, subject to audit, for billing and payment. Juvenile Court Services staff submit less paperwork to the Department but are responsible for maintaining supporting documentation for claims. The provider retains ultimate responsibility for the accuracy of the claim submitted.

Notice of Intended Action on these amendments was published in the Iowa Administrative Bulletin on August 17, 2005, as **ARC 4439B**. The Department received two comments on the Notice of Intended Action and has made the following changes in response to the comments:

HUMAN SERVICES DEPARTMENT[441](cont'd)

- Remove the words “from a county” in the last sentence of paragraph 151.3(3)“e.” The sentence now reads, “When there are specific program regulations prohibiting supplementation, such as the prohibition of supplementation of Medicaid reimbursement, those regulations shall be applied to providers requesting supplemental payments.” This change is intended to clarify that all supplementation is prohibited.

- Add wording to the sentence in the introductory paragraph of rule 441—151.4(232) that defines the date of a claim’s accrual to allow a later date when liability for a claim is disputed. The sentence now reads as follows: “The date of a claim’s accrual is the date the service was provided, the end of the agreed-upon billing interval specified in the contract, or the date of a determination of liability for the claim.”

- Insert the word “chief’s” in the first sentence of the introductory paragraph of subrule 151.4(1). The sentence now reads, “The instructions and forms used for billing shall be available to the provider from each chief’s juvenile court services office.” This change is intended to clarify that the forms are available only in one office in each judicial district, not in every office.

- Insert the words “it from” in the introductory paragraph of paragraph 151.4(5)“a.” The sentence now reads, “Juvenile court services may complete Form GAX when the provider submits an original invoice or may enter the following information on Form GAX when the provider has omitted it from the form.” This change is intended to clarify that unless the provider submits an original invoice, the provider must submit a signed Form GAX, but if the form is incomplete, the Juvenile Court Services office may add missing information.

- Add language in paragraphs 151.30(1)“c,” 151.32(1)“d,” and 151.33(1)“c” to clarify that approval authority for life skills, supervised community treatment, and tracking, monitoring and outreach services rests with the chief juvenile court officer of each judicial district. This authority may be delegated or limited according to the local plan developed by the chief juvenile court officer.

- Add the phrase “but the funding sources for components of the service may not duplicate or overlap payment or service activities so as to pay for the same or parts of the same service twice or pay for overlapping services” to the second sentence of the introductory paragraph of rule 441—151.32(232). This change is intended to emphasize that a provider shall not enhance or enrich payment for a service by seeking payment from this funding source for services covered by another program.

- Delete the last sentence proposed to be added to paragraph 151.32(2)“a,” since it duplicates the language in the introductory paragraph of the rule.

These amendments do not provide for waivers in specified situations because most procedures are based on requirements in the Iowa Code and in appropriations Acts, which the Department has no authority to waive. Waivers may be requested under the Department’s general rule on exceptions at rule 441—1.8(17A,217).

The Council on Human Services adopted these amendments on October 20, 2005.

These amendments are intended to implement Iowa Code section 232.141.

These amendments shall become effective on January 1, 2006.

EDITOR’S NOTE: Pursuant to recommendation of the Administrative Rules Review Committee published in the Iowa Administrative Bulletin, September 10, 1986, the text of

these amendments [amendments to Ch 151] is being omitted. With the exception of the changes noted above, these amendments are identical to those published under Notice as **ARC 4439B**, 8/17/05.

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[For replacement pages for IAC, see IAC Supplement 11/9/05.]

ARC 4622B**HUMAN SERVICES
DEPARTMENT[441]****Adopted and Filed**

Pursuant to the authority of Iowa Code section 234.6 and 2005 Iowa Acts, House File 825, sections 14 and 29, the Department of Human Services amends Chapter 170, “Child Care Services,” Iowa Administrative Code.

These amendments:

- Increase the maximum gross income limit for Child Care Assistance eligibility to 145 percent of the federal poverty guidelines for basic care and 200 percent of the federal poverty guidelines for special-needs care.

- Update eligibility and waiting list language to include the new guidelines.

- Update the provider reimbursement ceilings to reflect the 2002 provider rate survey.

- Revise the fee chart to reflect the new income levels.

- Clarify unclear and obsolete language.

Notice of Intended Action on these amendments was published in the Iowa Administrative Bulletin on August 3, 2005, as **ARC 4401B** to solicit comment on identical amendments Adopted and Filed Emergency that were published in the Iowa Administrative Bulletin as **ARC 4400B** on the same date. The Department received no comments on the Notice of Intended Action. These amendments are identical to those published under Notice of Intended Action and Adopted and Filed Emergency.

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

The Council on Human Services adopted these amendments on October 20, 2005.

These amendments are intended to implement Iowa Code sections 237A.13 and 239B.24 and 2005 Iowa Acts, House File 825, sections 14 and 29.

These amendments shall become effective December 14, 2005, at which time the Adopted and Filed Emergency amendments are rescinded.

EDITOR’S NOTE: Pursuant to recommendation of the Administrative Rules Review Committee published in the Iowa Administrative Bulletin, September 10, 1986, the text of these amendments [170.2, 170.4, 170.5] is being omitted. These amendments are identical to those published under Notice as **ARC 4401B** and Adopted and Filed Emergency as **ARC 4400B**, IAB 8/3/05.

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[Published 11/9/05]

[For replacement pages for IAC, see IAC Supplement 11/9/05.]

ARC 4619B**HUMAN SERVICES
DEPARTMENT[441]****Adopted and Filed**

Pursuant to the authority of Iowa Code sections 234.6 and 235A.14(1) and 2003 Iowa Acts, chapter 178, section 4, the Department of Human Services amends Chapter 175, "Abuse of Children," Iowa Administrative Code.

These amendments conform child protective services rules to:

- The Department's redesign of the state child welfare system, "Better Results for Kids," by identifying new criteria for service eligibility after assessment and by making form changes to align documentation with practice. The criteria identify the most vulnerable children who are at the highest risk for abuse or reabuse and require that the families of these children be offered services by the Department. Families at lower risk of abuse are referred to a community care contractor.

- Amendments to Iowa Code chapter 235A made by 2005 Iowa Acts, Senate File 343, regarding access to child abuse information.

- Federal requirements for child protection services citizen review panels.

Notice of Intended Action on these amendments was published in the Iowa Administrative Bulletin on July 6, 2005, as **ARC 4327B** to solicit comment on identical amendments that were Adopted and Filed Emergency and published in the Iowa Administrative Bulletin as **ARC 4312B** on the same date. The Department received no comments on the Notice of Intended Action.

The Department has made one change to the amendments as proposed in the Notice of Intended Action to correct the form number for the Safety Assessment/Plan in subrule 175.27(3).

These amendments do not provide for waivers in specified situations because requirements for child abuse assessment and child abuse information are set by statute.

The Council on Human Services adopted these amendments on October 20, 2005.

These amendments are intended to implement Iowa Code sections 232.67 to 232.77 and Iowa Code chapter 235A.

These amendments shall become effective December 14, 2005, at which time the Adopted and Filed Emergency amendments are hereby rescinded.

EDITOR'S NOTE: Pursuant to recommendation of the Administrative Rules Review Committee published in the Iowa Administrative Bulletin, September 10, 1986, the text of these amendments [amendments to Ch 175] is being omitted. With the exception of the change noted above, these amendments are identical to those published under Notice as **ARC 4327B** and Adopted and Filed Emergency as **ARC 4312B**, IAB 7/6/05.

[Filed 10/21/05, effective 12/14/05]
[Published 11/9/05]

[For replacement pages for IAC, see IAC Supplement 11/9/05.]

ARC 4609B**LANDSCAPE ARCHITECTURAL
EXAMINING BOARD[193D]****Adopted and Filed**

Pursuant to the authority of Iowa Code section 544B.5, the Landscape Architectural Examining Board hereby amends Chapter 2, "Examinations and Licensing," and Chapter 3, "Continuing Education," Iowa Administrative Code.

The amendments to Chapter 2 outline a process that allows the Board, in lieu of proceeding to a contested case hearing on the denial of a renewal application for a first-time offense, to offer a consent order on stipulated charges when a registrant appears to be in violation of the mandatory continuing education requirements. This process has already been adopted by the other boards within the Professional Licensing and Regulation Division.

The amendments to Chapter 3 provide guidance as to the types of evidence the Board will accept to verify attendance of continuing education hours claimed if the registrant is selected for review of compliance with the continuing education requirements.

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

Notice of Intended Action was published in the Iowa Administrative Bulletin on August 3, 2005, as **ARC 4389B**. The comments received from the public were generally favorable and supported the amendments.

After discussion, the Board decided to make the following changes to the Notice of Intended Action. The introductory paragraph of rule 193D—2.8(17A,272C,544B), third sentence, was amended to include the word "landscape" before the word "architecture." Current subrules 2.8(2) and 2.8(3) were included as subrules 2.8(6) and 2.8(7).

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

These amendments will become effective December 14, 2005.

The following amendments are adopted.

ITEM 1. Rescind rule 193D—2.8(544B,17A) and adopt the following **new** rule 193D—2.8(17A,272C,544B) in lieu thereof:

193D—2.8(17A,272C,544B) Renewal of certificates of registration. Certificates of registration expire biennially on June 30. In order to maintain authorization to practice in Iowa, a registrant is required to renew the certificate of registration prior to the expiration date. A registrant who fails to renew by the expiration date is not authorized to practice landscape architecture in Iowa until the certificate is reinstated as provided in rule 193D—2.9(544B,17A).

2.8(1) It is the policy of the board to mail to each registrant a notice of the pending expiration date at the registrant's last-known address approximately one month prior to the date the certificate of registration is scheduled to expire. Failure to receive this notice does not relieve the registrant of the responsibility to timely renew the certificate and pay the renewal fee. A registrant should contact the board office if the registrant does not receive a renewal notice prior to the date of expiration.

LANDSCAPE ARCHITECTURAL EXAMINING BOARD[193D](cont'd)

2.8(2) If grounds exist to deny a timely and sufficient application to renew, the board shall send written notification to the applicant by restricted certified mail, return receipt requested. Grounds may exist to deny an application to renew if, for instance, the registrant failed to satisfy the continuing education as required as a condition for registration. If the basis for denial is pending disciplinary action or disciplinary investigation that is reasonably expected to culminate in disciplinary action, the board shall proceed as provided in 193—Chapter 7. If the basis for denial is not related to a pending or imminent disciplinary action, the applicant may contest the board's decision as provided in 193—subrule 7.40(1).

2.8(3) When a registrant appears to be in violation of mandatory continuing education requirements, the board may, in lieu of proceeding to a contested case hearing on the denial of a renewal application as provided in rule 193—7.40(546, 272C), offer a registrant the opportunity to sign a consent order. While the terms of the consent order will be tailored to the specific circumstances at issue, the consent order will typically impose a penalty between \$50 and \$250, depending on the severity of the violation; establish deadlines for compliance; and require that the registrant complete hours equal to double the deficiency in addition to the required hours; and may impose additional educational requirements on the registrant. Any additional hours completed in compliance with the consent order cannot again be claimed at the next renewal. The board will address subsequent offenses on a case-by-case basis. A registrant is free to accept or reject the offer. If the offer of settlement is accepted, the registrant will be issued a renewed certificate of registration and will be subject to disciplinary action if the terms of the consent order are not complied with. If the offer of settlement is rejected, the matter will be set for hearing, if timely requested by the registrant pursuant to 193—subrule 7.40(1).

2.8(4) The board may notify registrants whose certificates of registration have expired. The failure of the board to provide this courtesy notification or the failure of the registrant to receive the notification shall not extend the date of expiration.

2.8(5) A registrant who continues to practice landscape architecture in Iowa after registration has expired shall be subject to disciplinary action. Such unauthorized activity may also be grounds to deny a registrant's application for reinstatement.

2.8(6) Licensees shall notify the board within 30 days of any change of address or business connection.

2.8(7) Retired status. A person who held a license as a professional landscape architect and who is retired from the practice of landscape architecture in all states of registration may use the title "landscape architect, retired" or "L.A., retired," respectively, in the context of non-income-producing personal activities.

ITEM 2. Amend rule **193D—3.3(544B,17A)**, last paragraph, as follows:

Professional landscape architects' forms may be selected for review by the board for verification of compliance with these requirements. Evidence of compliance shall be maintained by the professional landscape architect for two years after the period for which the form was submitted *and shall include written verification of attendance by someone other than the licensee. Examples of evidence may include, but are not limited to, a certificate of completion presented by the program sponsor or a letter from an employer verifying attendance at an in-firm training session. Canceled checks or receipts for payments of fees to attend a program are not evi-*

dence of actual attendance and are not acceptable. If the board disallows any continuing education hours, unless the board finds, following notice and hearing, that the professional landscape architect willfully disregarded continuing education requirements, then the professional landscape architect shall have six months from notice of such disallowance to make up the deficiency by acquiring the required number of contact hours. Such hours shall not again be used for the next renewal.

[Filed 10/20/05, effective 12/14/05]

[Published 11/9/05]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 11/9/05.

ARC 4654B

NATURAL RESOURCE COMMISSION[571]

Adopted and Filed

Pursuant to the authority of Iowa Code subsection 455A.5(6), the Natural Resource Commission hereby rescinds Chapter 61, "State Parks and Recreation Areas," and adopts new Chapter 61 with the same title, and rescinds Chapter 62, "State Forest Camping," Iowa Administrative Code, and adopts new Chapter 62 with the same title.

These amendments accomplish the following:

1. Rescind 571—Chapters 61 and 62 and replace them with a new version of each chapter. The Department is implementing a centralized reservation system to take reservations for camping and rental facilities. Currently all camping is on a first-come, first-served basis with no reservations accepted. Policies and procedures must be set in order to administer a centralized reservation system. These chapters were restructured for organizational purposes to include the centralized reservation system components. The new chapters also include some additional rental facility fees and changes to other items currently found in the rules.

2. Provide definitions for "call center," "centralized reservation system," "reservation transaction fees" and "reservation window."

3. Clarify the definition for "chaperoned, organized youth group."

4. Eliminate the definition of "winter season."

5. Adopt by reference the manual titled "Centralized Reservation System Business Rules for Iowa State Parks, Recreation Areas and State Forest Campgrounds," dated January 1, 2006, which sets operating procedures and policies for the administration of reservations of camping and rental facilities through the centralized reservation system.

6. Establish the methods persons use to make a reservation (telephone and Internet).

7. Establish new reservation transaction fees associated with making a reservation (\$4 for Internet reservations and \$6 for telephone reservations), changing a reservation (\$5), and canceling a reservation (\$5).

8. Designate that rental facilities and all campgrounds will be on the reservation system with the following exceptions: A. A. Call, Ft. Defiance and Preparation Canyon State Park campgrounds, backpack campsites in state forests and Springbrook group camp located at the Conservation Education Center.

NATURAL RESOURCE COMMISSION[571](cont'd)

9. Establish that 50 percent of total campsites available in each campground will be included in the reservation system. The determination of which campsites will be reservable will be the responsibility of park staff in each park. Selection will be based on a combination of electric, nonelectric and sewer/water hookups and will also take into consideration campsite characteristics (such as size, location, shade).

10. Establish reservation windows for persons to make reservations for camping and rental facilities. A "3-month up to 2-days prior to arrival window" will be established for camping and a "12-month up to 4-days prior to arrival window" will be established for rental facilities during the main recreation season, and a "12-month up to 14-days prior to arrival window" will be established for rental facilities in the off season.

11. Establish a peak season and off season in all parks when camping fee rates change based on when water is available and eliminate the extended peak season for some parks.

12. Eliminate the fee for extra persons on a campsite and create a provision to allow families that have more than six immediate family members the ability to camp on a campsite as long as they do not exceed the number of units allowed on a site.

13. Eliminate the fee for extra vehicles in the campground and establish a rule allowing for one extra vehicle unless posted otherwise in the campground.

14. Provide clarification to some camping registration rules for first-come, first-served camping on unreservable and reservable campsites.

15. Establish a rule regarding the use of regular campsites by chaperoned, organized youth groups.

16. Clarify check-in and check-out times for first-come, first-served campsites and reservable campsites.

17. Update the hitching rail occupancy requirement at Brushy Creek and establish a provision that campers must pay for an additional site if they use the site to hitch up horses.

18. Eliminate the reference to campers and camping in the rule for Mines of Spain which established a closing and opening time for that area.

19. Establish the rental fee for Black Hawk rental cabins of \$100 per night and \$600 per week based on similar cabins in other parks.

20. Establish the rental fee for Brushy Creek equestrian camping cabins of \$40 per night and \$240 per week.

21. Establish the rental fee of \$70 for the new beach lodge facility at Lake Macbride.

22. Clarify that all reservations for group camping at the Conservation Education Center shall be handled through the education center.

23. Change "park manager" references to "park staff" throughout 571—Chapter 61.

24. Change the rental week for cabins to Friday to Friday (currently Saturday to Saturday).

25. Place reservation procedures for rental facilities in the "Centralized Reservation System Business Rules for Iowa State Parks, Recreation Areas and State Forest Campgrounds" manual dated January 1, 2006.

Notice of Intended Action was published in the Iowa Administrative Bulletin August 31, 2005, as **ARC 4462B**. A public hearing was held September 27, 2005, using the ICN at 21 different locations statewide. Forty written comments and 16 oral comments were received. Twenty-seven of those comments were general statements of support for the reservation system. Seven comments received were general statements that did not support a reservation system.

The following changes from the Notice are being made based on public comment and staff review. The changes:

1. Provide definitions for three terms which are used in the rules: "immediate family," "open shelter with kitchenette," and "walk-in campers." These definitions provide clarification.

2. Change the cancellation fee from \$10 to \$5.

3. Change the check-out time for reservable campsites from 2 p.m. to 3 p.m.

4. Clarify how reservable sites will be easily identified at the campground.

5. Provide additional clarification that the one-time reservation fee is per reservation and is not charged per day or night.

6. Provide additional clarification regarding when park staff will place reservation registrations in campsite holders.

7. Provide additional clarification regarding the initial registration of walk-in campers occupying unrented, reservable campsites.

8. Incorporate minor, nonsubstantive changes that do not change the intent of the rules.

These rules are intended to implement Iowa Code sections 422.43, 455A.4, 461A.3, 461A.3A, 461A.35, 461A.38, 461A.39, 461A.42, 461A.43, 461A.45 to 461A.51, 461A.57, and 723.4 and Iowa Code chapter 724.

These amendments will become effective January 1, 2006.

The following amendments are adopted.

ITEM 1. Rescind 571—Chapter 61 and adopt the following **new** chapter in lieu thereof:

CHAPTER 61

STATE PARKS AND RECREATION AREAS

571—61.1(461A) Applicability. This chapter is applicable to all state-owned parks and recreation areas managed by the department of natural resources and by political subdivisions unless otherwise noted.

571—61.2(461A) Definitions.

"Bank" or "shoreline" means the zone of contact of a body of water with the land and an area within 25 feet of the water's edge.

"Basic unit" or "basic camping unit" means the portable shelter used by one to six persons.

"Beach" is as defined in rule 571—64.1(461A).

"Beach house open shelter" means a building located on the beach which is open on two or more sides and which may or may not have a fireplace.

"Cabin" means a small, one-story dwelling of simple construction which is available for rental on a daily or weekly basis.

"Call center" means a phone center where operators process all telephone reservations, reservation changes and reservation cancellations for camping and rental facilities.

"Camping" means the erecting of a tent or shelter of natural or synthetic material or placing a sleeping bag or other bedding material on the ground or parking a motor vehicle, motor home, or trailer for the apparent purpose of overnight occupancy.

"Centralized reservation system" means a system that processes reservations using more than one method to accept reservations. Each method simultaneously communicates to a centralized database at a reservation contractor location to ensure that no campsite or rental facility is booked more than once.

NATURAL RESOURCE COMMISSION[571](cont'd)

“Chaperoned, organized youth group” means a group of persons 17 years of age and under, which is sponsored by and accompanied by adult representatives of a formal organization including, but not limited to, the Boy Scouts of America or Girl Scouts of America, a church, or Young Men’s or Young Women’s Christian Association. “Chaperoned, organized youth group” does not include families of members of a formal organization.

“Fishing” means taking or attempting to take fish by utilizing hook, line and bait as defined in Iowa Code section 481A.72, or use of permitted devices for taking rough fish as determined by Iowa Code sections 461A.42 and 481A.76.

“Free climbing” means climbing with the use of hands and feet only and without the use of ropes, pins and other devices normally associated with rappelling and rock climbing.

“Group camp” means those camping areas at Dolliver Memorial State Park, Springbrook State Park and Lake Keomah State Park where organized groups (i.e., family groups or youth groups) may camp. Dining hall facilities are available.

“Immediate family” means parents, dependent children and grandparents.

“Lodge” means a day-use building which is enclosed on all four sides and may have kitchen facilities such as a stove or refrigerator and which is available for rent on a daily basis. “Lodge” does not include buildings that are open on two or more sides and that contain fireplaces only.

“Modern area” means a camping area which has showers and flush toilets.

“Nonmodern area” means a camping area in which no showers are provided and which contains only pit-type latrines or flush-type toilets. Potable water may or may not be available to campers.

“Open shelter” means a building which is open on two or more sides and which may or may not include a fireplace.

“Open shelter with kitchenette” means a building which is open on two or more sides and contains a lockable, enclosed kitchen area.

“Organized youth group campsite” means a designated camping area within or next to the main campground where chaperoned, organized youth groups may camp.

“Persons with disabilities parking permit” means an identification device bearing the international symbol of accessibility that is issued by the Iowa department of transportation or similar devices that are issued by other states. The device can be a hanging device or on a motor vehicle as a plate or sticker as provided in Iowa Code section 321L.2 or 321L.9.

“Person with physical disability” means an individual, commonly termed a paraplegic or quadriplegic, with paralysis or a physical condition of the lower half of the body with the involvement of both legs, usually due to disease or injury to the spinal cord; a person who is a single or double amputee of the legs; or a person with any other physical affliction which makes it impossible to ambulate successfully in park or recreation area natural surroundings without the use of a wheeled conveyance.

“Possession” means exercising dominion or control with or without ownership over property.

“Prohibited activity” means any activity other than fishing as defined in this chapter including, but not limited to, picnicking and camping.

“Property” means personal property such as goods, money, or domestic animals.

“Recreation areas” means the following areas that have been designated by action of the natural resource commission:

<u>Area</u>	<u>County</u>
Badger Creek Recreation Area	Madison
Brushy Creek Recreation Area	Webster
Claire Wilson Park	Dickinson
Emerson Bay and Lighthouse	Dickinson
Fairport Recreation Area	Muscatine
Lower Gar Access	Dickinson
Marble Beach	Dickinson
Mines of Spain Recreation Area	Dubuque
Pioneer Recreation Area	Mitchell
Pleasant Creek Recreation Area	Linn
Templar Park	Dickinson
Volga River Recreation Area	Fayette
Wilson Island Recreation Area	Pottawattamie

These areas are managed for multiple uses, including public hunting, and are governed by rules established in this chapter as well as in 571—Chapters 52 and 105.

“Refuse” means trash, garbage, rubbish, waste papers, bottles or cans, debris, litter, oil, solvents, liquid or solid waste or other discarded material.

“Rental facilities” means those facilities that may be rented on a daily or nightly basis and includes open shelters, open shelters with kitchenettes, beach house open shelters, lodges, cabins, yurts and group camps.

“Reservation transaction fees” means fees as given in this chapter to process a reservation, change a reservation or cancel a reservation.

“Reservation window” means a rolling period of time in which a person may reserve a campsite or rental facility.

“Scuba diving” means swimming with the aid of self-contained underwater breathing apparatus.

“Special event” means any planned event for which attendance is solicited through advertising, invitation, or other solicitation and that may interfere with the general public’s normal use of a state park or recreation area and its facilities.

“State park” means the following areas managed by the state and designated by action of the natural resource commission:

<u>Area</u>	<u>County</u>
A. A. Call	Kossuth
Backbone	Delaware
Banner Lakes at Summerset	Warren
Beed’s Lake	Franklin
Bellevue	Jackson
Big Creek	Polk
Black Hawk	Sac
Cedar Rock	Buchanan
Clear Lake	Cerro Gordo
Dolliver Memorial	Webster
Elinor Bedell	Dickinson
Elk Rock	Marion
Fort Atkinson	Winneshiak
Fort Defiance	Emmet
Geode	Henry and Des Moines
George Wyth	Black Hawk
Green Valley	Union
Gull Point	Dickinson
Honey Creek	Appanoose
Lacey-Keosauqua	Van Buren
Lake Ahquabi	Warren
Lake Anita	Cass
Lake Darling	Washington
Lake Keomah	Mahaska
Lake Macbride	Johnson
Lake Manawa	Pottawattamie

NATURAL RESOURCE COMMISSION[571](cont'd)

<u>Area</u>	<u>County</u>
Lake of Three Fires	Taylor
Lake Wapello	Davis
Ledges	Boone
Lewis and Clark	Monona
Maquoketa Caves	Jackson
McIntosh Woods	Cerro Gordo
Mini-Wakan	Dickinson
Nine Eagles	Decatur
Okamanpedan	Emmet
Palisades-Kepler	Linn
Pikes Peak	Clayton
Pikes Point	Dickinson
Pilot Knob	Winnebago
Pine Lake	Hardin
Prairie Rose	Shelby
Preparation Canyon	Monona
Red Haw	Lucas
Rice Lake	Winnebago
Rock Creek	Jasper
Shimek Forest Campground	Lee
Springbrook	Guthrie
Stephens Forest Campground	Lucas
Stone	Plymouth and Woodbury
Trapper's Bay	Dickinson
Twin Lakes	Calhoun
Union Grove	Tama
Viking Lake	Montgomery
Walnut Woods	Polk
Wanata	Clay
Wapsipinicon	Jones
Waubonsie	Fremont
Wildcat Den	Muscatine
Yellow River Forest Campground	Allamakee

Use and management of these areas are governed by Iowa Code chapter 461A and by other restrictions prescribed on area signs pursuant to Iowa Code section 461A.44.

"State park managed by another governmental entity" means the following areas designated by action of the natural resource commission:

<u>Area</u>	<u>County</u>
Bobwhite	Wayne
Browns Lake-Bigelow Park	Woodbury
Cold Springs	Cass
Crystal Lake	Hancock
Eagle Lake	Hancock
Echo Valley	Fayette
Frank A. Gotch	Humboldt
Galland School	Lee
Heery Woods	Butler
Kearny	Palo Alto
Lake Cornelia	Wright
Lake Odessa Campground	Louisa
Margo Frankel Woods	Polk
Mill Creek	O'Brien
Oak Grove	Sioux
Oakland Mills	Henry
Pammel	Madison
Pioneer	Mitchell
Sharon Bluffs	Appanoose
Silver Lake	Delaware
Spring Lake	Greene
Swan Lake	Carroll

Use and management of these areas are governed by Iowa Code chapter 461A, by this chapter, and by rules adopted by the managing entity.

"State preserve" means the following areas or portion of the areas designated by action of the natural resource commission and state preserves advisory board:

<u>Area</u>	<u>County</u>
A. F. Miller	Bremer
Ames High Prairie	Story
Anderson Prairie	Emmet
Behrens Ponds and Woodland	Linn
Berry Woods	Warren
Bird Hill	Cerro Gordo
Bixby	Clayton
Bluffton Fir Stand	Winneshiek
Brush Creek Canyon	Fayette
Brushy Creek	Webster
Cameron Woods	Scott
Casey's Paha	Tama
Catfish Creek	Dubuque
Cayler Prairie	Dickinson
Cedar Bluffs Natural Area	Mahaska
Cedar Hills Sand Prairie	Black Hawk
Cheever Lake	Emmet
Clay Prairie	Butler
Claybanks Forest	Cerro Gordo
Coldwater Cave	Winneshiek
Crossman Prairie	Howard
Decorah Ice Cave	Winneshiek
Derald Dinesen Prairie	Shelby
Dolittle Prairie	Story
Fallen Rock	Hardin
Fish Farm Mounds	Allamakee
Five Ridge Prairie	Plymouth
Fleming Woods	Poweshiek
Fort Atkinson	Winneshiek
Freda Haffner Kettlehole	Dickinson
Gitchie Manitou	Lyon
Hanging Bog	Linn
Hardin City Woodland	Hardin
Hartley Fort	Allamakee
Hayden Prairie	Howard
Hoffman Prairie	Cerro Gordo
Indian Bluffs Primitive Area	Jones
Indian Fish Trap	Iowa
Kalsow Prairie	Pocahontas
Kish-Ke-Kosh	Jasper
Lamson Woods	Jefferson
Liska-Stanek Prairie	Webster
Little Maquoketa River Mounds	Dubuque
Malanaphy Springs	Winneshiek
Malchow Mounds	Des Moines
Manikowski Prairie	Clinton
Mann Wilderness Area	Hardin
Marietta Sand Prairie	Marshall
Mericle Woods	Tama
Merrill A. Stainbrook	Johnson
Merritt Forest	Clayton
Montauk Historical Site	Fayette
Mossy Glen	Clayton
Mount Talbot	Woodbury and Plymouth
Mt. Pisgah Cemetery	Union
Nestor Stiles	Cherokee
Ocheyedan Mound	Osceola

NATURAL RESOURCE COMMISSION[571](cont'd)

<u>Area</u>	<u>County</u>
Old State Quarry	Johnson
Palisades-Dows	Linn
Pecan Grove	Muscatine
Pellett Memorial Woods	Cass
Pilot Grove	Iowa
Pilot Knob	Hancock
Retz Memorial Woods	Clayton
Roberts Creek	Clayton
Rock Creek Island	Cedar
Rock Island Botanical	Linn
Roggman Boreal Slopes	Clayton
Rolling Thunder Prairie	Warren
Savage Memorial Woods	Henry
Searryl's Cave	Jones
Sheeder Prairie	Guthrie
Silver Lake Fen	Dickinson
Silvers-Smith Woods	Dallas
Slinde Mounds	Allamakee
St. James Lutheran Church	Winneshiek
Starr's Cave	Des Moines
Steele Prairie	Cherokee
Stinson Prairie	Kossuth
Strasser Woods	Polk
Sylvan Runkel	Monona
Toolesboro Mounds	Louisa
Turin Loess Hills	Monona
Turkey River Mounds	Clayton
White Pine Hollow	Dubuque
Williams Prairie	Johnson
Wittrock Indian Village	O'Brien
Woodland Mounds	Warren
Woodman Hollow	Webster
Woodthrush Woods	Jefferson

Use and management of these areas are governed by rules established in this chapter as well as by management plans adopted by the preserves advisory board.

"Swim" or "swimming" means to propel oneself in water by natural means, such as movement of limbs, and includes but is not limited to wading and the use of inner tubes or beach toy-type swimming aids.

"Walk-in camper" means a person arriving at a campground without a reservation and wishing to occupy a first-come, first-served campsite or unrented, reservable campsite.

"Yurt" means a one-room circular fabric structure built on a platform which is available for rental on a daily or weekly basis.

571—61.3(461A) Establishment of centralized reservation system operating procedures and policies. The department shall establish a centralized reservation system to accept and process reservations for camping and rental facilities in state parks, recreation areas and state forest campgrounds.

61.3(1) Centralized reservation system business rules manual. The department shall adopt by reference the manual titled "Centralized Reservation System Business Rules for Iowa State Parks, Recreation Areas and State Forests," dated January 1, 2006, which sets procedures and policies for the administration of reservations of campsites and rental facilities through the centralized reservation system.

61.3(2) Recreation facilities available on centralized reservation system.

a. Rental facilities. All rental facilities will be available on the centralized reservation system with the exception of the group camp at Springbrook State Park.

b. Campgrounds.

(1) All campgrounds will be available on the centralized reservation system except for the campgrounds at A. A. Call State Park, Fort Defiance State Park and Preparation Canyon State Park and the backpack campsites located in state forests.

(2) Fifty percent of the total number of campsites in each individual campground shall be designated as reservable sites on the reservation system. The determination of which campsites shall be included in the 50 percent reservable designation shall be the responsibility of the park staff in each park. Park staff shall include a combination of electric, non-electric and sewer/water sites while taking into consideration campsite characteristics such as location, shade and size. The department shall review the percentage of reservable sites and usage on a biennial basis and determine whether the percentage of reservable campsites should be changed. A reservable campsite shall be identified with a reservable site marker on the campsite post.

(3) All designated organized youth group campsites and campsites marked with the international symbol of accessibility shall be included in the reservation system.

61.3(3) Methods available to make reservations. Persons may make reservations by telephone through the call center or through the Internet using the reservation system Web site.

61.3(4) Reservation transaction fees.

a. Reservation fee. A nonrefundable reservation fee shall be charged for each reservation made per campsite or rental facility regardless of the length of stay. The one-time fee is per reservation and is not charged per day or night. This fee is in addition to the camping fees or rental fees established in subrules 61.4(1) and 61.5(1). The reservation fee varies depending upon the method used when the reservation is made.

(1) Internet reservation — \$4 + 3 percent credit card processing fee (if applicable).

(2) Telephone reservation — \$6 + 3 percent credit card processing fee (if applicable).

b. Change fee. A fee of \$5 + 3 percent credit card processing fee (if applicable) shall be charged to change an existing reservation.

c. Cancellation fee. A fee of \$5 shall be charged to cancel a reservation.

61.3(5) Reservation window.

a. Camping. The reservation window for campsite reservations is 3 months to 2 days prior to the arrival date.

b. Rental facilities.

(1) Rentals for May 1 to September 30. The reservation window for rental facilities is 12 months to 4 days prior to the arrival date.

(2) Rentals for October 1 to April 30. The reservation window for rental facilities is 12 months to 14 days prior to the arrival date.

571—61.4(461A) Camping.

61.4(1) Fees. The following are maximum per-night fees for camping in state parks and recreation areas. The fees may be reduced or waived by the director for special events or special promotional efforts sponsored by the department of natural resources. Special events or promotional efforts shall be conducted so as to give all park facility users equal opportunity to take advantage of reduced or waived fees. Reductions or waivers shall be on a statewide basis covering like facilities. In the case of promotional events, prizes shall be

NATURAL RESOURCE COMMISSION[571](cont'd)

awarded by random drawing of registrations made available to all park visitors during the event. In areas subject to a local option sales tax, the camping fee shall be administratively

adjusted so that persons camping in those areas will pay the same total cost applicable in other areas.

	<u>Fee</u>	<u>Sales Tax</u>	<u>Total Per Night</u>
a. The following fees shall be in effect from May 1 to September 30 each year.			
Nonmodern	\$ 8.57	.43	\$ 9.00
Modern	10.48	.52	11.00
b. The following fees shall be in effect from October 1 to April 30 each year.			
Nonmodern	5.71	.29	6.00
Modern	7.62	.38	8.00
c. Electricity	4.76	.24	5.00
This fee will be charged in addition to the camping fee on sites where electricity is available (whether it is used or not).			
d. Organized youth group campsite, per group	14.29	.71	15.00
e. Cable television hookup	1.90	.10	2.00
f. Sewer and water hookup	2.85	.15	3.00
g. Additional fee for campgrounds designated for equestrian use	2.85	.15	3.00
This fee is in addition to applicable fees listed above.			
h. Camping tickets (per book of seven)	86.67	4.33	91.00

Camping tickets shall be valid for one year from the month of purchase. Persons using valid camping tickets purchased prior to any fee increase will not be required to pay the difference due to that fee increase.

61.4(2) Varying fees. Fees charged for like services in state-owned areas under management by political subdivisions may vary from those established by this chapter.

61.4(3) Procedures for camping registration.

a. Registration.

(1) Registration of walk-in campers occupying nonreservable campsites or unrented, reservable campsites will be on a first-come, first-served basis and will be handled by a self-registration process. Registration forms will be provided by the department of natural resources. Campers shall, within one-half hour of arrival at the campground, complete the registration form, place the appropriate fee or number of camping tickets in the envelope and place the envelope in the depository provided by the department of natural resources. One copy must then be placed in the campsite holder provided at the campsite.

(2) Park staff shall complete the registration of campers with reservations and place the registration in the campsite holder no later than one hour prior to check-in time on the day of the camper's arrival.

b. Campsites are considered occupied and registration for a campsite shall be considered complete when the requirements of 61.4(3)"a" have been met.

c. Campsite registration must be in the name of a person 18 years of age or older who will occupy the camping unit on that site for the full term of the registration.

d. Each camping ticket shall cover the cost of one night of camping in a modern area on a site where electricity is furnished. In addition to using the camping ticket, persons camping on equestrian sites or on sites which also have sewer and water hookups or cable television hookups available must pay the additional charges for these services. Use of a camping ticket in an area or on a site which would require a lesser fee than an electrical site in a modern area will not entitle the user to a refund or credit of any kind.

61.4(4) Organized youth group campsite registration.

a. Registration procedures for organized youth group campsites shall be governed by paragraphs "a," "b" and "c" of 61.4(3).

b. Chaperoned, organized youth groups may choose to occupy campsites not designated as organized youth group campsites. However, the group is subject to all fees and rules in 61.4(1), 61.4(3) and 61.4(5) pertaining to the campsite the group wishes to occupy.

61.4(5) Restrictions on campsite/campground use. This subrule sets forth conditions of public use which apply to all state parks and recreation areas. Specific areas as listed in 61.4(6), 61.7(461A) and 61.10(461A) are subject to additional restrictions or exceptions. The conditions in this subrule are in addition to specific conditions and restrictions set forth in Iowa Code chapter 461A.

a. Camping is restricted to designated camping areas within state parks and recreation areas and state forest campgrounds.

b. Camping is restricted to one basic unit per site except that a small tent may be placed on a site with the basic unit so long as the persons occupying the tent are under 18 years of age and are dependent members of the immediate family occupying the basic unit. The area occupied by the small tent shall be no more than 8 feet by 10 feet and the tent shall hold no more than four people.

Families that exceed six persons may be allowed on one campsite if all members are immediate family and cannot logically be split to occupy two campsites. One basic unit will be allowed on the site except that a small tent may be placed on a site with the basic unit so long as the persons occupying the tent are under 18 years of age and are dependent members of the immediate family occupying the basic unit. The area occupied by the small tent shall be no more than 8 feet by 10 feet and the tent shall hold no more than four people.

c. Each camping group shall utilize only the electrical outlet fixture designated for its particular campsite. No extension cords or other means of hookup shall be used to furnish electricity from one designated campsite to another.

d. Each camping group will be permitted to park one motor vehicle not being used for camping purposes at the camp-

NATURAL RESOURCE COMMISSION[571](cont'd)

site. Unless otherwise posted, one additional vehicle may be parked at the campsite.

e. All motor vehicles, excluding motorcycles, not covered by the provision in 61.4(5)“d” shall be parked in designated extra-vehicle parking areas.

f. Walk-in campers occupying nonreservable campsites or unrented, reservable campsites shall register as provided in subrule 61.4(3) within one-half hour of entering the campground.

g. Campers occupying nonreservable campsites shall vacate the campground or register for the night prior to 4 p.m. daily. Registration can be for more than 1 night at a time but not for more than 14 consecutive nights for nonreservable campsites. All members of the camping party must vacate the state park or recreation area campground after the fourteenth night and may not return to the state park or recreation area until a minimum of 3 nights has passed. All equipment must be removed from the site at the end of each stay. The 14-night limitation shall not apply to volunteers working under a department of natural resources program.

h. Walk-in campers shall not occupy unrented, reservable campsites until 10 a.m. on the first camping day of their stay. Campers shall vacate the campground by 3 p.m. of the last day of their stay. Initial registration shall not exceed two nights. Campers may continue to register after the first two nights on a night-to-night basis up to a maximum of 14 consecutive nights, subject to campsite availability. All members of the camping party must vacate the state park or recreation area campground after the fourteenth night and may not return to the state park or recreation area until a minimum of 3 nights has passed. All equipment must be removed from the site at the end of each stay. The 14-night limitation shall not apply to volunteers working under a department of natural resources program.

i. Campers with reservations shall not occupy a campsite before 4 p.m. of the first day of their stay. Campers shall vacate the site by 3 p.m. of the last day of their stay. Campers may register for more than 1 night at a time but not for more than 14 consecutive nights. All members of the camping party must vacate the state park or recreation area campground after the fourteenth night and may not return to the state park or recreation area until a minimum of 3 nights has passed. All equipment must be removed from the site at the end of each stay. The 14-night limitation shall not apply to volunteers working under a department of natural resources program.

j. Campsites marked with the international symbol of accessibility shall be used only by vehicles displaying a persons with disabilities parking permit. The vehicle must be in use by a person with a disability, either as an operator or a passenger.

k. In designated campgrounds, equine animals and llamas must be stabled at a hitching rail, individual stall or corral if provided. Equine animals and llamas may be hitched to

trailers for short periods of time to allow for grooming and saddling. These animals may be stabled inside trailers where no hitching facilities are provided. Portable stalls/pens and electric fences are not permitted.

61.4(6) Area-specific restrictions on campground use. In addition to the general conditions of public use set forth in this chapter, special conditions shall apply to specific areas listed as follows:

a. Brushy Creek Recreation Area, Webster County.

(1) In the designated equestrian campgrounds, the maximum number of equine animals to be tied to the hitching rails is six. Persons with a number of equine animals in excess of the number permitted on the hitching rail at their campsite shall be allowed to stable their additional animals in a trailer or register and pay for an additional campsite if available.

(2) In the designated equestrian campgrounds, equine animals may be tied to trailers for short periods of time to allow grooming or saddling; however, the tying of equine animals to the exterior of trailers for extended periods of time or for stabling is not permitted.

b. Recreation area campgrounds. Access into and out of designated campgrounds shall be permitted from 4 a.m. to 10:30 p.m. From 10:30 p.m. to 4 a.m., only registered campers are permitted in and out of the campgrounds.

c. Lake Manawa State Park, Pottawattamie County. Except for the following limitations on campground length of stay, campsite use restrictions as stated in 61.4(5) shall apply to Lake Manawa. Campers may register for more than 1 night at a time but not for more than 14 consecutive nights. No person may camp at the Lake Manawa campground for more than 14 nights in any 30-day period.

d. Walnut Woods State Park, Polk County. Except for the following limitations on campground length of stay, campsite use restrictions as stated in 61.4(5) shall apply to Walnut Woods. Campers may register for more than 1 night at a time but not for more than 14 consecutive nights. No person may camp at the Walnut Woods campground for more than 14 nights in any 30-day period.

61.4(7) Campground fishing. Rule 61.11(461A) is not intended to prohibit fishing by registered campers who fish from the shoreline within the camping area.

571—61.5(461A) Rental facilities. The following are maximum fees for facility use in state parks and recreation areas. The fees may be reduced or waived by the director for special events or special promotional efforts sponsored by the department of natural resources. Special events or promotional efforts shall be conducted so as to give all park facility users equal opportunity to take advantage of reduced or waived fees. Reductions or waivers shall be on a statewide basis covering like facilities. In the case of promotional events, prizes shall be awarded by random drawing of registrations made available to all park visitors during the event.

61.5(1) Fees.

a. Cabin rental. This fee does not include tax. Tax will be calculated at time of payment.

	<u>Per Night*</u>	<u>Per Week</u>
Backbone State Park, Delaware County		
Renovated modern cabins	\$ 50	\$300
Two-bedroom modern cabins	85	510
Deluxe cabins	100	600
Black Hawk, Sac County	100	600
Brushy Creek State Recreation Area, Webster County		
Nonequestrian camping cabins	35	210

NATURAL RESOURCE COMMISSION[571](cont'd)

	<u>Per Night*</u>	<u>Per Week</u>
Equestrian camping cabins	40	240
Dolliver Memorial State Park, Webster County	35	210
Green Valley State Park, Union County	35	210
Honey Creek State Park, Appanoose County	35	210
Lacey-Keosauqua State Park, Van Buren County	50	300
Lake Darling State Park, Washington County	35	210
Lake of Three Fires State Park, Taylor County	50	300
Lake Wapello State Park, Davis County (Cabin Nos. 1-12)	60	360
Lake Wapello State Park, Davis County (Cabin No. 13)	85	510
Lake Wapello State Park, Davis County (Cabin No. 14)	75	450
Palisades-Kepler State Park, Linn County	50	300
Pine Lake State Park, Hardin County		
Studio cabins (four-person occupancy limit)	65	390
One-bedroom cabins	75	450
Pleasant Creek State Recreation Area, Linn County	25	150
Springbrook State Park, Guthrie County	35	210
Stone State Park, Woodbury County	35	210
Wilson Island State Recreation Area, Pottawattamie County	25	150
Extra cots, where available	1	

*Minimum two nights

b. Yurt rental. This fee does not include tax. Tax will be calculated at time of payment.

	<u>Per Night*</u>	<u>Per Week</u>
McIntosh Woods State Park, Cerro Gordo County	\$ 35	\$210

*Minimum two nights

c. Lodge rental per reservation. This fee does not include tax. Tax will be calculated at time of payment.

	<u>Per Weekday</u>	<u>Per Weekend Day</u>
	<u>M-Th***</u>	<u>Fr-Su</u>
A. A. Call State Park, Kossuth County	\$ 40	\$ 80
Backbone State Park Auditorium, Delaware County**	25	50
Backbone State Park, Delaware County	62.50	125
Beed's Lake State Park, Franklin County	40	80
Bellevue State Park-Nelson Unit, Jackson County	50	100
Clear Lake State Park, Cerro Gordo County	50	100
Dolliver Memorial State Park-Central Lodge, Webster County**	30	60
Dolliver Memorial State Park-South Lodge, Webster County	37.50	75
Ft. Defiance State Park, Emmet County	35	70
George Wyth State Park, Black Hawk County**	35	70
Gull Point State Park, Dickinson County	100	200
Lacey-Keosauqua State Park, Van Buren County	35	70
Lake Ahquabi State Park, Warren County	45	90
Lake Keomah State Park, Mahaska County	45	90
Lake Macbride State Park, Johnson County		
Beach Lodge	35	70
Lodge	35	70
Lake of Three Fires State Park, Taylor County	35	70
Lake Wapello State Park, Davis County	30	60
Lewis and Clark State Park, Monona County	35	70
Palisades-Kepler State Park, Linn County	87.50	175
Pine Lake State Park, Hardin County	40	80
Pleasant Creek Recreation Area, Linn County**	37.50	75
Stone State Park, Woodbury/Plymouth Counties	62.50	125
Viking Lake State Park, Montgomery County	30	60

NATURAL RESOURCE COMMISSION[571](cont'd)

	<u>Per Weekday</u> M-Th***	<u>Per Weekend Day</u> Fr-Su
Walnut Woods State Park, Polk County	100	200
Wapsipinicon State Park, Jones County		
Heated year-round lodge	35	70
Unheated seasonal lodge	20	40

**Does not contain kitchen facilities

***The weekend day fee applies to New Year’s Day, Memorial Day, Fourth of July, Labor Day, Thanksgiving, and Christmas, even though the holiday may fall on a weekday.

- d. Open shelter reservation, \$25 plus applicable tax.
- e. Reservation for open shelter with kitchen, \$75 plus applicable tax.

- f. Beach house open shelter reservation, \$40 plus applicable tax:
 - Lake Ahquabi State Park, Warren County
 - Lake Wapello State Park, Davis County
 - Pine Lake State Park, Hardin County
 - Springbrook State Park, Guthrie County

g. Group camp rental. This fee does not include tax. Tax will be calculated at time of payment.

(1) Dolliver Memorial State Park, Webster County. Rental includes use of restroom/shower facility at Dolliver Memorial State Park.

- 1. Chaperoned, organized youth groups—\$2 per day per person with a minimum charge per day of \$60.
- 2. Other groups—\$15 per day per cabin plus \$30 per day for the kitchen and dining facility.

(2) Lake Keomah State Park, Mahaska County. All groups—\$40 per day for the dining/restroom facility plus the applicable camping fee. Lake Keomah dining/restroom facility day use only rental \$90.

h. Springbrook State Park conservation education center rental. The conservation education center may be rented as a group camp facility or as an educational group facility. All rentals shall be handled through staff at the education center.

(1) Linen service. Linen service includes bedding, pillows, towels and washcloths. The linen service fee stated below shall be charged. School groups are required to use the linen service. All other groups may elect to use the linen service.

(2) Concessionaire. All groups that utilize the classroom building and use education center staff for programs must use the concessionaire for all meals. All other groups may elect to use the kitchenette at the fee stated below or use the concessionaire or a combination of both.

(3) Classroom. All day use groups not utilizing the entire conservation education center facilities must pay the appropriate classroom or library fee. Overnight groups wishing to use the classroom facility for non-conservation education activities (such as quilters’ meetings or family reunions) must pay the appropriate classroom fee.

(4) Reservations. School groups and DNR camps may reserve the center three years in advance. All other groups may reserve the center a year in advance on a first-come, first-served basis. There is no reservation fee. Fees shall be paid upon arrival at the center.

(5) Damage deposit. The damage deposit shall be paid on a separate instrument from the rental fee. School groups shall be exempt from this requirement.

(6) Day use attendance fee. A fee of \$5 per person per day plus applicable tax shall be charged to all day use groups and all persons associated with overnight groups attending day

functions only when they utilize the entire conservation education center facilities and staff services.

(7) Overnight rental fees. These fees do not include tax. Tax will be calculated at time of payment.

- 1. Kindergarten through grade 12—\$5 per person per night.
- 2. Adults—\$15 per person per night.
- 3. Families—\$160 per dorm per night.

(8) Other services. These fees do not include tax. Tax will be calculated at time of payment.

- 1. Linen service—\$5 per person per night.
- 2. Family linen service—\$160 per dorm per night.
- 3. Kitchenette rental—\$30 per day or night.
- 4. Classroom rental—\$100 per day or night.
- 5. Library rental—\$50 per day or night.
- 6. Dining hall rental, day use only—\$100 per day.
- 7. Dining hall with kitchenette rental, day use only—\$130 per day.

(9) Damage deposit—\$50 per visit.

(10) Check-out times for dorms.

- 1. Monday-Saturday, 8 a.m.
- 2. Sunday, 9 a.m.

61.5(2) Varying fees. Fees charged for like services in state-owned areas under management by political subdivisions may vary from those established by this chapter.

61.5(3) Procedures for rental facility registration and rentals.

a. Registrations for all rental facilities must be in the name of a person 18 years of age or older who will be present at the facility for the full term of the reservation.

b. Rental stay requirements for cabins and yurts.

(1) Except as provided in subparagraph 61.5(3)“b”(2), cabin reservations must be for a minimum of one week (Friday p.m. to Friday a.m.) beginning the Friday of the national Memorial Day holiday weekend through Thursday after the national Labor Day holiday. From the Friday after the national Labor Day holiday through the Thursday before the national Memorial Day holiday weekend, cabins may be reserved for a minimum of two nights.

(2) The cabins at Dolliver Memorial State Park; the camping cabins at Brushy Creek, Pleasant Creek and Wilson Island State Recreation Areas and Green Valley, Honey Creek, Lake Darling and Stone State Parks; the yurts at McIntosh Woods State Park; and the group camps at Dolliver Memorial and Lake Keomah State Parks may be reserved for a minimum of two nights throughout the entire rental season.

(3) All unreserved cabins, yurts and group camps may be rented for a minimum of two nights on a walk-in, first-come, first-served basis. No walk-in rentals will be permitted after 6 p.m.

(4) Reservations or walk-in rentals for more than a two-week stay will not be accepted for any facility.

NATURAL RESOURCE COMMISSION[571](cont'd)

c. Persons renting cabins, yurts or group camp facilities must check in at or after 4 p.m. on Saturday. Check-out time is 11 a.m. or earlier on Saturday.

d. Persons renting facilities listed in subparagraph 61.5(3)"b"(2) must check in at or after 4 p.m. on the first day of the two-night rental period. Check-out time is 11 a.m. or earlier on the last day of the two-night rental period.

e. Except by arrangement for late arrival with the park staff, no cabin, yurt or group camp reservation will be held past 6 p.m. on the first night of the reservation period if the person reserving the facility does not arrive. When arrangements for late arrival have been made, the person must appear prior to the park's closing time established by Iowa Code section 461A.46 or access will not be permitted to the facility until 8 a.m. the following day. Arrangements must be made with the park staff if next-day arrival is to be later than 9 a.m.

f. The number of persons occupying rental cabins is limited to six in cabins which contain one bedroom or less and eight in cabins with two bedrooms. Occupancy of the studio cabins at Pine Lake and all camping cabins is limited to four persons. Occupancy of the yurts is limited to four persons.

g. Except at parks or recreation areas with camping cabins or yurts, no tents or other camping units are permitted for overnight occupancy in the designated cabin area. One small tent shall be allowed at each cabin or yurt in the designated areas and is subject to the occupancy requirements of 61.4(5)"b."

h. Open shelters and beach house open shelters which are not reserved are available on a first-come, first-served basis. If the open shelters with kitchenettes are not reserved, the open shelter portions of these facilities are available on a first-come, first-served basis.

i. Except by arrangement with the park staff in charge of the area, persons renting lodge, shelter, and beach house open shelter facilities and all guests shall vacate the facility by 10 p.m.

61.5(4) Damage deposits for all rental facilities.

a. Upon arrival for the rental facility period, renters shall pay in full a damage deposit in the amount of \$50.

b. Damage deposits will be refunded only after authorized personnel inspect the rental facility to ensure that the facility and furnishings are in satisfactory condition.

c. If it is necessary for department personnel to clean up the facility or repair any damage beyond ordinary wear and tear, a log of the time spent in such cleanup or repair shall be kept. The damage deposit refund shall be reduced by an amount equivalent to the applicable hourly wage of the employees for the time necessary to clean the area or repair the damage and by the cost of any repairs of furnishings.

d. The deposit is not to be construed as a limit of liability for damage to state property. The department may take legal action necessary to recover additional damages.

571—61.6(461A) Vessel storage fees. These fees do not include tax.

<u>Vessel Storage Space (wet or dry)</u>	<u>Maximum Fee</u>
Pontoon boats—eight months or less	\$150
Eight months or less (new docks)	200
Year-round	200
Year-round (new docks)	250
Other boats—eight months or less	125
Eight months or less (new docks)	150
Year-round	150
Year-round (new docks)	200

571—61.7(461A) Restrictions—area and use. This rule sets forth conditions of public use which apply to all state parks and recreation areas. Specific areas as listed in 61.4(6), 61.8(461A) and 61.11(461A) are subject to additional restrictions or exceptions. The conditions in this rule are in addition to specific conditions and restrictions set forth in Iowa Code chapter 461A.

61.7(1) Animals.

a. The use of equine animals and llamas is limited to roadways or to trails designated for such use.

b. Animals are prohibited within designated beach areas.

c. Livestock are not permitted to graze or roam within state parks and recreation areas. The owner of the livestock shall remove the livestock immediately upon notification by the department of natural resources personnel in charge of the area.

d. Except for dogs being used in designated hunting or in dog training areas, pets such as dogs or cats shall not be allowed to run at large within state parks, recreation areas, or preserves. Such animals shall be on a leash or chain not to exceed six feet in length and shall be either led by or carried by the owner, attached to an anchor/tie-out or vehicle, or confined in a vehicle.

61.7(2) Beach use/swimming.

a. Except as provided in paragraphs "b" and "d" of this subrule, all swimming and scuba diving shall take place in the beach area within the boundaries marked by ropes, buoys, or signs within state parks and recreation areas. Inner tubes, air mattresses and other beach-type items shall be used only in designated beach areas.

b. Persons may scuba dive in areas other than the designated beach area provided they display the diver's flag as specified in rule 571—41.10(462A).

c. The provisions of paragraph "a" of this subrule shall not be construed as prohibiting wading in areas other than the beach by persons actively engaged in shoreline fishing.

d. Unless otherwise posted, persons may swim outside the beach area under the following conditions:

(1) Within ten feet of a vessel which is anchored not less than 100 yards from the shoreline or the marked boundary of a designated beach.

(2) Sailboat or other vessel passengers who enter the water to upright or repair their vessel and remain within ten feet of that vessel.

(3) All vessels, except those being uprighted, must be attended at all times by at least one person remaining on board.

61.7(3) Bottles. Possession or use of breakable containers, the fragmented parts of which can injure a person, is prohibited in beach areas of state parks and recreation areas.

61.7(4) Chainsaws. Except by written permission of the director of the department of natural resources, chainsaw use is prohibited in state parks and recreation areas. This provision is not applicable to employees of the department of natural resources in the performance of their official duties.

61.7(5) Firearms. The use of firearms in state parks and recreation areas, as defined in 61.2(461A), is limited to the following:

a. Lawful hunting as traditionally allowed at Badger Creek Recreation Area, Brushy Creek Recreation Area, Pleasant Creek Recreation Area, Mines of Spain Recreation Area (pursuant to 61.9(461A)), Volga River Recreation Area and Wilson Island Recreation Area.

b. Target and practice shooting in areas designated by DNR.

c. Special events, festivals, and education programs sponsored or permitted by DNR.

NATURAL RESOURCE COMMISSION[571](cont'd)

d. Special hunts authorized by the natural resource commission to control deer populations.

61.7(6) Fishing off boat docks within state areas. Persons may fish off all state-owned docks within state parks and recreation areas. Persons fishing off these docks must yield to boats and not interfere with boaters.

61.7(7) Garbage. Using government refuse receptacles for dumping household, commercial, or industrial refuse brought as such from private property is prohibited.

61.7(8) Motor vehicle restrictions.

a. Except as provided in these rules, motor vehicles are prohibited on state parks, recreation areas and preserves except on constructed and designated roads, parking lots and campgrounds.

b. Use of motorized vehicles by persons with physical disabilities. Persons with physical disabilities may use certain motorized vehicles to access specific areas in state parks, recreation areas and preserves, according to restrictions set out in this paragraph, in order to enjoy the same recreational opportunities available to others. Allowable vehicles include any self-propelled electric or gas vehicle which has at least three wheels, but no more than six wheels, and is limited in engine displacement to less than 800 cubic centimeters and in total dry weight to less than 1,450 pounds.

(1) Permits.

1. Each person with a physical disability must have a permit issued by the director in order to use a motorized vehicle in specific areas within state parks, recreation areas, and preserves. Such permits will be issued without charge. An applicant must submit a certificate from a doctor stating that the applicant meets the criteria describing a person with a physical disability. One nonhandicapped companion may accompany the permit holder on the same vehicle if that vehicle is designed for more than one rider; otherwise the companion must walk.

2. Existing permits. Those persons possessing a valid permit for use of a motorized vehicle on game management areas as provided in 571—51.7(461A) may use a motorized vehicle to gain access to specific areas for recreational opportunities and facilities within state parks, recreation areas and preserves.

(2) Approved areas. On each visit, the permit holder must contact the park staff in charge of the specific area in which the permit holder wishes to use a motorized vehicle. The park staff must designate on a park map the area(s) where the permit holder will be allowed to use a motorized vehicle. This restriction is intended to protect the permit holder from hazards or to protect certain natural resources of the area. The map is to be signed and dated on each visit by the park staff in charge of the area. Approval for use of a motorized vehicle on state preserves also requires consultation with a member of the preserves staff in Des Moines.

(3) Exclusive use. The issuance of a permit does not imply that the permittee has exclusive or indiscriminate use of an area. Permittees shall take reasonable care not to unduly interfere with the use of the area by others.

(4) Prohibited acts and restrictions.

1. Except as provided in 61.7(8)“b,” the use of a motorized vehicle on any park, recreation area or preserve by a person without a valid permit or at any site not approved on a signed map is prohibited. Permits and maps shall be carried by the permittee at any time the permittee is using a motorized vehicle in a park, recreation area or preserve and shall be exhibited to any department employee or law enforcement official upon request.

2. The speed limit for an approved motor vehicle off-road will be no more than 5 mph. The permit of a person who is found exceeding the speed limit will be revoked.

3. The permit of any person who is found causing damage to cultural and natural features or abusing the privilege of riding off-road within the park will be revoked.

(5) Employees exempt. Restrictions in subrule 61.7(8) shall not apply to department personnel, law enforcement officials, or other authorized persons engaged in research, management or enforcement when in performance of their duties.

61.7(9) Noise. Creating or sustaining any unreasonable noise in any portion of all state parks and recreation areas is prohibited at all times. The nature and purpose of a person’s conduct, the impact on other area users, the time of day, location, and other factors which would govern the conduct of a reasonable, prudent person under the circumstances shall be used to determine whether the noise is unreasonable. Unreasonable noise shall include the operation or utilization of motorized equipment or machinery such as an electric generator, motor vehicle, or motorized toy; or audio device such as a radio, television set, tape deck, public address system, or musical instrument; or other device. Between the hours of 10:30 p.m. and 6 a.m., noise which can be heard at a distance of 120 feet or three campsites shall be considered unreasonable.

61.7(10) Opening and closing times. Except by arrangement or permission granted by the director or the director’s authorized representative or as otherwise stated in this chapter, the following restrictions shall apply: All persons shall vacate all state parks and preserves before 10:30 p.m. each day, except authorized campers in accordance with Iowa Code section 461A.46, and no person or persons shall enter into such parks and preserves until 4 a.m. the following day.

61.7(11) Paintball guns. The use of any item generally referred to as a paintball gun is prohibited in state parks, recreation areas and preserves.

61.7(12) Restrictions on picnic site use.

a. Open picnic sites marked with the international symbol of accessibility shall be used only by a person or group with a person qualifying for and displaying a persons with disabilities parking permit on the person’s vehicle.

b. Paragraph 61.7(12)“a” does not apply to picnic shelters marked with the international accessibility symbol. The use of the symbol on shelters shall serve only as an indication that the shelter is wheelchair accessible.

61.7(13) Rock climbing or rappelling. The rock climbing practice known as free climbing and climbing or rappelling activities which utilize bolts, pitons, or similar permanent anchoring equipment or ropes, harnesses, or slings are prohibited in state parks and recreation areas, except by persons or groups registered with the park staff in charge of the area. Individual members of a group must each sign a registration. Climbing or rappelling will not be permitted at Elk Rock State Park, Marion County; Ledges State Park, Boone County; Dolliver Memorial State Park, Webster County; Stone State Park, Woodbury and Plymouth Counties; Maquoketa Caves State Park, Jackson County; Wildcat Den State Park, Muscatine County; or Mines of Spain Recreation Area, Dubuque County. Other sites may be closed to climbing or rappelling if environmental damage or safety problems occur or if an endangered or threatened species is present.

61.7(14) Speech or conduct interfering with lawful use of an area by others.

a. Speech commonly perceived as offensive or abusive is prohibited when such speech interferes with lawful use and enjoyment of the area by another member of the public.

NATURAL RESOURCE COMMISSION[571](cont'd)

b. Quarreling or fighting is prohibited when it interferes with the lawful use and enjoyment of the area by another member of the public.

61.7(15) Deer population control hunts. Deer hunting as allowed under Iowa Code section 461A.42“c” is permitted only during special hunts in the following state parks as provided under 571—Chapter 105 and as approved by the natural resource commission. During the dates of deer hunting, only persons engaged in deer hunting shall use the area or portions thereof as designated by DNR and signed as such.

Backbone State Park	Delaware County
Elk Rock State Park	Marion County
George Wyth State Park	Black Hawk County
Lake Darling State Park	Washington County
Lake Manawa State Park	Pottawattamie County
Lake of Three Fires State Park	Taylor County
Springbrook State Park	Guthrie County
Viking Lake State Park	Montgomery County

61.7(16) Special event permits. Any person or group wishing to conduct a special event in any state park or recreation area shall notify the department of natural resources manager in charge of the area in advance and comply with the following procedures.

a. At least 30 days prior to the scheduled event, the sponsor shall submit an application to the park staff of the area where the proposed event is to take place. Application forms shall be furnished by DNR. Submission of an application does not guarantee issuance of a permit by DNR.

b. Applicants for special events shall provide proof of liability insurance naming the applicant and DNR as additional insured.

c. If the area has a concessionaire on site, sales of food and other items shall be governed pursuant to 571—Chapter 14. If a concessionaire chooses not to provide these services during the event, the event sponsor may then bring in other concession operations as approved by DNR.

d. Exclusive use. Issuance of a special event permit does not imply that the permittee has exclusive use of an area unless a facility has been reserved pursuant to 61.3(461A) and 61.6(461A).

571—61.8(461A) Certain conditions of public use applicable to specific parks and recreation areas. In addition to the general conditions of public use set forth in this chapter, special conditions shall apply to the specific areas listed as follows:

61.8(1) Brushy Creek State Recreation Area, Webster County. Swimming is limited by the provisions of 61.7(2); also, swimming is prohibited at the beach from 10:30 p.m. to 6 a.m. daily.

61.8(2) Hattie Elston Access and Claire Wilson Park, Dickinson County.

a. Parking of vehicles overnight on these areas is prohibited unless the vehicle operator and occupants are actively involved in boating or are fishing as allowed under 61.11(461A).

b. Overnight camping is prohibited.

61.8(3) Mines of Spain Recreation Area, Dubuque County. All persons shall vacate all portions of the Mines of Spain Recreation Area prior to 10:30 p.m. each day, and no person or persons shall enter into the area until 4 a.m. the following day.

61.8(4) Pleasant Creek Recreation Area, Linn County. Swimming is limited by the provisions of 61.7(2); also, swimming is prohibited at the beach from 10:30 p.m. to 6 a.m. daily. Access into and out of the north portion of the area between the east end of the dam to the campground shall

be closed from 10:30 p.m. to 4 a.m., except that walk-in over-night fishing will be allowed along the dam. The areas known as the dog trial area and the equestrian area shall be closed from 10:30 p.m. to 4 a.m., except for equestrian camping and for those persons participating in a DNR-authorized field trial. From 10:30 p.m. to 4 a.m., only registered campers are permitted in the campground.

61.8(5) Wapsipinicon State Park, Jones County. The land adjacent to the park on the southeast corner and generally referred to as the “Ohler property” is closed to the public from 10:30 p.m. to 4 a.m.

571—61.9(461A) Mines of Spain hunting, trapping and firearms use.

61.9(1) The following described portions of the Mines of Spain Recreation Area are established and will be posted as wildlife refuges:

a. That portion within the city limits of the city of Dubuque located west of U.S. Highway 61 and north of Mar Jo Hills Road.

b. The tract leased by the department of natural resources from the city of Dubuque upon which the E. B. Lyons Interpretive Center is located.

c. That portion located south of the north line of Section 8, Township 88 North, Range 3 East of the 5th P.M. between the west property boundary and the east line of said Section 8.

d. That portion located north of Catfish Creek, east of the Mines of Spain Road and south of the railroad tracks. This portion contains the Julien Dubuque Monument.

61.9(2) Trapping and archery hunting for all legal species are permitted in compliance with all open-season, license and possession limits on the Mines of Spain Recreation Area except in those areas designated as refuges by 61.9(1).

61.9(3) Firearms use is prohibited in the following described areas:

a. The areas described in 61.9(1).

b. The area north and west of Catfish Creek and west of Granger Creek.

61.9(4) Deer hunting and hunting for all other species are permitted using shotguns only and are permitted only during the regular gun season as established by 571—Chapter 106. Areas not described in 61.9(3) are open for hunting. Hunting shall be in compliance with all other regulations.

61.9(5) Turkey hunting with shotguns is allowed only in compliance with the following regulations:

a. Only during the first shotgun hunting season established in 571—Chapter 98, which is typically four days in mid-April.

b. Only in that area of the Mines of Spain Recreation Area located east of the established roadway and south of the Horseshoe Bluff Quarry.

61.9(6) The use or possession of a handgun or any type of rifle is prohibited on the entire Mines of Spain Recreation Area except as provided in 61.9(4). Target and practice shooting with any type of firearm is prohibited.

61.9(7) All forms of hunting, trapping and firearms use not specifically permitted by 61.9(461A) are prohibited in the Mines of Spain Recreation Area.

571—61.10(461A) After-hours fishing—exception to closing time. Persons shall be allowed access to the areas designated in 61.11(461A) between the hours of 10:30 p.m. and 4 a.m. under the following conditions:

1. The person shall be actively engaged in fishing.

2. The person shall behave in a quiet, courteous manner so as not to disturb other users of the park such as campers.

NATURAL RESOURCE COMMISSION[571](cont'd)

3. Access to the fishing site from the parking area shall be by the shortest and most direct trail or access facility.

4. Vehicle parking shall be in the lots designated by signs posted in the area.

5. Activities other than fishing are allowed with permission of the director or an employee designated by the director.

571—61.11(461A) Designated areas for after-hours fishing. These areas are open from 10:30 p.m. to 4 a.m. for fishing only. The areas are described as follows:

61.11(1) Black Hawk Lake, Sac County. The area of the state park between the road and the lake running from the marina at Drillings Point on the northeast end of the lake approximately three-fourths of a mile in a southwesterly direction to a point where the park boundary decreases to include only the roadway.

61.11(2) Claire Wilson Park, Dickinson County. The entire area including the parking lot, shoreline and fishing treble facility.

61.11(3) Clear Lake State Park, Ritz Unit, Cerro Gordo County. The boat ramp, courtesy dock, fishing dock and parking lots.

61.11(4) Elinor Bedell State Park, Dickinson County. The entire length of the shoreline within state park boundaries.

61.11(5) Elk Rock State Park, Marion County. The Teeter Creek boat ramp area just east of State Highway 14, access to which is the first road to the left after the entrance to the park.

61.11(6) Green Valley Lake, Union County.

a. The embankment of the road from the small parking lot east of the park ranger's residence, east to the "T" intersection and south to the westerly end of a point of land jutting into the lake directly south of the parking lot mentioned above.

b. From the east side of the spillway easterly across the dam to the west edge of the parking lot.

61.11(7) Hattie Elston Access, Dickinson County. The entire area including the parking lot shoreline and boat ramp facilities.

61.11(8) Honey Creek State Park, Appanoose County. The boat ramp area located north of the park office, access to which is the first road to the left after the entrance to the park.

61.11(9) Geode State Park, Des Moines County portion. The area of the dam embankment that is parallel to County Road J20 and lies between the two parking lots located on each end of the embankment.

61.11(10) Lake Keomah State Park, Mahaska County.

a. The embankment of the dam between the crest of the dam and the lake.

b. The shoreline between the road and the lake from the south boat launch area west and north to the junction with the road leading to the group camp shelter.

61.11(11) Lake Macbride State Park, Johnson County. The shoreline of the south arm of the lake adjacent to the county road commencing at the "T" intersection of the roads at the north end of the north-south causeway proceeding across the causeway thence southeasterly along a foot trail to the east-west causeway, across the causeway to the parking area on the east end of that causeway.

61.11(12) Lake Manawa State Park, Pottawattamie County. The west shoreline including both sides of the main park road, commencing at the north park entrance and continuing south 1.5 miles to the parking lot immediately north of the picnic area located on the west side of the southwest arm of the lake.

61.11(13) Lower Pine Lake, Hardin County. West shoreline along Hardin County Road S56 from the beach southerly to the boat ramp access.

61.11(14) Mini-Wakan State Park, Dickinson County. The entire area.

61.11(15) North Twin Lake State Park, Calhoun County. The shoreline of the large day-use area containing the swimming beach on the east shore of the lake.

61.11(16) Pikes Point State Park, Dickinson County. The shoreline areas of Pikes Point State Park on the east side of West Okobojo Lake.

61.11(17) Prairie Rose State Park, Shelby County. The west side of the embankment of the causeway across the southeast arm of the lake including the shoreline west of the parking area located off County Road M47 and just north of the entrance leading to the park office.

61.11(18) Rock Creek Lake, Jasper County. Both sides of the County Road F27 causeway across the main north portion of the lake.

61.11(19) Union Grove State Park, Tama County.

a. The dam embankment from the spillway to the west end of the parking lot adjacent to the dam.

b. The area of state park that parallels BB Avenue, from the causeway on the north end of the lake southerly to a point approximately one-tenth of a mile southwest of the boat ramp.

61.11(20) Upper Pine Lake, Hardin County. Southwest shoreline extending from the boat launch ramp to the dam.

61.11(21) Viking Lake State Park, Montgomery County. The embankment of the dam from the parking area located southeast of the dam area northwesterly across the dam structure to its intersection with the natural shoreline of the lake.

571—61.12(461A) Vessels prohibited. Rule 61.11(461A) does not permit the use of vessels on the artificial lakes within state parks after the 10:30 p.m. park closing time. All fishing is to be done from the bank or shoreline of the permitted area.

571—61.13(461A) Severability. Should any rule, subrule, paragraph, phrase, sentence or clause of this chapter be declared invalid or unconstitutional for any reason, the remainder of this chapter shall not be affected thereby.

571—61.14(461A) Restore the outdoors program. Funding provided through the appropriation set forth in Iowa Code section 461A.3A, and subsequent Acts, shall be used to renovate, replace or construct new vertical infrastructure and associated appurtenances in state parks and other public facilities managed by the department of natural resources.

The intended projects will be included in the department's annual five-year capital plan in priority order by year and approved by the natural resource commission for inclusion in its capital budget request.

The funds appropriated by Iowa Code section 461A.3A, and subsequent Acts, will be used to renovate, replace or construct new vertical infrastructure through construction contracts, agreements with local government entities responsible for managing state parks and other public facilities, and agreements with the department of corrections to use offender labor where possible. Funds shall also be used to support site survey, design and construction contract management through consulting engineering and architectural firms and for direct survey, design and construction management costs incurred by department engineering and architectural staff for restore the outdoors projects. Funds shall not be used to support general department oversight of the restore the outdoors program, such as accounting, general administration or long-range planning.

NATURAL RESOURCE COMMISSION[571](cont'd)

These rules are intended to implement Iowa Code sections 422.43, 455A.4, 461A.3, 461A.3A, 461A.35, 461A.38, 461A.39, 461A.42, 461A.43, 461A.45 to 461A.51, 461A.57, and 723.4 and Iowa Code chapter 724.

ITEM 2. Rescind 571—Chapter 62 and adopt the following **new** chapter in lieu thereof:

CHAPTER 62
STATE FOREST CAMPING

571—62.1(461A) Applicability. This rule governs camping activity in the following areas:

1. Yellow River State Forest, Allamakee County.
2. Stephens State Forest, Clarke, Lucas, Appanoose, Davis and Monroe Counties.
3. Shimek State Forest, Van Buren and Lee Counties.

571—62.2(461A) Definitions.

“Basic unit” or “basic camping unit” means the portable shelter used by one to six persons.

“Call center” means a phone center where operators process all telephone reservations, reservation changes and reservation cancellations for camping and rental facilities.

“Camping” means the erecting of a tent or shelter of natural or synthetic material, or placing a sleeping bag or other bedding material on the ground or parking a motor vehicle, motor home, or trailer for the apparent purpose of overnight occupancy.

“Centralized reservation system” means a system that processes reservations using more than one method to accept reservations. Each method simultaneously communicates to a centralized database at a reservation contractor location to ensure no campsite or rental facility is booked twice.

“Chaperoned, organized youth group” means a group of persons 17 years of age and under, which is sponsored by and accompanied by adult representatives of a formal organization including, but not limited to, the Boy Scouts of America or Girl Scouts of America, a church, or Young Men’s or Young Women’s Christian Association. “Chaperoned, organized youth group” does not include families of members of a formal organization.

“Immediate family” means parents, dependent children and grandparents.

“Nonmodern area” means a camping area in which no showers are provided and which contains only pit-type latrines or flush-type toilets. Potable water may or may not be available to campers.

“Organized youth group campsite” means a designated camping area within or next to the main campground where chaperoned, organized youth groups may camp.

“Reservation transaction fees” means fees as given in this chapter to process a reservation, change a reservation or cancel a reservation.

“Reservation window” means a rolling period of time in which a person may reserve a campsite or rental facility.

“Walk-in camper” means a person arriving at a campground without a reservation and wishing to occupy a first-come, first-served campsite or unrented, reservable campsite.

571—62.3(461A) Camping areas established and marked.

62.3(1) Areas to be utilized for camping shall be established within each of the state forests listed in rule 62.1(461A).

62.3(2) Signs designating the established camping areas shall be posted along the access roads into these areas and around the perimeter of the area designated for camping use.

62.3(3) Areas approved for backpack camping (no vehicular access) shall be marked with appropriate signs and shall contain fire rings.

571—62.4(461A) Campground reservations. The department shall establish a centralized reservation system to accept and process reservations for camping and rental facilities in state parks, recreation areas and state forest campgrounds.

62.4(1) Centralized reservation system business rules manual. The department shall adopt by reference the manual titled “Centralized Reservation System Business Rules for Iowa State Parks, Recreation Areas and State Forests,” dated January 1, 2006, which sets procedures and policies for the administration of reservations of campsites and rental facilities through the centralized reservation system.

62.4(2) Recreation facilities available on the centralized reservation system—campgrounds.

a. Except for the backpack campsites, all state forest campgrounds shall be available on the centralized reservation system.

b. Fifty percent of the total number of campsites in each individual campground shall be designated as reservable sites on the reservation system. The determination of which campsites shall be included in the 50 percent reservable designation shall be the responsibility of the park staff in each park. Park staff shall include a combination of electric, non-electric and sewer/water sites while taking into consideration campsite characteristics such as location, shade, and size. The department shall review the percentage of reservable sites and usage on a biennial basis and determine whether the percentage of reservable campsites should be changed. A reservable campsite shall be identified with a reservable site marker on the campsite post.

c. All designated organized youth group campsites and campsites marked with the international symbol of accessibility shall be included in the reservation system.

d. Reservations will not be taken for any backpack campsites in state forest campgrounds. Those sites shall be available on a first-come, first-served basis only.

62.4(3) Methods available to make reservations. Persons may make reservations by telephone through the call center or through the Internet using the reservation system Web site.

62.4(4) Reservation transaction fees.

a. Reservation fee. A nonrefundable reservation fee shall be charged for each reservation made per campsite regardless of the length of stay. The one-time fee is per reservation and is not charged per day or night. This fee is in addition to the camping fees established in 571—subrule 61.4(1). The reservation fee varies depending upon the method used when the reservation is made.

(1) Internet reservation — \$4 + 3 percent credit card processing fee (if applicable).

(2) Telephone reservation — \$6 + 3 percent credit card processing fee (if applicable).

b. Change fee. A fee of \$5 + 3 percent credit card processing fee (if applicable) shall be charged to change an existing reservation.

c. Cancellation fee. A fee of \$5 shall be charged to cancel a reservation.

62.4(5) Reservation window—camping. The reservation window for camping is three months to two days prior to the arrival date in which a person may make a reservation.

NATURAL RESOURCE COMMISSION[571](cont'd)

571—62.5(461A) Camping fees and registration.

62.5(1) Any person who camps in a state forest must register the person's name and address with the department of natural resources' representative in charge of the area.

a. Walk-in campers shall complete the registration form, place the appropriate fee in the envelope and place the envelope in the depository provided by the department of natural resources. One copy must then be placed in the campsite holder provided at the campsite.

b. Park staff shall complete the registration for the campers with reservations and place the registration in the campsite holder no later than one hour prior to the 4 p.m. check-in time on the day of the camper's arrival.

62.5(2) The fees for camping in established state forest campgrounds shall be the same as those cited in 571—paragraphs 61.4(1)“a” and “b” for all other nonmodern camping areas managed by the department of natural resources where fees are charged.

62.5(3) Campsites are considered occupied and campsite registration shall be considered complete when the requirements of 62.5(1) have been met.

62.5(4) The fees for an organized youth group campsite shall be the same as those cited in 571—paragraph 61.4(1)“d” for all other organized youth group campsites.

62.5(5) Backpack campsites. Persons using backpack campsites shall register at the forest area check station or other designated site. No fee will be charged for the use of the designated backpack campsites.

571—62.6(461A) Camping restrictions.

62.6(1) No person shall camp in the state forests listed in rule 62.1(461A) except within the designated camping areas or at established backpack campsite areas.

62.6(2) Camping within the designated camping area shall be on sites posted by numbered signs marking the location to be used by the camping unit or within the areas designated for backpack camping.

62.6(3) Camping is restricted to one basic unit per site except that a small tent may be placed on a site with the basic unit so long as the persons occupying the tent are under 18 years of age and are dependent members of the immediate family occupying the basic unit. The area occupied by the small tent shall be no more than 8 feet by 10 feet, and the tent shall hold no more than four people.

Families which exceed six persons may be allowed on one campsite if all members are immediate family and cannot logically be separated to occupy two campsites. One basic unit will be allowed on the site except that a small tent may be placed on a site with the basic unit so long as the persons occupying the tent are under 18 years of age and are dependent members of the immediate family occupying the basic unit. The area occupied by the small tent shall be no more than 8 feet by 10 feet, and the tent shall hold no more than four people.

62.6(4) Campers occupying reservable sites shall vacate the campground by 3 p.m. of the last day of their stay.

571—62.7(461A) Camping time limit. No basic camping unit shall be permitted to camp longer than two weeks at a time within a state forest, except for volunteers working under the department of natural resources' campground host program agreement.

571—62.8(461A) Camping refused. Department of natural resources officers are given authority to refuse camping privileges and to rescind any and all camping permits for cause.

571—62.9(461A) Firearms use prohibited. Except for

peace officers acting in the scope of their employment, the use of firearms, fireworks, explosives, and weapons of all kinds by the public is prohibited within the established camping area as delineated by signs marking the area.

571—62.10(461A) Hours. Access into and out of the established camping areas shall be permitted from 4 a.m. to 10:30 p.m. During the hours of 10:31 p.m. to 3:59 a.m., only registered campers are permitted in the campgrounds.

571—62.11(461A) Horses and pets. No horse or other animal shall be hitched or tied to any tree or shrub in a manner to result in injury to state property. Pets such as dogs or cats shall not be allowed to run at large within the designated camping area. Such animals shall be deemed running at large unless the owner carries the animal or leads it by leash or chain not exceeding six feet in length or keeps it confined in or attached to a vehicle. Chains or other restraints used shall not be of sufficient length as to permit the animal to enter a designated campsite other than the one used by the animal's owner.

Stabling of equine animals and llamas shall be in accordance with 571—paragraph 61.4(5)“k.”

571—62.12(461A) Noise. Creating or sustaining any unreasonable noise in any portion of all state forests is prohibited at all times. The nature and purpose of a person's conduct, the impact on other area users, the time of day, location, and other factors which would govern the conduct of a reasonable, prudent person under the circumstances shall be used to determine whether the noise is unreasonable. Unreasonable noise shall include the operation or utilization of motorized equipment or machinery such as an electric generator, motor vehicle, or motorized toy; or audio device such as a radio, television set, tape deck, public address system, or musical instrument; or other device. Between the hours of 10:30 p.m. and 6 a.m., noise which can be heard at a distance of 120 feet or three campsites shall be considered unreasonable.

These rules are intended to implement Iowa Code sections 461A.35, 461A.44, 461A.45, 461A.47 to 461A.51 and 461A.57.

[Filed 10/21/05, effective 1/1/06]

[Published 11/9/05]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 11/9/05.

ARC 4608B

**RACING AND GAMING
COMMISSION[491]**

Adopted and Filed

Pursuant to the authority of Iowa Code sections 99D.7 and 99F.4, the Iowa Racing and Gaming Commission hereby adopts amendments to Chapter 1, “Organization and Operation,” Chapter 4, “Contested Cases and Other Proceedings,” Chapter 5, “Track and Excursion Gambling Boat Licensees' Responsibilities,” and Chapter 8, “Wagering and Simulcasting,” Iowa Administrative Code.

Item 1 changes the Commission's Web site address.

Item 2 allows a gaming representative to revoke the license of a person who has a confirmed positive drug test for a controlled substance.

Item 3 adds a legislative change to a rule.

Item 4 changes two incorrect cross references.

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

Item 5 adds a subrule pertaining to state fire and building code rules.

Item 6 changes the number of betting interests for trifecta wagering.

These adopted amendments are identical to those published under Notice of Intended Action in the August 3, 2005, Iowa Administrative Bulletin as **ARC 4391B** with the following exceptions: In Item 5, language is added to further clarify the fire marshal's and building code commissioner's authority under the Code, and in Item 6, the language "except in greyhound racing" is removed.

A public hearing was held on August 23, 2005. No comments were received.

These amendments will become effective December 14, 2005.

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

The following amendments are adopted.

ITEM 1. Amend subrule **1.2(2)**, paragraph "a," as follows:

a. The commission meets periodically throughout the year and shall meet in July of each year. Notice of a meeting is published on the commission's Web site at www3.state.ia.us/irgc/ www.iowa.gov/irgc/ at least five days in advance of the meeting or will be mailed to interested persons upon request. The notice shall contain the specific date, time, and place of the meeting. Agendas are available to any interested persons not less than five days in advance of the meeting.

ITEM 2. Rescind subrule 4.4(4) and insert in lieu thereof the following **new** subrule:

4.4(4) The gaming representative shall revoke the license of a person reported to the commission as having a confirmed positive drug test result for a controlled substance, for a drug test conducted pursuant to Iowa Code section 730.5 or 99F.4(20).

ITEM 3. Amend rule 491—5.2(99D,99F), introductory paragraph, as follows:

491—5.2(99D,99F) Annual reports. Licensees shall submit audits to the commission as required by Iowa Code sections 99D.20 and 99F.13. The audit of financial transactions and condition of licensee's operation shall include an internal control letter, *documentation that the county board of supervisors selected the auditing firm*, a balance sheet, and a profit-and-loss statement pertaining to the licensee's activities in the state, including a breakdown of expenditures and subsidies. If the licensee's fiscal year does not correspond to the calendar year, a supplemental schedule indicating financial activities on a calendar-year basis shall be included in the report. In the event of a license termination, change in business entity, or material change in ownership, the administrator may require the filing of an interim report, as of the date of occurrence of the event. The filing due date shall be the later of 30 calendar days after notification to the licensee or 30 calendar days after the date of the occurrence of the event, unless an extension is granted.

ITEM 4. Amend subrule 5.4(7) as follows:

5.4(7) Video recording. Licensees are required to conduct continuous surveillance with the capability of video recording all gambling activities under Iowa administrative rules 661—Chapter 23 141, promulgated by the department of public safety. A commission representative may allow a gambling game to be placed in operation pending approval under 661—paragraph 23.9(11)"c." 141.10(11)"c."

ITEM 5. Amend rule 491—5.4(99D,99F) by adding the following **new** subrule:

5.4(18) State fire and building codes.

a. Barges, as defined in 5.6(1)"c," and other land-based gaming facilities and such facilities that undergo major renovation shall comply with the state building code created by Iowa Code chapter 103A, if there is no local building code in force in the local jurisdiction in which the facility is located. A licensee shall submit construction documents and plans to the state building code commissioner and receive approval prior to construction, if a facility is subject to the state building code.

b. If there is no enforcement of fire safety requirements by a local fire department, a licensee shall also submit construction plans and documents to the state fire marshal and receive approval prior to construction. The fire marshal may cause a facility subject to this paragraph to be inspected for compliance with fire marshal rules prior to operation of the facility and shall notify the commission and the licensee of the results of any such inspection.

c. If a proposed new or renovated facility is subject to both paragraphs "a" and "b," a single submission of construction plans and documents to the building code commissioner, with a cover letter stating that review and approval are required with respect to both the state building code and rules of the fire marshal, is sufficient to meet both requirements. Facilities subject to both paragraphs "a" and "b" shall have received approval from both the fire marshal and the building code commissioner prior to construction.

ITEM 6. Amend subrule **8.2(13)**, paragraph "g," as follows:

g. Shall prohibit trifecta wagering on any contest with *six five* or fewer betting interests scheduled to start, ~~except in greyhound racing~~, or as provided in (1) below:

[Filed 10/17/05, effective 12/14/05]

[Published 11/9/05]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 11/9/05.

ARC 4614B

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 39, "Filing Return and Payment of Tax," Chapter 42, "Adjustments to Computed Tax," Chapter 52, "Filing Returns, Payment of Tax and Penalty and Interest," and Chapter 58, "Filing Returns, Payment of Tax, Penalty and Interest, and Allocation of Tax Revenues," Iowa Administrative Code.

Notice of Intended Action was published in IAB Vol. XXVIII, No. 6, p. 426, on September 14, 2005, as **ARC 4518B**.

Item 1 amends subrule 39.1(7) to change the name of the property rehabilitation tax credit to the historic preservation and cultural and entertainment district tax credit.

Item 2 amends subrule 42.13(1) to allow eligible housing business tax credits for individual income tax to be assigned when partnerships, limited liability companies and S corporations earn these credits when Section 42 low-income housing credits are used to finance the housing development. The

REVENUE DEPARTMENT[701](cont'd)

subrule was also amended to correct a cross reference to another subrule, and to reference the Iowa Department of Economic Development rules on eligible housing business tax credits.

Item 3 amends subrule 42.13(2) to allow eligible housing business tax credits for individual income tax to be transferred when the housing development is located in a brown-field site or a blighted area.

Item 4 amends rule 701—42.15(422) to provide for additional historic preservation and cultural and entertainment district tax credits for individual income tax for projects located in cultural and entertainment districts, and to allow these credits to be assigned when partnerships, limited liability companies and S corporations earn these credits when Section 42 low-income housing credits are used to finance the project.

Item 5 amends rule 701—42.20(15E) to provide for additional endow Iowa tax credits for individual income tax and to extend the time period to claim these credits.

Item 6 amends rule 701—42.23(422) to change the name of the property rehabilitation tax credit to the historic preservation and cultural and entertainment district tax credit.

Item 7 amends rule 701—52.12(422) to change the name of the property rehabilitation tax credit to the historic preservation and cultural and entertainment district tax credit.

Item 8 amends subrule 52.15(1) to allow eligible housing business tax credits for corporation income tax to be assigned when partnerships, limited liability companies and S corporations earn these credits when Section 42 low-income housing credits are used to finance the housing development. The subrule was also amended to reference the Iowa Department of Economic Development rules on eligible housing business tax credits. This change is similar to that made in Item 2.

Item 9 amends subrule 52.15(2) to allow eligible housing business tax credits for corporation income tax to be transferred when the housing development is located in a brown-field site or a blighted area. This change is similar to that made in Item 3.

Item 10 amends rule 701—52.18(422) to provide for additional historic preservation and cultural and entertainment district tax credits for corporation income tax for projects located in cultural and entertainment districts, and to allow these credits to be assigned when partnerships, limited liability companies and S corporations earn these credits when Section 42 low-income housing credits are used to finance the project. This change is similar to that made in Item 4.

Item 11 amends rule 701—52.23(15E) to provide for additional endow Iowa tax credits for corporation income tax and to extend the time period to claim these credits. This change is similar to that made in Item 5.

Item 12 amends rule 701—58.8(15E) to allow eligible housing business tax credits for franchise tax to be assigned when partnerships, limited liability companies and S corporations earn these credits when Section 42 low-income housing credits are used to finance the housing development. These changes are similar to those made in Items 2 and 8.

Item 13 amends subrule 58.8(1) for franchise tax to reference the Iowa Department of Economic Development rules on eligible housing business tax credits. These changes are similar to those made in Items 2 and 8.

Item 14 amends subrule 58.8(2) to allow eligible housing business tax credits for franchise tax to be transferred when the housing development is located in a brownfield site or a blighted area. These changes are similar to those made in Items 3 and 9.

Item 15 amends rule 701—58.10(422) to change the name of the property rehabilitation tax credit to the historic preservation and cultural and entertainment district tax credit.

Item 16 amends rule 701—58.13(15E) to provide for additional endow Iowa tax credits for franchise tax and to extend the time period to claim these credits. These changes are similar to those made in Items 5 and 11.

These amendments are identical to those published under Notice of Intended Action.

These amendments will become effective December 14, 2005, after filing with the Administrative Rules Coordinator and publication in the Iowa Administrative Bulletin.

These amendments are intended to implement Iowa Code sections 15E.193B, 15E.305, and 422.11D and Iowa Code chapter 404A as amended by 2005 Iowa Acts, House Files 857, 868 and 882.

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 [39.1(7), 42.13, 42.15, 42.20, 42.23“12,” 52.12“8,” 52.15, 52.18, 52.23, 58.8, 58.10, 58.13] is being omitted. These amendments are identical to those published under Notice as **ARC 4518B**, IAB 9/14/05.

[Filed 10/20/05, effective 12/14/05]

[Published 11/9/05]

[For replacement pages for IAC, see IAC Supplement 11/9/05.]

ARC 4617B**UTILITIES DIVISION[199]****Adopted and Filed**

Pursuant to the authority of Iowa Code sections 17A.4, 474.5, and 476.2 (2005), the Utilities Board (Board) gives notice that on October 21, 2005, the Board issued an order in Docket No. RMU-05-1, In re: Revised Procedural Rules, “Order Adopting Amendments.” The order adopts amendments, with certain revisions, which were published under Notice of Intended Action in the Iowa Administrative Bulletin on February 16, 2005, as **ARC 3990B**.

The order adopts 199 IAC Chapters 7 and 26 and amends subrules 1.8(4) and 32.9(4). The Board's current Chapter 7 rules combine procedural rules applicable to all cases, unless specifically excluded, and procedural rules applicable only to rate cases, tariff filings, and rate regulation election by rural electric cooperatives. In this rule making, the Board leaves the general procedural rules applicable to all proceedings, unless specifically excluded, in Chapter 7. The Board moves all rules applicable only to rate cases, tariff filings, and rate regulation election by rural electric cooperatives to new Chapter 26 without making any changes to those rules at this time. The Board adopts a new rule 199—26.1(17A,476) setting forth the scope of the chapter, but the remaining rules in new Chapter 26 are the same as in current Chapter 7. Chapter 7 as adopted has been completely reorganized according to the chronological order of a typical contested case. Although the adopted Chapter 7 rules appear very different from the former Chapter 7 rules, most of the changes are grammatical and organizational. The substantive changes that were made and the reasons for them were discussed in the Board's January 26, 2005, order commencing the rule making and in the order adopting the rules issued with this rule making.

UTILITIES DIVISION[199](cont'd)

In this rule-making docket, the Board took comments only on the proposed Chapter 7 rules. It deferred consideration of the Chapter 26 rules for a separate rule-making docket. In addition, procedural rules applicable only to electric transmission line cases (E dockets) and pipeline permit proceedings (P dockets) will be proposed in a separate rule-making docket.

The Board received written comments on the proposed rules from Interstate Power and Light Company (IPL), the Iowa Industrial Energy Group (IIEG), the Iowa Telecommunications Association, MidAmerican Energy Company (MEC), Qwest Corporation (Qwest), and the Consumer Advocate Division of the Department of Justice (Consumer Advocate). A hearing was held on April 26, 2005. Representatives of IPL, MEC, Qwest, and the Consumer Advocate participated in the hearing. MEC, Qwest, the IIEG, IPL, and the Consumer Advocate each expressed their overall support for the proposed changes. The commentators also made numerous suggestions for changes to specific proposed rules.

The Board has made a number of revisions to the proposed rules as a result of the comments received. The Board's order adopting the rules, which contains a detailed summary of the oral and written comments received and the Board's responses to those comments, is contained in the file in this docket in the Board's Records and Information Center. The order is also available on the Board's Web site at www.state.ia.us/iub.

These amendments will become effective on December 14, 2005.

These amendments are intended to implement Iowa Code chapter 17A and sections 474.5 and 476.2.

The following amendments are adopted.

ITEM 1. Amend subrule 1.8(4) as follows:

1.8(4) Service of documents.

a.—Method of service. ~~Unless otherwise specified, the papers which are required to be served in a proceeding may be served by first-class mail, properly addressed with postage prepaid, or by delivery in person. When a paper is served, the party effecting service shall file with the board proof of service substantially in the form prescribed in board rule 2.2(16) or by admission of service by the party served or his attorney. The proof of service shall be attached to a copy of the paper served. When service is made by the board, the board will attach an affidavit of service, signed by the person serving same, to the original of the paper.~~

b.—Date of service. ~~The date of service shall be the day when the paper served is deposited in the United States mail or is delivered in person.~~

c.—Parties entitled to service. ~~A party or other person filing a notice, motion, or pleading in any proceeding shall serve the notice, motion, or pleading on all other parties. Unless a different requirement is specified in these rules, a party formally filing any such document or any other material with the board shall serve three copies of the document or material on the consumer advocate at the same time as the filing is made with the board and by the same delivery method used for filing with the board. "Formal filings" include, but are not limited to, all documents that are filed in a docketed proceeding, or that request initiation of a docketed proceeding. The address of the consumer advocate is Office of Consumer Advocate, 310 Maple Street, Des Moines, Iowa 50319-0069.~~

d.—Number of copies. ~~An original and ten copies are required for most filings made with the board. There are some exceptions, which are listed below. The board may request additional copies.~~

A = Annual Report (rate regulated 2 copies, non-rate regulated 1 copy)

C = Complaints (original)

CCF = Customer Contribution Fund (original + 1 copy)

E = Electric Franchise or Certificate (original + 3 copies)

EAC = Energy Adjustment Clause (original + 3 copies)

GCU = Generating Certificate Utility (original + 20 copies)

H = Accident (original + 1 copy)

P = Pipeline Permit (original + 2 copies)

PGA = Purchased Gas Adjustment (original + 3 copies)

R = Reports Outages (original + 1 copy)

RFU = Refund Filing Utility (original + 3 copies)

RN = Rate Notification (original + 2 copies)

TF = Tariff Filing (original + 3 copies)

e.—Upon attorneys. ~~When a party has appeared by attorney, service upon the attorney shall be deemed proper service upon the party.~~

Cross reference to rules regarding placement of docket numbers on filings, service of documents, and required number of copies. The board's rule regarding placement of docket numbers on filings is at 199—subrule 7.4(3). The board's rule regarding service of documents is at 199—subrule 7.4(6). The board's rule regarding required number of copies is at 199—subrule 7.4(4).

ITEM 2. Rescind 199—Chapter 7 and adopt the following **new** Chapters 7 and 26 in lieu thereof:

CHAPTER 7
PRACTICE AND PROCEDURE

199—7.1(17A,476) Scope and applicability.

7.1(1) This chapter applies to contested case proceedings, investigations, and other hearings conducted by the board or a presiding officer, unless such proceedings, investigations, and hearings are excepted below, otherwise ordered in any proceeding if reasonably necessary to fulfill the objectives of the proceeding, or are subject to special rules or procedures that may be adopted in specific circumstances. If there are no other applicable procedural rules, this chapter applies to other types of agency action, unless the board or presiding officer orders otherwise.

7.1(2) Additional rules applicable only to rate cases, tariff filings, and rate regulation election by rural electric cooperatives are contained in 199—Chapter 26.

7.1(3) With the exception of rules 7.22(17A,476) (ex parte communications), 7.26(17A,476) (appeals from a proposed decision of a presiding officer), and 7.27(17A,476) (rehearing and reconsideration), none of these procedures shall apply to electric transmission line hearings under Iowa Code chapter 478 and 199—Chapter 11 or to pipeline or underground gas storage hearings under Iowa Code chapter 479 or 479B and 199—Chapters 10 and 13. Procedural rules applicable to these proceedings are found in the respective chapters.

7.1(4) Notice of inquiry dockets. The board may issue a notice of inquiry and establish a docket through which the inquiry can be processed. The procedural rules in this chapter shall not apply to these dockets. Instead, the procedures for a notice of inquiry docket shall be specified in the initiating order and shall be subject to change by subsequent order or ruling by the board or the assigned inquiry docket manager. The procedures may include some or all of these procedural rules.

7.1(5) Reorganizations. Procedural rules applicable to reorganizations are included in 199—32.9(476). In the event the requirements in 199—32.9(476) conflict with the re-

UTILITIES DIVISION[199](cont'd)

quirements in this chapter, the 199—32.9(476) requirements are controlling.

7.1(6) Discontinuance of service incident to utility property transfer.

a. Scope. This rule applies to discontinuance of utility service pursuant to Iowa Code section 476.20(1), which includes the termination or transfer of the right and duty to provide utility service to a community or part of a community incident to the transfer, by sale or otherwise, except a stock transfer incident to corporate reorganization. This rule does not limit rights or obligations created by other applicable statutes or rules including, but not limited to, the rights and obligations created by Iowa Code sections 476.22 to 476.26. Additional rules applicable to discontinuance of service by local exchange utilities and interexchange utilities are contained at rule 199—22.16(476). Discontinuance of service to individual customers is addressed in rules 199—19.4(476), 20.4(476), 21.4(476), and 22.4(476). Procedures in the event of a sale or transfer of a customer base by a telecommunications carrier are contained in 199—paragraph 22.23(2)“e.”

b. Application. A public utility shall obtain board approval prior to discontinuance of utility service. The public utility shall file an application for permission to discontinue service that includes a summary of the relevant facts and the grounds upon which the application should be granted. When the discontinuance of service is incident to the transfer of utility property, the transferor utility and the transferee shall file a joint application.

c. Approval. Within 30 days after an application is filed, the board shall approve the application or docket the application for further investigation. Failure to act on the application within 30 days will be deemed approval of the application.

d. Contested cases. Contested cases under paragraph “c” shall be completed within four months after date of docketing.

e. Criteria. The application will be granted if the board finds the utility service is no longer necessary, or if the board finds the transferee is ready, willing, and able to provide comparable utility service.

7.1(7) The purpose of these rules is to facilitate the transaction of business before the board and to promote the just resolution of controversies. Consistent with this purpose, the application of any of these rules, unless otherwise required by law, may be waived by the board or presiding officer pursuant to 199—1.3(17A,474,476).

199—7.2(17A,476) Definitions. Except where otherwise specifically defined by law:

“Board” means the Iowa utilities board or a majority thereof.

“Complainants” are persons who complain to the board of any act or thing done or omitted to be done in violation, or claimed to be in violation, of any provision of Iowa Code chapters 476 through 479B, or of any order or rule of the board.

“Consumer advocate” means the consumer advocate referred to in Iowa Code chapter 475A.

“Contested case” means a proceeding defined by Iowa Code section 17A.2(5) and includes any matter defined as a “no factual dispute” contested case under Iowa Code section 17A.10A.

“Data request” means a discovery procedure in which the requesting party asks another person for specified information or requests the production of documents.

“Expedited proceeding” means a proceeding before the board in which a statutory or other provision of law requires

the board to render a decision in the proceeding in six months or less.

“Filed” means received at the office of the board in a manner and form in compliance with the board’s filing requirements.

“Intervenor” means any person who, upon written petition, is permitted to intervene in a specific proceeding before the board.

“Issuance” means the date written on the order unless another date is specified in the order.

“Parties” include, but are not limited to, complainants, petitioners, applicants, respondents, and intervenors.

“Party” means each person named or admitted as a party.

“Person” means as defined in Iowa Code section 4.1(20) and includes individuals and all forms of legal entities.

“Petitioner” or “applicant” means any party who, by written petition, application, or other filing, applies for or seeks relief from the board.

“Presiding officer” means one board member, the administrative law judge, or another person so designated by the board for the purposes of a particular proceeding.

“Proposed decision” means the presiding officer’s recommended findings of fact, conclusions of law, decision, and order in a contested case that has been assigned by the board to the presiding officer.

“Respondent” means any person against whom a complaint or petition is filed, or who by reason of interest or possible interest in the subject matter of a petition or application or the relief sought therein is made a respondent, or to whom an order is directed by the board initiating a proceeding.

“Service” means service by first-class mail pursuant to subrule 7.4(6), unless otherwise specified.

199—7.3(17A,476) Presiding officers. Presiding officers may be designated by the board to preside over contested cases and conduct hearings and shall have the following authority, unless otherwise ordered by the board:

1. To regulate the course of hearings;
2. To administer oaths and affirmations;
3. To rule upon the admissibility of evidence and offers of proof;
4. To take or cause depositions to be taken;
5. To dispose of procedural matters, discovery disputes, motions to dismiss, and other motions which may involve final determination of proceedings, subject to review by the board on its own motion or upon application by any party;
6. To certify any question to the board, in the discretion of the presiding officer or upon direction of the board;
7. To permit and schedule the filing of written briefs;
8. To hold appropriate conferences before, during, or after hearings;
9. To render a proposed decision and order in a contested case proceeding, investigation, or other hearing, subject to review by the board on its own motion or upon application by any party; and
10. To take any other action necessary or appropriate to the discharge of duties vested in the presiding officer, consistent with law and with the rules and orders of the board.

199—7.4(17A,474,476) General information.

7.4(1) Orders will be issued and placed in the board’s records and information center. Orders shall be deemed effective upon issuance unless otherwise provided in the order. Parties and members of the public may view orders in the board’s records and information center and may also view orders (other than orders granting confidential treat-

UTILITIES DIVISION[199](cont'd)

ment) and a daily summary of filings on the board's Web site located at www.state.ia.us/iub.

7.4(2) Communications.

a. All communications to the board or presiding officer shall be addressed to the Executive Secretary, Iowa Utilities Board, 350 Maple Street, Des Moines, Iowa 50319-0069, unless otherwise specifically directed by the board or presiding officer. Pleadings and other papers required to be filed with the board shall be filed within the time limit, if any, for such filing. Unless otherwise specifically provided, all communications and documents are officially filed upon receipt by the executive secretary in a form that complies with the board's filing requirements. Documents filed with the board shall comply with the requirements in 199—subrule 2.1(3). Persons filing a document with the board must comply with the service requirements in subrule 7.4(6) at the time the document is filed with the board.

b. The board may accept filings electronically from time to time pursuant to instructions that will be delineated in the board order or other official statement authorizing those filings. See rule 7.7(17A,476) for requirements for electronic information filed with the board.

7.4(3) Reference to docket number. All filings made in any proceeding after the proceeding has been docketed by the board shall include on the first page a reference to the applicable docket number(s).

7.4(4) Number of copies.

a. An original and ten copies are required for most initial filings in a docket made with the board. There are some exceptions, which are listed below. The board or presiding officer may request additional copies.

A = Annual Report (rate-regulated 2 copies, non-rate-regulated 1 copy)

C = Complaints filed pursuant to 199—6.2(476) (original)

CCF = Customer Contribution Fund (original + 1 copy)

E = Electric Franchise or Certificate (original + 3 copies)

EAC = Energy Adjustment Clause (original + 3 copies)

EDR = Electric Delivery Reliability (original + 3 copies)

ES = Extended Area Services (original + 2 copies)

GCU = Generating Certificate Utility (original + 20 copies)

H = Accident (original + 1 copy)

HLP = Hazardous Liquid Pipeline (original + 2 copies)

NIA = Negotiated Interconnection Agreement (original + 3 copies)

P = Pipeline Permit (original + 2 copies)

PGA = Purchased Gas Adjustment (original + 3 copies)

R = Reports-Outages (original + 1 copy)

RFU = Refund Filing Utility (original + 4 copies)

RN = Rate Notification (original + 3 copies)

TF = Tariff Filing (original + 4 copies)

b. Unless otherwise ordered or specified in this rule, parties must file an original and ten copies of all filings including, but not limited to, pleadings and answers (rule 7.9(17A,476)), prefiled testimony and exhibits (rule 7.10(17A,476)), motions (rule 7.12(17A,476)), petitions to intervene and responses (rule 7.13(17A,476)), proposals for settlement and responses (rule 7.18(17A,476)), stipulations (rule 7.19(17A,476)), withdrawals (rule 7.21(17A,476)), briefs (subrule 7.23(8)), motions to vacate (subrule 7.23(11)), motions to reopen (rule 7.24(17A,476)), interlocutory appeals (rule 7.25(17A,476)), appeals from proposed decisions of presiding officers and responses (rule 7.26(17A,476)), applications for rehearing and responses (rule 7.27(17A,476)), and requests for stay and responses (rule 7.28(17A,476)).

c. When separate dockets are consolidated into a single case, parties shall file one extra copy for each consolidated docket, in addition to the original and the normally required number of copies. For example, if three separate dockets are consolidated into a single case, parties must file an original plus two copies plus the normally required number of copies of each document.

d. Rule 7.23(17A,476) contains requirements regarding the required number of copies for evidence introduced at hearing and for briefs. Subrule 7.10(5) contains requirements regarding the required number of copies for workpapers and supporting documents.

e. 199—Chapter 26 contains additional requirements regarding the number of copies required to be filed in rate and tariff proceedings.

7.4(5) Defective filings. Only applications, pleadings, documents, testimony, and other submissions that conform to the requirements of an applicable rule, statute, or order of the board or presiding officer will be accepted for filing. Applications, pleadings, documents, testimony, and other submissions that fail to substantially conform with applicable requirements will be considered defective and may be rejected unless waiver of the relevant requirement has been granted by the board or presiding officer prior to filing. The board or presiding officer may reject a filing even though board employees have file-stamped or otherwise acknowledged receipt of the filing. If a filing is defective due only to the number of copies filed, the board's records and information center staff may correct the shortage of copies with the permission of the filing party and the filing party's agreement to cover all costs of reproduction.

7.4(6) Service of documents.

a. Method of service. Unless otherwise specified by the board or presiding officer or otherwise agreed to by the parties, documents that are required to be served in a proceeding may be served by first-class mail or overnight delivery, properly addressed with postage prepaid, or by delivery in person. In expedited proceedings, if service is made by first-class mail instead of by overnight delivery or personal service, the sending party must supplement service by sending a copy by electronic mail or facsimile if an electronic mail address or facsimile number has been provided by the receiving party. When a document is served, the party effecting service shall file with the board proof of service in substantially the form prescribed in 199—subrule 2.2(16) or an admission of service by the party served or the party's attorney. The proof of service shall be attached to a copy of the document served. When service is made by the board, the board will attach a service list with a certificate of service signed by the person serving the document to each copy of the document served.

b. Date of service. Unless otherwise ordered by the board or presiding officer, the date of service shall be the day when the document served is deposited in the United States mail or overnight delivery, is delivered in person, or otherwise as the parties may agree. Although service is effective, the document is not deemed filed with the board until it is received by the board pursuant to subrule 7.4(2).

c. Parties entitled to service. A party or other person filing a notice, motion, pleading, or other document in any proceeding shall contemporaneously serve the document on all other parties. Parties shall serve documents containing confidential information pursuant to a confidentiality agreement executed by the parties, if any. If the parties are unable to agree on a confidentiality agreement, they may ask the board or presiding officer to issue an appropriate order. A party formally filing any document or any other material with the

UTILITIES DIVISION[199](cont'd)

board shall serve three copies of the document or material on the consumer advocate at the same time as the filing is made with the board and by the same delivery method used for filing with the board. "Formal filings" include, but are not limited to, all documents that are filed in a docketed proceeding, or that request initiation of a docketed proceeding. The address of the consumer advocate is Office of Consumer Advocate, 310 Maple Street, Des Moines, Iowa 50319-0063.

d. Service upon attorneys. When a party has appeared by attorney, service upon the attorney shall be deemed proper service upon the party.

7.4(7) Written appearance. Each party to a proceeding shall file a separate written appearance, substantially conforming to the form set forth in 199—subrule 2.2(15), identifying one person upon whom the board may serve all orders, correspondence, or other documents. If a party has previously designated a person to be served on the party's behalf in all matters, filing the appearance will not change this designation, unless the party directs that the designated person be changed in the appearance. If a party files an application, petition, or other initial pleading, or an answer or other responsive pleading, containing the information that would otherwise be required in an appearance, the filing of a separate appearance is not required. The appearance may be filed with the party's initial filing in the proceeding or may be filed after the proceeding has been docketed.

7.4(8) Representation by attorney at law.

a. Any party to a proceeding before the board or a presiding officer may appear and be heard through a licensed attorney at law. If the attorney is not licensed by the state of Iowa, permission to appear must be granted by the board or presiding officer. A verified statement that contains the attorney's agreement to submit to and comply with the Iowa Code of Professional Responsibility for Lawyers must be filed with the board and the written appearance of a resident attorney must be provided for service pursuant to Iowa Admission to the Bar rule 31.14(2).

b. A corporation or association may appear and present evidence by an officer or employee. However, only licensed attorneys shall represent a party before the board or a presiding officer in any matter involving the exercise of legal skill or knowledge, except with the consent of the board or presiding officer. All persons appearing in proceedings before the board or a presiding officer shall conform to the standard of ethical conduct required of attorneys before the courts of Iowa.

7.4(9) Cross reference to public documents and confidential filings. The board's rule regarding public documents and confidential filings is at 199—1.9(22).

7.4(10) Expedited proceedings.

a. If a person claims that a statutory or other provision of law requires the board to render a decision in a contested case in six months or less, the person shall include the phrase "Expedited Proceedings Required" in the caption of the first pleading filed by the person in the proceeding. If the phrase is not so included in the caption, the board or presiding officer may find and order that the proceeding did not commence for purposes of the required time for decision until the date on which the first pleading containing the required phrase is filed or such other date that the board or presiding officer finds is just and reasonable under the circumstances.

b. If a person claims that a statutory or other provision of law requires the board to render a decision in a contested case in six months or less, the person shall state the basis for the claim in the first pleading in which the claim is made.

c. Shortened time limits applicable to expedited proceedings are contained in rules 7.9(17A,476) (pleadings and answers), 7.12(17A,476) (motions), 7.13(17A,476) (intervention), 7.15(17A,476) (discovery), and 7.26(17A,476) (appeals from proposed decisions). An additional service requirement applicable to expedited proceedings is contained in subrule 7.4(6) (service of documents).

d. A party may file a motion that proceedings be expedited even though such treatment is not required by statute or other provision of law. Such voluntary expedited treatment may be granted at the board's or presiding officer's discretion in appropriate circumstances considering the needs of the parties and the interests of justice. In these voluntary expedited proceedings, the board or presiding officer may shorten the filing dates or other procedures established in this chapter. The shortened time limits and additional service requirement applicable to expedited proceedings established in this chapter and listed in paragraph 7.4(10)"c" do not apply to voluntary expedited proceedings under this paragraph unless ordered by the board or presiding officer.

199—7.5(17A,476) Time requirements.

7.5(1) Time shall be computed as provided in Iowa Code subsection 4.1(34).

7.5(2) In response to a request or on its own motion, for good cause, the board or presiding officer may extend or shorten the time to take any action, except as precluded by statute.

199—7.6(17A,476) Telephone proceedings. The board or presiding officer may hold proceedings by telephone conference call in which all parties have an opportunity to participate. The board or presiding officer will determine the location of the parties and witnesses for telephone hearings. The convenience of the witnesses or parties, as well as the nature of the case, will be considered when locations are determined.

199—7.7(17A,476) Electronic files. This rule applies to all electronic information (electronic files) filed with the board. The board or presiding officer, on the board's or presiding officer's own motion or at the request of a party, may provide for additional or different requirements in specific cases, if necessary.

7.7(1) Electronic files shall be accompanied by a hard-copy printout and a hard-copy index that identifies each electronic file and includes, for each file, a brief description of the sources of inputs, operations performed, and where outputs are next used.

7.7(2) Electronic files that are compressed shall be accompanied by software and clear documentation to reverse the process of compression. If the software may be downloaded and used by the board without incurring a fee, the person filing the compressed electronic files may provide a reference to the Web source of the software.

7.7(3) Spreadsheets, workbooks, and databases shall include all cell formulae and cell references to allow board staff to analyze and reproduce calculations.

7.7(4) All electronic files shall be provided in editable form. Any files submitted in portable document format (PDF) shall be accompanied by the original files from which the PDF files were created, in native format and including calculations and formulae.

7.7(5) Electronic information shall be filed in accordance with the board's standards for electronic information unless prior arrangements are made. Standards are available from the board's Records and Information Center, 350 Maple Street, Des Moines, Iowa 50319-0069, and may be reviewed on the board's Web site (www.state.ia.us/iub). If a person

UTILITIES DIVISION[199](cont'd)

proposes to submit electronic information that does not comply with the standards, the person shall contact the executive secretary or general counsel of the board prior to submission. The board or presiding officer may order different requirements and standards for good cause.

199—7.8(17A,476) Delivery of notice of hearing. When the board or presiding officer issues an order containing a notice of hearing, delivery of the order will be by first-class mail unless otherwise ordered.

199—7.9(17A,476) Pleadings and answers.

7.9(1) Pleadings. Pleadings may be required by statute, rule, or order.

7.9(2) Answers.

a. Unless otherwise ordered by the board or presiding officer, answers to complaints, petitions, applications, or other pleadings shall be filed with the board within 20 days after the day on which the pleading being answered was served upon the respondent or other party. However, when a statute or other provision of law requires the board to issue a decision in the case in six months or less, the answer shall be filed with the board within 10 days of service of the pleading being answered, unless otherwise ordered by the board or presiding officer.

b. Each answer must specifically admit, deny, or otherwise answer all material allegations of the pleadings and also briefly set forth the affirmative grounds relied upon to support each answer.

c. Any party who deems the complaint, petition, application, or other pleading insufficient to show a breach of legal duty or grounds for relief may move to dismiss instead of, or in addition to, answering.

d. A party may apply for a more definitive and detailed statement instead of, or in addition to, answering, if appropriate.

e. An answer shall substantially comply with the form prescribed in 199—subrule 2.2(8).

7.9(3) Amendments to pleadings. Amendments to pleadings may be allowed upon proper motion at any time during the pendency of the proceeding upon such terms as are just and reasonable.

199—7.10(17A,476) Prefiled testimony and exhibits.

7.10(1) The board or presiding officer may order the parties to file prefiled testimony and exhibits prior to the hearing. The use of prefiled testimony is the standard method for providing testimony in board contested case proceedings. If ordered to do so, parties must file the prefiled testimony and exhibits according to the schedule in the procedural order.

7.10(2) Prefiled testimony contains all statements that a witness intends to give under oath at the hearing, set forth in question and answer form. If possible, each line should be separately numbered. When a witness who has submitted prefiled testimony takes the stand, the witness does not ordinarily repeat the written testimony or give new testimony. Instead, the witness is cross-examined by the other parties concerning the statements already made in writing. However, the witness may be permitted to correct or update prefiled testimony on the stand and, in appropriate circumstances and with the approval of the board or presiding officer, may give a summary of the prefiled testimony. If the witness has more than three corrections to make, then the corrections should be filed in written form prior to the hearing.

7.10(3) Parties who wish to present a witness or other evidence in a proceeding shall comply with the board's or presiding officer's order concerning prefiled testimony and doc-

umentary evidence, unless otherwise ordered, or unless otherwise provided by statute or other provision of law.

7.10(4) Prefiled testimony and exhibits must be accompanied by an affidavit in substantially the following form: "I, [person's name], being first duly sworn on oath, state that I am the same [person's name] identified in the testimony being filed with this affidavit, that I have caused the testimony [and exhibits] to be prepared and am familiar with its contents, and that the testimony [and exhibits] is true and correct to the best of my knowledge and belief as of the date of this affidavit."

7.10(5) Prefiled testimony and exhibits shall include, where applicable:

a. All supporting workpapers.

(1) Unless otherwise ordered by the board or presiding officer, electronic workpapers in native electronic formats that comply with the standards in rule 7.7(17A,476) shall be provided. Noncompliant electronic workpapers shall be provided as a hard copy with a brief description of software and hardware requirements. Noncompliant electronic copies shall be provided upon request by any party, the board, or the presiding officer.

(2) All other workpapers and hard-copy printouts of electronic files shall be clearly tabbed and indexed, and pages shall be numbered. Each section shall include a brief description of the sources of inputs, operations contained therein, and where outputs are next used.

(3) Workpapers' underlying analyses and data presented in exhibits shall be explicitly referenced within the exhibit, including the name and other identifiers (e.g., cell coordinates) for electronic workpapers, and volume, tab, and page numbers for other workpapers.

(4) The source of any number used in a workpaper that was not generated by that workpaper shall be identified.

b. The derivation or source of all numbers used in either testimony or exhibits that were not generated by workpapers.

c. Copies of any specific studies or financial literature relied upon or complete citations for them if publicly available.

d. Electronic copies, in native electronic format, of all computer-generated exhibits that comply with the standards in rule 7.7(17A,476). Noncompliant electronic computer-generated exhibits shall be provided as a hard copy with a brief description of software and hardware requirements. Noncompliant electronic copies shall be provided upon request by any party, the board, or the presiding officer.

e. Unless otherwise ordered by the board or presiding officer, the following number of copies shall be filed:

(1) Electronic workpapers - two copies and two hard-copy printouts.

(2) Other workpapers - five copies.

(3) Specific studies or financial literature - two copies.

(4) Computer-generated exhibits - two copies.

7.10(6) If a party has filed part or all of prefiled testimony and exhibits as confidential pursuant to 199—1.9(22), and then later withdraws the claim of confidentiality for part or all of the testimony and exhibits, or if the board denies the request to hold the testimony and exhibits confidential, the party must refile the testimony and exhibits without the confidential stamp on each page.

199—7.11(17A,476) Documentary evidence in books and materials. When documentary evidence being offered is contained in a book, report, or other document, the offering party should ordinarily file only the material, relevant portions in an exhibit or read them into the record. If a party offers the entire book, report, or other document containing the

UTILITIES DIVISION[199](cont'd)

evidence being offered, the party shall plainly designate the evidence so offered.

199—7.12(17A,476) Motions. Motions, unless made during hearing, shall be in writing, state the grounds for relief, and state the relief or order sought. Motions based on matters that do not appear of record shall be supported by affidavit. Motions shall substantially comply with the form prescribed in 199—subrule 2.2(14). Motions shall be filed and served pursuant to rule 7.4(17A,476). Any party may file a written response to a motion no later than 14 days from the date the motion is filed, unless the time period is extended or shortened by the board or presiding officer. When a statutory or other provision of law requires the board to issue a decision in the case in six months or less, written responses to a motion must be filed within 7 days of the date the motion is filed, unless otherwise ordered by the board or presiding officer. Failure to file a timely response may be deemed a waiver of objection to the motion. Requirements regarding motions related to discovery are contained at 199—subrules 7.15(4) and 7.15(5).

199—7.13(17A,476) Intervention.

7.13(1) Petition. Unless otherwise ordered by the board or presiding officer, a request to intervene in a proceeding shall be by petition to intervene filed no later than 20 days following the order setting a procedural schedule. However, when a statutory or other provision of law requires the board to issue a decision in the case in six months or less, the petition to intervene must be filed no later than 10 days following the order setting a procedural schedule, unless otherwise ordered by the board or presiding officer. A petition to intervene shall substantially comply with the form prescribed in 199—subrule 2.2(10).

7.13(2) Response. Any party may file a response within seven days of service of the petition to intervene unless the time period is extended or shortened by the board or presiding officer.

7.13(3) Grounds for intervention. Any person having an interest in the subject matter of a proceeding may be permitted to intervene at the discretion of the board or presiding officer. In determining whether to grant intervention, the board or presiding officer shall consider:

- a. The prospective intervenor's interest in the subject matter of the proceeding;
- b. The effect of a decision that may be rendered upon the prospective intervenor's interest;
- c. The extent to which the prospective intervenor's interest will be represented by other parties;
- d. The availability of other means by which the prospective intervenor's interest may be protected;
- e. The extent to which the prospective intervenor's participation may reasonably be expected to assist in the development of a sound record through presentation of relevant evidence and argument; and
- f. Any other relevant factors.

7.13(4) In determining the extent to which the prospective intervenor's interest will be represented by other parties, the consumer advocate's role of representing the public interest shall not be interpreted as representing every potential interest in a proceeding.

7.13(5) The board or presiding officer may limit a person's intervention to particular issues or to a particular stage of the proceeding, or may otherwise condition the intervenor's participation in the proceeding. Leave to intervene shall generally be granted by the board or presiding officer to any person with a cognizable interest in the proceeding.

7.13(6) When two or more intervenors have substantially the same interest, the board or presiding officer, in the board's or presiding officer's discretion, may order consolidation of petitions and briefs and limit the number of attorneys allowed to participate actively in the proceedings to avoid a duplication of effort.

7.13(7) A person granted leave to intervene is a party to the proceeding. However, unless the board or presiding officer rules otherwise for good cause shown, an intervenor shall be bound by any agreement, arrangement, or order previously made or issued in the case.

199—7.14(17A,476) Consolidation and severance.

7.14(1) Consolidation. The board or presiding officer may consolidate any or all matters at issue in two or more contested cases. When deciding whether to consolidate, the board or presiding officer shall consider:

- a. Whether the matters at issue involve common parties or common questions of fact or law;
- b. Whether consolidation is likely to expedite or simplify consideration of the issues involved;
- c. Whether consolidation would adversely affect the substantial rights of any of the parties to the proceedings; and
- d. Any other relevant factors.

7.14(2) Severance. The board or presiding officer may order any contested case or portions thereof severed for good cause.

199—7.15(17A,476) Discovery.

7.15(1) Discovery procedures applicable in civil actions are available to parties in contested cases.

7.15(2) Unless otherwise ordered by the board or presiding officer or agreed to by the parties, data requests or interrogatories served by any party shall either be responded to or objected to, with concisely stated grounds for relief, within seven days of receipt. When a statutory or other provision of law requires the board to issue a decision in the case in six months or less, this time is reduced to five days.

7.15(3) Unless otherwise ordered by the board or presiding officer, time periods for compliance with all forms of discovery other than those stated in subrule 7.15(2) shall be as provided in the Iowa Rules of Civil Procedure.

7.15(4) Prior to filing any motion related to discovery, parties shall make a good-faith effort to resolve discovery disputes without the involvement of the board or presiding officer.

7.15(5) Any motion related to discovery shall allege that the moving party has made a good-faith attempt to resolve the discovery issues involved with the opposing party. Opposing parties shall be given the opportunity to respond within ten days of the filing of the motion unless the time is shortened by order of the board or presiding officer. When a statutory or other provision of law requires the board to issue a decision in the case in six months or less, this time is reduced to five days. The board or presiding officer may rule on the basis of the written motion and any response, or may order argument or other proceedings on the motion.

199—7.16(17A,476) Subpoenas.

7.16(1) Issuance.

a. An agency subpoena shall be issued to a party on request. The request shall be in writing and include the name, address, and telephone number of the requesting party. In the absence of good cause for permitting later action, a request for a subpoena must be received at least seven days before the scheduled hearing.

UTILITIES DIVISION[199](cont'd)

b. Except to the extent otherwise provided by law, parties are responsible for service of their own subpoenas and payment of witness fees and mileage expenses.

7.16(2) Motion to quash or modify. Upon motion, the board or presiding officer may quash or modify a subpoena for any lawful reason.

199—7.17(17A,476) Prehearing conference. An informal conference of parties may be ordered at the discretion of the board or presiding officer or at the request of any party for any appropriate purpose. Any agreement reached at the conference shall be made a part of the record in the manner directed by the board or presiding officer.

199—7.18(17A,476) Settlements. Parties to a contested case may propose to settle all or some of the issues in the case. The board or presiding officer will not approve settlements, whether contested or uncontested, unless the settlement is reasonable in light of the whole record, consistent with law, and in the public interest. Board adoption of a settlement constitutes the final decision of the board on issues addressed in the settlement.

7.18(1) Proposal of settlements. Two or more parties may by written motion propose settlements for adoption by the board or presiding officer. The motion shall contain a statement adequate to advise the board or presiding officer and parties not expressly joining the proposal of its scope and of the grounds on which adoption is urged. Parties may propose a settlement for adoption by the board or presiding officer at any time.

7.18(2) Conference. After proposal of a settlement that is not supported by all parties, and prior to approval, the settling parties shall convene at least one conference with notice and opportunity to participate provided to all parties for the purpose of discussing the settlement proposal. Written notice of the date, time, and place shall be furnished at least seven days in advance to all parties to the proceeding. Attendance at any settlement conference shall be limited to the parties to a proceeding and their representatives. A party that has been given notice and opportunity to participate in the conference and does not do so shall be deemed to have waived its right to contest a proposed settlement, unless good cause is shown for the failure to participate.

7.18(3) Comment period. When a party to a proceeding does not join in a settlement proposed for adoption by the board or presiding officer, the party may file comments contesting all or part of the settlement with the board. Unless otherwise ordered by the board or presiding officer, the party shall file its comments within 14 days of filing of the motion proposing settlement, and shall serve such comments on all parties to the proceeding at the time of filing. Unless otherwise ordered by the board or presiding officer, parties shall file reply comments within 7 days of filing of the comments.

7.18(4) Contents of comments. A party contesting a proposed settlement must specify in its comments the portions of the settlement that it opposes, the legal basis of its opposition, and the factual issues that it contests. Any failure by a party to file comments may, at the board's or presiding officer's discretion, constitute waiver by that party of all objections to the settlement.

7.18(5) Contested settlements. If the proposed settlement is contested, in whole or in part, on any material issue of fact by any party, the board or presiding officer may schedule a hearing on the contested issue(s). The board or presiding officer may decline to schedule a hearing where the contested issue of fact is not material or where the contested issue is one of law.

7.18(6) Unanimous proposed settlement. In proceedings where all parties join in the proposed settlement, parties may propose a settlement for adoption by the board or presiding officer any time after docketing. Subrules 7.18(2) through 7.18(5) shall not apply to a proposed settlement filed concurrently by all parties to the proceeding.

7.18(7) Inadmissibility. Any discussion, admission, concession, or offer to settle, whether oral or written, made during any negotiation on a settlement shall be privileged to the extent provided by law, including, but not limited to, Iowa R. Evid. 5.408.

199—7.19(17A,476) Stipulations. Parties to any proceeding or investigation may, by stipulation filed with the board, agree upon the facts or law or any portion thereof involved in the controversy, subject to approval by the board or presiding officer.

199—7.20(17A,476) Investigations. The availability of discovery pursuant to Iowa Code section 17A.13 or the Iowa Rules of Civil Procedure shall not be construed to limit the investigatory powers of the board, its representatives, or the consumer advocate.

199—7.21(17A,476) Withdrawals. A party requesting a contested case proceeding may, with the permission of the board or presiding officer, withdraw that request at any time prior to the issuance of a proposed or final decision in the case.

199—7.22(17A,476) Ex parte communication. Ex parte communication is prohibited as provided in Iowa Code section 17A.17. Parties or their representatives shall not communicate directly or indirectly with the board or presiding officer in connection with any issue of fact or law in a contested case except upon notice and an opportunity for all parties to participate. The board or presiding officer shall not communicate directly or indirectly with parties or their representatives in connection with any issue of fact or law in a contested case except upon notice and an opportunity for all parties to participate.

199—7.23(17A,476) Hearings.

7.23(1) Board or presiding officer. The board or presiding officer presides at the hearing and may rule on motions and issue such orders and rulings as will ensure the orderly conduct of the proceedings. The board or presiding officer shall maintain the decorum of the hearing and may refuse to admit, may set limits on, or may expel from the hearing anyone whose conduct is disorderly.

7.23(2) Witnesses. Each witness shall be sworn or affirmed by the board, presiding officer, or the court reporter and be subject to examination and cross-examination. The board or presiding officer may limit questioning in a manner consistent with law. In appropriate circumstances, the board or presiding officer may order that witnesses testify as members of a witness panel.

7.23(3) Order of presenting evidence. The board or presiding officer shall determine the order of the presentation of evidence based on applicable law and the interests of efficiency and justice, taking into account the preferences of the parties. Normally, the petitioner shall open the presentation of evidence. In cases where testimony has been prefiled, each witness shall be available for cross-examination on all testimony prefiled by or on behalf of that witness when the witness takes the stand, either alone or as a member of a witness panel.

7.23(4) Evidence.

a. Subject to terms and conditions prescribed by the board or presiding officer, parties have the right to introduce

UTILITIES DIVISION[199](cont'd)

evidence, cross-examine witnesses, and present evidence in rebuttal. Ordinarily, prefiled testimony is used in hearings pursuant to rule 7.10(17A,476). Nonsubstantive corrections to prefiled testimony may be made at the beginning of the testimony. However, if more than three corrections need to be made, the sponsoring party shall file corrected prefiled testimony prior to the hearing. The sponsoring party must provide one copy of prefiled testimony and included exhibits to the court reporter.

b. The board or presiding officer shall rule on admissibility of evidence and may, where appropriate, take official notice of facts in accordance with law.

c. Stipulation of facts is encouraged. The board or presiding officer may make a decision based on stipulated facts.

d. Unless previously included with prefiled testimony, the party seeking admission of an exhibit must provide opposing parties with an opportunity to examine the exhibit prior to the ruling on its admissibility. All exhibits admitted into evidence shall be appropriately marked and made part of the evidentiary record. If an exhibit is admitted, unless previously included with prefiled testimony, the sponsoring party must provide at least one copy of the exhibit to each opposing party, one copy for each board member or presiding officer, one copy for the witness (if any), one copy for the court reporter, and two copies for board staff, unless otherwise ordered.

e. Whenever evidence is ruled inadmissible, the party offering that evidence may submit an offer of proof on the record. The party making the offer of proof for excluded oral testimony shall briefly summarize the testimony or, with the permission of the board or presiding officer, present the testimony. The board or presiding officer may require the offering party to file a written statement of the excluded oral testimony. If the excluded evidence consists of a document or exhibit, it shall be marked as part of an offer of proof and inserted in the record. Unless previously included with prefiled testimony, the sponsoring party must provide at least one copy of the document or exhibit to each opposing party, one copy for each board member or presiding officer, one copy for the witness (if any), one copy for the court reporter, and two copies for board staff, unless otherwise ordered.

7.23(5) Objections. Any party may object to specific evidence or may request limits on the scope of any examination or cross-examination. All objections shall be timely made on the record and state the grounds relied on. The board or presiding officer may rule on the objection at the time it is made or may reserve a ruling until the written decision.

7.23(6) Further evidence. At any stage during or after the hearing, the board or presiding officer may order a party to present additional evidence and may conduct additional proceedings as appropriate.

7.23(7) Participation at hearings by nonparties. The board or presiding officer may permit any person to be heard and to examine and cross-examine witnesses at any hearing, but such person shall not be a party to the proceedings unless so designated. The testimony or statement of any person so appearing shall be given under oath and such person shall be subject to cross-examination by parties to the proceeding, unless the board or presiding officer orders otherwise.

7.23(8) Briefs.

a. Unless waived by the parties with the consent of the board or presiding officer, the board or presiding officer shall set times for the filing and service of briefs. Unless otherwise ordered by the board or presiding officer, initial briefs shall be filed simultaneously by all parties and reply briefs shall be filed simultaneously.

b. Unless otherwise ordered, parties shall file an original and ten copies of briefs with the board and shall serve two copies of briefs on the other parties pursuant to subrule 7.4(6). Parties may serve one paper copy and one copy by electronic mail on the other parties instead of two paper copies. Three copies of briefs shall be served on the consumer advocate pursuant to subrule 7.4(6).

c. Initial briefs shall contain a concise statement of the case. Arguments based on evidence introduced during the proceeding shall specify the portions of the record where the evidence is found. Initial briefs shall include all arguments the party intends to offer in support of its case and against the record case of the adverse party or parties. Unless otherwise ordered, a reply brief shall be confined to refuting arguments made in the brief of an adverse party. Unless specifically ordered to brief an issue, a party's failure to address an issue by brief shall not be deemed a waiver of that issue and shall not preclude the board or presiding officer from deciding the issue on the basis of evidence appearing in the record.

d. Every brief of more than 20 pages shall contain on its front leaves a table of contents with page references. Each party's initial brief shall not exceed 90 pages and each subsequent brief shall not exceed 40 pages, exclusive of the table of contents, unless otherwise ordered. Such orders may be issued ex parte. A brief that exceeds these page limits shall be deemed a defective filing and may be rejected as provided in subrule 7.4(5).

e. Briefs shall comply with the following requirements.

(1) The size of pages shall be 8½ by 11 inches.

(2) All printed matter must appear in at least 11-point type.

(3) There shall be margins of at least one inch on the top, bottom, right, and left sides of the sheet.

(4) The body of the brief shall be double-spaced.

(5) Footnotes may be single-spaced but shall not exceed one-half page in length.

(6) The printed matter may appear in any pitch, as long as the characters are spaced in a readable manner. Any readable font is acceptable.

7.23(9) Oral arguments. The board or presiding officer may set a time for oral argument at the conclusion of the hearing, or may set a separate date and time for oral argument. The board or presiding officer may set a time limit for argument. Oral argument may be either in addition to or in lieu of briefs. Unless specifically ordered to argue an issue, a party's failure to address an issue in oral argument shall not be deemed a waiver of the issue.

7.23(10) Record. The record of the case is maintained in the board's records and information center at the office of the board. Unless held confidential pursuant to 199—1.9(22), parties and members of the public may examine the record and obtain copies of documents other than the transcript. The transcript will be available for public examination, but copying of the transcript may be restricted by the terms of the contract with the court reporting service.

7.23(11) Default.

a. If a party fails to appear at a hearing after proper service of notice, or fails to answer or otherwise respond to an appropriate pleading directed to and properly served upon that party, the board or presiding officer may, if no adjournment is granted, enter a default decision or proceed with the hearing and render a decision in the absence of the party.

b. Default decisions or decisions rendered on the merits after a party has failed to appear at a hearing constitute final agency action unless otherwise ordered by the board or presiding officer. However, within 15 days after the date of noti-

UTILITIES DIVISION[199](cont'd)

fication or mailing of the decision, a motion to vacate may be filed with the board. The motion to vacate must state all facts relied on by the moving party that show good cause existed for that party's failure to appear at the hearing or answer or otherwise respond to an appropriate pleading directed to and properly served upon that party. The stated facts must be substantiated by affidavit attached to the motion. Unless otherwise ordered, adverse parties shall have 10 days to respond to a motion to vacate. If the decision is rendered by a presiding officer, the board may review it on the board's own motion within 15 days after the date of notification or mailing of the decision.

c. The time for appeal of a decision for which a timely motion to vacate has been filed is stayed pending a decision on the motion to vacate.

d. Properly substantiated and timely filed motions to vacate shall be granted for good cause shown. The burden of proof as to good cause is on the moving party. "Good cause" for purposes of this rule shall have the same meaning as "good cause" for setting aside a default judgment under Iowa Rule of Civil Procedure 1.977.

e. A presiding officer's decision denying a motion to vacate is subject to further appeal within the time limit allowed for further appeal of a decision on the merits in the contested case. A presiding officer's decision granting a motion to vacate is subject to interlocutory appeal by the adverse party pursuant to rule 7.25(17A,476).

f. If a motion to vacate is granted and no timely interlocutory appeal has been taken, the board or presiding officer shall schedule another hearing and the contested case shall proceed accordingly.

g. A default decision may award any relief consistent with the record in the case. The default decision may provide either that the default decision is to be stayed pending a timely motion to vacate or that the default decision is to take effect immediately, subject to a timely motion to vacate, an appeal pursuant to rule 7.26(17A,476), or a request for stay pursuant to rule 7.28(17A,476).

199—7.24(17A,476) Reopening record. The board or presiding officer, on the board's or presiding officer's own motion or on the motion of a party, may reopen the record for the reception of further evidence. When the record was made before the board, a motion to reopen the record may be made any time prior to the issuance of a final decision. When the record was made before a presiding officer, a motion to reopen the record shall be made prior to the expiration of the time for appeal from the proposed decision, and the motion shall stay the time for filing an appeal. A motion to reopen the record shall substantially comply with the form prescribed in 199—subrule 2.2(12). Affidavits of witnesses who will present new evidence shall be attached to the motion and shall include an explanation of the competence of the witness to sponsor the evidence and a description of the evidence to be included in the record.

199—7.25(17A,476) Interlocutory appeals. Upon written request of a party or on its own motion, the board may review an interlocutory order of the presiding officer. In determining whether to do so, the board may consider the extent to which granting the interlocutory appeal would expedite final resolution of the case and the extent to which review of that interlocutory order by the board at the time it reviews the proposed decision would provide an adequate remedy. Any request for interlocutory review must be filed within ten days of issuance of the challenged order, but no later than the time for com-

pliance with the order or ten days prior to the date of hearing, whichever is first.

199—7.26(17A,476) Appeals to board from a proposed decision of a presiding officer.

7.26(1) Notification of proposed decision. A copy of the presiding officer's proposed decision and order in a contested case shall be sent by first-class mail, on the date the order is issued, to the last-known address of each party. The decision shall normally include "Proposed Decision and Order" in the title and shall inform the parties of their right to appeal an adverse decision and the time in which an appeal must be taken.

7.26(2) Appeal from proposed decision. A proposed decision and order of the presiding officer in a contested case shall become the final decision of the board unless, within 15 days after the decision is issued, the board moves to review the decision or a party files an appeal of the decision with the board. The presiding officer may shorten the time for appeal. In determining whether a request for a shortened appeal period should be granted, the presiding officer may consider the needs of the parties for a shortened appeal period, relevant objections of the parties, the relevance of any written objections filed in the case, and whether there are any issues that indicate a need for the 15-day appeal period.

7.26(3) Any adversely affected party may appeal a proposed decision by timely filing a notice of appeal. The appellant shall file an original and ten copies of the notice of appeal with the board, provide a copy to the presiding officer, and simultaneously serve a copy of the notice pursuant to subrule 7.4(6) on all parties.

7.26(4) The board shall not consider any claim of error based on evidence which was not introduced before the presiding officer. Newly discovered material evidence must be presented to the presiding officer pursuant to a motion to reopen the record, unless the board orders otherwise.

7.26(5) Contents of notice of appeal. The notice of appeal shall include the following in separately numbered paragraphs supported, where applicable, by controlling statutes and rules.

a. A brief statement of the facts.

b. A brief statement of the history of the proceeding, including the date and a description of any ruling claimed to be erroneous.

c. A statement of each of the issues to be presented for review.

d. A precise description of the error(s) upon which the appeal is based. If a claim of error is based on allegations that the presiding officer failed to correctly interpret the law governing the proceeding, exceeded the authority of a presiding officer, or otherwise failed to act in accordance with law, the appellant shall include a citation to briefs or other documents filed in the proceeding before the presiding officer where the legal points raised in the appeal were discussed. If a claim of error is based on allegations that the presiding officer failed to give adequate consideration to evidence introduced at hearing, the appellant shall include a citation to pages of the transcript or other documents where the evidence appears.

e. A precise statement of the relief requested.

f. A statement as to whether an opportunity to file a brief or make oral argument in support of the appeal is requested and, if an opportunity is sought, a statement explaining the manner in which briefs and arguments presented to the presiding officer are inadequate for purposes of appeal.

g. Certification of service showing the names and addresses of all parties upon whom a copy of the notice of appeal was served.

UTILITIES DIVISION[199](cont'd)

7.26(6) Responsive filings and cross-appeals. If parties wish to respond to the notice of appeal, or file a cross-appeal, they must file the response or notice of cross-appeal within 14 days after the filing of the notice of appeal, unless otherwise ordered by the board. When a statutory or other provision of law requires the board to issue a decision in the case in less than six months, the response or cross-appeal must be filed within 7 days of filing the notice of appeal.

a. Responses shall specifically respond to each of the substantive paragraphs of the notice of appeal and shall state whether an opportunity to file responsive briefs or to participate in oral argument is requested.

b. Parties who file a cross-appeal must comply with the requirements for filing a notice of appeal contained in this rule, other than the requirement to file notice of the cross-appeal within 15 days after the proposed decision is issued.

7.26(7) Ruling on appeal. After the filing of the last appeal, response, or cross-appeal, the board shall issue an order that may establish a procedural schedule for the appeal or may be the board's final decision on the merits of the appeal.

199—7.27(17A,476) Rehearing and reconsideration.

7.27(1) Application for rehearing or reconsideration. Any party to a contested case may file an application for rehearing or reconsideration of the final decision. The application for rehearing or reconsideration shall be filed within 20 days after the final decision in the contested case is issued. This subrule shall not be construed as prohibiting reconsideration of board orders in other than contested cases.

7.27(2) Contents of application. Applications for rehearing or reconsideration shall specify the findings of fact and conclusions of law claimed to be erroneous, with a brief statement of the alleged grounds of error. Any application for rehearing or reconsideration asserting that evidence has arisen since the final order was issued as a ground for rehearing or reconsideration shall present the evidence by affidavit that includes an explanation of the competence of the person to sponsor the evidence and a brief description of the evidence sought to be included. An application shall substantially comply with the form prescribed in 199—subrule 2.2(13).

7.27(3) Requirements for objections to applications for rehearing or reconsideration. Notwithstanding the provisions of subrule 7.9(2), an answer or objection to an application for a rehearing or reconsideration must be filed within 14 days of the date the application was filed with the board, unless otherwise ordered by the board. The answer or objection to the application shall substantially comply with the form prescribed in 199—subrule 2.2(8).

199—7.28(17A,476) Stay of agency decision.

7.28(1) Any party to a contested case proceeding may petition the board for a stay or other temporary remedy pending judicial review of the proceeding. The petition shall state the reasons justifying a stay or other temporary remedy and be served on all other parties pursuant to subrule 7.4(6).

7.28(2) In determining whether to grant a stay, the board shall consider the factors listed in Iowa Code section 17A.19(5)(c).

7.28(3) A stay may be vacated by the board upon application of any party.

199—7.29(17A,476) Emergency adjudicative proceedings.

7.29(1) Necessary emergency action. To the extent necessary to prevent or avoid immediate danger to the public health, safety, or welfare, and consistent with the Constitution and other provisions of law, the board may issue an

emergency adjudicative order in compliance with Iowa Code section 17A.18A to order the cessation of any continuing activity, order affirmative action, or take other action within the jurisdiction of the agency. Before issuing an emergency adjudicative order, the board may consider factors including, but not limited to, the following:

a. Whether there has been a sufficient factual investigation to provide reasonably reliable information under the circumstances;

b. Whether the specific circumstances that pose immediate danger to the public health, safety, or welfare are likely to be continuing;

c. Whether the person required to comply with the emergency adjudicative order may continue to engage in other activities without posing immediate danger to the public health, safety, or welfare;

d. Whether imposition of monitoring requirements or other interim safeguards would be sufficient to protect the public health, safety, or welfare; and

e. Whether the specific action contemplated by the board is necessary to avoid the immediate danger.

7.29(2) Issuance of order.

a. An emergency adjudicative order shall contain findings of fact, conclusions of law, and policy reasons for the decision if it is an exercise of the board's discretion, to justify the determination of an immediate danger and the board's decision to take immediate action.

b. The written emergency adjudicative order shall be immediately delivered to persons who are required to comply with the order by the most reasonably available method, which may include one or more of the following methods: personal delivery; certified mail; first-class mail; fax; or E-mail. To the degree practical, the board shall select the method or methods most likely to result in prompt, reliable delivery.

c. Unless the written emergency adjudicative order is delivered by personal service on the day issued, the board shall make reasonable efforts to contact the persons who are required to comply with the order by telephone, in person, or otherwise.

7.29(3) Completion of proceedings. Issuance and delivery of a written emergency adjudicative order will normally include notification of a procedural schedule for completion of the proceedings.

These rules are intended to implement Iowa Code chapter 17A and sections 474.5 and 476.2.

CHAPTER 26
RATE CASES, TARIFFS, AND
RATE REGULATION ELECTION
PRACTICE AND PROCEDURE

199—26.1(17A,476) Scope and applicability.

26.1(1) This chapter contains procedural rules applicable only to rate cases, tariff filings, and rate regulation election by electric cooperatives. The board's general contested case procedural rules that also apply to these types of proceedings are contained in 199—Chapter 7.

26.1(2) The purpose of these rules is to facilitate the transaction of business before the board and to promote the just resolution of controversies. Consistent with this purpose, the application of any of these rules, unless otherwise required by law, may be waived by the board pursuant to 199—1.3(17A,474,476).

199—26.2(17A,476) Defective filings. No application, pleading, document, testimony or other submission filed with a tariff incorporating changes in rates, charges, schedules, or

UTILITIES DIVISION[199](cont'd)

regulations for public utility service shall be rejected as defective under this rule after the date of a board order docketing investigation of the tariff as a formal proceeding.

199—26.3(17A,476) Proposal of settlements. In proposed settlements which resolve all revenue requirement issues in a rate case proceeding, parties to the settlement shall jointly file the revenue requirement calculations reflecting the adjustments proposed to be settled. In proposed settlements which resolve some revenue requirement issues in a rate case proceeding and retain some issues for litigation, each party to the settlement who has previously filed a complete revenue requirement calculation shall file its revenue requirement calculation reflecting the adjustments proposed to be settled and any remaining issues to be litigated. In proposed settlements which produce an agreed-upon revenue requirement as a mutually acceptable outcome to the proceeding without an agreement on each revenue requirement issue, parties to the settlement shall jointly file schedules reflecting the specific adjustments for which the parties reached agreement. For those issues included in the proposed settlement which were not specifically resolved, the schedules should identify the range between the positions of the parties.

199—26.4(476) Rate case expense.

26.4(1) A utility making an application pursuant to Iowa Code section 476.6 shall file, within one week of docketing of the rate case, the estimated or, if available, actual expenses incurred or to be incurred by the utility in litigating the rate case. Except for expenses incurred in preparation of the rate filing and notification of customers, the expenses shall be limited to expenses incurred in the time period from the date the initial application is filed through the utility's reply brief. Each expense shall be designated as either estimated or actual.

26.4(2) Estimated or, if available, actual expenses shall identify specifically:

- a. Printing costs for the following:
 - (1) Rate notification letters
 - (2) Initial filing
 - (3) Testimony
 - (4) Briefs
 - (5) Other (specify)
- b. Postage costs
- c. Outside counsel cost
 - (1) Number of attorneys engaged as outside counsel
 - (2) Hours
 - (3) Cost/hour
- d. Outside expert witness/consultant
 - (1) Number of outside consultants employed
 - (2) Hours per consultant employed
 - (3) Cost/hour per consultant employed
- e. Expenses stated by individual for both outside consultants and utility personnel
 - (1) Travel
 - (2) Hotel
 - (3) Meals
 - (4) Other (specify)
- f. Other (specify)

26.4(3) Rate case expense shall not include recovery for expenses that are otherwise included in test year expenses, including salaries for staff preparing filing, staff attorneys, and staff witnesses. Rate case expense shall include only expenses not covered by test year expenses for the period stated in subrule 26.4(1).

26.4(4) Total allowable rate case expense shall include expenses incurred by board staff and the consumer advocate for the time period stated in subrule 26.4(1). The rate case expense to be filed by the utility shall not include these expenses.

26.4(5) The reasonableness of the estimates shall be litigated during the proceeding. At the request of the consumer advocate or the utilities board, company shall make witnesses available on any item included in the estimated rate case expense for cross-examination during the hearing.

26.4(6) Actual utility expenses shall be filed in the same format and detail as estimated expenses and shall be filed within two weeks after filing the final brief. All material variances shall be fully supported and justified.

26.4(7) The board may schedule any additional hearings to litigate the reasonableness of the final expenses.

This rule is intended to implement Iowa Code section 476.6(8).

199—26.5(476) Applications and petitions.**26.5(1) Customer notification procedures.**

a. Definitions. Terms not otherwise defined in these rules shall be understood to have their usual meaning.

(1) "Rates" shall mean amounts per unit billed to customers for a recurring service or commodity rendered or offered by the public utility. "Rate amounts" shall mean the total bill rendered to a customer pursuant to a given rate schedule.

(2) "Charges" shall mean amounts billed to customers for a nonrecurring service or commodity rendered or offered by the public utility.

(3) "Commodity" or "commodities" shall mean water, electricity, or natural gas.

(4) "Effective date" shall mean the date on which the first customer begins receiving the service or commodity under the new rate or charge.

b. Notification of customers. All public utilities, except those exempted from rate regulation by Iowa Code section 476.1 which propose to increase rates or charges, shall mail or deliver a written notice pursuant to paragraph "c" or "d" to all customers in all affected rate classifications. The written notice shall be mailed or delivered before the application for increase is filed, but not more than 62 days prior to the filing. Any public utility exempt from rate regulation by Iowa Code section 476.1, which proposes to increase rates or charges, shall mail or deliver, not less than 30 days prior to the proposed effective date, a written notice pursuant to paragraph "c" or "d" of the rate or charge increase to all customers in all affected rate classifications.

Provided, however, that if a telephone utility is proposing to increase rates for only interexchange services, excluding EAS and intrastate access services, the utility shall cause the notice of proposed increase to be published, in at least one newspaper of general circulation in each county where such increased rates are proposed to be effective. The notice shall be published at least twice in such newspaper no more than 62 days prior to the time the application for the increase is filed with the board.

c. Standardized notice.

(1) Rate-regulated utilities. Any rate-regulated utility company may use the following forms for notification of its customers without seeking prior board approval. If the utility is asking for a general and interim increase, it should use Form A below. If the utility is asking for only a general increase, it should use Form B below.

UTILITIES DIVISION[199](cont'd)

Form A

Dear Customer:

(Company Name) (We) are asking the Iowa Utilities Board for an increase in (type of service) utility (rates) (and) (charges) with a proposed effective date of (date).

The proposed increase in annual revenues will be approximately \$(number), or (number)%.

Although the effect of the proposed increase on your bill may vary depending upon the type and extent of usage, the (average monthly increase per customer for the primary customer classes) (and) (actual increase in nonrecurring charges per customer) (is) (are):

(Charges)	Current		Proposed		
(Customer	(Charge)		(Charge)		
Class)	(Monthly	Proposed	(Monthly	Percentage	
	Rate)	Increase	Rate)	Increase	
		+	=		

This proposed increase in (rates) (and) (charges) may be docketed by the Board, which suspends the effective date of the proposed (rates) (and) (charges). If the proposed (rates) (and) (charges) are suspended, we are asking the Board for temporary authority to place into effect the following interim increase (collected subject to refund), to be effective (date). The Board may set interim (rates) (and) (charges) other than these:

Proposed Interim Rate Increase

(Charges)	Current		Proposed		
(Customer	(Charge)		(Charge)		
Class)	(Monthly	Proposed	(Monthly	Percentage	
	Rate)	Increase	Rate)	Increase	
		+	=		

After a thorough investigation, the Board will order final (rates) (and) (charges) which may be different from those proposed, and determine when the (rates) (and) (charges) will become effective. If the final (rates) (and) (charges) are lower than the interim (rates) (and) (charges), the difference between the final and interim (rates) (and) (charges) will be refunded with interest.

You have the right to file a written objection to this proposed increase with the Board and to request a public hearing. The address of the Board is: Iowa Utilities Board, 350 Maple Street, Des Moines, Iowa 50319. The Board should be provided with any facts that would assist it in determining the justness and reasonableness of this requested increase. This information will be made available to the Consumer Advocate, who represents the public interest in rate cases before the Board.

A written explanation of all current and proposed rate schedules is available without charge from your local business office. If you have any questions, please contact your local business office.

Form B

Dear Customer:

(Company Name) (We) are asking the Iowa Utilities Board for an increase in (type of service) utility (rates) (and) (charges) with a proposed effective date of (date).

The proposed increase in annual revenues will be approximately \$(number), or (number)%.

Although the effect of the proposed increase on your bill may vary depending upon the type and extent of usage, the (average monthly increase per customer for the primary customer classes) (and) (actual increase in nonrecurring charges per customer) (is) (are):

(Charges)	Current		Proposed		
(Customer	(Charge)		(Charge)		
Class)	(Monthly	Proposed	(Monthly	Percentage	
	Rate)	Increase	Rate)	Increase	
		+	=		

This proposed increase in (rates) (and) (charges) may be docketed by the Board, which suspends the effective date of the proposed (rates) (and) (charges). After a thorough investigation, the Board will order final (rates) (and) (charges) which may be different from those we requested. These final (rates) (and) (charges) will become effective at a date set by the Board.

You have the right to file a written objection to this proposed increase with the Board and to request a public hearing. The address of the Board is Iowa Utilities Board, 350 Maple Street, Des Moines, Iowa 50319. The Board should be provided with any facts that would assist it in determining the justness and reasonableness of this requested increase. This information will be available to the Consumer Advocate, who represents the public interest in rate cases before the Board.

A written explanation of all existing and proposed rate schedules is available without charge from your local business office. If you have any questions, please contact your local business office.

(2) Utilities not subject to rate regulation. A utility not subject to rate regulation may use the following form for notification of its customers without seeking prior board approval.

Dear Customer:

On (date), (responsible party) approved an increase in (rates) (and) (charges) affecting prices for (type of service) that you receive. The increase will apply to your usage beginning on (date).

The increase in annual revenues will be approximately \$(number), or (number)%.

UTILITIES DIVISION[199](cont'd)

Although the effect of the increase on your bill may vary depending upon the type and extent of usage, the (average monthly increase per customer for the primary customer classes) (and) (actual increase in nonrecurring charges per customer) (is) (are):

(Charges) (Customer Class)	Current (Charge) (Monthly Rate)	+	Proposed Increase	=	(Charge) (Monthly Rate)	Percentage Increase
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A written explanation of all current rate schedules is available without charge from our local business office. If you have any questions, please contact our business office.

(3) General requirements for a form notice. The standardized notice provided under this subsection shall be of a type size and of a quality which is easily legible. A copy of the notice with dates, cost figures, and cost percentages shall be filed with the board at the time of customer notification.

Any utility offering services or systems involving detailed rate schedules must include in its notification to customers a paragraph specifically noting the services or systems for which any increase is proposed and advising customers to contact the utility's local business office for further explanation of the increase.

Any "average" used in the standard form shall be a median average.

d. Other customer notification forms.

(1) Prior approval. Any public utility, as defined in Iowa Code section 476.1, which proposes to increase rates or charges and is not in substantial compliance with the form prescribed in 26.5(1)"c" above, shall submit to the board not less than 30 days before providing notification to its customers in accordance with 26.5(1)"b," ten copies of such proposed notice for approval. The board, for good cause shown, may permit a shorter period for approval of the proposed notice.

(2) Form. The proposed notice as submitted to the board pursuant to 26.5(1)"d"(1) may contain blank spaces for dates, cost figures and cost percentages; however, a copy of the approved notice with dates, cost figures, and cost percentages shall be filed with the board at the time of the customer notification. The form of the notice, as approved by the board, may not be altered in the final form except to include dates, cost figures, and cost percentages reflecting the latest updates. The notice shall be of a type size and of a quality which is easily legible and shall be of the same format as that which was approved by the board.

(3) Required content of notification. The notice submitted for approval pursuant to 26.5(1)"d"(1) shall include, at a minimum, all of the information contained in the standard notice of 26.5(1)"c."

(4) Notice of deficiencies. Within 30 days of the proposed notice's filing, the utility shall be notified of either the approval of the notice or of any deficiencies in the proposed notice. In the event deficiencies are found to exist in the proposed notice, the board will describe the corrective measures necessary to bring the notice into compliance with Iowa Code chapter 476 and board rules. A notice found to be deficient under this rule shall not constitute adequate notice under Iowa Code section 476.6.

(5) Fuel adjustment clause. Nothing in this subsection shall be taken to prohibit a public utility from establishing a sliding scale of rates and charges or from making provision for the automatic adjustment of rates and charges for public utility service, provided that a schedule showing such sliding scale or automatic adjustment of rates and charges is first filed with the board. Such adjustment factors that result from the sliding scale shall be printed on the customer's bill.

e. Reserved.

f. Delivery of notification.

(1) The notice, as it appears in 26.5(1)"c" or as approved by the board in accordance with 26.5(1)"d," shall be mailed or delivered to all affected customers pursuant to the timing requirements of 26.5(1)"b."

(2) Rate-regulated utilities. Notice of all proposed increases may be mailed to all affected customers. The notice may be mailed with a regularly scheduled mailing of the utility. Notice, except for proposed nonrecurring service charge increases, shall be conspicuously marked, "Notice of proposed rate increase," on the notice itself. If a separate mailing is utilized by a utility for customer notification except for proposed nonrecurring service charge increases, the outside of the mailing shall also be conspicuously marked, "Notice of proposed rate increase."

(3) Utilities not subject to rate regulation. Notice of all increases may be mailed to all affected customers. The notice may be mailed with a regularly scheduled mailing of the utility. Notice of all increases, except nonrecurring service charge increases, shall be conspicuously marked, "Notice of rate increase," on the notice itself. If a separate mailing is utilized by a utility for customer notification of an increase, except a nonrecurring service charge increase, the outside of the mailing shall also be conspicuously marked, "Notice of rate increase." This subparagraph does not apply to municipal utilities.

(4) Failure of the postal service to deliver the notice to any customers shall not invalidate or delay a proposed rate increase proceeding.

(5) After the date the first notice is mailed or delivered to any affected customer and until such rates are resolved in proceedings before the board, any person who requests service and is affected by the proposed increase in rates shall receive a notice specified in paragraph 26.5(1)"b" not later than 60 days after the date of commencement of service to the customer.

(6) Approved notice will be required for each filing proposing an increase that is not directly identifiable with a previous customer notification.

(7) This subrule shall not apply to telephone utilities proposing to increase rates for only interexchange services, excluding EAS and intrastate access services.

26.5(2) Applications filed in accordance with the provisions of Iowa Code section 476.7.

a. Any rate-regulated public utility filing an application with the board requesting a determination of the reasonableness of its rates, charges, schedules, service, or regulations shall submit at the time the application is filed, factual evidence and written argument offered in support of its filing and provided that the public utility is not a rural electric cooperative, it shall also submit affidavits containing testimonial evidence in support of its filing for a general rate increase. All such testimony and exhibits shall be given or presented by competent witnesses, under oath or affirmation, at the proceeding ordered by the board as a result of the application,

UTILITIES DIVISION[199](cont'd)

and the proceeding itself shall be governed by the applicable provisions of 199—Chapter 7 and rule 26.4(476).

b. All of the foregoing requirements shall likewise apply in the event the board shall, on its own motion, initiate a formal proceeding to determine the reasonableness of a public utility's rates, charges, schedules, service, or regulations.

26.5(3) Tariffs to be filed. A rate-regulated public utility shall not make effective any new or changed rate, charge, schedule, or regulation until it has been approved by the board and the board has determined an effective date, except as provided in Iowa Code section 476.6, subsections 11 and 13. If the proposed new or changed rate, charge, schedule, or regulation is neither rejected nor approved by the board, the board will docket the tariff filing as a formal proceeding within 30 days after the filing date. Proposed new or changed rates, charges, schedules, or regulations which contain energy efficiency expenditures and related costs which are incurred after July 1, 1990, for demand-side programs shall not be included in a rate-regulated utility's proposed tariff which relates to a general increase in revenue. A utility may propose to recover the costs of process-oriented industrial assessments not related to energy efficiency as defined in rule 199—35.2(476). The filing is not a contested case proceeding under the Iowa administrative procedure Act unless and until the board docket it as a formal proceeding. No person will be permitted to participate in the filing prior to docketing, except that the consumer advocate and any customer affected by the filing, except as limited by 199—subrules 22.12(1) and 22.13(1), may submit within 20 days after the filing date a written objection to the filing and a written request that the board docket the filing, which request the board may grant in its discretion. Such written objections and requests for docketing shall set forth specific grounds relied upon in making the objection or request.

26.5(4) Letter of transmittal. Three copies of all tariffs and all additional, original, or revised sheets of tariffs and the accompanying letter of transmittal shall be filed with the board and shall include or be accompanied with such information as is necessary to explain the nature, effect, and purpose of the tariff or additional, original, or revised sheets submitted for filing. Such information shall include, when applicable:

- a. The amount of the aggregate annual increase or decrease proposed.
- b. The names of communities affected.
- c. The number and classification of customers affected.
- d. A summary of the reasons for filing and such other information as may be necessary to support the proposed changes.
- e. A marked version of the pages to be changed or superseded showing additions and deletions, if the tariff is prepared with word processing software supporting such marking. All new language must be marked by highlight, background shading, bold text, or underlined text. Deleted language must be indicated by strike-through. The marked version may be in either paper or electronic form and may be prepared manually or by word processing. When a marked version is infeasible or not meaningful, the letter or transmittal should state the reason for its omission.

26.5(5) Evidence. Unless otherwise authorized by the board in writing prior to filing, a utility must when proposing changes in tariffs or rate schedules, which changes relate to a general increase in revenue, prepare and submit with its proposed tariff the following evidence in addition to the information required in 26.5(8). The board shall act on requests for waivers not later than 14 days after filing of those re-

quests. If no action is taken on a request for waiver, it shall be deemed denied.

a. Factors relating to value. A statement showing the original cost of the items of plant and facilities, for the beginning and end of the last available calendar year, any other factors relating to the value of the items of plant and facilities the utility deems pertinent to the board's consideration, together with information setting forth budgeting accounts for the construction of scheduled improvements.

b. Comparative operating data. Information covering the latest available calendar year immediately preceding the filing date of the application.

- (1) Operating revenue and expenses by primary account.
- (2) Balance sheet at beginning and end of year.

c. Test year and pro forma income statements. Schedules setting forth revenues, expenses, net operating income of the last available calendar year, the adjustment of unusual items, and by adjustment to reflect operations for a full year under existing and proposed rates.

d. Additional evidence for rural electric cooperatives. In addition to the foregoing evidence, a rural electric cooperative shall file schedules setting forth utility long-term debt and debt costs, accrued utility operating margins and other components of patronage capital, the cooperative's plan to refund utility patronage credits, the ratio of utility long-term debt to retained utility operating margins, the times interest earned ratio, the debt service coverage, authorized utility construction programs, utility operating revenues from base rates, and utility operating revenues from power cost adjustment clauses.

e. Additional evidence for investor-owned utilities. In addition to the foregoing evidence, an investor-owned utility shall file, at the same time the proposed increase is filed, the following information. For the purposes of these rules, "year of filing" means the calendar year in which the filing is made. Unless otherwise specified in these rules, the information required shall be based upon the calendar year immediately preceding the year of filing.

(1) Rate base for both total company and Iowa jurisdictional operations calculated by utilizing a 13-month average of month-ending balances ending on December 31 of the year preceding the year of filing, and also calculated on a year-end basis, except for the cash working capital component of this figure, which will be computed on the basis of a lead-lag study as set forth in subparagraph (5).

The rate base for the Iowa jurisdictional operations of rate-regulated telephone utilities will be computed on the basis of actual month-end balances which have been verified and adjusted to reflect the results of true-up procedures. True-up is the comparison of actual usage for each deregulated service with any previous estimates of deregulated usage for a given time period for the purpose of adjusting rate base and income statement allocations between deregulated and regulated services. True-up month-end balances for each deregulated service will be completed through the end of the test year prior to the date of filing a general rate case.

(2) Revenue requirements for both total company and Iowa jurisdictional operations to include: operating and maintenance expense, depreciation, taxes, and return on rate base. The Iowa jurisdictional expenses of rate-regulated telephone utilities will be adjusted to reflect allocation factors which have been computed as a result of actual month-end balances which have been verified and adjusted to reflect the results of true-up procedures. True-up is the comparison of actual usage for each deregulated usage for a given time period for the purpose of adjusting rate base and

UTILITIES DIVISION[199](cont'd)

income statement allocations between deregulated and regulated services. Trued-up month-end balances for each deregulated service will be completed through the end of the test year prior to the date of filing a general rate case.

(3) Capital structure calculated utilizing a 13-month average of month-ending balances ending on December 31 of the year preceding the year of filing, and also calculated on a year-end basis.

(4) Schedules supporting the proposed capital structure, schedules showing the calculation of the proposed capital cost for each component of the capital structure and schedules showing requested return on rate base with capital structure and corresponding capital cost.

(5) Cash working capital requirements, including a recent lead-lag study which accurately represents conditions during the test period. For the purposes of this rule, a lead-lag study is defined as a procedure for determining the weighted average of the days for which investors or customers supply working capital to operate the utility.

(6) Complete federal and state income tax returns for the two calendar years preceding the year of filing and all amendments to those returns. If a tax return or amendment has not been prepared at the time of filing, the return shall be filed with the board under this subrule at the time it is filed with the Internal Revenue Service or the state of Iowa department of revenue.

(7) Schedule of monthly Iowa jurisdictional expense by account as required by chapter 16 of the board's rules unless, upon application of the utility and prior to filing, the board finds that the utility is incapable of reporting jurisdictional expense on a monthly basis and prescribes another periodic basis for reporting jurisdictional expense.

(8) For gas, electric and water utilities, a schedule of monthly consumption (units sold) and revenue by customer-rate classes, reflecting separately revenue collected in base rates and adjustment clause revenues. For telephone companies, a rate matrix as set forth in the company's annual report (page B-16), shall be filed along with a statement of the total amount of revenue produced under the rate matrix.

(9) Schedules showing that the rates proposed will produce the revenues requested. In addition to these schedules, the utility shall submit in support of the design of the proposed rate a narrative statement describing and justifying the objectives of the design of the proffered rate. If the purpose of the rate design is to reflect costs, the narrative should state how that objective is achieved, and should be accompanied by a cost analysis that would justify the rate design. If the rate design is not intended to reflect costs, a statement should be furnished justifying the departure from cost-based rates. This filing shall be in compliance with all other rules of the board concerning rate design and cost studies.

(10) All monthly or periodic financial and operating reports to management beginning in January two years preceding the year of filing. The item or items to be filed under this rule include: (a) reports of sales, revenue, expenses, number of employees, number of customers, or similar data; (b) related statistical material. This requirement shall be a continuing one, to remain in effect through the month that the rate proceeding is finally resolved. Notwithstanding other provisions concerning the number of copies to be filed, one copy of each report shall be filed under this rule.

(11) Schedule of monthly tax accruals separated between federal, state, and property taxes, including the methods used to determine these amounts.

(12) Allocation methods, including formulas, supporting revenue, expense, plant or tax allocations.

(13) Schedule showing interest rates, dividend rates, amortizations of discount and premium and expense, and unamortized 13 monthly balances of discount and premium and expense, ending on December 31 of the year preceding the year of filing, for long-term debt and preferred stock.

(14) Schedule showing the 13 monthly balances of capital stock expense associated with common stock, ending on December 31 of the year preceding the year of filing.

(15) Schedule showing the 13 monthly balances of capital surplus, separated between common and preferred stock, ending on December 31 of the year preceding the year of filing. For the purpose of this rule, capital surplus means amounts paid in that are less than or are in excess of par value of the respective stock issues.

(16) Stockholders' reports, including supplements for the year of filing and the two preceding calendar years. If such reports are not available at the time of filing, they shall be filed immediately upon their availability to stockholders.

(17) If applicable, securities and exchange commission Form 10Q for all past quarters in the year of filing and the preceding calendar year, and Form 10K for the two preceding calendar years. If these forms have not been filed with the Securities and Exchange Commission at the time the rate increase is filed, they shall be filed under this subrule immediately upon filing with the Securities and Exchange Commission. This requirement is not applicable for any such reports which are routinely and formally filed with the board.

(18) Any prospectus issued during the year of filing or during the two preceding calendar years.

(19) Consolidated and consolidating financial statements.

(20) Revenue and expenses involving transactions with affiliates and the transfer of assets between the utility and its affiliates.

(21) A schedule showing the following for each of the 15 calendar years preceding the year of filing, and for each quarter from the first quarter of the calendar year immediately preceding the year of filing through the current quarter.

Earnings, annual dividends declared, annual dividends paid, book value of common equity, and price of common equity (each item should be shown per average actual common share outstanding, adjusted for stock splits and stock dividends).

Rate of return to average common equity.

Common stock earnings retention ratio.

For common stock issued pursuant to tax reduction act stock ownership plans, employee stock option plans, and dividend reinvestment plans: net proceeds per common share issued, and number of shares issued and previously outstanding at the beginning of the year. This shall be set forth separately for each of the three types of plans, and reported as annual aggregates or averages.

For other issues of common stock: net proceeds per common share issued, and number of shares issued and previously outstanding for each issue of common stock.

(22) If the utility is applying for a gas rate increase, a schedule for weather normalization, including details of the method used.

(23) All testimony and exhibits in support of the rate filing attached to affidavits of the sponsoring witnesses. All known and measurable changes in costs and revenues upon which the utility relies in its application shall be included.

Unless otherwise required, an original plus ten copies of all testimony and exhibits, and four copies of all other infor-

UTILITIES DIVISION[199](cont'd)

mation, shall be filed. Three copies of each of the preceding items shall be provided to the consumer advocate. In addition, two electronic copies of each computer-generated exhibit which complies with the standards in 199—7.7(476) and two copies of a brief description of the software and hardware requirements of noncomplying electronic copies of computer-generated exhibits shall be filed with the board and the consumer advocate. Two copies of the noncomplying electronic copies shall be provided upon request by any party or the board.

If the utility which has filed for the rate increase is affiliated with another company as either parent or subsidiary, the information required in subparagraphs (3), (4), (6), (13) to (19), and (21) shall be provided for the parent company (if any) and for all affiliates which are not included in the consolidating financial statements filed pursuant to this rule.

(24) Information relating to advertisements including:

1. A portfolio of all advertisements charged to ratepayers either produced, recorded or a facsimile thereof;
 2. Cost data for all advertisements and the accounting treatment utilized; and
 3. An account of total advertising expense including a breakdown of the expense by category.
- f. All rate-regulated utilities shall submit at the time of filing an application for increased rates, all workpapers used to prepare the analysis and data submitted in support of the application. All workpapers shall substantially comply with the standards in 199—subrule 7.10(5).

g. Additional evidence. The applicant may submit any other testimony, schedules, exhibits, and data which it deems pertinent to the application.

(1) Additional evidence may include:

1. Testimony, schedules, exhibits, and data concerning the cost of capital infrastructure investment that will not produce significant revenues and will be in service in Iowa within nine months of the test year.
2. Testimony, schedules, exhibits, and data concerning cost of capital changes that will occur within nine months after the conclusion of the test year that are associated with a new generating plant that has been the subject of a ratemaking principles proceeding pursuant to Iowa Code section 476.53.

(2) The utility shall specifically identify and support the information, including providing an estimate at the time of filing and addressing prudence issues, regarding the changes that will be verifiable within nine months of the test year, with such verification provided to other parties as soon as the data is available. To be considered, the verifiable information must be offered into the record prior to the closing of the record at the hearing in the proceeding.

(3) A utility electing to file additional evidence under this paragraph shall include in the reports required in subparagraph 26.5(5)“e”(1) any capital infrastructure investments that will not produce significant revenues and have been placed in service in Iowa, or capital issuances that have been completed that are associated with a new generating plant that has been the subject of a ratemaking principles proceeding pursuant to Iowa Code section 476.53.

(4) A utility electing to file additional evidence under this paragraph shall provide additional schedules as required by subparagraphs 26.5(5)“e”(13), (14), and (15) related to capital issuances that have been completed that are associated with a new generating plant that has been the subject of a ratemaking principles proceeding pursuant to Iowa Code section 476.53.

Subparagraphs 26.5(5)“g”(1) through (4) are repealed effective July 1, 2007. However, any proceeding that is pending on July 1, 2007, that is being conducted pursuant to Iowa Code section 476.3 or 476.6 shall be completed as if subparagraphs 26.5(5)“g”(1) through (4) had not been repealed. Upon repeal of subparagraphs 26.5(5)“g”(1) through (4), the board may still consider the adjustments addressed in those subparagraphs, but shall not be required to consider them.

26.5(6) Evidence requested by the board. The applicant shall furnish any additional evidence as ordered by the board at any time after the filing of the tariff.

26.5(7) Applications pursuant to Iowa Code section 476.6 that are not general rate increase applications. At the time a rate-regulated public utility, other than a rural electric cooperative, files for new or changed rates, charges, schedules, or regulations except in conjunction with general rate increase applications, it shall submit the following:

- a. Any cost, revenue, or economic data underlying the filing.
- b. An explanation of how the proposed tariff would affect the rates and service of the public utility.
- c. All testimony and exhibits in support of the filing attached to affidavits of the sponsoring witnesses.

26.5(8) Requests for temporary authority pursuant to Iowa Code section 476.6.

a. A request for temporary authority to place in effect any suspended rates, charges, schedules, or regulations shall be separately identified and shall include:

(1) For each adjustment or issue, a brief explanation of the adjustment or issue and its purpose which includes the specific regulatory principles relied on to support the adjustment or issue and citations to either the rules, statutes, or decisions in which the regulatory principle was codified or previously applied.

(2) Schedules supporting the proposed temporary rate capital structure, schedules showing the calculation of the proposed capital cost for each component of the capital structure, and schedules showing requested return on rate base with capital structure and corresponding capital cost.

(3) All workpapers supporting the request for temporary authority. The workpapers shall substantially comply with the standards in 199—subrule 7.10(5).

b. Within 30 days of the filing of a request for temporary authority, an objection may be filed. An objection to a request for temporary authority shall separately identify each disputed adjustment or issue and shall include:

(1) A brief explanation of the basis for the disputed adjustment or issue which includes the specific regulatory principles relied on and citations to either the rules, the statutes, or decisions in which the regulatory principle was codified or previously applied.

(2) All workpapers supporting the objection to the request for temporary authority. The workpapers shall substantially comply with the standards in 199—subrule 7.10(5).

c. Within 15 days of the filing of the objection, the utility may file a reply.

d. For this rule, the following filing requirements apply:

(1) Request for temporary authority—original plus ten copies.

(2) Objections to request—original plus ten copies.

(3) Replies—original plus ten copies.

(4) Exhibits—original plus ten copies. In addition, two electronic copies of each computer-generated exhibit shall be filed. Only electronic copies of computer-generated exhibits that comply with 199—7.7(476) shall be filed.

UTILITIES DIVISION[199](cont'd)

(5) Electronic workpapers—two copies and two hard-copy printouts.

(6) Other workpapers—five copies.

(7) Specific studies or financial literature—two copies. In addition, three copies of each document filed shall be provided to consumer advocate.

199—26.6(476) Answers.

26.6(1) Time for. Answers to applications for new or changed rates, charges, schedules, or regulations shall be permitted only if and when the application is docketed as a formal proceeding by the board, and shall be filed with the board within 20 days after the date of docketing. All answers must specifically admit, deny or otherwise answer all material allegations of the pleadings and also briefly set forth the affirmative grounds relied upon to support such answer; except that a party's failure to file an answer to an application for new or changed rates, charges, schedules, or regulations will be deemed a denial of all allegations of the application.

26.6(2) Motion to dismiss. Motions to dismiss applications for new or changed rates, charges, schedules, or regulations shall be permitted only if and when the application is docketed as a formal proceeding by the board.

199—26.7(476) Rate investigation. The board shall commence a rate investigation upon the motion of the general counsel or the consumer advocate alleging that a rate-regulated utility's annual report, a special audit, or an investigation by the board staff or the consumer advocate, indicates that the earnings of that public utility may have been or will be excessive. The board may also commence a rate investigation upon the motion of any interested person.

199—26.8(476) Procedural schedule in Iowa Code sections 476.3 and 476.6 proceedings.

26.8(1) In any proceeding initiated as a result of the filing by a public utility of new or changed rates, charges, schedules or regulations, the utilities board or presiding officer shall set a procedural schedule based on the following guidelines, unless otherwise ordered by the utilities board or presiding officer pursuant to this rule. The times and places of consumer comment hearings shall be set at the discretion of the utilities board or presiding officer.

Prepared direct testimony and exhibits in support of the filing—date of initial filing.

Docket case as a formal proceeding, suspend effective date of new or changed rates, charges, schedules or regulations and establish procedural schedule—not later than 30 days from the date of initial filing.

All further testimony—completed not later than six months from date of initial filing.

Cross-examination of all testimony—completed not later than seven months from date of initial filing.

Briefs of all parties—filed not later than eight and one-half months from date of initial filing.

26.8(2) In a proceeding initiated as a result of the filing of a complaint pursuant to Iowa Code section 476.3, the utilities board or presiding officer shall set a procedural schedule based on the following guidelines, unless otherwise ordered by the utilities board or presiding officer pursuant to this rule.

Prepared direct testimony and exhibits in support of the filing—date of initial filing.

Docket case as a formal proceeding to suspend effective date of new or changed rates, charges, schedules or regulations and establish procedural schedule—not later than 30 days from the date of initial filing.

All further testimony—completed not later than six months from date of initial filing.

Cross-examination of all testimony—completed not later than seven months from date of initial filing.

Briefs of all parties—filed not later than eight and one-half months from date of initial filing.

26.8(3) In setting the procedural schedule in a case, the board or administrative law judge shall take into account the existing hearing calendar and shall give due regard to other obligations of the parties, attorneys and witnesses. The board or administrative law judge may on its own motion or upon the motion of any party, including consumer advocate, for good cause shown change the time and place of any hearing. Any effect such a change has on the remainder of the procedural schedule or the deadline for decision shall be noted when the change is ordered.

26.8(4) Additional time may be granted a party, including consumer advocate, upon a showing of good cause for the delay, including but not limited to:

a. Delay of completion of previous procedural step.

b. Delays in responding to discovery or consumer advocate data requests.

Any effect such an extension has on the remainder of the procedural schedule or the deadline for decision shall be noted in the motion for extension and the board order granting the extension.

26.8(5) If any party, including consumer advocate, wishes to utilize the electric generating facility exception to the ten-month decision deadline contained in Iowa Code section 476.6, it shall expeditiously file a motion seeking this exception including an explanation of that portion of the suspended rates, charges, schedules or regulations necessarily connected with the inclusion of the generating facility in rate base. Any other party may file a response to such a motion.

199—26.9(476) Consumer comment hearing in docketed rate case of an investor-owned utility company.

The board shall hold consumer comment hearings to provide an opportunity for members of the general public who are customers of an investor-owned utility company involved in a docketed rate case to express their views regarding the case before the board as well as the general quality of service provided by the utility. However, specific service complaints must follow the procedure prescribed in 199—6.2(476). Nothing shall prohibit the board from holding consumer comment hearings on any other docketed rate case.

26.9(1) The consumer comment hearing will be presided over by either the board member(s) or an administrative law judge assigned by the board. Representatives from the utility company shall be present to explain, in a concise manner, the pertinent points of the company's proposal. The company's representatives shall also respond to any questions directed to them. All representatives from the utility company that are participating, except for legal counsel, shall be under oath. All board staff members that are participating in the hearing shall be under oath.

26.9(2) Individuals who wish to testify at the consumer comment hearing need not preregister with the board but need only sign up at the time of the hearing. The board member(s) or administrative law judge may limit the length of testimony when a large number of persons wish to testify. Sworn testimony shall become a part of the permanent record of the rate proceeding.

26.9(3) All participants in the hearing may correct misinformation within testimony. Correction of misinformation may be made at the time of the hearing during oral presentation or, if the misinformation does not come to the attention of the participants until after the hearing, correction of misinformation may be submitted in writing to the board within 20

UTILITIES DIVISION[199](cont'd)

days after the oral presentation. Written submissions shall be limited to a statement identifying the party whose testimony is to be corrected, and a brief statement of the incorrect testimony. This shall be followed by a brief statement of the correct information. This procedure shall be utilized to correct only such information that is clearly erroneous. Written submissions of corrections of misinformation shall not be used to slant, clarify or add to the testimony given during oral presentation. Corrections of misinformation which comply with this rule shall become a part of the permanent record.

The consumer comment hearing is not an appropriate forum for any party to make a record for or against the rate case.

26.9(4) The consumer comment hearing shall be held in a major population center served by the utility company at a time of day convenient to the largest number of customers. It shall be conducted in a facility large enough to accommodate all who wish to attend. Notice of the consumer comment hearing shall be sent by the board's public information office to newspapers, radio, and television stations in the area served by the utility company.

26.9(5) Individuals unable to attend a consumer comment hearing may submit written comments to the board. Written comments shall become part of the permanent file of the rate proceeding, but not part of the record as sworn testimony.

26.9(6) Consumer comment hearing may be waived by the board if the interests of the public are better served without a hearing.

This rule is intended to implement Iowa Code sections 474.5, 476.1 to 476.3, 476.6, 476.8, 476.10, and 476.31 to 476.33.

199—26.10(476) Appeal from administrative law judge's decision. When an appeal is taken from an administrative law judge's decision determining the reasonableness of rates after formal docketing of the proceeding pursuant to Iowa Code section 476.6, the filing of a notice of appeal in compliance with this rule may be deemed a request for additional time to complete the proceeding, for good cause shown and, if the board so determines, shall extend the date when any rates approved on a temporary basis become permanent for a period not to exceed one-half of the additional time, shown in the procedural schedule, for a final board decision on the appeal.

199—26.11(476) Consideration of current information in rate regulatory proceedings.

26.11(1) Test period. In rate regulatory proceedings under Iowa Code sections 476.3 and 476.6, the board shall consider the use of the most current test period possible in light of existing and verifiable data respecting costs and revenues available as of the date of commencement of the proceedings.

26.11(2) Known and measurable changes. In rate regulatory proceedings under Iowa Code sections 476.3 and 476.6, the board shall consider:

a. Verifiable data, existing as of the date of commencement of the proceedings, respecting known and measurable changes in costs not associated with a different level of revenue and known and measurable revenues not associated with a different level of costs, that are to occur within 12 months after the date of commencement of the proceedings.

b. Data which becomes verifiable prior to the closing of the record at the hearing respecting known and measurable:

(1) Capital infrastructure investments that will not produce significant additional revenues and will be in service in Iowa within nine months after the conclusion of the test year.

(2) Cost of capital changes that will occur within nine months after the conclusion of the test year that are associat-

ed with a new generating plant that has been the subject of a ratemaking principles proceeding pursuant to Iowa Code section 476.53.

Verifiable data filed pursuant to paragraph 26.11(2)"b" shall be provided to other parties as soon as the data is available so that other parties have a reasonable opportunity to verify the data to be considered by the board.

Paragraph 26.11(2)"b" is repealed effective July 1, 2007. However, any proceeding that is pending on July 1, 2007, that is being conducted pursuant to Iowa Code section 476.3 or 476.6 shall be completed as if paragraph 26.11(2)"b" had not been repealed. Upon repeal of paragraph 26.11(2)"b," the board may still consider the adjustments addressed in the paragraph, but shall not be required to consider them.

26.11(3) Postemployment benefits other than pensions. For rate-making purposes, the amount accrued for postemployment benefits other than pensions in accordance with Financial Accounting Standard No. 106 will be allowed in rates where:

a. The net periodic postemployment benefit cost and accumulated postemployment benefit obligations have been determined by an actuarial study completed in accordance with the specific methods required and outlined by SFAS No. 106.

b. The accrued postemployment benefit obligations have been funded in a board-approved, segregated and restricted trust account, or alternative arrangements have been approved by the board. Cash deposits shall be made to the trust at least quarterly in an amount that is proportional and, on an annual basis, at least equal to the annual test period allowance for postemployment benefits other than pensions.

c. The transition obligation is amortized over a period of time determined by the board that does not exceed 20 years.

d. Any funds, including income, returned to the utility from the trust not actually used for postemployment benefits other than pensions shall be refunded to customers in a manner approved by the board.

e. The board finds the benefit program and all calculations are prudent and reasonable.

26.11(4) An actuarial study of the net periodic postemployment benefit cost and accumulated postemployment benefit obligations shall be determined and filed with the board at the time a rate increase is requested, when there has been a change in postemployment benefits other than pensions offered by the utility, or every three years, whichever comes first.

26.11(5) For a period not to exceed three years commencing January 1, 1993, a rate-regulated utility may record on its books each year as a deferral the difference between the amount accrued in accordance with SFAS 106 and the amount which would have been recorded for postemployment benefits other than pensions on a pay-as-you-go basis for that year. In calculating the amount to be deferred, the utility may include in the deferral the amortization of transition obligation costs in accordance with SFAS 106.

26.11(6) Recovery of the deferrals authorized in subrule 26.11(5) will be considered only in rate cases filed prior to December 31, 1995.

This rule is intended to implement Iowa Code sections 476.1 to 476.3, 476.6, 476.8, 476.10 and 476.31 to 476.33.

199—26.12(476) Rate regulation election—electric cooperative corporations and associations.

26.12(1) Application of rules. Electric cooperative corporations and associations shall not be subject to the jurisdiction of the utilities board except as provided in Iowa Code

UTILITIES DIVISION[199](cont'd)

section 476.1A and paragraphs "a," "b," and "c" of this sub-rule.

a. Procedure for election by members. Upon petition of not less than 10 percent of the members of an electric cooperative or upon its own motion, the board of directors of an electric cooperative shall order a referendum election to be held to determine whether the electric cooperative shall be subject to the jurisdiction of the utilities board. A petition for election shall be completed within 60 days of commencement.

(1) Any member of an electric cooperative desiring a referendum election shall sign a petition for election addressed to the board of directors of an electric cooperative, in substantially the following form:

PETITION FOR ELECTION

TO: (Board of Directors of subject electric cooperative)

The undersigned members request you call an election to submit to the members the following proposition:

Shall . . . (name of the electric cooperative) be subject to rate regulation by the utilities board?

Signature Address Date

(2) Where signatures are made on more than one sheet, each sheet of the petition shall reproduce above the signatures the same matter as is on the first sheet. Each petitioner shall sign their name in their own handwriting and shall write their address and the date on which they signed.

(3) The petition shall be filed with the board of directors of the electric cooperative and an election shall be held not less than 60 days nor more than 90 days from the date on which the petition was filed.

(4) On the election date, the board of directors of the electric cooperative shall mail by first-class mail to each member of the electric cooperative a ballot containing the following language:

Shall . . . (name of the electric cooperative) be subject to rate regulation by the utilities board?

Yes No

(5) The ballot shall also contain a self-addressed envelope to return the ballot to the secretary of the board of directors of the electric cooperative. The ballot shall be dated when received by the secretary. The ballot must be received by the secretary not more than 30 days after it was mailed to the members. The election procedure shall require a signature form for verification, but shall not allow the signature to be traced to the vote of a particular member.

(6) The issue in the election shall be decided by a majority of the members voting whose ballots are received by the secretary. Fifty-one percent of the membership shall constitute a quorum for the election. The secretary shall certify the results of the election and file the results with the executive secretary of the utilities board within 30 days of the election.

b. Procedure for election by board. Upon the resolution of a majority of the board of directors of an electric cooperative, the board may elect to be subject to the jurisdiction of the utilities board. The secretary of the board of directors of the electric cooperative shall file a certified copy of the resolution with the executive secretary of the utilities board within 30 days of the adoption of the resolution.

c. Effective date. Upon the resolution of a majority of the board of directors of an electric cooperative or when a majority of the members voting vote to place the cooperative under the jurisdiction of the utilities board, the utilities board shall determine an effective date of its jurisdiction which shall be not more than 90 days from the election. On and af-

ter the effective date of jurisdiction, the cooperative shall be subject to regulation by the utilities board.

d. Prohibited acts. Funds of an electric cooperative shall not be used to support or oppose the issue presented in the election. Nothing shall prohibit a letter of explanation and direction from being enclosed with the ballot.

e. Procedure for exemption. After the cooperative has been under the jurisdiction of the utilities board for two years, the members may elect to remove the cooperative from under the jurisdiction of the utilities board in the same manner as when electing to be placed under the jurisdiction of the utilities board.

f. Frequency of election. An electric cooperative shall not conduct more than one election pursuant to this subsection within a two-year period.

26.12(2) Rate increase considerations—rural electric cooperatives. The board's consideration of the fair and reasonable level of rates necessary for rural electric cooperatives shall include the following:

a. After investigation of the historical test year results and pro forma adjustments thereto, the board shall determine the extent to which the applicant has met the following conditions:

(1) Revenues are sufficient for a times interest earned ratio of from 1.5 to 3.0 for coverage of interest on outstanding utility short-term and long-term debt; or

(2) Revenues are sufficient for a debt service coverage ratio of from 1.25 to 2.50 on utility long-term debt; or

(3) Utility operating margins are sufficient for a ratio of from 1.5 to 2.5 of utility operating margins to interest on utility short-term and long-term debt; or

(4) Utility operating margins are sufficient for a ratio of from 1.25 to 1.75 of utility operating margins plus utility depreciation, all divided by utility long-term interest plus principal; and

(5) Utility operating margins are sufficient to return utility patronage capital credits accumulated from utility operating margins, with a retention of such credits of no more than 20 years allowed, subject to modification where compelling circumstances require time period adjustments.

b. In addition to the information in "a" above, evidence of the necessity for the requested rate relief may include, but need not be limited to, utility operating margins which will enable the cooperative to attain and maintain a reasonable ratio of utility long-term debt to retained utility operating margins. Cooperative's authorized construction program and an official policy statement of its board of directors on a desired ratio will be considered factors in the determination of the reasonableness of any such ratio.

c. The utilities board's initial decision will become final 15 days following its date of issuance; however, if filed within that 15-day period, allegations of error by the cooperative, staff or any intervenor as to the utilities board's findings of fact, together with a statement of readiness to present testimony, will serve to hold final disposition in abeyance pending the scheduling and completion of an evidentiary hearing. When such allegation is made, testimony in support of such position must be filed within 30 days of such filing. Upon receipt of the testimony, the utilities board will schedule additional filing dates and set the matter for hearing. When hearing is scheduled, final disposition of the rate proceeding will be accomplished under the contested case provisions of the Iowa administrative procedure Act and the utilities board's rules and regulations thereunder.

These rules are intended to implement Iowa Code sections 474.3, 474.5, 474.6, 476.1 to 476.3, 476.6, 476.8 to 476.10, 476.15, 476.31 to 476.33 and 546.7.

UTILITIES DIVISION[199](cont'd)

ITEM 3. Amend 199—subrule 32.9(4) as follows:

32.9(4) Intervention. Notwithstanding the provisions of 199 IAC ~~7.2(8)~~—*subrule 7.13(1)* regarding the time to petition to intervene, a party may petition to intervene subsequent to the filing of an application for reorganization, but no later than a date for intervention established by the board in a notice of hearing.

[Filed 10/21/05, effective 12/14/05]
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EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 11/9/05.

ARC 4616B

UTILITIES DIVISION[199]

Adopted and Filed

Pursuant to Iowa Code sections 17A.4 and 476.2 and 47 U.S.C. § 214(e), the Utilities Board (Board) gives notice that on October 21, 2005, the Board issued an order in Docket No. RMU-05-4, **In re: Quality of Service Reporting by Eligible Telecommunications Carriers [199 IAC 39]**, "Order Adopting Rules," by which the Board adopted amendments to paragraph 39.3(1)"b" and new rule 39.5(476) regarding the requirement of quality of service reporting to the Board by eligible telecommunications carriers (ETCs) regarding those services that are supported by the federal Universal Service Fund.

Notice of Intended Action was published in IAB Vol. XXVII, No. 19 (3/16/05) p. 1267, as **ARC 4064B**. Written comments were filed on or before April 5, 2005. A public hearing to receive oral comments on the proposed amendments was held on May 11, 2005.

Written comments were filed by the following seven parties: Cox Iowa Telcom, LLC; Iowa Telecommunications Association; Rural Iowa Independent Telephone Association; U.S. Cellular Corporation; Iowa Wireless Coalition, which consists of WWC License, LLC, d/b/a Cellular One, NPCR, Inc., d/b/a Nextel Partners, and Midwest Wireless Iowa, LLC; Qwest Corporation; and the Consumer Advocate Division of the Department of Justice. A summary of the comments filed and the amendments adopted can be found in the Board's order located on the Board's Web site, www.state.ia.us/iub, or in hard copy in the Board's Records Center, 350 Maple Street, Des Moines, Iowa 50319-0069. The Board determined based upon a recent order by the Federal Commu-

nications Commission (FCC) and the submitted comments that the proposed amendments to 199 IAC 39.3(1)"b" should be adopted with modification and new rule 39.5(476) should also be adopted with modification. The first reporting by eligible carriers shall be submitted to the Board on or before September 1, 2006.

These amendments are intended to implement Iowa Code section 476.2 and 47 U.S.C. § 214(e).

These amendments will become effective December 14, 2005.

The following amendments are adopted.

ITEM 1. Amend paragraph **39.3(1)"b"** to read as follows:

b. Eligible carriers that do not file tariffs with the board shall include the Link-up and Lifeline offerings in their agreements to provide service to customers. *These eligible carriers shall file with the board copies of their current customer service agreements.*

ITEM 2. Adopt **new** rule 199—39.5(476) to read as follows:

199—39.5(476) Quality of service reporting by eligible telecommunications carriers. Carriers designated by the utilities board as eligible to receive universal service support pursuant to 47 U.S.C. § 214(e) must measure and report to the board the quality of service performance for the criteria listed below. Quality of service reporting shall be provided annually in a format determined by the board.

1. Local usage. The amount of minutes of service provided each month, without any additional charge, as part of the ETC-eligible service.

2. Access to emergency services. A listing of each area in Iowa where the eligible carrier currently provides Phase I and Phase II E-911.

3. Answer time. The average time that each customer is left on hold when calling an eligible carrier's customer service center, regardless of the location from which the customer is calling.

4. Retail locations. The number, location, hours of service, and telephone number for each carrier-owned retail location in Iowa, as well as the eligible carrier's Web address and toll-free customer service number.

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EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 11/9/05.