



IOWA ADMINISTRATIVE BULLETIN

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PREFACE

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

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

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

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

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CITATION of Administrative Rules

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

- 441 IAC 79 (Chapter)
- 441 IAC 79.1(249A) (Rule)
- 441 IAC 79.1(1) (Subrule)
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The Iowa Administrative Bulletin shall be cited as IAB (volume), (number), (publication date), (page number), (ARC number).

Schedule for Rule Making 2007

NOTICE SUBMISSION DEADLINE	NOTICE PUB. DATE	HEARING OR COMMENTS 20 DAYS	FIRST POSSIBLE ADOPTION DATE 35 DAYS	ADOPTED FILING DEADLINE	ADOPTED PUB. DATE	FIRST POSSIBLE EFFECTIVE DATE	POSSIBLE EXPIRATION OF NOTICE 180 DAYS
Dec. 27 '06	Jan. 17 '07	Feb. 6 '07	Feb. 21 '07	Feb. 23 '07	Mar. 14 '07	Apr. 18 '07	July 16 '07
Jan. 12	Jan. 31	Feb. 20	Mar. 7	Mar. 9	Mar. 28	May 2	July 30
Jan. 26	Feb. 14	Mar. 6	Mar. 21	Mar. 23	Apr. 11	May 16	Aug. 13
Feb. 9	Feb. 28	Mar. 20	Apr. 4	Apr. 6	Apr. 25	May 30	Aug. 27
Feb. 23	Mar. 14	Apr. 3	Apr. 18	Apr. 20	May 9	June 13	Sept. 10
Mar. 9	Mar. 28	Apr. 17	May 2	May 4	May 23	June 27	Sept. 24
Mar. 23	Apr. 11	May 1	May 16	***May 16***	June 6	July 11	Oct. 8
Apr. 6	Apr. 25	May 15	May 30	June 1	June 20	July 25	Oct. 22
Apr. 20	May 9	May 29	June 13	June 15	July 4	Aug. 8	Nov. 5
May 4	May 23	June 12	June 27	***June 27***	July 18	Aug. 22	Nov. 19
May 16	June 6	June 26	July 11	July 13	Aug. 1	Sept. 5	Dec. 3
June 1	June 20	July 10	July 25	July 27	Aug. 15	Sept. 19	Dec. 17
June 15	July 4	July 24	Aug. 8	Aug. 10	Aug. 29	Oct. 3	Dec. 31
June 27	July 18	Aug. 7	Aug. 22	***Aug. 22***	Sept. 12	Oct. 17	Jan. 14 '08
July 13	Aug. 1	Aug. 21	Sept. 5	Sept. 7	Sept. 26	Oct. 31	Jan. 28 '08
July 27	Aug. 15	Sept. 4	Sept. 19	Sept. 21	Oct. 10	Nov. 14	Feb. 11 '08
Aug. 10	Aug. 29	Sept. 18	Oct. 3	Oct. 5	Oct. 24	Nov. 28	Feb. 25 '08
Aug. 22	Sept. 12	Oct. 2	Oct. 17	Oct. 19	Nov. 7	Dec. 12	Mar. 10 '08
Sept. 7	Sept. 26	Oct. 16	Oct. 31	Nov. 2	Nov. 21	Dec. 26	Mar. 24 '08
Sept. 21	Oct. 10	Oct. 30	Nov. 14	***Nov. 14***	Dec. 5	Jan. 9 '08	Apr. 7 '08
Oct. 5	Oct. 24	Nov. 13	Nov. 28	Nov. 30	Dec. 19	Jan. 23 '08	Apr. 21 '08
Oct. 19	Nov. 7	Nov. 27	Dec. 12	***Dec. 12***	Jan. 2 '08	Feb. 6 '08	May 5 '08
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Nov. 30	Dec. 19	Jan. 8 '08	Jan. 23 '08	Jan. 25 '08	Feb. 13 '08	Mar. 19 '08	June 16 '08
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Dec. 26	Jan. 16 '08	Feb. 5 '08	Feb. 20 '08	Feb. 22 '08	Mar. 12 '08	Apr. 16 '08	July 14 '08

PRINTING SCHEDULE FOR IAB

<u>ISSUE NUMBER</u>	<u>SUBMISSION DEADLINE</u>	<u>ISSUE DATE</u>
6	Wednesday, August 22, 2007	September 12, 2007
7	Friday, September 7, 2007	September 26, 2007
8	Friday, September 21, 2007	October 10, 2007

PLEASE NOTE:

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

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

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

SUBSCRIPTION INFORMATION

In 2008, mail subscriptions to the Iowa Administrative Bulletin and the Iowa Administrative Code will be discontinued, and Internet updating and printing options will be instituted through the Iowa General Assembly's Internet home page: www.legis.state.ia.us.

Iowa Administrative Bulletin

July 2007 through December 2007 \$169

Iowa Administrative Code Supplement

*July 2007 through December 2007 \$263

***Please note that if the Internet updating and printing options are not operational in January 2008, the above six-month subscriptions (July 2007 – December 2007) will be continued at no cost to the subscriber until the Internet updating and printing options become operational.**

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AGENCY	HEARING LOCATION	DATE AND TIME OF HEARING
AGRICULTURE AND LAND STEWARDSHIP DEPARTMENT[21]		
Dangerous wild animals, ch 77 IAB 8/15/07 ARC 6158B	Second Floor Conference Room Wallace State Office Bldg. Des Moines, Iowa	September 5, 2007 2 p.m.
DENTAL EXAMINERS BOARD[650]		
Grounds for discipline—failure to preserve confidentiality, 30.4“14” IAB 8/15/07 ARC 6131B	Board Conference Room, Suite D 400 SW 8th St. Des Moines, Iowa	September 4, 2007 10 a.m.
ECONOMIC DEVELOPMENT, IOWA DEPARTMENT OF[261]		
Regional sports authority districts, ch 37 IAB 8/15/07 ARC 6144B (ICN Network)	(Origination Site) Main Conf. Rm., Second Floor 200 East Grand Ave. Des Moines, Iowa	September 5, 2007 1:30 to 3 p.m.
	Kuemper High School 109 S. Clark St. Carroll, Iowa	September 5, 2007 1:30 to 3 p.m.
	Clarinda High School 100 N. Cardinal Dr. Clarinda, Iowa	September 5, 2007 1:30 to 3 p.m.
	Eastern Iowa Community College, District 1 Rm. 300, Kahl Educational Ctr. 326 W. Third St. Davenport, Iowa	September 5, 2007 1:30 to 3 p.m.
	Carnegie-Stout Public Library 360 W. 11th St. Dubuque, Iowa	September 5, 2007 1:30 to 3 p.m.
	Fort Dodge Public Library 424 Central Ave. Fort Dodge, Iowa	September 5, 2007 1:30 to 3 p.m.
	Iowa City High School 1900 Morningside Dr. Iowa City, Iowa	September 5, 2007 1:30 to 3 p.m.
	Keokuk Public Library 210 N. 5th St. Keokuk, Iowa	September 5, 2007 1:30 to 3 p.m.
	NIACC 500 College Dr. Mason City, Iowa	September 5, 2007 1:30 to 3 p.m.
	Oskaloosa Public Library 301 S. Market St. Oskaloosa, Iowa	September 5, 2007 1:30 to 3 p.m.
	East High School 5011 Mayhew Ave. Sioux City, Iowa	September 5, 2007 1:30 to 3 p.m.

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

	Spencer High School 800 E. Third St. Spencer, Iowa	September 5, 2007 1:30 to 3 p.m.
	Hawkeye Community College - 1 1501 E. Orange Rd. Waterloo, Iowa	September 5, 2007 1:30 to 3 p.m.
Targeted small business procurement and financial assistance programs, amendments to chs 54, 55 IAB 8/15/07 ARC 6143B (ICN Network)	[See listing for ARC 6144B above]	
Targeted industries; information technology, chs 101 to 104 IAB 8/15/07 ARC 6138B (ICN Network)	[See listing for ARC 6144B above]	

EDUCATIONAL EXAMINERS BOARD[282]

Board membership, 1.2 IAB 8/1/07 ARC 6071B	Rm. 3 Southwest, Third Floor Grimes State Office Bldg. Des Moines, Iowa	August 22, 2007 1 p.m.
Middle school endorsement, 14.140(15) IAB 8/1/07 ARC 6103B	Rm. 3 Southwest, Third Floor Grimes State Office Bldg. Des Moines, Iowa	August 22, 2007 1 p.m.
Language arts endorsement, 14.141(20) IAB 8/1/07 ARC 6102B	Rm. 3 Southwest, Third Floor Grimes State Office Bldg. Des Moines, Iowa	August 22, 2007 1 p.m.
Removal of endorsement; reinstatement of removed endorsement, 14.144 IAB 8/1/07 ARC 6104B	Rm. 3 Southwest, Third Floor Grimes State Office Bldg. Des Moines, Iowa	August 22, 2007 1 p.m.

EDUCATION DEPARTMENT[281]

Accreditation standards—protected classes, antiharrassment/antibullying policy, preschool programs, 12.1(1), 12.2, 12.3, 12.8(1)“a” IAB 8/15/07 ARC 6161B (ICN Network)	(Origination Site) ICN Room, Second Floor Grimes State Office Bldg. Des Moines, Iowa	September 11, 2007 9 to 11 a.m.
	Dubuque AEA 2310 Chaney Rd. Dubuque, Iowa	September 11, 2007 9 to 11 a.m.
	Fayette Community Library 104 W. State St. Fayette, Iowa	September 11, 2007 9 to 11 a.m.
	Mason City High School Room 113 1700 4th St. SE Mason City, Iowa	September 11, 2007 9 to 11 a.m.

EDUCATION DEPARTMENT[281] (Cont'd)

Spencer High School 800 East 3rd St. Spencer, Iowa	September 11, 2007 9 to 11 a.m.
Northwest AEA Room 103, Sioux Center Office 1382 4th Ave. NE Sioux Center, Iowa	September 11, 2007 9 to 11 a.m.
Webster City High School 1001 Lynx Ave. Webster City, Iowa	September 11, 2007 9 to 11 a.m.
Area Education Agency 267 Marshalltown Office 109 S. 12th St. Marshalltown, Iowa	September 11, 2007 9 to 11 a.m.
Waterloo West High School Baltimore and Ridgeway Waterloo, Iowa	September 11, 2007 9 to 11 a.m.
Rm. 304, Kahl Educational Center 326 West 3rd St. Davenport, Iowa	September 11, 2007 9 to 11 a.m.
Grant Wood AEA Revere Room 4401 6th St. SW Cedar Rapids, Iowa	September 11, 2007 9 to 11 a.m.
Heartland AEA 6500 Corporate Dr. Johnston, Iowa	September 11, 2007 9 to 11 a.m.
Central Campus Individual Learning Center Room 311471 1121 Jackson St. Sioux City, Iowa	September 11, 2007 9 to 11 a.m.
Loess Hills AEA 24997 Highway 92 Council Bluffs, Iowa	September 11, 2007 9 to 11 a.m.
Green Valley AEA Turner Room 1405 N. Lincoln Creston, Iowa	September 11, 2007 9 to 11 a.m.
Southern Prairie AEA 2814 N. Court Street Ottumwa, Iowa	September 11, 2007 9 to 11 a.m.
Great River AEA 3601 W. Avenue Rd. Burlington, Iowa	September 11, 2007 9 to 11 a.m.

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Core content standards; phase II accreditation visit; accountability, 12.3, 12.4(11), 12.5, 12.8 IAB 8/15/07 ARC 6156B	State Board Room, Second Floor Grimes State Office Bldg. Des Moines, Iowa	September 14, 2007 9 to 10 a.m.
Faculty salary allocation plan, 21.3(7) IAB 8/15/07 ARC 6154B	Room 3 SW, Third Floor Grimes State Office Bldg. Des Moines, Iowa	September 7, 2007 11 a.m. to 12 noon
Used motor vehicle dealer education program, 21.75 IAB 8/15/07 ARC 6155B	Room 3 SW, Third Floor Grimes State Office Bldg. Des Moines, Iowa	September 7, 2007 10 to 11 a.m.

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Air quality regulations for ethanol production facilities, 22.100, 33.3 IAB 8/1/07 ARC 6091B	Air Quality Bureau 7900 Hickman Rd. Urbandale, Iowa	September 5, 2007 10 a.m.
CAIR and CAMR trading programs, 34.201, 34.210, 34.221, 34.301 IAB 8/1/07 ARC 6092B	Air Quality Bureau 7900 Hickman Rd. Urbandale, Iowa	September 4, 2007 9 a.m.
Underground storage tank installations, 135.1(3), 135.2, 135.3, 135.5 IAB 8/1/07 ARC 6072B	Iowa City Public Library 123 S. Linn St. Iowa City, Iowa	August 21, 2007 1 p.m.
	Community Meeting Room Denison City Hall Clerk's Office 111 N. Main St. Denison, Iowa	August 22, 2007 1 p.m.
	5th Floor E. Conference Room Wallace State Office Bldg. Des Moines, Iowa	August 23, 2007 1 p.m.

HUMAN SERVICES DEPARTMENT[441]

Disability services management, 25.11, 25.13(1)“m,” 25.20 IAB 8/1/07 ARC 6101B	Conference Room 102 City View Plaza 1200 University Ave. Des Moines, Iowa	August 22, 2007 8:30 a.m.
	3rd Floor Conference Room Nesler Centre 799 Main St. Dubuque, Iowa	August 22, 2007 9 a.m.
	ICN Room Pottawattamie Cty. DHS Office 417 E. Kanessville Blvd. Council Bluffs, Iowa	August 22, 2007 10 a.m.
	1st Floor Board Rm., Scott Cty. Administrative Center 428 Western Ave. Davenport, Iowa	August 22, 2007 10 a.m.

HUMAN SERVICES DEPARTMENT[441] (Cont'd)

Rm. 220, Pinecrest Office Bldg. 1407 Independence Ave. Waterloo, Iowa	August 22, 2007 10 a.m. to 12 noon
1st Floor Conference Room A/B Woodbury Cty. DHS 822 Douglas St. Sioux City, Iowa	August 23, 2007 10 a.m.
Rm. 3, Wapello Cty. DHS 120 E. Main St. Ottumwa, Iowa	August 23, 2007 10:30 a.m.
5th Floor Conference Room Iowa Building 411 Third St. SE Cedar Rapids, Iowa	August 23, 2007 2:30 p.m.
2nd Floor Conference Room Story Cty. Human Services Bldg. 126 S. Kellogg St. Ames, Iowa	August 24, 2007 11 a.m. to 12 noon

LABOR SERVICES DIVISION[875]

Elevator alteration—exception to requirement to lower and excavate pit floors, 73.8 IAB 8/1/07 ARC 6070B	Stanley Room 1000 E. Grand Ave. Des Moines, Iowa	August 22, 2007 1:30 p.m. (If requested)
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NURSING BOARD[655]

Nursing education programs, ch 2 IAB 7/18/07 ARC 6040B	Des Moines West Room Holiday Inn Downtown 1050 Sixth Ave. Des Moines, Iowa	September 12, 2007 6 p.m.
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PROFESSIONAL LICENSURE DIVISION[645]

Physician assistants, amendments to chs 325 to 329 IAB 8/15/07 ARC 6134B	Fifth Floor Board Conf. Room Lucas State Office Bldg. Des Moines, Iowa	September 5, 2007 9 to 9:30 a.m.
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PUBLIC SAFETY DEPARTMENT[661]

National criminal history checks for teacher applicants, 11.21(4) IAB 7/18/07 ARC 6046B (See also ARC 6047B)	First Floor Conf. Room, Room 125 215 East 7th St. Des Moines, Iowa	September 5, 2007 10 a.m.
Public records and fair information practices, 25.3, 25.13, 25.15 IAB 7/18/07 ARC 6048B (See also ARC 6049B)	First Floor Conf. Room, Room 125 215 East 7th St. Des Moines, Iowa	September 5, 2007 9:30 a.m.

PUBLIC SAFETY DEPARTMENT[661] (Cont'd)

Fire service training, 259.302, 259.303, 259.304(1), 259.305 IAB 8/1/07 ARC 6064B (See also ARC 6065B)	First Floor Conf. Room, Room 125 215 East 7th St. Des Moines, Iowa	September 5, 2007 10:30 a.m.
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TRANSPORTATION DEPARTMENT[761]

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Clarification of rules, amendments to chs 400, 401, 405, 411, 421, 424, 425, 430, 431, 451, 480 IAB 8/15/07 ARC 6133B	Motor Vehicle Division Offices 6310 SE Convenience Blvd. Ankeny, Iowa	September 6, 2007 10 a.m. (If requested)

UTILITIES DIVISION[199]

Certificates of franchise authority for cable and video service, ch 44 IAB 8/1/07 ARC 6124B	350 Maple St. Des Moines, Iowa	September 20, 2007 10 a.m.
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VETERANS AFFAIRS, IOWA DEPARTMENT OF[801]

Iowa veterans home, 10.1, 10.40(1) IAB 8/15/07 ARC 6157B	Ford Memorial Conf. Room Iowa Veterans Home 1301 Summit Marshalltown, Iowa	September 5, 2007 1 p.m. (If requested)
Veterans trust fund, ch 14 IAB 8/1/07 ARC 6126B	Enhanced Classroom, Joint Forces Hdqtrs., Iowa National Guard 6100 NW 78th St. Johnston, Iowa	August 21, 2007 2 to 4 p.m.

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

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

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

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

The following list will be updated as changes occur:

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ARC 6140B**AGRICULTURAL DEVELOPMENT
AUTHORITY[25]****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 175.6(14), the Iowa Agricultural Development Authority hereby proposes to amend Chapter 4, "IADA Loan Participation Program," Iowa Administrative Code.

These amendments are proposed to increase the maximum loan participation amount to better reflect the current prices for real estate. In addition, these amendments will change the underwriting criteria for those operations which have a guaranteed source of repayment. These changes will allow more highly leveraged transactions to be eligible when an assignment of payment can be secured.

The amendments will also provide for a fixed interest rate on the participation which will be less than the current rate offered to eligible producers. Finally, all participations regardless of the equity position will be amortized over 20 years with a 10-year balloon.

Any interested persons may make written comments or suggestions on these proposed amendments on or before 4:30 p.m. on September 5, 2007. Such written materials should be directed to Jeff Ward, Executive Director, Iowa Agricultural Development Authority, 505 Fifth Avenue, Suite 327, Des Moines, Iowa 50309; or faxed to (515)281-8618. E-mail may be sent to jeff.ward@iowa.gov.

These amendments are intended to implement Iowa Code section 175.13A.

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

The following amendments are proposed.

ITEM 1. Amend subrule 4.3(9) as follows:

4.3(9) Farm debt-to-asset ratio. Borrower must have a farm debt-to-asset ratio of no more than 80 percent upon completion of loan closing. If the farm debt-to-asset ratio is greater than 60 percent, borrower's projected term debt coverage ratio must be 120 percent or greater. *This requirement may be waived if:*

- a. *The project has a guaranteed source of repayment; and*
- b. *An assignment of payment is obtained.*

ITEM 2. Amend rule 25—4.6(175) as follows:

25—4.6(175) Program maximums.

4.6(1) Purchase price impact. Maximum participation amount is the lesser of:

- a. Thirty percent of the purchase price; or
- b. One hundred fifty thousand dollars.

4.6(2) Net worth factor. The aggregate amount of the participated loan can be no more than ~~two~~ three times the net worth of the borrower. *This requirement may be waived if:*

a. *The project has a guaranteed source of repayment; and*

b. *An assignment of payment is obtained.*

4.6(3) No change.

4.6(4) Loan terms.

a. No change.

b. IADA participation loan payments on participated real estate loans will be equally amortized for either 7 or 20 years over the term of the participation, depending upon the amount of down payment provided by the applicant.

~~(1) No down payment, 7-year amortization, 7-year term, no balloon payment, and will be paid in full by the end of the seventh year.~~

~~(2) Ten percent down payment, but shall not exceed a 20-year amortization, including a 10-year term with balloon payment, paying and the balance of the participation paid in full by the end of the tenth year.~~

c. The interest rate on the participated loan may shall be a fixed rate, a variable rate, or a combination thereof. If the rate of interest adjusts during the life of the participated loan, the interest rate on the participated loan cannot exceed the initial interest rate by more than 500 basis points. *The fixed interest rate shall be reviewed by the board on a quarterly basis and adjusted as needed.*

4.6(5) Loans outstanding. Loans under the program may be issued more than once, providing the outstanding loan participation totals do not exceed \$50,000 \$150,000 to any single borrower.

ARC 6158B**AGRICULTURE AND LAND
STEWARDSHIP DEPARTMENT[21]****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 2007 Iowa Acts, Senate File 564, section 2, the Iowa Department of Agriculture and Land Stewardship gives Notice of Intended Action to adopt new Chapter 77, "Dangerous Wild Animals," Iowa Administrative Code.

The purpose of these rules is to implement the provisions enacted by 2007 Iowa Acts, Senate Files 564 and 601, regarding dangerous wild animals. These rules do not provide for waivers.

A public hearing will be held on September 5, 2007, at 2 p.m. in the second floor conference room of the Wallace State Office Building, 502 East 9th Street, Des Moines, Iowa. Any interested person may make written suggestions or comments on the proposed chapter. The written materials should be directed to Margaret Thomson, Iowa Department of Agriculture and Land Stewardship, Wallace State Office Building, 502 East 9th Street, Des Moines, Iowa 50319. Comments may be sent by fax to (515)281-6236 or E-mailed to Margaret.Thomson@idals.state.ia.us.

These rules are intended to implement 2007 Iowa Acts, Senate Files 564 and 601.

AGRICULTURE AND LAND STEWARDSHIP DEPARTMENT[21](cont'd)

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

The following **new** chapter is proposed.

CHAPTER 77
DANGEROUS WILD ANIMALS

21—77.1(82GA,SF564,SF601) Definitions.

“Dangerous wild animal” means any of the following:

1. A member of the family canidae of the order carnivora, including but not limited to wolves, coyotes, and jackals. However, a dangerous wild animal does not include a domestic dog.

2. A member of the family hyaenidae of the order of carnivora, including but not limited to hyenas.

3. A member of the family felidae of the order carnivora, including but not limited to lions, tigers, cougars, leopards, cheetahs, ocelots, and servals. However, a dangerous wild animal does not include a domestic cat.

4. A member of the family ursidae of the order carnivora, including bears and pandas.

5. A member of the family rhinocerotidae of the order perissodactyla, which is a rhinoceros.

6. A member of the order proboscidea, which are any species of elephant.

7. A member of the order of primates other than humans, and including the following families: callitrichidae, cebidae, cercopithecidae, cheirogaleidae, daubentoniidae, galagonidae, hominidae, hylobatidae, indridae, lemuridae, loridae, megaladapidae, or tarsiidae. A member includes but is not limited to marmosets, tamarins, monkeys, lemurs, galagos, bush babies, great apes, gibbons, lesser apes, indris, sifakas, and tarsiers.

8. A member of the order crocodylia, including but not limited to alligators, caimans, crocodiles, and gharials.

9. A member of the family varanidae of the order squamata, which are limited to water monitors and crocodile monitors.

10. A member of the order squamata which is any of the following:

- A member of the family varanidae, which are limited to water monitors and crocodile monitors.

- A member of the family atractaspidae, including but not limited to mole vipers and burrowing asps.

- A member of the family helodermatidae, including but not limited to beaded lizards and gila monsters.

- A member of the family elapidae, viperidae, crotalidae, atractaspidae, or hydrophidae which are venomous, including but not limited to cobras, mambas, coral snakes, kraits, adders, vipers, rattlesnakes, copperheads, pit vipers, keelbacks, cottonmouths, and sea snakes.

- A member of the superfamily henophidia, which are limited to reticulated pythons, anacondas, and African rock pythons.

11. Swine which is a member of the species *sus scrofa* Linnaeus, including but not limited to swine commonly known as Russian boar or European boar of either sex.

“Dangerous wild animal” includes an animal which is the offspring of an animal listed in paragraphs “1” to “11” and another animal listed in those paragraphs or any other animal. It also includes animals which are the offspring of each subsequent generation. However, a dangerous wild animal does not include the offspring of a domestic dog and a

wolf, or the offspring from each subsequent generation in which at least one parent is a domestic dog.

“Department” means the Iowa department of agriculture and land stewardship.

“Possess” means to own, keep, or control a dangerous wild animal, or supervise or provide for the care and feeding of a dangerous wild animal, including any activity relating to confining, handling, breeding, transporting, or exhibiting the dangerous wild animal.

21—77.2(82GA,SF564,SF601) Prohibitions. Except as otherwise provided in this chapter, a person shall not own or possess a dangerous wild animal, cause or allow a dangerous wild animal owned by a person or in the person's possession to breed, or transport a dangerous wild animal into this state.

21—77.3(82GA,SF564,SF601) Continued ownership—requirements of the individual. A person who owns or possesses a dangerous wild animal on July 1, 2007, may continue to own or possess the dangerous wild animal if the person is 18 years old or older and meets all of the following:

77.3(1) The person must not have been convicted of an offense involving the abuse or neglect of an animal pursuant to a law of this state or another state, including but not limited to the provisions of Iowa Code chapter 717, 717B, 717C, or 717D or an ordinance adopted by a city or county.

77.3(2) The department, another state, or the federal government must not have suspended an application for a permit or license or revoked a permit or license required to operate a commercial establishment for the care, breeding, or sale of animals, including as provided in Iowa Code chapter 162.

77.3(3) The person must not have been convicted of a felony for an offense committed within the last ten years, as provided by the Code of Iowa, under the laws of another state, or under federal law.

77.3(4) The person must not have been convicted of a misdemeanor or felony for an offense committed within the last ten years involving a controlled substance, as defined in Iowa Code section 124.101, in this state, under the laws of another state, or under federal law.

21—77.4(82GA,SF564,SF601) Continued ownership—insurance required. The person who continues to own or possess a dangerous wild animal must maintain liability insurance coverage in an amount of not less than \$100,000, with a deductible of not more than \$250, for each occurrence of property damage, bodily injury, or death caused by each dangerous wild animal kept by the person. The contents of the insurance policy must provide for notification to the department if the policy is canceled or reduced.

21—77.5(82GA,SF564,SF601) Continued ownership—electronic identification device. The person who continues to own or possess a dangerous wild animal must have an electronic identification device implanted beneath the skin or hide of the dangerous wild animal, unless a licensed veterinarian states in writing that the implantation would endanger the comfort or health of the animal. In such case, an electronic identification device may be otherwise attached to the dangerous wild animal as required by the department. An electronic identification device means a device which when installed is designed to store information regarding an animal or the animal's owner in a digital format which may be accessed by a computer for purposes of reading or manipulating the information.

21—77.6(82GA,SF564,SF601) Continued ownership—registration form.

AGRICULTURE AND LAND STEWARDSHIP DEPARTMENT[21](cont'd)

77.6(1) The person who continues to own or possess a dangerous wild animal must notify the department using a registration form prepared by the department not later than December 31, 2007.

77.6(2) The registration form shall include all of the following information:

a. The person's name, address, and telephone number.
b. A sworn affidavit that the person meets the requirements necessary to own or possess a dangerous wild animal as provided in this chapter.

c. A complete inventory of each dangerous wild animal which the person owns or possesses. The inventory shall include all of the following information:

(1) The number of dangerous wild animals according to species.

(2) The name of the manufacturer and number of the manufacturer's electronic device implanted in or attached to each dangerous wild animal.

(3) The location where each dangerous wild animal is kept. The person must notify the department in writing within ten days of a change of address or of the location where the dangerous wild animal is kept.

(4) The approximate age, sex, color, weight, scars, and any distinguishing marks of each dangerous wild animal.

(5) The name, business mailing address, and business telephone number of the licensed veterinarian who is responsible for providing care to the dangerous wild animal. The information shall include a statement signed by the licensed veterinarian certifying that the dangerous wild animal is in good health.

(6) A color photograph of the dangerous wild animal.

(7) A copy of a current liability insurance policy as required in rule 77.4(82GA,SF564,SF601). The person shall submit a copy of the current liability policy to the department each year.

21—77.7(82GA,SF564,SF601) Continued ownership—registration fee.

77.7(1) The person who continues to own or possess a dangerous wild animal must pay the department an annual registration fee as follows:

a. \$500 for a member of the order proboscidea, which are any species of elephant.

b. \$500 for a member of the family rhinocerotidae of the order perissodactyla, which is a rhinoceros.

c. \$300 for a member of the family ursidae of the order carnivora, which is limited to bears.

d. For a member of the family felidae of the order carnivora, all of the following:

(1) \$300 for a member of the subfamily pantherinae, limited to leopards other than snow leopards, lions, and tigers; and for a member of the subfamily felinae limited to pumas, jaguars, and cougars.

(2) \$200 for a member of the subfamily felinae limited to bobcats, clouded leopards, cheetahs, and lynx.

(3) \$100 for a member of the subfamily felinae limited to caracals, desert cats, Geoffroy's cats, jungle cats, margays, ocelots, servals, and wild cats.

e. For a member of the order of primates other than humans, all of the following:

(1) \$300 for a member commonly referred to as an ape, belonging to the hylobatidae family such as gibbons and siamangs, or to the pongidae family including gorillas, orangutans, or chimpanzees.

(2) \$150 for a member commonly referred to as an old world monkey, belonging to the family cercopithecidae, including but not limited to macaques, rhesus, mangabeys,

mandrills, guenons, patas monkeys, langurs, and proboscis monkeys.

(3) \$50 for a member commonly referred to as a new world monkey belonging to the family cebidae, including but not limited to cebids, including capuchin monkeys, howlers, woolly monkeys, squirrel monkeys, night monkeys, titis, uakaris, or to the family callitrichidae, including but not limited to marmosets and tamarins.

f. \$100 for a member of the order crocodylia, including but not limited to alligators, caimans, crocodiles, and gharials.

g. \$50 for a member of the family varanidae of the order squamata, which are limited to water monitors and crocodile monitors.

h. \$50 for a member of the family atractaspidae, including but not limited to mole vipers and burrowing asps.

i. \$50 for a member of the family helodermatidae, including but not limited to beaded lizards and gila monsters.

j. \$50 for a member of the family elapidae, viperidae, crotalidae, atractaspidae, or hydrophidae which are venomous, including but not limited to cobras, mambas, coral snakes, kraits, adders, vipers, rattlesnakes, copperheads, pit vipers, keelbacks, cottonmouths, and sea snakes.

k. \$100 for a member of the superfamily henophidia, which is limited to reticulated pythons and anacondas.

l. \$10 for swine which is a member of the species *sus scrofa* Linnaeus, including but not limited to swine commonly known as Russian boar or European boar of either sex.

77.7(2) The department shall collect either an original registration fee or a renewed registration fee. The renewal fee is one-half the amount of the original fee.

21—77.8(82GA,SF564,SF601) Continued ownership—records required.

The person who continues to own or possess a dangerous wild animal must maintain health and ownership records for the dangerous wild animal for the life of the animal, including: deaths and cause of each death; the complete name, address and telephone number of the person to whom an animal was transferred or sold; the date the animal was transferred or sold; and the current location of each animal's records.

21—77.9(82GA,SF564,SF601) Continued ownership—enclosure required.

77.9(1) The person who continues to own or possess a dangerous wild animal must confine the dangerous wild animal in a primary enclosure on the person's premises. The primary enclosure should be of sound construction and maintained in good repair to protect the animal from injury. Construction materials and maintenance shall allow the animal to be kept clean. The animal should be housed or caged in a manner that allows the animal to perform the normal behavior patterns of its species and prevents disease, liberation, or accidental injury to the animal and the public. The animal should have adequate food, shelter, ventilation, and lighting for its species. Appropriate sanitation measures must be taken. Food supplies and bedding materials must be adequate, appropriate, and sanitary. Equipment must be available for the removal and disposal of waste materials to minimize vermin infestation, odors, and disease hazards.

77.9(2) The person must not allow the dangerous wild animal outside of the primary enclosure unless the dangerous wild animal is moved pursuant to any of the following:

a. To receive veterinary care from a licensed veterinarian.

b. To comply with the directions of the department or an animal warden.

AGRICULTURE AND LAND STEWARDSHIP DEPARTMENT[21](cont'd)

c. To transfer ownership and possession of the dangerous wild animal to a wildlife sanctuary or provide for its destruction by euthanasia according to the American Veterinary Medical Association Panel on Euthanasia Guidelines.

21—77.10(82GA,SF564,SF601) Continued ownership—signs required. The person who continues to own or possess a dangerous wild animal must display at least one visible, readable sign with suitable wording on the person's premises where the dangerous wild animal is kept warning the public that the dangerous wild animal is confined there.

21—77.11(82GA,SF564,SF601) Escape notification required. The person who continues to own or possess a dangerous wild animal must immediately notify an animal warden or other local law enforcement official of any escape of a dangerous wild animal.

21—77.12(82GA,SF564,SF601) Relinquishment. If the person who continues to own or possess a dangerous wild animal is no longer able to care for the animal, both of the following shall apply:

1. The person must so notify the department, stating the planned disposition of the dangerous wild animal.

2. The person must dispose of the dangerous wild animal by transferring ownership and possession to a wildlife sanctuary or providing for its destruction by euthanasia according to the American Veterinary Medical Association Panel on Euthanasia Guidelines.

21—77.13(82GA,SF564,SF601) Seizure, custody and disposal.

77.13(1) Except as provided in subrule 77.13(2), the department shall seize a dangerous wild animal which is in the possession of a person if the person is not in compliance with the requirements of this chapter. An animal warden as defined in Iowa Code section 162.2, or an animal care provider or law enforcement officer as defined in Iowa Code section 717B.1, shall enforce this chapter as directed by the department.

77.13(2) Upon request, the department may provide that the person retain possession of the dangerous wild animal for not more than 14 days, upon conditions required by the department. During that period, the person shall take all necessary actions to comply with this chapter. The premises, housing facilities and records required by 2007 Iowa Acts, Senate Files 564 and 601, shall be open for inspection by authorized personnel of the department during normal business hours.

77.13(3) If the person fails to comply with the conditions of the department at any time or is not in compliance with this chapter following the 14-day period, the department shall seize the dangerous wild animal.

21—77.14(82GA,SF564,SF601) Exemptions. This chapter does not apply to any of the following:

1. An institution accredited or certified by the American Zoo and Aquarium Association.

2. A wildlife sanctuary.

3. A person who keeps falcons, if the person has been issued a falconry license by the department of natural resources pursuant to Iowa Code section 483A.1.

4. A person who owns or possesses a dangerous wild animal as an agricultural animal. The person shall not transfer the dangerous wild animal to another person, unless the person to whom the dangerous wild animal is transferred will own or possess it as an agricultural animal or the person is a wildlife sanctuary.

5. A person who owns or possesses a dangerous wild animal as an assistive animal. The person shall not transfer the dangerous wild animal to another person, unless the person to whom the dangerous wild animal is transferred will own or possess it as an assistive animal or the person is a wildlife sanctuary.

6. A person who harvests the dangerous wild animal as a hunter or trapper pursuant to state law and as regulated by the department of natural resources.

7. A person who has been issued a wildlife rehabilitation permit by the department of natural resources pursuant to Iowa Code section 481A.65.

8. A circus that obtains a permit from a city in which it will be temporarily operating, if the city issues permits.

9. A city.

10. A nonprofit corporation governed under Iowa Code chapter 504 that is an organization described in Section 501(c)(3) of the Internal Revenue Code and that is exempt from taxation under Section 501(a) of the Internal Revenue Code if the nonprofit corporation was a party to a contract executed with a city prior to July 1, 2007, the effective date of 2007 Iowa Acts, Senate Files 564 and 601, to provide for the exhibition of dangerous wild animals at a municipal zoo. The nonprofit corporation shall not transfer the dangerous wild animal to another person, unless the person to whom the dangerous wild animal is transferred is a wildlife sanctuary.

11. The state fair as provided in Iowa Code chapter 173 or any fair as provided in Iowa Code chapter 174.

12. A research facility.

13. A location operated by a person licensed to practice veterinary medicine pursuant to Iowa Code chapter 169. However, this paragraph shall not apply to a swine which is a member of the species *sus scrofa* Linnaeus, including but not limited to swine commonly known as Russian boar or European boar of either sex.

14. A pound as defined in Iowa Code section 162.2.

15. An animal shelter as defined in Iowa Code section 162.2.

16. A county conservation board as provided in Iowa Code chapter 350.

17. An employee of the department responsible for the administration of this chapter, an animal warden as defined in Iowa Code section 162.2, or an animal care provider or law enforcement officer as defined in Iowa Code section 717B.1.

18. A person temporarily transporting a dangerous wild animal through this state if the transit time is not more than 96 hours and the dangerous wild animal is maintained within a confined area sufficient to prevent its escape or injuring members of the traveling public.

19. A public agency which maintains permanent custody of a dangerous wild animal, if the person to whom the public agency assigns the duty to manage the custody of the dangerous wild animal complies with the provisions of 2007 Iowa Acts, Senate File 564, section 4.

20. A person who keeps a dangerous wild animal pursuant to both of the following conditions:

- The person is licensed by the United States Department of Agriculture as provided in 9 CFR Chapter 1.

- The person is registered by the department of agriculture and land stewardship. Upon a complaint filed with the department of agriculture and land stewardship, the department may inspect the premises or investigate the practices of the registered person and suspend or revoke the registration for the same causes and in the same manner as provided in Iowa Code section 162.12.

These rules are intended to implement 2007 Iowa Acts, Senate Files 564 and 601.

ARC 6145B**ARCHITECTURAL EXAMINING BOARD[193B]****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 544A.29, the Architectural Examining Board hereby gives Notice of Intended Action to amend Chapter 2, "Registration," Iowa Administrative Code.

The amendments to Chapter 2 reflect statutory changes which came about through enactment of 2007 Iowa Acts, Senate File 360, effective July 1, 2007. These amendments allow the Board more flexibility in establishing guidelines for determining when an applicant's qualifications for registration by reciprocity may be considered substantially equivalent to the requirements for initial registration. Additional amendments provide that applicants for registration by examination can begin taking the national examination upon completion of the educational requirements for registration and after enrolling in the National Council of Architectural Registration Boards (NCARB) Intern Development Program. Other amendments to Chapter 2 clarify that, upon approval of an application for the Authorization to Practice Architecture as a Business Entity, renewal of the authorization is not required and clarify when a new authorization is required.

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

Consideration will be given to all written suggestions or comments on the proposed amendments received on or before September 4, 2007. Comments should be addressed to Glenda Loving, Architectural Examining Board, 1920 S.E. Hulsizer Road, Ankeny, Iowa 50021, or faxed to (515)281-7411. E-mail may be sent to glenda.loving@iowa.gov.

These amendments are intended to implement Iowa Code chapters 17A, 272C, and 544A and section 546.10 as amended by 2007 Iowa Acts, Senate File 360.

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

The following amendments are proposed.

ITEM 1. Rescind rule 193B—2.2(544A,17A) and adopt the following **new** rule in lieu thereof:

193B—2.2(544A,17A) Application by reciprocity. Applicants for registration are required to make application to the National Council of Architectural Registration Boards (NCARB) for a council certificate. A completed state application form (available on the board's Web site) and a completed council certificate shall be filed in the board office before an application will be considered by the board.

2.2(1) Registration requirements. The board or its executive officer may waive examination requirements for applicants who, at the time of application, are registered as architects in a different jurisdiction, where the applicant's qualifications for registration are substantially equivalent to those

required of applicants for initial registration in this state. All such applicants who hold an active NCARB certificate shall be deemed to possess qualifications that are substantially equivalent to those required of applicants for initial registration in this state.

2.2(2) The board may refuse to issue a certificate of registration to any person otherwise qualified upon any of the grounds for which a certificate of registration may be revoked or suspended or may otherwise discipline a registrant based upon a suspension, revocation, or other disciplinary action taken by a licensing authority in this or another jurisdiction. For purposes of this subrule, "disciplinary action" includes the voluntary surrender of a registration to resolve a pending disciplinary investigation or proceeding. A certified copy of the record or order of suspension, revocation, voluntary surrender, or other disciplinary action is prima facie evidence of such fact.

ITEM 2. Rescind rule 193B—2.3(544A,17A) and adopt the following **new** rule in lieu thereof:

193B—2.3(544A,17A) Application for registration by examination.

2.3(1) To be admitted to the examination, an applicant for registration shall have completed the eligibility requirements of the education standards for NCARB certification which include a professional degree from a program accredited by the National Architectural Accrediting Board (NAAB) or the Canadian Architectural Certification Board (CACB) and shall be enrolled in the NCARB Intern Development Program. NCARB shall notify the testing service of the applicant's eligibility prior to the applicant's scheduling of an examination.

2.3(2) Documentation of IDP training units shall be submitted on IDP report forms, published by NCARB, verified by signatures of registered architects serving as (1) the intern architect's supervisor in accordance with the requirements outlined in the Handbook for Interns and Architects, and (2) the intern architect's mentor, usually outside the intern's firm, with whom the intern has met for guidance and evaluation of the intern's progress in the IDP. The completed IDP report form shall demonstrate attainment of an aggregate of the minimum number of value units in each training area and shall be submitted to NCARB for evaluation. To receive credit, training units must have been earned no more than five years prior to the date of an applicant's enrolling in the IDP.

2.3(3) All eligibility requirements shall have been verified and satisfied in accordance with the NCARB Handbook for Interns and Architects. The Handbook is available through NCARB, the architectural examining board or the state law library.

2.3(4) Applicants who have previously passed any portion of formerly required NCARB examinations will be granted credit for those portions passed in accordance with procedures established by NCARB. Applicants who have passed one or more but not all divisions of the ARE by January 1, 2006, shall have five years to pass all remaining divisions. A passing grade for any remaining division shall be valid for five years, after which time the division must be retaken if all remaining divisions have not been passed. The rolling five-year period shall commence after January 1, 2006, on the date when the first division that has been passed is administered. Applicants who have passed no divisions of the ARE by January 1, 2006, shall be governed by the above rolling five-year requirement. The rolling five-year period shall commence on the date when the first division that has been passed is administered.

ARCHITECTURAL EXAMINING BOARD[193B](cont'd)

2.3(5) To be eligible for registration, all applicants shall have passed all divisions of the ARE prepared and provided by NCARB, have completed the NCARB Intern Development Program, and have attained an NCARB council record. A completed NCARB council record shall be transmitted to and filed in the board office. Upon receipt of the council record, the board shall provide the applicant with an application for registration form. The board shall issue a registration number to the applicant upon receipt of the completed application form and appropriate fee.

2.3(6) The board may refuse to issue a certificate of registration to any person otherwise qualified upon any of the grounds for which a registration may be revoked or suspended or may otherwise discipline a registrant based upon a suspension, revocation, or other disciplinary action taken by a licensing authority in this or another jurisdiction. For purposes of this subrule, "disciplinary action" includes the voluntary surrender of a registration to resolve a pending disciplinary investigation or proceeding. A certified copy of the record or order of suspension, revocation, voluntary surrender, or other disciplinary action is prima facie evidence of such fact.

ITEM 3. Amend subrule **2.10(1)**, paragraph "**b**," as follows:

b. Type of business entity, *the federal identification number of the business entity or social security number if a sole proprietorship*;

ITEM 4. Renumber subrules **2.10(4)** to **2.10(6)** as **2.10(5)** to **2.10(7)** and adopt **new** subrules 2.10(4) and 2.10(8) as follows:

2.10(4) Upon approval of the Authorization to Practice Architecture as a Business Entity, the business entity shall not be required to apply for renewal of the authorization.

2.10(8) When a business entity is issued a new federal identification number, a new application for authorization must be filed with the board.

NOTICE—CIVIL REPARATIONS TRUST FUND

Pursuant to Iowa Administrative Code 361—subrule 12.2(1), the Executive Council gives Notice that the Civil Reparations Trust Fund balance as of June 30, 2007, is approximately \$2,595.00. Money in the Civil Reparations Trust Fund is available for use for indigent civil litigation programs or insurance assistance programs. Application forms are available in the office of the State Treasurer by contacting GeorgAnna Madsen, Executive Secretary, State Capitol Room 114, Des Moines, Iowa 50319; telephone (515)281-5368. Applications must be filed on the thirtieth day after the date of publication of this Notice in the Iowa Administrative Bulletin, or on the thirtieth day after the date affixed to the Notice sent by first-class mail, whichever is later. Any person/company that would like to receive future notices should make request in writing to the above-mentioned contact. Rules regarding the Civil Reparations Trust Fund can be found at 361 IAC Chapter 12.

ARC 6131B

DENTAL EXAMINERS BOARD[650]

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 Dental Examiners hereby gives Notice of Intended Action to amend Chapter 30, "Discipline," Iowa Administrative Code.

The amendment specifies that failure to preserve the confidentiality of patient information may be grounds for discipline. The existing rule applies only to a dental hygienist's use of patient recall lists while the proposed rule will apply to any licensee or registrant who fails to preserve confidential patient information.

This amendment is not subject to waiver or variance pursuant to Iowa Administrative Code 650—30.4(147,153, 272C).

Any interested person may make written comments or suggestions on the proposed amendment on or before September 4, 2007. Such written comments should be directed to Jennifer Hart, Executive Officer, Board of Dental Examiners, 400 SW 8th Street, Suite D, Des Moines, Iowa 50309-4687. E-mail may be sent to Jennifer.Hart@iowa.gov.

Also, there will be a public hearing on September 4, 2007, beginning at 10 a.m. in the Board Conference Room, 400 SW 8th Street, Suite D, 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 amendment. Any person who plans to attend the public hearing and who may have special requirements, such as those related to hearing or mobility impairments, should contact the Board and advise of specific needs.

This amendment was approved at the July 10, 2007, meeting of the Board of Dental Examiners.

This amendment is intended to implement Iowa Code chapters 147, 153, 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 amendment is proposed.

Amend rule **650—30.4(147,153,272C)**, numbered paragraph "**14**," as follows:

14. ~~Using or attempting to use any patient recall list, records, reprints or copies thereof, or any information gathered from patients served by a dental hygienist in the office of a prior employer unless such names appear on a recall list of the new employer through the legitimate practice of dentistry. Failure to preserve the confidentiality of patient information by using or attempting to use any patient records from the office of a current or prior employer.~~

ARC 6144B

ECONOMIC DEVELOPMENT, IOWA DEPARTMENT OF[261]

Notice of Intended Action

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

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

Pursuant to the authority of Iowa Code sections 15.104 and 15.106, the Iowa Department of Economic Development proposes to adopt new Chapter 37, "Regional Sports Authority Districts," Iowa Administrative Code.

The proposed rules implement a new program authorized by 2007 Iowa Acts, House File 911, section 32. The rules describe the process by which a convention and visitors bureau may apply to be designated a certified Regional Sports Authority District, the funding available to certified Regional Sports Authority Districts, and the contract administration process.

Public comments concerning the proposed new chapter will be accepted until 4:30 p.m. on September 5, 2007. Interested persons may submit written or oral comments by contacting Nancy Landess, Iowa Department of Economic Development, 200 East Grand Avenue, Des Moines, Iowa 50309; telephone number (515)242-4702.

The Department will hold a public hearing on Wednesday, September 5, 2007, from 1:30 to 3 p.m. to receive comments on these proposed rules. The public hearing will originate from the Main Conference Room, Second Floor, Iowa Department of Economic Development, 200 East Grand Avenue, Des Moines, Iowa. Public participation will also be available via the Iowa Communications Network (ICN) from the remote locations listed below:

Kuemper High School 109 S. Clark Street Carroll, Iowa	Keokuk Public Library 210 N. 5th Street Keokuk, Iowa
Clarinda High School 100 North Cardinal Drive Clarinda, Iowa	North Iowa Area Community College 500 College Drive Mason City, Iowa
Eastern Iowa Community College District 1 326 W. Third Street Kahl Educational Center, Room 300 Davenport, Iowa	Oskaloosa Public Library 301 South Market Street Oskaloosa, Iowa
Carnegie-Stout Public Library 360 West 11th Street Dubuque, Iowa	East High School 5011 Mayhew Avenue Sioux City, Iowa
Fort Dodge Public Library 424 Central Avenue Fort Dodge, Iowa	Spencer High School 800 East 3rd Street Spencer, Iowa
Iowa City High School 1900 Morningside Drive Iowa City, Iowa	Hawkeye Community College - 1 1501 E. Orange Road Waterloo, Iowa

These rules are intended to implement 2007 Iowa Acts, House File 911, section 32.

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.

Adopt **new** 261—Chapter 37 as follows:

CHAPTER 37

REGIONAL SPORTS AUTHORITY DISTRICTS

261—37.1(82GA, HF911) Purpose. The purpose of this chapter is to describe the procedures the department will follow to review applications and certify regional sports authority districts for promotion of nonprofessional sporting events.

261—37.2(82GA, HF911) Definitions.

"Act" means the regional sports authority districts Act established by 2007 Iowa Acts, House File 911, section 32.

"Board" means the seven-member board that governs a regional sports authority district.

"Certified" means that the department has reviewed and approved an application from a CVB to be designated as a regional sports authority district.

"Convention and visitors bureau" or "CVB" means an establishment primarily engaged in marketing and promoting communities and facilities to businesses and leisure travelers through a range of activities, such as assisting organizations in locating meeting and convention sites; providing travel information on area attractions, lodging accommodations, and restaurants; providing maps; and organizing group tours of local historical, recreational, and cultural attractions.

"Department" means the Iowa department of economic development.

"District" means a regional sports authority district certified by the department.

"Eligible applicant" means a CVB that applies to the department for certification of a regional sports authority district, which may include more than one city and more than one CVB within the district.

"Match" means the local cash provided by the eligible applicant for promotion of the district.

261—37.3(82GA, HF911) Regional sports authority district board. The board shall consist of seven members appointed by the CVB that files an application with the department requesting certification as a regional sports authority district. At least three members of the board shall consist of city council members of the cities located in the district. Each board shall be responsible for administering programs designed to promote nonprofessional sporting events.

261—37.4(82GA, HF911) Use of funds.

37.4(1) A certified district shall actively promote youth sports, high school athletic activities, the special olympics, and other nonprofessional sporting events in the local area.

37.4(2) A certified district shall match the state funds with at least a 50 percent local cash match.

261—37.5(82GA, HF911) Application review.

37.5(1) An eligible applicant may submit an application to the department. The department will establish application deadlines and post the due dates on its Web site at www.traveliowa.com. Applications will be reviewed by the department at least quarterly until all available funding has been committed. All applications that are received by the established due dates and that meet the threshold eligibility requirements will be reviewed by the department.

37.5(2) An application shall include, at a minimum, the following:

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

a. Applicant's name, mailing address, E-mail address, telephone number, contact person and federal employer identification number.

b. A description of the promotion the district plans for youth sports, high school athletic activities, the special olympics, and other nonprofessional sporting events in the local area.

c. A timetable for the promotion.

d. Documentation of the local cash match of at least 50 percent.

e. Names of the proposed seven-member governing board, including at least three members of the city council(s) located in the district.

f. The promotional goals and methods the district will employ to measure the success of the promotion.

261—37.6(82GA, HF911) Certification determination.

37.6(1) The department shall not certify more than ten districts. If more than ten applications are received, the department shall consider regional and geographic distribution of funds when it makes certification determinations.

37.6(2) The department shall review all applications to ensure that the following threshold eligibility requirements are met:

a. The application is from a CVB.

b. The proposed district involves a CVB and may include more than one city and more than one CVB.

c. The application includes a plan for the district to promote youth sports, high school athletic activities, the special olympics, and other nonprofessional sporting events in the local area.

d. The proposed district has a seven-member governing board consisting of at least three members of the city council(s) located in the district.

e. The proposed district has provided documentation of a local cash match of at least 50 percent.

261—37.7(82GA, HF911) Funding of grants.

37.7(1) The Act authorizes the department to certify up to ten districts and requires that the department disburse an equal amount of funding to each certified district.

37.7(2) For fiscal year 2008, the Act appropriates \$500,000 to the department for certified districts. Each certified district will receive \$50,000.

37.7(3) If by April 1, 2008, the department has certified fewer than ten districts, the department will accept applications from those certified districts for additional promotional activities for youth sports, high school athletic activities, the special olympics, and other nonprofessional sporting events in the local area. Any unobligated funds will then be divided equally among the certified districts whose applications have been approved by the department.

261—37.8(82GA, HF911) Contract administration.

37.8(1) Notice of approval. Successful applicants will be notified in writing of the approval of the request for certification, including any conditions and terms of the approval.

37.8(2) Contract required. The department shall prepare a contract which includes but is not limited to a description of the promotion to be completed by the certified district; terms and conditions for receipt of grant funds; and the repayment requirements or other penalties imposed in the event the certified district does not fulfill its obligations as described in the contract.

36.8(3) Contract amendments. All requests by a certified district to amend the contract will require approval from the department. The department will review the request and approve or deny it. If a request to amend a contract is approved,

the certified district and the department shall execute a written contract amendment.

37.8(4) Reporting. Each certified district shall submit to the department a written evaluation of the promotional effort within 90 days of completion of the promotion.

37.8(5) Record keeping. Each certified district shall maintain adequate records to document and verify that grant funds were spent in accordance with the terms of the contract.

These rules are intended to implement 2007 Iowa Acts, House File 911, section 32.

ARC 6143B**ECONOMIC DEVELOPMENT, IOWA DEPARTMENT OF[261]****Notice of Intended Action**

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

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

Pursuant to the authority of Iowa Code sections 15.104 and 15.106, the Iowa Department of Economic Development hereby gives Notice of Intended Action to amend Chapter 54, "Iowa Targeted Small Business Procurement Program," and Chapter 55, "Targeted Small Business Financial Assistance Program," Iowa Administrative Code.

The proposed amendments incorporate recent legislative changes authorized by 2007 Iowa Acts, House File 890. This legislation creates a new Targeted Small Business Financial Assistance Board, revises the definitions of "small business" and "minority person," and makes other changes to these programs.

Public comments concerning the proposed amendments will be accepted until 4:30 p.m. on September 5, 2007. Interested persons may submit written or oral comments by contacting Donna Lowery, Iowa Department of Economic Development, 200 East Grand Avenue, Des Moines, Iowa 50309; telephone number (515)242-4813.

The Department will hold a public hearing on Wednesday, September 5, 2007, from 1:30 to 3 p.m. to receive comments on the proposed amendments. The public hearing will originate from the Main Conference Room, Second Floor, Iowa Department of Economic Development, 200 East Grand Avenue, Des Moines, Iowa. Public participation will also be available via the Iowa Communications Network (ICN) from the remote locations listed below:

Kuemper High School
109 S. Clark Street
Carroll, Iowa

Keokuk Public Library
210 N. 5th Street
Keokuk, Iowa

Clarinda High School
100 North Cardinal Drive
Clarinda, Iowa

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

Eastern Iowa Community
College District 1
326 W. Third Street
Kahl Educational Center,
Room 300
Davenport, Iowa

Oskaloosa Public Library
301 South Market Street
Oskaloosa, Iowa

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

Carnegie-Stout Public Library 360 West 11th Street Dubuque, Iowa	East High School 5011 Mayhew Avenue Sioux City, Iowa
Fort Dodge Public Library 424 Central Avenue Fort Dodge, Iowa	Spencer High School 800 East 3rd Street Spencer, Iowa
Iowa City High School 1900 Morningside Drive Iowa City, Iowa	Hawkeye Community College - 1 1501 E. Orange Road Waterloo, Iowa

These rules are intended to implement 2007 Iowa Acts, House File 890.

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 261—54.1(73) as follows:

261—54.1(73) Purpose. The purpose of the Iowa targeted small business procurement program is to promote the growth, development and diversification of Iowa businesses owned by minorities, and women, and persons with disabilities by encouraging each state department and agency, community college, area education agency, or school district to include targeted small businesses (TSBs) as contractors, vendors and suppliers in their bid solicitations for the procurement of goods and services, including construction.

ITEM 2. Amend rule 261—54.2(73) as follows:

Rescind the definitions of "IDOM," "MBE," "uniform small business vendor application," and "WBE."

Amend the definition of "minority" as follows:

"Minority" means an individual who is Black, Hispanic Latino, Asian or Pacific Islander, or American Indian or Alaskan native.

Adopt the following new definitions in alphabetical order:

"Board" means the targeted small business financial assistance board established by 2007 Iowa Acts, House File 890.

"TSB" means targeted small business. A "TSB" is a business that is 51 percent or more owned by women, minorities, or persons with disabilities.

ITEM 3. Amend subrules 54.3(2) and 54.3(4) as follows:

54.3(2) Notice to IDED.

a. State departments and agencies. The director of each department or agency shall notify the director of the IDED not later than August 15 of each fiscal year of their the department's or agency's anticipated purchases outside of the department of general administrative services and recommended TSB goals.

b. and c. No change.

54.3(4) IDED and IDOM review. The director of the IDED, or designee, in conjunction with the director of the IDOM, or designee, shall review the information submitted and may require necessary modifications from the agencies, departments, and education educational institutions to provide opportunities for TSBs.

ITEM 4. Amend rule 261—54.5(73) as follows:

261—54.5(73) IDED and IDOM administration.

54.5(1) Subcontracts. If a primary contractor will be subcontracting part or all of a contract, the primary contractor shall make a good-faith effort to provide TSBs with opportunities to bid. The IDED or IDOM may review a primary con-

tractor's good-faith efforts and request modifications to planned efforts to ensure compliance with the purpose of the TSB program.

54.5(2) No change.

54.5(3) IDED and IDOM review. The IDED or IDOM may conduct a review of a department, agency or education educational institution where there is evidence of little or no progress toward reaching the TSB goal. The purpose of the review will be to identify the barriers encountered, evaluate the efforts taken to reach the goal, and provide needed assistance.

ITEM 5. Amend rule 261—54.10(73) as follows:

261—54.10(73) Notice of solicitation for bids.

54.10(1) Directory consulted. The director of each agency or department, the administrator of each area education agency, the president of each community college, and the superintendent of each school district releasing a solicitation for bids or request for proposal under the targeted small business procurement goal program shall consult a directory of certified targeted small businesses produced by the department of economic development inspections and appeals that lists all certified targeted small businesses by category of goods or services provided prior to or upon release of the solicitation and shall send a copy of the request for proposal or solicitation to any appropriate targeted small business listed in the directory. The department of economic development may charge the department, agency, area education agency, community college, or school district, a reasonable fee to cover the cost of producing, distributing, and updating the directory.

54.10(2) No change.

54.10(3) TSB directory. IDED The department of inspections and appeals compiles, and updates on a quarterly monthly basis, a TSB directory. The TSB directory contains a listing of targeted small businesses that have been certified by DIA for participation in the TSB procurement program. The directory also includes a list of TSBs which have been decertified.

ITEM 6. Amend paragraph 54.14(1)"d" as follows:

d. The percentage of the dollar value of all contracts awarded to TSBs during this period compared to all contracts awarded for the period;

ITEM 7. Amend subrule 54.15(3) as follows:

54.15(3) Records shall be available upon the request of the IDED, IDOM, or the state auditor.

ITEM 8. Amend rule 261—55.2(73) as follows:

Rescind the definition of "low-income individual."

Amend the definitions of "small business," "sponsor," and "targeted small business (TSB)" as follows:

"Small business" means any enterprise which is located in this state, which is operated for profit and has an average annual gross income of less than \$3 million \$4 million. The average annual gross income of the business is based on the prior three years.

"Sponsor" means a representative from an Iowa workforce development office, a local chamber of commerce, the institute for social and economic development (ISED) or any other organization approved by IDED willing to offer assistance and guidance to a low-income applicant.

"Targeted small business (TSB)" means a small business as defined in this rule, which that is 51 percent or more owned, operated, and actively managed by one or more women, minority persons, or persons with a disability. As used in this definition, "minority person" means an individu-

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al who is a Black, Hispanic Latino, Asian or Pacific Islander, American Indian or Alaskan native.

ITEM 9. Amend subrules 55.3(3) and 55.3(4) as follows:

55.3(3) Targeted small business or low-income individual.

a.—~~TSB.~~ An applicant may apply on behalf of a business which meets the targeted small business definition. A business must be certified as a “targeted small business” by the department of inspections and appeals prior to application for financial assistance under this program. Only persons who are owners (i.e., at least 51 percent owners and operators) of a targeted small business are eligible to apply as a TSB. (This restriction does not prevent such individuals from receiving help in preparing an application from a city, county, areawide planning organization, community college, small business development centers center, private sector service providers provider or other similar agencies agency.) An applicant (targeted small business) must agree to work with one of the business advocate service providers that is assigned in the applicant’s area for purposes of providing mentoring, outreach, and professional development services.

b.—~~Low-income individual.~~ An applicant meeting the low-income guidelines may apply for assistance under this program. ~~Low-income individuals must have their income verified by one of the following agencies or sponsors: an Iowa workforce development office, a local chamber of commerce, the institute for social and economic development (ISED) or any other organization approved by IDED.~~

55.3(4) Other program requirements. All applicants for financial assistance shall comply with the requirements of 261—Chapter 168 171.

ITEM 10. Amend rule 261—55.4(15) as follows:

261—55.4(15) Loan and grant program.

55.4(1) Application procedures. Application materials may be obtained from the IDED business finance bureau or team, any small business development center (SBDC), or any of the business advocate service providers.

55.4(2) Maximum funding levels. In no case shall an award exceed \$50,000, nor in the case of a loan shall the interest rate charged exceed 5 percent per annum or be less than 0 percent per annum. Under no circumstances shall the targeted small business financial assistance program fund 100 percent of a project. A targeted small business shall not receive a loan, grant, or loan guarantee or a combination of loans, grants, or loan guarantees under the program that provide more than 90 percent of the funding for a project. All applicants must invest at least 10 percent of the total project budget in cash.

55.4(3) Forms of financial assistance available. The following types of financial assistance may be awarded under this program: loans, grants, loan guarantees or a combination of loans, grants and loan guarantees.

a. Direct loan. The term of a loan shall not exceed five years; the interest rate shall not exceed 5 percent per annum.

b. Grant. Grant funds shall only be awarded in instances where the grant will leverage a significant amount of other financing, such as conventional or SBA financing packages. Leveraged financing shall be considered significant when at least \$2 of leveraged funds are provided for every \$1 in grant funds. The applicant must be able to demonstrate a cash investment of at least 10 percent in the project. In order to receive a grant, the applicant must demonstrate a minimum of 10 percent cash investment in the project.

c. Loan guarantee. The program shall provide guarantees not to exceed 80 percent for loans of up to seven years made by qualified lenders.

55.4(4) and **55.4(5)** No change.

55.4(6) Threshold criteria. Applicants for funds under the targeted small business financial assistance program must meet the following minimum criteria before their applications will be considered complete and eligible for ranking:

a. If applying as a TSB, the business must be certified as a “targeted small business” by the department of inspections and appeals before applying for funding. In order to be certified as a targeted small business, a business owner must be a woman, a targeted minority, or a person with a disability and have established at least 51 percent ownership of the business, and be actively involved in the day-to-day management of the business. (The targeted small business owner must have the expertise or related experience in order to be considered actively involved in the day-to-day management of the business.)

b. After the TSB has been awarded a loan or grant or a loan guarantee, the TSB must continue to be a certified TSB for the life of the loan or grant. Failure to meet this requirement may result in the loan or grant being called and due within 30 days. This will include all principal, interest and any penalties that have been assessed. If recertification occurs within 30 days of the date of the notice, the original terms will be reinstated.

c.—~~If applying as an individual that meets the low-income guidelines, an applicant must have submitted verification of income as required in paragraph 55.3(3)“b.”~~

55.4(7) No change.

55.4(8) Review process. All completed TSB applications are reviewed by the program manager on an ongoing basis. Applications are reviewed for completeness. If additional information is required, the program manager shall send the applicant notice to submit additional information. The applicant shall then have three weeks from the date of the IDED letter to submit the requested information.

Application requests are initially rated for funding by IDED staff. They are then reviewed on a monthly basis by a loan review committee the board. The loan review committee board is an advisory committee established by these rules 2007 Iowa Acts, House File 890, to assist the department in the evaluation of applications. The committee board is comprised of private sector representatives experienced in small business management and operation. The loan review committee board membership shall consist of five private sector representatives seven members, including one each from the following populations: Latino, Black, Asian or Pacific Islander, Caucasian women, Native American, and a person with a disability as defined in Iowa Code section 15.102 as amended by 2007 Iowa Acts, House File 890. One of the members shall be a member of the economic development board appointed by the economic development board. A quorum is three four members. It requires the vote of at least three four committee board members to recommend action on an application to the director. The board may recommend to the director the approval, denial, or deferral of an application. If less than a quorum of the advisory committee board is present at a meeting, an application will be forwarded to the director without a recommendation from the advisory committee board. Recommendations by the committee are submitted to the director of the department of economic development for final approval, denial or deferral. The com-

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

mittee may recommend to approve, deny, or defer an application.

55.4(9) Rating factors. Applicants must score a minimum of 60 out of a possible 100 points in order to be recommended for funding. Points are awarded based on the information contained in the application according to the following criteria:

a. to g. No change.

h. Extra points (up to 5 points). Extra credit points may be awarded to applicants meeting the requirements described in 261—Chapter 468 171 for the award of extra points (e.g., project is in a blighted, brownfield or distressed area).

55.4(10) Negotiations of funds awarded.

a. No change.

b. The department may decline to award funds to a business if there is a negative credit report (e.g., bankruptcy, foreclosure, tax liens, *unpaid or past due child support*).

55.4(11) to 55.4(17) No change.

ITEM 11. Amend subrules 55.5(1) and 55.5(3) as follows:

55.5(1) Loan guarantee program description. This program is intended to allow a targeted small business to obtain a loan guarantee from a local lender for eligible uses in an amount not to exceed ~~\$40,000~~ *\$50,000*. Following the department's approval of the application, the targeted small business loan guarantee program will guarantee the financial institution up to ~~75~~ *80* percent of the loan amount.

Applicants must meet the credit evaluation of the lending institution. The lending institution shall make credit risk evaluations and otherwise make the decision, based on sound lending practices, of whether or not to extend credit to the business.

After the decision to extend credit has been made by the participating lender, the lender shall forward the application to IDED. The department will review and rank the loan applications and, for approved applications, enter into a loan guarantee agreement with the participating lender guaranteeing payment to the lender in the event the project goes into default.

55.5(3) Loan criteria.

a. No change.

b. Guarantee amount and term. No guarantee shall exceed the lesser of ~~75~~ *80* percent or ~~\$40,000~~ *\$50,000* of the principal of a loan made to a targeted small business. The term of the guarantee is the lesser of the length of the loan or ~~five years~~ *seven years*. The term may be extended for an additional year upon a showing of good cause. The lender shall not acquire any preferential security, surety, or insurance to protect the unguaranteed interest in a loan.

ARC 6138B

ECONOMIC DEVELOPMENT, IOWA DEPARTMENT OF[261]

Notice of Intended Action

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

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

Pursuant to the authority of Iowa Code sections 15.104 and 15.106, the Iowa Department of Economic Development

hereby gives Notice of Intended Action to adopt new Chapter 101, "Division Responsibilities," Chapter 102, "Information Technology Joint Venture Fund," Chapter 103, "Information Technology Training Program," and Chapter 104, "Targeted Industries Internship Program," Iowa Administrative Code.

The rules implement new programs authorized by 2007 Iowa Acts, House File 829. The rules describe the purpose of the programs; the application submittal, review and approval procedures; and the contract administration provisions.

Public comments concerning the proposed new chapters will be accepted until 4:30 p.m. on September 5, 2007. Interested persons may submit written or oral comments by contacting Mary Klemesrud, Iowa Department of Economic Development, 200 East Grand Avenue, Des Moines, Iowa 50309; telephone (515)242-4808.

The Department will hold a public hearing on Wednesday, September 5, 2007, from 1:30 to 3 p.m. to receive comments on these rules. The public hearing will originate from the Main Conference Room, Second Floor, Iowa Department of Economic Development, 200 East Grand Avenue, Des Moines, Iowa. Public participation will also be available via the Iowa Communications Network (ICN) from the remote locations listed below:

Kuemper High School
109 S. Clark Street
Carroll, Iowa

Keokuk Public Library
210 N. 5th Street
Keokuk, Iowa

Clarinda High School
100 North Cardinal Drive
Clarinda, Iowa

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

Eastern Iowa Community
College District 1
326 W. Third Street
Kahl Educational Center,
Room 300
Davenport, Iowa

Oskaloosa Public Library
301 South Market Street
Oskaloosa, Iowa

Carnegie-Stout Public
Library
360 West 11th Street
Dubuque, Iowa

East High School
5011 Mayhew Avenue
Sioux City, Iowa

Fort Dodge Public Library
424 Central Avenue
Fort Dodge, Iowa

Spencer High School
800 E. 3rd Street
Spencer, Iowa

Iowa City High School
1900 Morningside Drive
Iowa City, Iowa

Hawkeye Community
College - 1
1501 E. Orange Road
Waterloo, Iowa

Chapters 102 and 103 were also Adopted and Filed Emergency and are published herein as **ARC 6137B**.

These rules are intended to implement 2007 Iowa Acts, House File 829.

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

The following **new** chapters are proposed.

CHAPTER 101 DIVISION RESPONSIBILITIES

261—101.1(15) Mission. The mission of the targeted industries division is to grow Iowa's economy by fostering entrepreneurship and supporting the workforce, commercialization, and marketing activities of the advanced manufacturing, biosciences, and information technology industries.

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261—101.2(15) Division responsibilities. The division's primary responsibilities are to assist start-up and existing companies with commercialization of new technologies; to foster entrepreneurship; and to coordinate the marketing, education, and workforce efforts of the state with respect to the industries of advanced manufacturing, biosciences, and information technology.

101.2(1) Commercialization. Commercialization activities include, but are not limited to, program administration of the demonstration fund, the information technology joint venture fund, and the business accelerator program and oversight of the efforts of the statewide commercialization entity. Additionally, the division's commercialization activities include the facilitation of technology transfer at Iowa's state universities to the extent possible.

101.2(2) Entrepreneurship. Entrepreneurship activities include, but are not limited to, administering the venture network of Iowa, coordinating the Iowa equity funds, and staffing the small business advisory council.

101.2(3) Marketing, education, and workforce development. Marketing, education, and workforce development efforts for the targeted industries include, but are not limited to, overseeing the information technology job training program and the targeted industries internship program and assisting in the administration of a statewide career awareness program.

These rules are intended to implement Iowa Code chapter 15 and 2007 Iowa Acts, House File 829, section 1.

CHAPTER 102
INFORMATION TECHNOLOGY
JOINT VENTURE FUND

261—102.1(82GA,HF829) Authority. The authority for establishing rules governing the information technology joint venture fund under this chapter is provided in 2007 Iowa Acts, House File 829, section 1(4).

261—102.2(82GA,HF829) Purpose. The purpose of the information technology joint venture fund is to provide financial and technical assistance to encourage joint venture development of targeted IT innovations. The primary purpose of this program is to encourage Iowa IT user companies and Iowa software product companies to work on joint research and development programs to commercialize specialized IT products and services.

261—102.3(82GA,HF829) Definitions.

"Board" means the Iowa economic development board established in Iowa Code section 15.103.

"Committee" means the technology commercialization committee created by the board pursuant to Iowa Code section 15.116.

"Department" means the Iowa department of economic development.

"Fund" means the information technology joint venture fund.

"IP" means intellectual property.

"IT" means information technology.

"NAICS" means North American Industry Classification System.

"Targeted IT innovations" means those technologies which have commercial potential but the generators of the technology do not wish to further commercialize the innovation themselves.

261—102.4(82GA,HF829) Program funding.

102.4(1) The maximum award shall not exceed \$100,000 for a single project.

102.4(2) Funds may be used for applications development, software, materials, supplies and equipment, creation of marketing materials, legal and consulting costs or other business expenses deemed reasonable and appropriate.

102.4(3) No program funds shall be used for university overhead expenses or for any work that was conducted by an applicant company or any third-party consultant prior to the term of the contract.

102.4(4) Financial assistance shall be awarded to projects that will result in technologies being developed as commercial products for sale by Iowa companies rather than as custom applications for proprietary use by a participating firm.

102.4(5) The forms of financial assistance may consist of, but not be limited to, loans, forgivable loans, grants and such other forms of assistance the board deems appropriate and consistent with the needs of a given project.

261—102.5(82GA,HF829) Matching funds requirement.

In order to receive financial assistance, an applicant must demonstrate the ability to secure two dollars of nonstate monies for every one dollar received from the department.

261—102.6(82GA,HF829) Eligible applicants.

102.6(1) Eligible applicants must be classified within and are limited to the 2002 NAICS codes for the following targeted industries:

- a. Biosciences.
- b. Information technology.
- c. Advanced manufacturing.

102.6(2) Eligible businesses must be technology-based and sufficiently innovative to provide a competitive advantage in the marketplace and have the potential for significant, high-performance growth.

102.6(3) Businesses applying for assistance shall be located in, or shall have relocated to, and shall be primarily domiciled in Iowa prior to the receipt of program funds.

261—102.7(82GA,HF829) Ineligible applicants. The following businesses are not eligible for this program:

102.7(1) A business which is engaged in retail sales or which provides health services is ineligible.

102.7(2) A business which closes or substantially reduces its workforce by more than 20 percent at existing operations in order to relocate substantially the same operations to another area of the state is ineligible for 36 consecutive months at any of its Iowa sites from the date the new establishment opens.

261—102.8(82GA,HF829) Application and review process.

102.8(1) An eligible business must submit an application for financial assistance in the form specified by the department to the Iowa Department of Economic Development, Targeted Industries Division, 200 East Grand Avenue, Des Moines, Iowa 50309. Required forms and instructions are available at this address or at the department's Web site at www.iowalifechanging.com.

102.8(2) To apply for financial assistance from the fund, a business shall submit an application to the department, in the form specified by the department, on behalf of both the IT user company and the IT provider company. The application will be reviewed by department staff, the committee and the board. The committee will make a recommendation to the board regarding an application. The board has final decision-making authority on requests for financial assistance from

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the fund. The board may approve, defer or deny an application.

102.8(3) An application for financial assistance shall include all information required by the department including, but not limited to, the following:

a. Proposed approach. A description of the ownership structure of the IP, the experience of those involved in the proposal, and the company resources.

b. Market research. A market research analysis that addresses questions such as:

- (1) What are the competing or alternative technologies?
- (2) What is the advantage of this new approach?
- (3) What are the distribution plans?
- (4) What is the estimated return on investment?

c. Commercialization. A description of the key next steps to making an impact with the innovation and a description of the need for funding to overcome obstacles to success.

d. Work plan. A description of the strategy and key elements to be funded to address the goals of the work plan, including project milestones.

e. Resources and budget. A budget that includes a detailed description of the sources, including the required match, and uses of the funds.

261—102.9(82GA, HF829) Application selection criteria. When applications for financial assistance are reviewed, the following criteria shall be considered:

102.9(1) Intellectual property. How the ownership of the IP is structured. (More points will be awarded for greater IP control by an Iowa IT provider company, with the greatest number of points being awarded for exclusive IP ownership by an Iowa IT provider company.)

102.9(2) Experience. The level of experience the business has in product development and commercialization and ongoing product maintenance.

102.9(3) Estimate for project completion. What the work requirements are; how quickly the project will be completed; how credible the estimate is relative to the Iowa IT provider company's experience; and what resources the IT provider company has to execute project requirements.

102.9(4) Market research. Whether there is a competitor; how large the market outside of Iowa is; how credible the marketing plan is; the level of experience the IT provider company has in this industry; and whether there is an industry in Iowa that would be a natural client/market.

102.9(5) Financial requirement. Whether the matching and necessary funds have been secured and whether the amount available is sufficient to take the product to market.

102.9(6) Distribution. Whether channels already exist to take the product to market.

102.9(7) Expected return. What the expected return on investment is, based on the break-even point and long-term economic impact of the project.

261—102.10(82GA, HF829) Contract and reporting.

102.10(1) Notice of award. Successful applicants will be notified in writing of an award of financial assistance, including any conditions and terms of the approval.

102.10(2) Contract required. The department shall prepare a contract, which includes, but is not limited to, a description of the project to be completed by the business; conditions to disbursement; required reports; and the repayment requirements imposed on the business in the event the business does not fulfill its obligations described in the contract and other specific repayment provisions ("clawback" provisions) to be established on a project-by-project basis.

102.10(3) Reporting. An applicant shall submit any information requested by the department in sufficient detail to permit the department to prepare the report required pursuant to 2007 Iowa Acts, House File 829, section 10, and any other reports deemed necessary by the department, the board, the general assembly or the governor's office.

These rules are intended to implement 2007 Iowa Acts, House File 829.

CHAPTER 103
INFORMATION TECHNOLOGY
TRAINING PROGRAM

261—103.1(82GA, HF829) Authority. The authority for establishing rules governing the information technology training program under this chapter is provided in 2007 Iowa Acts, House File 829, section 1(5).

261—103.2(82GA, HF829) Purpose. The purpose of the information technology training program is to assist businesses or departments of businesses engaged in the delivery of information technology services in the state in upgrading the high-level technical skills of existing employees.

261—103.3(82GA, HF829) Definitions.

"Board" means the Iowa economic development board established in Iowa Code section 15.103.

"Committee" means the technology commercialization committee created by the board pursuant to Iowa Code section 15.116.

"Department" means the Iowa department of economic development.

"High-level technical training" means training that provides knowledge or skills that are clearly recognized throughout the industry as current and advanced for a particular occupation.

"Information technology professional" means an employee primarily engaged in the delivery of information technology services in one of the following NAICS job classifications or in any similar NAICS job classification:

1. Networking and systems support: 11-3021, 15-1041, 15-1051, 15-1061, 15-1071, 15-1081, 15-1099, 17-3023, 17-3024.

2. Programming and engineering: 15-1011, 15-1021, 15-1031, 15-1032, 15-2031, 15-2099.

3. Assembly, installation and repair: 17-3012, 49-2011, 49-2022, 49-2093, 49-2094, 49-9052, 51-2022, 51-2023, 51-4011, 51-4012, 51-9141.

"NAICS" means North American Industry Classification System.

261—103.4(82GA, HF829) Program funding.

103.4(1) The maximum annual award that may be approved for any business site is \$25,000.

103.4(2) Program training may be provided in state or out of state.

103.4(3) Financial assistance shall be based on the actual cost of allowable services as identified in rule 261—104.6(82GA, HF829).

261—103.5(82GA, HF829) Matching funds requirement. A business shall provide matching funds of at least two dollars of nonstate moneys for every one dollar received from the department.

261—103.6(82GA, HF829) Use of program funds.

103.6(1) The following costs associated with the operation of training services are eligible for program funding:

- a. Cost of tuition.

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b. Cost of company, college, or contracted trainer or training services.

c. Training-related materials and supplies.

d. Lease or rental of training facilities.

e. Training-related travel.

f. Subcontracted services.

g. Contracted or professional services.

103.6(2) Equipment and software, when used for training, may be an allowable cost. If equipment or software is purchased for use in training but is subsequently retained for use in the general operation of the applicant's business, only the prorated portion of the equipment or software costs directly related to the training shall be eligible for program funding.

103.6(3) Reimbursement of an employee's wages while the employee is in training is not allowed.

261—103.7(82GA, HF829) Eligible business. To be eligible for this program, the business, or a department of the business, must be engaged in the delivery of information technology services, and the business must be located in Iowa.

261—103.8(82GA, HF829) Ineligible business. The following businesses are not eligible for this program:

103.8(1) A business which is engaged in retail sales or which provides health services is ineligible.

103.8(2) A business which closes or substantially reduces its workforce by more than 20 percent at existing operations in order to relocate substantially the same operations to another area of the state is ineligible for 36 consecutive months at any of its Iowa sites from the date the new establishment opens.

261—103.9(82GA, HF829) Eligible employee.

103.9(1) The employee for whom training is planned must be an information technology professional whose principal place of employment is in Iowa.

103.9(2) The employee for whom training is planned must hold a current position intended by the employer to exist on an ongoing basis with no planned termination date.

103.9(3) Training is available only to an employee who is hired by the business, is currently employed by the business, and for whom the business pays Iowa withholding tax.

261—103.10(82GA, HF829) Ineligible employee.

103.10(1) A replacement worker who is hired as a result of a strike, lockout, or other labor dispute is ineligible for program services.

103.10(2) An employee hired as a temporary worker is ineligible for program services.

261—103.11(82GA, HF829) Application and review process.

103.11(1) An eligible business must submit an application for training assistance, on a form provided by the department, to the Iowa Department of Economic Development, Targeted Industries Division, 200 East Grand Avenue, Des Moines, Iowa 50309. Required forms and instructions are available at this address or at the department's Web site at www.iowalifechanging.com.

103.11(2) The application will be reviewed by department staff, the committee and the board. The committee will make a recommendation to the board regarding an application. The board has final decision-making authority on requests for financial assistance for this program. The board may approve, defer or deny an application or may refer an application to another training program.

103.11(3) An application for assistance shall include all information required by the department including, but not limited to, the following:

a. The dates and location of the training.

b. The name of employee(s) attending training.

c. A copy of the registration contract outlining costs of training.

d. A statement of how training will benefit the company and how the training supports Iowa's initiative to grow the targeted industries.

e. Identification of the skills the employees will acquire from the training and how the skills will increase the employees' value to the business.

f. A statement of the anticipated training outcomes.

103.11(4) The department and the committee will score applications according to the criteria specified in rule 261—103.12(82GA, HF829).

103.11(5) To be considered for funding, an application must receive a minimum score of 65 out of a possible 100 points and meet all other eligibility criteria specified in these rules.

103.11(6) Applications which receive a minimum score of 65 points shall be referred to the board for final action.

103.11(7) The department reserves the right to require additional information from a business.

103.11(8) Application approval shall be contingent on the availability of funds. The board shall reject or defer an application if funds are not available.

103.11(9) The board reserves the right to award program funds in an amount less than that requested in the application.

261—103.12(82GA, HF829) Application scoring criteria. When applications for financial assistance are reviewed, the following criteria shall be considered:

1. The application has established the business's need for training. 15 points.

2. The application represents high-level technology training. 15 points.

3. The training will substantially improve the skills, knowledge and abilities of the employee. 15 points.

4. The average wages that are or will be paid by the business participating in this training are or will be above the state average wage rates. 10 points.

5. The training will help improve the business's competitiveness. 5 points.

6. The state of Iowa will realize economic benefits as a result of providing assistance for this training. 10 points.

7. The training will be provided at a state of Iowa community college or university. 5 points.

8. The training is jointly provided to IT employees from more than one Iowa company. 10 points.

9. The application documents that all considerations, including the funding required to begin the training project, have been addressed. 5 points.

10. The business provides its employees health insurance and other benefits. 5 points.

11. The majority of the business's employees are employed full-time. 5 points.

261—103.13(82GA, HF829) Contract and reporting.

103.13(1) Notice of award. Successful applicants will be notified in writing of an award of assistance, including any conditions and terms of the approval.

103.13(2) Contract required. The department shall prepare a contract, which includes, but is not limited to, a description of the training to be completed; conditions to disbursement; required reports; and the repayment requirements

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imposed in the event the business does not fulfill its obligations described in the contract and other specific repayment provisions (“clawback” provisions) to be established on an individual basis.

103.13(3) Reporting. An applicant shall submit any information requested by the department in sufficient detail to permit the department to prepare the report required pursuant to 2007 Iowa Acts, House File 829, section 10, and any other reports deemed necessary by the department, the board, the general assembly or the governor’s office.

These rules are intended to implement 2007 Iowa Acts, House File 829.

CHAPTER 104

TARGETED INDUSTRIES INTERNSHIP PROGRAM

261—104.1(82GA,HF829) Authority. The authority for establishing rules governing the development of the targeted industries internship program is provided by 2007 Iowa Acts, House File 829, section 1(6).

261—104.2(82GA,HF829) Purpose. The purpose of the targeted industries internship program is to link Iowa students to internship opportunities in small and medium-sized firms in the biosciences, advanced manufacturing and information technology industries and to convert interns into prospective employees.

261—104.3(82GA,HF829) Definitions.

“Board” means the Iowa economic development board established in Iowa Code section 15.103.

“Committee” means the technology commercialization committee created by the board pursuant to Iowa Code section 15.116.

“Community college” means a community college established under Iowa Code chapter 260C.

“Department” means the Iowa department of economic development.

“Internship” means temporary employment of a student that focuses on providing the student with work experience in the student’s field of study.

“Prospective employee” means a student who is anticipated to be hired upon graduation.

“Student” means a student of one of the Iowa community colleges, private colleges, or institutions of higher learning under the control of the state board of regents.

“Targeted industry” means the industries of advanced manufacturing, biosciences, and information technology.

261—104.4(82GA,HF829) Program funding.

104.4(1) The maximum award shall not exceed \$3,100 for any single internship or \$9,300 for any single business.

104.4(2) Funds shall only be used for reimbursement of wages during the designated internship period. Students hired as interns shall be paid at least twice the minimum wage.

104.4(3) The department shall issue funds to a business based upon department approval of a completed application and the execution of a contract between the business and the department.

104.4(4) A business may receive financial assistance in an amount of one dollar for every two dollars paid by the business to the intern.

261—104.5(82GA,HF829) Eligible business. The targeted industries internship program is available to Iowa businesses that meet all of the following criteria:

104.5(1) An applicant must be an Iowa-based business with fewer than 500 employees, with a significant portion employed within the state of Iowa.

104.5(2) An applicant must be engaged in one of the targeted industries of biosciences, advanced manufacturing or information technology.

104.5(3) An applicant must offer the internship to students of Iowa community colleges, private colleges, or institutions of higher learning under the control of the state board of regents.

104.5(4) An applicant’s summer internships must last a minimum of 8 weeks (averaging no less than 30 hours per week), and an applicant’s semester internships must last a minimum of 14 weeks (averaging no less than 10 hours per week).

261—104.6(82GA,HF829) Ineligible business. The following businesses are not eligible for this program:

104.6(1) A business which is engaged in retail sales or which provides health services is ineligible.

104.6(2) A business which closes or substantially reduces its workforce by more than 20 percent at existing operations in order to relocate substantially the same operations to another area of the state is ineligible for 36 consecutive months at any of its Iowa sites from the date the new establishment opens.

261—104.7(82GA,HF829) Eligible students. Students must be within one to two years of graduation and enrolled at one of Iowa’s community colleges, private colleges, or institutions of higher learning under the control of the state board of regents. The department shall encourage youth who reside in economically distressed areas, youth adjudicated to have committed a delinquent act, and youth transitioning out of foster care to participate in the targeted industries internship program.

261—104.8(82GA,HF829) Ineligible students. Students who are more than two years from graduation are ineligible. Students who are immediate family members of management employees or board members of the applicant business are ineligible.

261—104.9(82GA,HF829) Application submittal and review process.

104.9(1) The department shall develop a standardized application and make the application available to eligible businesses. To apply for moneys from the program, a business shall submit an application to the department. Applications must be submitted to the Iowa Department of Economic Development, Targeted Industries Division, 200 East Grand Avenue, Des Moines, Iowa 50309. Required forms and instructions are available at this address or at the department’s Web site at www.iowalifechanging.com.

104.9(2) The application will be reviewed by department staff, the committee and the board. The committee will make a recommendation to the board regarding an application. The board has final decision-making authority on requests for financial assistance for this program. The board may approve, defer or deny an application.

261—104.10(82GA,HF829) Application content and other requirements.

104.10(1) Applicants must complete an application for internship assistance and submit it to the department. Successful applicants must enter into a contract with the department prior to posting or advertising the internship.

104.10(2) The applicant has 90 days from the time of the award to secure an intern.

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104.10(3) The application shall include, but not be limited to, all of the following:

- a. The dates and location of the internship.
- b. A statement of duties the intern will be performing at the business site. The intern is to be involved in a substantive experience in one or more of the following areas: research and development; engineering; process management and production; product experimentation and analysis; product development; market research; business planning and administration. The application shall also include information regarding the intern's work space (i.e., access to telephone, computer, and other necessary items).
- c. The name of the business's representative who will train and supervise the intern.
- d. A statement of the anticipated workforce needs at the business, which shall include an explanation of the current workforce shortage and identify the intern's potential for prospective employment with the business following graduation.

104.10(4) The department reserves the right to require additional information from the business.

261—104.11(82GA, HF829) Selection process. Applications will be reviewed in the order received by the department. The board may approve, defer or deny each application for financial assistance, based on the availability of funds. The department and the committee will score applications according to the criteria specified in rule 261—104.12(82GA, HF829). To be considered for funding, an application must receive a minimum score of 65 out of a possible 100 points and meet all other eligibility criteria specified in these rules.

261—104.12(82GA, HF829) Application scoring criteria. When applications for financial assistance are reviewed, the following criteria shall be considered:

104.12(1) The intern is involved in a substantive experience in one or more of the following areas: research and development; engineering; process management and production; product experimentation and analysis; product development; market research; business planning and administration. 25 points.

104.12(2) The explanation of the applicant's anticipated workforce needs and of the intern's potential for prospective employment with the business following graduation. 20 points.

104.12(3) The extent to which the internship duties require independent judgment, creativity, and intelligence to complete and contribute to the business's goals or processes. 10 points.

104.12(4) The internship will have a positive impact on the intern's skills, knowledge and abilities. 15 points.

104.12(5) The internship pays more than twice the minimum wage. 10 points.

104.12(6) The business's contribution to the internship program is above the minimum program match requirement. 10 points.

104.12(7) Intern applications will be accepted from more than one private college, university or community college. 5 points.

104.12(8) The application documents that all considerations, including funding required to begin the internship, have been addressed. 5 points.

261—104.13(82GA, HF829) Contract and reporting.

104.13(1) Notice of award. Successful applicants will be notified in writing of an award of assistance, including any conditions and terms of the approval.

104.13(2) Contract required. The department shall prepare a contract, which includes, but is not limited to, a description of the internship to be completed; conditions to disbursement; required reports; and the repayment requirements imposed in the event the business does not fulfill its obligations described in the contract and other specific repayment provisions ("clawback" provisions) to be established on an individual basis.

104.13(3) Reporting. An applicant shall submit any information requested by the department in sufficient detail to permit the department to prepare the report pursuant to 2007 Iowa Acts, House File 829, section 10, and any other reports deemed necessary by the department, the board, the general assembly or the governor's office.

These rules are intended to implement 2007 Iowa Acts, House File 829.

ARC 6161B**EDUCATION DEPARTMENT[281]****Notice of Intended Action**

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

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

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

A number of statutory amendments from 2007 Iowa Acts, Senate Files 61 and 427 and House File 877, impact the Chapter 12 accreditation rules as follows:

Senate File 427 amended the Iowa Civil Rights Act by adding two additional protected classes to those already listed in Iowa Code chapter 216. Item 1 amends the corresponding rule to reflect that education programs are not to discriminate on the basis of the added characteristics of sexual orientation and gender identity.

House File 877, establishing a statewide voluntary preschool program, also amended the accreditation statute, Iowa Code section 256.11(1), to clarify that a preschool program established pursuant to 2007 Iowa Acts, House File 877, section 2, must meet accreditation standards on the same basis as any prekindergarten program offered by a school district. Therefore, Item 2 includes a definition in the accreditation rules to comply with the legislative amendment.

The remainder of these amendments implement the establishment of the state and school antiharassment and antibullying policy created in 2007 Iowa Acts, Senate File 61, section 2. The legislation added new Iowa Code section 280.28, which requires that the governing boards of each school district and each accredited nonpublic school adopt, on or before September 1, 2007, a policy declaring harassment and bullying in schools, on school property, and at any school function or school-sponsored activity to be against state and school policy. Senate File 61, section 1, also amended Iowa Code section 280.12, adding another duty to those previously enumerated for school improvement advisory committees.

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

EDUCATION DEPARTMENT[281](cont'd)

Interested individuals may make written comments on the proposed amendments on or before September 11, 2007, at 4:30 p.m. Comments on the proposed amendments should be directed to Carol Greta, Attorney 3, Iowa Department of Education, Second Floor, Grimes State Office Building, Des Moines, Iowa 50319-0146; telephone (515)281-8661; E-mail carol.greta@iowa.gov; or fax (515)281-4122.

A public hearing will be held on September 11, 2007, from 9 to 11 a.m., originating in the ICN Room on the second floor of the Grimes State Office Building, East 14th Street and Grand Avenue, Des Moines, Iowa, at which time persons may present their views either orally or in writing. Any persons who intend to attend the public hearing and have special requirements such as those related to hearing or mobility impairments should advise the Department of Education of specific needs by calling (515)281-5295. The remote ICN sites are as follows:

Dubuque Area Education Agency
2310 Chaney Road
Dubuque

Fayette Community Library
104 W. State Street
Fayette

Mason City High School
Room 113
1700 Fourth Street SE
Mason City

Spencer High School
800 East 3rd Street
Spencer

Northwest Area Education Agency
Sioux Center Office, Room 103
1382 4th Avenue NE
Sioux Center

Webster City High School
1001 Lynx Avenue
Webster City

Area Education Agency 267
Marshalltown Office
909 South 12th Street
Marshalltown

Waterloo West High School
Baltimore and Ridgeway
Waterloo

Kahl Educational Center
Room 304
326 West Third Street
Davenport

Grant Wood Area Education Agency
Revere Room
4401 6th Street SW
Cedar Rapids

Heartland Area Education Agency
6500 Corporate Drive
Johnston

Central Campus Individual Learning Center
Room 311
1121 Jackson Street
Sioux City

Loess Hills Area Education Agency
24997 Highway 92
Council Bluffs

Green Valley Area Education Agency
Turner Room
1405 North Lincoln
Creston

Southern Prairie Area Education Agency
2814 N. Court Street
Ottumwa

Great River Area Education Agency
3601 West Avenue Road
Burlington

These amendments are intended to implement 2007 Iowa Acts, Senate Files 427 and 61 and House File 877.

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 12.1(1) as follows:

12.1(1) Schools and school districts governed by general accreditation standards. These standards govern the accreditation of all prekindergarten, if offered, or kindergarten through grade 12 school districts operated by public school corporations and the accreditation, if requested, of prekindergarten or kindergarten through grade 12 schools operated under nonpublic auspices. Each school district shall take affirmative steps to integrate students in attendance centers and courses. Schools and school districts shall collect and annually review district, attendance center, and course enrollment data on the basis of race, national origin, gender, and disability. Equal opportunity in programs shall be provided to all students regardless of race, color, national origin, gender, *sexual orientation as defined in Iowa Code section 216.2 as amended by 2007 Iowa Acts, Senate File 427, section 1, gender identity as defined in Iowa Code section 216.2 as amended by 2007 Iowa Acts, Senate File 427, section 1, socioeconomic status, disability, religion, or creed.* Nothing in this rule shall be construed as prohibiting any bona fide religious institution from imposing qualifications based upon religion when such qualifications are related to a bona fide religious purpose.

ITEM 2. Amend rule **281—12.2(256)** by adding the following **new** definition in alphabetical order:

“Prekindergarten program” includes a school district’s implementation of the preschool program established pursuant to 2007 Iowa Acts, House File 877, section 2, and is otherwise described herein in subrule 12.5(1).

ITEM 3. Amend subrule 12.3(6) as follows:

12.3(6) Student responsibility and discipline. The board shall adopt student responsibility and discipline policies as required by Iowa Code section 279.8. The board shall involve parents, students, instructional and noninstructional professional staff, and community members in the development and revision of those policies where practicable or unless specific policy is mandated by legislation. The policies shall relate to the educational purposes of the school or school district. The policies shall include, but are not limited to, the following: attendance; use of tobacco; the use or possession of alcoholic beverages or any controlled sub-

EDUCATION DEPARTMENT[281](cont'd)

stance; harassment of or by students and staff *as detailed in subrule 12.3(13)*; violent, destructive, and seriously disruptive behavior; suspension, expulsion, emergency removal, weapons, and physical restraint; out-of-school behavior; participation in extracurricular activities; academic progress; and citizenship.

The policies shall ensure due process rights for students and parents, including consideration for students who have been identified as requiring special education programs and services.

The board shall also consider the potential, disparate impact of the policies on students because of race, color, national origin, gender, *sexual orientation as defined in Iowa Code section 216.2 as amended by 2007 Iowa Acts, Senate File 427, section 1, gender identity as defined in Iowa Code section 216.2 as amended by 2007 Iowa Acts, Senate File 427, section 1*, disability, religion, creed, or socioeconomic background status.

The board shall publicize its support of these policies, its support of the staff in enforcing them, and the staff's accountability for implementing them.

ITEM 4. Adopt **new** subrule 12.3(13) as follows:

12.3(13) Policy declaring harassment and bullying against state and school policy. The policy adopted by the board regarding harassment of or by students and staff shall declare harassment and bullying in schools, on school property, and at any school function or school-sponsored activity regardless of its location to be against state and school policy. The board shall make a copy of the policy available to all school employees, volunteers, students, and parents or guardians and shall take all appropriate steps to bring the policy against harassment and bullying and the responsibilities set forth in the policy to the attention of school employees, volunteers, students, and parents or guardians. Each policy shall, at a minimum, include all of the following components:

a. A statement declaring harassment and bullying to be against state and school policy. The statement shall include but not be limited to the following provisions:

(1) School employees, volunteers, and students in school, on school property, or at any school function or school-sponsored activity shall not engage in harassing and bullying behavior.

(2) School employees, volunteers, and students shall not engage in reprisal, retaliation, or false accusation against a victim, a witness, or an individual who has reliable information about such an act of harassment or bullying.

b. A definition of harassment and bullying consistent with the following: Harassment and bullying shall be construed to mean any electronic, written, verbal, or physical act or conduct toward a student which is based on the student's actual or perceived age, color, creed, national origin, race, religion, marital status, sex, sexual orientation, gender identity, physical attributes, physical or mental ability or disability, ancestry, political party preference, political belief, socioeconomic status, or familial status, and which creates an objectively hostile school environment that meets one or more of the following conditions:

(1) Places the student in reasonable fear of harm to the student's person or property.

(2) Has a substantially detrimental effect on the student's physical or mental health.

(3) Has the effect of substantially interfering with a student's academic performance.

(4) Has the effect of substantially interfering with the student's ability to participate in or benefit from the services, activities, or privileges provided by a school.

c. A description of the type of behavior expected from school employees, volunteers, parents or guardians, and students relative to prevention, reporting, and investigation of harassment or bullying.

d. The consequences and appropriate remedial action for a person who violates the antiharassment and antibullying policy.

e. A procedure for reporting an act of harassment or bullying, including the identification by job title of the school official responsible for ensuring that the policy is implemented, and the identification of the person or persons responsible for receiving reports of harassment or bullying.

f. A procedure for the prompt investigation of complaints, identifying either the school superintendent or the superintendent's designee as the individual responsible for conducting the investigation, including a statement that investigators will consider the totality of circumstances presented in determining whether conduct objectively constitutes harassment or bullying under this subrule.

g. A statement of the manner in which the policy will be publicized.

The board shall integrate its policy into its comprehensive school improvement plan. The board shall develop and maintain a system to collect harassment and bullying incidence data, and report such data, on forms specified by the department, to the local community and to the department.

ITEM 5. Amend subparagraph **12.8(1)“a”(2)** as follows:

(2) School improvement advisory committee. To meet requirements of Iowa Code section 280.12(2) *as amended by 2007 Iowa Acts, Senate File 427, section 2*, the board shall appoint and charge a school improvement advisory committee to make recommendations to the board. Based on the committee members' analysis of the needs assessment data, they shall make recommendations to the board about the following components:

1. Major educational needs;

2. Student learning goals; **and**

3. Long-range goals that include, but are not limited to, the state indicators that address reading, mathematics, and science achievement; *and*

4. *Harassment or bullying prevention goals, programs, training, and other initiatives.*

ARC 6156B**EDUCATION DEPARTMENT[281]****Notice of Intended Action**

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

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

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

The proposed amendments in Items 1 through 4 delete subjects that no longer exist in statute (Items 3 and 4) and requirements that are not accreditation-related (Items 1 and 2).

EDUCATION DEPARTMENT[281](cont'd)

The proposed amendments in Item 6 implement core content standards for all kindergarten through twelfth grade students in reading, math, and science as mandated in 2007 Iowa Acts, Senate File 588, section 17. The legislation states that the core content standards shall be identical to those in Iowa's standards and assessment system that was approved by the federal Department of Education.

The proposed amendment in Item 7 implements 2007 Iowa Acts, House File 317, which amends Iowa Code section 256.11, subsection 10, to authorize a phase II accreditation visit upon the recommendation of the school budget review committee for a school district that exceeds its authorized budget or carries a negative unspent balance for two or more consecutive years. The proposed amendment in Item 5 amends the title of Division VIII of Chapter 12 in which phase II visits are discussed to reflect that districts are accountable for more than student achievement.

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

Interested individuals may make written comments on the proposed amendments on or before 4:30 p.m. on September 14, 2007. Comments on the proposed amendments should be directed to Carol Greta, Attorney 3, Iowa Department of Education, Second Floor, Grimes State Office Building, Des Moines, Iowa 50319-0146; telephone (515)281-8661; E-mail carol.greta@iowa.gov; or fax (515)281-4122.

A public hearing will be held on September 14, 2007, from 9 to 10 a.m., at the State Board Room on the second floor of the Grimes State Office Building, East 14th Street and Grand Avenue, Des Moines, Iowa, at which time persons may present their views either orally or in writing. Any persons who intend to attend the public hearing and have special requirements such as those related to hearing or mobility impairments should advise the Department of Education of specific needs by calling (515)281-5295.

These amendments are intended to implement 2007 Iowa Acts, Senate File 588 and House File 317.

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

The following amendments are proposed.

ITEM 1. Rescind and reserve subrules **12.3(7)** and **12.3(10)**.

ITEM 2. Amend subrule 12.4(11) as follows:

12.4(11) Record required regarding teacher and administrative assignments. The board shall require its superintendent or other designated administrator to maintain a file for all regularly employed members of the instructional professional staff, including substitute teachers. The file shall consist of complete official transcripts of the preparation of these staff members and their legal licenses/certificates or copies thereof for all members of the instructional professional staff, including substitute teachers, showing that they are eligible for the position in which employed. The official shall also maintain on file a legal license/certificate or statement of professional recognition as defined in subrule 12.4(2) for each member of the noninstructional professional staff. These records shall be on file at the beginning of and throughout each school year and shall be updated annually to reflect all professional growth.

On December 1 of each year, the official shall verify to the department of education the licensure/certification and endorsement status of each member of the instructional and administrative staff. This report shall be on forms provided by

the department of education and shall identify all persons holding conditional authorizations and their specific assignment(s) with the conditional authorization(s).

ITEM 3. Amend subrule 12.5(10) as follows:

12.5(10) Technology integration. Each school or school district shall incorporate into its comprehensive school improvement plan demonstrated use of technology to meet its student learning goals. ~~As described in Iowa Code section 295.3, progress with the use of technology shall be included in the school district's annual progress report.~~

ITEM 4. Rescind and reserve subrule **12.5(17)**.

ITEM 5. Amend **281—Chapter 12, Division VIII**, title, as follows:

ACCOUNTABILITY FOR STUDENT ACHIEVEMENT

ITEM 6. Amend subrule **12.8(1)**, paragraphs “c” and “f,” as follows:

c. Content standards and benchmarks.

(1) No change.

(2) Content standards and benchmarks. The board shall adopt clear, rigorous, and challenging content standards and benchmarks in reading, mathematics, and science to guide the learning of students from the date of school entrance until high school graduation. *Included in the local standards and benchmarks shall be the core content standards from Iowa's approved standards and assessment system under the applicable provisions of the federal Elementary and Secondary Education Act.* Standards and benchmarks may be adopted for other curriculum areas defined in 281—Chapter 12, Division V. The comprehensive school improvement plan submitted to the department shall contain, at a minimum, the core content standards for reading, mathematics, and science. The educational program as defined in 281—Chapter 12, Division II, shall incorporate career education, multicultural and gender fair education, technology integration, global education, higher-order thinking skills, learning skills, and communication skills as outlined in subrules 12.5(7), 12.5(8), 12.5(10), and 12.5(11), and subparagraph 12.8(1)“c”(1).

f. Assessment of student progress. Each school or school district shall include in its comprehensive school improvement plan provisions for districtwide assessment of student progress for all students. The plan shall identify valid and reliable student assessments aligned with local content standards, which include the core content standards referenced in subparagraph 12.8(1)“c”(2). These assessments are not limited to commercially developed measures. School districts receiving early intervention funding described in subrule 12.5(18) shall provide for diagnostic reading assessments for kindergarten through grade 3 students as described in 1999 Iowa Acts, House File 743.

ITEM 7. Adopt new subparagraph **12.8(4)“b”(5)** as follows:

(5) Upon recommendation of the school budget review committee for a district that exceeds its authorized budget or carries a negative unspent balance for at least two consecutive years.

ARC 6154B**EDUCATION DEPARTMENT[281]****Notice of Intended Action**

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

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

Pursuant to the authority of Iowa Code section 256.7(5), the State Board of Education hereby proposes to amend Chapter 21, "Community Colleges," Iowa Administrative Code.

2007 Iowa Acts, Senate File 601, allocated \$2 million to the Department to be distributed to all 15 community colleges to supplement faculty salaries. The Department was directed by the legislation to base the allocation on the proportional share of each community college's total salary expenditures in the instructional and instructional part-time categories in the education functions of liberal arts and sciences and vocational-technical compared with the total salary expenditures for all community colleges in the education functions of liberal arts and sciences and vocational-technical in the fiscal year prior to the base year. This rule making complies with the directive in 2007 Iowa Acts, Senate File 601, by setting forth such a formula.

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

Interested individuals may make written comments on the proposed amendments on or before September 7, 2007, at 4:30 p.m. Comments on the proposed amendments should be directed to Dr. Janice Friedel, Administrator, Division of Community Colleges and Workforce Preparation, Iowa Department of Education, Third Floor, Grimes State Office Building, Des Moines, Iowa 50319-0146; telephone (515) 281-8260; E-mail janice.friedel@iowa.gov; or fax (515) 281-6544.

A public hearing will be held on September 7, 2007, from 11 a.m. to 12 noon in Room 3 SW, Third Floor, Grimes State Office Building, East 14th Street and Grand Avenue, Des Moines, Iowa, at which time persons may present their views either orally or in writing. Any persons who intend to attend the public hearing and have special requirements, such as those related to hearing or mobility impairments, should contact and advise the Department of Education of specific needs by calling (515)281-3125.

These amendments are intended to implement 2007 Iowa Acts, Senate File 601.

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

The following amendments are proposed.

ITEM 1. Amend rule 281—21.3(260C) by adopting the following **new** subrule:

21.3(7) Faculty salary allocation plan. Pursuant to the appropriation of funds from the state general fund to the department for the purpose of supplementing community college faculty salaries, the department follows the formula herein when distributing such funds to community colleges.

a. For purposes of this subrule, the following definitions apply.

(1) "Full-time faculty" means those nonadministrative instructors, counselors, and librarians who are classified as full-time employees as defined in the college's collective bargaining agreement or written policy.

(2) "Part-time faculty" means those nonadministrative instructors, counselors, and librarians who are employed less than full-time as defined in the college's collective bargaining agreement or written policy.

(3) "Temporary/seasonal faculty" means those nonadministrative instructors, counselors, and librarians who are employed, full-time or part-time, by the college for short periods of time for specific purposes.

(4) "Adjunct faculty" means those nonadministrative instructors, counselors, and librarians who have an occasional or temporary affiliation with the college.

b. The appropriation shall be distributed to the community colleges based on their proportional share of salary expenditures recorded in the instructional and instructional part-time categories and incurred in the liberal arts and sciences and vocational-technical functions. Salary expenditures for staff classified by the college as temporary/seasonal or as adjunct shall not be included in the eligible expenditures when calculating the distribution.

c. Moneys distributed to each community college hereunder shall be rolled into the funding allocation for all future years. The use of the funds shall remain as described herein for all future years. The appropriation will be distributed to the community colleges in equal monthly payments made on or about the fifteenth of each month.

d. Moneys appropriated and distributed to community colleges herein shall be used to supplement and not supplant any approved faculty salary increases or negotiated agreements, excluding the distribution of the funds herein. Eligible expenditures for the moneys appropriated are for salary expenditures and the required associated taxes and fringe benefits. These moneys shall then be considered as part of the instructor's salary in future years.

e. Moneys distributed to a community college hereunder shall be allocated to all full-time faculty and part-time faculty. The moneys shall be allocated by negotiated agreements according to Iowa Code chapter 20. If no language exists to specify the method of allocation, the moneys shall be allocated equally to all full-time faculty with part-time faculty receiving a prorated share.

ITEM 2. Amend **281—Chapter 21** by adopting the following **new** implementation sentence at the end of Division I:

The rules in this division are intended to implement Iowa Code chapter 260C and 2007 Iowa Acts, Senate File 601.

ARC 6155B**EDUCATION DEPARTMENT[281]****Notice of Intended Action**

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

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

Pursuant to the authority of Iowa Code section 256.7(5), the State Board of Education hereby proposes to amend Chapter 21, “Community Colleges,” Iowa Administrative Code.

2007 Iowa Acts, Senate File 358, established preclicensing and continuing education requirements for used motor vehicle dealers. The legislation amended provisions in Iowa Code chapter 322. The primary regulatory authority for Iowa Code chapter 322 resides with the Department of Transportation. However, one sentence in Senate File 358 directed the Department of Education to “adopt rules establishing reasonable fees to be charged for the preclicensing education courses and the continuing education courses.” This proposed rule complies with the directive contained in 2007 Iowa Acts, Senate File 358, by setting a maximum fee for the required coursework.

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

Interested individuals may make written comments on the proposed amendment on or before September 7, 2007, at 4:30 p.m. Comments on the proposed amendment should be directed to Dr. Roger Utman, Community College Bureau, Iowa Department of Education, Third Floor, Grimes State Office Building, Des Moines, Iowa 50319-0146; telephone (515)281-3542; E-mail roger.utman@iowa.gov; or fax (515) 281-7528.

A public hearing will be held on September 7, 2007, from 10 to 11 a.m. in Room 3 SW, Third Floor, Grimes State Office Building, East 14th Street and Grand Avenue, Des Moines, Iowa, at which time persons may present their views either orally or in writing. Any persons who intend to attend the public hearing and have special requirements, such as those related to hearing or mobility impairments, should contact and advise the Department of Education of specific needs by calling (515)281-3125.

This amendment is intended to implement Iowa Code chapter 260C and 2007 Iowa Acts, Senate File 358.

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 **281—Chapter 21** by adopting the following **new** division:

DIVISION X
MISCELLANEOUS PROVISIONS

281—21.75(260C,82GA,SF358) Used motor vehicle dealer education program. An applicant for a license from the department of transportation as a used motor vehicle dealer shall complete a minimum of eight hours of preclicensing education program courses pursuant to 2007 Iowa Acts,

Senate File 358, prior to submitting the application. The education program courses are provided by community colleges or by the Iowa Independent Automobile Dealers Association in conjunction with a community college. The fee for both the preclicensing education program courses and continuing education courses shall not exceed \$50 per contact hour of instruction, which shall include course materials and administrative costs.

This rule is intended to implement Iowa Code chapter 260C and 2007 Iowa Acts, Senate File 358.

ARC 6151B**ENGINEERING AND LAND SURVEYING EXAMINING BOARD[193C]****Notice of Intended Action**

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

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

Pursuant to the authority of Iowa Code section 542B.6, the Engineering and Land Surveying Examining Board hereby gives Notice of Intended Action to amend Chapter 4, “Engineering Licensure,” Iowa Administrative Code.

This amendment adds a subrule to define examination subversion and to explain the conduct for which the Board may impose sanctions. This subrule also explains the legal rights of the candidate who is charged with examination subversion.

Waiver of this rule may be sought pursuant to 193—Chapter 5.

Any interested person may make written or oral suggestions or comments on the proposed amendment on or before September 4, 2007. Comments should be directed to Gleeen Coates, Executive Officer, Iowa Engineering and Land Surveying Examining Board, 1920 SE Hulsizer Road, Ankeny, Iowa 50021; telephone (515)281-7360.

This amendment is intended to implement Iowa Code sections 542B.2, 542B.13 to 542B.15, 542B.17 and 542B.20.

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 193C—4.1(542B) by adding the following **new** subrule:

4.1(9) Examination subversion. Any individual who subverts or attempts to subvert the examination process may, at the discretion of the board, have the individual’s examination scores declared invalid for the purpose of licensure in Iowa, be barred from engineering licensure and examinations in Iowa, or be subject to the imposition of other sanctions the board deems appropriate.

a. Conduct that subverts or attempts to subvert the examination process includes, but is not limited to:

(1) Conduct that violates the security of the examination materials, such as removing from the examination room any of the examination materials; reproducing or reconstructing

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

any portion of the licensing examination; aiding by any means in the reproduction or reconstruction of any portion of the licensing examination; or selling, distributing, buying, receiving, or having unauthorized possession of any portion of a future, current, or previously administered licensing examination.

(2) Conduct that violates the standards of test administration, such as communicating with any other examination candidate during the administration of the licensing examination; communicating with others outside of the examination site during the administration of the examination; copying answers from another candidate or permitting one's answers to be copied by another candidate during the administration of the examination; or having in one's possession during the administration of the licensing examination any device or materials that might compromise the security of the examination or examination process such as calculating and computing devices not on the list of devices approved by the examination provider or provided by the examination provider.

(3) Conduct that violates the examination process, such as falsifying or misrepresenting educational credentials or other information required for admission to the licensing examination or impersonating an examination candidate or having an impersonator take the licensing examination on one's behalf.

b. Any examination candidate who wishes to appeal a decision of the board under this subrule may request a contested case hearing. The request for hearing shall be in writing, shall briefly describe the basis for the appeal, and shall be filed in the board's office within 30 days of the date of the board decision that is being appealed. Any hearing requested under this subrule shall be governed by the rules applicable to contested case hearings under 193—Chapter 7.

ARC 6152B**ENGINEERING AND LAND
SURVEYING EXAMINING
BOARD[193C]****Notice of Intended Action**

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

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

Pursuant to the authority of Iowa Code section 542B.6, the Engineering and Land Surveying Examining Board hereby gives Notice of Intended Action to amend Chapter 5, “Land Surveying Licensure,” Iowa Administrative Code.

This amendment adds a subrule to define examination subversion and to explain the conduct for which the Board may impose sanctions. This subrule also explains the legal rights of the candidate who is charged with examination subversion.

Waiver of this rule may be sought pursuant to 193—Chapter 5.

Any interested person may make written or oral suggestions or comments on the proposed amendment on or before September 4, 2007. Comments should be directed to Glean Coates, Executive Officer, Iowa Engineering and Land Surveying Examining Board, 1920 SE Hulsizer Road, Ankeny, Iowa 50021; telephone (515)281-7360.

This amendment is intended to implement Iowa Code sections 542B.2, 542B.13 to 542B.15, and 542B.20.

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 193C—5.1(542B) by adding the following **new** subrule:

5.1(9) Examination subversion. Any individual who subverts or attempts to subvert the examination process may, at the discretion of the board, have the individual's examination scores declared invalid for the purpose of licensure in Iowa, be barred from land surveying licensure and examinations in Iowa, or be subject to the imposition of other sanctions the board deems appropriate.

a. Conduct that subverts or attempts to subvert the examination process includes, but is not limited to:

(1) Conduct that violates the security of the examination materials, such as removing from the examination room any of the examination materials; reproducing or reconstructing any portion of the licensing examination; aiding by any means in the reproduction or reconstruction of any portion of the licensing examination; or selling, distributing, buying, receiving, or having unauthorized possession of any portion of a future, current, or previously administered licensing examination.

(2) Conduct that violates the standards of test administration, such as communicating with any other examination candidate during the administration of the licensing examination; communicating with others outside of the examination site during the administration of the examination; copying answers from another candidate or permitting one's answers to be copied by another candidate during the administration of the examination; or having in one's possession during the administration of the licensing examination any device or materials that might compromise the security of the examination or examination process, such as calculating and computing devices not on the list of devices approved by the examination provider or provided by the examination provider.

(3) Conduct that violates the examination process, such as falsifying or misrepresenting educational credentials or other information required for admission to the licensing examination or impersonating an examination candidate or having an impersonator take the licensing examination on one's behalf.

b. Any examination candidate who wishes to appeal a decision of the board under this subrule may request a contested case hearing. The request for hearing shall be in writing, shall briefly describe the basis for the appeal, and shall be filed in the board's office within 30 days of the date of the board decision that is being appealed. Any hearing requested under this subrule shall be governed by the rules applicable to contested case hearings under 193—Chapter 7.

ARC 6150B**ENGINEERING AND LAND
SURVEYING EXAMINING
BOARD[193C]****Notice of Intended Action**

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

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

Pursuant to the authority of Iowa Code section 542B.6, the Engineering and Land Surveying Examining Board hereby gives Notice of Intended Action to amend Chapter 10, “Peer Review,” Iowa Administrative Code.

This amendment revises the compensation to peer reviewers to allow for a variety of payment terms in lieu of restricting payment to per diem compensation equal to that received by board members and clarifies the types of expenses that will be reimbursed.

Waiver of this rule may be sought pursuant to 193—Chapter 5.

Any interested person may make written or oral suggestions or comments on the proposed amendment on or before September 4, 2007. Comments should be directed to Glean Coates, Executive Officer, Iowa Engineering and Land Surveying Examining Board, 1920 SE Hulsizer Road, Ankeny, Iowa 50021; telephone (515)281-7360.

This amendment is intended to implement Iowa Code section 272C.3.

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

The following amendment is proposed.

Amend subrule 10.1(4) as follows:

10.1(4) Compensation. ~~PRC members may receive per diem compensation equal to that received by board members for performing board duties. Within established budget limitations, PRC members may be reimbursed for reasonable and necessary expenses that are incurred for travel, meals and lodging while performing committee duties. The terms of payment as authorized by the peer review agreement may vary based on the nature and complexity of each assignment and whether the peer reviewer will act as a single peer reviewer or as part of a peer review committee. The peer reviewer shall be additionally entitled to reimbursement of expenses directly related to the peer review process, deposition or hearing preparation, or deposition or hearing testimony, such as mileage, meals, or out-of-pocket charges for securing copies of documents. Expenses will be reimbursed as allowed under the manuals and guidelines published by the Iowa department of administrative services, state accounting enterprise. The PRC shall not hire legal counsel, investigators, secretarial help or any other assistance without written authorization from the board.~~

ARC 6142B**HUMAN SERVICES
DEPARTMENT[441]****Notice of Intended Action**

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

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

Pursuant to the authority of Iowa Code section 249A.4, the Department of Human Services proposes to amend Chapter 78, “Amount, Duration and Scope of Medical and Remedial Services,” Iowa Administrative Code.

Public Law 110-208, the U.S. Troop Readiness, Veterans’ Care, Katrina Recovery, and Iraq Accountability Appropriations Act of 2007 provides that effective October 1, 2007, federal Medicaid funding shall not be available for any amounts expended for prescription drugs for which the prescription was executed in written (and nonelectronic) form unless the prescription was executed on a tamper-resistant pad. This amendment implements that legislation.

This amendment does not provide for waivers in specified situations because federal law does not allow for waivers. The Department has adopted a general rule on exceptions at 441—1.8(17A,217).

This amendment was also Adopted and Filed Without Notice and is published herein as **ARC 6141B**. The purpose of this Notice is to solicit comment on that submission, the subject matter of which is incorporated by reference.

Any interested person may make written comments on the proposed amendment on or before September 5, 2007. Comments should be directed to Mary Ellen Imlau, Bureau of Policy Analysis and Appeals, Department of Human Services, Hoover State Office Building, 1305 East Walnut Street, Des Moines, Iowa 50319-0114. Comments may be sent by fax to (515)281-4980 or by E-mail to policyanalysis@dhs.state.ia.us.

This amendment is intended to implement Iowa Code section 249A.4 and Public Law 110-28, Section 7002b.

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

ARC 6159B**IOWA FINANCE AUTHORITY[265]****Notice of Intended Action**

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

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

Pursuant to the authority of Iowa Code sections 17A.3(1)“b” and 16.181, the Iowa Finance Authority hereby gives Notice of Intended Action to amend Chapter 19, “State Housing Trust Fund,” Iowa Administrative Code.

IOWA FINANCE AUTHORITY[265](cont'd)

The purpose of these amendments is to complete the bifurcation of the State Housing Trust Fund Allocation Plan into two separate allocation plans, one for local housing trust funds and the other for the project-based housing program. These proposed amendments adopt an allocation plan for the project-based housing program.

Chapter 19 does not provide for waivers. Persons seeking waivers of a rule contained in Chapter 19 must petition the authority for a waiver in the manner set forth under Chapter 18.

The Authority will receive written comments on the proposed amendments until 4:30 p.m. on September 4, 2007. Comments may be addressed to Mark Thompson, Iowa Finance Authority, 2015 Grand Avenue, Des Moines, Iowa 50312. Comments may also be faxed to Mark Thompson at (515)725-4901 or E-mailed to mark.thompson@iowa.gov. Persons who wish to comment orally should contact Mark Thompson at (515)725-4937.

These amendments are intended to implement Iowa Code sections 16.5(17) and 16.181.

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 265—19.1(16) as follows:

265—19.1(16) Trust fund allocation plan plans. The trust fund allocation plan entitled Iowa Finance Authority State Housing Trust Fund 2008 Allocation Plan for the Local Housing Trust Fund Program shall be the allocation plan for the distribution, pursuant to the local housing trust fund program, of funds held within the state housing trust fund established in Iowa Code section 16.181. *The trust fund allocation plan entitled Iowa Finance Authority State Housing Trust Fund 2008 Allocation Plan for the Project-Based Housing Program shall be the allocation plan for the distribution, pursuant to the project-based housing program, of funds held within the state housing trust fund.* The trust fund allocation plan plans for the local housing trust fund program and the project-based housing program includes include the plan, application plans, applications, and application instructions. The trust fund allocation plan plans for the local housing trust fund program is and the project-based housing program are incorporated by reference pursuant to Iowa Code section 17A.6 and 265—subrules 17.4(2) and 17.12(2).

ITEM 2. Amend rule 265—19.2(16) as follows:

265—19.2(16) Location of copies of the plan plans. The trust fund allocation plan plans for the local housing trust fund program and the project-based housing program may be reviewed and copied in its entirety on the authority's Web site at www.iowafinanceauthority.gov. Copies of the trust fund allocation plan plans for the local housing trust fund program and the project-based housing program, the application applications, and all related attachments and exhibits, if any, shall be deposited with the administrative rules coordinator and at the state law library. The plan incorporates plans incorporate by reference Iowa Code section 16.181.

ARC 6160B

IOWA FINANCE AUTHORITY[265]

Notice of Intended Action

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

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

Pursuant to the authority of Iowa Code sections 17A.3(1)"b" and 16.5 as amended by 2007 Iowa Acts, Senate File 431, section 19, and 2005 Iowa Acts, chapter 179, sections 161 and 162, the Iowa Finance Authority hereby gives Notice of Intended Action to amend Chapter 25, "Entrepreneurs with Disabilities Program," Iowa Administrative Code.

The purpose of these amendments is to move the daily operations of the program from an outside consultant to the Iowa Vocational Rehabilitation Services through the use of a business consultant employed by the Iowa Department of Education's Vocational Rehabilitation Services Division. These proposed amendments define the role of business planner, specify to whom the applicant will submit an application for technical assistance and financial assistance grants, and clarify that the Authority can monitor the records related to the program.

Chapter 25 does not provide for waivers. Persons seeking waivers must petition the authority for a waiver in the manner set forth under Chapter 18.

The Authority will receive written comments on the proposed amendments until 4:30 p.m. on September 4, 2007. Comments may be addressed to Mark Thompson, Iowa Finance Authority, 2015 Grand Avenue, Des Moines, Iowa 50312. Comments may also be faxed to Mark Thompson at (515)725-4901 or E-mailed to mark.thompson@iowa.gov. Persons who wish to comment orally should contact Mark Thompson at (515)725-4937.

These amendments are intended to implement Iowa Code section 16.5(17) and 2005 Iowa Acts, chapter 179, sections 161 and 162.

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 265—25.2(16) as follows:

Adopt the following **new** definition:

"Business planner" means a designated business developer working for IVRS that provides business planning assistance to clients of IVRS or the Iowa department for the blind.

Amend the definitions of "consultant," "financial assistance grant," "IVRS," "program manager," "project plan and budget form," "sources and uses statement form," and "technical assistance grant" as follows:

"Consultant" means a person or organization providing specific business technical assistance contracted vendor from whom specific technical expertise can be purchased to assist with the development of a small business.

"Financial assistance grant" means moneys awarded to determined necessary for an applicant to start or expand a small business that can be further developed and based upon a sources and uses statement form. These moneys may be

IOWA FINANCE AUTHORITY[265](cont'd)

used for, but are not limited to, equipment purchases and working capital. Working capital may include, but is not limited to, design and printing of marketing materials, advertising, rent (up to six months), direct mail postage costs, raw materials, inventory, insurance, and other start-up, expansion or acquisition costs. Financial assistance grants shall not exceed 50 percent of the financial package (up to \$10,000) required to start up, expand or acquire a business unless authorized by the administrator of the Iowa department of education, division of Iowa vocational rehabilitation services, IVRS or Iowa department for the blind. *Financial assistance is provided in three phases, with each phase requiring full monitoring of the business results. When a phase is completed successfully and the need for additional funding is demonstrated, then the next payment is approved. The maximum grant award cannot exceed \$10,000 for all phases combined.*

“Program manager” means the designated manager of the program for the authority IVRS.

“Project plan and budget form” means a form that identifies specific steps in the business planning process, the consultant(s) who will provide such service, budgetary guidelines, and a timeline. Project plan and budget forms are provided by the counselor or business planner following evaluation and scoring of an application for the program.

“Sources and uses statement form” means a form that defines the specific financial needs for business start-up, expansion, or acquisition. Sources and uses statement forms are provided to an applicant by the counselor or business planner following evaluation and scoring of an application for the program and the submission and review by the counselor and the consultant business planner of a business plan.

“Technical assistance grant” means moneys awarded authorized on behalf of an applicant to hire consultants to assist an applicant with specialized technical assistance such as an introductory business orientation workshop, a market analysis, marketing plans, engineering, legal, computer services, financial packaging, or follow-up technical assistance. These moneys may not be used to subsidize business operations and are based upon the project plan and budget form. Technical assistance grants shall not exceed \$10,000 per client unless authorized by the administrator of the IVRS or IDB.

ITEM 2. Amend subrule 25.4(3) as follows:

25.4(3) Review. Applications will be forwarded to the consultant business planner and the IVRS counselor or the consultant and the IDB counselor for review. Applications receiving a minimum of 60 points out of a total 100 points will be eligible to pursue a technical assistance grant or a financial assistance grant. If the application is for financial assistance only, a business plan will be required at the time of submission of the application. Business plans receiving a minimum score of 75 points out of a total of 100 points will be able to pursue a financial assistance grant. Approval of a technical assistance grant is based upon acceptance of a project plan and budget form. Approval of a financial assistance grant is based upon acceptance of a business plan and a sources and uses statement form. A decision on all applications and forms will generally be issued within 30 days of submission with notification by letter to the applicant.

ITEM 3. Amend rule 265—25.5(16) as follows:

265—25.5(16) Award of technical assistance grants.

25.5(1) Awards. Technical assistance grants may be awarded up to \$10,000 per applicant. Technical assistance grants shall may be used for specialized technical assistance

~~provided by a qualified consultant consulting services as determined necessary by the counselor, business planner, and the client. Technical assistance grants may be awarded up to a maximum of \$10,000 per applicant. Specialized technical assistance may include, but is not limited to, market analysis, marketing plans, engineering, legal, computer services, preliminary business plan development, financial packaging, and follow-up technical assistance following business start up, expansion, and acquisition. other consulting services that require specialized education and training. Technical assistance grant applicants will be eligible for an additional 10 to 20 consulting hours of follow-up technical assistance when the business is started, expanded, or acquired.~~

25.5(2) Award process. Upon approval of the application by the counselor and the consultant business planner, generally within 30 days, an applicant will receive notification of eligibility to pursue technical or financial assistance. The letter will request that a project plan and budget be submitted to the counselor if the applicant is pursuing technical assistance or that a sources and uses statement be submitted to the counselor if the applicant is pursuing financial assistance.

25.5(3) Approval of project plan and budget. A project plan and budget form will accompany notification letters. The project plan and budget form will require an applicant to identify specific steps in the business planning process, who will be involved in each step of the process, budgetary guidelines, and a timeline. The completed project plan and budget form must be signed by the applicant and submitted to the counselor for approval.

25.5(4) Technical assistance grant contracts. IVRS shall negotiate contracts with qualified business consultants for delivery of services to an applicant. The contracts shall state hourly fees for services, type of service to be provided and a timeline for delivery of services. Authorization of payment will be made by the IVRS or the IDB counselor based upon the negotiated rate as noted in the project plan and budget form. A copy of each contract shall be provided to the authority, at the authority's request.

25.5(5) Consultants. Applicants will be provided a list of qualified business consultants by the counselor business planner. The selection of consultant(s) shall be the responsibility of the applicant.

25.5(6) Case management. The counselor business planner will commit a specific number of hours of direct consultation to each applicant to ensure the delivery of quality services from the selected consultant and the development of a comprehensive business plan that quality services for business planning are provided in a timely manner.

ITEM 4. Amend rule 265—25.6(16) as follows:

265—25.6(16) Financial assistance grants.

25.6(1) Grant awards. Financial assistance grants may be awarded based upon the demonstrated need and evidence of business progression. The applicant must provide for up to 50 percent (not to exceed \$10,000) of the equipment or working capital needed to start, expand, or acquire a business as defined in the sources and uses statement form. The remaining applicant may provide the 50 percent of equipment or working capital needed to start, expand, or acquire a business shall be provided by an applicant through conventional financing or other sources. Working capital may include, but is not limited to, design and printing of marketing materials, advertising, rent (up to six months), direct mail postage, raw materials, inventory, insurance (up to six months), and other start-up, expansion, or acquisition costs. The amount that may be awarded by the program shall be provided in three

IOWA FINANCE AUTHORITY[265](cont'd)

phases of business operations when each phase meets specified business results, and the need for additional award money is indicated. The timing of each phase and the amount of funds for each phase shall be established in the approved project plan and budget, as reviewed by the business planner and approved by the program manager. It is a goal of the program that program funds assist an applicant in also securing financing from a commercial or private source.

25.6(2) Approval of sources and uses forms. The sources and uses form will define specific financial needs for business start-up, expansion, or acquisition. Sources and uses forms shall be provided to an applicant by the counselor following evaluation of the application for the program and the submission and review of the business plan. Completed sources and uses forms shall be submitted to the counselor and the ~~consultant~~ *business planner*. The counselor, the ~~consultant~~ *business planner*, and the applicant will meet to review the sources and uses form. Generally, this process shall be completed within 30 days from submission.

25.6(3) Award process. Upon the ~~counselor's~~ *business planner's* approval of the sources and uses form, the counselor shall send an applicant a notification letter which shall state the amount and conditions of the award.

25.6(4) Financial assistance grant contracts. Contracts for financial assistance grants shall be the responsibility of the IVRS or the IDB and will be consistent with the authorized use of Title I vocational rehabilitation funds *and policy*.

ITEM 5. Amend rule 265—25.7(16) as follows:

265—25.7(16) Monitoring. The ~~program manager~~ *authority* reserves the right to monitor the ~~consultants'~~ *IVRS and IDB records related to the program* to ensure compliance with the ~~terms of the contract rules~~.

ITEM 6. Amend **265—Chapter 25**, implementation sentence, as follows:

These rules are intended to implement ~~Iowa Code section 16.5(17) and 2005 Iowa Acts, House File 882 chapter 179, sections 161 and 162, and 2007 Iowa Acts, Senate File 431, section 7.~~

ARC 6164B

PETROLEUM UNDERGROUND STORAGE TANK FUND BOARD, IOWA COMPREHENSIVE[591]

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 455G.9, the Iowa Comprehensive Petroleum Underground Storage Tank Fund Board hereby gives Notice of Intended Action to amend Chapter 11, "Claims," and to rescind Chapter 15, "Installers and Inspectors," Iowa Administrative Code.

The amendment to Chapter 11 in Item 1 provides rules and procedures for the reimbursement of claims for the removal of eligible upgraded underground storage tanks pursuant to Iowa Code section 455G.9 as amended by 2007 Iowa Acts, Senate File 499, section 8. 2007 Iowa Acts, Senate File 499,

section 11, repeals Iowa Code section 455G.17. The Board's licensing authority for installers and inspectors has been transferred to the Environmental Protection Commission of the Department of Natural Resources, and the Commission has adopted new rules that were formerly found in 591—Chapter 15 (see **ARC 6073B**, IAB 8/1/07). Thus, in the amendment in Item 2, Chapter 15 is rescinded.

Public comments concerning the proposed amendments will be accepted until 4 p.m. on September 4, 2007. Interested persons may submit written or oral comments by contacting the Administrator of the UST Fund at 2700 Westown Parkway, Suite 320, West Des Moines, Iowa 50266; E-mail: Scott_Scheidel@aon.com; telephone (515)225-9263; or facsimile (515)225-9361.

These rules do not mandate additional combined expenditures exceeding \$100,000 by all affected political subdivisions or agencies and entities which contract with political subdivisions to provide services.

These amendments were also Adopted and Filed Emergency and are published herein as **ARC 6165B**. The content of that submission is incorporated by reference.

These amendments are intended to implement Iowa Code sections 455G.9 and 455G.17 as amended by 2007 Iowa Acts, Senate File 499.

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

ARC 6134B

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 Assistants hereby gives Notice of Intended Action to amend Chapter 325, "Administrative and Regulatory Authority for the Board of Physician Assistant Examiners," Chapter 326, "Licensure of Physician Assistants," Chapter 327, "Practice of Physician Assistants," Chapter 328, "Continuing Education for Physician Assistants," and Chapter 329, "Discipline for Physician Assistants," Iowa Administrative Code.

These proposed amendments adopt changes to clarify continuing education requirements, rescind old or duplicated language, and amend both the number of board members and the board title to be consistent with changes to Iowa Code section 147.13 as amended by 2007 Iowa Acts, Senate File 74, section 32, and section 147.14 as amended by 2007 Iowa Acts, House File 909, section 188.

Any interested person may make written comments on the proposed amendments no later than September 5, 2007, 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.

PROFESSIONAL LICENSURE DIVISION[645](cont'd)

A public hearing will be held on September 5, 2007, 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, 148C, and 272C and 2007 Iowa Acts, Senate File 74 and House File 909.

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 **645—Chapters 325 to 329** by changing the name of the board from “Board of Physician Assistant Examiners” to “Board of Physician Assistants” wherever it occurs.

ITEM 2. Amend subrule **325.3(2)**, paragraph “a,” as follows:

a. ~~Three~~ **Five** members licensed to practice as physician assistants, at least two of whom practice in counties with a population of less than 50,000;

ITEM 3. Adopt **new** paragraph **326.2(1)“g”** as follows:

g. In lieu of paragraphs “d” and “e,” an applicant for licensure may provide documentation from the Federation Credentials Verification Service (FCVS) of the Federation of State Medical Boards as primary source verification for identity, education and national certification information.

ITEM 4. Amend rule **645—328.1(148C)** by rescinding the definition of “independent study.”

ITEM 5. Amend subrules 328.2(1) and 328.2(2) as follows:

328.2(1) The biennial continuing education compliance period shall extend for a two-year period beginning on October 1 of each year and ending on September 30 two years later. Each biennium, each ~~person who is licensed to practice as a licensee in this state~~ shall be required to complete a minimum of 100 hours of continuing education approved by the board. ~~The 2001 renewal cycle will extend from July 1, 2001, to September 30, 2003.~~

328.2(2) Requirements of new licensees. Those persons licensed for the first time shall not be required to complete continuing education as a prerequisite for the first renewal of their licenses. ~~Continuing education hours acquired anytime from the initial licensing until the second license renewal may be used.~~ The new licensee will be required to complete a minimum of 100 hours of continuing education per biennium for each subsequent license renewal.

ITEM 6. Rescind subrules **328.2(3)** and **328.2(5)**; renumber subrule **328.2(4)** as **328.2(3)**; and amend renumbered subrule 328.2(3) as follows:

328.2(3) ~~No hours of continuing education shall be carried over into the next biennium except as stated for the second renewal.~~ A licensee whose license was reactivated during the current renewal compliance period may use continuing education earned during the compliance period for the first renewal following reactivation.

ITEM 7. Amend subrule 328.3(1), introductory paragraph and paragraphs “c” and “e,” as follows:

328.3(1) General criteria. A continuing education activity ~~which meets all of the following criteria~~ is appropriate for continuing education credit if the continuing education activity:

c. Is conducted by individuals who have specialized education, training and experience by reason of which said individuals should be considered qualified concerning the subject matter of the program. ~~At the time of audit, the board may request the qualifications of presenters;~~

e. ~~Provides proof of attendance to licensees in attendance including:~~

(1) ~~Date(s), location, course title, presenter(s);~~

(2) ~~Number of program contact hours; and~~

(3) ~~Certificate~~ *Provides an individual certificate of completion or evidence of successful completion of the course provided by the course sponsor. This documentation must contain the course title, date(s), contact hours, sponsor and licensee's name.*

ITEM 8. Rescind subrule 328.3(2) and adopt the following **new** subrule in lieu thereof:

328.3(2) Specific criteria. Continuing education requirements are as follows:

a. The licensee shall complete a minimum of 50 hours of credit designated as Category I by the American Academy of Physician Assistants, the American Medical Association, the American Osteopathic Association Council on Continuing Medical Education, the American Academy of Family Physicians or other organizations accredited by the Accreditation Council on Continuing Medical Education (ACCMED).

b. For the remaining 50 hours of required continuing medical education (CME), Category I or Category II (elective) credit, as accepted by the National Commission on Certification for Physician Assistants, shall satisfy the CME requirements.

c. Licensees who maintain certification by the National Commission on Certification for Physician Assistants (NCCPA) may show proof of meeting the board's CME requirements by providing proof of current certification by the NCCPA.

ITEM 9. Amend subrule 328.4(2) as follows:

328.4(2) The licensee shall provide the following information to the board for auditing purposes:

a. ~~Date and location of course, course title, course description, course outline, course schedule, names and qualifications of instructors/speakers and method of presentation; or a program brochure which includes all the information required in this rule;~~

b. ~~Number of contact hours for program attended; and~~

c. ~~Individual certificate of completion issued to the licensee or evidence of successful completion of the course from the course sponsor.~~ *an individual certificate of completion or evidence of successful completion of the course provided by the course sponsor. This documentation must contain the course title, date(s), contact hours, sponsor and licensee's name.*

ARC 6149B**PUBLIC EMPLOYMENT
RELATIONS BOARD[621]****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 20.6(5), the Public Employment Relations Board hereby gives Notice of Intended Action to amend Chapter 1, “General Provisions,” and to rescind Chapter 13, “Consent for the Sale of Goods and Services,” Iowa Administrative Code.

Item 1 increases the present \$650 maximum per diem fee for fact finders, arbitrators and teacher termination adjudicators, in effect since October 2001, to \$800 per day of service.

This amendment does not provide for a waiver of its terms but is instead subject to the Board’s general waiver provisions, which are found at rule 621—1.9(17A,20).

Item 2 rescinds the Board’s rules concerning how an agency official may obtain the agency’s consent for the sale of goods or services to individuals or entities subject to the agency’s regulatory authority. These rules have been rendered unnecessary by amendments to Iowa Code chapter 68B, which now requires the Iowa Ethics and Campaign Disclosure Board, rather than individual regulatory agencies, to adopt rules concerning this subject.

Any interested person may make written or oral comments on the proposed amendments on or before September 4, 2007. Written comments should be directed to the Chairperson, Public Employment Relations Board, 510 E. 12th Street, Suite 1B, Des Moines, Iowa 50319. Persons who wish to comment orally should contact the Chairperson, Public Employment Relations Board, at (515)281-4414.

These amendments are intended to implement Iowa Code chapters 20 and 279 and section 68B.4.

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

The following amendments are proposed.

ITEM 1. Amend rule 621—1.8(20,279) as follows:

621—1.8(20,279) Fees of neutrals. Qualified fact finders, arbitrators and teacher termination adjudicators appointed from a list maintained by the board may be compensated by a sum not to exceed ~~\$650~~ \$800 per day of service, plus their necessary expenses incurred.

ITEM 2. Rescind and reserve **621—Chapter 13.**

ARC 6167B**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 and 422.68, the Department of Revenue hereby gives Notice of Intended Action to amend Chapter 40, “Determination of Net Income,” Chapter 42, “Adjustments to Computed Tax,” Chapter 52, “Filing Returns, Payment of Tax and Penalty and Interest,” Chapter 53, “Determination of Net Income,” and Chapter 58, “Filing Returns, Payment of Tax, Penalty and Interest, and Allocation of Tax Revenues,” Iowa Administrative Code.

These amendments are proposed as a result of 2007 Iowa Acts, House File 892.

Item 1 adopts new rule 701—40.70(422), which provides for an exclusion for individual income tax for income received from the sale, rental or furnishing of tangible personal property or services directly related to a film, television or video project registered with the film office of the Iowa Department of Economic Development.

Item 2 adopts new rule 701—42.35(15,422), which provides for a film qualified expenditure tax credit for individual income tax, and rule 701—42.36(15,422), which provides for a film investment tax credit for individual income tax.

Item 3 adopts new rule 701—52.34(15,422), which provides for a film qualified expenditure tax credit for corporation income tax, and rule 701—52.35(15,422), which provides for a film investment tax credit for corporation income tax.

Item 4 amends rule 701—53.1(422) to reference new rule 701—53.25(422).

Item 5 adopts new rule 701—53.25(422), which provides for an exclusion for corporation income tax for income received from the sale, rental or furnishing of tangible personal property or services directly related to a film, television or video project registered with the film office of the Iowa Department of Economic Development.

Item 6 adopts new rule 701—58.19(15,422), which provides for a film qualified expenditure tax credit for franchise tax, and rule 701—58.20(15,422), which provides for a film investment tax credit for franchise tax.

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 September 17, 2007, to the Policy Section, Taxpayer Services and Policy Division, Department of Revenue, Hoover State Office Building, P.O. Box 10457, Des Moines, Iowa

REVENUE DEPARTMENT[701](cont'd)

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 September 4, 2007. Such written comments should be directed to the Policy Section, Taxpayer Services and Policy Division, Department of Revenue, Hoover State Office Building, P.O. Box 10457, Des Moines, Iowa 50306.

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

Requests for a public hearing must be received by September 7, 2007.

These amendments are intended to implement 2007 Iowa Acts, House File 892, sections 3 to 9.

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 701—Chapter 40 by adopting the following **new** rule:

701—40.70(422) Exclusion of income from sale, rental or furnishing of tangible personal property or services directly related to production of film, television or video projects. For tax years beginning on or after January 1, 2007, a taxpayer who is a resident of Iowa may exclude, to the extent included in federal adjusted gross income, income received from the sale, rental or furnishing of tangible personal property or services directly related to the production of film, television, or video projects that are registered with the film office of the Iowa department of economic development.

Income which can be excluded on the Iowa return must meet the criteria of a qualified expenditure for purposes of the film qualified expenditure tax credit as set forth in rule 701—42.35(15,422). See rule 701—38.17(422) for the determination of Iowa residency.

However, if a taxpayer claims this income tax exclusion, the same taxpayer cannot also claim the film qualified expenditure tax credit as described in rule 701—42.35(15,422). In addition, any taxpayer who claims this income tax exclusion cannot have an equity interest in a business which received a film qualified expenditure tax credit. Finally, any taxpayer who claims this income tax exclusion cannot participate in the management of the business which received the film qualified expenditure tax credit.

EXAMPLE: A production company which registers with the film office for a project is a limited liability company with three members, all of whom are Iowa residents. If any of the three members receives income that is a qualified expenditure for purposes of the film qualified expenditure tax credit, such member(s) cannot exclude this income on the Iowa income tax return because the member(s) has an equity interest in the business which received the credit.

This rule is intended to implement Iowa Code section 422.7 as amended by 2007 Iowa Acts, House File 892, section 4.

ITEM 2. Amend 701—Chapter 42 by adopting the following **new** rules:

701—42.35(15,422) Film qualified expenditure tax credit. Effective for tax years beginning on or after January 1, 2007, a film qualified expenditure tax credit is available for individual income tax. The tax credit is equal to 25 percent of the taxpayer's qualified expenditures in a film, television, or video project registered with the film office of the Iowa department of economic development (IDED). The administrative rules for the film qualified expenditure tax credit for IDED may be found at 261—Chapter 36.

42.35(1) Qualified expenditures. A qualified expenditure is a payment to an Iowa resident or an Iowa-based business for the sale, rental or furnishing of tangible personal property or services directly related to the registered project. The qualified expenditures include, but are not limited to, the following:

1. Aircraft.
2. Vehicles.
3. Equipment.
4. Materials.
5. Supplies.
6. Accounting services.
7. Animals and animal care services.
8. Artistic and design services.
9. Graphics.
10. Construction.
11. Data and information services.
12. Delivery and pickup services.
13. Labor and personnel, excluding the director, producers, or cast members other than extras and stand-ins.
14. Lighting services.
15. Makeup and hairdressing services.
16. Film.
17. Music.
18. Photography.
19. Sound.
20. Video and related services.
21. Printing.
22. Research.
23. Site fees and rental.
24. Travel related to Iowa distant locations.
25. Trash removal and cleanup.
26. Wardrobe.

A detailed list of all qualified expenditures for each of these categories is available on Form Z, Schedule of Qualified Expenses, which is available from the film office of IDED.

42.35(2) Claiming the tax credit. Upon completion of the registered project in Iowa, the taxpayer must submit to the film office a completed Form Z, Schedule of Qualified Expenses, listing the qualified expenditures. Upon verification of the qualified expenditures, IDED will issue a tax credit certificate to the taxpayer. The certificate will list the taxpayer's name, address, and tax identification number; the date of project completion; the amount of the credit; the tax period for which the credit may be applied; and the type of tax for which the credit will be applied.

If the taxpayer is a partnership, limited liability company, S corporation, or estate or trust requesting a credit for individual or corporation income tax, the tax credit certificate will be issued to the partners, members, shareholders or beneficiaries based on each partner's, member's, shareholder's or beneficiary's pro-rata share of earnings of the partnership, limited liability company, S corporation, or estate or trust.

To claim the tax credit, the taxpayer must attach the tax credit certificate to the tax return for the tax period set forth on the certificate. Any tax credit in excess of the tax liability

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may be carried forward for five years or until the tax credit is used, whichever is the earlier. The tax credit cannot be carried back to a tax year prior to the year in which the taxpayer claimed the tax credit.

42.35(3) Transfer of the film qualified expenditure tax credit. The film qualified expenditure tax credit may be transferred no more than two times to any person or entity. In addition, a tax credit certificate of less than \$1,000 shall not be transferable.

Within 90 days of transfer of the tax credit certificate, the transferee must submit the transferred tax credit certificate to the department of revenue, along with a statement which contains the transferee's name, address and tax identification number and the amount of the tax credit being transferred. Within 30 days of receiving the transferred tax credit certificate and the statement from the transferee, the department of revenue will issue a replacement tax credit certificate to the transferee. If the transferee is a partnership, limited liability company, S corporation, or estate or trust claiming the credit for individual or corporation income tax, the transferee shall provide a list of the partners, members, shareholders or beneficiaries and information on how the film qualified expenditure tax credit should be divided among the partners, members, shareholders or beneficiaries. The transferee shall also provide the tax identification numbers and addresses of the partners, members, shareholders or beneficiaries. The replacement tax credit certificate must contain the same information as that on the original tax credit certificate and must have the same effective taxable year as the original tax credit certificate. The replacement tax credit certificate may reflect a different tax type than the original tax credit certificate.

The transferee may use the amount of the tax credit for any tax year for which the original transferor could have claimed the tax credit. Any consideration received for the transfer of the tax credit certificate shall not be included in Iowa taxable income for individual income, corporation income or franchise tax purposes. Any consideration paid for the transfer of the tax credit certificate shall not be deducted from Iowa taxable income for individual income, corporation income or franchise tax purposes.

This rule is intended to implement 2007 Iowa Acts, House File 892, sections 3 and 5.

701—42.36(15,422) Film investment tax credit. Effective for tax years beginning on or after January 1, 2007, a film investment tax credit is available for individual income tax. The tax credit is equal to 25 percent of the taxpayer's investment in a film, television, or video project registered with the film office of the Iowa department of economic development (IDED). The administrative rules for the film investment tax credit for IDED may be found at 261—Chapter 36.

42.36(1) Claiming the tax credit. Upon completion of the project in Iowa and verification of the investment in the project, IDED will issue a tax credit certificate to the taxpayer. The certificate will list the taxpayer's name, address, and tax identification number; the date of project completion; the amount of the credit; the tax period for which the credit may be applied; and the type of tax for which the credit will be applied.

If the taxpayer is a partnership, limited liability company, S corporation, or estate or trust requesting a credit for individual or corporation income tax, the tax credit certificate will be issued to the partners, members, shareholders or beneficiaries based on each partner's, member's, shareholder's or beneficiary's pro-rata share of earnings of the partnership, limited liability company, S corporation, or estate or trust.

To claim the tax credit, the taxpayer must attach the tax credit certificate to the tax return for the tax period set forth on the certificate. Any tax credit in excess of the tax liability may be carried forward for five years or until the tax credit is used, whichever is the earlier. The tax credit cannot be carried back to a tax year prior to the year in which the taxpayer claimed the tax credit. In addition, a taxpayer cannot claim the film investment tax credit for qualified expenditures for which the film expenditure tax credit set forth in rule 701—42.35(15,422) is claimed.

The total of all film investment tax credits for a particular project cannot exceed 25 percent of the qualified expenditures as set forth in subrule 42.35(1) for the particular project. If the amount of investment exceeds the qualified expenditures, the tax credit will be allocated proportionately. For example, if three investors each invested \$100,000 in a project but the qualified expenditures in Iowa only totaled \$270,000, each investor would receive a tax credit based on a \$90,000 investment amount.

42.36(2) Transfer of the film investment tax credit. The film investment tax credit may be transferred no more than two times to any person or entity. In addition, a tax credit certificate of less than \$1,000 shall not be transferable.

Within 90 days of transfer of the tax credit certificate, the transferee must submit the transferred tax credit certificate to the department of revenue, along with a statement which contains the transferee's name, address and tax identification number and the amount of the tax credit being transferred. Within 30 days of receiving the transferred tax credit certificate and the statement from the transferee, the department of revenue will issue a replacement tax credit certificate to the transferee. If the transferee is a partnership, limited liability company, S corporation, or estate or trust claiming the credit for individual or corporation income tax, the transferee shall provide a list of the partners, members, shareholders or beneficiaries and information on how the film investment tax credit should be divided among the partners, members, shareholders or beneficiaries. The transferee shall also provide the tax identification numbers and addresses of the partners, members, shareholders or beneficiaries. The replacement tax credit certificate must contain the same information as that on the original tax credit certificate and must have the same effective taxable year as the original tax credit certificate. The replacement tax credit certificate may reflect a different tax type than the original tax credit certificate.

The transferee may use the amount of the tax credit for any tax year for which the original transferor could have claimed the tax credit. Any consideration received for the transfer of the tax credit certificate shall not be included in Iowa taxable income for individual income, corporation income or franchise tax purposes. Any consideration paid for the transfer of the tax credit certificate shall not be deducted from Iowa taxable income for individual income, corporation income or franchise tax purposes.

This rule is intended to implement 2007 Iowa Acts, House File 892, sections 3 and 6.

ITEM 3. Amend 701—Chapter 52 by adopting the following **new** rules:

701—52.34(15,422) Film qualified expenditure tax credit. Effective for tax years beginning on or after January 1, 2007, a film qualified expenditure tax credit is available for corporation income tax. The tax credit is equal to 25 percent of the taxpayer's qualified expenditures in a film, television, or video project registered with the film office of the Iowa department of economic development (IDED). The administra-

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tive rules for the film qualified expenditure tax credit for IDED may be found at 261—Chapter 36.

52.34(1) Qualified expenditures. A qualified expenditure is a payment to an Iowa resident or an Iowa-based business for the sale, rental or furnishing of tangible personal property or services directly related to the registered project. The qualified expenditures include, but are not limited to, the following:

1. Aircraft.
2. Vehicles.
3. Equipment.
4. Materials.
5. Supplies.
6. Accounting services.
7. Animals and animal care services.
8. Artistic and design services.
9. Graphics.
10. Construction.
11. Data and information services.
12. Delivery and pickup services.
13. Labor and personnel, excluding the director, producers, or cast members other than extras and stand-ins.
14. Lighting services.
15. Makeup and hairdressing services.
16. Film.
17. Music.
18. Photography.
19. Sound.
20. Video and related services.
21. Printing.
22. Research.
23. Site fees and rental.
24. Travel related to Iowa distant locations.
25. Trash removal and cleanup.
26. Wardrobe.

A detailed list of all qualified expenditures for each of these categories is available on Form Z, Schedule of Qualified Expenses, which is available from the film office of IDED.

52.34(2) Claiming the tax credit. Upon completion of the registered project in Iowa, the taxpayer must submit to the film office a completed Form Z, Schedule of Qualified Expenses, listing the qualified expenditures. Upon verification of the qualified expenditures, IDED will issue a tax credit certificate to the taxpayer. The certificate will list the taxpayer's name, address, and tax identification number; the date of project completion; the amount of the credit; the tax period for which the credit may be applied; and the type of tax for which the credit will be applied.

If the taxpayer is a partnership, limited liability company, S corporation, or estate or trust requesting a credit for individual or corporation income tax, the tax credit certificate will be issued to the partners, members, shareholders or beneficiaries based on each partner's, member's, shareholder's or beneficiary's pro-rata share of earnings of the partnership, limited liability company, S corporation, or estate or trust.

To claim the tax credit, the taxpayer must attach the tax credit certificate to the tax return for the tax period set forth on the certificate. Any tax credit in excess of the tax liability may be carried forward for five years or until the tax credit is used, whichever is the earlier. The tax credit cannot be carried back to a tax year prior to the year in which the taxpayer claimed the tax credit.

52.34(3) Transfer of the film qualified expenditure tax credit. The film qualified expenditure tax credit may be

transferred no more than two times to any person or entity. In addition, a tax credit certificate of less than \$1,000 shall not be transferable.

Within 90 days of transfer of the tax credit certificate, the transferee must submit the transferred tax credit certificate to the department of revenue, along with a statement which contains the transferee's name, address and tax identification number and the amount of the tax credit being transferred. Within 30 days of receiving the transferred tax credit certificate and the statement from the transferee, the department of revenue will issue a replacement tax credit certificate to the transferee. If the transferee is a partnership, limited liability company, S corporation, or estate or trust claiming the credit for individual or corporation income tax, the transferee shall provide a list of the partners, members, shareholders or beneficiaries and information on how the film qualified expenditure tax credit should be divided among the partners, members, shareholders or beneficiaries. The transferee shall also provide the tax identification numbers and addresses of the partners, members, shareholders or beneficiaries. The replacement tax credit certificate must contain the same information as that on the original tax credit certificate and must have the same effective taxable year as the original tax credit certificate. The replacement tax credit certificate may reflect a different tax type than the original tax credit certificate.

The transferee may use the amount of the tax credit for any tax year for which the original transferor could have claimed the tax credit. Any consideration received for the transfer of the tax credit certificate shall not be included in Iowa taxable income for individual income, corporation income or franchise tax purposes. Any consideration paid for the transfer of the tax credit certificate shall not be deducted from Iowa taxable income for individual income, corporation income or franchise tax purposes.

This rule is intended to implement 2007 Iowa Acts, House File 892, section 3, and Iowa Code section 422.33 as amended by 2007 Iowa Acts, House File 892, section 7.

701—52.35(15,422) Film investment tax credit. Effective for tax years beginning on or after January 1, 2007, a film investment tax credit is available for corporation income tax. The tax credit is equal to 25 percent of the taxpayer's investment in a film, television, or video project registered with the film office of the Iowa department of economic development (IDED). The administrative rules for the film investment tax credit for IDED may be found at 261—Chapter 36.

52.35(1) Claiming the tax credit. Upon completion of the project in Iowa and verification of the investment in the project, IDED will issue a tax credit certificate to the taxpayer. The certificate will list the taxpayer's name, address, and tax identification number; the date of project completion; the amount of the credit; the tax period for which the credit may be applied; and the type of tax for which the credit will be applied.

If the taxpayer is a partnership, limited liability company, S corporation, or estate or trust requesting a credit for individual or corporation income tax, the tax credit certificate will be issued to the partners, members, shareholders or beneficiaries based on each partner's, member's, shareholder's or beneficiary's pro-rata share of earnings of the partnership, limited liability company, S corporation, or estate or trust.

To claim the tax credit, the taxpayer must attach the tax credit certificate to the tax return for the tax period set forth on the certificate. Any tax credit in excess of the tax liability may be carried forward for five years or until the tax credit is used, whichever is the earlier. The tax credit cannot be car-

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ried back to a tax year prior to the year in which the taxpayer claimed the tax credit. In addition, a taxpayer cannot claim the film investment tax credit for qualified expenditures for which the film expenditure tax credit set forth in rule 701—52.34(15,422) is claimed.

The total of all film investment tax credits for a particular project cannot exceed 25 percent of the qualified expenditures as set forth in subrule 52.34(1) for the particular project. If the amount of investment exceeds the qualified expenditures, the tax credit will be allocated proportionately. For example, if three investors each invested \$100,000 in a project but the qualified expenditures in Iowa only totaled \$270,000, each investor would receive a tax credit based on a \$90,000 investment amount.

52.35(2) Transfer of the film investment tax credit. The film investment tax credit may be transferred no more than two times to any person or entity. In addition, a tax credit certificate of less than \$1,000 shall not be transferable.

Within 90 days of transfer of the tax credit certificate, the transferee must submit the transferred tax credit certificate to the department of revenue, along with a statement which contains the transferee's name, address and tax identification number and the amount of the tax credit being transferred. Within 30 days of receiving the transferred tax credit certificate and the statement from the transferee, the department of revenue will issue a replacement tax credit certificate to the transferee. If the transferee is a partnership, limited liability company, S corporation, or estate or trust claiming the credit for individual or corporation income tax, the transferee shall provide a list of the partners, members, shareholders or beneficiaries and information on how the film investment tax credit should be divided among the partners, members, shareholders or beneficiaries. The transferee shall also provide the tax identification numbers and addresses of the partners, members, shareholders or beneficiaries. The replacement tax credit certificate must contain the same information as that on the original tax credit certificate and must have the same effective taxable year as the original tax credit certificate. The replacement tax credit certificate may reflect a different tax type than the original tax credit certificate.

The transferee may use the amount of the tax credit for any tax year for which the original transferor could have claimed the tax credit. Any consideration received for the transfer of the tax credit certificate shall not be included in Iowa taxable income for individual income, corporation income or franchise tax purposes. Any consideration paid for the transfer of the tax credit certificate shall not be deducted from Iowa taxable income for individual income, corporation income or franchise tax purposes.

This rule is intended to implement 2007 Iowa Acts, House File 892, section 3, and Iowa Code section 422.33 as amended by 2007 Iowa Acts, House File 892, section 7.

ITEM 4. Amend rule 701—53.1(422), introductory paragraph, as follows:

701—53.1(422) Computation of net income for corporations. Net income for state purposes shall mean federal taxable income, before deduction for net operating losses, as properly computed under the Internal Revenue Code, and shall include the adjustments in 53.2(422) to 53.13(422) and 53.17(422) to 53.24 25(422). The remaining provisions of this rule and 53.14(422) to 53.16(422) shall also be applicable in determining net income.

ITEM 5. Amend 701—Chapter 53 by adopting the following **new** rule:

701—53.25(422) Exclusion of income from sale, rental or furnishing of tangible personal property or services directly related to production of film, television or video projects. For tax years beginning on or after January 1, 2007, a taxpayer which is an Iowa-based business may exclude, to the extent included in federal taxable income, income received from the sale, rental or furnishing of tangible personal property or services directly related to the production of film, television, or video projects that are registered with the film office of the Iowa department of economic development.

Income which can be excluded on the Iowa return must meet the criteria of a qualified expenditure for purposes of the film qualified expenditure tax credit as set forth in rule 701—52.34(15,422). An Iowa-based business is a business whose commercial domicile as defined in Iowa Code section 422.32(3) is in Iowa.

However, if a taxpayer claims this income tax exclusion, the same taxpayer cannot also claim the film qualified expenditure tax credit as described in rule 701—52.34(15,422). In addition, any taxpayer who claims this income tax exclusion cannot have an equity interest in a business which received a film qualified expenditure tax credit. Finally, any taxpayer who claims this income tax exclusion cannot participate in the management of the business which received the film qualified expenditure tax credit.

EXAMPLE: A production company which registers with the film office for a project is a corporation which is domiciled in Iowa. If this same corporation receives income that is a qualified expenditure for purposes of the film qualified expenditure tax credit, the corporation cannot exclude this income on the Iowa corporation income tax return because the corporation has claimed the film qualified expenditure tax credit.

This rule is intended to implement Iowa Code section 422.35 as amended by 2007 Iowa Acts, House File 892, section 8.

ITEM 6. Amend 701—Chapter 58 by adopting the following **new** rules:

701—58.19(15,422) Film qualified expenditure tax credit. Effective for tax years beginning on or after January 1, 2007, a film qualified expenditure tax credit is available for franchise tax. The tax credit is equal to 25 percent of the taxpayer's qualified expenditures in a film, television, or video project registered with the film office of the Iowa department of economic development (IDED). For information on the qualified expenditures eligible for the credit, how the film qualified expenditure tax credit is claimed, how the film qualified expenditure tax credit can be transferred and other details about the credit, see rule 701—52.34(15,422). See also the administrative rules for the film qualified expenditure tax credit for IDED at 261—Chapter 36.

This rule is intended to implement 2007 Iowa Acts, House File 892, section 3, and Iowa Code section 422.60 as amended by 2007 Iowa Acts, House File 892, section 9.

701—58.20(15,422) Film investment tax credit. Effective for tax years beginning on or after January 1, 2007, a film investment tax credit is available for franchise tax. The tax credit is equal to 25 percent of the taxpayer's qualified expenditures in a film, television, or video project registered with the film office of the Iowa department of economic development (IDED). For information on how the film investment tax credit is claimed, how the film investment tax credit can be transferred and other details about the credit, see rule 701—52.35(15,422). See also the administrative rules for the film investment tax credit for IDED at 261—Chapter 36.

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This rule is intended to implement 2007 Iowa Acts, House File 892, section 3, and Iowa Code section 422.60 as amended by 2007 Iowa Acts, House File 892, section 9.

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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 118, "Logo Signing," Iowa Administrative Code.

The Department is amending its logo signing rules to implement changes authorized by the Federal Highway Administration, incorporate other changes requested by participants in the logo signing program and business owners, expand the types of attractions that qualify for attraction signing, provide more flexibility where warranted, and clarify program requirements. The amendments to Chapter 118 are as follows:

Rule 761—118.3(306C) is revised to include more detail and provide more flexibility regarding the erection of specific service signs and the posting of business signs. One significant change is that the Department may allow the posting of business signs for a single type of motorist service on two specific service signs. Previously, a service type could appear on no more than one specific service sign. The Federal Highway Administration has given the Department the authority to implement this change. To administer the change, the Department will designate each mainline specific service sign for a particular type of motorist service, even though a specific service sign may, in use, be displaying more than one service type. Posting a business sign of one service type on a specific service sign designated for another service type will be handled through an exception process, which is addressed later in this preamble.

Trailblazing signs are required when a business is neither located on nor is visible from the road that intersects the mainline at the logo-signed interchange. Subrule 118.3(4) provides two new options that, with Department approval, may be used as substitutes for required trailblazing signs: an official sign or a legal off-premises advertising device.

To qualify for logo signing, the maximum distance that a business may be located from the exit is normally three miles. Currently, the Department may reduce this limit to one mile when the number of qualified businesses for a particular type of motorist service exceeds eight within the three-mile limit. Subrule 118.4(2) is revised to change "eight" to "six." Six is the maximum number of business signs that may be displayed on a specific service sign.

A business qualifying for gas signing is currently required to provide "fuel." Subrule 118.4(3) is revised to be more specific by changing "fuel" to "gasoline." Subrule 118.4(3) is also revised to provide for the signing, through an exception process, of 24-hour, card-operated fueling stations that do not meet all of the qualifications for gas signing; the exception is addressed in more detail later in this preamble.

Subrule 118.4(4) regarding the qualifications for food signing is revised to:

- Reference the need for a food service establishment license.
- Add a list of food items that are and are not considered breakfast items.
- Specify the minimum serving hours for breakfast, lunch and dinner.
- Require the business providing the food service to have its own employees, seating, menu and cash register for the food service. The business sign must identify the entity providing the food service.

In subrule 118.4(6), new requirements for camping signing are a minimum of 20 camping spaces and 24-hour availability when the campground is in operation. These requirements match those for general service signs for camping.

Subrule 118.4(7) regarding the qualifications for attraction signing is revised to:

- Except for racetracks, require the attraction to maintain normal business hours at least five days per week, totaling at least 40 hours per week. This matches the requirement for signing tourist attractions under the tourist-oriented directional signing program.
- Increase the required number of parking spaces from 10 to 30.
- Add several types of sites or attractions that qualify for attraction signing. These additions were developed by a joint effort between the Tourism Signing Committee established in Iowa Code section 321.252 and the Department, and included research of other states' programs. Seventeen different types of sites or attractions will be listed. Eight are currently listed.

Subrule 118.4(9) adds a new requirement for all types of services. To qualify for logo signing, a business must erect and maintain a legal on-premises sign at the site where the service is provided. Motorists need to be able to find the business.

Subrule 118.4(10) provides that the Department shall remove the business signs of a business that does not comply with program requirements. Subrule 118.5(6) provides that when fees are delinquent, the application of the affected business is terminated, and the delinquency is cause for removal of the affected business signs. Both subrules provide that the business must submit a new application to the Department in order to have its business signs reinstalled. The new application is subject to all the requirements of this chapter, including payment of the application fee and a drawing, if needed, to select applicants.

The revised rules provide that the Department may grant four types of exceptions, two of which are new, for the posting of business signs as follows:

- When a specific service sign designated for a particular type of motorist service exists and that sign is full, the Department may grant an exception to allow the placement of a business sign for that service type on a specific service sign designated for another service type.
- As discussed above, the maximum distance that a business may be located from the exit is normally three miles, but may be reduced to one mile in urban areas. If there is space for additional business signs on a mainline specific service sign for a particular type of motorist service and no businesses of that service type within the distance limit have expressed an interest in the space, the revised rules provide that the Department may grant a distance exception to a business which provides that motorist service and is located within 15 miles of the exit. The current rules provide a distance exception in three-mile increments, up to 15 miles.

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- To qualify for gas signing, a business must meet certain requirements. Card-operated fueling stations may be granted an exception from the requirements to provide oil and water, restroom facilities, drinking water, and a public telephone. These fueling stations must operate 24 hours per day, 7 days per week, and must be operable by motorists without membership.

- To qualify for food signing, a business must serve three meals per day. The revised rules retain the existing exception that may be granted to a business that serves only two meals per day.

Subrule 118.4(11) cross-references the individual types of exceptions that may be granted and describes the process for granting an exception. A business granted an exception is guaranteed a space on a specific service sign for at least five years if certain conditions are met.

Subrule 118.5(2) clarifies that drawings held to fill vacancies are limited to qualified businesses, unless no qualified businesses have applied, in which case the Department will consider businesses that would require an exception to qualify.

Subrule 118.5(4) adds a new requirement for a business that changes its name or franchise affiliation from that which appears on its business sign. A new application is required, but the business will retain its spot on the specific service sign and no application fee is due if the application is received by the Department prior to the change on the business premises.

A new requirement in subrule 118.5(5) is a flat, one-time application fee of \$100. The application fee is nonrefundable once the Department has performed an on-site review to verify compliance with the requirements of these rules. This new requirement is similar to the existing requirement for the issuance of outdoor advertising permits. The application fee replaces the current initial fee of \$50 for each business sign to be posted (mainline, ramp and trailblazing), which is due upon approval of the application for logo signing.

Subrule 118.5(5) also reflects a revised procedure for payment of annual logo fees. An annual fee will be due once a year, on or before July 1, and will consist of \$230 per year for each mainline business sign posted and \$230 per year for each ramp business sign posted. No fee will be due for a trailblazing business sign posted. The revision also provides for proration of the annual fee for business signs installed during the year. Currently, the fees are an annual fee of \$50 for each business sign posted (mainline, ramp and trailblazing), payable on or before July 1 of each year, plus a monthly fee of \$15 for each mainline business sign posted and \$15 for each ramp business sign posted. Most businesses currently pay the fees annually.

The amount paid per business in the first year of participation in the logo signing program may increase by an average of \$32.50, depending upon the number of business signs installed and the installation date. After the first year, the amount paid each year by a participating business will be the same as the amount currently paid or may be slightly less, because the Department will no longer charge an annual fee for trailblazing business signs posted.

The current rules allow camping services to be operated seasonally. The revised rules provide that food, lodging and attraction services may also be operated seasonally. Subrule 118.5(7) provides three fee options for seasonal operations, including two reduced-cost options.

New subrule 118.5(8) provides that in cases where the attachment of a business sign will require the installation of a new or larger specific service sign, an applicant that wishes to

have its business sign installed sooner than the estimated date of installation as performed by the department's contractor may request the department to erect a temporary specific service sign. The new subrule also specifies the fees that will be charged for erection of the temporary sign.

Rules 761—118.6(306C) and 761—118.7(306C) are revised to split the specifications for business signs between those for the sign blank and those for the sign face, to add some detail, and to delete provisions that have already been addressed in the chapter. Three other changes include:

- Businesses shall submit a proposed sign design to the Department for approval before proceeding with fabrication. This will reduce the number of signs that fail to meet Department specifications.

- The letter height of sign legends is no longer mandatory but is recommended (and is subject to Department approval). This will allow more flexibility for longer business names.

- Supplemental messages for seasonal operations are allowed. This will eliminate the need to remove and reinstall business signs for seasonal businesses.

The Department currently assesses a \$50 service fee when it installs a business sign to replace an existing sign. Subrule 118.7(7) is amended to eliminate this service fee when the existing business sign has been damaged by vandalism, vehicle accidents or acts of God.

Rule 761—118.8(306C) is a new rule addressing optional RV symbols. These symbols are posted on mainline business signs to identify businesses that are designed to accommodate the on-site movement and parking of recreational vehicles. The Federal Highway Administration has given the Department the authority to use these symbols and has established the criteria for their use; the criteria are included in the new rule. The fee is \$15 per RV symbol if it is posted at the time the business sign is installed and \$50 per RV symbol if it is added to an existing business sign.

These amendments 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, Office of Policy and Legislative Services, 800 Lincoln Way, Ames, Iowa 50010; fax (515)239-1639; Internet E-mail address: julie.fitzgerald@dot.iowa.gov.

5. Be received by the Office of Policy and Legislative Services no later than September 4, 2007.

A meeting to hear requested oral presentations is scheduled for Thursday, September 6, 2007, at 1 p.m. in the Administration Building, First Floor South Conference Room, Department of Transportation, 800 Lincoln Way, Ames, Iowa.

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

The proposed amendments may have an impact on small business. A request for a regulatory analysis pursuant to

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Iowa Code section 17A.4A must be submitted to the Office of Policy and Legislative Services at the address listed in this Notice by September 17, 2007.

These amendments are intended to implement Iowa Code section 306C.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.

Proposed rule-making action:

Amend **761—Chapter 118** as follows:

CHAPTER 118
LOGO SIGNING

761—118.1(306C) Introduction. This chapter pertains to official signs that are located *Logo signing consists of individual business signs attached to specific service signs erected by the department* within the right-of-way of interstate and freeway-primary highways, and that give *The purpose of logo signing is to provide specific motorist service information of interest to the traveling public. The department shall control the erection and maintenance of these signs in accordance Logo signing shall comply with this chapter and the "Manual on Uniform Traffic Control Devices," as adopted in rule 761—130.1(321). The department shall perform all required installation, maintenance, removal and replacement of specific service signs and business signs within the right-of-way.*

761—118.2(306C) Definitions.

"Business sign" means a separate sign attached to a specific service sign; the business sign shows the name, symbol or trademark of a business that provides the type of motorist service identified on the specific service sign.

"General service sign" means an official guide sign that identifies general road user services such as gas, food, lodging and camping. This sign does not provide for the placement of business signs.

"Mainline" means the main-traveled way of an interstate or a freeway-primary highway.

"Motorist service" means one of the following five types of services: gas, food, lodging, camping or attraction.

"Qualified business" means a business that meets all requirements to participate in the logo signing program and meets all qualifications pertaining to a particular type of motorist service without the granting of an exception.

"Specific service sign" means an official guide sign that identifies one or more types of motorist services, provides directional information, and has spaces for the attachment of business signs to identify businesses providing those services.

"Trailblazing sign" means a sign erected on the road network accessed from an interchange that has logo signing; the sign directs motorists to a particular business signed on the mainline.

761—118.2(306C) 761—118.3(306C) Erection and location of specific service signs and placement of business signs.

118.2(1) 118.3(1) General.

a. The department shall erect specific service signs at rural interchanges if the requirements of this chapter are met and sufficient space is available. Specific service signs shall not be installed within suburban or urban areas, except where roadside development is rural in character. If sufficient space is not available for more than one specific service sign, the

department may install a general service sign in lieu of a specific service sign.

b. Specific service signs shall be erected at an interchange only when the motorist can conveniently reenter the interstate or freeway-primary highway and continue in the same direction of travel.

c. Specific service signs shall be located in a manner that takes advantage of the natural terrain and that has the least impact on the scenic environment.

118.2(2) 118.3(2) Mainline specific service signs and placement of business signs. Following are the requirements for mainline specific service signs erected in advance of an interchange, in a single direction of travel, and limitations regarding the number and types of business signs attached to these service signs.

a. A maximum of four mainline specific service signs shall be installed in advance of an interchange. One mainline specific service sign shall be provided on the interchange approach for each type of motorist service (gas, food, lodging, camping and tourist attractions) if qualified services are available and minimum spacing requirements can be met. However:

(1) When space is limited or where no more than three qualified motorist services desire signing for each of two types of motorist services, business signs for these services may be displayed on the same mainline specific service sign. A combination sign may display no more than three business signs for each service.

(2) A "TOURIST ATTRACTIONS" mainline specific service sign shall be installed only in lieu of or in combination with another service.

b. Mainline specific service signs shall be erected between the previous interchange and 800 feet in advance of the exit direction sign for the interchange from which the services are available. There shall also be at least 800-foot spacing between the signs. In the direction of traffic, the successive signs shall be those for "TOURIST ATTRACTIONS," "CAMPING," "LODGING," "FOOD," and "GAS," in that order. If the spacing limitations prohibit the erection of specific service signs for all five types of services, preference shall be given to available "GAS," "FOOD," "LODGING," "CAMPING," or "TOURIST ATTRACTIONS" services, in that order.

a. As spacing permits, a maximum of four mainline specific service signs may be erected in advance of an interchange from which motorist services are available.

b. The minimum spacing required between mainline specific service signs and between mainline specific service signs and other official guide or destination signs on the mainline is 800 feet.

c. If spacing limitations and the four-sign limit prohibit the erection of mainline specific service signs for the types of motorist services available, preference shall be given to available gas, food, lodging, camping or attraction services, in that order.

d. If services are displayed, the order of display of services in the direction of travel on successive mainline specific service signs is as follows: attraction, camping, lodging, food, and gas.

e. Each mainline specific service sign is limited to six business signs. This restriction applies regardless of whether the specific service sign displays a single type of motorist service or a combination of service types.

f. In general, only one type of motorist service should be displayed on each mainline specific service sign. However,

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the department may combine service types on one sign for a reason such as, but not limited to, the following:

(1) There is limited space available on the mainline for specific service signs.

(2) There is limited interest from qualified businesses or limited availability of motorist services at the interchange.

(3) There is an imbalance of qualified businesses between service types.

g. The requirements for mainline specific service signs that display a combination of motorist services are as follows:

(1) Each combination sign is limited to six business signs.

(2) No more than three types of motorist services shall be represented on any combination sign.

(3) For a combination sign displaying three types of motorist services, the number of business signs for each service type is limited to two.

(4) For a combination sign that will accommodate at least four business signs, each type of motorist service displayed on the sign must have at least two positions designated for that service type.

h. Either preference or equal representation shall be given for higher priority service types, as set out in paragraph "c" of this subrule, depending upon the motorist services available at the interchange, the interest expressed by qualified businesses in the logo signing program, and the anticipated future development of the area near the interchange.

i. In a single direction of travel, the total number of business signs displayed for a single type of motorist service is limited to 12, and no more than two mainline specific service signs shall display business signs for a single service type.

j. The department shall designate each mainline specific service sign for a particular type of motorist service, although the service sign may, in use, be displaying more than one service type, subject to paragraph "h" of this subrule. When a specific service sign designated for a particular service type exists and that sign is full, the department may grant an exception, in accordance with subrule 118.4(11), to allow the placement of a business sign for that service type on a specific service sign designated for another service type.

~~118.2(3)~~ **118.3(3)** Ramp specific service signs and placement of business signs.

a. On a single-exit interchange, the department shall erect a ramp specific service sign if businesses for that type of motorist service are signed on the corresponding mainline specific service sign and one or more of these businesses or their on-premises signing is either not visible from the mainline or is not visible from the ramp at or before the point where a motorist needs to make a lane decision or turning decision. However:

(1) The department shall not erect ramp specific service signs if ramp design or spacing limitations prohibit the erection of these signs.

(2) The department may erect a general service sign on the ramp for the appropriate service type in lieu of a ramp specific service sign.

(3) If all services represented by business signs on the mainline specific service signs are located the same direction from the interchange, the department may erect a general service sign on the ramp in lieu of ramp specific service signs.

b. If conditions permit, the successive panels along the ramp in the direction of traffic shall be those for "TOURIST ATTRACTIONS," "CAMPING," "LODGING," "FOOD," and "GAS," in that order. If conditions require sign installation other than successive signs along the ramp, preference

shall be given to "GAS," "FOOD," "LODGING," "CAMPING," or "TOURIST ATTRACTIONS," in that order. The number of ramp specific service signs that may be erected, the order of preference when space for ramp signs is limited, and the order in which motorist services are displayed on successive ramp signs are the same as the requirements for mainline specific service signs. Also, each ramp specific service sign is limited to six business signs.

c. Ramp specific service signs shall not be erected on double-exit interchanges.

d. If a business sign for a motorist service is displayed on a mainline specific service sign, the department has erected a ramp specific service sign for that service type, and the department has determined that the business or its on-premises signing is either not visible from the mainline or is not visible from the ramp at or before the point where a motorist needs to make a lane decision or turning decision, then a ramp business sign corresponding to the mainline business sign is required.

e. A ramp business sign is allowed only if it has a corresponding business sign displayed on a mainline specific service sign.

~~118.2(4)~~ **118.3(4)** Trailblazing signs.

a. Trailblazing signs are small signs similar to ramp signs. They are erected on the road network accessed by way of a logo signed interchange to direct motorists to a particular business installation, if the business is not located along the intersecting roadway required for a business that has a business sign displayed on a mainline specific service sign when the business is neither located on nor is visible from the road that intersects the mainline at the logo-signed interchange.

b. Trailblazing signs are used only on non-fully controlled access highways and are installed only for businesses that have business signs displayed on mainline specific service signs. They are installed only for business installations which are signed on the mainline.

c. The department shall install trailblazing signs on routes under its jurisdiction and shall make signs available for local jurisdictions to place on routes within their jurisdictions. The department shall install mainline, ramp and trailblazing signs under its jurisdiction only after the local jurisdiction has placed the required trailblazing signs on local routes. If a local jurisdiction declines to install required trailblazing signs within its jurisdiction, the business does not qualify for logo signing.

d. The department may approve the use of an official traffic control device that is placed by the department or a local jurisdiction on the public right-of-way in compliance with the "Manual on Uniform Traffic Control Devices" as a substitute for a trailblazing sign.

e. If site or other conditions do not permit the erection of a trailblazing sign, the department may approve the use of an off-premises advertising device as a substitute for a trailblazing sign if the advertising device complies, as applicable, with 761—Chapter 117 (including permit requirements) and any local regulations; the device is legible and understandable; and the device is placed along the route in advance of the intersection where the trailblazing sign would have been placed.

f. No more than two trailblazing signs shall be erected or approved substitutes are allowed for a business. If the department determines that more than two trailblazing signs are required or approved substitutes would be needed to guide motorists to the business, the business does not qualify for logo signing at the interchange. Also, if the department

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determines that one or two trailblazing signs or approved substitutes are required and conditions do not permit the erection of the required trailblazing signs or approved substitutes, the business does not qualify for logo signing at the interchange.

761—118.3(306C) Placement of business signs on specific service signs.

118.3(1) Mainline specific service signs. A "GAS," "FOOD," "LODGING," "CAMPING," or "TOURIST ATTRACTIONS" mainline specific service sign shall display a maximum of six individual business signs.

118.3(2) Ramp specific service signs. A "GAS," "FOOD," "LODGING," "CAMPING," or "TOURIST ATTRACTIONS" ramp specific service sign shall display a maximum of six individual business signs.

761—118.4(306C) Eligibility for placement of business signs on mainline specific service signs. To qualify for placement of a business sign on a mainline specific service sign, the individual business installation must meet the following requirements:

118.4(1) Written assurance. The individual business installation whose name, symbol, or trademark is to appear on a business sign shall give the department written assurance of its conformity with all applicable laws concerning the provision of public accommodations without regard to race, religion, color, age, sex or national origin, and shall not be in continuing breach of that assurance.

118.4(2) Maximum distance from exit.

a. *Three-mile limit of eligibility.* The maximum distance that the "GAS," "FOOD," "LODGING," "CAMPING," or "TOURIST ATTRACTIONS" services a business may be located from the main traveled way exit to qualify for a business sign shall not exceed three miles in either direction; however, if within the three-mile limit services of the type being considered are not available, the limit of eligibility may be extended in three-mile increments until services of the type being considered, or 15 miles, is reached. The distance shall be measured from the beginning of the exit ramp widening for the deceleration ramp at the exit to the entrance of the business.

b. *Limit of eligibility reduced to one mile.* In urban areas where the number of qualifying applicants qualified businesses for any a particular type of motorist service exceeds eight six within the three-mile limit, the department may reduce the maximum travel distance to one mile for that service type.

c. *Exceptions.* If there is space for additional business signs on a mainline specific service sign for a particular type of motorist service and no businesses which provide that motorist service within the limit of eligibility have expressed an interest to the department in the space, the department may grant a distance exception, in accordance with subrule 118.4(11), to a business which provides that motorist service and is located within 15 miles of the exit.

118.4(3) Gas.

a. *Qualifications.* To qualify for placement of a business sign on a "GAS" gas specific service sign, the individual business installation must:

a. (1) Be appropriately licensed as required by law.

b. (2) Provide vehicle services such as fuel including gasoline, oil, and water.

c. (3) Provide free air for tire inflation.

d. (4) Provide rest room restroom facilities and drinking water.

e. (5) Operate year-round at least 12 continuous hours per day, 7 days a per week.

f. (6) Provide a public telephone.

b. *Exceptions.* Card-operated fueling stations may be granted an exception, in accordance with subrule 118.4(11), from the requirements to provide oil and water, restroom facilities, drinking water, and a public telephone. These fueling stations must operate 24 hours per day, 7 days per week, and must be operable by motorists without membership.

118.4(4) Food.

a. *Qualifications.* To qualify for placement of a business sign on a "FOOD" food specific service sign, the individual business installation must:

a. (1) Be appropriately licensed as required by law, including a state food service establishment license, except for a food service operated on Indian lands.

b. (2) Operate year-round a minimum of six days a per week, and serve three meals a per day: (breakfast, lunch, and dinner). In situations where a vacant space is available and no fully qualifying businesses have applied, the department may grant an exception to the three-meal-a-day requirement. A business signed under this procedure shall be bumped by a fully qualifying business applicant after the business has had five years to amortize the cost of its signs. If there are more businesses qualifying for this exception than spaces available, a drawing shall be held as provided in subrule 118.5(4).

1. At a minimum, breakfast shall be served from 10 a.m. to 11 a.m. and shall consist of eggs, bacon, ham, sausage, pancakes, cereal, fruit or rolls, or combinations thereof. Hamburgers, hot dogs, pizza, burritos, or other foods not commonly associated with breakfast menus do not meet the breakfast requirement.

2. At a minimum, lunch shall be served from 11 a.m. to 1 p.m.

3. At a minimum, dinner shall be served from 5 p.m. to 7 p.m.

e. (3) Provide a public telephone.

(4) Have its own employees, seating, menu and cash register for the food service. The business sign must identify the entity providing the food service.

b. *Exceptions.* A business that serves only two meals per day may be granted an exception, in accordance with subrule 118.4(11), from the requirement to serve three meals per day.

c. *Seasonal operations.* Food service may be operated seasonally. See subrule 118.5(7) for the fee options for seasonal operations.

118.4(5) Lodging.

a. *Qualifications.* To qualify for placement of a business sign on a "LODGING" lodging specific service sign, the individual business installation must:

a. (1) Be appropriately licensed as required by law.

b. (2) Provide adequate sleeping accommodations consisting of a minimum of ten units each. Each unit must have a bathroom and a sleeping room. EXCEPTION: A However, a bed and breakfast establishment is not required to have more than two guestrooms or provide separate bathroom facilities for each room.

c. (3) Provide a public telephone.

b. *Seasonal operations.* Lodging service may be operated seasonally. See subrule 118.5(7) for the fee options for seasonal operations.

118.4(6) Camping.

a. *Qualifications.* To qualify for placement of a business sign on a "CAMPING" camping specific service sign, the individual business installation must:

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a. (1) Meet applicable state and local standards for health and sanitation.

(2) Have a minimum of 20 spaces for camping or parking of camping vehicles.

(3) When in operation, be available to the public 24 hours per day.

b. ~~Agree to the removal or masking of the business sign by the department during off-seasons, if operated on a seasonal basis.~~

e. (4) Provide a public telephone.

b. *Seasonal operations.* Camping service may be operated seasonally. See subrule 118.5(7) for the fee options for seasonal operations.

118.4(7) Tourist attractions Attraction.

a. *Qualifications.* To qualify for placement of a business sign on a "TOURIST ATTRACTION" an attraction specific service sign, the individual site or attraction must:

a. ~~Be an activity or location that is nationally or regionally known and is one or more of the following:~~

(1) Natural phenomena.

(2) Historic site.

(3) Cultural site.

(4) Scientific site.

(5) Educational site.

(6) Religious site.

(7) Area of natural beauty.

(8) Area naturally suited for outdoor recreation.

b. ~~Maintain regular hours for that type of establishment.~~

e. (1) Be appropriately licensed as required by law.

(2) Be a site or attraction listed in paragraph "c" of this subrule.

(3) Be of significant interest to the traveling public.

(4) Be nationally or regionally known through a marketing or advertising plan or media articles and exposure.

(5) Maintain normal business hours at least five days per week, totaling at least 40 hours per week. Racetracks are exempted from this requirement.

(6) Have adequate parking accommodations, with a minimum of 30 parking spaces.

d. (7) Have restroom facilities available for use by the traveling public.

(8) Be approved by the tourist signing committee; see subrule 118.5(3).

e. ~~Have drinking water available for the traveling public.~~

f. ~~Have an on-premises or nearby public telephone available for use by the traveling public.~~

g. ~~Have adequate parking to accommodate its traffic with a minimum of ten spaces.~~

b. *Seasonal operations.* The site or attraction may be operated seasonally. See subrule 118.5(7) for the fee options for seasonal operations.

c. *Types of qualifying sites or attractions.* The site or attraction must be one of the following:

(1) Area of natural beauty or phenomena.

(2) Historic site.

(3) Cultural site or museum.

(4) Scientific site.

(5) Four-year accredited college or university.

(6) Religious site.

(7) Area of outdoor recreation.

(8) Winery, with on-site production, tours, gift shop, and tasting room.

(9) Amusement park.

(10) Botanical park or zoological facility.

(11) Casino.

(12) Racetrack for horses, dogs, or motorized vehicles.

(13) Antique mall with at least 20,000 square feet devoted to retail sales.

(14) Area containing eight or more antique shops within a three-block radius.

(15) Shopping mall or retail outlet with a minimum, active store count of 50, excluding kiosks and temporary booths within the common areas, and including only those stores that occupy owned or leased areas whose boundaries are defined by permanent walls with doors or gates.

(16) Sporting goods store or recreational retail outlet with at least 100,000 square feet devoted to retail sales.

(17) Cultural and entertainment district as officially designated by the department of cultural affairs, provided that the local jurisdiction implements a signing plan to direct motorists to the various cultural and entertainment sites within the district.

118.4(8) Compliance with Iowa Code sections 306C.11 and 306C.13. The individual business installation must be in compliance with Iowa Code sections 306C.11 and 306C.13. If an advertising device which serves a the business is erected or maintained in violation of either of these sections, that business shall be disqualified from obtaining or maintaining a business sign upon any specific service sign.

118.4(9) On-premises sign required. The business must erect and maintain a legal on-premises sign at the site where the service is provided. The sign must be visible to motorists at the entrance to the business premises.

118.4(10) Noncompliance. The department shall remove and dispose of a mainline business sign and the corresponding ramp and trailblazing business signs of a business that does not meet or no longer meets the requirements of this chapter. In order to have its businesses signs reinstalled, the business must submit a new application to the department. The new application is subject to all the requirements of this chapter, including payment of the application fee and a drawing, if needed, to select applicants.

118.4(11) Granting of exceptions.

a. The department may grant an exception and approve the placement of a business sign on a mainline specific service sign for the following:

(1) When a specific service sign designated for a particular type of motorist service exists and that sign is full, placement of a business sign for that service type on a specific service sign designated for another service type. See paragraph 118.3(2)"j."

(2) Maximum distance from the exit. See paragraph 118.4(2)"c."

(3) Card-operated fueling stations. See paragraph 118.4(3)"b."

(4) Number of meals served. See paragraph 118.4(4)"b."

b. If there is available space on a specific service sign and no application has been received by the department from a qualified business for that space, the department may allow an applicant to submit to the department for review a signed Exception Acknowledgement form along with a logo signing application.

c. The acknowledgement form states that if the department grants the exception and approves the application, the business is guaranteed a space on the specific service sign for at least five years if:

(1) The business pays the required fees in a timely manner;

(2) The business complies with all program requirements unrelated to the exception granted; and

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(3) *The department continues to maintain the specific service sign to which the business sign is attached.*

d. *After the five-year period has expired and at the end of the fiscal year, the department may remove the business sign from the specific service sign if:*

(1) *An exception was granted for maximum distance from the exit, number of meals served or a card-operated fueling station; an application has been received from a qualified business providing the same type of motorist service as the business granted the exception; and space is not available on that specific service sign.*

(2) *An exception was granted for the situation described in subparagraph 118.4(11)“a”(1); an application has been received from a qualified business for the service type designated for the specific service sign; and space is not available on that service sign.*

761—118.5(306C) Application, drawing, and fees.**118.5(1) Application.**

a. *An individual A business installation requesting placement of a business sign upon a mainline specific service sign shall submit a completed application form, provided by the department, along with the application fee, to the Advertising Management Section, Office of Traffic and Safety, Iowa Department of Transportation, 800 Lincoln Way, Ames, Iowa 50010.*

b. *If the business installation or its on-premises signing is not visible from the mainline and a ramp specific service sign has been erected, a ramp business sign is required. If the business installation is not located along the intersecting roadway, trailblazing signs are required. A separate application is not needed for a the corresponding ramp business sign or trailblazing business signs. The department will advise the applicant what signs are required once the department approves the application.*

c. *Once the application is approved and the department has determined what business signs are required, the applicant shall remit the required fees and furnish the department with business sign(s) signs meeting department specifications.*

d. *Ramp business signs and trailblazing signs shall not be erected until the application for mainline signing is approved. Ramp business signs and trailblazing signs are allowed only for business installations that are signed on the mainline.*

d. *Approved applications are valid for the fiscal year (July 1 to June 30) or portion thereof and expire on June 30. If the fees, as billed by the department, are paid by the business in accordance with subrule 118.5(5), the application is renewed on July 1.*

118.5(2) Drawing to select applicants. *If the number of applicants who are qualified businesses is greater than the number of vacant spaces on a mainline specific service sign, the department shall hold a drawing among these applicants to select the applicants to fill the vacant spaces. If no qualified businesses have applied for the vacant spaces, the department shall consider applicants that would qualify if exceptions were granted. If the number of these applicants is greater than the number of vacant spaces, the department shall hold a drawing among these applicants to select the applicants to fill the vacant spaces.*

118.5(2) 118.5(3) Applications for tourist attraction signing. *The department shall submit applications from tourist attractions for attraction signing to the tourist signing committee. The tourist signing committee will determine whether the applications meet the qualifications of a tourist for an*

attraction under the logo signing program. The composition of the committee is set out in 761—subrule 119.5(3).

118.5(4) New application required for business name change. *If a business participating in the logo signing program changes its name or franchise affiliation from that which appears on its business sign, a new application is required. If the new application is received by the department prior to the change on the business premises, the business will retain its position on the specific service sign, the department will approve the application, and no application fee is due.*

118.5(3) 118.5(5) Fees. *The individual business installation shall pay to the department an annual fee of \$50 plus \$15 per month for each business sign supplied for posting. The monthly fee shall be due on or before the first day of each month or payable quarterly with installments due on or before July 1, October 1, January 1, and April 1 of each year. The annual fee shall be due upon approval of the application, and on or before July 1 of each year thereafter. Failure to submit fees by these dates shall be cause for removal and disposition of the affected business sign(s) by the department. A business is required to pay the following fees to the department for participation in the logo signing program.*

a. *Application fee. For a new application, the application fee is \$100, except that no application fee is required for an application submitted in accordance with subrule 118.5(4) (business name change). The application fee is a one-time fee and is nonrefundable once the department has performed an on-site review to verify compliance with the requirements of this chapter. The application fee shall be submitted with the application.*

b. *Annual fee. The annual fee is \$230 for each business sign posted on a mainline specific service sign and \$230 for each business sign posted on a ramp specific service sign and is due on or before July 1 of each fiscal year (July 1 to June 30). However, for a new application, the department shall prorate the annual fee for the portion of the fiscal year that the business signs are installed and, following installation of the signs, shall invoice the business for the prorated annual fee; the fee is due within 30 days.*

c. *Service fee. The department may install replacement business signs at the request of the business and shall assess a \$50 service fee per business sign installed. The department shall also assess a \$50 service fee to install a renovated or new business sign that replaces a misleading, unsightly, badly faded or dilapidated sign, as specified in subrule 118.7(5). The department shall invoice the business once installation is complete; the service fee is due within 30 days.*

d. *RV symbol fee. See rule 761—118.8(306C).*

118.5(4) Drawing to allocate space. *If the number of qualified applicants is greater than the number of available spaces on a mainline specific service sign, the department shall hold a drawing among the qualified applicants to select the applicants who will fill any vacant spaces.*

118.5(6) Failure to pay annual fee or service fee. *Failure to pay the annual fee or service fee when due shall terminate the business's existing application on file with the department and shall be cause for removal and disposition of the affected business signs by the department. Termination of the application shall occur on the day of delinquency without respect to the date the department removes the business signs. In order to have its business signs reinstalled, the business must submit a new application to the department. The new application is subject to all of the requirements of this chapter, including payment of the application fee and a drawing, if needed, to select applicants.*

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118.5(7) *Fee options for seasonal operations.* Subject to subrule 118.5(5), a business that operates on a seasonal basis and is permitted to do so by this chapter has the following payment options:

a. Pay the annual fee for a full year. The department shall remove and reinstall each business sign once each year, free of additional charge, coinciding with the dates of operation, if possible.

b. Pay the annual fee for a prorated year, based on the calendar months in which the business is in operation, plus a \$50 annual service fee per business sign for removal and reinstallation services performed. The department shall remove and reinstall each business sign once each year, coinciding with the dates of operation, if possible.

c. Pay the annual fee for a prorated year, based on the calendar months in which the business is in operation, and provide mainline business signs that contain a supplemental message indicating the dates of operation. Ramp business signs, if required, may contain a supplemental message indicating the dates of operation. The supplemental message must comply with subrule 118.7(4).

118.5(8) *Fees for temporary specific service signs.* In cases where the attachment of a business sign will require the installation of a new or larger specific service sign, an applicant that wishes to have its business sign installed sooner than the estimated date of installation as performed by the department's contractor may request the department to erect a temporary specific service sign. The time frame for erection of a temporary specific service sign will depend on the availability of department resources, but is typically one to three months. The applicant shall be charged a fee of \$700 per mainline specific service sign if none exists for that service type, \$400 per mainline specific service sign if the existing specific service sign is full, and \$300 per ramp specific service sign if a ramp business sign is required but cannot be accommodated on the existing ramp specific service sign. This is in addition to the fees specified in subrule 118.5(5). The applicant shall furnish the business sign to be attached to the temporary specific service sign. When the permanent specific service sign is erected, the department shall remove the business sign from the temporary specific service sign and reinstall it on the permanent specific service sign at no additional charge.

761—118.6(306C) **Business sign specifications.** A business sign shall be a blue sign with a white border and white legend, except that colors consistent with customary use should be used with nationally, regionally, or locally known symbols or trademarks. Reflectorization of business signs is optional, at the discretion of the applicant.

118.6(1) *Mainline business signs.* On mainline business signs, all letters in the principal legend shall be at least 10 inches high, whether capital or lowercase. However, when the symbol or trademark is used alone for the business sign, any legend on it shall be proportional to the size customarily used on the symbol or trademark. The symbol or trademark may also be modified to improve legibility. Supplemental information such as "open 24 hours," "diesel," or "mechanic on duty" may be added to the business sign with prior written approval by the department. This supplemental information shall be displayed using 6-inch letters.

a. A "GAS" mainline business sign shall be contained within a 48-inch wide and 36-inch high rectangular panel.

b. A "FOOD," "LODGING," "CAMPING" or "TOURIST ATTRACTIONS" mainline business sign shall be contained within a 60-inch wide and 36-inch high rectangular panel.

118.6(2) *Ramp business signs.* On ramp business signs, all letters in the principal legend shall be at least 4 inches high, whether capital or lowercase. However, when the symbol or trademark is used alone for the business sign, any legend on it shall be proportional to the size customarily used on the symbol or trademark. The symbol or trademark may also be modified to improve legibility.

a. A "GAS" ramp business sign shall be contained within a 24-inch wide and 16-inch high rectangular panel.

b. A "FOOD," "LODGING," "CAMPING" or "TOURIST ATTRACTIONS" ramp business sign shall be contained within a 36-inch wide and 16-inch high rectangular panel.

118.6(3) *Trailblazing business signs.* On trailblazing business signs, all letters in the principal legend shall be at least 4 inches high, whether capital or lowercase. However, when the symbol or trademark is used alone for the business sign, any legend on it shall be proportional to size customarily used on the symbol or trademark. The symbol or trademark may also be modified to improve legibility. All trailblazing business signs shall be contained within a 20-inch wide and 12-inch high rectangular panel.

761—118.6(306C) **Business sign blank specifications.** Business signs shall meet the following specifications for the sign blank and shall not be installed until they are inspected and approved by the department.

118.6(1) *Mainline business sign blank.* Mainline business signs shall be fabricated from a rectangular sheet of aluminum, between 0.074 inches and 0.125 inches thick, with 3-inch radius corners. Gas business signs shall be 48 inches wide and 36 inches high. Food, lodging, camping and attraction business signs shall be 60 inches wide and 36 inches high.

118.6(2) *Ramp business sign blank.* Ramp business signs shall be fabricated from a rectangular sheet of aluminum, between 0.074 inches and 0.125 inches thick, with 2-inch radius corners. Gas business signs shall be 24 inches wide and 16 inches high. Food, lodging, camping and attraction business signs shall be 36 inches wide and 16 inches high.

118.6(3) *Trailblazing business sign blank.* Trailblazing business signs shall be fabricated from a rectangular sheet of aluminum, between 0.074 inches and 0.125 inches thick, with 2-inch radius corners. All trailblazing signs shall be 20 inches wide and 12 inches high.

761—118.7(306C) **Installation, maintenance, removal and replacement of business signs** *Business sign face specifications.* Business signs shall meet the following specifications for the sign face and shall not be installed until they are inspected and approved by the department. Businesses shall submit a proposed sign design to the department for approval before proceeding with fabrication.

118.7(1) The department shall perform all required installation, maintenance, removal and replacement of business signs upon specific service signs within the right-of-way.

118.7(2) Ordinary initial installation and maintenance services shall be performed by the department during the month of July upon payment of the annual renewal fee.

118.7(3) The department may perform additional requested services in connection with modification of a business sign upon payment of a \$50 service charge. Any required new or renovated business sign shall be provided by the applicant.

118.7(4) The department shall remove and dispose of a business sign if the applicant fails to pay the required fees or if the applicant or business sign violates any provision of these rules.

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118.7(1) Design layout. A legend layout or a logo layout, but not both, shall be used for the design of the sign's message.

a. **Legend layout.** A legend layout shall reflect the name of the business in white letters on a blue background. Recommended letter height is 10 inches on a mainline business sign, 4 inches on a ramp business sign, and 3 inches on a trailblazing business sign. The recommended number of text lines is one or two. Reducing the letter height or adding a third text line will reduce the legibility of the message.

b. **Logo layout.** A logo layout shall reflect the nationally, regionally, or locally known symbol or trademark of the business, using colors consistent with customary use of the symbol or trademark and resembling the business's on-premises sign. The symbol or trademark may be modified to improve legibility.

118.7(2) Borders. Mainline business signs shall have a white $\frac{3}{4}$ -inch border on the outside edge of the sign. Ramp business signs shall have a white $\frac{1}{2}$ -inch border on the outside edge of the sign. Trailblazing business signs shall have a white $\frac{1}{2}$ -inch border on the outside edge of the sign. If a logo layout has a white background, no border is required. No inset border is allowed on legend layouts, and no inset border is allowed on logo layouts unless it is customary usage for the symbol or trademark.

118.7(3) Reflectorization. Reflectorization of business signs is optional, at the discretion of the applicant.

118.7(4) Supplemental messages.

a. With department approval, supplemental messages such as "OPEN 24 HRS," "DIESEL," "E-85," "MECHANIC ON DUTY," "24 HR TOWING," or the dates of operation for seasonal operations may be displayed on mainline business signs provided the letter height is at least 6 inches. Approval shall be limited to essential motorist information and does not extend to messages such as, but not limited to, "INDOOR POOL," "CAR WASH" or "PLAY AREA."

b. With departmental approval, supplemental messages indicating the dates of operation for seasonal operations may be displayed on ramp business signs provided the letter height is at least 2 inches.

118.7(5) Misleading or dilapidated signs. No business sign shall be displayed which if it would mislead or misinform the traveling public, or which if it is unsightly, badly faded, or dilapidated. The department may remove, replace, or mask business signs which that violate these provisions. The department shall require a business to provide a renovated or new business sign to replace a misleading, unsightly, badly faded or dilapidated sign and shall assess a \$50 service fee to install the renovated or new sign.

118.7(6) Signs that interfere with or imitate official signs. Messages, trademarks, or brand symbols which that interfere with, imitate, or resemble any official warning or regulatory traffic sign, signal or device are prohibited.

118.7(7) Damaged signs. The department shall is not be responsible for damages to business signs caused by vandalism, or natural causes vehicle accidents or acts of God. If a business sign is so damaged and it requires repair or replacement, the applicant business shall provide a renovated or new business sign along with payment of a \$50 service charge to the department for replacement of the damaged business sign. If a specific service sign is damaged beyond repair, the department shall erect a temporary specific service sign to accommodate the reattachment of the affected business signs.

761—118.8(306C) Tourist attraction signing. Tourist attractions may be signed if allowed by the "Manual on Uni-

form Traffic Control Devices" or approved by the Federal Highway Administration.

761—118.8(306C) RV symbol. An RV symbol is a 12-inch diameter thin aluminum plaque with the letters "RV" in black on a yellow reflective background. It is intended to inform motorists that a business participating in the logo signing program is designed to accommodate the on-site movement and parking of recreational vehicles. RV symbols are optional and are posted on mainline business signs only; to qualify, the business must meet the requirements for posting and pay the required fee.

118.8(1) Requirements for posting an RV symbol.

a. Roadway access and egress must be hard surface, free of potholes and at least 12 feet wide with a minimum swing radius of 50 feet to enter and exit the facility.

b. Roadway access, egress, and parking facilities must be free of any electrical wires, tree branches or other obstructions up to 14 feet above the surface.

c. Facilities requiring short-term parking, such as restaurants or attractions, are required to have two or more spaces that are at least 12 feet wide and 65 feet long with a minimum swing radius of 50 feet to enter and exit the spaces.

d. Fueling facilities with canopies are required to have a 14-foot clearance, and those selling diesel fuel are required to have pumps with noncommercial nozzles.

e. Fueling facilities must allow for pull-through with a minimum swing radius of 50 feet.

f. Campgrounds must have two or more spaces that are at least 18 feet wide and 45 feet long.

g. The business must post directional signing on its site as needed, in conformance with 761—Chapter 117, to on-site RV-friendly parking spaces and other RV-friendly services, so that the motorist is given additional guidance upon leaving the public highway and entering the business's property.

h. The business must certify in writing on a form prescribed by the department that it meets the requirements for the RV symbol, and that it will continue to meet those requirements as long as the RV symbol is posted on its business sign.

118.8(2) Fee. The fee is \$15 per RV symbol if the symbol is posted at the time the business sign is installed. The fee to add an RV symbol to an existing business sign is \$50 per RV symbol.

These rules are intended to implement Iowa Code section 306C.11.

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**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 400, "Vehicle Registration and Certificate of Title," Chapter 401, "Special Registration Plates," Chapter 405, "Salvage," Chapter 411, "Persons with Disabilities Parking Permits," Chapter 424, "Transporter Plates," Chapter 425, "Motor Vehicle and Travel Trailer Dealers, Manufacturers, Distributors and Wholesalers," Chapter 430, "Motor Vehicle Leasing Licenses,"

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Chapter 431, "Vehicle Recyclers," Chapter 451, "Emergency Vehicle Permits," and Chapter 480, "Abandoned Vehicles," and to rescind Chapter 421, "Manufactured or Mobile Home Retailers, Manufacturers and Distributors," Iowa Administrative Code.

The purpose of this rule making is to amend the rules to conform to recent legislation and the Iowa Code, to streamline procedures where appropriate, to remove form numbers and use more generic descriptions of forms, to correct or delete outdated language, to clarify rules where needed, and to generally clean up the rules. Following are descriptions of amendments that may need further explanation:

2006 Iowa Acts, chapter 1068, section 6, amends the definition of motorized bicycle to remove the reference to engine displacement. A definition in rule 761—400.1(321) is amended to reflect this change.

Subrule 400.3(3) is amended to provide that a firm, association, corporation or trust which is not required to have a federal employer identification number shall disclose the social security number, Iowa driver's license number or Iowa non-operator's identification card number of an authorized representative when applying for certificate of title or registration. This provides an alternative for organizations that are not required to have federal employer identification numbers.

Iowa Code section 321.23A requires the Department to adopt rules on affidavits of correction. New subrule 400.3(15) implements this rule-making requirement.

Subrule 400.4(2) is amended to provide that when a vehicle is not subject to titling provisions, the last issued registration receipt or bill of sale, properly assigned to the applicant, shall be submitted with the application for registration. The bill of sale language is new, but accepting a bill of sale is current practice.

New subrule 400.4(9) and amended subrule 400.14(3) provide that applications and transfers involving a trust shall be accompanied by a copy of all documents creating or otherwise affecting the trust and shall be signed by each trustee unless otherwise specified in the trust agreement. This is current practice.

Subrule 400.7(11) is amended to establish a procedure for updating a title or registration when the name of the vehicle owner changes.

Subrule 400.10(3) regarding assignment of security interest is amended to conform to Iowa Code section 321.50.

Rule 761—400.15(321) is amended to add an explanation of what action the Department will take after a title has been canceled.

Subrules 400.27(3) and 400.27(4) regarding vehicles held for resale or trade by dealers are amended to require a new title when a vehicle is assigned to a dealer using an affidavit of foreclosure form and to require a new title and payment of registration fees when a dealer's license is revoked or surrendered in lieu of revocation. Both reflect current practice.

Rule 761—400.34(321) currently allows a multipurpose vehicle to be registered as a motor truck if the owner certifies that the vehicle is not equipped with rear seats, and provides that a vehicle so registered shall not be operated on the highway when it is equipped with a rear seat. This rule is rescinded; the Department believes it is unenforceable.

Iowa Code section 321.134 requires the Department to adopt rules regarding waiver of registration penalties for an owner who is in the military service of the United States and who has been relocated as a result of being placed on active duty on or after September 11, 2001. New subrule 400.44(6) implements this rule-making requirement; it requires the

owner to provide a copy of an official government document verifying the military service.

Subrule 400.50(1) regarding refunds of registration fees is amended to conform to Iowa Code section 321.126, including amendments made to Iowa Code section 321.126 by 2005 Iowa Acts, chapter 133, 2006 Iowa Acts, chapter 1068, and 2006 Iowa Acts, chapter 1070. Also, when the current plates must be surrendered with the claim for refund and one or both plates have been lost or stolen, subrule 400.50(1) currently requires the claimant to purchase duplicate plates. Subrule 400.50(1) is amended to remove this requirement; instead, if one or both plates have been lost or stolen, the claimant shall certify this fact in writing.

Subrule 400.53(1) is amended to allow validation stickers for natural resources plates to be affixed to the lower right corner of the rear plate, rather than the lower left corner. Affixing the sticker to the lower left corner may cover up the image on the plate.

2006 Iowa Acts, chapter 1068, section 13, provides that a lessee who purchases a leased vehicle has 30 days, rather than 15 days, to request assignment of the vehicle's fee credit and plates. Subrule 400.60(4) is amended to reflect this change.

Rule 761—400.63(321) is amended to strike obsolete language regarding issuing registration plates in sequence. Assignment of plates is automated.

Rule 761—400.71(321) regarding lemon buy-back designations is rescinded. Provisions regarding lemon buy-back designations are being moved to 761—Chapter 405.

Subrule 401.2(2) regarding issuance of special registration plates is amended to add a new sentence that clarifies what is required if the 90-day deadline for assignment of special plates to a vehicle is not met, to delete a requirement that the lessee provide a copy of the lease agreement when applying for special plates for a leased vehicle, and to delete a provision regarding multipurpose vehicles and motor homes that unnecessarily repeats the Iowa Code.

Subrule 401.6(2), paragraph "d," lists the reasons the Department will not issue certain combinations of characters on personalized plates. This list is updated to address issues that have arisen in hearings on personalized plates.

2007 Iowa Acts, House File 749, section 2, amends Iowa Code section 321.34, subsection 8, which pertains to Congressional Medal of Honor plates, by striking the word "Congressional." Rule 761—401.8(321) is amended to reflect this change.

Subrule 401.13(2) is amended to clarify that a disabled veteran is eligible for disabled veteran plates even if the U.S. government only partially covers the cost of the vehicle provided to the veteran.

761—Chapter 405, "Salvage," is amended to:

- Implement 2006 Iowa Acts, chapter 1068, section 14, which amends the definition of "wrecked or salvage vehicle" to remove the exemption for motor vehicles having a gross vehicle weight rating of less than 30,000 pounds, and adds a provision stating that a motor vehicle with a gross vehicle weight rating of 30,000 pounds or more is not required to have a salvage theft examination certificate to convert a salvage title to a regular title.

- Implement 2006 Iowa Acts, chapter 1120, section 12, which allows new motor vehicle dealers and authorized vehicle recyclers to reassign Iowa salvage titles, and 2007 Iowa Acts, House File 793, section 10, which allows new motor vehicle dealers and authorized vehicle recyclers to reassign foreign salvage titles.

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- Remove references to obsolete designations on titles and registrations; add the designation for “damage over 50 percent,” which is required by Iowa Code section 321.69; add the “lemon buy-back” designation, which was formerly addressed in 761—Chapter 400; establish the order of precedence of various designations; and make it clear that designations will be carried forward when title is transferred.

2006 Iowa Acts, chapter 1090, shifts the responsibility for licensing manufactured and mobile home retailers, manufacturers and distributors from the Department to the State Building Code Commissioner. 761—Chapter 421, which pertains to the Department’s licensing of these entities, is therefore rescinded.

761—Chapter 424, “Transporter Plates,” is amended to:

- Clarify that only transporters located in this state may be issued transporter plates.
- No longer require an applicant to include a permit or certificate number on its application but instead require the applicant to certify that it has proper operating authority to conduct business as a transporter.
- List the ownership information that transporters must provide. Similar language is being added to other business licensing rules (761—Chapters 425, 430 and 431). The computer licensing system uses the same customer record as the vehicle registration and titling system. The Department collects consistent information from applicants.

761—Chapter 425, “Motor Vehicle and Travel Trailer Dealers, Manufacturers, Distributors and Wholesalers,” other than the rule on dealer plates, which is discussed separately, is amended to:

- Remove references to the licensing of used vehicle wholesalers, including the rescission of rule 761—425.52(322). 2006 Iowa Acts, chapter 1068, sections 36 and 37, eliminated the Department’s licensing of used vehicle wholesalers.
- Clarify that a dealer must staff its designated location during regular business hours.
- List the ownership information that dealers must provide and comply with 2007 Iowa Acts, House File 793, section 22.
- Clarify that a dealer’s required telephone service must be a land line and not cellular phone service.
- Require extension lots to be owned or leased by the dealer. This change will allow the Department to suspend or revoke a dealer’s license if the dealer displays vehicles on property without the permission of the property owner. Currently, the Department is unable to take any enforcement action in such situations.
- Strike language which limits fair, show or exhibition permits to 14 days. 2006 Iowa Acts, chapter 1068, sections 35 and 39, allow the Department to issue consecutive 14-day permits.

- Rescind subrule 425.26(7), pertaining to the granting of a special limited permit for the display of motor homes or travel trailers at a convention sponsored by an established national association. The subrule has not been used for several years.

Rule 761—425.70(321) regarding dealer plates is amended to:

- Strike a paragraph which allows licensed manufactured or mobile home dealers to be issued dealer plates. Under 2006 Iowa Acts, chapter 1090, sections 18 and 19, manufactured or mobile home retailers are no longer eligible for dealer plates.
- Eliminate references to dealer plates that display the word “trailer.” Dealer plates displaying the word “trailer” will be discontinued.

- Add a paragraph regarding the issuance of dealer plates to licensed manufacturers of ambulances, rescue vehicles or fire vehicles. 2007 Iowa Acts, Senate File 463, allows these manufacturers to use dealer plates in certain instances.

- Strike a provision that does not allow dealer plates to be used on vehicles that are leased. 2006 Iowa Acts, chapter 1068, section 15, provides that dealer plates may be displayed on unregistered vehicles owned by lessors under certain conditions.

761—Chapter 430, “Motor Vehicle Leasing Licenses,” is amended to:

- Clarify situations regarding leases created in jurisdictions outside the state of Iowa.
- List the ownership information that lessors must provide.
- State the situations when a separate leasing license is required; these situations document current requirements.

761—Chapter 431, “Vehicle Recyclers,” is amended to delete repetitious verbiage and obsolete requirements and to rearrange the topics covered so that they are more understandable and are arranged similar to those in other business licensing chapters. Also, the chapter is amended to:

- Add a definition for “regular business hours.” The term is used in the chapter but is not defined.
- List the ownership information that recyclers must provide.
- Clarify that a recycler’s required telephone service must be a land line and not cellular phone service.
- Clarify that a zoning compliance letter is required not only for the applicant’s place of business but also for any extension.

Iowa Code section 321.451 permits the Department to issue a certificate designating a privately owned towing or recovery vehicle as an authorized emergency vehicle, subject to rules adopted by the Department. Rule 761—451.2(321) is amended to implement this rule-making requirement. The amendment provides that the certificate is valid only when the towing or recovery vehicle is at the scene of an emergency, unless otherwise authorized by a law enforcement officer.

Iowa Code section 321.89, subsection 4, requires the Department to adopt rules regarding procedures for reimbursement of expenses and costs to a private entity hired to take custody of an abandoned vehicle. 761—Chapter 480, “Abandoned Vehicles,” is amended to implement this rule-making requirement. Also, a definition of “public auction” is added to clarify what is meant by the use of this term in Iowa Code section 321.89.

These amendments 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, Office of Policy and Legislative Services, 800 Lincoln Way, Ames, Iowa 50010; fax (515)239-1639; Internet E-mail address: julie.fitzgerald@dot.iowa.gov.

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5. Be received by the Office of Policy and Legislative Services no later than September 4, 2007.

A meeting to hear requested oral presentations is scheduled for Thursday, September 6, 2007, at 10 a.m. at the Iowa Department of Transportation's Motor Vehicle Division offices located at 6310 SE Convenience Boulevard, Ankeny, Iowa.

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

The proposed amendments may have an impact on small business. A request for a regulatory analysis pursuant to Iowa Code section 17A.4A must be submitted to the Office of Policy and Legislative Services at the address listed in this Notice by September 17, 2007.

These amendments are intended to implement Iowa Code chapters 321, 321L, 322, 322C, 321F and 321H.

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—400.1(321)~~, definition of “manufacturer’s certificate of origin,” as follows:

“Manufacturer’s certificate of origin” means a certification signed by the manufacturer, distributor or importer that the vehicle described has been transferred to the person or dealer named and that the transfer is the first transfer of the vehicle in ordinary trade and commerce.

1. No change.

2. In addition to the requirements of Iowa Code subsection 321.45(1), the certificate shall contain a description of the vehicle which includes the make, model, style and vehicle identification number. The description of a motorized bicycle shall also specify the ~~engine displacement and maximum speed.~~

3. No change.

ITEM 2. Amend subrule 400.3(3) as follows:

400.3(3) Information about owner, lessee and primary user.

a. *See* Iowa Code sections 321.20 and 321.109 *list the information that must be disclosed by the owner, lessee and primary user on the application.*

b. *A firm, association, corporation, or trust that is not required to have a federal employer identification number shall disclose the social security number, Iowa driver’s license number or Iowa nonoperator’s identification card number of an authorized representative of the firm, association, corporation, or trust. The authorized representative of a trust is the trustee unless otherwise specified in the trust agreement.*

ITEM 3. Adopt the following **new** subrule:

400.3(15) Affidavit of correction. As provided in Iowa Code section 321.23A, the county treasurer or the department may accept an affidavit of correction on a form prescribed by the department.

a. The affidavit may be used only to correct those errors, erasures or alterations listed on the affidavit.

b. The affidavit must contain the signatures of all parties to the original error, erasure or alteration.

c. Only an original, notarized affidavit shall be accepted.

d. The affidavit must be surrendered with the document that contains the error, erasure or alteration to be corrected.

e. The affidavit may be accepted to correct errors, erasures or alterations on either an Iowa title or a foreign title.

ITEM 4. Amend subrule 400.4(2) as follows:

400.4(2) Used vehicle registered or titled in this state. The last issued certificate of title, properly assigned to the applicant, shall be submitted. An unanceled security interest noted on the face of the certificate of title shall be noted on the face of the certificate of title issued to the applicant, in addition to any security interest acknowledged by the applicant. If the vehicle is not subject to titling provisions, the last issued registration receipt *or bill of sale*, properly assigned to the applicant, shall be submitted.

ITEM 5. Amend subrule 400.4(5) as follows:

400.4(5) Manufactured or mobile home. If the vehicle described on the application is a manufactured or mobile home with an Iowa title, the applicant shall submit a tax clearance form to show that no taxes are owing, unless the title has been issued to a ~~dealer~~ *manufactured or mobile home retailer* licensed under Iowa Code chapter ~~322B~~ *103A*. The form may be obtained by any owner of record of the manufactured or mobile home from the county treasurer.

ITEM 6. Amend rule 761—400.4(321) by renumbering subrule **400.4(9)** as **400.4(10)** and by adopting **new** subrule 400.4(9) as follows:

400.4(9) Applications in the name of trusts. An application in the name of a trust shall be accompanied by a copy of all documents creating or otherwise affecting the trust. The application shall be signed by each trustee unless otherwise specified in the trust agreement. The signature shall be followed by the words “as trustee.”

ITEM 7. Amend rule 761—400.6(17A) as follows:

761—400.6(17A) Addresses, information and forms. Information and forms for vehicle registration, certificate of title, or other procedures covered under Iowa Code sections 321.18 to 321.173 may be obtained from the county treasurer or from:

400.6(1) Office of ~~vehicle services~~ *Vehicle Services*, Iowa Department of Transportation, P.O. Box 9278, Des Moines, Iowa 50306-9278. ~~The office is located in Park Fair Mall, 100 Euclid Avenue, Des Moines.~~

400.6(2) Office of Motor Carrier Services, Iowa Department of Transportation, P.O. Box 10382, Des Moines, Iowa 50306-0382. ~~The office is located in Park Fair Mall, 100 Euclid Avenue, Des Moines.~~

400.6(3) The Internet at the following address: <http://www.iamvd.com>.

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

ITEM 8. Amend subrules 400.7(9) to 400.7(11) as follows:

400.7(9) The following phrase stamped on the reassignment portion of a manufactured or mobile home title ~~or a salvage title~~: “Dealer reassignment not authorized on this certificate of title.”

400.7(10) The designation required by ~~rule 761—400.71(321) or 761—Chapter 405~~. A vehicle may have no more than one designation. The referenced rules explain which designation takes precedence when more than one designation could apply.

400.7(11) Full legal name of owner.

a. *When the name of an owner changes from that which is printed on the title or registration issued to the owner, the owner shall submit to the county treasurer on a form prescribed by the department an application for a certificate of title or registration for a vehicle. The application must be accompanied by one of the following documents:*

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(1) *Court order for a name change. The court order must contain the full name, date of birth, and court seal.*

(2) *Divorce decree.*

(3) *Marriage certificate.*

b. *Paragraph "a" of this subrule does not apply to owners that are firms, associations, corporations, or trusts.*

ITEM 9. Amend rule **761—400.8(321)**, implementation clause, as follows:

This rule is intended to implement Iowa Code subsection ~~321.50(4)~~ section 321.50.

ITEM 10. Amend subrule 400.10(3) as follows:

400.10(3) Submission of documents to county treasurer. The certificate of title, application for notation of security interest and appropriate notation fee shall be submitted to the county treasurer of the county where the certificate of title was issued *or will be issued*.

a. ~~The county treasurer shall not be required to cancel the security interest previously noted and shall note the security interest of the assignee in the second security interest portion of the face of the certificate of title, or on a subsequent security interest form if the security interest that has been assigned is a second security interest.~~

b a. ~~In the event~~ *If there are additional security interests noted on the certificate of title, the seniority of the assignee's security interest may be preserved by issuance of a certificate of title in lieu of the original, on which the assignee's security interest shall be noted in the same seniority as the assignor's.*

e b. ~~In either event,~~ *A receipt for notation of security interest form shall be processed and the new receipt number shall be listed in the appropriate space provided. The original notation date shall also be listed and the words "by assignment" shall be listed following the name of the assignee.*

ITEM 11. Amend subrule 400.14(3) as follows:

400.14(3) Organizational ownership.

a. When a vehicle is owned by a partnership, corporation, association, governmental unit, or private organization, ~~the name of the owner and the signature of its authorized representative shall be~~ *is* required.

b. *When a vehicle is owned by a trust, the signature of each trustee is required, unless otherwise specified in the trust agreement. The signature shall be followed by the words "as trustee." In addition, the title shall be accompanied by a copy of all documents creating or otherwise affecting the trust.*

ITEM 12. Amend rule 761—400.15(321) as follows:

761—400.15(321) Cancellation of a certificate of title.

400.15(1) The department shall cancel a certificate of title when authorized by any other provision of law or when it has reasonable grounds to believe that the title has not been surrendered to the county treasurer as provided in Iowa Code section 321.52 or ~~that~~ *when* the vehicle has been stolen or embezzled from the rightful owner or seized under the provisions of Iowa Code section 321.84, and the person holding the certificate of title, purportedly issued for the vehicle, has no immediate right to possession of the vehicle.

400.15(2) *The decision to issue a new certificate of title or to allow the previous title to be reinstated through a replacement title application process or to take any other action regarding ownership of the vehicle for which the current title has been canceled shall be determined after an investigation and recommendation by a motor vehicle investigator of the department.*

This rule is intended to implement Iowa Code section 321.101.

ITEM 13. Amend subrules 400.27(3) and 400.27(4) as follows:

400.27(3) New certificate of title required. A dealer shall obtain a new certificate of title, but is not required to pay registration fees for a vehicle if:

a. No change.

b. ~~Rescinded IAB 12/26/90, effective 1/30/91. The vehicle was assigned to the dealer using an affidavit of foreclosure form prescribed by the department or issued by a foreign jurisdiction.~~

c. to f. No change.

400.27(4) New certificate of title and registration fee required. A dealer shall obtain both a new certificate of title and pay a registration fee for a vehicle if:

a. to c. No change.

d. *The vehicle was in the dealer's inventory and the dealer's license was revoked as provided in Iowa Code chapter 322 or 322C or surrendered in lieu of revocation. The dealer shall obtain title and registration within 30 days from the date of revocation or surrender of the license. The registration fee due shall be prorated for the remaining unexpired months of the registration year.*

ITEM 14. Rescind and reserve rule **761—400.34(321)**.

ITEM 15. Adopt the following **new** subrule:

400.44(6) Waiver of penalties for military members. Registration penalties shall be waived as provided in Iowa Code section 321.134, subsection 5, if the owner provides a copy of an official government document verifying that the applicant is in the military service of the United States and has been relocated as a result of being placed on active duty on or after September 11, 2001.

ITEM 16. Amend subrule 400.50(1) as follows:

400.50(1) Vehicles registered by county treasurer.

a. The department shall refund fees for vehicles registered by the county treasurer pursuant to Iowa Code section 321.126.

b. ~~The owner of the motor vehicle shall~~ *A claim for refund by submitting shall be made on a form prescribed by the department. Except as provided in Iowa Code section 321.126, the claim may be submitted to the county treasurer's office in any county.*

c. ~~The owner shall also submit the registration~~ *Registration plates shall be submitted with the claim if the vehicle is placed in storage or registered for proportional registration, if the owner of the vehicle moves out of state, or if the plates have not been assigned to a replacement vehicle. If one or both plates have been lost or stolen, the claimant shall certify this fact in writing.*

d. ~~If one or both plates have been lost or stolen, the owner shall pay the required fee for duplicate plates in lieu of surrendering the registration plates.~~

e d. For a vehicle that was junked, the date on the junking certificate shall determine the date the vehicle was junked.

f e. If the claim for refund is for excess credit or no replacement vehicle:

(1) The county treasurer shall enter into the state motor vehicle computer system the information required to process the refund. The information shall be entered within three days of receipt of the claim for refund.

(2) The claim for refund shall be approved or denied by the office of vehicle services.

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g.f. All other claims for refund shall be forwarded to the office of vehicle services for processing.

ITEM 17. Amend subrule 400.53(1) as follows:

400.53(1) Placement of validation sticker. The validation sticker shall be affixed to the lower left corner of the rear registration plate. ~~EXCEPTION:~~ *EXCEPTIONS:* For motorcycle and small trailer plates, the validation sticker shall be affixed to the upper left corner of the plate. *For natural resources plates, the sticker may be affixed to the lower right corner of the rear plate.*

ITEM 18. Amend subrule 400.60(4) as follows:

400.60(4) Assignment of credit and registration plates from lessor to lessee. When a lessee purchases the leased vehicle and within 15 30 days requests the assignment of the vehicle's fee credit and registration plates, the lessor shall assign the registration fee credit and registration plates for the purchased vehicle to the lessee.

ITEM 19. Amend rule 761—400.63(321) as follows:

761—400.63(321) Issuance and disposal *Disposal of surrendered registration plates.*

~~**400.63(1)** Issuance in sequence.~~ *The county treasurer shall issue registration plates in alphabetical or numerical sequence, as consigned to the county treasurer by the department.*

~~**400.63(2)** Disposal.~~ *The county treasurer shall either destroy plates that have been surrendered to the county treasurer or return the surrendered plates to Iowa state industries for recycling.*

This rule is intended to implement Iowa Code sections 321.5, ~~321.169~~ and 321.171.

ITEM 20. Rescind and reserve rule **761—400.71(321)**.

ITEM 21. Amend subrule **401.2(1)**, paragraph "b," as follows:

b. Collegiate plates, personalized plates, and special registration plates that have eligibility requirements must be requested using an application form prescribed by the department. Unless otherwise specified, completed application forms for these plates shall be submitted to the department at the following address: Office of Vehicle Services, Iowa Department of Transportation, P.O. Box 9278, Des Moines, Iowa 50306-9278. ~~The office is located in Park Fair Mall, 100 Euclid Avenue, Des Moines.~~ Application forms may be obtained from the office of vehicle services or from any county treasurer's office. Application forms are also available on the department's Web site at <http://www.iamvd.com>.

ITEM 22. Amend subrule 401.2(2) as follows:

401.2(2) Issuance.

a. Special registration plates shall be issued only to a person who is an owner or lessee of the vehicle and is entitled to the special registration plates.

b. Special registration plates shall not be issued unless the vehicle is currently registered and the registration plates previously issued are surrendered to the county treasurer. Special registration plates are void if they are not assigned to a vehicle within 90 days after the date the department orders them. *A new application and a new issuance fee are required if the plates are reordered after the 90-day period.*

~~c.—Special registration plates may be issued to the owner of a multipurpose vehicle or motor home if the owner is otherwise entitled thereto.~~

~~d.—Special registration plates may be issued for leased vehicles pursuant to Iowa Code section 321.34. The lessee~~

~~must provide a copy of the lease agreement when applying for the special plates.~~

ITEM 23. Amend subrule **401.6(2)**, paragraph "d," as follows:

d. ~~No combination of characters shall be issued which The department shall not issue any combination of characters it determines is:~~

- (1) ~~sexual~~ *Sexual* in connotation;
- (2) ~~defined in dictionaries as a~~ A term of vulgarity, contempt, prejudice, hostility, insult, or racial or ethnic degradation;
- (3) ~~recognized~~ *Recognized* as a swear word;
- (4) *A reference to an illegal substance;*
- (5) *A reference to a criminal act;*
- (6) ~~considered to be offensive~~ *Offensive*; or
- (7) a A foreign word falling into any of these categories.

ITEM 24. Amend rule 761—401.8(321) as follows:

761—401.8(321) Congressional Medal of Honor plates.

401.8(1) Application for Congressional Medal of Honor plates shall be submitted to the department on a form prescribed by the department. The applicant shall attach a copy of the official government document verifying receipt of the medal of honor.

401.8(2) ~~Congressional~~ Medal of Honor plates are limited to five characters. Personalized plates are not available.

ITEM 25. Amend subrule 401.13(2) as follows:

401.13(2) To apply for disabled veteran plates *for a motor vehicle*, the disabled veteran shall submit to the county treasurer a certification from the U.S. Department of Veterans Affairs that ~~the motor vehicle to which the plates will be assigned has been provided by the United States government has provided or has assisted in providing the motor vehicle to the disabled veteran.~~ The certification is required when the motor vehicle is first registered. Another certification may be required for the first registration of a newly acquired vehicle or when the veteran moves to another county.

ITEM 26. Amend **761—Chapter 405** as follows:

CHAPTER 405

SALVAGE

761—405.1(321) Applicability. This chapter supplements 761—Chapter 400. It applies to salvage motor vehicles and foreign motor vehicles brought into Iowa that are or were salvage, rebuilt or junked. This chapter applies ~~only~~ to motor vehicles subject to registration ~~with a gross vehicle weight rating of less than 30,000 pounds except that owners of vehicles with a gross vehicle weight rating of 30,000 pounds or more are not required to submit a salvage theft examination certificate to convert a salvage title to a regular title.~~

761—405.2(321) No change.

761—405.3(321) Salvage title. ~~The following applies to an Iowa salvage title.~~

405.3(1) Face of title. ~~The~~ *Except for vehicles with a gross vehicle weight rating of 30,000 pounds or more, the following shall be stamped in red ink on the face of a* ~~an~~ Iowa salvage title: SALVAGE—CANNOT BE REGISTERED WITHOUT A SALVAGE THEFT EXAMINATION CERTIFICATE OR AN INSURER'S CERTIFICATION.

405.3(2) Assignment. ~~A~~ *An* Iowa or a foreign salvage title may be assigned only as provided in Iowa Code subsection 321.52(4). ~~Upon assignment~~ *Except as provided in subrule 405.3(3), the transferee to whom an Iowa or a foreign*

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salvage title is assigned shall apply for a new Iowa salvage title within 30 days after the date of assignment unless, within this time period, application for a regular title is made or a junking certificate is obtained.

405.3(3) Reassignment. ~~Dealer reassignment~~ *Reassignment of a an Iowa or a foreign salvage title by a licensed new motor vehicle dealer or by an authorized vehicle recycler is not allowed, and the dealer or recycler is not required to obtain a new Iowa salvage title upon assignment of an Iowa or a foreign salvage title to the dealer or recycler, provided a vacant reassignment space is available on the title. If all reassignment spaces on an Iowa or a foreign salvage title assigned to the dealer or recycler have been used, the dealer or recycler shall obtain a new Iowa salvage title in accordance with subrule 405.3(2).* The following shall be stamped on the dealer reassignment portion of the title *Iowa salvage titles: DEALER REASSIGNMENT NOT AUTHORIZED ON THIS CERTIFICATE OF TITLE ONLY NEW MOTOR VEHICLE DEALERS OR RECYCLERS MAY REASSIGN THIS TITLE.*

405.3(4) Registration fees.

a. A *an Iowa* salvage title may be obtained without payment of the current registration fees or any delinquent registration fees or registration penalties. If the registration fees are delinquent at the time of issuance of a *an Iowa* salvage title, no additional penalty shall accrue after issuance.

b. The previous fees due and the year the vehicle became salvage shall be entered below the "in lieu" field on a *an Iowa* salvage title.

c. Any registration fees or registration penalties due at the time of issuance of a *an Iowa* salvage title, together with the current registration fees if not already paid, shall be paid upon issuance of a regular title. However, a dealer is not required to pay current registration fees to obtain a regular title for a vehicle held for resale or trade. See rule 761—400.27(321) for any exceptions.

405.3(5) Plates. Registration plates shall not be assigned when a *an Iowa* salvage title is issued.

761—405.4 and 405.5 Reserved.

761—405.6(321) Salvage Iowa salvage title required.

405.6(1) Wrecked or salvage vehicle. A vehicle rebuilder or a person engaged in the business of buying, selling, or exchanging vehicles of a type required to be registered in this state upon acquisition of a wrecked or salvage vehicle shall obtain a *an Iowa* salvage title or a junking certificate for the vehicle *except as provided in subrule 405.3(3).*

a. A wrecked or salvage vehicle is a damaged motor vehicle that:

(1) Has repair costs exceeding 50 percent of its fair market value before it became damaged, and

(2) Had a fair market value of \$500 or more before it became damaged.

b. Fair market value is the average retail value found in the "National Automobile Dealers Association (NADA) Official Used Car Guide." If there is no value available, the office of vehicle services in Des Moines shall determine the fair market value upon request. The Des Moines address is: Office of Vehicle Services, Department of Transportation, Park Fair Mall, 100 Euclid Avenue, P.O. Box 9278, Des Moines, Iowa 50306-9278 ; telephone (515)237-3148.

405.6(2) Insurer. An insurer upon acquisition of a motor vehicle as a result of a settlement with the motor vehicle owner arising out of damage to or unrecovered theft of the motor vehicle shall obtain a *an Iowa* salvage title for the motor vehicle.

405.6(3) Application. Application for a *an Iowa* salvage title shall be made within 30 days after the date of assignment to the transferee.

761—405.7(321) Converting salvage title to regular title.

405.7(1) General application procedure.

a. To obtain a regular title, the owner in whose name the Iowa salvage title is issued or assigned shall pay the appropriate fees and surrender the following when applying for the regular title:

(1) The salvage title.

(2) The salvage theft examination certificate, ~~Form 411072,~~ issued in the applicant's name. *However, a salvage theft examination certificate is not required if the vehicle has a gross vehicle weight rating of 30,000 pounds or more.* See rule 405.15(321) for salvage theft examination.

b. A regular title and registration receipt issued pursuant to this subrule shall bear the designation "prior salvage."

405.7(2) No change.

761—405.8(321) Foreign vehicles.

405.8(1) No change.

405.8(2) Foreign title with rebuilt designation. If the prior title for a vehicle is a foreign title indicating that the vehicle was rebuilt, the Iowa title and registration receipt issued from the foreign title shall contain the designation of "rebuilt" together with the two-letter abbreviation of the name of the jurisdiction that issued the foreign title.

EXCEPTION: If the Iowa record a records check indicates that the vehicle was previously titled in Iowa with a designation of "prior salvage," the prior salvage designation takes precedence and shall be carried forward to the Iowa title and registration receipt.

405.8(3) Converting foreign salvage title to Iowa title. If the prior title for a vehicle is a foreign title indicating that the vehicle is salvage, a regular Iowa title shall not be issued for the vehicle unless an Iowa salvage title is first issued. After an Iowa salvage title is issued for the vehicle, a regular Iowa title may be obtained pursuant to rule 405.7(321).

EXCEPTION: *As provided in subrule 405.3(3), a licensed new motor vehicle dealer or an authorized vehicle recycler is not required to obtain an Iowa salvage title upon assignment of a foreign salvage title to the dealer or recycler, provided a vacant reassignment space is available on the title.*

405.8(4) No change.

405.8(5) Designation carried forward. If a vehicle leaves Iowa with a regular Iowa title and reenters Iowa with a regular foreign title, the foreign title does not indicate that the vehicle was rebuilt and the Iowa record for a records check indicates that the vehicle contains had a designation listed in paragraphs 405.10(1)"a" to "d," "e," that designation shall be carried forward to the Iowa title and registration receipt issued from the foreign title.

405.8(6) Foreign title with flood, fire, vandalism or theft designation. If the prior title for a vehicle is a foreign title indicating that the vehicle was damaged by flood, fire or vandalism or is a recovered stolen vehicle and another designation is not required under this rule *or rule 405.10(321),* the Iowa title *and registration receipt* issued from the foreign title shall contain, as applicable, the designation of "flood," "fire," "vandalism" or "theft." ~~This designation will also appear on the registration receipt only when there is no requirement to record a cumulative dollar amount from damage disclosure statements.~~

405.8(7) Foreign title with a lemon buy-back designation. See rule 405.10(321).

405.8(7) 405.8(8) Junking certificate.

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a. An Iowa junking certificate shall be issued if:

(1) The prior title for a vehicle is a foreign title indicating that the vehicle was junked, regardless of any other designation on the title.

(2) ~~The Iowa record~~ A records check for a vehicle with a foreign title indicates that the vehicle had previously been issued an Iowa junking certificate.

b. ~~Notwithstanding rule 405.1(321), this~~ This subrule applies to all vehicles subject to Iowa titling laws.

761—405.9(321) Records check. Before a title is issued in Iowa, a computer records check shall ~~may~~ be made to determine if the vehicle has an “Iowa record.” *The purpose of the records check is to:*

405.9(1) A vehicle has an “Iowa record” if the computer record indicates that the vehicle had been issued an:

a. Iowa junking certificate on or after July 1, 1988.

b. Iowa title on or after July 1, 1988, which contained a two-letter abbreviation of the name of a foreign jurisdiction with or without a designation of salvage or rebuilt.

c. Iowa title on or after September 1, 1988, which contained an Iowa designation of rebuilt.

d. Iowa salvage title on or after September 1, 1988, which contained an Iowa designation of salvage.

e. Iowa title on or after July 1, 1992, which contained an Iowa designation of prior salvage.

f. Iowa title on or after December 1, 1994, which contained a designation of “flood,” “fire,” “vandalism” or “theft.”

405.9(2) “Iowa record” refers to the last Iowa document issued.

405.9(1) Determine if the vehicle ever had or should have had a “prior salvage,” “rebuilt,” “damage over 50 percent,” “flood,” “fire,” “vandalism,” “theft,” “lemon buy-back,” or equivalent designation(s) on a previous title. If such a designation is or should have been on a previous title, the Iowa title to be issued shall contain the designation required by this chapter.

405.9(2) Determine if the vehicle is or was ever a wrecked or salvage vehicle as defined in Iowa Code section 321.52. If a vehicle is a wrecked or salvage vehicle, an Iowa salvage title shall be issued. If the vehicle was a wrecked or salvage vehicle, the Iowa title to be issued shall contain the appropriate designation required by this chapter.

405.9(3) Determine if the vehicle should have been or was ever junked as defined in subrule 405.8(1). If the vehicle should have been or was ever junked, an Iowa junking certificate shall be issued.

761—405.10(321) Designations.

405.10(1) The following designations for a vehicle shall be used on Iowa titles and registrations receipts and shall be carried forward to all subsequent Iowa titles and registration receipts issued for the vehicle, unless otherwise specified:

a. Prior salvage. This designation supersedes other designations. When a designation of “prior salvage” is required pursuant to rule 405.7(321), it replaces any other designation.

b. Rebuilt together with a two-letter abbreviation of the name of a foreign jurisdiction. When this designation is required pursuant to subrule 405.8(2), it replaces any other designation except a “prior salvage” designation.

c. Rebuilt. ~~This designation supersedes a “flood,” “fire,” “vandalism” or “theft” designation.~~

c. *Damage over 50 percent.* As required by Iowa Code section 321.69, a designation of “damage over 50 percent” shall be used when the seller or the buyer indicates on the

damage disclosure statement that the person has knowledge that the motor vehicle sustained damage for which the cost of the repair exceeded 50 percent of the fair market value before the motor vehicle became damaged. This designation replaces any other designation except “prior salvage” or “rebuilt.”

d. ~~Two-letter abbreviation of the name of a foreign jurisdiction. This designation supersedes a “flood,” “fire,” “vandalism” or “theft” designation.~~

e d. Flood, fire, vandalism or theft. The most recent designation applies. The designation will appear on the title, but will appear on the registration receipt only when there is no requirement to record a cumulative dollar amount from damage disclosure statements. *Unless superseded by a “prior salvage,” “rebuilt,” or “damage over 50 percent” designation, a designation of “flood,” “fire,” “vandalism” or “theft” shall be used as specified in subrule 405.8(6) and supersedes a “lemon buy-back” designation.*

e. *Lemon buy-back.* Unless superseded by a “prior salvage,” “rebuilt,” “damage over 50 percent,” “flood,” “fire,” “vandalism” or “theft” designation, a designation of “lemon buy-back” shall be used:

(1) When a certificate of title is issued to a manufacturer of a motor vehicle pursuant to Iowa Code section 322G.12.

(2) When the prior certificate of title for a motor vehicle is a foreign title indicating that the vehicle was returned to the manufacturer pursuant to Iowa Code chapter 322G or a law of another state similar to Iowa Code chapter 322G.

405.10(2) An Iowa salvage title will be issued with a designation of “salvage” unless another a designation is carried forward listed in subrule 405.10(1) is required.

761—405.11 to 405.14 Reserved.

761—405.15(321) Salvage theft examination. A Except for foreign salvage titles assigned to licensed new motor vehicle dealers or authorized vehicle recyclers, a salvage theft examination may only be conducted on a vehicle with an Iowa salvage title. The vehicle shall not be examined until it has been completely repaired, except for minor body parts such as trim, body marking or paint.

405.15(1) General procedure.

a. A salvage theft examination shall be conducted by a peace officer who has been specially certified, and recertified when required, by the Iowa law enforcement academy to perform salvage theft examinations.

(1) To arrange for a salvage theft examination by an investigator from the department of transportation, the applicant shall contact the office of motor vehicle enforcement in Des Moines. The Des Moines address is: Office of Motor Vehicle Enforcement, Department of Transportation, Park Fair Mall, 100 Euclid Avenue, P.O. Box 10473, Des Moines, Iowa 50306-0473; telephone (515)237-3214.

(2) To arrange for a salvage theft examination by any other authorized peace officer, the applicant shall contact the local law enforcement agency for instructions.

b. to e. No change.

f. If the vehicle passes the salvage theft examination, the peace officer shall complete a salvage theft examination certificate, ~~Form 411072~~ on a form prescribed by the department. The form shall be distributed as follows:

(1) to (3) No change.

g. and h. No change.

405.15(2) to 405.15(4) No change.

These rules are intended to implement Iowa Code sections 321.24, and 321.52, 321.69 and 322G.12.

ITEM 27. Amend rule 761—411.1(321L) as follows:

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761—411.1(321L) Administration. The office of vehicle services administers this chapter. Its mailing address is Office of Vehicle Services, Iowa Department of Transportation, P.O. Box 9278, Des Moines, Iowa 50306-9278. It is located in Park Fair Mall, 100 Euclid Avenue, Des Moines. Information about persons with disabilities parking permits is available from the office of vehicle services or on the department's Web site at <http://www.iamvd.com>.

ITEM 28. Rescind and reserve **761—Chapter 421**.

ITEM 29. Amend **761—Chapter 424** as follows:

CHAPTER 424
TRANSPORTER PLATES

761—424.1(321) General.

424.1(1) Information. Information and blank forms relating to this chapter may be obtained from and completed forms shall be submitted to the Office of Vehicle Services, Iowa Department of Transportation, P.O. Box 9278, Des Moines, Iowa 50306-9278, or at its location in Park Fair Mall, 100 Euclid Ave., Des Moines.

424.1(2) Definitions.

"Dealer plate" means a special plate, other than a transporter plate, as authorized by Iowa Code sections 321.57 to 321.63.

"Department" means the Iowa department of transportation.

"Operating authority" means the authority issued by the department or the Federal Motor Carrier Safety Administration under Iowa Code chapter 325A or 327B that is required for the delivery of a vehicle for compensation.

"Transporter" means a person *who is* engaged in the business of delivering vehicles owned by the person or delivering vehicles owned by other persons for compensation *and who has an established place of business for such purpose in this state*. An authorized vehicle recycler under Iowa Code chapter 321H who delivers vehicles in the course of the recycler's business meets this definition.

"Transporter plate" means a special plate for transporters as authorized by Iowa Code sections 321.57 to 321.63.

761—424.2 and 424.3 Reserved.

761—424.4(321) Transporter plates.

424.4(1) Eligibility for plates. A transporter, as defined in subrule 424.1(2), may obtain transporter plates from the department.

424.4(2) Application procedure. The applicant shall accurately and completely fill out Form 417003, "~~Certificate for Special Plates,~~ *an application for special plates on a form prescribed by the department and submit it the application to the department with the appropriate fees. On the application, the applicant shall either include its operating authority number as assigned by the department or the Interstate Commerce Commission, or state that it is exempt from obtaining operating authority for the vehicle deliveries it intends to make using transporter plates.*

a. The application shall include the name, bona fide business address, and telephone number under which the applicant will conduct business as a transporter.

b. If the owner of the business is an individual, the application shall include the legal name, bona fide address, and telephone number of the individual. If the owner is a partnership, the application shall include the legal name, bona fide address, and telephone number of two partners. If the owner is a corporation, the application shall include the legal name, bona fide address, and telephone number of two cor-

porate officers. In all cases, the telephone number must be a number where the individual, partner, or corporate officer can be reached during normal business hours.

c. The application shall include the federal employer identification number of the business. However, if the business is owned by an individual who is not required to have a federal employer identification number, the application shall include the individual's social security number, Iowa nonoperator's identification number or Iowa driver's license number.

d. The applicant must certify on the application that it possesses all necessary operating authority to conduct business as a transporter in the state.

424.4(3) Permitted uses of a transporter plate. ~~If required, the transporter must have the proper operating authority for delivery of the vehicle.~~ The person delivering the vehicle must also carry evidence issued by the owner of the vehicle authorizing the delivery. The evidence shall include the origin and destination of the vehicle delivery, the vehicle owner's name and address, and a description of the vehicle being delivered. Subject to these stipulations, a transporter plate may be displayed on a vehicle being operated or moved on the highway for the purpose of delivery to a place designated by the owner of the vehicle.

424.4(4) Prohibited uses of a transporter plate. A transporter plate shall not be displayed on a vehicle that is not being delivered or displayed in any manner not specifically permitted under Iowa Code section 321.57 or subrule 424.4(3).

These rules are intended to implement Iowa Code sections 321.1 and 321.57 to 321.63.

ITEM 30. Amend subrule 425.1(2), introductory paragraph, as follows:

425.1(2) The office of vehicle services administers this chapter. The mailing address is: Office of Vehicle Services, Iowa Department of Transportation, P.O. Box 9278, Des Moines, Iowa 50306-9278. ~~The office is located in Park Fair Mall, 100 Euclid Avenue, Des Moines.~~

ITEM 31. Amend rule **761—425.3(322)**, definitions of "registered dealer," "regular business hours," "salesperson" and "wholesaler," as follows:

"Registered dealer" means a dealer licensed under Iowa Code chapter 322, ~~322B~~ or 322C who possesses a current dealer certificate under Iowa Code section 321.59.

"Regular business hours" means to be consistently open to the public on a weekly basis at hours reported to the office of vehicle services. Except as provided in Iowa Code section 322.36, regular business hours for a motor vehicle or travel trailer dealer ~~or used vehicle wholesaler~~ shall include a minimum of 32 posted hours between Monday and Friday, inclusive.

"Salesperson" means a person employed by a motor vehicle or travel trailer dealer ~~or used vehicle wholesaler~~ for the purpose of buying or selling vehicles.

"Wholesaler" means a person who sells *new* vehicles to dealers and not at retail.

ITEM 32. Amend subrule 425.10(5) as follows:

425.10(5) Place of business. The applicant shall maintain a place of business at a designated location, *which must be staffed during regular business hours*. See rules 425.12(322) ~~and~~ 425.14(322) for further requirements.

ITEM 33. Adopt the following new subrule:

425.10(9) Ownership information.

a. If the owner of the business is an individual, the application shall include the legal name, bona fide address, and

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telephone number of the individual. If the owner is a partnership, the application shall include the legal name, bona fide address, and telephone number of two partners. If the owner is a corporation, the application shall include the legal name, bona fide address, and telephone number of two corporate officers. In all cases, the telephone number must be a number where the individual, partner, or corporate officer can be reached during normal business hours.

b. The application shall include the federal employer identification number of the business. However, if the business is owned by an individual who is not required to have a federal employer identification number, the application shall include the individual's social security number, Iowa nonoperator's identification number or Iowa driver's license number.

ITEM 34. Amend subrule 425.12(2) as follows:

425.12(2) Telephone service and office area. A motor vehicle dealer's principal place of business shall include telephone service and an adequate office area, separate from other facilities, for keeping business records, manufacturers' certificates of origin, certificates of title or other evidence of ownership for all motor vehicles offered for sale. *Telephone service must be a land line and not cellular phone service.* Evidence of ownership may include a copy of an original document if the original document is held by a lienholder.

ITEM 35. Amend subrule 425.14(1) as follows:

425.14(1) Telephone service and office area. A travel trailer dealer's principal place of business shall include telephone service and an adequate office area, separate from other facilities, for keeping business records, manufacturers' certificates of origin, certificates of title or other evidence of ownership for all travel trailers offered for sale. *Telephone service must be a land line and not cellular phone service.* Evidence of ownership may include a copy of an original document if the original document is held by a lienholder.

ITEM 36. Amend rule 761—425.17(322) as follows:

761—425.17(322) Extension lot license. Extension lots of motor vehicle and travel trailer dealers must be licensed. Application to license an extension lot shall be made on a form prescribed by the department.

425.17(1) and 425.17(2) No change.

425.17(3) *An extension lot must be owned or leased by the dealer.*

425.17(3) 425.17(4) *Parcels of property are adjacent if the parcels are owned or leased by the dealer and the parcels are either adjoining or are separated only by an alley, street or highway that is not a fully controlled access facility.*

This rule is intended to implement Iowa Code sections 322.1 to 322.15 and 322C.1 to 322C.6.

ITEM 37. Amend subrule 425.24(3) as follows:

425.24(3) Other business activities are allowed at a place of business of a dealer ~~or the designated location of a used vehicle wholesaler~~, but those activities shall not include the sale of firearms, dangerous weapons as defined in Iowa Code section 702.7, or alcoholic beverages as defined in Iowa Code subsection 123.3(4).

ITEM 38. Amend subrule **425.26(2)**, paragraph "c," as follows:

c. The following restrictions are applicable to both types of permits:

(1) Permits will be issued to motor vehicle dealers only for fairs, vehicle shows or vehicle exhibitions where more than one motor vehicle dealer may participate.

~~(2) The permit period is the duration of the event, not to exceed 14 days.~~

~~(3) (2) A permit is limited to the line makes for which the motor vehicle dealer is licensed in Iowa.~~

ITEM 39. Amend subrule **425.26(4)**, paragraph "a," as follows:

a. ~~The permit period is the duration of the event, not to exceed 14 days.~~ The permit is valid on Sundays.

ITEM 40. Rescind subrule **425.26(7)**.

ITEM 41. Amend rule **761—425.26(322)**, implementation clause, as follows:

This rule is intended to implement Iowa Code section ~~321.124 and~~ subsections 322.5(2) and 322C.3(9).

ITEM 42. Amend rule 761—425.40(322) as follows:

761—425.40(322) Salespersons of dealers and used vehicle wholesalers.

425.40(1) Every motor vehicle and travel trailer dealer ~~and used vehicle wholesaler~~ shall:

a. and b. No change.

425.40(2) No person shall either directly or indirectly claim to represent a dealer ~~or used vehicle wholesaler~~ unless the person is listed as a salesperson by that dealer ~~or wholesaler~~.

This rule is intended to implement Iowa Code sections 322.3, 322.13, and 322C.4.

ITEM 43. Amend rule 761—425.50(322), introductory paragraph, as follows:

761—425.50(322) Manufacturers, distributors, and wholesalers. This rule applies to the licensing of manufacturers, distributors, and wholesalers of new motor vehicles and travel trailers. ~~The licensing of used vehicle wholesalers is addressed in rule 425.52(322).~~

ITEM 44. Rescind and reserve rule **761—425.52(322)**.

ITEM 45. Amend rule 761—425.53(322) as follows:

761—425.53(322) Wholesaler's financial liability coverage. A new ~~or used~~ motor vehicle wholesaler shall certify on the license application that it has the required financial liability coverage in the limits set forth in Iowa Code section 322.27A. It is the wholesaler's responsibility to ensure that the required financial liability coverage is continuous with no lapse in coverage as long as the wholesaler maintains a valid wholesaler's license.

This rule is intended to implement Iowa Code section 322.27A.

ITEM 46. Amend rule 761—425.70(321) as follows:

761—425.70(321) Dealer plates.

425.70(1) No change.

425.70(2) Persons who may be issued dealer plates. Dealer plates as provided in Iowa Code sections 321.57 to 321.63 may be issued to:

a. Licensed motor vehicle dealers.

~~b. Licensed manufactured or mobile home retailers. The plates shall display the word "trailer."~~

~~c b. Licensed travel trailer dealers. The plates shall display the word "trailer."~~

d c. A person engaged in the business of buying, selling or exchanging trailer-type vehicles subject to registration under Iowa Code chapter 321, other than travel trailers, and who has an established place of business for such purpose in this state. ~~The plates shall display the word "trailer."~~

TRANSPORTATION DEPARTMENT[761](cont'd)

e. *d.* Insurers selling vehicles of a type subject to registration under Iowa Code chapter 321 solely for the purpose of disposing of vehicles acquired as a result of a damage settlement or recovered stolen vehicles acquired as a result of a loss settlement. The plates shall display the words "limited use."

f. *e.* Persons selling vehicles of a type subject to registration under Iowa Code chapter 321 solely for the purpose of disposing of vehicles acquired or repossessed by them in exercise of powers or rights granted by lien or title-retention instruments or contracts given as security for loans or purchase money obligations, and who are not required to be licensed dealers. The plates shall display the words "limited use."

g. *f.* Persons engaged in the business of selling special equipment body units which have been or will be installed on motor vehicle chassis not owned by them, solely for the purpose of delivering, testing or demonstrating the special equipment body and the motor vehicle. The plates shall display the words "limited use."

g. *A licensed manufacturer of ambulances, rescue vehicles or fire vehicles, solely for the purpose of transporting, demonstrating, showing or exhibiting the vehicles. The plates shall display the words "limited use."*

h. A licensed wholesaler who is also licensed as a motor vehicle dealer as specified in paragraph 425.70(3)"e."

425.70(3) Use of dealer plates.

a. Dealer plates shall not be displayed on vehicles that are rented, leased or loaned. However, a dealer plate may be displayed on a motor vehicle, other than a truck or truck tractor, loaned to a customer of a licensed motor vehicle dealer while the customer's motor vehicle is being serviced or repaired by the dealer.

b. and c. No change.

d. ~~Trailer dealer~~ Dealer plates may be displayed on a trailer carrying a load, provided the truck or truck tractor towing the trailer is properly registered under Iowa Code section 321.122, except as provided in rule 425.72(321).

e. No change.

This rule is intended to implement Iowa Code sections 321.57 to 321.63.

ITEM 47. Amend **761—Chapter 430** as follows:

CHAPTER 430

MOTOR VEHICLE LEASING LICENSES

761—430.1(321F) Definitions General. The following definitions and those in Iowa Code section 321F.1 are adopted and shall apply to these rules.

430.1(1) Information. Information and blank forms relating to this chapter may be obtained from and completed forms shall be submitted to the Office of Vehicle Services, Iowa Department of Transportation, P.O. Box 9278, Des Moines, Iowa 50306-9278.

430.1(1) 430.1(2) Definition. "Engage in the business" means leasing two or more motor vehicles in a 12-month period. A person shall not be considered to be engaged in the business if the lease for a vehicle subject to registration was originally created in a jurisdiction outside the state of Iowa.

430.1(2) Reserved.

This rule is intended to implement Iowa Code section 321F.1.

761—430.2(321F) Criteria for obtaining a motor vehicle leasing license. Application. Application for a motor vehicle leasing license shall be made on a form prescribed by the department.

430.2(1) Information. Information concerning leasing license requirements may be obtained from the office of vehicle services. The address is: Office of Vehicle Services, Iowa Department of Transportation, P.O. Box 9278, Des Moines, Iowa 50306-9278. The office is located in Park Fair Mall, 100 Euclid Avenue, Des Moines.

430.2(2) Application. The application for a leasing license shall be made on Form 417034, which may be obtained from the department at the address shown in subrule 430.2(1). The application shall include the following information:

a. **430.2(1)** The application shall include the name, bona fide business address, and telephone number under which the applicant will conduct the business of leasing motor vehicles for use by others for compensation.

b. If the applicant is an individual, the applicant's name and address. If the applicant is a copartnership, the name and address of each partner. If the applicant is a corporation, the name and address of each officer and director.

c. to g. Rescinded IAB 12/20/95, effective 1/24/96.

430.2(2) If the owner of the business is an individual, the application shall include the legal name, bona fide address, and telephone number of the individual. If the owner is a partnership, the application shall include the legal name, bona fide address, and telephone number of two partners. If the owner is a corporation, the application shall include the legal name, bona fide address, and telephone number of two corporate officers. In all cases, the telephone number must be a number where the individual, partner, or corporate officer can be reached during normal business hours.

430.2(3) The application shall include the federal employer identification number of the business. However, if the business is owned by an individual who is not required to have a federal employer identification number, the application shall include the individual's social security number, Iowa nonoperator's identification number or Iowa driver's license number.

430.2(3) Supplemental statements. 761—430.3(321F) Supplemental statements. The applicant licensee shall notify the department, in writing, within ten days, at the address shown in subrule 430.2(1) 430.1(1), of any change covering any in the information required on the original application.

This rule is intended to implement Iowa Code sections 321F.3 and 321F.6.

761—430.3(321F) Financial responsibility cancellation. Rescinded IAB 12/20/95, effective 1/24/96.

761—430.4(321F) Separate licenses required. A separate license is required for:

430.4(1) Each address under which a single business entity will conduct business under Iowa Code chapter 321F and these rules.

430.4(2) Each address that will be used for titling or registering vehicles subject to registration in Iowa.

These rules are intended to implement Iowa Code chapter 321F.

ITEM 48. Amend **761—Chapter 431** as follows:

CHAPTER 431

VEHICLE RECYCLERS

761—431.1(321H) Definitions General. The following definitions as well as those in Iowa Code chapter 321H are adopted and shall apply to these rules, unless the context otherwise requires.

TRANSPORTATION DEPARTMENT[761](cont'd)

431.1(1) Information. Information and blank forms relating to this chapter may be obtained from and completed forms shall be submitted to the Office of Vehicle Services, Iowa Department of Transportation, P.O. Box 9278, Des Moines, Iowa 50306-9278.

431.1(1) 431.1(2) Definitions.

“Designated location” means a building actually occupied where the public and the department can contact the owner or operator during regular business hours.

“Regular business hours” means to be consistently open to the public on a weekly basis at hours reported to the office of vehicle services. Regular business hours shall include a minimum of 32 posted hours between Monday and Friday, inclusive.

431.1(2) Reserved.

This rule is intended to implement Iowa Code sections 321H.2 and 321H.4.

761—431.2(321H) Criteria for obtaining a vehicle recycler license.

431.2(1) Licensing information. Information concerning vehicle recycler requirements may be obtained from the Office of Vehicle Services, Iowa Department of Transportation, P.O. Box 9278, Des Moines, Iowa 50306-9278, or at its location in Park Fair Mall, 100 Euclid Ave., Des Moines.

431.2(2) 431.2(1) Applicant General qualifications. The applicant Every authorized vehicle recycler shall:

a. Maintain regular business hours and telephone service at a designated location which shall include separate and adequate office space for the applicant’s recycler’s business records. Telephone service must be a land line and not cellular phone service.

b. Provide the department with a copy of a letter, issued by the office responsible for the enforcement of zoning ordinances in the city, town, or county where the applicant’s business is located, which states that the applicant has complied with all zoning provisions. Comply with local zoning laws.

If the applicant resides in a city or town which requires a city license, a copy of the license shall be required in lieu of the compliance letter.

c. Comply with the provisions of Iowa Code chapter 306C, relating to the Iowa junkyard control law, when applicable.

431.2(2) Vehicle rebuilder qualifications. For every licensed location, a vehicle rebuilder must have:

a. An unobstructed area inside a building for rebuilding and restoring vehicles. The inside measurement of the unobstructed area must be at least 14 feet by 24 feet.

b. Sufficient storage for all vehicles in the rebuilder’s inventory.

c. Equipment necessary to perform rebuilding and restoring of vehicles in the inventory, such as frame-straightening equipment, a hydraulic jack, alignment and calibration equipment, and tools.

431.2(3) Used vehicle parts dealer qualifications. For every licensed location, a used vehicle parts dealer must have sufficient storage for the vehicle parts in the dealer’s inventory.

431.2(4) Vehicle salvager qualifications. For every licensed location, a vehicle salvager must have:

a. Sufficient storage for vehicles, vehicle parts, and vehicle bodies included in the salvager’s inventory.

b. Sufficient equipment necessary to perform dismantling, scrapping or storing of vehicles and vehicle parts in the inventory.

This rule is intended to implement Iowa Code section 321H.4.

431.2(3) Application. 761—431.3(321H) Application. The application for a vehicle recycler’s license shall be made on Form number 411117, which may be obtained from the department at the address shown in subrule 431.2(1) a form prescribed by the department. The application shall include the following information:

a. **431.3(1)** The application shall include the name, bona fide business address, and telephone number under which the applicant will conduct the business, the business address and telephone number as an authorized vehicle recycler.

b. **431.3(2)** If the applicant is an individual, the applicant’s name and address. If the applicant is a partnership, the name and address of each partner. If the applicant is a corporation, the name and address of each officer. If the owner of the business is an individual, the application shall include the legal name, bona fide address, and telephone number of the individual. If the owner is a partnership, the application shall include the legal name, bona fide address, and telephone number of two partners. If the owner is a corporation, the application shall include the legal name, bona fide address, and telephone number of two corporate officers. In all cases, the telephone number must be a number where the individual, partner, or corporate officer can be reached during normal business hours.

431.3(3) The application shall include the federal employer identification number of the business. However, if the business is owned by an individual who is not required to have a federal employer identification number, the application shall include the individual’s social security number, Iowa nonoperator’s identification number or Iowa driver’s license number.

e. **431.3(4)** The application shall include the address of any extension of the applicant’s place of business.

d. **431.3(5)** The application shall indicate the type of business the applicant is engaged in and include the applicant’s certification that it complies with the requirements for this type of business.

431.3(6) A letter issued by the office responsible for the enforcement of zoning ordinances in the city or county where the applicant’s place of business is located must accompany the application. The letter shall state that the business complies with all applicable zoning provisions or is a legal non-conforming use. A compliance letter is also required for any extension of the applicant’s place of business.

e. **431.3(7)** A The application shall include a statement of the previous criminal history of the applicant. If the applicant is a corporation, the statement shall be required from each officer. If the applicant is a partnership, the statement shall be required from each partner.

f. If the applicant is a vehicle rebuilder, the applicant shall certify that at every licensed location there is:

(1) An unobstructed area with an inside measurement of 14 feet by 24 feet in a building to be used for rebuilding and restoring vehicles;

(2) A separate office with a telephone;

(3) Sufficient storage for all vehicles in the inventory;

(4) Compliance with all junkyard control and local zoning laws; and

(5) Equipment necessary to perform rebuilding and restoring of vehicles in the inventory, such as frame-straightening equipment, hydraulic jack, alignment, calibration equipment and tools.

g. If the applicant is a used vehicle parts dealer, the applicant shall certify that at every licensed location there is:

(1) A separate office with a telephone;

TRANSPORTATION DEPARTMENT[761](cont'd)

(2) Sufficient storage for the vehicle parts in the inventory; and

(3) Compliance with the junkyard control law and local zoning laws.

h. If the applicant is a vehicle salvager, the applicant shall certify that there is:

(1) Sufficient storage for vehicles, vehicle parts, and vehicle bodies included in the inventory;

(2) Compliance with the junkyard control laws and local zoning laws; and

(3) Sufficient equipment necessary to perform dismantling, scrapping or storing of vehicles and vehicle parts included in the inventory.

This rule is intended to implement Iowa Code section 321H.4.

761—431.3(321H) 761—431.4(321H) Firm name. A recycler shall not represent or advertise the business under any name or style other than that which appears on the recycler's license.

This rule is intended to implement Iowa Code section 321H.4.

761—431.4(321H) 761—431.5(321H) Denial, suspension or revocation of license.

431.4(1) 431.5(1) If an applicant fails to comply with rule 431.2(321H) or rule 431.3(321H), the department shall deny the application.

431.4(2) 431.5(2) If an applicant a recycler fails to comply with any of the provisions of this chapter of rules, the department may suspend or revoke the recycler's license.

431.4(3) 431.5(3) The department may deny, revoke or suspend a license for any of the reasons stated in Iowa Code section 321H.6.

431.4(4) 431.5(4) A person who is aggrieved by a decision of the department and who is entitled to a hearing may contest the decision pursuant to rules 761—Chapter 13.

This rule is intended to implement Iowa Code chapter 17A and section 321H.6.

761—431.5(321) 761—431.6(321) Right of inspection. Peace officers shall have the authority to inspect vehicles or component parts of vehicles and the records and documents required to be kept by a recycler.

This rule is intended to implement Iowa Code section 321.95.

761—431.6(321H) Temporary license. Rescinded IAB 2/3/93, effective 3/10/93.

ITEM 49. Amend **761—Chapter 451** as follows:

CHAPTER 451
EMERGENCY VEHICLE PERMITS

761—451.1(321) Information. Information about certificates of designation for authorized emergency vehicles is available from the office of vehicle services. The address of the office of vehicle services is: Office of Vehicle Services, Iowa Department of Transportation, P.O. Box 9278, Des Moines, Iowa 50306-9278. The office is located in Park Fair Mall, 100 Euclid Avenue, Des Moines.

This rule is intended to implement Iowa Code sections 321.2 and 321.3.

761—451.2(321) Authorized emergency vehicle certificate.

451.2(1) and 451.2(2) No change.

451.2(3) Limitation. A certificate issued to a towing or recovery vehicle is valid only when the vehicle is at the scene

of an emergency, unless otherwise authorized by a law enforcement officer.

This rule is intended to implement Iowa Code section 321.451.

ITEM 50. Amend **761—Chapter 480** as follows:

CHAPTER 480
ABANDONED VEHICLES

761—480.1(321) Definitions. The definitions in Iowa Code section 321.1 and subsection 321.89(1) apply to this chapter of rules. In addition:

"Public auction," when used in Iowa Code section 321.89, means a conventional oral auction setting open to the general public where bidders register and bring the required bid deposit with them to the auction on the day and at the location and time specified for the sale. Bidders bid against each other until bidding stops. The high bidder is awarded the property provided the bid represents the fair market value of the property.

761—480.2(321) Location. Information, forms and instructions are available from: Office of Vehicle Services, Iowa Department of Transportation, P.O. Box 9278, Des Moines, Iowa 50306-9278, or at its location in Park Fair Mall, 100 Euclid Avenue, Des Moines; telephone (515)237-3058.

761—480.3(321) Disposal by police authority General requirements. If the police authority did not hire a private entity, the following applies:

480.3(1) Report. The A police authority shall report an abandoned vehicle to the department only if it is remitting unclaimed profits or requesting reimbursement. The report shall be submitted on Form 411090.

480.3(2) A private entity designated by a police authority to process an abandoned vehicle may request reimbursement of expenses that are in excess of the proceeds of the sale of the abandoned vehicle.

480.3(3) To request reimbursement, the police authority or private entity shall complete and submit to the department an abandoned vehicle report on a form prescribed by the department.

480.3(4) A police authority shall also complete and submit the prescribed abandoned vehicle report form when remitting unclaimed profits.

480.3(5) The department shall reimburse the police authority or private entity only for losses incurred in disposing of a vehicle abandoned on a public highway.

480.3(6) If a police authority has designated a private entity to process an abandoned vehicle, the police authority shall provide to the private entity a certificate of disposal form prescribed by the department. On the form, the police authority shall provide a description of the vehicle and list the name and address of the last registered owner, all known lienholders of record, and any other known claimants to the vehicle.

480.3(7) If a police authority has designated a private entity to process an abandoned vehicle, the police authority is eligible for reimbursement of only the towing expense.

480.3(2) Documents. The police authority shall submit the following documents with Form 411090:

761—480.4(321) Abandoned vehicle report.

a. **480.4(1)** Impound report. The police authority or private entity shall submit with the abandoned vehicle report the police authority's impound report showing the date the vehicle was taken into custody and providing a complete description of the vehicle. The date the vehicle was taken into

TRANSPORTATION DEPARTMENT[761](cont'd)

custody is the date of abandonment unless the police authority declares a different date of abandonment. The abandonment date shall be used to calculate the 20-day notification period to the owner and lienholder(s).

b. ~~480.4(2)~~ Notice. *A The police authority or private entity shall submit with the abandoned vehicle report a copy of the notice sent to the owner and lienholder(s) or proof of publication of notice. The department shall not reimburse any loss unless the notice was sent or published within the required 20 days.*

~~480.4(3)~~ *Certificate of disposal. A private entity shall submit with the abandoned vehicle report a copy of the completed certificate of disposal.*

~~480.3(3)~~ ~~480.4(4)~~ Receipts. The police authority or private entity shall submit with Form 411090 the abandoned vehicle report detailed receipts showing payment for each expense incurred. A receipt must identify the date(s) of occurrence of the expense; for example, a receipt for storage must identify the beginning and ending dates. A receipt for both towing and storage must show separately the towing charge and the storage charge per day. Reimbursement shall be limited as follows:

a. and b. No change.
c. Storage—\$5 per day, not to exceed 45 days per vehicle.

(1) No change.

(2) When the vehicle is held for an evidentiary hearing for more than 45 days, the police authority or private entity shall submit proof of the evidentiary hearing to obtain reimbursement.

d. No change.

~~480.4(5)~~ *Towing only. To request reimbursement of only the towing expense, the police authority shall report the abandoned vehicle to the department on the prescribed abandoned vehicle report form. The form shall be accompanied by a receipt showing payment for the towing expense incurred. Reimbursement for towing is limited to \$50 per vehicle.*

761—480.5(321) Time limits.

~~480.3(4)~~ ~~480.5(1)~~ Report claiming reimbursement. A claim for reimbursement must be submitted to the department within 90 days after the sale or disposal of the abandoned vehicle. ~~The department shall reimburse the police authority only for losses incurred in disposing of a vehicle abandoned on a public highway.~~

~~480.3(5)~~ ~~480.5(2)~~ Report remitting unclaimed profits.

a. No change.

b. If a mobile home or personal property is disposed of pursuant to Iowa Code section ~~321.90~~ 321.89, the proceeds are exempt from this rule.

~~761—480.4(321) Disposal by private entity.~~ If the police authority hired a private entity, the following applies:

~~480.4(1)~~ The police authority shall provide to the private entity Form 411163 listing the names and addresses of the registered owners, all lienholders of record, and any other known claimant to the vehicle.

~~480.4(2)~~ To request reimbursement of the towing expense, the police authority shall report the abandoned vehicle to the department on Form 411090. The form shall be accompanied by a receipt showing payment for the towing expense incurred. Reimbursement for towing is limited to \$50 per vehicle.

These rules are intended to implement Iowa Code sections 321.89 and 321.90.

ARC 6157B**VETERANS AFFAIRS, IOWA
DEPARTMENT OF[801]****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 35A.3(2), the Commission of Veterans Affairs hereby gives Notice of Intended Action to amend Chapter 10, “Iowa Veterans Home,” Iowa Administrative Code.

The intent of the proposed amendments is to reflect the clinical programming changes that the Iowa Veterans Home will be initiating.

Any interested person may make written suggestions or comments on the proposed amendments on or before September 4, 2007. Such written materials should be directed to Daniel R. Steen, Commandant, Iowa Veterans Home, 1301 Summit, Marshalltown, Iowa 50158-5485, or faxed to (641) 753-4278. E-mail may be sent to daniel.steen@ivh.state.ia.us. Persons who wish to convey their views orally should contact the Commandant’s office at (641)753-4309 at the Iowa Veterans Home.

If requested in writing, a public hearing on the proposed amendments will be held on September 5, 2007, at 1 p.m. in the Ford Memorial Conference Room at the Iowa Veterans Home, 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. Any persons who intend to attend a public hearing and have special requirements, such as those related to hearing or mobility impairments, should contact the Iowa Veterans Home to advise of specific needs. If no written or oral requests for a public hearing are received, the public hearing will be canceled without further notice.

These amendments are intended to implement Iowa Code chapter 35D.

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 **801—10.1(35D)** by rescinding the definition of “licensed physician.”

ITEM 2. Amend subrule **10.40(1)** by adding the following **new** paragraph “c” and relettering existing paragraphs “c” to “h” as “d” to “i”:

c. The use of illegal substances while a member of IVH is prohibited. A urinalysis shall confirm the presence of illegal substances. A member’s refusal to submit to a urinalysis shall be considered a positive result and is grounds for discharge.

ARC 6153B

**AGRICULTURE AND LAND
STEWARDSHIP DEPARTMENT[21]**

Adopted and Filed Emergency

Pursuant to the authority of 2007 Iowa Acts, House File 846, section 5, the Department of Agriculture and Land Stewardship hereby amends Chapter 50, "Women, Infants, and Children/Farmers' Market Nutrition Program and Senior Farmers' Market Nutrition Program," Iowa Administrative Code.

The amendment updates the statutory reference in the rules by citing the provisions recently enacted in 2007 Iowa Acts, House File 846. The administrative rules previously cited 1990 session law as their authority.

Pursuant to Iowa Code section 17A.4(2), the Department finds that notice and public participation are impracticable. Notice and public participation would result in needless delays in program enforcement.

The Department also finds, pursuant to Iowa Code section 17A.5(2)"b"(2), that the normal effective date of this amendment, 35 days after publication, should be waived and the amendment should be made effective upon filing with the Administrative Rules Coordinator. The amendment confers a benefit to the public because it clarifies the authorization and allows for the continuation and enforcement of the program.

No waiver provision is included in this amendment.

This amendment became effective on July 26, 2007.

This amendment is intended to implement 2007 Iowa Acts, House File 846.

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 adopted.

Amend rule 21—50.1(159) as follows:

21—50.1(159) Authority and scope. This chapter establishes procedures to govern the administration of a farmers' market special supplemental food program by the department of agriculture and land stewardship for implementing the applicable agreement and guidelines set forth by the United States Department of Agriculture, Food and Nutrition Service Agreement, in accordance with ~~1990 Iowa Acts, chapter 1260, section 1, subsection 3~~ 2007 Iowa Acts, House File 846.

Information may be obtained by contacting the Horticulture and Farmers' Market Bureau, Iowa Department of Agriculture and Land Stewardship, Wallace State Office Building, Des Moines, Iowa 50319, telephone (515)281-5321.

[Filed Emergency 7/26/07, effective 7/26/07]

[Published 8/15/07]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 8/15/07.

ARC 6135B

**COLLEGE STUDENT AID
COMMISSION[283]**

Adopted and Filed Emergency

Pursuant to the authority of Iowa Code section 261.3, the College Student Aid Commission hereby amends Chapter 8, "All Iowa Opportunity Scholarship Program," Iowa Administrative Code.

The purpose of this rule making is to amend the recently implemented All Iowa Opportunity Scholarship Program as enacted by 2007 Iowa Acts, Senate File 588. Changes have been made in subrule 8.3(1) concerning the use of a separate application and in subrule 8.4(2) concerning priority for grants, specifically adding language that gives priority to students who participate in federal TRIO programs or who graduate from alternative high schools or alternative high school programs.

In compliance with Iowa Code section 17A.4(2), the Commission finds that notice and public participation are unnecessary in order to ensure that all action taken by the Commission is in compliance with state law and regulations.

The Commission also finds, pursuant to Iowa Code section 17A.5(2)"b"(2), that the normal effective date of these amendments should be waived and these amendments should be made effective upon filing, as this will allow the amendments to become effective prior to the beginning of the 2007-2008 academic year.

The Commission adopted these amendments on July 19, 2007.

These amendments became effective on July 19, 2007.

These rules are intended to implement Iowa Code chapter 261 as amended by 2007 Iowa Acts, Senate File 588.

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 adopted.

Amend **283—Chapter 8** as follows:

CHAPTER 8
ALL IOWA OPPORTUNITY
SCHOLARSHIP PROGRAM

283—8.1(261) Basis of aid. Tuition assistance available under the all Iowa opportunity scholarship program is based on the financial need of Iowa residents enrolled at eligible Iowa colleges and universities.

283—8.2(261) Definitions. As used in this chapter:

"Eligible college or university" means an Iowa community college, an institution of higher education governed by the state board of regents, or an accredited private institution located in Iowa that meets all eligibility requirements set forth in Iowa Code section 261.9. All eligible colleges and universities must submit annual reports which include student and faculty information, enrollment and employment information, and other information required by the commission as described in Iowa Code sections 261.9 through 261.16.

"Financial need" means the need of an applicant for financial assistance. Need shall be evaluated annually on the basis of a confidential statement of family finances filed on a form designated by the commission. The commission has adopted

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

the use of the Free Application for Federal Student Aid (FAFSA), a federal form used to calculate a formula developed by the U.S. Department of Education, the results of which are used to determine relative need. The FAFSA must be received by the processing agent by the date specified in the application instructions.

“Full-time” means enrollment at an eligible college or university in a course of study including at least 12 semester hours or the trimester or quarter equivalent.

“Iowa resident” means a person who meets the criteria used by the state board of regents to determine residency for tuition purposes as described in 681—1.4(262) or a person who meets the criteria defined by the Iowa department of education’s “Iowa community college uniform policy on student residency status.”

“Part-time” means enrollment at an eligible college or university in a course of study including at least three semester hours or the trimester or quarter equivalent.

283—8.3(261) Eligibility requirements.

8.3(1) Applicants for the all Iowa opportunity scholarship program must complete the Free Application for Federal Student Aid (FAFSA) by the date specified in the application instructions *and any additional applications or documents required by the commission*. In addition to completing the FAFSA, an applicant must be:

a. An Iowa resident who begins his or her initial period of postsecondary enrollment within two academic years of graduation from high school;

b. An Iowa high school graduate who graduated from high school with at least a 2.5 cumulative grade point average on a 4.0 grade scale or its equivalent; and

c. Enrolled for at least three semester hours, or the trimester or quarter equivalent, in a program leading to an undergraduate degree from an eligible college or university.

8.3(2) To maintain eligibility, recipients must maintain satisfactory academic progress as defined by the eligible college or university.

8.3(3) Individuals who have military obligations may delay the initial period of enrollment for up to four academic years beyond high school graduation or must begin postsecondary enrollment within two academic years of discharge. Exceptions for health or other personal reasons for delaying the initial period of enrollment will be reviewed by commission staff on a case-by-case basis.

283—8.4(261) Awarding of funds.

8.4(1) Selection criteria. All applicants who submit applications that are received on or before the published deadline will be considered for funding.

8.4(2) Priority for grants. Only applicants with expected family contributions (EFCs) at or below the average tuition and fees for regent university students for the academic year for which awards are being made will be considered for awards.

If sufficient funding is not available to make full awards to all eligible students, awards will be made only to those students whose EFCs combined with federal Pell grants, Iowa vocational-technical tuition grants, and Iowa tuition grants total less than the designated EFC level. Priority will be given to students who participated in federal TRIO programs or alternative programs in high school and to students who graduated from alternative high schools.

8.4(3) Maximum award. The maximum award for full-time students will be the average tuition and fees for regent university students for the award year or the tuition and fees paid by the student, whichever is less.

If ~~insufficient~~ *sufficient* funding is *not* available to make full awards to all eligible students, awards will be made only to those students whose EFCs combined with federal Pell grants, Iowa vocational-technical tuition grants, and Iowa tuition grants total less than the designated EFC level.

8.4(4) Awarding process.

a. College and university officials will provide information about eligible students to the commission in a format specified by the commission.

b. ~~The commission will designate recipients in rank order based on the award amount calculated as follows—regent average tuition and fees minus EFC minus Pell grant minus Iowa vocational-technical tuition grant minus Iowa tuition grant. In no case will an award exceed a student’s tuition and fees or the average tuition and fees at a regent university, whichever is less. Awards will be made in rank order until all funding has been expended.~~ In the event that all applicants in a specific rank cannot be funded, applicants will be selected in that rank based on expected renewal status (in the case of community college students), expected family contribution, parental adjusted gross income, and application date.

c. ~~The college or university commission will notify the recipient recipients and college and university officials of the award awards,~~ clearly indicating the award amount and the state program from which funding is being provided and stating that funding is contingent on the availability of state funds.

d. *The college or university will apply awards directly to student accounts to cover tuition and fees.*

e. The college or university is responsible for completing necessary verification and for coordinating other aid to ensure compliance with student eligibility requirements and allowable award amounts. The college or university will report changes in student eligibility to the commission.

8.4(5) Award transfers and adjustments. Recipients are responsible for promptly notifying the appropriate college or university of any change in enrollment or financial situation. The college or university will make necessary changes and notify the commission.

8.4(6) Academic-year awards. All Iowa opportunity scholarships are provided during the traditional nine-month academic year, which is generally defined as September through May. Students attending eligible community colleges may receive no more than four semesters of full-time all Iowa opportunity scholarships or eight part-time semesters. Students attending eligible regent universities and other eligible colleges and universities may receive no more than two semesters of full-time all Iowa opportunity scholarships or four part-time semesters.

8.4(7) Renewal. Applicants must complete and file annual applications (FAFSAs) for the all Iowa opportunity scholarship program by the deadline established by the commission. If funds remain available after the application deadline, the commission will continue to accept applications. To be eligible for renewal, a recipient must maintain satisfactory academic progress as defined by the eligible college or university *and must not have exceeded the funding limit as described in 8.4(6)*.

283—8.5(261) Restrictions. A student who is in default on a Stafford Loan, SLS Loan, or a Perkins/National Direct/National Defense Student Loan or who owes a repayment on any Title IV grant assistance or state award shall be ineligible for assistance under the all Iowa opportunity scholarship program. Eligibility for state aid may be reinstated upon payment in full of the delinquent obligation or by commission ruling on the basis of adequate extenuating evidence

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presented in an appeal under the procedures set forth in 283—Chapters 4 and 5. Credits that a student receives through “life experience credit” and “credit by examination” are not eligible for funding.

These rules are intended to implement Iowa Code chapter 261 as amended by 2007 Iowa Acts, Senate File 588.

[Filed Emergency 7/19/07, effective 7/19/07]

[Published 8/15/07]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 8/15/07.

ARC 6136B**COLLEGE STUDENT AID
COMMISSION[283]****Adopted and Filed Emergency**

Pursuant to the authority of Iowa Code section 261.3, the College Student Aid Commission hereby amends Chapter 9, “All Iowa Opportunity Foster Care Grant Program,” Iowa Administrative Code.

The purpose of this rule making is to amend the rules governing the recently implemented All Iowa Opportunity Foster Care Grant Program as enacted by 2007 Iowa Acts, Senate File 588. Changes have been made in subrule 9.4(2) concerning priority for grants, specifically removing priority language for students in state training schools or Iowa juvenile homes.

In compliance with Iowa Code section 17A.4(2), the Commission finds that notice and public participation are unnecessary in order to ensure that all action taken by the Commission is in compliance with state law and regulations.

The Commission also finds, pursuant to Iowa Code section 17A.5(2)“b”(2), that the normal effective date of these amendments should be waived and these amendments should be made effective upon filing, as this will allow the amendments to become effective prior to the beginning of the 2007-2008 academic year.

The Commission adopted these amendments on July 19, 2007.

These amendments became effective on July 19, 2007.

These rules are intended to implement Iowa Code chapter 261 as amended by 2007 Iowa Acts, Senate File 588.

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 adopted.

Amend **283—Chapter 9** as follows:

CHAPTER 9
ALL IOWA OPPORTUNITY
FOSTER CARE GRANT PROGRAM

283—9.1(261) Basis of aid. Financial assistance under the all Iowa opportunity foster care grant program is available to students who have been in Iowa foster care, who demonstrate financial need, and who are enrolled at eligible Iowa colleges and universities.

283—9.2(261) Definitions. As used in this chapter:

“Adopted youth” means a youth who was adopted after the age of 16.

“Aged out” means youth who leave foster care at age 18 or older.

“Eligible child” means a child who meets the definition of “aged out” of foster care or who was adopted on or after the child's sixteenth birthday.

“Eligible college or university” means an Iowa community college, an institution of higher education governed by the state board of regents, or an accredited private institution located in Iowa that meets all eligibility requirements set forth in Iowa Code section 261.9. All eligible colleges and universities must submit annual reports which include student and faculty information, enrollment and employment information, and other information required by the commission as described in Iowa Code sections 261.9 through 261.16.

“Financial need” means the need of an applicant for financial assistance. Need shall be evaluated annually on the basis of a confidential statement of family finances filed on a form designated by the commission. For the purposes of determining financial need, the commission has adopted the use of the Free Application for Federal Student Aid (FAFSA), a federal form used to calculate a formula developed by the U.S. Department of Education, the results of which are used to determine relative need. The FAFSA must be received by the processing agent by the date specified in the application instructions.

“Foster care” means substitute care furnished on a 24-hour-a-day basis to an eligible child, in a licensed foster care facility or approved shelter care facility, by a person or agency other than the child's parent or guardian, but does not include care provided in a family home through an informal arrangement for a period of less than 30 days. Child foster care shall include but is not limited to the provision of food, lodging, training, education, supervision, and health care.

“Full-time” means enrollment at an eligible college or university in a course of study including at least 12 semester hours or the trimester or quarter equivalent.

“Iowa resident” means an individual who meets the criteria used by the state board of regents to determine residency for tuition purposes as described in 681—1.4(262).

“Located in Iowa” means that a college or university has made a substantial investment in a permanent Iowa campus and staff and offers a full range of courses leading to the degrees offered by the institution as well as a full range of student services.

“Part-time” means enrollment at an eligible college or university in a course of study including at least three semester hours or the trimester or quarter equivalent.

283—9.3(261) Eligibility requirements.

9.3(1) Applicants for the all Iowa opportunity foster care grant program must complete the Free Application for Federal Student Aid (FAFSA) and an application specific to the program as provided by the commission. ~~Both applications must be completed by deadlines provided by the commission.~~ The applicant's initial application date and the start date of the education or training program must be prior to the applicant's reaching the age of 23. In addition to completing the required applications, an applicant must be:

- a. An Iowa resident;
- b. A youth who has either a general equivalency diploma (GED) or a high school diploma;
- c. A youth who is at least 18 years of age and who has not yet reached 24 years of age and:

(1) Was in a licensed foster care placement under a court order as described in Iowa Code chapter 232 under the care

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

and custody of the department of human services or juvenile court services on the date the youth reached the age of 18 or during the 30 calendar days before or after that date;

(2) Was under court order under Iowa Code chapter 232 to live with a relative or other suitable person on the date the youth reached the age of 18 or during the 30 calendar days before or after that date;

(3) Was in a licensed foster care placement under an order entered under Iowa Code chapter 232 prior to being legally adopted after reaching the age of 16; or

(4) Was in the state training school or the Iowa juvenile home under court order under Iowa Code chapter 232 under the care and custody of the department of human services on the date the youth reached the age of 18 or during the 30 calendar days before or after that date; and

d. A student enrolled for at least three semester hours, or the trimester or quarter equivalent, in a program leading to a degree or certificate from an eligible college or university.

9.3(2) To maintain eligibility, recipients must maintain satisfactory academic progress as defined by the eligible institution.

283—9.4(261) Awarding of funds.

9.4(1) Selection criteria. All applicants who submit FAFSAs and program applications that are received on or before the published deadlines will be considered for funding.

9.4(2) Priority for grants. Applicants are ranked in order of the estimated amount which the applicant reasonably can be expected to contribute toward college expenses, and awards are granted to those who demonstrate need in order of family contribution, from lowest to highest, insofar as funds permit, with priority being given to applicants who were placed in the state training school or the Iowa juvenile home pursuant to a court order under Iowa Code chapter 232 under the care and custody of the department of human services.

If funds are insufficient to fund all applicants, awards will first be made to returning students who submit renewal applications by the application deadline. After all on-time renewals have been funded, awards will be made to new students and renewal students based on the application receipt date.

When all funds have been committed, applicants not awarded grants who meet the eligibility requirements will be placed on a waiting list. Applicants on the waiting list will be awarded grants *if funds become available* based on the date the completed application was received. In the event multiple applications are received on the same date, preference will be given as follows:

a. Applicants who were placed in the state training school or the Iowa juvenile home pursuant to a court order under Iowa Code chapter 232 under the care and custody of the department of human services.

b. Applicants who aged out of foster care.

(1) In the event there are multiple applicants who aged out of care, preference will be given to the applicant closest to the age of 24.

(2) In the event multiple applicants have the same birthday, preference will be given to the applicant with the highest financial need as determined by the FAFSA.

c. Applicants who were adopted.

(1) In the event there are multiple adopted applicants, preference will be given to the applicant closest to the age of 24.

(2) In the event multiple applicants have the same birthday, preference will be given to the applicant with the highest financial need as determined by the FAFSA.

d. Applicants, regardless of foster care placement, who received awards previously but withdrew from school.

(1) In the event there are multiple applicants, preference will be given to the applicant closest to the age of 24.

(2) In the event multiple applicants have the same birthday, preference will be given to the applicant with the highest financial need as determined by the FAFSA.

9.4(3) Award notification. All recipients will be notified in writing of the amount of their award. Ineligible applicants, or applicants who are on the waiting list, will be notified in writing of their ineligibility or waiting-list status. The commission will coordinate all financial aid received by the recipient recipients to ensure compliance with student eligibility requirements and allowable award amounts.

9.4(4) Award transfers and adjustments. Recipients are responsible for promptly notifying the appropriate college or university of any change in enrollment or financial situation. The college or university will make necessary changes and notify the commission.

9.4(5) Academic-year awards. All Iowa opportunity foster care grants are provided during the traditional nine-month academic year, which is generally defined as September through May. *Awards shall not exceed the full cost of attendance as determined by the college or university minus other federal, state, or college or university financial aid provided to the student.*

9.4(6) Renewal. Applicants must complete and file annual applications for the all Iowa opportunity foster care grant program by the deadline established by the commission. If funds remain available after the application deadline, the commission will continue to accept applications. To be eligible for renewal, a recipient must maintain satisfactory academic progress as defined by the eligible college or university.

9.4(7) Extent of grant. ~~Students may receive no more than eight semesters of full-time all Iowa opportunity foster care grants or 16 part-time semesters.~~

283—9.5(261) Disbursement of grant. The full amount of the grant will be disbursed in multiple installments to the eligible college or university upon receipt of certification from the college or university that the grant recipient is enrolled and in good academic standing. The institution college or university will first use the funds to pay any outstanding charges of the student. Once the student account balance has been settled, the remaining funds, if any, may be refunded to the student.

If the student withdraws from the university and is entitled to a refund of tuition and fees, the pro-rata share of the refund attributable to the grant shall be refunded to the commission.

283—9.6(261) Award transfers and adjustments. Recipients are responsible for notifying the commission immediately of any change in name, enrollment status, or address.

283—9.7(261) Restrictions. A student who is in default on a Stafford Loan, SLS Loan, or a Perkins/National Direct/National Defense Student Loan or who owes a repayment on any Title IV grant assistance or state award shall be ineligible for assistance under the all Iowa opportunity foster care grant program. Eligibility for state aid may be reinstated upon payment in full of the delinquent obligation or by commission ruling on the basis of adequate extenuating evidence presented in an appeal under the procedures set forth in 283—Chapters 4 and 5. Credits that a student receives through “life experience credit” and “credit by examination” are not eligible for grant funding.

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

These rules are intended to implement Iowa Code chapter 261 as amended by 2007 Iowa Acts, Senate File 588.

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ARC 6137B

ECONOMIC DEVELOPMENT, IOWA DEPARTMENT OF[261]

Adopted and Filed Emergency

Pursuant to the authority of Iowa Code sections 15.104 and 15.106, the Iowa Department of Economic Development adopts new Chapter 102, "Information Technology Joint Venture Fund," and Chapter 103, "Information Technology Training Program," Iowa Administrative Code.

The rules implement new programs authorized by 2007 Iowa Acts, House File 829. The rules describe the purpose of the programs; the application submittal, review and approval procedures; and the contract administration provisions.

In compliance with Iowa Code section 17A.4(2), the Department finds that notice and public participation are impracticable and contrary to the public interest, because there are a number of applicants with pending projects that want to get started as soon as possible. In addition, the Department is required to provide a report by January 15, 2008, about program activity and this immediate implementation would allow time to collect more information.

The Department also finds, pursuant to Iowa Code section 17A.5(2)"b"(2), that the normal effective date of the rules should be waived and these rules should be made effective upon filing with the Administrative Rules Coordinator on July 19, 2007. Having administrative rules in effect on this date will allow an application and review process to be in place for pending projects.

These rules are also published herein under Notice of Intended Action as **ARC 6138B** to allow for public comment.

The Iowa Economic Development Board adopted these rules on July 19, 2007.

These rules became effective on July 19, 2007.

These rules are intended to implement 2007 Iowa Acts, House File 829.

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 adopted.

Adopt the following **new** chapters:

CHAPTER 102 INFORMATION TECHNOLOGY JOINT VENTURE FUND

261—102.1(82GA,HF829) Authority. The authority for establishing rules governing the information technology joint venture fund under this chapter is provided in 2007 Iowa Acts, House File 829, section 1(4).

261—102.2(82GA,HF829) Purpose. The purpose of the information technology joint venture fund is to provide financial and technical assistance to encourage joint venture development of targeted IT innovations. The primary purpose of this program is to encourage Iowa IT user companies and Iowa software product companies to work on joint research and development programs to commercialize specialized IT products and services.

261—102.3(82GA,HF829) Definitions.

"Board" means the Iowa economic development board established in Iowa Code section 15.103.

"Committee" means the technology commercialization committee created by the board pursuant to Iowa Code section 15.116.

"Department" means the Iowa department of economic development.

"Fund" means the information technology joint venture fund.

"IP" means intellectual property.

"IT" means information technology.

"NAICS" means North American Industry Classification System.

"Targeted IT innovations" means those technologies which have commercial potential but the generators of the technology do not wish to further commercialize the innovation themselves.

261—102.4(82GA,HF829) Program funding.

102.4(1) The maximum award shall not exceed \$100,000 for a single project.

102.4(2) Funds may be used for applications development, software, materials, supplies and equipment, creation of marketing materials, legal and consulting costs or other business expenses deemed reasonable and appropriate.

102.4(3) No program funds shall be used for university overhead expenses or for any work that was conducted by an applicant company or any third-party consultant prior to the term of the contract.

102.4(4) Financial assistance shall be awarded to projects that will result in technologies being developed as commercial products for sale by Iowa companies rather than as custom applications for proprietary use by a participating firm.

102.4(5) The forms of financial assistance may consist of, but not be limited to, loans, forgivable loans, grants and such other forms of assistance the board deems appropriate and consistent with the needs of a given project.

261—102.5(82GA,HF829) Matching funds requirement.

In order to receive financial assistance, an applicant must demonstrate the ability to secure two dollars of nonstate monies for every one dollar received from the department.

261—102.6(82GA,HF829) Eligible applicants.

102.6(1) Eligible applicants must be classified within and are limited to the 2002 NAICS codes for the following targeted industries:

- a. Biosciences.
- b. Information technology.
- c. Advanced manufacturing.

102.6(2) Eligible businesses must be technology-based and sufficiently innovative to provide a competitive advantage in the marketplace and have the potential for significant, high-performance growth.

102.6(3) Businesses applying for assistance shall be located in, or shall have relocated to, and shall be primarily domiciled in Iowa prior to the receipt of program funds.

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261—102.7(82GA, HF829) Ineligible applicants. The following businesses are not eligible for this program:

102.7(1) A business which is engaged in retail sales or which provides health services is ineligible.

102.7(2) A business which closes or substantially reduces its workforce by more than 20 percent at existing operations in order to relocate substantially the same operations to another area of the state is ineligible for 36 consecutive months at any of its Iowa sites from the date the new establishment opens.

261—102.8(82GA, HF829) Application and review process.

102.8(1) An eligible business must submit an application for financial assistance, in the form specified by the department, to the Iowa Department of Economic Development, Targeted Industries Division, 200 East Grand Avenue, Des Moines, Iowa 50309. Required forms and instructions are available at this address or at the department's Web site at www.iowalifechanging.com.

102.8(2) To apply for financial assistance from the fund, a business shall submit an application to the department, in the form specified by the department, on behalf of both the IT user company and the IT provider company. The application will be reviewed by department staff, the committee and the board. The committee will make a recommendation to the board regarding an application. The board has final decision-making authority on requests for financial assistance from the fund. The board may approve, defer or deny an application.

102.8(3) An application for financial assistance shall include all information required by the department including, but not limited to, the following:

a. Proposed approach. A description of the ownership structure of the IP, the experience of those involved in the proposal, and the company resources.

b. Market research. A market research analysis that addresses questions such as:

- (1) What are the competing or alternative technologies?
- (2) What is the advantage of this new approach?
- (3) What are the distribution plans?
- (4) What is the estimated return on investment?

c. Commercialization. A description of the key next steps to making an impact with the innovation and a description of the need for funding to overcome obstacles to success.

d. Work plan. A description of the strategy and key elements to be funded to address the goals of the work plan, including project milestones.

e. Resources and budget. A budget that includes a detailed description of the sources, including the required match, and uses of the funds.

261—102.9(82GA, HF829) Application selection criteria. When applications for financial assistance are reviewed, the following criteria shall be considered:

102.9(1) Intellectual property. How the ownership of the IP is structured. (More points will be awarded for greater IP control by an Iowa IT provider company, with the greatest number of points being awarded for exclusive IP ownership by an Iowa IT provider company.)

102.9(2) Experience. The level of experience the business has in product development and commercialization and ongoing product maintenance.

102.9(3) Estimate for project completion. What the work requirements are; how quickly the project will be completed; how credible the estimate is relative to the Iowa IT provider

company's experience; and what resources the IT provider company has to execute project requirements.

102.9(4) Market research. Whether there is a competitor; how large the market outside of Iowa is; how credible the marketing plan is; the level of experience the IT provider company has in this industry; and whether there is an industry in Iowa that would be a natural client/market.

102.9(5) Financial requirement. Whether the matching and necessary funds have been secured and whether the amount available is sufficient to take the product to market.

102.9(6) Distribution. Whether channels already exist to take the product to market.

102.9(7) Expected return. What the expected return on investment is, based on the break-even point and long-term economic impact of the project.

261—102.10(82GA, HF829) Contract and reporting.

102.10(1) Notice of award. Successful applicants will be notified in writing of an award of financial assistance, including any conditions and terms of the approval.

102.10(2) Contract required. The department shall prepare a contract, which includes, but is not limited to, a description of the project to be completed by the business; conditions to disbursement; required reports; and the repayment requirements imposed on the business in the event the business does not fulfill its obligations described in the contract and other specific repayment provisions ("clawback" provisions) to be established on a project-by-project basis.

102.10(3) Reporting. An applicant shall submit any information requested by the department in sufficient detail to permit the department to prepare the report required pursuant to 2007 Iowa Acts, House File 829, section 10, and any other reports deemed necessary by the department, the board, the general assembly or the governor's office.

These rules are intended to implement 2007 Iowa Acts, House File 829.

CHAPTER 103

INFORMATION TECHNOLOGY

TRAINING PROGRAM

261—103.1(82GA, HF829) Authority. The authority for establishing rules governing the information technology training program under this chapter is provided in 2007 Iowa Acts, House File 829, section 1(5).

261—103.2(82GA, HF829) Purpose. The purpose of the information technology training program is to assist businesses or departments of businesses engaged in the delivery of information technology services in the state in upgrading the high-level technical skills of existing employees.

261—103.3(82GA, HF829) Definitions.

"Board" means the Iowa economic development board established in Iowa Code section 15.103.

"Committee" means the technology commercialization committee created by the board pursuant to Iowa Code section 15.116.

"Department" means the Iowa department of economic development.

"High-level technical training" means training that provides knowledge or skills that are clearly recognized throughout the industry as current and advanced for a particular occupation.

"Information technology professional" means an employee primarily engaged in the delivery of information

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

technology services in one of the following NAICS job classifications or in any similar NAICS job classification:

1. Networking and systems support: 11-3021, 15-1041, 15-1051, 15-1061, 15-1071, 15-1081, 15-1099, 17-3023, 17-3024.

2. Programming and engineering: 15-1011, 15-1021, 15-1031, 15-1032, 15-2031, 15-2099.

3. Assembly, installation and repair: 17-3012, 49-2011, 49-2022, 49-2093, 49-2094, 49-9052, 51-2022, 51-2023, 51-4011, 51-4012, 51-9141.

“NAICS” means North American Industry Classification System.

261—103.4(82GA,HF829) Program funding.

103.4(1) The maximum annual award that may be approved for any business site is \$25,000.

103.4(2) Program training may be provided in state or out of state.

103.4(3) Financial assistance shall be based on the actual cost of allowable services.

261—103.5(82GA,HF829) Matching funds requirement.

A business shall provide matching funds of at least two dollars of nonstate moneys for every one dollar received from the department.

261—103.6(82GA,HF829) Use of program funds.

103.6(1) The following costs associated with the operation of training services are eligible for program funding:

- a. Cost of tuition.
- b. Cost of company, college, or contracted trainer or training services.
- c. Training-related materials and supplies.
- d. Lease or rental of training facilities.
- e. Training-related travel.
- f. Subcontracted services.
- g. Contracted or professional services.

103.6(2) Equipment and software, when used for training, may be an allowable cost. If equipment or software is purchased for use in training but is subsequently retained for use in the general operation of the applicant's business, only the prorated portion of the equipment or software costs directly related to the training shall be eligible for program funding.

103.6(3) Reimbursement of an employee's wages while the employee is in training is not allowed.

261—103.7(82GA,HF829) Eligible business. To be eligible for this program, the business, or a department of the business, must be engaged in the delivery of information technology services, and the business must be located in Iowa.

261—103.8(82GA,HF829) Ineligible business. The following businesses are not eligible for this program:

103.8(1) A business which is engaged in retail sales or which provides health services is ineligible.

103.8(2) A business which closes or substantially reduces its workforce by more than 20 percent at existing operations in order to relocate substantially the same operations to another area of the state is ineligible for 36 consecutive months at any of its Iowa sites from the date the new establishment opens.

261—103.9(82GA,HF829) Eligible employee.

103.9(1) The employee for whom training is planned must be an information technology professional whose principal place of employment is in Iowa.

103.9(2) The employee for whom training is planned must hold a current position intended by the employer to exist on an ongoing basis with no planned termination date.

103.9(3) Training is available only to an employee who is hired by the business, is currently employed by the business, and for whom the business pays Iowa withholding tax.

261—103.10(82GA,HF829) Ineligible employee.

103.10(1) A replacement worker who is hired as a result of a strike, lockout, or other labor dispute is ineligible for program services.

103.10(2) An employee hired as a temporary worker is ineligible for program services.

261—103.11(82GA,HF829) Application and review process.

103.11(1) An eligible business must submit an application for training assistance, on a form provided by the department, to the Iowa Department of Economic Development, Targeted Industries Division, 200 East Grand Avenue, Des Moines, Iowa 50309. Required forms and instructions are available at this address or at the department's Web site at www.iowalifechanging.com.

103.11(2) The application will be reviewed by department staff, the committee and the board. The committee will make a recommendation to the board regarding an application. The board has final decision-making authority on requests for financial assistance for this program. The board may approve, defer or deny an application or may refer an application to another training program.

103.11(3) An application for assistance shall include all information required by the department including, but not limited to, the following:

- a. The dates and location of the training.
- b. The name of employee(s) attending training.
- c. A copy of the registration contract outlining costs of training.
- d. A statement of how training will benefit the company and how the training supports Iowa's initiative to grow the targeted industries.
- e. Identification of the skills the employees will acquire from the training and how the skills will increase the employees' value to the business.
- f. A statement of the anticipated training outcomes.

103.11(4) The department and the committee will score applications according to the criteria specified in rule 261—103.12(82GA,HF829).

103.11(5) To be considered for funding, an application must receive a minimum score of 65 out of a possible 100 points and meet all other eligibility criteria specified in these rules.

103.11(6) Applications which receive a minimum score of 65 points shall be referred to the board for final action.

103.11(7) The department reserves the right to require additional information from a business.

103.11(8) Application approval shall be contingent on the availability of funds. The board shall reject or defer an application if funds are not available.

103.11(9) The board reserves the right to award program funds in an amount less than that requested in the application.

261—103.12(82GA,HF829) Application scoring criteria. When applications for financial assistance are reviewed, the following criteria shall be considered:

1. The application has established the business's need for training. 15 points.
2. The application represents high-level technology training. 15 points.
3. The training will substantially improve the skills, knowledge and abilities of the employee. 15 points.

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

4. The average wages that are or will be paid by the business participating in this training are or will be above the state average wage rates. 10 points.

5. The training will help improve the business's competitiveness. 5 points.

6. The state of Iowa will realize economic benefits as a result of providing assistance for this training. 10 points.

7. The training will be provided at a state of Iowa community college or university. 5 points.

8. The training is jointly provided to IT employees from more than one Iowa company. 10 points.

9. The application documents that all considerations, including the funding required to begin the training project, have been addressed. 5 points.

10. The business provides its employees health insurance and other benefits. 5 points.

11. The majority of the business's employees are employed full-time. 5 points.

261—103.13(82GA,HF829) Contract and reporting.

103.13(1) Notice of award. Successful applicants will be notified in writing of an award of assistance, including any conditions and terms of the approval.

103.13(2) Contract required. The department shall prepare a contract, which includes, but is not limited to, a description of the training to be completed; conditions to disbursement; required reports; and the repayment requirements imposed in the event the business does not fulfill its obligations described in the contract and other specific repayment provisions ("clawback" provisions) to be established on an individual.

103.13(3) Reporting. An applicant shall submit any information requested by the department in sufficient detail to permit the department to prepare the report required pursuant to 2007 Iowa Acts, House File 829, section 10, and any other reports deemed necessary by the department, the board, the general assembly or the governor's office.

These rules are intended to implement 2007 Iowa Acts, House File 829.

[Filed Emergency 7/19/07, effective 7/19/07]

[Published 8/15/07]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 8/15/07.

ARC 6165B

**PETROLEUM UNDERGROUND
STORAGE TANK FUND BOARD,
IOWA COMPREHENSIVE[591]**

Adopted and Filed Emergency

Pursuant to the authority of Iowa Code section 455G.9, the Iowa Comprehensive Petroleum Underground Storage Tank Fund Board hereby amends Chapter 11, "Claims," and rescinds Chapter 15, "Installers and Inspectors," Iowa Administrative Code.

The amendment to Chapter 11 in Item 1 provides rules and procedures for the reimbursement of claims for the removal of eligible upgraded underground storage tanks pursuant to Iowa Code section 455G.9 as amended by 2007 Iowa Acts, Senate File 499, section 8. 2007 Iowa Acts, Senate File 499, section 11, repeals Iowa Code section 455G.17. The Board's licensing authority for installers and inspectors has been

transferred to the Environmental Protection Commission of the Department of Natural Resources, and the Commission has adopted new rules that were formerly found in 591—Chapter 15 (see **ARC 6073B**, IAB 8/1/07). Thus, in the amendment in Item 2, Chapter 15 is rescinded.

Pursuant to Iowa Code section 17A.4(2), the Board finds that notice and public participation are impractical because, pursuant to Iowa Code section 455G.9 as amended by 2007 Iowa Acts, Senate File 499, section 8, July 1, 2007, was the effective date of the statutory authority that allows for reimbursement of eligible tank pull costs on tanks that meet upgrade standards. The emergency adoption allows claimants to complete work during summer construction season. Also, pursuant to 2007 Iowa Acts, Senate File 499, section 11, the statutory transfer of the licensing authority for installers and inspectors from the Board to the Environmental Protection Commission of the Department of Natural Resources avoids duplication of rules.

Pursuant to Iowa Code section 17A.5(2)"b"(1) and (2), the Board finds that the normal effective date of these amendments, 35 days after publication, should be waived and the amendments be made effective on August 15, 2007, after filing with the Administrative Rules Coordinator. The amendment in Item 1 confers a benefit upon the public by providing for a monetary reimbursement benefit to assist with the removal of upgraded petroleum underground storage tanks for eligible claimants. The amendment in Item 2 removes rules that have been adopted by the Environmental Protection Commission.

These amendments do not mandate additional combined expenditures exceeding \$100,000 by all affected political subdivisions or agencies and entities which contract with political subdivisions to provide services.

These amendments are also published herein under Notice of Intended Action as **ARC 6164B** to allow public comment.

These amendments became effective August 15, 2007.

These amendments are intended to implement Iowa Code sections 455G.9 and 455G.17 as amended by 2007 Iowa Acts, Senate File 499.

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. Rescind subrule 11.3(11) and adopt the following **new** subrule in lieu thereof:

11.3(11) Permanent closure of an underground storage tank system. Costs for the permanent closure of underground storage tank systems are eligible for reimbursement from the board if all of the following requirements are met:

a. The underground storage tank system to be permanently closed was already in place on the date an eligible claim was submitted to the board.

b. The claim must have been eligible for benefits pursuant to Iowa Code section 455G.9(1)"a" at the time submitted and must have remained eligible for benefits without disqualification, including eligible innocent landowner claims, claims for sites receiving a no further action certificate from the department, and claims for sites the department has designated as no action required.

c. The claimant seeking reimbursement under this subrule must certify by affidavit that the claimant is the owner or operator of the underground storage tank system, that the legal owner of the tank system has abandoned the tanks, or that there is no known owner of the tank system.

PETROLEUM UNDERGROUND STORAGE TANK FUND BOARD, IOWA COMPREHENSIVE[591](cont'd)

d. The permanent closure activities occurred on or after July 1, 2007. All costs must have been preapproved prior to the commencement of work.

e. For projects that include the removal of tank systems that are also associated with a larger scope of work, for example, the installation of a remediation system or expanded excavation or upgrading of a fuel delivery system, the budget for the entire scope of work must be submitted for any costs to be considered eligible for reimbursement.

f. The board may elect to provide for the direct removal of any tanks eligible through a board-contracted vendor. Any copayment shall be paid by the claimant upon removal of the tank system.

g. Claimants shall be responsible for ensuring that any persons performing work meet all applicable licensing or

certification requirements or both that may exist at the time of completion of the work to be reimbursed.

h. Claims made under this subrule are subject to Iowa Code chapter 455G copayment requirements and cost recovery enforcement.

ITEM 2. Rescind and reserve **591—Chapter 15.**

[Filed Emergency 7/27/07, effective 8/15/07]

[Published 8/15/07]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 8/15/07.

ARC 6139B**ARCHITECTURAL EXAMINING BOARD[193B]****Adopted and Filed**

Pursuant to the authority of Iowa Code section 544A.29, the Architectural Examining Board hereby amends Chapter 2, "Registration," Iowa Administrative Code.

The amendments to Chapter 2 allow a nonresident registrant to reinstate a lapsed registration by providing evidence of compliance with the continuing education requirements of the registrant's resident state during the period of nonregistration in lieu of providing documented evidence of hours required to satisfy Iowa's continuing education requirements.

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

Notice of Intended Action was published in the Iowa Administrative Bulletin on April 25, 2007, as **ARC 5845B**. No written or oral comments were received. There are no changes to the amendments published under Notice of Intended Action.

The Board adopted these amendments on July 10, 2007.

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

These amendments shall become effective September 19, 2007.

EDITOR'S NOTE: Pursuant to recommendation of the Administrative Rules Review Committee published in the Iowa Administrative Bulletin, September 10, 1986, the text of these amendments [2.6(1)"a"(4), 2.6(2)"a"(4)] is being omitted. These amendments are identical to those published under Notice as **ARC 5845B**, IAB 4/25/07.

[Filed 7/20/07, effective 9/19/07]
[Published 8/15/07]

[For replacement pages for IAC, see IAC Supplement 8/15/07.]

ARC 6163B**EDUCATION DEPARTMENT[281]****Adopted and Filed**

Pursuant to the authority of Iowa Code section 256.7(5), the State Board of Education amends Chapter 17, "Open Enrollment," Iowa Administrative Code.

This amendment corrects an oversight. When the open enrollment statute (Iowa Code section 282.18) was amended in 2005 to change the statutory deadline for filing an open enrollment request from January 1 to March 1, the State Board of Education amended appropriate parts of Chapter 17 to conform to the legislation. Paragraph 17.4(2)"d" amended herein was inadvertently omitted from rule making at that time.

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

Notice of Intended Action was published in the May 9, 2007, Iowa Administrative Bulletin as **ARC 5869B**. No comments, written or verbal, were received. The amendment is identical to that published under Notice.

This amendment is intended to implement Iowa Code section 282.18 as amended by 2005 Iowa Acts, chapter 179, sections 93 to 95.

This amendment will become effective September 19, 2007.

The following amendment is adopted.

Amend subrule **17.4(2)**, paragraph "**d**," as follows:

d. Loss of accreditation.

(1) Removal of accreditation by the state board after ~~January~~ *March 1*.

(2) Surrender of accreditation after ~~January~~ *March 1*.

(3) Permanent closure of a nonpublic school after ~~January~~ *March 1*.

[Filed 7/27/07, effective 9/19/07]

[Published 8/15/07]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 8/15/07.

ARC 6162B**EDUCATION DEPARTMENT[281]****Adopted and Filed**

Pursuant to the authority of Iowa Code section 256.7(5), the State Board of Education amends Chapter 56, "Vocational Rehabilitation Services Division," Iowa Administrative Code.

These amendments continue the process of aligning state and federal regulations. Other amendments were proposed by vocational rehabilitation counselors in the field as commonsensical ways to better serve clients of Iowa Vocational Rehabilitation Services (IVRS), and none of these amendments is disallowed by federal or state law.

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

Notice of Intended Action was published in the May 9, 2007, Iowa Administrative Bulletin as **ARC 5871B**. A public hearing was held on May 29, 2007, at 3 p.m., and public comments were allowed until 4:30 p.m. on May 29, 2007. No written or oral comments were received.

These amendments are identical to those published under Notice.

These amendments shall become effective September 19, 2007.

EDITOR'S NOTE: Pursuant to recommendation of the Administrative Rules Review Committee published in the Iowa Administrative Bulletin, September 10, 1986, the text of these amendments [amendments to Ch 56] is being omitted. These amendments are identical to those published under Notice as **ARC 5871B**, IAB 5/9/07.

[Filed 7/27/07, effective 9/19/07]

[Published 8/15/07]

[For replacement pages for IAC, see IAC Supplement 8/15/07.]

ARC 6148B**ENGINEERING AND LAND
SURVEYING EXAMINING
BOARD[193C]****Adopted and Filed**

Pursuant to the authority of Iowa Code section 542B.6, the Engineering and Land Surveying Examining Board amends Chapter 5, "Land Surveying Licensure," Iowa Administrative Code.

Notice of Intended Action was published in the Iowa Administrative Bulletin on June 6, 2007, as **ARC 5944B**. This amendment is identical to that published under Notice of Intended Action.

This amendment clarifies that the six-year experience requirement, which is in addition to graduation from a two-year degree program, may be reduced for graduates of a degree program of more than two years and explains the conditions under which an on-line degree will be accepted as satisfactory by the Board for proper preparation of the applicant for the fundamentals of surveying examination.

Waiver of these rules may be sought pursuant to 193—Chapter 5.

This amendment was adopted by the Board on July 12, 2007.

This amendment shall become effective September 19, 2007.

This amendment is intended to implement Iowa Code sections 542B.2, 542B.13, 542B.14, 542B.15, and 542B.20.

The following amendment is adopted.

Amend subrule 5.1(1) as follows:

5.1(1) First, the applicant for initial licensure in Iowa must satisfy the education plus experience requirements as follows: graduation from a course of two years or more in mathematics, physical sciences, mapping and surveying, or engineering in a school or college and six years of practical experience, all of which, in the opinion of the board, will properly prepare the applicant for the examination in fundamental land surveying subjects.

a. The six-year experience requirement above may be reduced based upon the number of years of the degree program from which the applicant graduated. Refer to the chart at 5.1(6).

b. Internet or on-line degrees will only be considered as qualifying degrees if the institution issuing the degree is accredited by a recognized accreditation board.

[Filed 7/25/07, effective 9/19/07]

[Published 8/15/07]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 8/15/07.

ARC 6147B**ENGINEERING AND LAND
SURVEYING EXAMINING
BOARD[193C]****Adopted and Filed**

Pursuant to the authority of Iowa Code section 542B.6, the Engineering and Land Surveying Examining Board amends Chapter 6, "Seal and Certificate of Responsibility," Iowa Administrative Code.

Notice of Intended Action was published in the Iowa Administrative Bulletin on June 6, 2007, as **ARC 5941B**. This amendment is identical to that published under Notice of Intended Action.

This amendment changes the term "digital" signature to "secure electronic" signature and explains the conditions under which an electronic signature meets the signature requirements of this chapter.

Waiver of these rules may be sought pursuant to 193—Chapter 5.

This amendment was adopted by the Board on July 12, 2007.

This amendment shall become effective September 19, 2007.

This amendment is intended to implement Iowa Code sections 542B.13, 542B.15, 542B.20 and 542B.30.

The following amendment is adopted.

Amend subrule 6.1(9) as follows:

6.1(9) Digital signatures *Secure electronic signature. A digital An electronic signature as defined in or governed by Iowa Code chapter 554D meets the signature requirements of this rule if it is protected by a security procedure, as defined in Iowa Code section 554D.103(14), such as digital signature technology. It is the licensee's responsibility to ensure, prior to affixing an electronic signature to an engineering or land surveying document, that security procedures are adequate to (1) verify the signature is that of a specific person and (2) detect any changes that may be made or attempted after the signature of the specific person is affixed.*

[Filed 7/25/07, effective 9/19/07]

[Published 8/15/07]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 8/15/07.

ARC 6141B**HUMAN SERVICES
DEPARTMENT[441]****Adopted and Filed Without Notice**

Pursuant to the authority of Iowa Code section 249A.4 and 2007 Iowa Acts, House File 909, section 8(6), the Department of Human Services amends Chapter 78, "Amount, Duration and Scope of Medical and Remedial Services," Iowa Administrative Code.

Public Law 110-208, the U.S. Troop Readiness, Veterans' Care, Katrina Recovery, and Iraq Accountability Appropriations Act of 2007 provides that effective October 1, 2007, federal Medicaid funding shall not be available for any

HUMAN SERVICES DEPARTMENT[441](cont'd)

amounts expended for prescription drugs for which the prescription was executed in written (and nonelectronic) form unless the prescription was executed on a tamper-resistant pad. This amendment implements that legislation.

This amendment does not provide for waivers in specified situations because federal law does not allow for waivers. The Department has adopted a general rule on exceptions at 441—1.8(17A,217).

The Council on Human Services adopted this amendment July 11, 2007.

The Department finds that notice and public participation are unnecessary because the amendment merely implements a federal requirement, and the state has no other options. Therefore, this amendment is filed pursuant to Iowa Code section 17A.4(2).

This amendment is also published herein under Notice of Intended Action as **ARC 6142B** to allow for public comment.

This amendment is intended to implement Iowa Code section 249A.4 and Public Law 110-28, Section 7002b.

This amendment will become effective October 1, 2007.

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

The following amendment is adopted.

Amend subrule **78.1(2)**, paragraph “a,” subparagraph (2), by adopting **new** numbered paragraph “10” as follows:

10. Prescription drugs for which the prescription was executed in written (and nonelectronic) form unless the prescription was executed on a tamper-resistant pad, as required by Section 1903(i)(23) of the Social Security Act (42 U.S.C. § 1396b(i)(23)).

[Filed Without Notice 7/20/07, effective 10/1/07]

[Published 8/15/07]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 8/15/07.

ARC 6132B

INSURANCE DIVISION[191]

Adopted and Filed

Pursuant to the authority of Iowa Code section 432.1(6), the Insurance Division hereby amends Chapter 5, “Regulation of Insurers—General Provisions,” Iowa Administrative Code.

New rule 191—5.42(432) establishes a mechanism whereby insurers that affirmatively demonstrate an inability to recoup funds paid via a credit and that meet other eligibility criteria may obtain a cash refund of premium tax paid.

Notice of Intended Action was published in the Iowa Administrative Bulletin on March 14, 2007, as **ARC 5778B**. A public hearing was held on April 4, 2007, at 10 a.m. at the offices of the Insurance Division, 330 Maple Street, Des Moines, Iowa 50319. No one appeared at the public hearing, and no comments were received.

Since publication of the Notice of Intended Action, one technical change has been made to the new rule. The new rule has been renumbered as rule 191—5.42(432) rather than rule 191—5.95(432) so that its placement within Chapter 5 more closely corresponds to the subject matter covered in ex-

isting rules. No other changes have been made since publication of the Notice.

This rule will become effective September 19, 2007.

This rule is intended to implement Iowa Code section 432.1(6).

The following amendment is adopted.

Amend 191—Chapter 5 by adopting the following **new** rule:

191—5.42(432) Cash refund of premium tax. A cash refund of premium tax may be made to an insurance company that has paid a premium tax payment or prepayment and demonstrates an inability to recoup the funds paid via a credit, provided that the insurance division determines that a refund is appropriate. A claim for refund is a formal request made by the insurance company or its successor in interest to the insurance division for repayment of premium tax prepayments that were paid with the insurance company's previously filed tax return. The claim for refund shall not be filed with a premium tax prepayment, annual tax payment, or with other documents or forms submitted to the division.

5.42(1) Eligibility criteria. Upon the written application of an insurance company or its successor in interest, the insurance division shall authorize the department of revenue to make a cash refund to an insurer if:

a. The insurance company is subject to an order of liquidation or equivalent order issued by a court of competent jurisdiction; or

b. The insurance company has not written any business in the state of Iowa for five years; or

c. The insurance company's certificate of authority is voluntarily or involuntarily surrendered or terminated; upon application for a refund, the company shall be prohibited from applying for readmission in Iowa for at least five years; and

d. The insurance company has no insurer within its holding company which could utilize the credit.

5.42(2) Application procedure. An insurance company may file a claim for a cash refund with the insurance division by stating in detail the reasons and facts and including supporting documents with the claim for a cash refund. These documents shall include but not be limited to:

a. A written request applying for a cash refund and identifying the address where the cash refund should be mailed;

b. A copy of the tax return from which the premium tax credit originated;

c. A copy of the liquidation order or other documentation demonstrating that the insurance company's certificate of authority has been surrendered and that the company is prohibited from applying for admission in Iowa for at least five years; and

d. A certification from the chief executive officer stating that the company has no plans for writing business in the state of Iowa and agrees to notify the insurance division before writing any business in this state if the claim for refund is made pursuant to 5.42(1)“b.”

5.42(3) Appeals. If the claim for refund is denied and the applicant wishes to appeal the denial, the insurance division will consider an appeal to be timely if filed not later than 30 days following the date of denial.

5.42(4) Statute of limitations. Upon meeting the eligibility criteria outlined in 5.42(1), an insurance company has up to five years to file an application for a refund. A refund will not be authorized if an application is not made within this time frame.

INSURANCE DIVISION[191](cont'd)

This rule is intended to implement Iowa Code section 432.1(6).

[Filed 7/17/07, effective 9/19/07]

[Published 8/15/07]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 8/15/07.

ARC 6146B

PROFESSIONAL LICENSURE DIVISION[645]

Adopted and Filed

Pursuant to the authority of Iowa Code section 147.76, the Board of Respiratory Care hereby amends Chapter 260, "Administrative and Regulatory Authority for the Board of Respiratory Care," Chapter 261, "Licensure of Respiratory Care Practitioners," Chapter 262, "Continuing Education for Respiratory Care Practitioners," Chapter 263, "Discipline for Respiratory Care Practitioners," and Chapter 265, "Practice of Respiratory Care Practitioners," Iowa Administrative Code.

These amendments adopt changes to define the continuing education required for license reactivation, remove Board approval of continuing education sponsors, and remove requirements regarding polysomnography testing. Additionally, the amendments implement changes necessitated by the passage of 2007 Iowa Acts, Senate File 74.

Notice of Intended Action was published in the Iowa Administrative Bulletin on May 23, 2007, as **ARC 5887B**. A

public hearing was held on June 12, 2007, from 9 to 9:30 a.m. in the Fifth Floor Board Conference Room, Lucas State Office Building. One public comment was received. The Iowa Society for Respiratory Care wanted to know why the polysomnography testing requirements were being removed. When the Board explained that there is no statutory authority for the rule, the Society indicated they supported the Board's action to remove the language. The Board will also work with several organizations to develop a policy statement relating to qualifications of practitioners providing services in sleep labs.

These amendments are identical to those published under Notice.

The amendments were adopted by the Board of Respiratory Care on July 23, 2007.

These amendments will become effective September 19, 2007.

These amendments are intended to implement Iowa Code chapters 147, 152B and 272C and 2007 Iowa Acts, Senate File 74.

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 260 to 263, 265] is being omitted. These amendments are identical to those published under Notice as **ARC 5887B**, IAB 5/23/07.

[Filed 7/23/07, effective 9/19/07]

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