



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) |
| 441 IAC 79.1(1)“a” | (Paragraph) |
| 441 IAC 79.1(1)“a”(1) | (Subparagraph) |

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

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

Schedule for Rule Making 2008

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. 26 '07	Jan. 16 '08	Feb. 5 '08	Feb. 20 '08	Feb. 22 '08	Mar. 12 '08	Apr. 16 '08	July 14 '08
Jan. 11 '08	Jan. 30	Feb. 19	Mar. 5	Mar. 7	Mar. 26	Apr. 30	July 28
Jan. 25	Feb. 13	Mar. 4	Mar. 19	Mar. 21	Apr. 9	May 14	Aug. 11
Feb. 8	Feb. 27	Mar. 18	Apr. 2	Apr. 4	Apr. 23	May 28	Aug. 25
Feb. 22	Mar. 12	Apr. 1	Apr. 16	Apr. 18	May 7	June 11	Sept. 8
Mar. 7	Mar. 26	Apr. 15	Apr. 30	May 2	May 21	June 25	Sept. 22
Mar. 21	Apr. 9	Apr. 29	May 14	***May 14***	June 4	July 9	Oct. 6
Apr. 4	Apr. 23	May 13	May 28	May 30	June 18	July 23	Oct. 20
Apr. 18	May 7	May 27	June 11	June 13	July 2	Aug. 6	Nov. 3
May 2	May 21	June 10	June 25	***June 25***	July 16	Aug. 20	Nov. 17
May 14	June 4	June 24	July 9	July 11	July 30	Sept. 3	Dec. 1
May 30	June 18	July 8	July 23	July 25	Aug. 13	Sept. 17	Dec. 15
June 13	July 2	July 22	Aug. 6	Aug. 8	Aug. 27	Oct. 1	Dec. 29
June 25	July 16	Aug. 5	Aug. 20	***Aug. 20***	Sept. 10	Oct. 15	Jan. 12 '09
July 11	July 30	Aug. 19	Sept. 3	Sept. 5	Sept. 24	Oct. 29	Jan. 26 '09
July 25	Aug. 13	Sept. 2	Sept. 17	Sept. 19	Oct. 8	Nov. 12	Feb. 9 '09
Aug. 8	Aug. 27	Sept. 16	Oct. 1	Oct. 3	Oct. 22	Nov. 26	Feb. 23 '09
Aug. 20	Sept. 10	Sept. 30	Oct. 15	Oct. 17	Nov. 5	Dec. 10	Mar. 9 '09
Sept. 5	Sept. 24	Oct. 14	Oct. 29	Oct. 31	Nov. 19	Dec. 24	Mar. 23 '09
Sept. 19	Oct. 8	Oct. 28	Nov. 12	***Nov. 12***	Dec. 3	Jan. 7 '09	Apr. 6 '09
Oct. 3	Oct. 22	Nov. 11	Nov. 26	***Nov. 26***	Dec. 17	Jan. 21 '09	Apr. 20 '09
Oct. 17	Nov. 5	Nov. 25	Dec. 10	***Dec. 10***	Dec. 31	Feb. 4 '09	May 4 '09
Oct. 31	Nov. 19	Dec. 9	Dec. 24	***Dec. 24***	Jan. 14 '09	Feb. 18 '09	May 18 '09
Nov. 12	Dec. 3	Dec. 23	Jan. 7 '09	Jan. 9 '09	Jan. 28 '09	Mar. 4 '09	June 1 '09
Nov. 26	Dec. 17	Jan. 6 '09	Jan. 21 '09	Jan. 23 '09	Feb. 11 '09	Mar. 18 '09	June 15 '09
Dec. 10	Dec. 31	Jan. 20 '09	Feb. 4 '09	Feb. 6 '09	Feb. 25 '09	Apr. 1 '09	June 29 '09
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PRINTING SCHEDULE FOR IAB

<u>ISSUE NUMBER</u>	<u>SUBMISSION DEADLINE</u>	<u>ISSUE DATE</u>
16	Friday, January 11, 2008	January 30, 2008
17	Friday, January 25, 2008	February 13, 2008
18	Friday, February 8, 2008	February 27, 2008

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.

***Please note that until the Internet updating and printing options are operational, subscriptions will be continued at no cost to the subscriber until the Internet updating and printing options become operational.**

Iowa Administrative Code

NOTE: In 2008, the format of the Iowa Administrative Code will change to 8 1/2" x 11" pages.

6" x 9" Iowa Administrative Code	not available
Complete 8 1/2" x 11" Iowa Administrative Code with binders	\$1250

Replacement pages for this set will be through the Internet printing options.

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IAC Binders

8 1/2" x 11" Iowa Administrative Code binders	\$20 each
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The Administrative Rules Review Committee will hold a special meeting on **Monday, January 7, 2008**, at 9 a.m. in Room 22, State Capitol, Des Moines, Iowa. The following rules will be reviewed:

NOTE: See also Agenda published in the December 19, 2007, Iowa Administrative Bulletin. Please note that the meeting will be held Monday, January 7, 2008, rather than Tuesday, January 8, 2008, as previously published.

ENVIRONMENTAL PROTECTION COMMISSION[567]

NATURAL RESOURCES DEPARTMENT[561]“umbrella”

- Air quality, 20.2, 21.1(3), 22.1(2)“r,” 22.1(2)“w”(6)“8,” 22.1(2)“aa” and “nn,” 22.4, 22.120,
23.1(2), 23.1(2)“z” and “nn,” 23.1(3), 23.1(4), 23.1(4)“be” and “el” to “eq,” 23.1(6)“a”(2),
23.3(2)“c”(1)“6,” 23.4(12), 25.1(9), 25.1(10)“a,” 25.1(12), 25.2, 33.3(1), Notice ARC 6517B 1/2/08
- Fees for authorizations issued under the general permits for storm water discharges,
64.16(3)“a,” Notice ARC 6521B 1/2/08

HISTORICAL DIVISION[223]

CULTURAL AFFAIRS DEPARTMENT[221]“umbrella”

- State historical society, 21.2, 21.3(2)“a” and “c” to “e,” 21.3(3)“a” and “b,”
21.3(3)“c”(1) and (3) to (5), 21.3(3)“d,” 21.3(4)“a” and “c” to “e,” 21.3(5),
21.3(6), Filed ARC 6529B 1/2/08

HUMAN SERVICES DEPARTMENT[441]

- State supplementary assistance program—annual adjustments to eligibility and payment levels,
51.4(1), 51.7, 52.1(1) to 52.1(3), 52.1(3)“a”(2), Notice ARC 6523B, also Filed Emergency ARC 6520B 1/2/08
- Medicaid eligibility and financial participation of a married person residing in a medical institution,
75.5(3)“d,” 75.16(2)“d”(3), Filed ARC 6526B 1/2/08
- Personal needs allowance for Medicaid members who reside in a medical institution, 75.16(2)“a,” 75.16(2)“a”(3),
Filed ARC 6528B 1/2/08
- Personal needs allowance for Medicaid members who reside in a long-term care facility, 75.16(2)“a”(1),
Filed ARC 6518B 1/2/08
- Extension of transition period for family-centered services, 182.3(1), Filed Emergency ARC 6515B 1/2/08

INSURANCE DIVISION[191]

COMMERCE DEPARTMENT[181]“umbrella”

- Long-term care insurance—producer training requirements, 39.15(4), Filed Emergency ARC 6516B 1/2/08
- Pharmacy benefits managers, ch 59, Notice ARC 6511B 1/2/08

IOWA FINANCE AUTHORITY[265]

- Waivers and variances from administrative rules, 18.1, 18.4 to 18.8, 18.10(1) to 18.10(10),
18.13, 18.16, ch 18 exhibit A, Filed ARC 6507B 1/2/08
- Water pollution control works and drinking water facilities financing—prepayment of loan,
26.5(7), Notice ARC 6509B, also Filed Emergency ARC 6508B 1/2/08

IOWA PUBLIC EMPLOYEES' RETIREMENT SYSTEM[495]

- Contribution rates for special service members; coverage for temporary employees and
part-time appointed board or commission members, 4.1(1)“d,” 4.1(2) to 4.1(6), 4.2(1),
4.2(3)“a,” 4.2(4), 4.3(1) to 4.3(12), 4.4, 4.5, 4.6(2), 4.6(3), 4.6(7), 4.7, 5.2(13), 5.2(13)“a,”
6.4, 6.4(1), 6.4(2)“c,” 7.1(2), 7.2(7), 11.5(4), Notice ARC 6514B 1/2/08
- Qualified domestic relations orders and other assignments, ch 16 title, 16.2(2)“c”(5),
16.2(3)“b” to “n,” Filed ARC 6513B 1/2/08

LABOR SERVICES DIVISION[875]

WORKFORCE DEVELOPMENT DEPARTMENT[871]“umbrella”

- OSHA standards for general industry and construction—adoption by reference,
10.20, 26.1, Notice ARC 6519B 1/2/08
- Numbering of elevator buttons, 72.1(6), 73.8(2), Filed ARC 6510B 1/2/08

REAL ESTATE APPRAISER EXAMINING BOARD[193F]

Professional Licensing and Regulation Bureau[193]

COMMERCE DEPARTMENT[181]“umbrella”

- Certification; registration; continuing education, 5.1(1)“c,” 6.1(1)“c,” 11.2(4), 11.2(9), 11.3(1),
11.4(3)“a” to “g,” Filed ARC 6504B 1/2/08
- Disciplinary actions against certified and associate appraisers, ch 7, Filed ARC 6505B 1/2/08

REVENUE DEPARTMENT[701]

- Interest rate for calendar year 2008, 10.2(27), Notice **ARC 6525B** 1/2/08
- Motor fuel and undyed special fuel—tax refund for idle time, 68.8(9), Notice **ARC 6522B** 1/2/08
- Assessor continuing education committee—term limits, 122.2, Notice **ARC 6524B** 1/2/08
- Web search portal business—exemption, 230.10, Notice **ARC 6527B** 1/2/08

TRANSPORTATION DEPARTMENT[761]

- Update of motor vehicle division address, 410.1(3), 500.2(1), 505.2(1), 505.4(6)“b,”
511.2(1), 513.3, 524.2(1), 524.11(2), 529.2, 600.2, 607.2(1), 620.2, 634.1, 635.6, 636.1,
640.1(3), Filed **ARC 6512B** 1/2/08

TREASURER OF STATE[781]

- Iowa educational savings plan trust, ch 16, Notice **ARC 6506B** 1/2/08

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ECONOMIC DEVELOPMENT, IOWA DEPARTMENT OF[261]		
Grow Iowa values fund, ch 165 IAB 12/19/07 ARC 6477B	ICN Room 200 E. Grand Ave. Des Moines, Iowa	January 8, 2008 2:30 to 3:30 p.m.
EDUCATIONAL EXAMINERS BOARD[282]		
Practitioner's licenses and endorsements—TOEFL, 14.104 IAB 12/5/07 ARC 6457B	Room 3 SW, Third Floor Grimes State Office Bldg. Des Moines, Iowa	January 2, 2008 1 p.m.
Practitioner's licenses and endorsements—adding endorsements, 14.106 IAB 12/5/07 ARC 6446B	Room 3 SW, Third Floor Grimes State Office Bldg. Des Moines, Iowa	January 2, 2008 1 p.m.
Practitioner's licenses and endorsements—adding endorsements, 14.121(2) IAB 12/5/07 ARC 6445B	Room 3 SW, Third Floor Grimes State Office Bldg. Des Moines, Iowa	January 2, 2008 1 p.m.
Practitioner's licenses and endorsements—administrator license, 14.142(1) IAB 12/5/07 ARC 6450B	Room 3 SW, Third Floor Grimes State Office Bldg. Des Moines, Iowa	January 2, 2008 1 p.m.
EDUCATION DEPARTMENT[281]		
Accreditation standards, 12.7, 72.9(1), 83.1 to 83.12 IAB 12/19/07 ARC 6475B	State Board Room, Second Floor Grimes State Office Bldg. Des Moines, Iowa	January 8, 2008 1 to 2 p.m.
Open enrollment, 17.2, 17.6(2), 17.14 IAB 12/19/07 ARC 6480B	State Board Room, Second Floor Grimes State Office Bldg. Des Moines, Iowa	January 8, 2008 2 to 3 p.m.
EMPOWERMENT BOARD, IOWA[349]		
Community empowerment, amendments to ch 1 IAB 12/5/07 ARC 6429B	Room 142 Lucas State Office Bldg. Des Moines, Iowa	January 7, 2008 9:30 a.m.
ENVIRONMENTAL PROTECTION COMMISSION[567]		
Air quality, amendments to chs 20 to 23, 25, 33 IAB 1/2/08 ARC 6517B	Air Quality Bureau Conf. Rooms 7900 Hickman Rd. Urbandale, Iowa	February 4, 2008 1 p.m.
Storm water discharge fees, 64.16(3) IAB 1/2/08 ARC 6521B	Fifth Floor West Conference Rm. Wallace State Office Bldg. Des Moines, Iowa	January 24, 2008 9:30 a.m.
INSURANCE DIVISION[191]		
Pharmacy benefits managers, ch 59 IAB 1/2/08 ARC 6511B	330 Maple St. Des Moines, Iowa	January 22, 2008 10 a.m.

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Uniform health insurance application form, 71.26 IAB 12/5/07 ARC 6435B	330 Maple St. Des Moines, Iowa	January 4, 2008 10 a.m.
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IOWA PUBLIC EMPLOYEES' RETIREMENT SYSTEM[495]

IPERS benefits, 4.1 to 4.7, 5.2(13), 6.4, 7.1(2), 7.2(7), 11.5(4) IAB 1/2/08 ARC 6514B	7401 Register Dr. Des Moines, Iowa	January 22, 2008 9 a.m.
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LABOR SERVICES DIVISION[875]

Federal standards for general industry and construction adopted by reference, 10.20, 26.1 IAB 1/2/08 ARC 6519B	Stanley Room 1000 E. Grand Ave. Des Moines, Iowa	January 24, 2008 2 p.m.
Boiler and pressure vessel board waivers, 81.10(6) IAB 12/19/07 ARC 6500B	Capitol View Room 1000 E. Grand Ave. Des Moines, Iowa	January 9, 2008 1 p.m. (If requested)
Boiler and pressure vessel program, 81.10(10), 81.15, 90.2, 90.6(7), 90.8, 90.13, 90.14, 91.16 IAB 12/19/07 ARC 6502B	Capitol View Room 1000 E. Grand Ave. Des Moines, Iowa	January 9, 2008 11 a.m. (If requested)

NATURAL RESOURCE COMMISSION[571]

Waters cost-share and grant programs, 30.1, 30.51 to 30.63 IAB 12/5/07 ARC 6444B	Fourth Floor Conference Room Wallace State Office Bldg. Des Moines, Iowa	January 2, 2008 3 p.m.
Nonresident deer hunting, 94.1(1), 94.7(6), 94.8 IAB 12/5/07 ARC 6442B	Fourth Floor E. Conference Room Wallace State Office Bldg. Des Moines, Iowa	January 2, 2008 1 p.m.

PROFESSIONAL LICENSURE DIVISION[645]

Sign language interpreters and transliterators—examinations to qualify for licensure, 361.2(1) IAB 12/19/07 ARC 6487B	Fifth Floor Board Conf. Room Lucas State Office Bldg. Des Moines, Iowa	January 14, 2008 9 to 9:30 a.m.
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REAL ESTATE COMMISSION[193E]

Record keeping—electronic format, 2.1, 13.2(2), 13.5 IAB 12/19/07 ARC 6490B	Conference Room, Second Floor 1920 SE Hulsizer Rd. Ankeny, Iowa	January 8, 2008 10 a.m.
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TREASURER OF STATE[781]

Iowa educational savings plan trust, ch 16 IAB 1/2/08 ARC 6506B	First Floor Conference Room 148 Lucas State Office Bldg. Des Moines, Iowa	January 22, 2008 2 p.m.
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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 6517B

ENVIRONMENTAL PROTECTION
COMMISSION[567]

Notice of Intended Action

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

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

Pursuant to the authority of Iowa Code section 455B.133, the Environmental Protection Commission hereby gives Notice of Intended Action to amend Chapter 20, “Scope of Title—Definitions—Forms—Rules of Practice,” Chapter 21, “Compliance,” Chapter 22, “Controlling Pollution,” Chapter 23, “Emission Standards for Contaminants,” Chapter 25, “Measurement of Emissions,” and Chapter 33, “Special Regulations and Construction Permit Requirements for Major Stationary Sources—Prevention of Significant Deterioration (PSD) of Air Quality,” Iowa Administrative Code.

The purpose of the amendments is to update state air quality rules for new state and federal requirements enacted within the last year. The proposed amendments also include corrections, clarifications and improvements to existing air quality rules, including the rules for construction permits, prevention of fugitive dust, and the opacity limit for incinerators.

Item 1 amends rule 567—20.2(455B) to update the definitions for “ASME,” “ASTM,” and “volatile organic compound.” Outdated and unnecessary addresses are deleted from “ASME” and “ASTM.” The definition of “volatile organic compound” is being updated to reflect recent federal amendments. The U.S. Environmental Protection Agency (EPA) amended the definition of “volatile organic compound” or “VOC” to exclude the compound HF-7300 from the list of compounds that contribute to tropospheric ozone formation. Emissions of HF-7300 will no longer be counted towards VOC emissions.

Item 2 amends rule 567—20.2(455B) to add a new definition of “greenhouse gas.” The Iowa General Assembly approved legislation in April 2007 that requires the reporting of greenhouse gas emissions in air construction permit applications and that also requires a statewide greenhouse gas emissions inventory. This amendment adds the greenhouse gas definition from the legislation (2007 Iowa Acts, Senate File 485).

The Department updated the air construction permit application forms to facilitate the reporting of greenhouse gas emissions in air construction permit applications. The Department also has sent out several listserv articles on the new greenhouse gas requirements, and has posted information on greenhouse gas emission factors on the Department’s Air Quality Bureau Web site. The Department will continue to work over the next several months to establish the method of inventorying greenhouse gases and to establish a voluntary greenhouse gas registry, as required by the legislation.

Item 3 amends subrule 21.1(3) to include greenhouse gases in the emissions inventories provisions. As mentioned above for Item 2, 2007 Iowa Acts, Senate File 485, requires the reporting of greenhouse gas emissions through a greenhouse gas emissions inventory requirement.

Item 4 amends paragraph 22.1(2)“r,” which is the construction permit exemption for internal combustion engines with a brake horsepower rating of less than 400. The amend-

ment makes clear that this equipment may be subject to the federal New Source Performance Standards (NSPS) for stationary compression ignition internal combustion engines specified in 40 Code of Federal Regulations (CFR) Part 60, Subpart IIII, and adopted by reference in paragraph 23.1(2)“yyy.” Use of the construction permit exemption does not relieve an owner or operator of the duty to comply with the NSPS requirements.

Item 5 amends subparagraph 22.1(2)“w”(6) to correct an error in the “small unit” exemption from construction permits. The existing subparagraph incorrectly lists the threshold for a “substantial small unit” for “any combination of hazardous air pollutants” as 9.375 tons per year. The amendment corrects the threshold to 3.75 tons per year.

Item 6 amends paragraph 22.1(2)“aa,” which is the construction permit exemption for pretreatment application processes that use aqueous-based chemistries (wash booths). The amendment clarifies that this exemption applies to all pretreatment wash processes using aqueous-based chemistries, and not just processes preparing a substrate for an organic coating. This amendment is within the intent for this exemption as originally promulgated, is within the scope of the original technical justification for this exemption, and does not result in any increase in emissions from these types of processes.

Item 7 amends paragraph 22.1(2)“nn,” which is the construction permit exemption for emissions from agricultural and construction internal combustion engines that are operated only for repair or maintenance purposes at nonmajor equipment repair shops or equipment dealerships. The amendment adds “emissions from over-the-road truck internal combustion engines” to the description of emissions covered under this exemption. Over-the-road truck internal combustion engines were inadvertently excluded from the list of mobile source equipment types included in the original rule making for paragraph “nn.” Review of data used in the development of the technical justification for the original rule making and review of the discussions with the stakeholder workgroup members indicate that emissions from over-the-road truck internal combustion engines were considered in the data reviewed by the Department for the original rule making, and these engines are within the engine size range (400 to 750 hp) used to calculate emissions for the technical justification.

Item 8 amends rule 567—22.4(455B), which contains a cross reference to the PSD rules in 567—Chapter 33. The amendment makes clear that owners or operators of sources subject to PSD shall comply with the rules set forth in 567—Chapter 33.

Item 9 amends rule 567—22.120(455B), the definition of “40 CFR Part 75,” to adopt by reference recent changes that EPA made to the performance test methods for the Acid Rain program.

Item 10 amends subrule 23.1(2), the provisions adopting by reference the federal new source performance standards (NSPS) contained in 40 CFR Part 60. This amendment adopts recent federal amendments as follows:

- Amendments to the NSPS General Provisions (Subpart A) to allow a facility to petition for an extension to performance testing deadlines when events beyond the facility’s control prevent compliance with the testing deadline.

- Amendments to the NSPS for electrical steam generating units (EGUs) and industrial-commercial-institutional steam generating units. EPA finalized amendments to add compliance alternatives for certain sources, to revise certain record-keeping and reporting requirements, to correct technical and editorial errors, and to update the grammatical

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style. EPA has rewritten all four subparts (Subparts D, Da, Db and Dc) to accommodate the amendments and the new format.

- Amendments to the NSPS for other solid waste incinerators (OSWI) (Subpart EEEE). These amendments make corrections to the averaging time for opacity (visible emissions) measurements.

- Amendments to the NSPS for equipment leaks of Volatile Organic Compounds (VOC) in the Synthetic Organic Chemicals Manufacturing Industry (SOCMI) (Subparts VV and VVa). The federal amendments being adopted are described in Item 12. EPA also promulgated a new NSPS for equipment leaks of VOC at new petroleum refineries (Subpart GGGa) and revised the NSPS for existing petroleum facilities (Subpart GGG). However, the Department is not adopting recent amendments to Subpart GGG and is not adopting Subpart GGGa because Iowa does not have any petroleum refineries and very likely will never have any petroleum refineries.

Item 11 amends paragraph 23.1(2)“z” to delete the federal amendment date. This date is no longer needed because all federal updates to NSPS are being adopted by reference in Item 10.

Item 12 amends paragraph 23.1(2)“nn,” the standards for Equipment Leaks of VOC in the Synthetic Organic Chemicals Manufacturing Industry (SOCMI). EPA originally promulgated the NSPS for SOCMI under Subpart VV in 1983. The standard applies to pumps, compressors, pressure relief devices, sampling connection systems, open-ended valves or lines (OEL), valves, flanges and other connectors in VOC service at an SOCMI facility, such as an ethanol production plant, that commenced construction, reconstruction or modification after January 5, 1981.

The Clean Air Act requires that EPA periodically review the NSPS to reflect improvements in methods for reducing emissions. As a result of this review and the public comments received on the proposed federal rules, EPA finalized amendments to the NSPS for existing SOCMI (Subpart VV) that include clarifications, changes that reduce burden, and additional compliance options.

EPA also finalized standards for new SOCMI that commence construction, reconstruction or modification after November 7, 2006. The standards for new SOCMI (Subpart VVa) generally parallel the changes for existing SOCMI, but also include more stringent leak detection levels, additional record keeping, and additional instrument calibration requirements. The amendment to paragraph 23.1(2)“nn” includes adoption by reference of Subpart VVa for new SOCMI.

Item 13 amends subrule 23.1(3), the emissions standards for hazardous air pollutants under 40 CFR Part 61, to adopt by reference recent EPA changes to the General Provisions (Subpart A) for performance testing deadlines. EPA made the same changes to 40 CFR Part 61 as the changes described in Item 10 for 40 CFR Part 60.

Item 14 amends subrule 23.1(4), the emission standards for hazardous air pollutants for source categories, also known as National Emission Standards for Hazardous Air Pollutants or NESHAP, to reflect recent changes that EPA made to 40 CFR Part 63. The federal amendments being adopted by reference include the following:

- Amendments to the NESHAP General Provisions (Subpart A). EPA made the same changes to 40 CFR Part 63 as the changes described in Item 10.

- Amendments to three related surface coating NESHAP: the NESHAP for surface coating of automobiles

and light-duty trucks (Subpart IIII), the NESHAP for surface coating of miscellaneous metal parts and products (Subpart MMMM), and the NESHAP for surface coating of plastic parts and products (Subpart PPPP). EPA issued the amendments to clarify the interactions between the three NESHAP, to correct technical errors, and to make clear that screen printing is not subject to Subpart PPPP.

- Amendments to the NESHAP for halogenated solvent degreasers (Subpart T). These amendments were made to address EPA’s evaluation of the remaining risk to public health and the environment following implementation of the original technology-based rule in 1994. EPA found that more stringent standards for major sources and for new area (minor) sources were needed to provide an ample margin of safety to protect public health. The Department estimates that two existing sources in Iowa will need to make modifications to comply with the new facilitywide HAP emissions standards. The Department will work with these and any other affected facilities to assist with compliance with the new standards.

- Amendments to two of the NESHAP for Synthetic Organic Chemical Manufacturing Industry (SOCMI) (Subparts F and G). EPA evaluated the residual risk for this technology-based standard for the SOCMI NESHAP, and found that no further controls were necessary to provide an ample margin of safety to protect public health. EPA did, however, make minor updates and technical amendments to Subparts F and G.

- Amendments to the NESHAP for Portland cement manufacturing (Subpart LLLL). These amendments address a federal court remand of the original standards promulgated in 1999. The amendments address control of emissions at new major stationary sources for mercury, hydrogen chloride (HCl), total hydrocarbons (THC) and metal hazardous air pollutants (HAP). At this time, the Department is not aware of any facilities that would be subject to these emissions standards.

Item 15 amends paragraph 23.1(4)“be” to delete the federal amendment date. This date is no longer needed because the recent federal amendments to 40 CFR Part 63 are included in Item 14.

Item 16 amends subrule 23.1(4) to add and reserve new paragraphs “du” through “ek.” This amendment preserves the same organizational format between federal NESHAP in 40 CFR Part 63 and the state adoption of NESHAP in subrule 23.1(4).

EPA has reserved Subparts UUUUU through CCCCCC as placeholders and also for area source standards that EPA has not yet finalized. Paragraphs “du” through “ec” correspond to these federally reserved subparts. Further, EPA promulgated four area source standards that the Department is not adopting by reference. The federal standards not being adopted are for (1) polyvinyl chloride and co-polymer production (Subpart DDDDDD); (2) primary copper smelting (Subpart EEEEE); (3) secondary copper smelting (Subpart FFFFFF); and (4) primary nonferrous metal smelting—zinc, cadmium and beryllium (Subpart GGGGGG). The Department is not adopting these four NESHAP because Iowa does not have, and likely will not have, any facilities subject to these standards. Paragraphs “ed” through “eg” correspond to the federal subparts that the Department is not adopting.

EPA has yet not promulgated final NESHAP standards corresponding to Subparts HHHHHH through KKKKKK. EPA has proposed a standard for Subpart HHHHHH, which is the area source NESHAP for paint stripping and miscellaneous surface coating operations. EPA expects to promul-

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gate the final standards for Subpart HHHHHH by the end of the year. EPA has not yet proposed any standards corresponding to Subparts IIIII through KKKKKK. The amendments to state rules reserve paragraphs "eh" through "ek" to correspond with these federally reserved subparts.

Item 17 amends subrule 23.1(4) to add new paragraphs "el" through "eq." This amendment adopts by reference several new area source NESHAP that EPA promulgated in July 2007. Area sources are those new and existing sources that are not major sources for hazardous air pollutants (HAP). The Department is adopting the area source NESHAP for several area source categories, including acrylic and modacrylic fiber production, carbon black production, chemical manufacturing of chromium compounds, flexible polyurethane foam production and fabrication, lead acid battery manufacturing, and wood preserving. However, at this time, the Department has identified only one area source NESHAP standard, lead acid battery manufacturing, which may require one facility to install additional control equipment and to conduct emissions testing. The Department and the University of Northern Iowa Air Emissions Assistance Program will work with the facility to assist with the compliance requirements. The facility must comply with the new standards by June 2008.

Item 18 amends subparagraph 23.1(6)"a"(2), which includes a calculation for determining an emission limit based upon stack height. The amendment updates a reference to the federal provisions under 40 CFR 52.21, and also corrects the symbol for "good engineering practice stack height" from "Hg" to the correct subscript form, "H_g."

Item 19 amends subparagraph 23.3(2)"c"(1), the provisions for prevention of fugitive dust, to add numbered paragraph "6." The amendment adds "vehicle speed control" as a reasonable precaution to prevent the discharge of visible emissions of fugitive dust beyond the lot line of the property on which the emissions are generated. The amount of fugitive dust generated from a road or other surface used for vehicle movement is greatly influenced by the speed of a vehicle on the surface. Reducing the speed of vehicles traveling on a surface has long been recognized by the Department as a reasonable method to prevent the discharge of visible fugitive dust emissions.

Item 20 amends subrule 23.4(12) to make corrections to the emission limits for incinerators. The visible emissions (opacity) limit for incinerators is 40 percent. The current rules are intended to allow incinerators to emit up to 60 percent opacity in the case of an operation breakdown or the cleaning of control equipment for specified periods of time without being in violation. However, this provision contains an error that states that incinerators may emit opacity in excess of 60 percent during these times. The amendment corrects this error to specify that incinerators may emit above 40 percent opacity but no more than 60 percent opacity during periods of operation breakdown or during the cleaning of control equipment.

Items 21 through 24 amend subrule 25.1(9), paragraph 25.1(10)"a," subrule 25.1(12) and rule 567—25.2(455B), respectively, to adopt by reference recent EPA technical amendments to performance test methods for NSPS (40 CFR Part 60) and the Acid Rain program (40 CFR Part 75).

Item 25 revises subrule 33.3(1) to amend the PSD program definition for "volatile organic compound" or "VOC." EPA amended the federal definition as explained in Item 1.

Any person may make written suggestions or comments on the proposed amendments on or before Tuesday, February 5, 2008. Written comments should be directed to Christine

Paulson, Department of Natural Resources, Air Quality Bureau, 7900 Hickman Road, Suite 1, Urbandale, Iowa 50322, fax (515)242-5094, or by electronic mail to christine.paulson@dnr.iowa.gov.

A public hearing will be held on Monday, February 4, 2008, at 1 p.m. in the conference rooms at the Department's Air Quality Bureau office located at 7900 Hickman Road, Urbandale, Iowa. All comments must be received no later than Tuesday, February 5, 2008.

Any person who intends to attend the public hearing and has special requirements such as those related to hearing or mobility impairments should contact Christine Paulson at (515)242-5154 or at christine.paulson@dnr.iowa.gov to advise of any specific needs.

These amendments are intended to implement Iowa Code sections 455B.131, 455B.133, and 455B.152.

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

The following amendments are proposed.

ITEM 1. Amend rule **567—20.2(455B)**, definitions of "ASME," "ASTM" and "volatile organic compound," as follows:

"ASME" means the American Society of Mechanical Engineers, ~~345 East 47th Street, New York, New York 11017.~~

"ASTM" means the American Society for Testing and Materials, ~~1916 Race Street, Philadelphia, Pennsylvania 19103.~~

"Volatile organic compound" or "VOC" means any compound included in the definition of volatile organic compound found at 40 CFR Section 51.100(s) as amended through ~~November 29, 2004 January 18, 2007.~~

ITEM 2. Amend rule **567—20.2(455B)** by adopting the following **new** definition in alphabetical order:

"Greenhouse gas" means carbon dioxide, methane, nitrous oxide, hydrofluorocarbons, perfluorocarbons, and sulfur hexafluoride.

ITEM 3. Amend subrule 21.1(3) as follows:

21.1(3) Emissions inventory. The person responsible for equipment as defined herein shall provide information on fuel use, materials processed, air contaminants emitted (*including greenhouse gases as "greenhouse gas" is defined in rule 567—20.2(455B)*), estimated rate of emissions, periods of emissions or other air pollution information to the director upon the director's written request for use in compiling and maintaining an emissions inventory for evaluation of the air pollution situation in the state and its various parts. The information requested shall be submitted on forms supplied by the department. All information in regard to both actual and allowable emissions shall be public records, and any publication of such data shall be limited to actual and allowable air contaminant emissions.

ITEM 4. Amend paragraph **22.1(2)"r"** as follows:

r. An internal combustion engine with a brake horsepower rating of less than 400 measured at the shaft. For the purposes of this exemption, the manufacturer's nameplate rating at full load shall be defined as the brake horsepower output at the shaft. *An internal combustion engine may be subject to the new source performance standards (NSPS) for stationary compression ignition internal combustion engines set forth in 40 CFR Part 60, Subpart IIII, as adopted by reference in 567—paragraph 23.1(2)"yyy."* Use of this exemp-

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tion does not relieve an owner or operator from any obligation to comply with the NSPS requirements.

ITEM 5. Amend subparagraph **22.1(2)“w”(6)**, numbered paragraph **“8,”** as follows:

8. 3.75 tons per year of any hazardous air pollutant or ~~9.375~~ 3.75 tons per year of any combination of hazardous air pollutants.

ITEM 6. Amend paragraph **22.1(2)“aa”** as follows:

aa. Pretreatment application processes that use aqueous-based chemistries designed to ~~prepare a substrate for an organic coating~~ *clean a substrate*, provided that the chemical concentrate contains no more than 5 percent organic solvents by weight. This exemption includes pretreatment processes that use aqueous-based cleaners, cleaner-phosphatizers, and phosphate conversion coating chemistries.

ITEM 7. Amend paragraph **22.1(2)“nn”** as follows:

nn. Emissions from *mobile over-the-road trucks, and mobile agricultural and construction internal combustion engines* that are operated only for repair or maintenance purposes at equipment repair shops or equipment dealerships, and only when the repair shops or equipment dealerships are not major sources as defined in rule 567—22.100(455B).

ITEM 8. Amend rule 567—22.4(455B) as follows:

567—22.4(455B) Special requirements for major stationary sources located in areas designated attainment or unclassified (PSD). ~~The~~ *As applicable, the owner or operator of a stationary source shall comply with the rules for prevention of significant deterioration (PSD) are contained as set forth in 567—Chapter 33.*

ITEM 9. Amend rule **567—22.120(455B)**, definition of “40 CFR Part 75,” as follows:

“40 CFR Part 75,” or any cited provision therein, shall mean 40 Code of Federal Regulations Part 75, or the cited provision therein, as amended through ~~May 18, 2005~~ *September 28, 2007*.

ITEM 10. Amend subrule 23.1(2), introductory paragraph, as follows:

23.1(2) New source performance standards. The federal standards of performance for new stationary sources, as defined in 40 Code of Federal Regulations Part 60 as amended or corrected through ~~September 21, 2006~~ *November 16, 2007*, are adopted by reference, except § 60.530 through § 60.539b (Part 60, Subpart AAA), and shall apply to the following affected facilities. The corresponding 40 CFR Part 60 subpart designation is in parentheses. Reference test methods (Appendix A), performance specifications (Appendix B), determination of emission rate change (Appendix C), quality assurance procedures (Appendix F) and the general provisions (Subpart A) of 40 CFR Part 60 also apply to the affected facilities.

ITEM 11. Amend paragraph **23.1(2)“z”** as follows:

z. Electric utility steam generating units. An electric utility steam generating unit that is capable of combusting more than 250 million Btus per hour (73 megawatts) heat input of fossil fuel for which construction or modification or reconstruction is commenced after September 18, 1978, or an electric utility combined cycle gas turbine that is capable of combusting more than 250 million Btus per hour (73 megawatts) heat input. An electric utility steam generating unit is any fossil fuel-fired combustion unit of more than 25 megawatts electric (MW) that serves a generator that produces electricity for sale. A unit that cogenerates steam and elec-

tricity and supplies more than one-third of its potential electric output capacity and more than 25 MW output to any utility power distribution system for sale is also an electric utility steam generating unit. This standard also includes a provision for mercury emissions for any coal-fired electric utility steam generating unit other than an integrated gasification combined cycle electric steam generating unit, for which construction or reconstruction commenced after January 30, 2004. (Subpart Da as amended through June 9, 2006)

ITEM 12. Amend paragraph **23.1(2)“nn”** as follows:

nn. Equipment leaks of *volatile organic compounds (VOC)* in the synthetic organic chemicals manufacturing industry. *Standards for affected facilities in the synthetic organic chemicals manufacturing industry (SOCMI) that commenced construction, reconstruction, or modification after January 5, 1981, and on or before November 7, 2006, are set forth in Subpart VV. Standards for affected SOCMI facilities that commenced construction, reconstruction or modification after November 7, 2006, are set forth in Subpart VVa.* ~~Any~~ *The standards apply to pumps, compressors, pressure relief devices, sampling systems, valves and lines, open-ended valves or lines (OEL), valves, and flanges or other connectors which handle volatile organic compounds (VOC).* (Subpart VV and Subpart VVa)

ITEM 13. Amend subrule 23.1(3), introductory paragraph, as follows:

23.1(3) Emission standards for hazardous air pollutants. The federal standards for emissions of hazardous air pollutants, 40 Code of Federal Regulations Part 61 as amended or corrected through ~~July 20, 2004~~ *May 16, 2007*, and 40 CFR Part 503 as adopted on August 4, 1999, are adopted by reference, except 40 CFR §61.20 to §61.26, §61.90 to §61.97, §61.100 to §61.108, §61.120 to §61.127, §61.190 to §61.193, §61.200 to §61.205, §61.220 to §61.225, and §61.250 to §61.256, and shall apply to the following affected pollutants and facilities and activities listed below. The corresponding 40 CFR Part 61 subpart designation is in parentheses. Reference test methods (Appendix B), compliance status information requirements (Appendix A), quality assurance procedures (Appendix C) and the general provisions (Subpart A) of Part 61 also apply to the affected activities or facilities.

ITEM 14. Amend subrule 23.1(4), introductory paragraph, as follows:

23.1(4) Emission standards for hazardous air pollutants for source categories. The federal standards for emissions of hazardous air pollutants for source categories, 40 Code of Federal Regulations Part 63 as amended or corrected through ~~October 25, 2006~~ *July 16, 2007*, are adopted by reference, except those provisions which cannot be delegated to the states. The corresponding 40 CFR Part 63 subpart designation is in parentheses. 40 CFR Part 63, Subpart B, incorporates the requirements of Clean Air Act Sections 112(g) and 112(j) and does not adopt standards for a specific affected facility. Test methods (Appendix A), sources defined for early reduction provisions (Appendix B), and determination of the fraction biodegraded (F_{bio}) in the biological treatment unit (Appendix C) of Part 63 also apply to the affected activities or facilities. For the ~~purpose~~ *purposes* of this subrule, “hazardous air pollutant” has the same meaning found in 567—22.100(455B). For the purposes of this subrule, a “major source” means any stationary source or group of stationary sources located within a contiguous area and under common control that emits or has the potential to emit, considering controls, in the aggregate, 10 tons per year or more of any hazardous air pollutant or 25 tons per year or more of any

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combination of hazardous air pollutants, unless a lesser quantity is established, or in the case of radionuclides, where different criteria are employed. For the purposes of this subrule, an "area source" means any stationary source of hazardous air pollutants that is not a "major source" as defined in this subrule. Paragraph 23.1(4)"a," general provisions (Subpart A) of Part 63, shall apply to owners or operators who are subject to subsequent subparts of 40 CFR Part 63 (except when otherwise specified in a particular subpart or in a relevant standard) as adopted by reference below. The provisions of 40 CFR Part 60, Subparts A, B, Da, and HHHH for the Clean Air Mercury Rule (CAMR), are found at subrules 23.1(2) and 23.1(5) and in 567—Chapter 34.

ITEM 15. Amend paragraph **23.1(4)"be"** as follows:

be. Emission standards for hazardous air pollutants from hazardous waste combustors. These standards apply to all hazardous waste combustors: hazardous waste incinerators, hazardous waste burning cement kilns, hazardous waste burning lightweight aggregate kilns, hazardous waste solid fuel boilers, hazardous waste liquid fuel boilers, and hazardous waste hydrochloric acid production furnaces, except as specified in Subpart EEE. Both area sources and major sources are subject to this subpart as of April 19, 1996, and are subject to the requirement to apply for and obtain a Title V permit. (Part 63, Subpart EEE, as amended through October 25, 2006)

ITEM 16. Amend subrule **23.1(4)** by adding and reserving the following **new** paragraphs:
du. to ek. Reserved.

ITEM 17. Amend subrule **23.1(4)** by adopting the following **new** paragraphs:

el. Emission standards for hazardous air pollutants for acrylic and modacrylic fibers production area sources. This standard applies to acrylic and modacrylic fibers production plants that are area sources for hazardous air pollutant emissions. (Part 63, Subpart LLLLLL)

em. Emission standards for hazardous air pollutants for carbon black production area sources. This standard applies to carbon black production plants that are area sources for hazardous air pollutants. (Part 63, Subpart MMMMMM)

en. Emission standards for hazardous air pollutants for chemical manufacturing-chromium compounds area sources. This standard applies to plants that produce chromium compounds and are area sources for hazardous air pollutants. (Part 63, Subpart NNNNNN)

eo. Emission standards for hazardous air pollutants for flexible polyurethane foam production and fabrication area sources. This standard applies to plants that produce flexible polyurethane foam or rebond foam, and plants that fabricate polyurethane foam, that are area sources for hazardous air pollutants. This standard applies to both new and existing area sources. An affected source is existing if construction or reconstruction commenced on or before April 4, 2007. An affected source is new if construction or reconstruction commenced after April 4, 2007. (Part 63, Subpart OOOOOO)

ep. Emission standards for hazardous air pollutants for lead acid battery manufacturing area sources. This standard applies to lead acid battery manufacturing plants that are area sources for hazardous air pollutants. Affected sources include all grid casting facilities, paste mixing facilities, three-process operation facilities, lead oxide manufacturing facilities, lead reclamation facilities, and any other lead-emitting operation that is associated with a lead acid battery manufacturing plant. This standard applies to both new and existing area sources. An affected source is existing if construction or

reconstruction commenced on or before April 4, 2007. An affected source is new if construction or reconstruction commenced after April 4, 2007. (Part 63, Subpart PTTTTT)

eq. Emission standards for hazardous air pollutants for wood preserving area sources. This standard applies to wood preserving operations that are area sources for hazardous air pollutants. This standard applies to both new and existing area sources. An affected source is existing if construction or reconstruction commenced on or before April 4, 2007. An affected source is new if construction or reconstruction commenced after April 4, 2007. (Part 63, Subpart QQQQQQ)

ITEM 18. Amend subparagraph **23.1(6)"a"(2)** as follows:

(2) For stacks in existence on January 12, 1979, and for which the owner and operator had obtained all applicable permits or approvals required under 567—Chapter 22 and 40 CFR § 52.21 as amended through ~~March 12, 1996~~ *June 13, 2007*,

$$\text{Hg } H_g = 2.5H$$

provided the owner or operator produces evidence that this equation was actually relied on in establishing an emission limitation;

For all other stacks,

$$\text{Hg } H_g = H + 1.5L$$

where:

$\text{Hg } H_g$ = good engineering practice stack height, measured from the ground level elevation at the base of the stack,

H = height of nearby structure(s) measured from the ground level elevation at the base of the stack,

L = lesser dimension, height or projected width, of nearby structure(s), provided that the department may require the use of a field study or fluid model to verify GEP stack height for the source; or

ITEM 19. Amend subparagraph **23.3(2)"c"(1)** by adopting **new** numbered paragraph **"6"** as follows:

6. Reducing the speed of vehicles traveling over on-property surfaces as necessary to minimize the generation of airborne dusts.

ITEM 20. Amend subrule 23.4(12) as follows:

23.4(12)* Incinerators. ~~No~~ A person shall *not* cause, allow or permit the operation of an incinerator unless provided with appropriate control of emissions of particulate matter and visible air contaminants.

*Introductory paragraph, effective July 1, 1978

a. Particulate matter. ~~No~~ A person shall *not* cause, allow or permit the operation of an incinerator with a rated refuse burning capacity of 1000 or more pounds per hour in a manner such that the particulate matter discharged to the atmosphere exceeds 0.2 grain per standard cubic foot of exhaust gas adjusted to 12 percent carbon dioxide.

~~No~~ A person shall *not* cause, allow or permit the operation of an incinerator with a rated refuse burning capacity of less than 1000 pounds per hour in a manner such that the particulate matter discharged to the atmosphere exceeds 0.35 grain per standard cubic foot of exhaust gas adjusted to 12 percent carbon dioxide.

b. Visible emissions. ~~No~~ A person shall *not* allow, cause or permit the operation of an incinerator in a manner such that it produces visible air contaminants in excess of 40 percent opacity; except that visible air contaminants in excess of 40 percent opacity but less than or equal to 60 percent opacity may be emitted for a period or period periods aggregating not more than 3 minutes in any 60-minute period during an

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operation breakdown or during the cleaning of air pollution control equipment.

ITEM 21. Amend subrule 25.1(9) as follows:

25.1(9) Methods and procedures. Stack sampling and associated analytical methods used to evaluate compliance with emission limitations of 567—Chapter 23 or a permit condition are those specified in the “Compliance Sampling Manual”* adopted by the commission on May 19, 1977, as revised through January 30, 2003. Sampling methods, analytical determinations, minimum performance specifications and quality assurance procedures for performance evaluations of continuous monitoring systems are those found in Appendices A (as amended through October 17, 2000 September 28, 2007), B (as amended through September 21, 2006 September 28, 2007) and F (as amended through January 12, 2004) of 40 CFR Part 60, and Appendices A (as amended through May 18, 2005), B (as amended through May 18, 2005), F (as amended through May 18, 2005) and K (as amended through May 18, 2005 September 28, 2007) of 40 CFR Part 75.

*Available from the department.

ITEM 22. Amend paragraph 25.1(10)“a” as follows:

a. An affected source is subject to a new source performance standard promulgated in 40 CFR Part 60 as amended through September 21, 2006 September 28, 2007.

ITEM 23. Amend subrule 25.1(12) as follows:

25.1(12) Continuous monitoring of sulfur dioxide from emission points involved in an alternative emission control program. The owner or operator of any facility applying for an alternative emission control program under 567—subrule 567—22.7(1) that involves the trade-off of sulfur dioxide emissions shall install, calibrate, maintain and operate continuous sulfur dioxide monitoring equipment consistent with EPA reference methods (40 CFR Part 60, Appendix B, as amended through December 15, 1994 September 28, 2007). The equipment shall be operational within three months of EPA approval of an alternative emission control program.

ITEM 24. Amend rule 567—25.2(455B) as follows:

567—25.2(455B) Continuous emission monitoring under the acid rain program. The continuous emission monitoring requirements for affected units under the acid rain program as provided in 40 CFR Part 75, including Appendices A, B, F and K as amended through May 18, 2005 September 28, 2007, are adopted by reference.

ITEM 25. Amend subrule 33.3(1), definition of “volatile organic compounds” or “VOC,” as follows:

“Volatile organic compounds” or “VOC” means any compound included in the definition of “volatile organic compounds” found at 40 CFR 51.100(s) as amended through November 29, 2004 January 18, 2007.

ARC 6521B

ENVIRONMENTAL PROTECTION COMMISSION[567]

Notice of Intended Action

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

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

Pursuant to the authority of Iowa Code section 455B.105(3), the Environmental Protection Commission hereby gives Notice of Intended Action to amend Chapter 64, “Wastewater Construction and Operation Permits,” Iowa Administrative Code.

The proposed amendments to paragraph 64.16(3)“a” increase the fees for authorizations issued under the general permits for storm water discharges. The fee increases are necessary as the demands upon the storm water fees have exceeded the amount collected for the last several years. Also, the requirement that coverage provided by the multiyear (3-, 4- and 5-year) fees expire no later than the general permit under which the coverage was issued is being removed to provide consistency with the amended requirements in the recently reissued general permits.

Any interested party may make written comments on the proposed amendments on or before January 24, 2008. Written comments should be directed to the Storm Water Coordinator, Iowa Department of Natural Resources, 502 E. 9th Street, Des Moines, Iowa 50319; fax (515)281-8895.

A public hearing will be held on January 24, 2008, at 9:30 a.m. in the Fifth Floor West Conference Room of the Wallace State Office Building, at which time comments may be presented orally or submitted in writing.

Anyone who plans to attend the public hearing and has special requirements such as those related to hearing or mobility impairments should contact the Department and advise of specific needs.

These amendments are intended to implement Iowa Code chapter 455B, division I.

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.

Amend paragraph 64.16(3)“a” as follows:

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

(1) Storm Water Discharges Associated with Industrial Activity, NPDES General Permit No. 1. Annual Permit Fee \$150 175 (per year) or

Five-year Permit Fee \$600 700
Four-year Permit Fee \$450 525
Three-year Permit Fee \$300 350

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

ENVIRONMENTAL PROTECTION COMMISSION[567](cont'd)

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

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

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

(5) Discharge from Mining and Processing Facilities, NPDES General Permit No. 5. Fees as established in 2006 Iowa Acts, House File 2540, section 25, are to be submitted by August 30 of every year unless a multiyear fee payment was received in an earlier year. New facilities seeking General Permit No. 5 coverage in any month but August shall submit fees with the Notice of Intent for coverage. Coverage provided by the five-year, four-year, or three-year permit fees expires no later than the expiration date of the general permit. Maximum coverage is five years, four years, and three years, respectively. In the event a facility is no longer eligible to be covered under General Permit No. 5, the remainder of the fees previously paid by the facility shall be applied toward its individual permit fees.

ARC 6523B**HUMAN SERVICES
DEPARTMENT[441]****Notice of Intended Action**

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

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

Pursuant to the authority of Iowa Code section 234.6, the Department of Human Services proposes to amend Chapter 51, “Eligibility,” and Chapter 52, “Payment,” Iowa Administrative Code.

These amendments implement the annual adjustments to eligibility and payment levels in the State Supplementary Assistance Program that are necessary to meet the federal “pass-along” requirements specified in Title XVI of the Social Security Act and federal regulations at 20 CFR 416.2095 and 416.2096. The state of Iowa uses the payment levels method of compliance, which requires the state to increase the payment amounts and income limits for State Supplementary Assistance categories effective January 1 of each year as necessary to meet the minimum levels required by the federal government. The minimum levels are indexed by the cost-of-living increase in federal Social Security and Supplemental Security Income (SSI) benefits, which is 2.3 percent for calendar year 2008.

Changes necessary to meet federal pass-along requirements for 2008 are as follows:

- Increasing the income limit and payment standard for a dependent relative from \$317 per month to \$325 per month.
- Increasing the income limits for eligibility for a dependent relative supplement by \$22 per month for an eligible

individual (from \$940 to \$962) and by \$30 per month for an eligible couple (from \$1251 to \$1281).

- Increasing the family life home income limit by \$14 per month (from \$785 to \$799).
- Increasing the maximum family life home payment by \$11 per month (from \$697 to \$708).
- Increasing the maximum residential care per diem rate by \$0.45 (from \$26.50 to \$26.95).

State legislation also requires the Department to increase the personal needs allowance for residents of residential care facilities at the same percentage and at the same time as federal Social Security and SSI benefits are increased. Also, the amount added to the personal needs allowance for Medicaid copayment increased by \$1.53, based on average copayments from the period August 2006 through September 2007. Therefore, these amendments increase the residential care facility and family life home personal needs allowances by \$3 per month (from \$88 to \$91).

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

These amendments were also Adopted and Filed Emergency and are published herein as **ARC 6520B**. The purpose of this Notice is to solicit comment on that submission, the subject matter of which is incorporated by reference.

Any interested person may make written comments on the proposed amendments on or before January 23, 2008. Comments should be directed to Mary Ellen Imlau, Bureau of Policy Analysis and Appeals, Department of Human Services, Hoover State Office Building, 1305 East Walnut Street, Des Moines, Iowa 50319-0114. Comments may be sent by fax to (515)281-4980 or by E-mail to policyanalysis@dhs.state.ia.us.

These amendments are intended to implement Iowa Code chapter 249.

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 6511B**INSURANCE DIVISION[191]****Notice of Intended Action**

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

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

Pursuant to the authority of 2007 Iowa Acts, Senate File 512, section 3, the Iowa Insurance Division hereby gives Notice of Intended Action to adopt new Chapter 59, “Pharmacy Benefits Managers,” Iowa Administrative Code.

The proposed rules in Chapter 59 describe the authority of the Insurance Division to oversee pharmacy benefits managers. In addition, the proposed rules establish standards for timely payment of claims, penalties for noncompliance, and a resolution process for complaints and disputes.

INSURANCE DIVISION[191](cont'd)

This chapter does not provide for waivers. Persons seeking waivers must petition the Division for a waiver in the manner set forth under 191—Chapter 4.

Any interested person may make written comments on the proposed rules on or before January 22, 2008. Written comments may be sent to Bill Cook, Compliance Officer, Insurance Division, 340 Maple Street, Des Moines, Iowa 50319. Comments may also be submitted electronically to bill.cook@iid.state.ia.us.

A public hearing will be held at the office of the Insurance Division at 10 a.m. on January 22, 2008. The Division is located at 330 Maple Street, Des Moines, Iowa.

These rules are intended to implement Iowa Code chapters 17A and 514L and 2007 Iowa Acts, Senate File 512.

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 59

PHARMACY BENEFITS MANAGERS

191—59.1(82GA,SF512) Purpose. The purpose of this chapter is to administer the provisions of 2007 Iowa Acts, Senate File 512, relating to the regulation of pharmacy benefits managers.

191—59.2(82GA,SF512) Definitions. The terms defined in 2007 Iowa Acts, Senate File 512, section 1, shall have the same meaning for the purposes of this chapter. The definitions contained in 191—Chapter 58, "Third-Party Administrators," and 191—Chapter 78, "Uniform Prescription Drug Information Card," of the Iowa Administrative Code are incorporated by reference. As used in this chapter:

"Clean claim" means a claim which is received by any pharmacy benefits manager for adjudication and which requires no further information, adjustment or alteration by the pharmacist or pharmacies or the insured in order to be processed and paid by the pharmacy benefits manager. A claim is a clean claim if it has no defect or impropriety, including any lack of substantiating documentation, or no particular circumstance requiring special treatment that prevents timely payment from being made on the claim under this chapter. A clean claim includes a resubmitted claim with previously identified deficiencies corrected.

"Complaint" means a written communication expressing a grievance or an inquiry concerning a transaction between a pharmacy benefits manager and a pharmacy or pharmacist.

"Day" means a calendar day, unless otherwise defined or limited.

"Paid" means the day on which the check is mailed or the day on which the electronic payment is processed by the pharmacy benefits manager's bank.

191—59.3(82GA,SF512) Timely payment of pharmacy claims.

59.3(1) All benefits payable under a pharmacy benefits management plan shall be paid within 25 days after receipt of a clean claim when the claim is submitted electronically and shall be paid within 30 days after receipt of a clean claim when the claim is submitted in paper format.

59.3(2) Payments to the pharmacy or pharmacist for clean claims are considered to be overdue if not paid within 25 or 30 days, whichever is applicable. If any clean claim is not timely paid, the pharmacy benefits manager must pay the pharmacy or pharmacist interest at the rate of 10 percent per

annum commencing the day after any claim payment or portion thereof was due until the claim is finally settled or adjudicated in full.

59.3(3) Existing contracts between clients and pharmacy benefits managers shall comply with the requirement that clean claims be paid within 25 or 30 days, whichever is applicable, when such contracts are renegotiated but no later than July 1, 2009.

191—59.4(82GA,SF512) Complaints.

59.4(1) Each pharmacy benefits manager shall develop an internal system to record and report complaints. This system shall include but not be limited to:

- a. Complaints from the pharmacy indicating the reason for the complaint and factual documentation to support the complaint;
- b. Contact name, address and telephone number of the pharmacy benefits manager;
- c. Contact name, address and telephone number of the pharmacy;
- d. Prescription number;
- e. Prescription reimbursement amount for disputed claim(s);
- f. Disputed prescription claim payment date(s);
- g. Plan benefits certificate.

59.4(2) All internal complaints received and resolved by the pharmacy benefits manager shall be submitted to the commissioner on a quarterly basis within 30 days after the calendar quarter has ended.

191—59.5(82GA,SF512) Auditing practices.

59.5(1) An audit of the pharmacy records by a pharmacy benefits manager shall be conducted in accordance with the following:

- a. The pharmacy benefits manager conducting the initial on-site audit must provide the pharmacy written notice at least one week prior to conducting any audit;
- b. Any audit which involves clinical or professional judgment must be conducted by or in consultation with a pharmacist;
- c. When a pharmacy benefits manager alleges an overpayment has been made to a pharmacy or pharmacist, the pharmacy benefits manager shall provide the pharmacy or pharmacist sufficient documentation to determine the specific claims included in the alleged overpayment;
- d. A pharmacy may use the records of a hospital, physician or other authorized practitioner of the healing arts for drugs or medicinal supplies, written or transmitted by any means of communication, for purposes of validating the pharmacy record with respect to orders or refills of a legend or narcotic drug;
- e. Each pharmacy shall be audited under the same standards and parameters as other similarly situated pharmacies audited by the pharmacy benefits manager;
- f. The period covered by an audit may not exceed two years from the date on which the claim was submitted to or adjudicated by a managed care company, insurance company, third-party payor, or any pharmacy benefits manager that represents such companies, groups, or department;
- g. Unless otherwise consented to by the pharmacy, an audit may not be initiated or scheduled during the first seven calendar days of any month due to the high volume of prescriptions filled during that time;
- h. The preliminary audit report must be delivered to the pharmacy within 120 days after conclusion of the audit. A final written audit report shall be received by the pharmacy

INSURANCE DIVISION[191](cont'd)

within six months of the preliminary audit report or final appeal, whichever is later;

i. A pharmacy shall be allowed at least 30 days following receipt of the preliminary audit report in which to produce documentation to address any discrepancy found during an audit; and

j. The audit criteria set forth in this subrule shall apply only to audits of claims submitted for payment after December 31, 2008.

59.5(2) Notwithstanding any other provision in this rule, the entity conducting the audit shall not use the accounting practice of extrapolation in calculating the recuperation of contractual penalties for audits.

59.5(3) Recuperation of any disputed funds shall occur only after final disposition of the audit, including the appeals process as set forth in subrule 59.5(4).

59.5(4) Each pharmacy benefits manager conducting an audit shall establish an appeals process under which a pharmacy may appeal an unfavorable preliminary audit report to the pharmacy benefits manager. If, following the appeal, the pharmacy benefits manager finds that an unfavorable audit report or any portion thereof is unsubstantiated, the pharmacy benefits manager shall dismiss the audit report or said portion without the necessity of any further proceedings.

59.5(5) Each pharmacy benefits manager conducting an audit shall provide a copy of the final audit report, after completion of any review process, to the plan sponsor.

59.5(6) This rule shall not apply to any investigative audit which involves fraud, willful misrepresentation, abuse, or any other statutory provision which authorizes investigations relating to but not limited to insurance fraud.

59.5(7) External review of audit decision. The pharmacy or pharmacist may request an external review of the final decision of an audit finding by filing with the commissioner a written request for an external review of the finding. This written request must be filed with the commissioner within 30 days of the receipt of the final determination decision.

191—59.6(82GA,SF512) Termination of pharmacy agreements.

59.6(1) A pharmacy or pharmacist shall not be terminated or penalized by a pharmacy benefits manager solely because of filing a complaint, grievance or appeal.

59.6(2) A pharmacy or pharmacist shall not be terminated or penalized by a pharmacy benefits manager due to any disagreement with the decision of the pharmacy benefits manager to deny or limit benefits to covered persons or due to any assistance provided to covered persons by the pharmacy or pharmacist in obtaining reconsideration of the decision of the pharmacy benefits manager.

59.6(3) Prior to termination of a pharmacy or pharmacist from the network, the pharmacy benefits manager must provide written explanation to the pharmacy or pharmacist of the reason for the termination. The pharmacy benefits manager must provide the written explanation at least 30 days prior to the termination date unless the termination is based on the loss of the pharmacy's or pharmacist's license to practice, cancellation of professional liability coverage or conviction of fraud.

59.6(4) Termination of a contract between a pharmacy benefits manager and a pharmacy or pharmacist or termination of a pharmacy or pharmacist from the network of the pharmacy benefits manager shall not release the pharmacy benefits manager from the obligation to make payments due to the pharmacy or pharmacist for services rendered before the contract of the pharmacy or pharmacist was terminated.

59.6(5) External review of termination decision. The pharmacy or pharmacist may request an external review of the final decision to terminate the contract between the pharmacy benefits manager and the pharmacy or pharmacist by filing with the commissioner a written request for an external review of the decision. This written request must be filed with the commissioner within 30 days of receipt of the final termination decision.

191—59.7(17A) Appeals and review. A pharmacy or pharmacist adversely affected may appeal to the commissioner in accordance with rule 191—3.27(17A).

These rules are intended to implement Iowa Code chapters 17A and 514L and 2007 Iowa Acts, Senate File 512.

ARC 6509B

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 section 17A.3(1)“b” and section 16.5(17) as amended by 2007 Iowa Acts, chapter 54, section 19, the Iowa Finance Authority hereby gives Notice of Intended Action to amend Chapter 26, “Water Pollution Control Works and Drinking Water Facilities Financing,” Iowa Administrative Code.

The purpose of this amendment is to remove a burdensome loan requirement that exists for borrowers under this chapter. The definition of the term “prepayment” is modified to allow for prepayment of a loan, in whole or in part, with the prior written consent of the Authority.

Any interested persons may make written comments or suggestions on this proposed amendment by 4:30 p.m. on January 22, 2008. Such written materials should be directed to Mark Thompson, General Counsel, Iowa Finance Authority, 2015 Grand Avenue, Des Moines, Iowa 50312. Comments may also be faxed to Mark Thompson at (515)725-4937 or E-mailed to mark.thompson@iowa.gov. Persons who wish to comment orally should contact Mark Thompson at (515)725-4937.

Chapter 26 does not provide for waivers. Persons seeking waivers may petition the Authority for a waiver in the manner set forth under 265—Chapter 18.

This proposed amendment was also Adopted and Filed Emergency and is published herein as **ARC 6508B**. The content of that submission is incorporated by reference.

This amendment is intended to implement Iowa Code section 16.133 and section 16.5(17) as amended by 2007 Iowa Acts, chapter 54, section 19.

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 6514B**IOWA PUBLIC EMPLOYEES'
RETIREMENT SYSTEM[495]****Notice of Intended Action**

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

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

Pursuant to the authority of Iowa Code sections 97B.4 and 97B.15, the Iowa Public Employees' Retirement System (IPERS) hereby gives Notice of Intended Action to amend Chapter 4, "Employers," Chapter 5, "Employees," Chapter 6, "Covered Wages," Chapter 7, "Service Credit and Vesting Status," and Chapter 11, "Application for, Modification of, and Termination of Benefits," Iowa Administrative Code.

IPERS proposes the following amendments to implement changes resulting from a recent, extensive redesign of the IPERS computer system; to implement new contribution rates for special service members; to modify IPERS coverage for temporary employees; and to clarify IPERS coverage for part-time appointed Board or Commission members.

There are no waiver provisions included in the proposed amendments.

Any person may make written suggestions or comments on the proposed amendments on or before January 22, 2008. Such written suggestions or comments should be directed to the IPERS Administrative Rules Coordinator at IPERS, P.O. Box 9117, Des Moines, Iowa 50306-9117. Persons who wish to present their comments orally may contact the IPERS Administrative Rules Coordinator at (515)281-3081. Comments may also be submitted by fax to (515)281-0045 or by E-mail to info@ipers.org.

A public hearing will be held on January 22, 2008, at 9 a.m. at IPERS, 7401 Register Drive, Des Moines, Iowa, at which time persons may present their views either orally or in writing. Persons who attend the hearing will be asked to give their names and addresses for the record and to confine their remarks to the subject matter of the amendments.

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

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

The following amendments are proposed.

ITEM 1. Amend subrule **4.1(1)**, paragraph "**d**," second unnumbered paragraph, as follows:

~~Any employing unit~~ *An entity* not already reporting to IPERS which ~~fulfills~~ *meets* the conditions with respect to for becoming an *IPERS covered* employer shall immediately give notice to contact IPERS of that fact. ~~Such to provide notice shall set forth which includes the name and address of the employing unit, entity and such other information as may be required by IPERS in its status determination form.~~ If, after review of this information, IPERS determines that the ~~applicant~~ *entity* should be treated *enrolled* as a covered employer, IPERS will ~~contact~~ *notify* the ~~employer~~ *entity* and provide it with a ~~unique~~ *an IPERS* account number *for the entity* to use when submitting information to IPERS. IPERS shall not be

required to provide benefits otherwise available under Iowa Code chapter 97B for periods of service prior to the *effective date on for which IPERS actually receives such notice approves the entity for coverage*, unless the employer agrees to pay the full actuarial cost of providing such benefits.

ITEM 2. Amend subrules **4.1(2)**, **4.1(3)**, **4.1(5)**, and **4.2(1)** by striking the words "employing unit" and "reporting unit" wherever they appear and inserting the word "employer" in lieu thereof.

ITEM 3. Amend subrule 4.1(4) as follows:

4.1(4) Reports of dissolved or absorbed employers. An ~~employing unit~~ *employer* that has been dissolved or entirely absorbed by another ~~employing unit~~ *employer* is required to file a ~~quarterly or monthly~~ report with IPERS through the ~~last effective date on which it legally existed was dissolved or absorbed.~~ Any wages paid after the ~~legal this~~ date of dissolution are reported under the account number assigned to the new or successor ~~employing unit~~ *employer*, if any.

ITEM 4. Amend subrule 4.1(6) as follows:

4.1(6) For patient advocates employed under Iowa Code section 229.19, the county or counties for which services are performed shall be treated as the covered employer(s) of such individuals, and each such employer is responsible *for forwarding reports and for withholding and forwarding the applicable IPERS contributions on wages paid by each employer.*

ITEM 5. Amend subrule **4.2(3)**, paragraph "**a**," as follows:

a. Each ~~employing unit~~ *employer* shall make reports as IPERS may require and shall comply with the instructions ~~printed upon any report form issued by IPERS pertaining to the preparation and return of the report provided by IPERS for the reports.~~

ITEM 6. Amend subrule 4.2(4) as follows:

4.2(4) Fees. IPERS may assess to the employer a fee ~~based on IPERS' actual cost incurred in correcting an employer's errors if an employer fails to file required documents and remittances accurately for administrative costs as described in subrule 4.3(6).~~

ITEM 7. Rescind subrule 4.3(1) and adopt the following new subrule in lieu thereof:

4.3(1) Payment of contributions. For wages paid on or after April 1, 2008, all covered employers are required to pay contributions on a monthly basis. Upon enrollment as an IPERS covered employer, the employer shall receive the appropriate forms and instructions from IPERS to submit contributions. IPERS will provide monthly statements to each employer.

IPERS accepts the payment of contributions through electronic funds transfer. Payments utilizing the electronic funds transfer system shall be made according to the procedure described in subrule 4.3(3).

IPERS accepts the payment of contributions using checks and remittance advice forms. Employers filing monthly employer remittance advice forms on paper for two or more employers shall attach the checks to each remittance form. Checks shall be made payable to the Iowa Public Employees' Retirement System and mailed with the employer remittance advice form to IPERS, P.O. Box 9117, Des Moines, Iowa 50306-9117. Effective May 1, 2008, such payments and reports shall be subject to a fee as described in subrule 4.3(6).

ITEM 8. Rescind subrule 4.3(2) and adopt the following new subrule in lieu thereof:

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

4.3(2) Wage reports. For wages paid on or after April 1, 2008, all IPERS covered employers are required to file wage reports on a monthly basis. IPERS will provide the forms and instructions for wage reporting to employers. Each wage report must include the required information for all employees who earned reportable wages or wage equivalents under IPERS. The reports must be received by IPERS on or before the fifteenth day of the month following the month in which the wages were paid. If the fifteenth day falls on a weekend or holiday, the wage report is due on the next regularly scheduled business day.

Effective May 1, 2008, IPERS shall accept wage reports electronically via the IPERS' employer self service Web application, on compact discs, or as a paper report. However, for those employers submitting reports on compact discs or on paper, IPERS shall charge a fee as described in subrule 4.3(6).

ITEM 9. Rescind subrule 4.3(3) and adopt the following **new** subrule in lieu thereof:

4.3(3) Deadlines for payment of contributions.

a. Contributions must be paid monthly and must be received by IPERS on or before the fifteenth day of the month following the month in which wages were paid. If the fifteenth day falls on a weekend or holiday, the contribution is due on the next regularly scheduled business day.

b. For employers paying contributions by electronic funds transfer, wage reports and contributions may be submitted at the same time.

ITEM 10. Amend subrule 4.3(4), introductory paragraph, as follows:

4.3(4) Request for time extension. A request for an extension of time to file a wage report or pay a contribution may be granted by IPERS for good cause if ~~presented a request is made~~ before the due date, but no extension shall exceed 15 days beyond the due date. If an employer that has been granted an extension fails to *submit the wage report or pay the contribution on or before the end of the extension period, the applicable interest and fees shall be charged and paid from the original due date as if no extension had been granted.* If the fifteenth day falls on a weekend or holiday, the ~~remittance contribution or report is due on the next regularly scheduled workday business day.~~

ITEM 11. Amend subrule 4.3(5) as follows:

4.3(5) No reportable wages. When an employer has no reportable wages ~~or no wages to report~~ during the applicable reporting period, the wage reporting document ~~should~~ *shall be marked "no reportable wages" or "no wages" and returned to IPERS filed according to subrule 4.3(2).* Even if there are no reportable wages, the ~~employing unit's employer's~~ account is considered delinquent for the reporting period *and is subject to a fee until the report is filed. However, if the employer has notified IPERS on or before the due date that there are no wages to report, IPERS will adjust the due date, and no fee will be charged.*

ITEM 12. Rescind subrule 4.3(6) and adopt the following **new** subrule in lieu thereof:

4.3(6) Fees for noncompliance. IPERS is authorized to impose reasonable fees on employers that do not file wage reports through the IPERS' employer self service Web application as described in subrule 4.3(2), that fail to timely file accurate wage reports, or that fail to pay contributions when due pursuant to subrule 4.3(3).

For submissions filed on or after May 1, 2008, IPERS shall charge employers a processing fee of \$20 plus 25 cents

per employee for late submissions and manual processing of wage reports by IPERS. Employers that are late or that do not use IPERS' employer self service Web application may be charged both fees. In addition, if a fee for noncompliance is not paid by the fifteenth day of the month after the fee is assessed, the fee will accrue interest daily at the interest rate provided in Iowa Code section 97B.70. No fee will be charged on late contributions received as a result of a wage adjustment, but interest on the amount due will be charged until paid in full.

If the due date for a fee falls on a weekend or holiday, the due date shall be the next regularly scheduled business day.

ITEM 13. Rescind subrules 4.3(7) and 4.3(8) and adopt the following **new** subrules in lieu thereof:

4.3(7) Erroneously reported wages for employees not covered under IPERS. Employers that erroneously report wages for employees who are not eligible for coverage under IPERS may file an IPERS wage reporting adjustment form. IPERS shall return a warrant or issue a credit for both the employer and employee contributions made in error. The employer is responsible for returning the employee's share and for filing corrected federal and state wage reporting forms. Adjustments in such cases will be reported on the employer's monthly statement. Under no circumstance shall the employer adjust these wages by underreporting wages on a future periodic wage reporting document. Wages shall never be reported as a negative amount. An employer that completes the employer portion of an employee's request for a refund on an IPERS refund application form will not be permitted to file a periodic wage reporting adjustment form for that employee for the same time period. No fee will be assessed to employers that correct information as provided under this subrule.

4.3(8) Contributions paid on wages in excess of the annual covered wage maximum. For wages paid on or after April 1, 2008, whenever IPERS determines that an employee's wages will exceed the annual maximum established under Section 401(a)(17) of the Internal Revenue Code during a given month, IPERS shall notify the applicable employer and shall return the related excess contributions. IPERS will detail on the monthly report those employees for whom wages were reported in excess of the covered wage ceiling. The employer is responsible for returning the employee's share of excess contributions and making the applicable tax corrections.

ITEM 14. Rescind subrules **4.3(9)** and **4.3(10)** and renumber subrules **4.3(11)** and **4.3(12)** as **4.3(9)** and **4.3(10)**.

ITEM 15. Rescind rule 495—4.4(97B) and adopt the following **new** rule in lieu thereof:

495—4.4(97B) Accrual of interest and application of employer payments. Interest or charges as provided under Iowa Code section 97B.9 shall accrue on all employer payments not received by IPERS by the due date, except that interest or charges may be waived by IPERS if the employer requests an extension of time under subrule 4.3(4) prior to the due date. Effective May 1, 2008, employers that remit late contributions shall be charged a minimum of \$20 or interest at the rate provided in Iowa Code section 97B.70, whichever is greater. No fee will be charged on late contributions received as a result of a wage adjustment, but interest on the amount due will be charged until paid in full. Payments received from employers having unpaid account balances shall first be applied to the oldest outstanding balance.

ITEM 16. Rescind and reserve rule **495—4.5(97B)**.

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

ITEM 17. Amend subrules 4.6(2) and 4.6(3) as follows:
4.6(2) Sheriffs and deputy sheriffs, effective July 1, 2007 2008.

- a. Member's rate—~~7.70~~ 7.52%.
- b. Employer's rate—~~7.70~~ 7.52%.

4.6(3) Members employed in a protection occupation, effective July 1, 2007 2008.

- a. Member's rate—~~5.64~~ 5.63%.
- b. Employer's rate—~~8.47~~ 8.45%.

ITEM 18. Amend subrule 4.6(7) as follows:

4.6(7) Prior special rates are as follows:

Effective July 1, 2006 2007, through June 30, 2006 2008:

- a. Sheriffs and deputy sheriffs:
 - (1) Member's rate—~~8.37~~ 7.70%.
 - (2) Employer's rate—~~8.37~~ 7.70%.
- b. Protection occupation:
 - (1) Member's rate—~~6.08~~ 5.64%.
 - (2) Employer's rate—~~9.12~~ 8.47%.

ITEM 19. Amend rule 495—4.7(97B) as follows:

495—4.7(97B) Enrollment of new employees *Employee information to be provided by covered employers.* ~~Effective September 1, 2002, covered~~ Covered employers shall be ~~are~~ required to enroll new employees prior to reporting wages for the new employees. Enrollment information shall include, but is not limited to, the following: member's name, social security number, date of birth, *date of hire, occupation code, gender, and mailing address, termination date and last check date, when appropriate,* and employer identification number.

~~Employers may~~ For new employee enrollments submitted on or after May 1, 2008, employers shall submit enrollment the required information for new employees on paper, but are encouraged to use magnetic media or Internet enrollment when available. A wage report filed by an employer through the Internet when IPERS makes the option available shall be rejected if the report contains new employees who have not yet been enrolled in the IPERS system. *using IPERS' employer self service Web application, on compact discs, or on paper. However, those employers submitting information on compact discs or on paper will be charged a fee as described in subrule 4.3(6).*

ITEM 20. Amend **495—Chapter 4**, implementation clause, as follows:

These rules are intended to implement Iowa Code sections 97B.4, 97B.9, 97B.14, 97B.14A, 97B.38, 97B.49A to 97B.49I, and 97B.70.

ITEM 21. Amend subrule 5.2(13), introductory paragraph and paragraph "a," as follows:

5.2(13) Temporary *Effective July 1, 2008, temporary* employees shall not be covered provided that they have not established an ongoing relationship with an IPERS covered employer. ~~Effective January 1, 1993, an~~ An ongoing relationship with an IPERS covered employer is established when:

- a. The employee is paid covered wages of \$300 \$1,000 or more per quarter in two consecutive quarters; or

ITEM 22. Amend **495—Chapter 5**, implementation clause, as follows:

These rules are intended to implement Iowa Code ~~chapter~~ **97B** sections 97B.1A, 97B.4, 97B.11, 97B.42, 97B.42A, 97B.49B, 97B.49C, and 97B.49G.

ITEM 23. Amend rule 495—6.4(97B), introductory paragraph, as follows:

495—6.4(97B) Quarter Month for which wages are to be reported. Wages are reportable ~~in~~ for the quarter month in which they are actually paid to the employee, except when employees are awarded lump sum payments of back wages, whether as a result of litigation or otherwise, *receive lump sum payments of extra duty pay, or request wage restorations following EMRH, and similar situations authorized under Iowa Code chapter 97B, in which case the involving regular and periodic lump sum payments which IPERS in its sole discretion determines should be treated as covered wages.* The employer shall file wage adjustment reporting forms with IPERS allocating ~~said~~ the wages to the periods of service for which such payments are awarded. Employers shall forward the required employer and employee contributions and interest to IPERS.

ITEM 24. Amend subrule 6.4(1) as follows:

6.4(1) Actual and constructive receipt. An employer cannot report wages as having been paid to employees as of a ~~quarterly~~ monthly reporting date if the employee has not actually or constructively received the payments in question. For example, wages that are mailed, transmitted via electronic funds transfer for direct deposit, or handed to an employee on June 30 would be reported as ~~second quarter~~ June wages, but wages that are mailed, transmitted via electronic funds transfer for direct deposit, or handed to an employee on July 3 would be reported as ~~third quarter~~ July wages.

ITEM 25. Amend subrule **6.4(2)**, paragraph "c," as follows:

c. If a member is employed by more than one employer during the calendar year, the total amount of wages paid by ~~all covered employers~~ shall be included in determining the annual covered wage ~~maximum limit established under Section 401(a)(17) of the Internal Revenue Code.~~ If the amount of wages paid to a member by several employers during a ~~calendar year~~ any given month exceeds the covered wage limit as determined for that calendar year, the amount of the excess shall not be subject to contributions required by Iowa Code section 97B.11. *IPERS shall not accept excess wages and applicable contributions from employers and shall return excess contributions as provided in 495—subrule 4.3(8).*

ITEM 26. Amend **495—Chapter 6**, implementation clause, as follows:

These rules are intended to implement Iowa Code ~~section~~ sections 97B.1A(26), 97B.9, 97B.11, 97B.14 and 97B.14A.

ITEM 27. Rescind subrule 7.1(2) and adopt the following **new** subrule in lieu thereof:

7.1(2) Service credit for persons employed by institutions operating on a nine-month basis. An employee working in a position for a school district or other educational institution which operates on a nine-month basis shall receive credit for the third quarter when covered wages are reported in the second and fourth quarters. A member who was on an approved leave of absence in the second quarter, but who has service credit for that quarter, whether by operation of law or through a service purchase, and who returns to work in the fourth quarter immediately following shall also receive credit for the missing third quarter. In order for the member to receive this service credit, the quarters before and after the third quarter must be reported for the same occupation class code.

ITEM 28. Rescind subrule 7.2(7) and adopt the following **new** subrule in lieu thereof:

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

7.2(7) Prior service credit for school year. A public school teacher who worked full-time the entire school year shall be given a full year of prior service credit.

a. Effective July 1, 1990, an employee working in a position for a school district or other educational institution which operates on a nine-month basis shall receive credit for the third quarter when no covered wages are reported in that quarter in the same manner as provided under subrule 7.1(2).

b. Prior to July 1, 1990, school employees may have received less than a full year's credit if they had reportable wages in fewer than four quarters.

ITEM 29. Amend rule 495—11.5(97B) by adopting the following **new** subrule:

11.5(4) Part-time appointed members of boards or commissions receiving minimal noncovered wages. Solely for purposes of determining whether a member has severed all employment with all covered employers and has remained out of employment as required under Iowa Code section 97B.52A, persons who have been appointed as part-time members of boards or commissions prior to or during their first month of entitlement and who receive only per diem and reimbursements for reasonable business expenses for such positions will be deemed not to be in employment prohibited under Iowa Code section 97B.52A.

For purposes of this subrule, per diem shall not exceed the amount authorized under Iowa Code section 7E.6(1)“a” for members of boards, committees, commissions, and councils within the executive branch of state government. This limit shall apply regardless of whether or not the position in question is within the executive branch of state government.

Members of boards and commissions not exempted under this subrule include: (a) those who are entitled to the payment of per diem regardless of attendance at board or commission meetings, and (b) those who would have received per diem in excess of the amount authorized under Iowa Code section 7E.6(1)“a” were it not for an agreement by the member to waive such compensation.

Persons appointed as part-time board or commission members who receive only per diem as set forth above and reimbursements of reasonable business expenses may continue in or accept appointments to such positions without violating the bona fide retirement rules under Iowa Code section 97B.52A.

will fall by at least 21,000 nationally as a result of these changes.

The changes require employers to pay for virtually all personal protective equipment that is required by occupational safety and health standards. The proposed changes do not create new requirements for the use of personal protective equipment in the workplace. Rather, the proposed changes would shift the costs of certain personal protective equipment from employees to employers.

The principal reasons for adoption of these amendments are to implement Iowa Code chapter 88, to protect the safety and health of Iowa's workers, and to make Iowa's rules more current and consistent with federal regulations. Pursuant to Iowa Code subsection 88.5(1)“a” and 29 Code of Federal Regulations 1953.5, Iowa must adopt the federal standards.

Written data, views, or arguments to be considered in adoption must be submitted no later than January 24, 2008, to Division of Labor Services, 1000 East Grand Avenue, Des Moines, Iowa 50319-0209. Comments may be sent electronically to kathleen.uehling@iowa.gov.

A public hearing will be held on January 24, 2008, at 2 p.m. in the Stanley Room at Iowa Workforce Development, 1000 East Grand Avenue, Des Moines, Iowa. The public will be given the opportunity to make oral statements and submit documents. The facility for the oral presentations is accessible to and functional for persons with physical disabilities. Persons who have special requirements should telephone (515)242-5869 in advance to arrange access or other needed services.

These amendments are intended to implement Iowa Code section 88.5.

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 **875—10.20(88)** by inserting the following at the end thereof:

72 Fed. Reg. 64428 (November 15, 2007).

ITEM 2. Amend rule **875—26.1(88)** by inserting the following at the end thereof:

72 Fed. Reg. 64428 (November 15, 2007).

ARC 6519B**LABOR SERVICES DIVISION[875]****Notice of Intended Action**

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

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

Pursuant to the authority of Iowa Code section 88.5, the Labor Commissioner hereby gives Notice of Intended Action to amend Chapter 10, “General Industry Safety and Health Rules,” and Chapter 26, “Construction Safety and Health Rules,” Iowa Administrative Code.

The amendments propose to adopt by reference changes to federal occupational safety and health standards affecting general industry and construction. According to an estimate by the U.S. Department of Labor, annual workplace injuries

ARC 6525B**REVENUE DEPARTMENT[701]****Notice of Intended Action**

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

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

Pursuant to the authority of Iowa Code chapter 17A and section 421.14, the Department of Revenue hereby gives Notice of Intended Action to amend Chapter 10, “Interest, Penalty, Exceptions to Penalty, and Jeopardy Assessments,” Iowa Administrative Code.

Iowa Code section 421.7 requires the Director of Revenue to determine and publish the interest rate for each calendar year. The Director has determined that the rate of interest on

REVENUE DEPARTMENT[701](cont'd)

interest-bearing taxes under Title XVI shall be 10 percent for calendar year 2008 (0.8% per month). The Department shall also pay interest at the 10 percent rate on refunds. These rates are the same as for calendar year 2007.

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

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

The Department has determined that this proposed amendment may have an impact on small business. The Department has considered the factors listed in Iowa Code section 17A.4A. The Department will issue a regulatory analysis as provided in Iowa Code section 17A.4A if a written request is filed by delivery or by mailing postmarked no later than February 4, 2008, to the Policy Section, Compliance Division, Department of Revenue, Hoover State Office Building, P.O. Box 10457, Des Moines, Iowa 50306. The request may be made by the Administrative Rules Review Committee, the Administrative Rules Coordinator, at least 25 persons signing that request who each qualify as a small business or an organization representing at least 25 such persons.

Any interested person may make written suggestions or comments on this proposed amendment on or before January 22, 2008. Such written comments should be directed to the Policy Section, Compliance Division, Department of Revenue, Hoover State Office Building, P.O. Box 10457, Des Moines, Iowa 50306.

Persons who want to convey their views orally should contact the Policy Section, Compliance Division, 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 January 25, 2008.

This amendment is intended to implement Iowa Code section 421.7.

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

The following amendment is proposed.

Amend rule 701—10.2(421) by adding the following **new** subrule:

10.2(27) Calendar year 2008. The interest rate upon all unpaid taxes which are due as of January 1, 2008, will be 10 percent per annum (0.8% per month). This interest rate will accrue on taxes which are due and unpaid as of, or after, January 1, 2008. In addition, this interest will accrue on tax refunds which by law accrue interest, regardless of whether the tax to be refunded is due before or after January 1, 2008. This interest rate of 10 percent per annum, whether for unpaid taxes or tax refunds, will commence to accrue in 2008.

ARC 6522B

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 17A.4, 452A.59 and 452A.76, the Department of Revenue hereby gives Notice of Intended Action to amend Chapter 68, "Motor Fuel and Undyed Special Fuel," Iowa Administrative Code.

The amendment is proposed to reflect the use of more efficient engines that do not consume as much fuel while idling and the fact that higher fuel prices have caused idling time to be kept to a minimum. Also, the Department has been advised by several other states of their intent to limit the amount of idling time allowed.

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

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

The Department has determined that this proposed amendment may have an impact on small business. The Department has considered the factors listed in Iowa Code section 17A.4A. The Department will issue a regulatory analysis as provided in Iowa Code section 17A.4A if a written request is filed by delivery or by mailing postmarked no later than February 4, 2008, to the Policy Section, Compliance Division, Department of Revenue, Hoover State Office Building, P.O. Box 10457, Des Moines, Iowa 50306. The request may be made by the Administrative Rules Review Committee, the Administrative Rules Coordinator, at least 25 persons signing that request who each qualify as a small business or an organization representing at least 25 such persons.

Any interested person may make written suggestions or comments on this proposed amendment on or before January 22, 2008. Such written comments should be directed to the Policy Section, Compliance Division, Department of Revenue, Hoover State Office Building, P.O. Box 10457, Des Moines, Iowa 50306.

Persons who want to convey their views orally should contact the Policy Section, Compliance Division, 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 January 25, 2008.

This amendment is intended to implement Iowa Code section 452A.17.

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 68.8(9) as follows:

REVENUE DEPARTMENT[701](cont'd)

68.8(9) Idle time. Persons who wish to claim a refund for idle time (the engine is running but not propelling the vehicle) must first apply to the department and provide statistical information on how the refund amount will be calculated. Normally, to qualify for a refund the vehicle must be equipped with an on-board monitoring device which will record the actual time the engine is idling and the amount of fuel consumed while idling. If the device only records the idle time and not fuel used, the refund amount will be calculated at ~~one~~ *one-half* gallon of fuel consumed per one hour of idle time. The computation must also consider the miles driven in Iowa versus total miles driven. The department will require a review of interstate carrier reports before approval of the computation method.

ARC 6524B**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 17A.4, 421.14 and 441.8, the Department of Revenue hereby gives Notice of Intended Action to amend Chapter 122, "Administration," Iowa Administrative Code.

Rule 701—122.2(441) is amended to establish time limits for the two assessors serving on the continuing education committee.

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

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

The Department has determined that this proposed amendment may have an impact on small business. The Department has considered the factors listed in Iowa Code section 17A.4A. The Department will issue a regulatory analysis as provided in Iowa Code section 17A.4A if a written request is filed by delivery or by mailing postmarked no later than February 4, 2008, to the Policy Section, Compliance Division, Department of Revenue, Hoover State Office Building, P.O. Box 10457, Des Moines, Iowa 50306. The request may be made by the Administrative Rules Review Committee, the Administrative Rules Coordinator, at least 25 persons signing that request who each qualify as a small business or an organization representing at least 25 such persons.

Any interested person may make written suggestions or comments on this proposed amendment on or before January 22, 2008. Such written comments should be directed to the Policy Section, Compliance Division, Department of Revenue, Hoover State Office Building, P.O. Box 10457, Des Moines, Iowa 50306.

Persons who want to convey their views orally should contact the Policy Section, Compliance Division, 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 January 25, 2008.

This amendment is intended to implement Iowa Code section 441.8.

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 701—122.2(441) to read as follows:

701—122.2(441) General operation. ~~Chairperson~~ *The chairperson* of the committee shall be the director. ~~Appointed by the~~ *The director shall appoint* to the committee is a representative of the property tax ~~section~~ *division* of the department of revenue and two assessor representatives. *The assessor representatives shall serve four-year staggered terms. To initiate the staggered term policy, one assessor shall serve through December 31, 2009, and the other assessor shall serve through December 31, 2011.* The committee will meet at least once each year.

This rule is intended to implement Iowa Code section 441.8.

ARC 6527B**REVENUE DEPARTMENT[701]****Notice of Intended Action**

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

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

Pursuant to the authority of Iowa Code chapter 17A and section 421.14, the Department of Revenue hereby gives Notice of Intended Action to amend Chapter 230, "Exemptions Primarily Benefiting Manufacturers and Other Persons Engaged in Processing," Iowa Administrative Code.

The proposed amendment adds new rule 701—230.10(423), which is intended to implement Iowa Code section 423.3 as amended by 2007 Iowa Acts, House File 912, section 1. This new rule provides a new exemption from sales and use tax on purchases of specified property and services made by a qualifying web search portal business.

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

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

The Department has determined that the proposed amendment may have an impact on small business. The Department has considered the factors listed in Iowa Code section 17A.4A. The Department will issue a regulatory analysis as provided in Iowa Code section 17A.4A if a written request is filed by delivery or by mailing postmarked no later than February 4, 2008, to the Policy Section, Compliance Division, Department of Revenue, Hoover State Office Building, P.O. Box 10457, Des Moines, Iowa 50306. The request may be made by the Administrative Rules Review Committee, the

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Administrative Rules Coordinator, at least 25 persons signing that request who each qualify as a small business or an organization representing at least 25 such persons.

Any interested person may make written suggestions or comments on the proposed amendment on or before January 22, 2008. Such written comments should be directed to the Policy Section, Compliance Division, Department of Revenue, Hoover State Office Building, P.O. Box 10457, Des Moines, Iowa 50306.

Persons who want to convey their views orally should contact the Policy Section, Compliance Division, 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 January 25, 2008.

This amendment is intended to implement Iowa Code section 423.3(89) as amended by 2007 Iowa Acts, House File 912, section 1.

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

The following amendment is proposed.

Amend 701—Chapter 230 by adding the following **new** rule:

701—230.10(423) Exclusive web search portal business and its exemption. Effective on or after July 1, 2007, a business that qualifies as a web search portal business that has a physical location in Iowa and that meets specific criteria may obtain an exemption from sales and use tax on specific purchases that are used in the operation and maintenance of the web search portal business. This exemption from sales and use tax also applies to the affiliates of a qualifying web search portal business.

230.10(1) Definitions. For the purpose of this exemption, the following definitions apply:

a. "Affiliate" means an entity that directly or indirectly controls, is controlled with or by, or is under common control with another entity.

b. "Control" means any of the following:

(1) In the case of a United States corporation, the ownership, directly or indirectly, of 50 percent or more of the voting power to elect directors.

(2) In the case of a foreign corporation, if the voting power to elect the directors is less than 50 percent, the maximum amount allowed by applicable law.

(3) In the case of an entity other than a corporation, 50 percent or more ownership interest in the entity, or the power to direct the management of the entity.

c. "Web search portal business" means an entity among whose primary businesses is to provide a search portal to organize information; to access, search, and navigate the internet, including research and development to support capabilities to organize information; and to provide internet access, navigation, and search functionalities.

230.10(2) Criteria to claim exemption. The following govern whether a business qualifies for an exemption from sales and use tax on purchases made or leases executed by a web search portal business:

a. All of the following requirements must be met by a web search portal business for the purpose of this exemption:

(1) The business of the purchaser or lessee shall be as a provider of a web search portal.

(2) The web search portal business shall have a physical location in Iowa that is used for the operations and maintenance of the web search portal site on the internet, including but not limited to research and development to support capabilities to organize information and to provide internet access, navigation, and search.

(3) The web search portal business shall make a minimum investment in an Iowa physical location of \$200 million within the first six years of operation in Iowa beginning with the date the web search portal business initiates site preparation activities. The minimum investment includes the initial investment, including land and subsequent acquisition of additional adjacent land and subsequent investment at the Iowa location.

(4) The web search portal business shall purchase, option, or lease Iowa land not later than December 31, 2008, for any initial investment. However, the December 31, 2008, date shall not affect the future purchases of adjacent land and additional investment in the initial or adjacent land to qualify as part of the minimum investment for purposes of this exemption.

b. Aggregation to meet requirements. A web search portal business that is seeking an exemption from sales and use tax under this exemption may meet the requirements found in subparagraphs 230.10(2)"a"(1) to (4) by aggregating various Iowa investments and other requirements with its business affiliates.

c. Failure to meet investment qualifications. If a web search portal business claiming exemption from sales and use tax under this exemption fails to meet at least 80 percent of the minimum investment amount required within the first six years of operation beginning with the initiation of the site preparation activities by the web search portal business, the web search portal business will lose the right to claim this exemption from sales and use tax. Immediately following the loss of the right to claim this exemption from sales and use tax, the web search portal business is required to pay all sales or use taxes that would have been due on the purchase or rental of all purchases previously claimed exempt from sales and use tax, plus any and all applicable statutory penalty and interest due on the tax.

230.10(3) Exempt purchases. Sales and leases of the following are exempt from sales and use tax when sold or leased to a qualifying web search portal business:

a. Computers and equipment that are necessary for the maintenance and operation of the web search portal business;

b. All equipment used for the operation and maintenance of the cooling system for the computers and equipment used in the operation of the web search portal;

c. All equipment used for the operation and maintenance of the cooling towers for the cooling system referenced in paragraph "b";

d. All equipment used for the operation and maintenance of the temperature control infrastructure for the computers and equipment used in the operation of the web search portal;

e. All equipment used for the operation and maintenance of the power infrastructure that is used for the transformation, distribution, or management of electricity used for the operation and maintenance of the web search portal. This equipment includes, but is not limited to, exterior dedicated business-owned power substations, backup power generation systems, battery systems, and related infrastructure;

f. All equipment used in the racking system, including cabling and trays;

g. Fuel purchased by the web search portal business that is used in the backup power generation system and in all items listed in paragraphs "a" to "f." This provision includes

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the fuel used in backup generators that may be located outside of the building that are used if power is interrupted to ensure the web search portal continues operation; and

h. Electricity purchased for use in operating the web search portal.

230.10(4) Limitation of exemption. The purchases or leases of the items listed in subrule 230.10(3) are only exempt if the items being purchased or leased are being used in the operation or maintenance of the web search portal business. Such purchases or leases will not be exempt from sales or use tax if the item is to be used in the business for another purpose not related to operations or maintenance. Examples of items included in this limitation include but are not limited to:

a. Electricity not used for operation or maintenance, such as in the office or employee break room;

b. Tangible personal property used in areas of the web search portal facility that is not used for operation or maintenance, such as cleaning equipment and supplies;

c. Building materials that become part of real property, such as concrete, steel or roofing; and

d. Tangible personal property that becomes part of real property, such as a dishwasher.

230.10(5) Initial date of exemption. The exemption from sales and use tax begins on and after the date of the initial investment in or the initiation of site preparation activities for the facility that will contain the qualifying web search portal business.

This rule is intended to implement Iowa Code section 423.3 as amended by 2007 Iowa Acts, House File 912, section 1.

ARC 6506B**TREASURER OF STATE[781]****Notice of Intended Action**

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

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

Pursuant to the authority of the Iowa Code section 12D.2, the Treasurer of State hereby gives Notice of Intended Action to rescind Chapter 16, "Iowa Educational Savings Plan Trust," Iowa Administrative Code, and to adopt a new Chapter 16 with the same title.

The rules in Chapter 16 provide for the administration and operation of the Iowa educational savings plan trust. This amendment reflects statutory changes and other changes to the Iowa educational savings plan trust.

Any interested persons may make written suggestions or comments on this proposed amendment on or before January 22, 2008. Such written materials should be directed to the Office of the Treasurer of State, Lucas State Office Building, 321 East 12th Street, Des Moines, Iowa 50319; fax (515)281-6962.

There will be a public hearing on January 22, 2008, at 2 p.m. in the Lucas Conference Room, First Floor, Room 148, Lucas State Office Building, 321 East 12th Street, 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.

These rules are intended to implement Iowa Code chapter 12D.

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.

Rescind **781—Chapter 16** and adopt the following **new** chapter in lieu thereof:

CHAPTER 16

IOWA EDUCATIONAL SAVINGS PLAN TRUST

781—16.1(12D) Purpose. The purpose of these rules is to provide for the administration and operation of the Iowa educational savings plan trust.

781—16.2(12D) Definitions. In addition to the terms defined in Iowa Code section 12D.1, the following terms apply to this chapter:

"Academic period" means one semester or one quarter or such other equivalent period as may be defined by the qualified institution of higher education.

"Account" means an account established and maintained under the Iowa educational savings plan trust for a beneficiary.

"Account balance" means the fair market value of an account.

"College savings Iowa" means the name and logo registered under Iowa law to represent the direct-sold Iowa 529 plan under the Iowa educational savings plan trust.

"Iowa advisor 529 plan" means the name and logo registered to represent the advisor-sold Iowa 529 plan under the Iowa educational savings plan trust.

"Iowa 529 plan" means college savings Iowa, the Iowa advisor 529 plan, and any other college savings plan established by the program administrator, collectively, under the Iowa educational savings plan trust.

"Payments" means the money paid by the participant to the trust under the participation agreement.

"Plan" means either (1) college savings Iowa, (2) Iowa advisor 529 plan, or (3) any other college savings plan established by the program administrator under the Iowa educational savings plan trust.

"Program administrator" means the treasurer of state.

"Program description" means the description of each plan provided to participants setting forth information with respect to the plan.

"Qualified higher education costs" means tuition, fees, and the cost of books, supplies and equipment required for the enrollment or attendance of the beneficiary at a qualified institution of higher education. Room and board shall be treated as qualified higher education costs for a beneficiary, subject to maximum annual dollar amounts determined by the program administrator, if room and board are incurred during an academic period in which the beneficiary is enrolled or accepted for enrollment in a degree, certificate or other program that leads to a recognized educational credential (such as a bachelor's degree or an associate's degree) awarded by a qualified institution of higher education. The beneficiary must be enrolled at least half-time for board expenses to be qualified.

"Qualified institution of higher education" means an institution described in Section 481 of the federal Higher Education Act of 1965 that is eligible to participate in the United States Department of Education's student aid programs.

TREASURER OF STATE[781](cont'd)

State universities in Iowa and other states qualify, as do community colleges and private accredited four-year and two-year colleges. Some vocational and technical schools qualify as well.

781—16.3(12D) Participation agreement and program description. The following material shall be used to administer the Iowa educational savings plan trust.

16.3(1) “Participation agreement” means the form that the participant submits to the program administrator to identify the participant, beneficiary, plan, and other information that may be requested by the program administrator. The participation agreement shall be signed and dated by the participant to verify that the participant agrees to the terms and conditions of the program. For online applications, participants must confirm that they have read the terms and conditions prior to submitting the application.

16.3(2) Each plan will have a program description setting forth the terms of the plan and describing the investments and procedures applicable to that plan. Persons interested in a plan should consult the plan description. A plan description may be changed at any time by the program administrator, and any such change may impact the rights of participants and beneficiaries under the plan.

781—16.4(12D) Forms.

16.4(1) Appropriate forms must be completed in paper, online or via telephone (whichever is applicable for the requested actions) to perform the actions listed. Current forms are available online at www.collegesavingsiowa.com for college savings Iowa and at www.iowaadvisor529plan.com for the Iowa advisor 529 plan. Actions which require the completion of an appropriate form include the following:

- a. Terminate a participation agreement.
- b. Transfer ownership rights of an Iowa 529 plan account to another person pursuant to Iowa Code section 12D.6(5).
- c. Request the substitution of a beneficiary.
- d. Exchange investments.
- e. Establish, delete or change automatic investments.
- f. Establish, delete or change banking information.
- g. Request a qualified withdrawal.
- h. Request an allocation update.
- i. Request for payroll deduction.
- j. Establish, delete or change electronic bank transfer information.
- k. Establish, delete or change interested party information.
- l. Establish, delete or change successor information.
- m. Change E-mail address on file.
- n. Change address on file.
- o. Request a rollover to another 529 plan.
- p. Establish, delete or change power of attorney on an account.
- q. Change beneficiary information on an account.

16.4(2) The program administrator may from time to time provide for additional forms for use by participants and beneficiaries in connection with actions involving the Iowa 529 plan and will make those forms available online and in paper format.

781—16.5(12D) Participant eligibility. Iowa Code section 12D.3 provides that the trust may enter into participation agreements with participants to effectuate the purposes, objectives and provisions of the trust. This rule establishes the eligibility criteria for a participant.

16.5(1) A participant must be at least 18 years old and a resident of the United States.

16.5(2) A participant shall execute a participation agreement with the program administrator that specifies the plan selected by the participant and the terms and conditions under which the participant shall participate in the trust.

16.5(3) A participant shall, on signing a participation agreement, provide the program administrator with the participant’s social security number.

781—16.6(12D) Beneficiary eligibility. A beneficiary of a participation agreement may be designated anytime after birth and assignment of a social security number. This rule establishes the eligibility criteria for a beneficiary.

16.6(1) A beneficiary may be a resident of any state.

16.6(2) A participant shall, on signing a participation agreement, provide the program administrator a valid social security number for the beneficiary.

781—16.7(12D) Payments and payment schedules. Iowa Code section 12D.3(1) states that participation agreements may require participants to agree to invest a specific amount of money in the trust for a specific period of time for the benefit of a specific beneficiary. This rule provides for implementation of this provision.

16.7(1) The program administrator will provide each participant a quarterly statement. Participants are allowed to make contributions at any time during the calendar year provided that each contribution is made in accordance with the minimum contribution and other requirements set forth in the program description. Payments received from a person who has not entered into a participation agreement shall be returned or held until a participation agreement is submitted and approved.

16.7(2) The program administrator shall actuarially determine an account balance limit applicable to all accounts of each beneficiary. No additional payments may be made on behalf of a beneficiary if the account balances of all accounts held for the beneficiary exceed the applicable account balance limit.

16.7(3) Beginning in 2000 and each year thereafter, the program administrator shall determine the maximum amount that a participant may contribute and deduct from Iowa income taxes pursuant to Iowa Code chapter 422 on behalf of a beneficiary for the calendar year by applying the applicable inflation adjustment. The adjusted annual maximum shall be communicated to participants in Iowa 529 plans and to the public in any reasonable manner determined by the program administrator.

781—16.8(12D) Substitution or change of beneficiary. Iowa Code section 12D.3(3)“a” provides that beneficiaries may be changed subject to the rules and regulations of the treasurer of state. This rule establishes the criteria for substituting one beneficiary for another. Beneficiary changes shall also be subject to the procedures set forth in the applicable program description.

16.8(1) At the time of the substitution, the substitute beneficiary must be an eligible beneficiary pursuant to rule 781—16.6(12D) and must be a member of the family of the beneficiary being substituted as defined by the IRS. That definition may be found at Internal Revenue Code Section 529(e).

16.8(2) A participant may request that a beneficiary be substituted by submitting the appropriate form to the program administrator.

781—16.9(12D) Change of participant or account owner. The participant is the initial owner of the account established under an Iowa 529 plan and, as such, has the exclusive right to cancel the participation agreement or change the designated

TREASURER OF STATE[781](cont'd)

beneficiary in accordance with these rules and the applicable program description.

16.9(1) A participant may transfer the participant's current ownership rights in an account to another eligible individual or to a minor beneficiary. To do so, the participant shall complete the appropriate form.

16.9(2) A participant may also designate on the participation agreement a successor, who shall succeed to the ownership of the account in the event of the death of the participant. A participant may change the designated successor by completing the appropriate form.

16.9(3) In the event a participant or other account owner dies and has not designated a successor to the account, the following criteria will be used.

a. The designated beneficiary, if 18 years of age or older at the time of the participant's death, shall become the owner of the Iowa 529 plan account as well as remaining the beneficiary.

b. If the designated beneficiary is under the age of 18, account ownership will be transferred to the beneficiary's surviving parent or other legal guardian.

16.9(4) The participant may name a successor to the account even though the successor may already have established or may have plans to establish an Iowa 529 plan account.

781—16.10(12D) Payment of benefits and qualified distributions. This rule establishes the procedures for the payment of benefits.

16.10(1) The participant must initiate distributions for qualified or nonqualified expenses. The participant must file the appropriate form with the program administrator.

16.10(2) Benefits will be paid in one of three ways once the request has been received by the program administrator:

a. Directly to the institution of higher education for qualified expenses only.

b. Directly to the participant for qualified or nonqualified expenses.

c. Directly to the beneficiary for qualified expenses only.

16.10(3) Each distribution of benefits will be comprised partly of contributions and partly of earnings, based upon the same proportion that contributions and earnings comprise the participant's account at the time of the distribution.

16.10(4) Funds that are distributed to a participant pursuant to this rule shall be reported to the IRS on a 1099Q in the tax year in which such distribution is made. The participant will receive the 1099Q for any distributions made to the participant. The beneficiary will receive the 1099Q for any distributions made to the beneficiary or institution of higher education. The individual receiving the 1099Q must determine whether the distribution was qualified or nonqualified. Nonqualified distributions may be subject to state and federal taxes and penalties.

16.10(5) A participant may transfer any remaining balance in one account to an existing or new account for another

designated beneficiary by completing a new participation agreement with the program administrator.

781—16.11(12D) Withdrawals and cancellation. Iowa Code section 12D.5 provides that any participant may cancel a participation agreement at will. This rule establishes the criteria for withdrawals from or the cancellation of a participation agreement.

16.11(1) A participant may at any time withdraw a portion of the amount in an account or cancel a participation agreement, without cause, by submitting to the program administrator the appropriate form.

16.11(2) If the participation agreement is canceled, the participant is entitled to the amount in the account, subject to any applicable fees and expenses. The balance shall be mailed or otherwise sent to the participant after receipt by the program administrator of the appropriate form.

16.11(3) Funds that are distributed to a participant pursuant to this rule shall be reported to the IRS on a 1099Q in the tax year in which such distribution is made. The participant will receive the 1099Q for any distributions made to the participant. The beneficiary will receive the 1099Q for any distributions made to the beneficiary or institution of higher education. The individual receiving the 1099Q must determine whether the distribution was qualified or nonqualified. Nonqualified distributions may be subject to state and federal taxes and penalties.

16.11(4) Pursuant to Iowa Code section 642.2, funds held by the program administrator under the Iowa 529 plan are not subject to garnishment.

These rules are intended to implement Iowa Code chapter 12D.

NOTICE—USURY

In accordance with the provisions of Iowa Code section 535.2, subsection 3, paragraph "a," the Superintendent of Banking has determined that the maximum lawful rate of interest shall be:

January 1, 2007 — January 31, 2007	6.50%
February 1, 2007 — February 28, 2007	6.50%
March 1, 2007 — March 31, 2007	6.75%
April 1, 2007 — April 30, 2007	6.75%
May 1, 2007 — May 31, 2007	6.50%
June 1, 2007 — June 30, 2007	6.75%
July 1, 2007 — July 31, 2007	6.75%
August 1, 2007 — August 31, 2007	7.00%
September 1, 2007 — September 30, 2007	7.00%
October 1, 2007 — October 31, 2007	6.75%
November 1, 2007 — November 30, 2007	6.50%
December 1, 2007 — December 31, 2007	6.50%
January 1, 2008 — January 31, 2008	6.25%

ARC 6520B

HUMAN SERVICES DEPARTMENT[441]

Adopted and Filed Emergency

Pursuant to the authority of Iowa Code section 234.6 and 2007 Iowa Acts, House File 909, section 13, the Department of Human Services amends Chapter 51, "Eligibility," and Chapter 52, "Payment," Iowa Administrative Code.

These amendments implement the annual adjustments to eligibility and payment levels in the State Supplementary Assistance Program that are necessary to meet the federal "pass-along" requirements specified in Title XVI of the Social Security Act and federal regulations at 20 CFR 416.2095 and 416.2096. The state of Iowa uses the payment levels method of compliance, which requires the state to increase the payment amounts and income limits for State Supplementary Assistance categories effective January 1 of each year as necessary to meet the minimum levels required by the federal government. The minimum levels are indexed by the cost-of-living increase in federal Social Security and Supplemental Security Income (SSI) benefits, which is 2.3 percent for calendar year 2008.

Changes necessary to meet federal pass-along requirements for 2008 are as follows:

- Increasing the income limit and payment standard for a dependent relative from \$317 per month to \$325 per month.
Increasing the income limits for eligibility for a dependent relative supplement by \$22 per month for an eligible individual (from \$940 to \$962) and by \$30 per month for an eligible couple (from \$1251 to \$1281).
Increasing the family life home income limit by \$14 per month (from \$785 to \$799).
Increasing the maximum family life home payment by \$11 per month (from \$697 to \$708).
Increasing the maximum residential care per diem rate by \$0.45 (from \$26.50 to \$26.95).

State legislation also requires the Department to increase the personal needs allowance for residents of residential care facilities at the same percentage and at the same time as federal Social Security and SSI benefits are increased. Also, the amount added to the personal needs allowance for Medicaid copayment increased by \$1.53, based on average copayments from the period August 2006 through September 2007. Therefore, these amendments increase the residential care facility and family life home personal needs allowances by \$3 per month (from \$88 to \$91).

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

The Council on Human Services adopted these amendments on December 12, 2007.

In compliance with Iowa Code section 17A.4(2), the Department finds that notice and public participation are unnecessary because these amendments implement 2007 Iowa Acts, House File 909, sections 14 and 31, which authorize the Department to adopt rules without notice and public participation.

The Department also finds, pursuant to Iowa Code sections 17A.5(2)"b"(1) and 17A.5(2)"b"(2), that the normal effective date of these amendments should be waived because the rules confer a benefit by increasing income limits and

payments and because emergency rule making is authorized by 2007 Iowa Acts, House File 909, sections 14, 31, and 35.

These amendments are also published herein under Notice of Intended Action as ARC 6523B to allow for public comment.

These amendments are intended to implement Iowa Code chapter 249.

These amendments became effective January 1, 2008.

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

The following amendments are adopted.

ITEM 1. Amend subrule 51.4(1) as follows:

51.4(1) Income. Income of a dependent relative shall be less than \$317 \$325. When the dependent's income is from earnings, an exemption of \$65 shall be allowed to cover work expense.

ITEM 2. Amend rule 441-51.7(249) as follows:

441-51.7(249) Income from providing room and board. In determining profit from furnishing room and board or providing family life home care, \$317 \$325 per month shall be deducted to cover the cost, and the remaining amount treated as earned income.

This rule is intended to implement Iowa Code sections 249.3 and 249.4.

ITEM 3. Amend rule 441-52.1(249) as follows:

Amend subrules 52.1(1) and 52.1(2) as follows:

52.1(1) Protective living arrangement. The following assistance standards have been established for state supplementary assistance for persons living in a family life home certified under rules in 441-Chapter 111.

Table with 2 columns: Amount, Description. Rows: \$697 \$708 Care allowance; \$88 \$91 Personal allowance; \$785 \$799 Total

52.1(2) Dependent relative. The following assistance standards have been established for state supplementary assistance for dependent relatives residing in a recipient's home.

- a. Aged or disabled client and a dependent relative ... \$940 \$962
b. Aged or disabled client, eligible spouse, and a dependent relative ... \$1251 \$1281
c. Blind client and a dependent relative ... \$962 \$984
d. Blind client, aged or disabled spouse, and a dependent relative ... \$1273 \$1303
e. Blind client, blind spouse, and a dependent relative ... \$1295 \$1325

Amend subrule 52.1(3), introductory paragraph, as follows:

52.1(3) Residential care. Payment to a recipient in a residential care facility shall be made on a flat per diem rate of \$17.86 or on a cost-related reimbursement system with a maximum per diem rate of \$26.50 \$26.95. The department shall establish a cost-related per diem rate for each facility choosing this method of payment according to rule 441-54.3(249).

HUMAN SERVICES DEPARTMENT[441](cont'd)

Amend subparagraph **52.1(3)“a”(2)** as follows:

(2) An allowance of \$88 \$91 to meet personal expenses and Medicaid copayment expenses.

[Filed Emergency 12/12/07, effective 1/1/08]

[Published 1/2/08]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 1/2/08.

ARC 6515B

HUMAN SERVICES DEPARTMENT[441]

Adopted and Filed Emergency

Pursuant to the authority of Iowa Code section 234.6 and 2006 Iowa Acts, Chapter 1184, section 17(14), the Department of Human Services amends Chapter 182, “Family-Centered Services,” Iowa Administrative Code.

This amendment extends the transition period for family-centered services under Chapter 182 that was previously authorized statewide in rules Adopted and Filed and published in the Iowa Administrative Bulletin on June 6, 2007, as **ARC 5937B**. The transition period was established to allow for continued provision of supervision, parental counseling and education, community resource procurement, or family team meeting facilitation under Chapter 182 after the effective date of new child welfare family-centered services authorized under 441—Chapter 172, which became effective on October 1, 2007. The transition provision applied when a family could not be transferred to a new service by October 1, 2007, or when a family’s services from a provider who would no longer be participating were expected to end before December 31, 2007. All services authorized under those transition provisions must end by December 31, 2007.

This amendment extends the transition provisions through March 31, 2008, for families from the Council Bluffs service area, which includes Audubon, Carroll, Cass, Crawford, Fremont, Greene, Guthrie, Harrison, Mills, Monona, Montgomery, Page, Pottawattamie, Sac, Shelby, and Taylor Counties. This extension is necessary because there were no successful bidders identified for the Council Bluffs service area under the original request for proposals issued in April 2007. Contracts for the other seven service areas were executed on September 5, 2007, for services beginning October 1, 2007. A second request for proposals for the Council Bluffs service area was issued on September 4, 2007. Successful bidders were identified for the Council Bluffs service area on November 7, 2007, and contracts were executed on November 19, 2007, for services beginning January 1, 2008.

While every effort is being made to transition families to providers under the new contracts, the Department recognizes that it is vital that child welfare services be continuously available to families in need of those services, and that it may be in the best interest of a family to finish out a service with one provider rather than transfer to a new provider shortly before a service is expected to be completed.

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

The Council on Human Services adopted this amendment December 12, 2007.

The Department finds that notice and public participation are impracticable because all services under Chapter 182 rules are slated to end by December 31, 2007. It is contrary to the public interest to terminate needed services for families and children when there is no reasonable alternative. Therefore, this amendment is filed pursuant to Iowa Code section 17A.4(2).

The Department finds that this amendment confers a benefit by allowing families who have not been able to transition to services under the new contracts to continue receiving services from the previous contractors. Therefore, this amendment is filed pursuant to Iowa Code section 17A.5(2)“b”(2), and the normal effective date of this amendment is waived.

This amendment is intended to implement Iowa Code section 234.6.

This amendment became effective December 31, 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 182.3(1) as follows:

182.3(1) Transition. The following procedures apply to children and families *from the Council Bluffs service area* who are approved to receive family-centered services as described in this chapter before ~~October 1, 2007~~ *January 1, 2008*, and who require services after ~~October 1, 2007~~ *January 1, 2008*:

a. The department shall make every effort to transition each case to family-centered safety plan services or family safety, risk, and permanency services as described in 441—Chapter 172.

b. If the case cannot be transferred to a contractor for services under 441—Chapter 172 by ~~October 1, 2007~~ *January 1, 2008*, the department worker may request continued authorization of services under 441—Chapter 182 for a limited period until the case can be transferred.

c. The department worker may also request continued authorization of services under 441—Chapter 182 if:

(1) The child and family are receiving services from a provider that will not be a contractor or subcontractor for services under 441—Chapter 172;

(2) The child and family have a strong and positive relationship with that provider; and

(3) The department worker expects that the child’s and family’s need for services will end by ~~December 31, 2007~~ *March 31, 2008*.

d. Services that may be continued include supervision, parental counseling and education, community resource procurement, and family team meeting facilitation only.

e. The service area manager or the manager’s designee must authorize any continued services by ~~October 1, 2007~~ *January 1, 2008*. The authorization period shall not extend beyond ~~December 31, 2007~~ *March 31, 2008*.

f. Any continued need for family-centered services after ~~December 31, 2007~~ *March 31, 2008*, shall be assessed and served in accordance with the procedures in 441—Chapter 172.

[Filed Emergency 12/12/07, effective 12/31/07]

[Published 1/2/08]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 1/2/08.

ARC 6516B

INSURANCE DIVISION[191]

Adopted and Filed Emergency

Pursuant to the authority of Iowa Code sections 505.8 and 514D.9 and chapter 514G, the Insurance Division hereby amends Chapter 39, "Long-Term Care Insurance," Iowa Administrative Code.

The chapter, among other things, protects applicants for long-term care insurance from unfair or deceptive sales or enrollment practices, and helps to facilitate public understanding and comparison of long-term care insurance coverage. The Iowa Insurance Commissioner has the authority to adopt rules for full and fair disclosure of the terms and benefits of a long-term care insurance policy. (See Iowa Code sections 514D.9 and 514G.7(1)(2007).) To that end, the new subrule requires certain specific training for insurance producers who wish to sell long-term care insurance in Iowa. This additional training is necessary due to the complex nature of long-term care insurance products and to ensure that an insurance producer is able to adequately explain to a consumer how long-term care insurance products work. The subrule became effective December 12, 2007, and insurance producers and companies must be able to demonstrate compliance by January 1, 2009.

The effective date of subrule 39.15(4) pursuant to **ARC 6205B** (IAB 8/29/07) was delayed 70 days by the Administrative Rules Review Committee at its meeting held September 11, 2007. In compliance with Iowa Code section 17A.4(2), the Division finds that notice and public participation are unnecessary because the amendment adopted herein was a product of cooperation between interested parties and was reported to the Administrative Rules Review Committee at its meeting on December 11, 2007.

The Division also finds, pursuant to Iowa Code section 17A.5(2)"b"(2), that the normal effective date of the amendment, 35 days after publication, should be waived and this amendment should be made effective on December 12, 2007, because the delay of the effective date of **ARC 6205B** has ended.

The Insurance Division adopted this amendment on December 12, 2007.

This amendment became effective on December 12, 2007.

This amendment is intended to implement Iowa Code chapters 514D and 514G.

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.

Rescind subrule 39.15(4) and adopt the following **new** subrule in lieu thereof:

39.15(4) Producer training requirements.

a. Purpose. The purpose of this subrule is to require certain specific minimum training for insurance producers who wish to sell long-term care insurance in Iowa. This additional training is necessary due to the complex nature of long-term care insurance products and to ensure that insurance producers are able to determine whether long-term care insurance products are suitable for consumers and that producers are able to adequately explain to consumers how the long-term care insurance products work. The ultimate goal of this subrule is to ensure that purchasers of long-term care insur-

ance products understand basic features of the products. This subrule applies to all long-term care insurance products sold on or after January 1, 2009.

b. Requirements for insurers. An insurer subject to this subrule shall obtain verification that a producer has received training required by this subrule before a producer is permitted to sell, solicit or negotiate the insurer's long-term care insurance products.

c. Required training. The training required by paragraph "b" is as follows:

(1) To sell, solicit or negotiate long-term care insurance for an insurer on or after January 1, 2009, a producer must have completed a one-time training course of at least four credits and as set forth in paragraph "d."

(2) In addition to the one-time training course required in subparagraph (1), to sell, solicit or negotiate long-term care insurance for an insurer on or after January 1, 2009, a producer shall complete ongoing training of no less than three credits every CE term and as set forth in paragraph "d."

(3) For purposes of this subrule, "credit" and "CE term" shall be defined as they are defined in rule 191—11.2(505, 522B).

d. Training content. The training required under this subrule shall consist of topics related to long-term care insurance, long-term care services and, if applicable, qualified state long-term care asset preservation programs, pursuant to 191—Chapter 72, including, but not limited to:

(1) State and federal regulations and requirements and the relationship between qualified state long-term care asset preservation programs and other public and private coverage of long-term care services, including Medicaid;

(2) Available long-term care services and providers;

(3) Changes or improvements in long-term care services or providers;

(4) Alternatives to the purchase of private long-term care insurance;

(5) The effect of inflation on benefits and the importance of inflation protection; and

(6) Consumer suitability standards and guidelines.

e. General training. The training required by this subrule shall not include training that is specific to an insurer's or company's product or that includes any sales or marketing information, materials, or training, other than that required by state or federal law.

f. Approval of courses. The training requirements of paragraph "c" must be approved as continuing education courses under 191—Chapter 11.

g. Maintenance of records. An insurer subject to this subrule shall maintain records in accordance with the state's record retention requirements.

h. Training obtained from another insurer. An insurer may use verification from another insurer or another provider that a producer has received the required training for the purpose of meeting the requirements of this subrule.

i. Records available to commissioner. An insurer subject to this subrule shall make the verification and records available to the commissioner upon request.

j. Training obtained in other states. The satisfaction of these training requirements in any state shall be deemed to satisfy the training requirements in this state.

[Filed Emergency 12/12/07, effective 12/12/07]

[Published 1/2/08]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 1/2/08.

ARC 6508B**IOWA FINANCE AUTHORITY[265]****Adopted and Filed Emergency**

Pursuant to the authority of Iowa Code section 17A.3(1)“b” and section 16.5(17) as amended by 2007 Iowa Acts, chapter 54, section 19, the Iowa Finance Authority hereby amends Chapter 26, “Water Pollution Control Works and Drinking Water Facilities Financing,” Iowa Administrative Code.

The purpose of this amendment is to remove a burdensome loan requirement under this chapter. The definition of the term “prepayment” is modified to allow for prepayment of a loan, in whole or in part, with the prior written consent of the Authority.

Pursuant to Iowa Code section 17A.4(2), the Iowa Finance Authority finds that notice and public participation are unnecessary because the amendment gives borrowers under the program more flexibility in prepayment of a loan. The Authority finds that notice and public participation are unnecessary, impractical, or contrary to the public interest in that this amendment confers a benefit on the persons affected, borrowers, by removing a burdensome loan requirement, and should be implemented as soon as feasible in order to facilitate borrower prepayments under the program.

The Authority 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 made effective upon filing with the Administrative Rules Coordinator on December 11, 2007. This amend-

ment confers a benefit on borrowers by removing a burdensome loan requirement and allowing prepayments.

Chapter 26 does not provide for waivers. Persons seeking waivers may petition the Authority for a waiver in the manner set forth under 265—Chapter 18.

This amendment is also published herein under Notice of Intended Action as **ARC 6509B** to allow for public comment.

This amendment is intended to implement Iowa Code section 16.133 and section 16.5(17) as amended by 2007 Iowa Acts, chapter 54, section 19.

This amendment became effective December 11, 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 26.5(7) as follows:

26.5(7) Prepayment. ~~No prepayment of the loan principal may be made within the first ten years of the loan term, other than those repayments resulting from a loan agreement adjustment based on final costs. The loan may be prepaid, in whole or in part, on any date with the prior written consent of the authority.~~

[Filed Emergency 12/11/07, effective 12/11/07]

[Published 1/2/08]

EDITOR’S NOTE: For replacement pages for IAC, see IAC Supplement 1/2/08.

ARC 6529B**HISTORICAL DIVISION[223]****Adopted and Filed**

Pursuant to the authority of Iowa Code sections 303.1 and 303.1A, the Department of Cultural Affairs hereby amends Chapter 21, "Membership in the Society," Iowa Administrative Code.

These amendments modify the award programs of the State Historical Society of Iowa. Specifically, the amendments rename the Throne/Aldrich Award to be the Mildred Throne/Charles Aldrich Award and expand that award to articles published in professional historical journals such as *The Annals of Iowa*; rename the Petersen/Harlan Award to be the William J. Petersen/Edgar Harlan Award; create a George Mills/Louise Noun Award for articles published in a popular history periodical; modify the composition of the award review committees; and clarify the processes for nomination, notification of award recipients and presentation of awards.

Notice of Intended Action was published in the Iowa Administrative Bulletin on November 7, 2007, as **ARC 6400B**.

The Department of Cultural Affairs sought input about the amendments by holding a public hearing on November 27, 2007. No members of the public provided comments. These amendments are identical to those published under Notice.

The Department Director adopted these amendments on December 12, 2007.

These amendments shall become effective February 6, 2008.

These amendments are intended to implement Iowa Code chapter 303.

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 [21.2, 21.3(2) to 21.3(6)] is being omitted. These amendments are identical to those published under Notice as **ARC 6400B**, IAB 11/7/07.

[Filed 12/12/07, effective 2/6/08]
[Published 1/2/08]

[For replacement pages for IAC, see IAC Supplement 1/2/08.]

ARC 6526B**HUMAN SERVICES
DEPARTMENT[441]****Adopted and Filed**

Pursuant to the authority of Iowa Code section 249A.4, the Department of Human Services amends Chapter 75, "Conditions of Eligibility," Iowa Administrative Code.

These amendments update the description of the methodology used in determining the Medicaid eligibility and financial participation of a married person residing in a medical institution (an "institutionalized spouse") who has a spouse who does not live in an institution (a "community spouse"). Previously, the Department included the specific dollar amounts in the rules and amended the rules each year. The amendments replace specific dollar amounts with references

to the maximum amounts allowed by federal Medicaid law or regulations.

The Medicare Catastrophic Coverage Act provides that these amounts are indexed for inflation according to the Consumer Price Index and are updated annually by the Centers for Medicare and Medicaid Services. Under these amendments, future increases in the amounts allowed will not require further amendments to the Department's rules. The specific dollar amounts will be published in the Department's Employees Manual and on its Web site.

These amendments were previously Adopted and Filed Emergency and published in the Iowa Administrative Bulletin on July 4, 2007, as **ARC 5986B**. Notice of Intended Action to solicit comments on these amendments was published in the Iowa Administrative Bulletin as **ARC 5987B** on the same date. The Department received no comments on the Notice of Intended Action. These amendments are identical to those Adopted and Filed Emergency and published under Notice of Intended Action.

Rule 441—75.5(249A) allows the community spouse to establish through the appeal process that more income or resources need to be allocated to the community spouse to meet minimum needs.

The Council on Human Services adopted these amendments on December 12, 2007.

These amendments are intended to implement Iowa Code section 249A.4 and Iowa Code section 249A.30A as amended by 2007 Iowa Acts, chapter 218, section 44.

These amendments shall become effective February 6, 2008, at which time the Adopted and Filed Emergency amendments are rescinded.

The following amendments are adopted.

ITEM 1. Amend subrule **75.5(3)**, paragraph "d," introductory paragraph, as follows:

d. Method of attribution. The resources attributed to the institutionalized spouse shall be one-half of the documented resources of both the institutionalized *spouse* and the community spouse as of the first moment of the first day of the month of the spouse's first entry to a medical facility. However, if one-half of the resources is less than \$24,000, then \$24,000 shall be protected for the community spouse. Also, when one-half of the resources attributed to the community spouse exceeds ~~\$99,540~~ *the maximum amount allowed as a community spouse resource allowance by Section 1924(f)(2)(A)(i) of the Social Security Act (42 U.S.C. § 1396r-5(f)(2)(A)(i))*, the amount over ~~\$99,540~~ *the maximum* shall be attributed to the institutionalized spouse. (The maximum limit ~~shall be~~ *is* indexed annually according to the consumer price index.)

ITEM 2. Amend subrule **75.16(2)**, paragraph "d," subparagraph (3), as follows:

(3) Needs of spouse. The maintenance needs of the spouse shall be determined by subtracting the spouse's gross income from ~~\$2,488.50~~ *the maximum amount allowed as a minimum monthly maintenance needs allowance for the community spouse by Section 1924(d)(3)(C) of the Social Security Act (42 U.S.C. § 1396r-5(d)(3)(C))*. (This amount ~~shall be~~ *is* indexed for inflation annually according to the consumer price index.)

However, if either spouse *has* established through the appeal process that the community spouse needs income above the ~~\$2,488.50~~ *minimum monthly maintenance needs allowance*, due to exceptional circumstances resulting in significant financial duress, an amount adequate to provide additional income as is necessary shall be substituted.

HUMAN SERVICES DEPARTMENT[441](cont'd)

Also, if a court has entered an order against an institutionalized spouse for monthly income to support the community spouse, then the community spouse income allowance shall not be less than this amount.

[Filed 12/12/07, effective 2/6/08]
[Published 1/2/08]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 1/2/08.

ARC 6528B**HUMAN SERVICES
DEPARTMENT[441]****Adopted and Filed**

Pursuant to the authority of Iowa Code section 249A.4, the Department of Human Services amends Chapter 75, "Conditions of Eligibility," Iowa Administrative Code.

This amendment revises Medicaid policy regarding personal needs allowances for members who reside in a medical institution. Legislation passed in 2006 allowed Medicaid members in nursing facilities to retain \$50 of their income for a personal needs allowance, instead of \$30.

Legislation in 2007 Iowa Acts, chapter 218, section 44, directed the Department to make the same increase in the personal needs allowance for residents of intermediate care facilities for persons with mental retardation (ICFs/MR), intermediate care facilities for persons with mental illness (ICFs/MI), and psychiatric medical institutions for children (PMICs). The legislation allows the state to supplement the income of people who have less than \$50 monthly income, to bring their income up to \$50, but only if funds are specifically appropriated.

For state fiscal year 2008, this supplemental payment is funded only for residents of nursing facilities. The Department intends to propose rules to allow payment of supplements to residents of ICFs/MR and ICFs/MI in the future if funds are appropriated.

This amendment was previously Adopted and Filed Emergency and published in the Iowa Administrative Bulletin on July 4, 2007, as **ARC 6019B**. Notice of Intended Action to solicit comments on this amendment was published in the Iowa Administrative Bulletin as **ARC 6021B** on the same date. The Department received no comments on the Notice of Intended Action. This amendment is identical to that Adopted and Filed Emergency and published under Notice of Intended Action.

This amendment does not provide for waivers in specified situations. Increasing the personal needs allowance is a benefit to members who have more than \$30 monthly income. There are other provisions for excluding income from client participation to meet other needs, such as medical expenses not otherwise covered or maintenance needs of a spouse or dependents.

The Council on Human Services adopted this amendment on December 12, 2007.

This amendment is intended to implement Iowa Code section 249A.4 and Iowa Code section 249A.30A as amended by 2007 Iowa Acts, chapter 218, section 44.

This amendment shall become effective February 6, 2008, at which time the Adopted and Filed Emergency amendment is rescinded.

The following amendment is adopted.

Amend subrule **75.16(2)** as follows:

Amend paragraph "**a**," introductory paragraph, as follows:

a. Ongoing personal needs allowance. All clients shall retain ~~\$30~~ \$50 of their monthly income for a personal needs allowance.

Rescind and reserve subparagraph (3).

[Filed 12/12/07, effective 2/6/08]
[Published 1/2/08]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 1/2/08.

ARC 6518B**HUMAN SERVICES
DEPARTMENT[441]****Adopted and Filed**

Pursuant to the authority of Iowa Code section 249A.4, the Department of Human Services amends Chapter 75, "Conditions of Eligibility," Iowa Administrative Code.

This amendment revises Medicaid policy regarding personal needs allowances for members who reside in a long-term care facility and receive a pension from the U.S. Department of Veterans Affairs (VA). Iowa allowed residents of such facilities who receive a VA pension to keep the \$90 pension after the month of entry to the facility in place of the personal needs allowance. The Centers for Medicare and Medicaid Services has informed the Department that 38 U.S.C. Section 5503 prohibits states from using VA pension income to reduce Medicaid payments to the facility. Therefore, the amendment allows a veteran to retain the standard personal needs allowance in addition to the \$90 VA pension.

This amendment was Adopted and Filed Emergency and published in the Iowa Administrative Bulletin on July 4, 2007, as **ARC 6023B**. Notice of Intended Action to solicit comments on this amendment was published as **ARC 6024B** on the same date. The Department received no comments on the Notice of Intended Action. This amendment is identical to that Adopted and Filed Emergency and published under Notice of Intended Action.

This amendment does not provide for waivers in specified situations. The change in treatment of the VA pension benefits the people affected, and the Department does not have the authority to waive federal law.

The Council on Human Services adopted this amendment on December 12, 2007.

This amendment is intended to implement Iowa Code section 249A.4 and Iowa Code section 249A.30A as amended by 2007 Iowa Acts, chapter 218, section 44.

This amendment shall become effective February 6, 2008, at which time the Adopted and Filed Emergency amendment is rescinded.

The following amendment is adopted.

Amend subrule **75.16(2)**, paragraph "**a**," subparagraph (1), as follows:

(1) If the client is a veteran or a surviving spouse of a veteran who receives a ~~Veterans' Administration~~ pension subject to limitation of \$90 after the month of entry pursuant to 38 U.S.C. Section ~~3203(f)(2)~~ 5503, the veteran or the surviving spouse of a veteran shall retain \$90 from the veteran's pension for the client's personal needs allowance beginning

HUMAN SERVICES DEPARTMENT[441](cont'd)

the month after entry to a medical institution. The \$90 allowance from a veteran's pension is in lieu of ~~addition to the \$30 \$50 allowance from any other income, not in addition thereto.~~

[Filed 12/12/07, effective 2/6/08]
[Published 1/2/08]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 1/2/08.

ARC 6507B

IOWA FINANCE AUTHORITY[265]

Adopted and Filed

Pursuant to the authority of Iowa Code section 17A.3(1)"b" and section 16.5(17) as amended by 2007 Iowa Acts, chapter 54, section 19, the Iowa Finance Authority adopts amendments to Chapter 18, "Waivers and Variances from Administrative Rules," Iowa Administrative Code.

The purpose of these amendments is to clarify and streamline the process of requesting waivers and variances from the rules adopted by the Iowa Finance Authority to create a process easier and more expedient for petitioners and the Authority. The definitions of the terms "authority," "executive director," and "person" are added to rule 265—18.1(17A,16) with subsequent alterations made in rule 265—18.6(17A,16)"1" for the term "person." The definitions of the terms "waiver" and "variance" are modified. Further, a clarification is made to the criteria for a waiver or variance, to provide that the Authority will consider the public interest, policies and legislative intent of the statute(s) underlying the rule. Also, subrule 18.5(2) is amended to state the address to which the petition should be delivered, and rule 265—18.6(17A,16) is amended to refer to a sample petition to be included at the end of the chapter as Exhibit A, illustrating the format and content of the petition expected by the Authority. Rule 265—18.13(17A,16) is amended to provide that a waiver or variance may not only be canceled but also is void under certain circumstances. Finally, rule 265—18.16(17A,16) is amended to explain that granting or denying a waiver is final agency action.

Notice of Intended Action was published in the Iowa Administrative Bulletin on October 24, 2007, as **ARC 6341B**. The Authority received written comments on the amendments. Nonsubstantive changes were made to subrule 18.10(1) to aid in clarity. Subrule 18.10(1) now reads as follows:

"18.10(1) Executive director review. The executive director may take up to 60 days to fully investigate and review the petition and, at the next board meeting thereafter, may present to the authority a suggested order based upon the executive director's investigation and review. The authority shall adopt, amend, or reject the suggested order. If the suggested order is rejected, the authority shall instruct the executive director to prepare an alternative order to be considered at a subsequent board meeting."

The Iowa Finance Authority adopted these amendments on December 5, 2007.

These amendments will become effective on February 6, 2008.

These amendments are intended to implement Iowa Code section 17A.3(1)"b" and section 16.5(17) as amended by 2007 Iowa Acts, chapter 54, section 19.

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 [18.1, 18.4 to 18.8, 18.10(1) to 18.10(10), 18.13, 18.16; Ch 18, Exhibit A] is being omitted. With the exception of the changes noted above, these amendments are identical to those published under Notice as **ARC 6341B**, IAB 10/24/07.

[Filed 12/11/07, effective 2/6/08]
[Published 1/2/08]

[For replacement pages for IAC, see IAC Supplement 1/2/08.]

ARC 6513B

IOWA PUBLIC EMPLOYEES' RETIREMENT SYSTEM[495]

Adopted and Filed

Pursuant to the authority of Iowa Code sections 97B.4 and 97B.15, the Iowa Public Employees' Retirement System amends Chapter 16, "Assignments," Iowa Administrative Code.

These amendments clarify IPERS' implementation of orders drafted using its model documents, improve fairness and predictability, and increase efficiency in the administration of qualified domestic relations orders.

Notice of Intended Action was published in the Iowa Administrative Bulletin on November 7, 2007, as **ARC 6407B**. A public hearing was held on November 27, 2007. No one attended the public hearing, and no written comments were received. These amendments are identical to those published under Notice of Intended Action.

There are no waiver provisions included in the amendments.

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

These amendments will become effective February 6, 2008.

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 [Ch 16 title; 16.2(2), 16.2(3)] is being omitted. These amendments are identical to those published under Notice as **ARC 6407B**, IAB 11/7/07.

[Filed 12/12/07, effective 2/6/08]
[Published 1/2/08]

[For replacement pages for IAC, see IAC Supplement 1/2/08.]

ARC 6510B

LABOR SERVICES DIVISION[875]

Adopted and Filed

Pursuant to the authority of Iowa Code section 89A.3, the Elevator Safety Board hereby amends Chapter 72, "New Installations," and Chapter 73, "Existing Conveyances," Iowa Administrative Code.

LABOR SERVICES DIVISION[875](cont'd)

The changes rescind the Board's earlier adoption of the American Society of Mechanical Engineers A117.1 (2003), rule 407.4.6.2.2, relating to the numbering of elevator buttons.

The principal reasons for adoption of these amendments are to protect the public safety and health and to implement legislative intent.

Notice of Intended Action was published in the Iowa Administrative Bulletin on October 24, 2007, as **ARC 6357B**. No member of the public commented on the Notice of Intended Action. No changes have been made from the Notice of Intended Action.

No waiver provision is contained in these rules as there are waiver procedures at 875—Chapter 66.

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

These amendments will become effective on February 6, 2008.

The following amendments are adopted.

ITEM 1. Amend subrule 72.1(6) as follows:

72.1(6) Installations—*on and after* April 5, 2006, ~~to present~~. As used in this chapter, ASME A17.1 shall mean ASME A17.1-2004, A17.1a-2005 and A17.1S-2005. As used in this chapter, ASME A18.1 shall mean ASME A18.1 (2003), except chapters 4, 5, 6, and 7. As used in this chapter, ANSI A117.1 shall mean ANSI A117.1 (2003), *except for rule 407.4.6.2.2*. As used in this chapter, ANSI/NFPA 70 shall mean ANSI/NFPA 70 (2005).

ITEM 2. Amend subrule 73.8(2) as follows:

73.8(2) All maintenance, repairs and alterations to devices covered by ANSI A117.1 shall comply with ANSI A117.1 (2003), *except for rule 407.4.6.2.2*.

[Filed 12/11/07, effective 2/6/08]

[Published 1/2/08]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 1/2/08.

ARC 6504B**REAL ESTATE APPRAISER
EXAMINING BOARD[193F]****Adopted and Filed**

Pursuant to the authority of Iowa Code section 543D.5, the Real Estate Appraiser Examining Board hereby amends Chapter 5, "Certified Residential Real Property Appraiser," Chapter 6, "Certified General Real Property Appraiser," and Chapter 11, "Continuing Education," Iowa Administrative Code.

The amendments are required to bring the State of Iowa into compliance with federally mandated guidelines as set forth by the Appraisal Qualifications Board.

Notice of Intended Action was published in the Iowa Administrative Bulletin on October 24, 2007, as **ARC 6339B**. No public comments were received. No changes have been made since the Notice of Intended Action.

These amendments were adopted by the Board on December 5, 2007.

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

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

These amendments will become effective on February 6, 2008.

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 [5.1(1), 6.1(1), 11.2, 11.3(1), 11.4(3)] is being omitted. These amendments are identical to those published under Notice as **ARC 6339B**, IAB 10/24/07.

[Filed 12/7/07, effective 2/6/08]

[Published 1/2/08]

[For replacement pages for IAC, see IAC Supplement 1/2/08.]

ARC 6505B**REAL ESTATE APPRAISER
EXAMINING BOARD[193F]****Adopted and Filed**

Pursuant to the authority of Iowa Code section 543D.5 and 2007 Iowa Acts, Senate File 137, section 6, the Real Estate Appraiser Examining Board hereby rescinds Chapter 7, "Disciplinary Actions Against Certified and Associate Appraisers," Iowa Administrative Code, and adopts a new Chapter 7 with the same title.

New Chapter 7 is the result of a complete rewrite of the existing rules; redundant information was removed, and the chapter was rewritten to make it easier to read and to conform the rules to legislation.

Notice of Intended Action was published in the Iowa Administrative Bulletin on October 24, 2007, as **ARC 6338B**. No public comments were received. No changes have been made since the Notice of Intended Action.

These rules were adopted by the Board on December 5, 2007.

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

These rules are intended to implement Iowa Code chapters 17A, 543D and 272C and 2007 Iowa Acts, Senate File 137.

These rules will become effective on February 6, 2008.

EDITOR'S NOTE: Pursuant to recommendation of the Administrative Rules Review Committee published in the Iowa Administrative Bulletin, September 10, 1986, the text of these rules [Ch 7] is being omitted. These rules are identical to those published under Notice as **ARC 6338B**, IAB 10/24/07.

[Filed 12/7/07, effective 2/6/08]

[Published 1/2/08]

[For replacement pages for IAC, see IAC Supplement 1/2/08.]

ARC 6512B**TRANSPORTATION
DEPARTMENT[761]****Adopted and Filed**

Pursuant to the authority of Iowa Code sections 307.10 and 307.12, the Department of Transportation, on December 12, 2007, adopted amendments to Chapter 410, "Special Mobile Equipment," Chapter 500, "Interstate Registration and Operation of Vehicles," Chapter 505, "Interstate Motor Vehicle Fuel Licenses and Permits," Chapter 511, "Special Permits for Operation and Movement of Vehicles and Loads of Excess Size and Weight," Chapter 513, "Compacted Rubbish Vehicle Permits," Chapter 524, "For-Hire Intrastate Motor Carrier Authority," Chapter 529, "For-Hire Interstate Motor Carrier Authority," Chapter 600, "General Information," Chapter 607, "Commercial Driver Licensing," Chapter 620, "OWI and Implied Consent," Chapter 634, "Driver Education," Chapter 635, "Motorcycle Rider Education (MRE)," Chapter 636, "Motorized Bicycle Rider Education," and Chapter 640, "Financial Responsibility," Iowa Administrative Code.

Notice of Intended Action for these amendments was published in the November 7, 2007, Iowa Administrative Bulletin as **ARC 6388B**.

These amendments reflect the relocation of offices within the Department's Motor Vehicle Division from Park Fair Mall in Des Moines, Iowa, to 6310 SE Convenience Blvd. in Ankeny, Iowa.

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.

These amendments are identical to those published under Notice of Intended Action.

These amendments are intended to implement Iowa Code chapter 307.

These amendments will become effective February 6, 2008.

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 410, 500, 505, 511, 513, 524, 529, 600, 607, 620, 634 to 636, 640] is being omitted. These amendments are identical to those published under Notice as **ARC 6388B**, IAB 11/7/07.

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[For replacement pages for IAC, see IAC Supplement 1/2/08.]

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