



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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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
Dec. 24	Jan. 14 '09	Feb. 3 '09	Feb. 18 '09	Feb. 20 '09	Mar. 11 '09	Apr. 15 '09	July 13 '09

PRINTING SCHEDULE FOR IAB

<u>ISSUE NUMBER</u>	<u>SUBMISSION DEADLINE</u>	<u>ISSUE DATE</u>
17	Friday, January 25, 2008	February 13, 2008
18	Friday, February 8, 2008	February 27, 2008
19	Friday, February 22, 2008	March 12, 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.

No Cost Option for Partial IAC

As an initial, one-time offer, subscribers may opt to receive at no cost up to five titles of the IAC. Subsequent replacement pages for these selected titles will be available only through the Internet printing options. Binders are not included in this option, but may be purchased separately.

IAC Binders

8 1/2" x 11" Iowa Administrative Code binders	\$20 each
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AGENCY	HEARING LOCATION	DATE AND TIME OF HEARING
CORRECTIONS DEPARTMENT[201]		
Iowa state industries, ch 37 IAB 1/16/08 ARC 6538B	Corrections Conference Room 510 E. 12th St. Des Moines, Iowa	February 5, 2008 11 a.m. to 1 p.m.
EDUCATION DEPARTMENT[281]		
Extracurricular interscholastic competition—eligibility, 36.1, 36.14(7), 36.15 IAB 1/16/08 ARC 6531B (ICN Network)	ICN Room, Second Floor Grimes State Office Bldg. Des Moines, Iowa	February 5, 2008 2 to 4 p.m.
	Forum Building Dubuque Community School District 2300 Chaney Dubuque	February 5, 2008 2 to 4 p.m.
	Decorah High School 100 E. Claiborne Dr. Decorah	February 5, 2008 2 to 4 p.m.
	Room 113 Mason City High School 1700 4th SE Mason City	February 5, 2008 2 to 4 p.m.
	West Lyon High School 1787 Hwy 182N Inwood	February 5, 2008 2 to 4 p.m.
	Paullina-South O'Brien High School 307 W Groesbeck Paullina	February 5, 2008 2 to 4 p.m.
	Paton-Churdan High School 606 Adrian St. Churdan	February 5, 2008 2 to 4 p.m.
	Laurens-Marathon High School 300 W Garfield Laurens	February 5, 2008 2 to 4 p.m.
	Marshalltown High School 1602 S 2nd Ave. Marshalltown	February 5, 2008 2 to 4 p.m.
	Iowa Falls High School 1903 Taylor Iowa Falls	February 5, 2008 2 to 4 p.m.
	Room 148 Cedar Falls High School 1015 Division St. Cedar Falls	February 5, 2008 2 to 4 p.m.
	West High School Baltimore & Ridgeway Waterloo	February 5, 2008 2 to 4 p.m.

EDUCATION DEPARTMENT[281] (Cont'd)

North High School 4200 Cheyenne Sioux City	February 5, 2008 2 to 4 p.m.
AR-WE-VA High School 108 Clinton Westside	February 5, 2008 2 to 4 p.m.
Room 12 Fort Dodge High School 819 N 25th St. Fort Dodge	February 5, 2008 2 to 4 p.m.
Media Center Bettendorf High School 3333 18th St. Bettendorf	February 5, 2008 2 to 4 p.m.
Room 135 Muscatine High School 2705 Cedar Muscatine	February 5, 2008 2 to 4 p.m.
Room 150, Administration Bldg. Cedar Rapids Community School Dist. 346 2nd Ave. SW Cedar Rapids	February 5, 2008 2 to 4 p.m.
Lone Tree Jr-Sr High School 303 S Devoe St. Lone Tree	February 5, 2008 2 to 4 p.m.
Room 157, Vocational Tech. Bldg. Ottumwa High School 501 E 2nd Ottumwa	February 5, 2008 2 to 4 p.m.
Central Decatur High School 1201 NE Poplar Leon	February 5, 2008 2 to 4 p.m.
Clarinda High School 100 N Cardinal Dr. Clarinda	February 5, 2008 2 to 4 p.m.
Lineville-Clio High School 200 W 6th St. Lineville	February 5, 2008 2 to 4 p.m.
Burlington High School 421 Terrace Dr. Burlington	February 5, 2008 2 to 4 p.m.
Fort Madison High School 20th St. & Avenue B Fort Madison	February 5, 2008 2 to 4 p.m.
Des Moines Central Campus 1800 Grand Ave. Des Moines	February 5, 2008 2 to 4 p.m.

EDUCATION DEPARTMENT[281] (Cont'd)

Carroll High School 2809 N Grant Rd. Carroll	February 5, 2008 2 to 4 p.m.
Room 206 Audubon High School 800 3rd Ave. Audubon	February 5, 2008 2 to 4 p.m.
Knoxville High School 102 N Lincoln St. Knoxville	February 5, 2008 2 to 4 p.m.
Media Center Lewis Central Middle School 3601 Highway 275 Council Bluffs	February 5, 2008 2 to 4 p.m.
Creston High School 601 W Townline Creston	February 5, 2008 2 to 4 p.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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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.
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PROFESSIONAL LICENSURE DIVISION[645]

Funeral and cremation establishments; licensure of funeral directors, amendments to chs 99 to 104 IAB 1/16/08 ARC 6545B	Fifth Floor Board Conference Rm. Lucas State Office Bldg. Des Moines, Iowa	February 5, 2008 9 to 9:30 a.m.
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PUBLIC SAFETY DEPARTMENT[661]

Devices and methods to test for alcohol or drugs, 157.3 IAB 1/16/08 ARC 6544B (See also ARC 6543B herein)	First Floor Conference Rm. 125 State Public Safety HQS Bldg. 215 E. 7th St. Des Moines, Iowa	February 15, 2008 8:30 a.m.
Electrician and electrical contractor li- censing program, chs 500 to 504 IAB 1/16/08 ARC 6536B (See also ARC 6535B herein)	First Floor Conference Rm. 125 State Public Safety HQS Bldg. 215 E. 7th St. Des Moines, Iowa	February 21, 2008 10 a.m.

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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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).

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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 Real Estate Appraiser Examining Board[193F]
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ARC 6538B**CORRECTIONS DEPARTMENT[201]****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 904.804 and 904.813, the Department of Corrections gives Notice of Intended Action to rescind Chapter 37, “Iowa State Industries,” Iowa Administrative Code, and to adopt a new Chapter 37 with the same title.

Iowa State Industries is required to promulgate rules on the purchase of raw material and capital items from vendors. This chapter meets that requirement and provides for the adoption by reference of the provisions of Department of Administrative Services rules regarding procurement of goods and services. The chapter also provides clarifying language about public information requests.

Any interested person may make written suggestions or comments on the proposed rules on or before February 5, 2008. Such written materials should be sent to the Director of Prison Industries, 510 East 12th Street, Des Moines, Iowa 50319.

There will be a public hearing on February 5, 2008, from 11 a.m. to 1 p.m. in the Department of Corrections Conference Room, 510 East 12th Street, Des Moines, Iowa 50319, at which time persons may present their views either orally or in writing. At the hearing, persons will be asked to give their names and addresses for the record and to confine their remarks to the subject of the rules.

Any person(s) who intends to attend a public hearing and has special requirements should contact the Department of Corrections and advise of specific needs.

These rules are intended to implement Iowa Code sections 904.804 and 904.813.

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 201—Chapter 37 and adopt the following **new** chapter in lieu thereof:

CHAPTER 37
IOWA STATE INDUSTRIES

201—37.1(904) Mission and function. Iowa state industries, which is established by Iowa Code chapter 904, consists of a policy board, a director, and manufacturing, farming, surplus and private sector work programs. Each business is entirely self-funded and receives no state appropriation.

37.1(1) The mission of Iowa state industries is to employ staff and offenders who are dedicated to providing exceptional service, reasonable prices and quality products.

37.1(2) Iowa state industries is charged with making available to offenders of the state correctional institutions opportunities for work in meaningful jobs that will ensure the offenders’ chances of a successful return to society as law-abiding and self-supporting members of the community upon

the offenders’ release. Iowa state industries is further charged with enabling offenders to work in order to provide financial assistance to their dependents, make restitution, pay the cost of board and maintenance in a correctional institution, and accumulate savings upon their eventual return to the community.

201—37.2(904) Sale of products.

37.2(1) Iowa state industries shall sell products to any tax-supported institution or governmental subdivision in any level of government, including state, county, city or school. Iowa state industries may sell products to employees of such entities.

37.2(2) Iowa state industries may sell products to non-profit organizations such as parochial schools, churches, or fraternal organizations and employees of such nonprofit organizations.

37.2(3) Iowa state industries may sell products to non-profit health care facilities serving Medicaid or social security patients.

37.2(4) Sales will not generally be solicited from the general public. However, the state director of Iowa state industries may determine with the advice of the prison industries advisory board that limited public sales will be made when the sales to political subdivisions are insufficient to justify continued operation of a shop.

This rule is intended to implement Iowa Code section 904.815.

201—37.3(904) Catalogues. Catalogues are available at the following Iowa state industries locations:

1. Main office: Jesse Parker State Office Bldg., 510 East 12th Street, Des Moines, Iowa 50319;
2. Des Moines sales/surplus: 2323 Dean Avenue, Des Moines, Iowa 50317;
3. Business office: 406 North High Street, Anamosa, Iowa 52205; and
4. Sales offices:
 - Anamosa: 406 North High Street, Anamosa, Iowa 52205; and
 - Ft. Madison: P.O. Box 316, Avenue E and First Street, Ft. Madison, Iowa 52627.

201—37.4(904) Offices. The main office for Iowa state industries is located in the Jesse Parker State Office Building, Capitol Complex, Des Moines, Iowa. The mailing address is Iowa State Industries, Jessie Parker State Office Building, 510 East 12th Street, Des Moines, Iowa 50319; telephone (515)725-5785. Office hours are 8 a.m. to 4:30 p.m., Monday through Friday, excluding holidays.

201—37.5(904) Obtaining information from or reporting information to Iowa state industries. Persons wishing to obtain information from or report information to Iowa state industries may contact the Iowa State Industries Business Office, P.O. Box 430, 406 North High Street, Anamosa, Iowa 52205; telephone (319)462-3504. Office hours are 7:30 a.m. to 4 p.m., Monday through Friday, excluding holidays. Information may also be found on the Iowa state industries Web site: <http://www.iaprisoinind.com>.

201—37.6(904) Internet Web site. Iowa state industries Internet home page is located at <http://www.iaprisoinind.com>.

201—37.7(904) Procurement of goods and services. The provisions of 11—Chapter 105 are hereby adopted by reference with the following amendments.

CORRECTIONS DEPARTMENT[201](cont'd)

1. Strike “Department of Administrative Services” and insert in lieu thereof “Iowa State Industries” in all rules except rule 11—105.10(8A), which pertains to procurement of information technology devices and services.

2. In lieu of the definitions of “Department” and “Director,” insert the following:

“Department” means the division of Iowa state industries.

“Director” means the director of the division of Iowa state industries or the director’s designee.

3. Rules 11—105.6(8A), 11—105.13(8A), and 11—105.15(8A) are not adopted.

4. In lieu of the text of subrule 105.14(1), insert the following: “Purchase of goods. An agency may acquire goods not otherwise available through a master agreement in accordance with the procurement threshold guidelines in 11—105.3(8A)”.

5. In lieu of the text of rule 11—105.20(8A), insert the following: “Appeal process. Vendors may appeal actions by Iowa state industries under these rules as follows:

“Step 1. Appeals shall be filed in writing to the Business Manager, Iowa State Industries, 406 North High Street, Anamosa, Iowa 52205, within five working days of notification of the action being appealed.

“Step 2. If the appeal is not resolved, it may be further appealed to the Director of Iowa State Industries, Jessie Parker State Office Bldg., 510 East 12th Street, Des Moines, Iowa 50319, within ten working days of the notification of the Step 1 appeal response.

“Step 3. An unresolved appeal to the Director of Iowa State Industries shall be referred to the Director of the Department of Corrections, Jessie Parker State Office Bldg., 510 East 12th Street, Des Moines, Iowa 50319, within ten working days of the notification of the Step 2 appeal response.”

This rule is intended to implement Iowa Code section 904.813.

201—37.8(904) Prison industries advisory board. The state director of Iowa state industries has, by statute, the advice and counsel of the prison industries advisory board.

37.8(1) Rules of procedure. The seven-member prison industries advisory board is represented by five appointees of the governor, one appointee of the parole board, and one appointee of the director, department of corrections. The principal duties of the advisory board are to promulgate and adopt rules and to advise the director, Iowa state industries, regarding the management of Iowa state industries.

a. A quorum shall consist of five members.

b. When a quorum is present, a position is carried by a majority of the members of the board.

c. The board shall meet at least once per calendar quarter. The meetings will be held at the seat of government unless notification is given otherwise. Other meetings shall be held at the call of the chairperson or of any three members when necessary for the board to discharge its duties.

(1) The communications media shall be notified at least two weeks in advance of board meetings.

(2) When it is necessary to hold an emergency meeting, the communications media shall be notified as far in advance of the meeting as time allows. The nature of the emergency shall be stated in the minutes.

d. Copies of the minutes are kept on file in the office of the director, Iowa state industries. Minutes are available from the director’s office to interested persons upon request. Organizations may request to be placed on a mailing list. Copies of administrative rules and other materials considered are made a part of the minutes by reference.

e. In cases not covered by these rules, Robert’s Rules of Order shall govern.

37.8(2) Meetings. All meetings will be open to the public unless specifically allowed to be closed under Iowa Code chapter 21.

a. Persons wishing to make a presentation shall make such request to the director, Iowa state industries, or to any member of the board at least one week in advance of the scheduled meeting.

b. Persons requesting to make a presentation are requested to submit one written copy of their remarks for the record. Presentations may be made at the discretion of the chairperson and only upon matters appearing on the agenda.

c. Persons who have not made previous arrangements to speak at a meeting may be given the floor at the discretion of the chairperson.

37.8(3) The chairperson may appoint committees of the board as necessary to conduct the business of the board. Committee meetings shall comply with Iowa Code chapter 21.

37.8(4) The board shall:

a. Promulgate and adopt rules.

b. Advise the state director of Iowa state industries regarding the management of Iowa state industries.

This rule is intended to implement Iowa Code section 904.803.

201—37.9(904) Private sector employment projects.

37.9(1) Definitions.

“Advisory board” means the prison industries advisory board.

“Deputy director of prison industries” means the department of corrections deputy director responsible for the day-to-day operations of prison industries including private sector individuals.

“Director” means the chief executive officer of the department of corrections.

“Workforce development board” means the state workforce development board.

“Workforce development director” means the chief executive officer of the department of workforce development.

37.9(2) Preapplication requirement. Prior to submitting an application to the deputy director of prison industries for a private sector employment project, the employer shall place a job order with a duration of at least 30 days with the nearest workforce development center. The job order will contain the prevailing wage determined by workforce development. The job order shall be listed statewide in all centers and on the department of workforce development’s jobs Internet Web site.

37.9(3) Employer application.

a. Private sector employers requesting offender labor must submit the following to the deputy director of prison industries:

(1) Work program, including job description;

(2) Proposed wage rate;

(3) Description of job site;

(4) Duration of the work; and

(5) A copy of the job order listing with workforce development.

b. Upon receiving a written proposal to use offenders in a private sector work program, the deputy director of prison industries shall provide a copy of the private sector work proposal including job descriptions and proposed wages to the workforce development director.

c. The deputy director of prison industries shall send a letter to the department of workforce development request-

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ing verification of the employer's 30-day job listing, the average wage rate for the job(s) the offenders will perform, the current unemployment rate in the county where the employer is located, and the current employment level of the company that will employ the offenders.

d. The deputy director of prison industries and the warden/superintendent at the proposed institution shall review the proposed projects with the board of supervisors and the sheriff in the county where the project will be located.

37.9(4) Verification. The workforce development director shall verify the employment levels and prevailing wages paid for similar jobs in the area and provide to the deputy director of prison industries, in writing:

- a. Verification of the employer's 30-day job listing;
- b. The number of qualified applicant referrals and hires made as a result of the job order;
- c. The average wage rate for the proposed job(s);
- d. The wage range;
- e. The current unemployment rate for the county where the employer is located; and
- f. The current employment levels of the company that will employ the offenders based upon the most recent quarter for which data is available.

37.9(5) Prevailing wages. The deputy director of prison industries shall obtain employment levels in the locale of the proposed job(s) and the prevailing wages for the job(s) in question from the department of workforce development prior to authorizing any private sector work program. The deputy director of prison industries will consider the average wage rate and wage range from the department of workforce development for the appropriate geographic area for which occupational wage information is available. The appropriate geographic area may be statewide. To reduce possible displacement of civilian workers, the deputy director of prison industries shall advise prospective employers and eligible offenders of the following requirements:

- a. Offenders shall not be eligible for unemployment compensation while incarcerated.
- b. Before the employer initiates work utilizing offender labor, the deputy director of prison industries shall provide the baseline number of jobs as established by the department of workforce development.
- c. In January and July of each year, the deputy director of prison industries shall receive from the department of workforce development the actual number of civilian workers by employer and shall compile a side-by-side comparison for each employer. A copy of the side-by-side comparison will be provided to the advisory board and workforce development director semiannually.

37.9(6) Ineligible projects. The deputy director of prison industries shall evaluate the information from the department of workforce development to verify nondisplacement of civilian workers. Employment of offenders in private industry shall not displace employed workers, apply to skills, crafts, or trades in which there is a local surplus of labor, or impair existing contracts for employment or services.

37.9(7) Notification. The deputy director of prison industries shall provide a copy of the private sector work proposal and the department of workforce development review of the private sector work proposal to the following:

- a. Governor's office;
- b. Speaker of the house;
- c. President of the senate;
- d. Warden/superintendent at the proposed work site;
- e. Local labor organization(s);
- f. Director of workforce development; and

g. Department of Justice, Washington DC.

Within 14 calendar days of receiving the department of workforce development review, the deputy director of prison industries will consolidate the recommendations for review and approval by the director of corrections.

37.9(8) Prison industries advisory board review.

a. Following approval by the director of corrections, the deputy director of prison industries shall forward the final proposal to the prison industries advisory board with the recommendation to approve or disapprove the work program, including all correspondence from the department of workforce development, the Department of Justice, and any local official who has offered comments.

b. The deputy director of prison industries shall provide written documentation to the prison industries advisory board confirming that the proposed work project will not displace civilian workers. If displacement occurs, the deputy director of prison industries shall advise the private employer that the employer will be given 30 days to become compliant or the department of corrections will terminate the use of offender labor.

37.9(9) Disputes.

a. Anyone who believes that the private sector work program violates this rule shall advise the department of workforce development. A written complaint may be filed in accordance with workforce development board rule 877—1.5(84A). The workforce development director shall consult with the deputy director of prison industries before the workforce development board makes a final recommendation(s) to resolve any complaint.

b. The deputy director of prison industries will assist the department of workforce development in compiling all information necessary to resolve the dispute. The workforce development board shall notify the deputy director of prison industries and interested parties in writing of the recommended action to resolve a complaint, which will be binding on all parties.

This rule is intended to implement Iowa Code section 904.809.

201—37.10(904) Utilization of offender labor in construction and maintenance projects.

37.10(1) Definitions.

"Director" means the chief executive officer of the department of corrections.

"Employer" means a contractor or subcontractor providing maintenance or construction services under contract to the department of corrections or under the department of administrative services.

"Workforce development director" means the chief executive officer of the department of workforce development.

37.10(2) Scope. Utilization of offender labor applies only to contractors or subcontractors providing construction or maintenance services to the department of corrections. The contract authority for providing construction or maintenance services may be the department of administrative services.

37.10(3) Employer application. Employers working under contract with the state of Iowa may submit an application to the department of corrections to employ offenders. Requests for such labor shall not include work release offenders assigned to community-based corrections under Iowa Code chapter 905.

a. Prior to submitting an application, the employer shall place with the nearest workforce development center a job order with a duration of at least 30 days. The job order shall contain the prevailing wage determined by the department of workforce development. The job order shall be listed state-

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wide in all centers and on the department of workforce development's jobs Internet Web site.

b. The employer's application shall include:

- (1) Scope of work, including type of work and required number of workers;
- (2) Proposed wage rate;
- (3) Location;
- (4) Duration; and
- (5) Reason for utilizing offender labor.

c. The department of corrections shall verify through the department of workforce development the employer's 30-day job listing, the average wage rate for the job(s) the offenders will perform, the current unemployment rate in the county where the employer is located, and the current employment level of the employer that will employ the offenders.

37.10(4) Verification. The director of workforce development shall verify the employment levels and prevailing wages paid for similar jobs in the area and provide to the director, in writing:

- a. Verification of the employer's 30-day job listing;
- b. The number of qualified applicant referrals and hires made as a result of the job order;
- c. The average wage rate for the proposed job(s);
- d. The wage range;
- e. The prevailing wage as determined by the U.S. Department of Labor;
- f. The current unemployment rate for the county where the employer is located;
- g. The current employment levels of the employer that will employ the offenders based upon the most recent quarter for which data is available.

37.10(5) Safety training. The employer shall document that all offenders employed in construction and maintenance projects receive a ten-hour safety course provided free of charge by the department of workforce development or by a trainer with the appropriate authorization from the Occupational Safety and Health Administration Training Institute.

37.10(6) Prevailing wages.

a. The director will not authorize an employer to employ offenders in hard labor programs without obtaining from the department of workforce development employment levels in the locale of the proposed jobs and the prevailing wages for the jobs in question. The average wage rate and wage range from the department of workforce development will be based on the appropriate geographic area for which occupational wage information is available. The appropriate geographic area may be statewide.

b. To reduce any potential displacement of civilian workers, the director shall advise prospective employers and eligible offenders of the following requirements:

- (1) Offenders will not be eligible for unemployment compensation while incarcerated.
- (2) Before the employer initiates work utilizing offender labor, the director shall provide the baseline number of jobs as established by the department of workforce development.
- (3) If the contract to employ offender labor exceeds six months, the director shall:

1. Request and receive from the workforce development director the average wage rates and wage ranges for jobs currently held by offenders and current employment levels of employers employing offenders; and
2. Compile a side-by-side comparison of each employer.

37.10(7) Disputes. Anyone who believes that the employer's application violates this rule shall present concerns in writing to the workforce development board. A written complaint may be filed with the workforce development

board for any dispute arising from the implementation of the employer's application in accordance with workforce development board rule 877—1.6(84A). The workforce development board shall consult with the director prior to making recommendations. The director will assist the workforce development board in compiling all information necessary to resolve the dispute. The workforce development board shall notify the director and interested parties in writing of the corrective action plan to resolve the dispute, which will be binding on all parties.

This rule is intended to implement Iowa Code section 904.701.

ARC 6531B**EDUCATION DEPARTMENT[281]****Notice of Intended Action**

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

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

Pursuant to the authority of Iowa Code section 256.7(5), the State Board of Education hereby proposes to amend Chapter 36, “Extracurricular Interscholastic Competition,” Iowa Administrative Code.

In March 2006 (effective with the 2006-07 school year), the statewide academic standard (281—subrule 36.15(2)) for participation by secondary students in interscholastic athletics was increased by the Board from “pass four courses” to “pass all credit courses.” The consequence for not meeting the standard was simultaneously decreased from one full semester to 20 school days of ineligibility for the athletic activity in which the student was a bona fide competitor. Through its monitoring of the implementation of the new rule, the Board received feedback that the “pass all” standard is accepted by a large majority of school officials, students, and students' families, but the consequence was of concern to many. In April 2007, a subcommittee of the Board was formed to make recommendations to the Board as a whole. The amendments reflect those recommendations, as well as additional proposed changes designed to make other aspects of the rules more equitable.

The new definition in Item 1 clearly prohibits students who are ineligible from dressing in full uniform and from participating in pre-game warm-ups with their teammates.

Item 2 incorporates the word “compete” and its various forms and substitutes “penalties” for “sanctions” because the latter is used as a positive verb in other contexts in the chapter. There are no substantive changes to the rule in Item 2.

Item 3 adds a prohibition against member schools allowing students to compete in interscholastic competitions in the absence of reasonably reliable proof that the student is eligible to compete.

Item 4 is the scholarship rule and is the primary rule being amended. The requirement that the period of ineligibility be recognized only in a sport in which the student was a bona fide competitor was the most heavily criticized aspect of the rule; this requirement has been removed. The second most heavily criticized aspect of the rule was the period of ineligibility itself—20 school days. School administrators stated that non-school days such as “snow days” and teacher in-service days (that is, weekdays when there was no instruc-

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tion) made this part of the rule difficult to administer and inequitable. Under this proposed amendment, a student who does not pass all credited coursework would be ineligible for 30 calendar days in the next interscholastic athletic activity in which the student participates. The prohibition in this rule against a student's training with members of a college team was clarified. Finally, a new paragraph was added to remind member schools that all failing grades, even those remediated by the student for transcript purposes only, must be reported to a member school to which the student transfers.

Item 5 implements 2006 Iowa Acts, chapter 1152, section 20, by clarifying that a foreign exchange student is immediately eligible to participate in varsity interscholastic athletics unless the student was recruited to attend the member school for athletic purposes.

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

Interested individuals may make written comments on the proposed amendments on or before February 5, 2008, at 4:30 p.m. Comments on the proposed amendments should be directed to Carol Greta, Attorney 3, Iowa Department of Education, Second Floor, Grimes State Office Building, Des Moines, Iowa 50319-0146; telephone (515)281-8661; E-mail carol.greta@iowa.gov; or fax (515)281-4122.

A public hearing will be held on February 5, 2008, from 2 to 4 p.m., originating in the ICN Room on the second floor of the Grimes State Office Building, East 14th Street and Grand Avenue, Des Moines, Iowa, at which time persons may present their views either orally or in writing. Any persons who intend to attend the public hearing and have special requirements, such as those related to hearing or mobility impairments, should advise the Department of Education of specific needs by calling (515)281-5295. The remote ICN sites are as follows:

Dubuque Community School District
2300 Chaney – Forum Building
Dubuque

Decorah High School
100 East Claiborne Dr.
Decorah

Mason City High School
1700 Fourth SE
Room 113
Mason City

West Lyon High School
1787 Hwy. 182 N
Inwood

Paullina-South O'Brien High School
307 W Groesbeck
Paullina

Paton-Churdan High School
606 Adrian St.
Churdan

Laurens-Marathon High School
300 W Garfield
Laurens

Marshalltown High School
1602 S 2nd Ave.
Marshalltown

Iowa Falls High School
1903 Taylor
Iowa Falls

Cedar Falls High School
1015 Division St.
Room 148
Cedar Falls

West High School
Baltimore & Ridgeway
Waterloo

North High School
4200 Cheyenne
Sioux City

AR-WE-VA-High School
108 Clinton
Westside

Fort Dodge High School
819 N 25th St.
Room 12
Fort Dodge

Bettendorf High School
3333 18th St.
Room Location: Media Center
Bettendorf

Muscatine High School
2705 Cedar
Room 135
Muscatine

Cedar Rapids Community School District
346 2nd Avenue SW
Administration Bldg., Room 150
Cedar Rapids

Lone Tree Jr-Sr High School
303 S Devoe St.
Lone Tree

Ottumwa High School
501 E 2nd
Vocational Tech. Bldg., Room 157
Ottumwa

Central Decatur High School
1201 NE Poplar
Leon

Clarinda High School
100 N Cardinal Dr.
Clarinda

Lineville-Clio High School
200 W 6th St.
Lineville

Burlington High School
421 Terrace Dr.
Burlington

Fort Madison High School
20th St. & Avenue B
Fort Madison

Des Moines Central Campus
1800 Grand Ave.
Des Moines

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Carroll High School
2809 N Grant Rd.
Carroll

Audubon High School
800 3rd Ave.
Room 206
Audubon

Knoxville High School
102 N Lincoln St.
Knoxville

Lewis Central Middle School
3601 Hwy. 275
Room Location: Media Center
Council Bluffs

Creston High School
601 W Townline
Creston

These amendments are intended to implement Iowa Code sections 256.46 and 280.13.

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

The following amendments are proposed.

ITEM 1. Amend rule **281—36.1(280)** by adopting the following **new** definition in alphabetical order:

“Compete” means participating in an interscholastic contest or competition and includes dressing in full team uniform for the interscholastic contest or competition as well as participating in pre-game warm-up exercises with team members. “Compete” does not include any managerial, record-keeping, or other non-competitor functions performed by a student on behalf of a member or associate member school.

ITEM 2. Amend subrule 36.14(7) as follows:

36.14(7) Ineligible player participation competition. ~~Member or associate member schools that permit or allow participation in any event by a person in violation of the eligibility rules or by a student who has been suspended shall be subject to sanctions the executive board may, in the best interests of interscholastic competition, impose, including forfeiture of contests. Member or associate member schools that permit or allow a student to compete in an interscholastic competition in violation of the eligibility rules or that permit or allow a student who has been suspended to so compete shall be subject to penalties imposed by the executive board.~~ The sanctions penalties may include, but are not limited to, the following: forfeiture of contests or events or both, involving any ineligible student(s); adjustment or relinquishment of conference/district/tournament standings; and return of team awards or individual awards or both.

If a student who has been declared ineligible or who has been suspended is permitted to participate compete in an interscholastic competition because of a current restraining order or injunction against the school, registered organization, or department of education, and if such restraining order or injunction subsequently is voluntarily vacated, stayed, reversed, or finally determined by the courts not to justify injunctive relief, the sanctions penalties listed above may be imposed.

ITEM 3. Amend subrule 36.15(1) as follows:

36.15(1) Local eligibility and student conduct rules. Local boards of education may impose additional eligibility requirements not in conflict with these rules. Nothing herein shall be construed to prevent a local school board from declaring a student ineligible to participate in interscholastic competition by reason of the student's violation of rules adopted by the school pursuant to Iowa Code sections 279.8 and 279.9. *A member or associate member school shall not allow any student, including any transfer student, to compete until such time as the school has reasonably reliable proof that the student is eligible to compete for the member or associate member school under these rules.*

ITEM 4. Amend subrule 36.15(2) as follows:

36.15(2) Scholarship rules.

a. and b. No change.

c. All contestants shall be enrolled students of the school in good standing. They shall receive credit in at least four subjects, each of one period or “hour” or the equivalent thereof, at all times. To qualify under this rule, a “subject” must meet the requirements of 281—Chapter 12. Coursework taken under the provisions of Iowa Code chapter 261C, postsecondary enrollment options, for which a school district or accredited nonpublic school grants academic credit toward high school graduation shall be used in determining eligibility. No student shall be denied eligibility if the student's school program deviates from the traditional two-semester school year.

(1) No change.

(2) ~~Subject to the provision below regarding contestants in interscholastic baseball or softball, if~~ at the end of any grading period a contestant is given a failing grade in any course for which credit is awarded, the contestant is ineligible to dress for and compete in the next occurring interscholastic athletic contests and competitions in which the contestant is a bona fide contestant for 20 consecutive school days 30 consecutive calendar days. For purposes of this subrule, a “bona fide contestant” means a student who presently is or previously has competed in the interscholastic athletic activity to which the student's period of ineligibility herein applies. This definition shall not apply to a student in the ninth grade.

(3) ~~At the end of a grading period that is the final grading period in a school year, a bona fide contestant in interscholastic baseball or softball who receives a failing grade in any course for which credit is awarded is ineligible to dress for and compete in interscholastic baseball or softball for the four consecutive weeks following the end of the final grading period.~~

d. to f. No change.

g. A student is academically eligible upon entering the ninth grade. No student shall be eligible to participate in any given interscholastic athletic sport if the student has engaged in that sport professionally.

h. No student who has been a member of a college squad or who has trained with a college squad or participated in a college contest shall be eligible for any athletic contest. *A student is not eligible to participate in an interscholastic sport if the student has, in that same sport, participated in a contest with or against, or trained with, a National Collegiate Athletic Association (NCAA), National Junior College Athletic Association (NJCAA), National Association of Intercollegiate Athletics (NAIA), or other collegiate governing organization's sanctioned team. A student may not participate with or against high school graduates if the graduates represent a collegiate institution or if the event is sanctioned or sponsored by a collegiate institution. Nothing in this sub-*

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rule shall preclude a student from participating in a one-time tryout with or against members of a college team with permission from the member school's administration and the respective collegiate institution's athletic administration.

i. A student who is eligible at the close of a semester is academically eligible until the beginning of the subsequent semester. No student shall be eligible to participate in any given interscholastic sport if the student has engaged in that sport professionally.

j. No change.

k. Remediation of a failing grade by way of summer school or other means shall not affect the student's ineligibility. All failing grades shall be reported to any school to which the student transfers.

ITEM 5. Amend subparagraph 36.15(3)"a"(4), numbered paragraph "3," as follows:

3. Participation in a foreign exchange program recognized by the school of attendance, as evidenced by a J-1 visa issued by the United States government, unless the student attends the school primarily for athletic purposes.

ARC 6530B**EDUCATION DEPARTMENT[281]****Notice of Intended Action**

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

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

Pursuant to the authority of Iowa Code section 256.7(5), the State Board of Education hereby proposes to amend Chapter 56, "Iowa Vocational Rehabilitation Services," Iowa Administrative Code.

The proposed amendment aligns Vocational Rehabilitation Services Division rules with those of the Iowa Department of Economic Development (IDED) and the Iowa Finance Authority (IFA). The Entrepreneurs with Disabilities program is no longer affiliated with IDED, but with IFA. (See rescission by IDED of 261—Chapter 56, effective October 31, 2007, and the amendment by IFA to 265—Chapter 25, effective November 28, 2007.) The requirement that assistance be limited to qualified persons whose business is in this state recognizes the legislative intent that state funding for this program be used to expand economic development in the state of Iowa, not in neighboring states. Finally, all small business actions are now part of the Entrepreneurs with Disabilities program; there is no longer a separate First Step program.

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

Interested individuals may make written comments on the proposed amendment on or before February 5, 2008, by 4:30 p.m. Comments on the proposed amendment should be directed to Kenda Jochimsen, Chief, Rehabilitation Services Bureau, 510 East 12th Street, Des Moines, Iowa 50319; telephone (515)281-4154; E-mail kenda.jochimsen@iowa.gov; or fax (515)281-4703.

This amendment is intended to implement 2005 Iowa Acts, chapter 179, sections 161 and 162, and 2007 Iowa Acts, chapter 54, section 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 281—56.20(259) as follows:

281—56.20(259) Business initiatives Entrepreneurs with disabilities (EWD) program.

56.20(1) Entrepreneurs with disabilities (EWD) program. Pursuant to rule 261—56.1(15), the rules in 265—Chapter 25, which are fully included by reference herein, the purpose of the EWD program is to provide technical assistance, business development grants (up to \$10,000) and financial assistance grants (up to \$10,000) to qualified Iowans with disabilities who start or expand a business within the state of Iowa. EWD is administered by the Iowa department of economic development finance authority in collaboration with the division and the department for the blind. The EWD rules (see 261—Chapter 56) are fully included by reference herein. The following paragraphs supplement 261—Chapter 56 265—Chapter 25:

a 1. If a client has previously received educational or training equipment from the division through another rehabilitation program and the same equipment could be used in the client's proposed business, the division may limit or deny EWD assistance to the client.

b 2. If a client no longer uses equipment purchased for the client under this program, the equipment shall be returned to the division.

c 3. The EWD program requires 51 percent ownership by the client in a for-profit business.

56.20(2) First Step program. A client whose business idea requires less technical and financial assistance than is available through the EWD program but who will earn from the business at least 80 percent per month in Substantial Gainful Activity (SGA), as defined by the federal Social Security Administration, may pursue small business ownership through the First Step program. Unless a written exception is approved by a supervisor, the division shall contribute to a client no more than \$1,000 for technical assistance and no more than \$2,500 for financial assistance. If a client no longer uses equipment purchased for the client under this program, the equipment shall be returned to the division. If the business grows, it may be considered for the EWD program with the expenditures not to exceed the EWD limits minus the expenditures covered by the First Step program.

ARC 6542B**HUMAN SERVICES DEPARTMENT[441]****Notice of Termination**

Pursuant to the authority of Iowa Code section 249A.4, the Department of Human Services terminates the rule making initiated by its Notice of Intended Action published in the Iowa Administrative Bulletin on August 15, 2007, as **ARC 6142B**, amending Chapter 78, "Amount, Duration and Scope of Medical and Remedial Services," Iowa Administrative Code.

The Notice was published to solicit comments on a rule requiring the use of tamper-proof prescription pads as a condi-

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tion of Medicaid payment, which was Filed Without Notice, published on the same date as **ARC 6141B**, and scheduled to take effect on October 1, 2007. On September 29, 2007, federal legislation was enacted delaying the effective date of the federal law referenced in the rule to April 1, 2008, in order to prevent the potential harm to Medicaid members if pharmacies had no legal way to fill the members' prescriptions.

The latest federal guidance from the Centers for Medicare and Medicaid Services has clarified that as of April 1, 2008, prescriptions will be acceptable if they contain at least one feature that is designed to:

- Prevent unauthorized copying of the completed or blank prescription, such as a watermark or ink that will appear or disappear upon reproduction; or
- Prevent the erasure or modification of information written by the prescriber, such as protections against alteration by chemical washing, paper quality that resists erasures and reproduction, or features that disappear or show obvious tampering if the prescription is rubbed, scratched, or heated; or
- Prevent the use of counterfeit forms, such as watermarks, prescriber logos, sequentially numbered blanks, or duplicate or triplicate blanks.

The federal guidance states that as of October 1, 2008, prescription pads must include at least one feature from each of the three categories to be acceptable. This requirement does not apply to prescriptions that are transmitted electronically or via fax or to most situations when drugs are provided in nursing facilities or other long-term care facilities. More information is available on the Iowa Medicaid Enterprise Web site at <http://www.ime.state.ia.us/Providers/>.

The substance of the change proposed in **ARC 6142B** has subsequently been included in another Notice of Intended Action proposing a reorganization of Medicaid rules on coverage of outpatient drugs, which was published in the Iowa Administrative Bulletin on November 7, 2007, as **ARC 6378B**. Any further amendment to the requirements for tamper-proof prescriptions will be addressed in rule making pursuant to **ARC 6378B**.

ARC 6546B**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 153, "Funding for Local Services," Iowa Administrative Code.

These amendments make technical changes to the rules governing the administration of federal Social Services Block Grant (SSBG) funds. In Iowa, SSBG funds do not fully fund any type of service, but are combined with other state, local, and federal funding sources to provide services to Iowans. The largest portion of Iowa's SSBG allocation goes to county governments to pay for community-based residential services for persons with disabilities. SSBG funds also

support staff in the Department's central and local offices, child welfare services, and volunteer services. The Department is required to solicit public comment annually on its plans for the use of SSBG funds through publication of a pre-expenditure report and to publish an annual report on how the funds were actually spent.

These amendments:

- Change contact information to the Division of Fiscal Management;
- Remove language about family planning services, which are no longer funded through this source (see **ARC 6099B**, published in the Iowa Administrative Bulletin on August 14, 2007, for a more detailed explanation);
- Correct references to service areas; and
- Update language on funding allocation. Funding for services is allocated in accordance with the annual budgeting process. Costs may be shifted in and between service areas to ensure continued statewide availability of services.

These amendments do not provide for waivers in specified situations. Requirements for administration of SSBG funds are set by federal law and regulations that the Department has no authority to waive.

Any interested person may make written comments on the proposed amendments on or before February 6, 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 section 234.6.

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 **441—153.1(234)** by rescinding the definitions of "county administrative costs" and "protective day care."

ITEM 2. Amend subrules 153.2(2), 153.2(3), 153.2(4), and 153.2(6) as follows:

153.2(2) The department shall issue a proposed preexpenditure report prior to before publication of the final report. The proposed report shall be available for public review and comment:

a. in each local office where the a service area manager is based, during regular business hours for a two-week period; and

b. On the department's Internet Web site, www.dhs.iowa.gov.

153.2(3) The time and scope of public review will be announced each year. The announcement will indicate the time the proposed report can be viewed. The department:

a. shall Shall make this information available to on the media department's Internet Web site, www.dhs.iowa.gov, and post signs in each local human services office; and

b. may May publish ads advertisements in each service area listing the time of review.

153.2(4) The department shall accept comments about the preexpenditure report during the specified public review and comment period. Individuals or groups may submit written comments to the service area manager or to the Bureau Division of Purchase of Services Fiscal Management, Iowa De-

HUMAN SERVICES DEPARTMENT[441](cont'd)

partment of Human Services, Hoover State Office Building, 1305 E. Walnut Street, Des Moines, Iowa 50319-0114. ~~Public hearings may be arranged by the~~ The service area manager at which time may arrange public hearings where testimony will be accepted.

153.2(6) A copy of the final preexpenditure report will be available:

a. ~~in~~ In each local office where the a service area manager is based; and

b. On the department's Internet Web site, www.dhs.iowa.gov.

ITEM 3. Amend rule 441—153.3(234) as follows:

Amend subrule 153.3(3) as follows:

153.3(3) Individuals or groups may submit written comments to the service area manager or to the ~~Bureau~~ Division of Purchase of Services Fiscal Management, Iowa Department of Human Services, Hoover State Office Building, 1305 E. Walnut Street, Des Moines, Iowa 50319-0114.

Rescind the implementation sentence.

ITEM 4. Amend rule 441—153.5(234) as follows:

Amend subrule 153.5(1) as follows:

153.5(1) The department shall follow a cost allocation plan for determining the appropriate administrative costs of the department's central office to be funded with block grant money.

Rescind subrule 153.5(2) and adopt the following **new** subrule in lieu thereof:

153.5(2) Funding for services shall be allocated in accordance with the annual budgeting process. The department's annual budget is available for review on the department's Internet Web site at www.dhs.iowa.gov. Costs may be shifted in and between service areas to ensure continued statewide availability of services.

Rescind the implementation sentence.

ITEM 5. Amend **441—Chapter 153, Division I**, by adopting the following **new** implementation sentence:

These rules are intended to implement Iowa Code section 234.6.

ARC 6540B

NATURAL RESOURCE COMMISSION[571]

Notice of Intended Action

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

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

Pursuant to the authority of Iowa Code subsection 456A.33A, the Natural Resource Commission gives Notice of Intended Action to rescind Chapter 31, “Public-Owned Lakes Eligibility Process,” and adopt new Chapter 31, “Publicly Owned Lakes Program,” Iowa Administrative Code.

The proposed amendment brings the evaluation of proposals for the publicly owned lakes program into conformity with the Department's activities associated with lake restoration, impaired waters, and watershed improvement projects. These rules will also simplify the eligibility process for applicants.

Any interested person may make written comments on proposed new Chapter 31 on or before February 8, 2008. Such written materials should be directed to William Ehm, Department of Natural Resources, Wallace State Office Building, Des Moines, Iowa 50319-0034.

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 Iowa Code section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

This amendment is intended to implement Iowa Code section 456A.33A.

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 571—Chapter 31 and adopt the following **new** chapter in lieu thereof:

CHAPTER 31

PUBLICLY OWNED LAKES PROGRAM

571—31.1(456A) Purpose. The purpose of this chapter is to set forth the policy and procedures to be utilized by the department of natural resources to establish and maintain a priority list of watersheds above publicly owned lakes and reservoirs where private landowners are eligible to receive cost-share funding of up to 75 percent of the cost of approved permanent soil and water conservation practices. Funds for these practices are set aside in appropriations to the department of agriculture and land stewardship, division of soil conservation.

571—31.2(456A) Definitions.

“Commission” means the natural resource commission.

“Department” means the department of natural resources.

“Priority list for lake restoration” means the list of lakes that is developed by the department based on feasibility for restoration funding pursuant to Iowa Code section 456A.33B.

“Program” means the publicly owned lakes program.

“Publicly owned lake” means any constructed or natural lake having a watershed acreage-to-lake surface area ratio of less than 80 to 1 and owned by an Iowa county or municipal government or by the state of Iowa.

“Sediment delivery calculator” means a formula for calculating the sediment delivery reduction from proposed or constructed best management practices by comparing known preconstruction rates of sediment delivery to proposed post-construction rates of sediment delivery based on models developed and maintained by the department.

“Soil and water conservation district” means a governmental subdivision of the state as set forth in Iowa Code section 161A.3.

“Watershed” means those lands that naturally drain into a publicly owned lake.

“Watershed planning protocol” means a planning process developed and published by the department to assist soil and water conservation districts in developing watershed plans and projects that will improve water quality in lakes and streams.

NATURAL RESOURCE COMMISSION[571](cont'd)

571—31.3(456A) Priority of watersheds. The commission shall annually establish a priority list of watersheds above publicly owned lakes. This list shall take into account the priority list for lake restoration so as best to protect and enhance fish and wildlife habitat, public recreation and the natural environment and the public's investment therein and to increase community commitment to watershed health, with the financial resources available.

571—31.4(456A) Application. To apply for the program, an applicant must meet the following conditions and requirements:

31.4(1) Eligible applicant. An applicant must be a soil and water conservation district. When a watershed is located in more than one county, applications must be submitted jointly by all soil and water conservation districts in which that watershed is located.

31.4(2) Application period. Applications shall be submitted annually, in writing, to the department of agriculture and land stewardship, division of soil conservation, no later than April 1. The division of soil conservation will forward applications to the department by April 15 for eligibility beginning the following July 1 and ending the following June 30.

31.4(3) Content of application. The following shall be included in the application:

a. A map of the watershed identifying the sources of significant sediment delivery to the lake.

b. Documentation of the existence of a watershed plan that targets significant sources of sediment delivery to the lake. All applications submitted after April 1, 2010, must include documentation of the existence of a watershed plan based on the watershed planning protocol.

31.4(4) Renewal application. Renewal applications must be submitted for continued program eligibility and must include the same information required by subrule 31.4(3). Renewal applications shall be submitted annually, in writing, to the department of agriculture and land stewardship, division of soil conservation, no later than April 1. The division of soil conservation will forward renewal applications to the department by April 15 for eligibility beginning the following July 1 and ending the following June 30. The renewal application must include a report of any changes to the watershed plan, the practices completed during the most recent period of program eligibility with estimates of the reduced delivery of eroded sediment using the sediment delivery calculator, and the projected practices planned to be completed during the following year. Renewal applications are not guaranteed funding and are subject to review and approval by the department.

31.4(5) Newly constructed lakes. Applications may be submitted for watersheds of proposed publicly owned lakes, provided the publicly owned lake is listed as a part of a priority watershed.

571—31.5(456A) Application review. The department will review applications based on compliance with application requirements, adequacy of watershed plans to reduce the delivery of sediment to the publicly owned lake as demonstrated by the use of the sediment delivery calculator, presence on the priority list for lake restoration, and available funding.

571—31.6(456A) Commission approvals. All publicly owned lakes eligible under the program must be approved by the commission.

These rules are intended to implement Iowa Code section 456A.33A.

ARC 6539B**NATURAL RESOURCE COMMISSION[571]****Notice of Intended Action**

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

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

Pursuant to the authority of Iowa Code subsection 455A.5(6), the Natural Resource Commission gives Notice of Intended Action to amend Chapter 37, “Boating Safety Equipment,” Iowa Administrative Code.

The proposed amendment will modify visibility requirements for vessels not powered by motor or sail; will exclude some rivers from the rules regarding such vessels; and will add a requirement to make such vessels apparent in the event that light is obscured.

Any interested person may make written comments on this proposed amendment on or before February 5, 2008. Such written materials should be directed to Nate Hoogeveen, Department of Natural Resources, Wallace State Office Building, Des Moines, Iowa 50319-0034; telephone (515)281-3134; E-mail nate.hoogeveen@dnr.iowa.gov.

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 upon written request by any individual or group, review this proposed action under Iowa Code section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

This amendment is intended to implement Iowa Code chapters 455A and 462A.

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 37.6(2) as follows:

37.6(2) Vessels not powered by motor or sail. All vessels not powered by motor or sail and not at anchor shall exhibit a white light to show 360 degrees around the horizon *that is visible from at least one mile under clear conditions* between the hours of sunset and sunrise when operated on natural lakes, Corps of Engineers impoundments, border rivers *excluding border portions of the Big Sioux and Des Moines rivers*, and impoundments on inland rivers. *If the white light is partially obscured due to the nature of the craft, an additional white light must be shown in sufficient time to prevent collision.* When operated on bodies of water other than those

NATURAL RESOURCE COMMISSION[571](cont'd)

listed in this subrule, all vessels not powered by motor or sail and not at anchor shall have in possession a ~~hand-held~~ *white* light to be used when necessary between the hours of sunset and sunrise.

ARC 6545B

PROFESSIONAL LICENSURE DIVISION[645]

Notice of Intended Action

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

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

Pursuant to the authority of Iowa Code section 147.76, the Board of Mortuary Science hereby gives Notice of Intended Action to amend Chapter 99, "Administrative and Regulatory Authority for the Board of Mortuary Science Examiners," Chapter 100, "Practice of Funeral Directors, Funeral Establishments, and Cremation Establishments," Chapter 101, "Licensure of Funeral Directors," Chapter 102, "Continuing Education for Funeral Directors," Chapter 103, "Disciplinary Proceedings," and Chapter 104, "Enforcement Proceedings Against Nonlicensees," Iowa Administrative Code.

These proposed amendments update the rules to be more consistent with the current practice of mortuary science, adopt new rules on funeral establishments and cremation establishments, limit the hours of continuing education credit earned by independent study, and limit the number of hours acceptable for renewal if the content area is insurance.

Any interested person may make written comments on the proposed amendments no later than February 5, 2008, addressed to Ella Mae Baird, Professional Licensure Division, Department of Public Health, Lucas State Office Building, Des Moines, Iowa 50319-0075; E-mail ebaird@idph.state.ia.us.

A public hearing will be held on February 5, 2008, from 9 to 9:30 a.m. in the Fifth Floor Board Conference Room, Lucas State Office Building, at which time persons may present their views either orally or in writing. At the hearing, persons will be asked to give their names and addresses for the record and to confine their remarks to the subject of the proposed amendments.

These amendments are intended to implement Iowa Code chapters 21, 147, 156 and 272C.

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

The following amendments are proposed.

ITEM 1. Amend **645—Chapters 99 to 104** by striking the term "board of mortuary science examiners" wherever it appears and inserting the term "board of mortuary science" in lieu thereof.

ITEM 2. Amend rule **645—100.1(156)**, definitions of "cremation authorization/disposition form," "crematory," "embalming," "final disposition," and "intern," as follows:

"Cremation authorization/~~disposition~~ form" means a form, completed and signed, to accompany all human remains accepted for cremation.

"Crematory" means any person, partnership or corporation that performs cremation ~~and sells funeral goods~~.

"Embalming" means the disinfecting or preserving of dead human remains, entire or in part, by the use of chemical substances, fluids or gases in the body, or by the introduction of same into the body by vascular or hypodermic injections, or by ~~direct surface~~ application into ~~or on~~ the organs or cavities for the purpose of preservation or disinfection.

"Final disposition" means the ~~place where human remains may be interred, entombed, enshrined, scattered or otherwise disposed of~~ *burial, interment, cremation, removal from the state, or other disposition of a dead body or fetus*.

"Intern" means a person registered by the board to practice mortuary science under the direct supervision of a ~~funeral director~~ *preceptor certified by the board pursuant to 645—subrule 101.5(2)*.

ITEM 3. Rescind rule 645—100.2(156) and adopt the following **new** rule in lieu thereof:

645—100.2(156) Funeral director duties.

100.2(1) Practices requiring a funeral director's license include but are not limited to:

- a. Removal as specified in rule 645—100.4(142,156).
- b. Embalming deceased human beings as specified in rule 645—100.6(156).
- c. Conducting funeral arrangements as specified in subrule 100.7(2).
- d. Conducting funeral services when contracted to do so, including:
 - (1) Direct supervision of visitation and viewing.
 - (2) Funeral and memorial ceremonies.
 - (3) Committal and final disposition services.
- e. Cremation services as specified in rule 645—100.10(156).
- f. Signing death certificates.

100.2(2) Registered interns. Registered interns may provide funeral director services identified in subrule 100.2(1), paragraphs "a" through "e," under the direct supervision of an Iowa-licensed preceptor. Registered interns shall not sign death certificates.

100.2(3) CDC universal precautions and OSHA standards. The funeral director shall observe current guidelines of universal precautions as prescribed by the Centers for Disease Control (CDC) as well as Occupational Safety and Health Administration (OSHA) standards.

ITEM 4. Amend subrule 100.4(2) as follows:

100.4(2) After the funeral director has assumed custody of the human remains, provided that death was not caused by a reportable communicable disease, the funeral director may delegate the task of transferring the dead human remains to an unlicensed employee or agent. ~~if, prior~~ *Prior* to transfer, the funeral director ~~has shall~~ typically ~~disinfected~~ *disinfect* the body, ~~packed secure~~ all body orifices ~~with material which will absorb and to~~ retain all secretions, ~~and place~~ the human remains ~~are placed~~ in a *leak-proof* container for transfer that will control odor and prevent the leakage of body fluids, ~~and issue a burial transit permit~~. If the decedent died of a reportable communicable disease, transfer shall only be made by a funeral director.

ITEM 5. Amend subrule **100.6(4)**, paragraph "a," as follows:

PROFESSIONAL LICENSURE DIVISION[645](cont'd)

a. When death is not attributed to a reportable communicable disease, embalming may be omitted provided that interment or cremation is performed within 48 hours after death *or within 24 hours of taking custody if the human remains were previously in the custody of others, whichever is longer.*

ITEM 6. Amend subrule **100.10(1)**, paragraph “c,” by adopting **new** subparagraphs (5) and (6) as follows:

(5) Cremation authorization.

(6) Permit for cremation from a medical examiner if required in jurisdiction of death.

ITEM 7. Amend subrule **100.10(1)** by rescinding paragraph “d.”

ITEM 8. Rescind subrule 100.10(4) and adopt the following **new** subrule in lieu thereof:

100.10(4) Authorization to cremate.

a. The crematory shall have the authority to cremate human remains upon the receipt of the following:

(1) Cremation authorization form signed by the authorizing person. The cremation authorization form shall contain the following:

1. The name, address, age and gender of the decedent whose human remains are to be cremated.

2. The date, time of death and cause of death of the decedent.

3. The name and license number of the funeral establishment and of the funeral director who obtained the cremation authorization form signed by the authorizing person.

4. The signature of the funeral director.

5. The name and address of the crematory authorized to cremate the human remains.

6. The name and signature of the authorizing person granting permission to cremate the human remains and the authorizing person’s relationship to the decedent.

7. A representation that the authorizing person has the right to authorize the cremation of the decedent in accordance with this rule.

8. A representation that in the event there is another person who has superior priority right to that of the authorizing person, the authorizing person has made all reasonable efforts to contact that person and has no reason to believe that the person would object to the cremation of the decedent.

9. A representation that the human remains do not contain any material or implants that may be potentially hazardous to equipment or persons performing the cremation.

10. A representation that the authorizing person has made a positive identification of the decedent or, if the authorizing person is unavailable or declines, there are alternative means of positive identification.

11. The name of the person, funeral establishment or funeral establishment’s designee to which the cremated remains are to be released.

12. The manner of the final disposition of the cremated remains.

13. A listing of all items of value and instructions for their disposition.

(2) Permit for cremation from a medical examiner if required in jurisdiction of death.

(3) Any other documentation required by this state.

b. If the authorizing person is not available to execute the cremation authorization form in person, the funeral director may accept written authorization by facsimile, E-mail, or such alternative written or electronic means the funeral director reasonably believes to be reliable and credible.

c. The authorizing person may revoke the authorization and instruct the funeral director or funeral establishment to cancel the cremation. The crematory shall honor any instructions from a funeral director or funeral establishment under this rule if the crematory receives instructions prior to beginning the cremation.

ITEM 9. Amend subrule **100.10(5)** by rescinding paragraph “a” and adopting the following **new** paragraph in lieu thereof:

a. A crematory shall cremate within 48 hours of death or within 24 hours of taking custody if the human remains were previously in the custody of others, whichever is longer.

ITEM 10. Amend subrule **100.10(5)**, paragraph “d,” as follows:

d. Whenever a crematory is unable or unauthorized to cremate human remains immediately upon taking custody of the remains, the crematory shall place the human remains in a holding facility in accordance with the crematory rules and regulations and within the parameters of ~~the rules~~ *100.5(135,144) and 100.6(156).*

ITEM 11. Amend **645—Chapter 101**, title, as follows:

CHAPTER 101

LICENSURE OF FUNERAL DIRECTORS, FUNERAL ESTABLISHMENTS, AND CREMATION ESTABLISHMENTS

ITEM 12. Amend subrule **101.5(1)**, paragraphs “h” and “i,” as follows:

h. Every person who is registered as an intern ~~or as a preceptor~~ with the department of public health shall have a registration certificate posted in a conspicuous place in the ~~preceptor’s~~ *intern’s primary place of business practice.*

i. The intern shall, during the internship, be a full-time employee with the funeral establishment at the site of internship ~~except as provided in subrule 101.5(2), paragraph “j.”~~

ITEM 13. Amend subrule **101.5(2)**, paragraph “b,” as follows:

b. Any duly Iowa-licensed *funeral director who has been and practicing funeral director in good standing* for a minimum of five years *and who has not had any formal disciplinary action within the past five years* with the board of mortuary science ~~examiners~~ *and has completed a board-approved training course as approved by the board* will be eligible to be certified as a preceptor. ~~This certificate is awarded after completion of a training course as prescribed by the board that covers the subjects specified by the board~~ *is to cover mortuary science Iowa law and rule content areas including but not limited to Iowa law and rules governing licensure and the practice of mortuary science and human resource issues.* The training course may be counted toward the continuing education hours required for that licensing period.

ITEM 14. Amend subrule **101.5(2)** by rescinding paragraph “c” and adopting the following **new** paragraph in lieu thereof:

c. Is affiliated with a funeral establishment that has not had any formal disciplinary action within the past five years.

ITEM 15. Amend subrule **101.5(2)**, paragraph “d,” as follows:

d. The preceptor is required to file a ~~six-month~~ *six-month* progress report of the intern *that has been signed by both the preceptor and the intern* on a board-prescribed form. ~~This~~ *The* ~~six-~~

PROFESSIONAL LICENSURE DIVISION[645](cont'd)

month progress report form is to be signed by the preceptor and the intern before submission to the board by shall be submitted to the board by the end of the seventh sixth month. The 12-month progress report form shall be submitted to the board by the end of the twelfth month.

ITEM 16. Amend subrule **101.5(2)** by rescinding paragraph “**i**” and adopting **new** paragraphs “**i**” and “**j**” as follows:

i. No licensed funeral director or licensed funeral establishment shall have more than one intern funeral director for the first 100 human remains embalmed or funerals conducted per year, and with a maximum of two interns per funeral establishment.

j. With prior board approval, an intern may serve under the supervision of more than one preceptor under the following terms and conditions:

(1) A single preceptor must act in the role of the primary preceptor.

(2) The primary preceptor is responsible for coordinating all intern training and activities.

(3) The intern shall be a full-time employee of the funeral establishment of the primary preceptor; however, compensation may be shared between preceptors.

(4) The primary preceptor may make arrangements with a maximum of two additional preceptors to share preceptor responsibilities for such purposes as providing an intern with a higher volume practice or a broader range of intern experiences.

(5) Each preceptor shall be individually responsible for directly supervising the intern’s activities performed under the preceptor’s guidance, but the primary preceptor remains responsible for coordinating the intern’s activities and submitting all forms to the board.

ITEM 17. Rescind rule 645—101.7(156) and adopt the following **new** rule in lieu thereof:

645—101.7(156) Funeral establishment license or cremation establishment license or both establishment licenses.

101.7(1) Any person or any corporation, partnership, joint venture, limited liability company, voluntary organization or any other entity doing business in this state may erect, maintain, and operate a funeral establishment, cremation establishment, or both establishments, provided the necessary appliances and facilities for the care, preparation and disposition of human remains are in place and proper licenses are obtained and maintained.

a. A funeral establishment, a cremation establishment, or a combined funeral and cremation establishment shall not be operated until it has obtained a license from the board. Such an establishment shall timely renew the license in order to continue operations.

b. A funeral or cremation establishment shall surrender its license to the board if it fails to engage in or ceases to engage in the business for which the license was issued, pursuant to Iowa Code section 156.15(2)“d.”

c. A funeral or cremation establishment license is not transferable or assignable.

d. A change in ownership shall require the issuance of a new license. A change in ownership shall be reported to the board prior to the date ownership will change or, in the case of change of ownership by death or other unexpected event, within 30 days following change of ownership. The board may request legal proof of the ownership transfer. A change in ownership shall be defined as any change of controlling interest in any corporation or other business entity.

e. An establishment license shall be issued for a specific physical location. A change in location or site of an establishment shall require the submission of an application for a new license and payment of the fee required by 645—subrule 105.1(9). A new establishment license must be issued prior to the commencement of business in a new location.

f. A change in the name of an establishment shall be reported to the board within 30 days. The establishment owner shall pay the fee for reissuing the certificate.

g. A change in address or of the funeral director in responsible charge shall be reported to the board within 30 days.

h. An establishment shall have an employment or other relationship with one or more licensed funeral directors who shall perform all mortuary science services for which licensure as a funeral director is required by Iowa Code chapter 156. A cremation establishment is not, however, required to employ or contract with a funeral director on an ongoing basis because a cremation establishment shall not offer services directly to the general public. When a funeral establishment has an employment or other relationship with multiple funeral directors, the funeral establishment shall designate the funeral director who shall be in responsible charge of all mortuary science services performed at the funeral establishment. The funeral establishment shall report to the board any change of the funeral director in responsible charge within 30 days of the change.

i. All funeral or cremation establishments shall maintain the necessary appliances and facilities for the care, preparation and disposition of human remains as are required by all applicable federal, state or local laws, rules, and ordinances. An establishment license shall not be issued to a person or business entity that does not maintain a business at the physical location for which the license was issued.

j. The board shall not routinely issue more than one establishment license for a single location, but the board may do so if the multiple applicants provide proof, satisfactory to the board, that the establishments are wholly separate except for the sharing of facilities. If the board issues more than one establishment license for a single location, the licensees shall ensure that the public will not be confused or deceived as to the establishment with which the public is interacting. A facility may have a funeral establishment license and a separate cremation establishment license at a single location.

k. The establishment license shall be displayed in a conspicuous place at the location of the establishment.

l. Failure to comply with any of these rules shall constitute grounds for discipline pursuant to 645—Chapter 103 or civil penalties for unlicensed practice pursuant to 645—Chapter 104.

101.7(2) A funeral establishment, cremation establishment, or both establishments shall be subject to applicable local, state and federal health and environmental requirements and shall obtain all necessary licenses and permits from the agencies with jurisdiction.

101.7(3) License application. An application for a funeral establishment license, cremation establishment license, or both establishment licenses shall be in writing on forms furnished by the board and shall be accompanied by the funeral or cremation establishment fee. The application shall contain all of the following:

a. The name, mailing address and telephone number of the applicant.

b. The physical location of the establishment.

c. The mailing address, telephone number, fax and E-mail address of the establishment.

PROFESSIONAL LICENSURE DIVISION[645](cont'd)

d. The name, home address and telephone number of the individual in charge who has the authority and responsibility for the establishment's compliance with laws and rules pertaining to the operation of the establishment.

e. The name and address of all owners and managers of the establishment (e.g., sole proprietor, partner, director, officer, managing partner, member, or shareholder with 10 percent or more of the stock).

f. The legal name of the establishment and all trade names, assumed names, or other names used by the establishment.

g. The signature of the responsible authority at the site of the establishment and an acknowledgment of the funeral director in responsible charge of mortuary science services at the funeral establishment that the funeral director is aware of and consents to the designation.

h. The names and license numbers of all funeral directors employed by or associated with the establishment through contract or otherwise who provide mortuary science services at or for the establishment. When a funeral establishment has an employment or other relationship with multiple funeral directors, the funeral establishment shall designate the funeral director who shall be in responsible charge of all mortuary science services performed at the funeral establishment. No funeral establishment shall be issued a license if it fails to designate the funeral director in responsible charge of the mortuary science services to be performed at the establishment.

i. All felony or misdemeanor convictions of the applicant and all owners and managing officers of the applicant (except minor traffic offenses with fines of less than \$500).

j. All disciplinary actions against any professional or occupational license of the applicant by any jurisdiction including, but not limited to, disciplinary action by the Iowa insurance division under Iowa Code chapter 523A or 523I, or action by the Federal Trade Commission.

k. Further information that the board may reasonably require, such as whether the establishment includes a preparation room.

ITEM 18. Amend subrule **101.18(3)**, paragraph "a," subparagraphs (2) and (3), as follows:

(2) Verification of completion of 24 hours of continuing education that meet continuing education standards defined in 645—102.3(156,272C) within two years of prior to filing the application for reactivation; and

(3) Prior to July 1, 2007, verification of successful passage of an examination covering the Iowa law and rules for mortuary science with a score of at least 75 percent or a college course of at least one semester hour or equivalent. Verification of completion of 2 hours of continuing education in current Iowa law and rules. These 2 hours shall be included as a part of the 24 hours required in 101.18(3)"a"(2).

ITEM 19. Amend paragraph **101.18(3)"b,"** subparagraph (2), as follows:

(2) Verification of completion of 48 hours of continuing education that meet continuing education standards defined in 645—102.3(156,272C) within two years of prior to filing the application for reactivation; and

ITEM 20. Amend subrule 102.2(1) as follows:

102.2(1) The biennial continuing education compliance period shall extend for a two-year period beginning on the fifteenth day of the licensee's birth month and ending on the fifteenth day of the licensee's birth month. Each biennium, each person who is licensed to practice as a licensee in this state shall be required to complete a minimum of 24 hours of continuing education approved by the board. ~~Effective July 1, 2007, 2~~ Two of the 24 hours of continuing education shall be in current Iowa law and rules covering mortuary science content areas including but not limited to Iowa law and rules governing the practice of mortuary science, cremation, vital statistics, cemeteries and preneed.

ITEM 21. Amend subrule **102.3(2)**, paragraph "a," subparagraph (4), as follows:

(4) Legal, ethical, regulatory: mortuary law; business law; ethics; Federal Trade Commission, OSHA, ADA, and EPA regulations; preneed regulation; social services; veterans affairs benefits; insurance; state and county benefits; legislative concerns. *Insurance shall be related to life insurance and shall not exceed 8 hours each biennium.*

ITEM 22. Amend subrule **102.3(2)**, paragraph "d," as follows:

d. Independent study, including television viewing, Internet, video- or sound-recorded programs, or correspondence work, or by other similar means that meet the criteria in paragraph 102.3(2)"a." Independent study credits must be accompanied by a certificate from the sponsoring organization that indicates successful completion of the test. *Independent study shall not exceed 12 hours of the 24 hours required during the compliance period.*

ITEM 23. Amend subrule **102.3(2)**, paragraph "f," as follows:

f. ~~Effective July 1, 2007, 2~~ Two of the 24 hours of continuing education shall be in current Iowa law and rules covering mortuary science content areas including but not limited to Iowa law and rules governing the practice of mortuary science, cremation, vital statistics, cemeteries and preneed.

ITEM 24. Adopt **new** subrule 103.3(14) as follows:

103.3(14) Failure to comply with conditions of Iowa Code section 142C.10.

ITEM 25. Amend subrule 103.4(1) as follows:

103.4(1) The licensee or applicant has been convicted of a felony or a misdemeanor involving moral turpitude or any crime related to the practice of mortuary science or implicating the establishment's ability to safely perform mortuary science services, or if the applicant is an association, joint stock company, partnership, or corporation, or other business entity, a the managing officer or owner has been convicted of a felony or misdemeanor involving moral turpitude such a crime under the laws of this state, another state, or the United States.

ITEM 26. Adopt **new** rule 645—103.8(17A,147,156,272C) as follows:

645—103.8(17A,147,156,272C) Informal discussion. If the board considers it advisable, or if requested by the affected licensee, the board may grant the licensee an opportunity to appear before the board or a committee of the board for a voluntary informal discussion of the facts and circumstances of an alleged violation. The licensee may be represented by legal counsel at the informal discussion. The licensee is not required to attend the informal discussion. By electing to attend, the licensee waives the right to seek dis-

PROFESSIONAL LICENSURE DIVISION[645](cont'd)

qualification, based upon personal investigation of a board or staff member, from participating in making a contested case decision or acting as a presiding officer in a later contested case proceeding. Because an informal discussion constitutes a part of the board's investigation of a pending disciplinary case, the facts discussed at the informal discussion may be considered by the board in the event the matter proceeds to a contested case hearing and those facts are independently introduced into evidence. The board may seek a consent order at the time of the informal discussion. If the parties agree to a consent order, a statement of charges shall be filed simultaneously with the consent order.

ITEM 27. Rescind subrule **105.1(11)**.

ARC 6544B**PUBLIC SAFETY
DEPARTMENT[661]****Notice of Intended Action**

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

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

Pursuant to the authority of Iowa Code sections 17A.3 and 321.4, the Department of Public Safety hereby gives Notice of Intended Action to amend Chapter 157, "Devices and Methods to Test Body Fluids for Alcohol or Drugs," Iowa Administrative Code.

Iowa Code chapter 321J assigns to the Department of Public Safety responsibility for overseeing the testing of body tissues and fluids for alcohol and drug content in order to enforce the State's laws regarding drunk and drugged driving, including procedures for collecting samples for such testing. Included in the administrative rules established to implement these requirements are provisions for the collection of urine samples. The amendment proposed herein revises those requirements to clarify the requirements and to reflect changes in procedure.

A public hearing on this proposed amendment will be held on February 15, 2008, at 8:30 a.m. in the First Floor Public Conference Room (Room 125), State Public Safety Headquarters Building, 215 East 7th Street, Des Moines, Iowa. Persons may present their views orally or in writing at the public hearing. Persons who wish to make oral presentations at the public hearing should contact the Agency Rules Administrator by mail at the Iowa Department of Public Safety, State Public Safety Headquarters Building, Des Moines, Iowa 50319; by telephone at (515)725-6185; or by electronic mail to admrule@dps.state.ia.us, at least one day prior to the public hearing.

Any written comments or information regarding this proposed amendment may be directed to the Agency Rules Administrator by mail or electronic mail at the addresses indicated by 4:30 p.m. on February 15, 2008, or may be submitted at the public hearing. Persons who wish to convey their views orally other than at the public hearing may contact the Agency Rules Administrator by telephone or in person at the Department office by 4:30 p.m. on February 15, 2008.

The amendment proposed herein is also Adopted and Filed Emergency and became effective on January 1, 2008. The emergency amendment is published herein as **ARC 6543B**. The content of that submission is incorporated by reference.

This amendment is intended to implement Iowa Code chapter 321J.

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 6536B**PUBLIC SAFETY
DEPARTMENT[661]****Notice of Intended Action**

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

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

Pursuant to the authority of 2007 Iowa Acts, chapter 197, section 16, the Electrical Examining Board hereby gives Notice of Intended Action to adopt new Chapter 500, "Electrician and Electrical Contractor Licensing Program—Organization and Administration," Chapter 501, "Electrician and Electrical Contractor Licensing Program—Administrative Procedures," Chapter 502, "Electrician and Electrical Contractor Licensing Program—Licensing Requirements, Procedures, and Fees," Chapter 503, "Electrician and Electrical Contractor Licensing Program—Complaints and Discipline," and Chapter 504, "Standards for Electrical Work," Iowa Administrative Code.

2007 Iowa Acts, chapter 197, created the statewide Electrician and Electrical Contractor Licensing Program in the Fire Marshal Division of the Department of Public Safety. The legislation also created the Electrical Examining Board, which will direct the licensing program. The rules proposed herein establish the basic framework for the operation of the program.

A public hearing on these proposed rules will be held on February 21, 2008, at 10 a.m. in the First Floor Public Conference Room (Room 125), State Public Safety Headquarters Building, 215 East 7th Street, Des Moines, Iowa 50319. Persons may present their views orally or in writing at the public hearing. Persons who wish to make oral presentations at the public hearing should contact the Agency Rules Administrator, Iowa Department of Public Safety, Wallace State Office Building, Des Moines, Iowa 50319, by mail; by telephone at (515)725-6185; or by electronic mail to admrule@dps.state.ia.us, at least one day prior to the public hearing.

Any written comments or information regarding these proposed rules may be directed to the Agency Rules Administrator by mail or electronic mail at the addresses indicated by 4:30 p.m. on February 21, 2008, or submitted at the public hearing. Persons who wish to convey their views orally other than at the public hearing may contact the Agency Rules Administrator by telephone or in person at the Department office at least one day prior to the public hearing.

PUBLIC SAFETY DEPARTMENT[661](cont'd)

The Board is soliciting public comment on all portions of the proposed rules and would like specifically to solicit comment on two issues which are not reflected in the text of the proposed rules.

1. The definition of "residential electrical work" in rule 661—500.2(82GA,ch197) reads as follows: "Residential electrical work' means electrical work in a residence in which there are no more than four living units within the same building." The Board is considering adding a phrase to the definition so that it would read as follows: "Residential electrical work' means electrical work in a residence in which there are no more than four living units within the same building, in which the building includes no story which is more than three stories in height above finished grade."

2. Paragraph "d" of subrule 502.2(6) deals with the endorsement of the special electrician license for residential electricians. The proposed paragraph includes language which allows a political subdivision to require that a licensee performing work authorized by this endorsement be supervised by a master electrician. The Board is considering adding a sentence to this paragraph which would require all work performed under the residential electrician endorsement of the special electrician license to be performed under the supervision of a master electrician, regardless of whether or not a political subdivision imposed such a requirement.

These rules are also Adopted and Filed Emergency and are published herein as **ARC 6535B**. The content of that submission is incorporated by reference. These rules became effective January 1, 2008.

These rules are intended to implement 2007 Iowa Acts, chapter 197.

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.

NOTICE—PUBLIC FUNDS INTEREST RATES

In compliance with Iowa Code chapter 74A and section 12C.6, the committee composed of Treasurer of State Michael L. Fitzgerald, Superintendent of Credit Unions James E. Forney, Superintendent of Banking Thomas B. Gronstal, and Auditor of State David A. Vaudt have established today the following rates of interest for public obligations and special assessments. The usury rate for January is 6.25%.

INTEREST RATES FOR PUBLIC OBLIGATIONS AND ASSESSMENTS

- 74A.2 Unpaid Warrants Maximum 6.0%
- 74A.4 Special Assessments Maximum 9.0%

RECOMMENDED Rates for Public Obligations (74A.3) and School District Warrants (74A.7). A rate equal to 75% of the Federal Reserve monthly published indices for U.S. Government securities of comparable maturities. All Iowa Banks and Iowa Savings Associations as defined by Iowa Code section 12C.1 are eligible for public fund deposits as defined by Iowa Code section 12C.6A.

The rate of interest has been determined by a committee of the state of Iowa to be the minimum interest rate that shall be paid on public funds deposited in approved financial institutions. To be eligible to accept deposits of public funds of the state of Iowa, a financial institution shall demonstrate a commitment to serve the needs of the local community in which it is chartered to do business. These needs include credit services as well as deposit services. All such financial institutions are required to provide the committee with a written description of their commitment to provide credit services in the community. This statement is available for examination by citizens.

New official state interest rates, effective January 10, 2008, setting the minimums that may be paid by Iowa depositories on public funds are listed below.

TIME DEPOSITS

- 7-31 days Minimum 1.60%
- 32-89 days Minimum 2.55%
- 90-179 days Minimum 2.80%
- 180-364 days Minimum 3.25%
- One year to 397 days Minimum 3.25%
- More than 397 days Minimum 3.35%

These are minimum rates only. The one year and less are four-tenths of a percent below average rates. Public body treasurers and their depositories may negotiate a higher rate according to money market rates and conditions.

Inquiries may be sent to Michael L. Fitzgerald, Treasurer of State, State Capitol, Des Moines, Iowa 50319.

ARC 6532B**NATURAL RESOURCE
COMMISSION[571]****Adopted and Filed Emergency**

Pursuant to the authority of Iowa Code section 455A.5, the Natural Resource Commission hereby amends Chapter 106, "Deer Hunting by Residents," Iowa Administrative Code.

Chapter 106 provides the regulations for resident deer hunting and includes season dates, bag limits, possession limits, shooting hours, licensing procedures, means and methods of taking, and transportation and reporting requirements. The amendment in Item 2 extends the deer season for resident deer hunters who had licenses valid for the regular gun season (shotgun 1 or shotgun 2). All hunters are required to take antlerless deer only. The season extension includes December 21, 22, and 23, 2007.

The amendment in Item 1 extends the late muzzleloader deer season by adding three days to the end of the current season date (January 10, 2008). The season extension includes January 11, 12, and 13, 2008.

The recent adoption of mandatory deer harvest reporting has allowed the Department to analyze the harvests for the first shotgun season and parts of the second shotgun season. Collectively, the harvest for these two seasons is approximately 13,000 deer below the reported harvest at the same point in time last year. The potential harvest during the late muzzleloader season and January antlerless-deer-only season, even with record levels of success, would not be adequate to make up the deficit that currently exists, and the resulting final harvest would be well below the target goal of the Wildlife Bureau.

Allowing for additional harvesting of only antlerless deer benefits both hunters and the public and helps the Department reach the harvest goals for this year. Allowing the extension of the late muzzleloader deer season helps to mitigate concerns from late muzzleloader deer hunters regarding the extension of the regular gun season (shotgun 1 or shotgun 2). All deer harvested must be reported in the same manner as in other seasons, and every hunter must have in the hunter's possession a deer license valid for the respective seasons mentioned or have in possession a duplicate license provided by the Department. Duplicate licenses will only be necessary for those hunters who have discarded their regular gun season (shotgun 1 or shotgun 2) licenses. All rules and regulations for each respective deer season extension are the same as required for the season that is being extended.

In compliance with Iowa Code section 17A.4(2), the Commission finds that notice and public participation would not allow the deer harvest to reach the desired level without immediate action.

In compliance with Iowa Code section 17A.5(2)"b"(2), the Commission finds that these amendments should become effective upon filing because they meet the exception enumerated therein. Extensive severe winter weather has hindered hunter efforts, and the reported deer harvest is substantially below what is needed to reduce deer numbers to the Department's goals. The adopted amendments provide a benefit to the public by allowing hunters with existing licenses to go out with their parties to take additional antlerless deer. It is further necessary that these amendments become effective immediately so that hunters may go back out into the field as quickly as possible.

These amendments are intended to implement Iowa Code sections 481A.38, 481A.39, 481A.48 and 483A.8.

These amendments became effective December 14, 2007.

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

The following amendments are adopted.

ITEM 1. Amend subrule 106.2(3) as follows:

106.2(3) Muzzleloader seasons. Deer may be taken in accordance with the type, season and zone designated on the license from the Saturday closest to October 14 and continuing for nine consecutive days (early muzzleloader season) or from the Monday following the third Saturday in December through January 13 of the following year (late muzzleloader season).

ITEM 2. Amend 571—Chapter 106 by adopting the following **new** rule:

571—106.14(481A) Extension to the regular gun seasons. To obtain an adequate deer harvest, the 2007 regular gun seasons are extended. Hunters with deer licenses that were valid for the 2007 regular gun seasons are allowed to hunt deer from December 21, 2007, through December 23, 2007. All licenses, no matter the type originally issued, are valid for taking antlerless deer only. No person while hunting deer shall carry or have in possession any license or transportation tag issued to another person. Shooting hours, limits, areas closed to hunting, method of take, and tagging and reporting requirements are the same as during the regular gun seasons.

[Filed Emergency 12/14/07, effective 12/14/07]

[Published 1/16/08]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 1/16/08.

ARC 6543B**PUBLIC SAFETY
DEPARTMENT[661]****Adopted and Filed Emergency**

Pursuant to the authority of Iowa Code sections 17A.3 and 321.4, the Department of Public Safety hereby amends Chapter 157, "Devices and Methods to Test Body Fluids for Alcohol or Drugs," Iowa Administrative Code.

Iowa Code chapter 321J assigns to the Department of Public Safety responsibility for overseeing the testing of body tissues and fluids for alcohol and drug content in order to enforce the State's laws regarding drunk and drugged driving, including procedures for collecting samples for such testing. Included in the administrative rules established to implement these requirements are provisions for the collection of urine samples. The amendment adopted herein revises those requirements to clarify the requirements and to reflect changes in procedure.

Pursuant to Iowa Code subsection 17A.4(2), the Department finds that notice and public participation prior to the adoption of this amendment are impracticable, as it is desirable that the procedural requirements for the collection of urine samples for alcohol and drug testing be clarified as soon as possible.

PUBLIC SAFETY DEPARTMENT[661](cont'd)

Pursuant to Iowa Code section 17A.5(2)“b”(2), the Department further finds that the normal effective date of this amendment, 35 days after publication, should be waived and the amendment made effective January 1, 2008, after filing with the Administrative Rules Coordinator. This amendment confers a benefit upon the public by facilitating the collection of urine samples, which are critical to enforcement of Iowa's driving laws regarding alcohol and drugs.

This amendment is also published herein under Notice of Intended Action as **ARC 6544B**. The Notice of Intended Action will provide for a period of public comment and participation, including a public hearing which is scheduled for February 15, 2008. This process will culminate in the adoption of the amendment through the normal rule-making process, with any public input received during the comment period having been considered.

This amendment became effective on January 1, 2008.

This amendment is intended to implement Iowa Code chapter 321J.

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 rule 661—157.3(321J) and adopt the following **new** rule in lieu thereof:

661—157.3(321J) Urine collection. A peace officer who collects a sample of a subject's urine for the purpose of determining alcohol or drug concentration shall proceed as follows.

157.3(1) The collection shall be made in the presence of a peace officer or other reliable person under the supervision of a peace officer. The peace officer or other person in the presence of the subject shall be of the same gender as the subject.

157.3(2) As soon as practicable, the subject shall urinate into a urine alcohol kit-supplied bottle, cup or other suitable container which is clean, dry, and free from any visible contamination. Anticoagulant and antimicrobial substances in a blood or urine kit do not constitute visible contamination.

157.3(3) The peace officer shall collect a second urine void for alcohol testing in a suitable container which is clean, dry, and free from visible contamination. If a second void cannot be collected, the peace officer shall submit a sample from the first void and shall inform the Iowa division of criminal investigation criminalistics laboratory on the laboratory receipt form that the sample is from a first void. It is not necessary that the subject's bladder be completely emptied.

157.3(4) When collection of the sample for alcohol testing has been completed, the peace officer shall cause a portion of the collected sample to be transferred to a test tube containing 100 milligrams of sodium fluoride and anticoagulant.

157.3(5) A listing of test kits known to meet the requirements of subrules 157.3(2), 157.3(3) and 157.3(4) may be found on the criminalistics laboratory Web site. Any peace officer wishing to use a test kit which is not listed should inquire of the criminalistics laboratory as to whether the other test kit meets the requirements. Any provider of test kits may request the addition of a kit to the list by sending a sample kit to the administrator of the criminalistics laboratory with a cover letter requesting that the kit be added to the list of kits known to meet the requirements of this subrule.

NOTE: The current location of information about test kits on the laboratory Web site is: http://www.dps.state.ia.us/DCI/Crime_Lab/Forensic_Toxicology/index.shtml.

157.3(6) If the peace officer requests additional toxicological testing, the remainder of the sample may be retained in a container and sent for analysis to the Iowa division of criminal investigation criminalistics laboratory.

157.3(7) The peace officer shall label the container showing the date and time the sample was collected and identifying the peace officer, the subject, and the person present during the collection of the sample if other than the peace officer.

[Filed Emergency 12/21/07, effective 1/1/08]

[Published 1/16/08]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 1/16/08.

ARC 6535B

PUBLIC SAFETY DEPARTMENT[661]

Adopted and Filed Emergency

Pursuant to the authority of 2007 Iowa Acts, chapter 197, section 16, the Electrical Examining Board hereby adopts new Chapter 500, “Electrician and Electrical Contractor Licensing Program—Organization and Administration,” Chapter 501, “Electrician and Electrical Contractor Licensing Program—Administrative Procedures,” Chapter 502, “Electrician and Electrical Contractor Licensing Program—Licensing Requirements, Procedures, and Fees,” Chapter 503, “Electrician and Electrical Contractor Licensing Program—Complaints and Discipline,” and Chapter 504, “Standards for Electrical Work,” Iowa Administrative Code.

2007 Iowa Acts, chapter 197, created the statewide Electrician and Electrical Contractor Licensing Program in the Fire Marshal Division of the Department of Public Safety. The legislation also created the Electrical Examining Board, which will direct the licensing program. The rules adopted herein establish the basic framework for the operation of the program.

Pursuant to Iowa Code section 17A.4(2), the Board finds that notice and public participation prior to the adoption of these rules are impracticable as it is imperative that procedures for the licensing of electricians and electrical contractors be implemented by January 1, 2008, which is the effective date of the licensing provisions of 2007 Iowa Acts, chapter 197. The law requires that electricians and electrical contractors be licensed after January 1, 2008, and, while full implementation of the law by that date is impractical, it is essential that the procedures to be followed are in place at that time.

Pursuant to Iowa Code section 17A.5(2)“b”(2), the Board further finds that the normal effective date of these rules, 35 days after publication, should be waived and these rules should be made effective January 1, 2008, after filing with the Administrative Rules Coordinator. These rules confer a benefit upon the public by establishing procedures for the licensing of electricians and electrical contractors as of the effective date of the legislation.

Notice of Intended Action is being submitted concurrently with the filing of these emergency rules and is published herein as **ARC 6536B**. The Notice of Intended Action will

PUBLIC SAFETY DEPARTMENT[661](cont'd)

provide for a period of public comment and participation, including a public hearing. This process will culminate in the adoption of these rules through the normal rule-making process, with any public input received during the comment period having been taken into account.

These rules became effective on January 1, 2008.

These rules are intended to implement 2007 Iowa Acts, chapter 197.

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

The following **new** chapters are adopted.

CHAPTER 500

ELECTRICIAN AND ELECTRICAL CONTRACTOR
LICENSING PROGRAM—ORGANIZATION
AND ADMINISTRATION**661—500.1(82GA,ch197) Establishment of program.**

The electrician and electrical contractor licensing program is established in the fire marshal division of the department of public safety. The program is under the direction of the electrical examining board and the daily supervision of the state fire marshal or the state fire marshal's designee.

500.1(1) Electrical examining board. The electrical examining board, appointed by the governor, directs the electrician and electrical contractor licensing program, adopts administrative rules governing the program, establishes licensing requirements, and administers discipline related to licensure and to those engaged in activities requiring licensure but who are not licensed.

500.1(2) Executive secretary. The electrical examining board shall appoint an executive secretary who shall be responsible for carrying out the policies of the board and for hiring and supervising additional administrative staff.

500.1(3) Board office. The board office is located within the fire marshal division of the department of public safety.

a. The address of the board office is as follows:

Electrical Examining Board
Iowa Department of Public Safety
215 East 7th Street
Des Moines, Iowa 50319

b. The board may be contacted by telephone through the fire marshal division at (515)725-6145 or by E-mail at elecinfo@dps.state.ia.us.

661—500.2(82GA,ch197) Definitions. The following definitions apply to all rules adopted by the electrical examining board.

“Approved by the board” means the approval of any item, test or procedure by the electrical examining board by adoption of a resolution at a meeting of the board, provided that the approval has not been withdrawn by a later resolution of the board. A list of any such items, tests, or procedures that have been approved by the board is available from the board office or from the board Web site.

“Board” means the electrical examining board created under 2007 Iowa Acts, chapter 197, section 12.

“Department” means the department of public safety.

“Division” means the fire marshal division of the department of public safety.

“Documented experience” means experience which an applicant for licensing has completed and which has been documented by the applicant's completion and submission of a sworn affidavit or other evidence required by the board.

“Executive secretary” means the executive secretary appointed by the board.

“Final agency action” means the issuance, denial, suspension, or revocation of a license. If an action is subject to appeal, “final agency action” has occurred when the administrative appeal process provided for in 661—Chapter 503 has been exhausted or when the deadline for filing an appeal has expired.

“Residential electrical work” means electrical work in a residence in which there are no more than four living units within the same building.

“Routine maintenance” means the repair or replacement of existing electrical apparatus or equipment of the same size and type for which no changes in wiring are made. The performance of routine maintenance in itself does not require a person to obtain or hold a license as an electrician or electrical contractor.

These rules are intended to implement 2007 Iowa Acts, chapter 197.

CHAPTER 501

ELECTRICIAN AND ELECTRICAL CONTRACTOR
LICENSING PROGRAM—ADMINISTRATIVE
PROCEDURES**661—501.1(82GA,ch197) Board meetings and agenda.**

501.1(1) Board meetings may be called in any of the following ways:

- Set by the board at a previous board meeting.
- Called by the chairperson or, in the absence of the chairperson, by the vice chairperson.
- Called by the executive secretary.
- Called by any four members of the board.

501.1(2) The executive secretary shall ensure that any applicable provision of Iowa law regarding notice of meetings is met for any meeting of the board.

661—501.2 to 501.4 Reserved.

661—501.5(17A) Waivers. This rule applies to waivers of any administrative rule adopted by the electrical examining board. Rule 661—10.222(17A) is hereby adopted by reference, with the following amendments:

501.5(1) Strike the word “department” wherever it occurs as a reference to the department of public safety and replace it with the word “board.”

501.5(2) Strike any reference to the address of the department of public safety or any unit thereof and replace it with “State Public Safety Headquarters Building, 215 East 7th Street, Des Moines, Iowa 50319.”

501.5(3) Petitions for waivers shall be submitted to the board as provided in 661—subrule 500.1(3).

These rules are intended to implement 2007 Iowa Acts, chapter 197.

CHAPTER 502

ELECTRICIAN AND ELECTRICAL CONTRACTOR
LICENSING PROGRAM—LICENSING
REQUIREMENTS, PROCEDURES, AND FEES**661—502.1(82GA,ch197) License categories and licenses required.**

502.1(1) The following categories of license are established:

- Electrical contractor.
- Master electrician, class A.
- Master electrician, class B.
- Journeyman electrician, class A.

PUBLIC SAFETY DEPARTMENT[661](cont'd)

- e. Journeyman electrician, class B.
- f. Apprentice electrician.
- g. Special electrician.
- h. Unclassified person.

502.1(2) A person who holds any class of license issued by the board, other than a class B license, may perform the work authorized by that license anywhere within the state of Iowa. A person who holds a special electrician license may perform the work which is authorized by that license endorsement. A person who holds a class B license may perform the work authorized by that license except in a political subdivision which, by local ordinance, has restricted or barred such work by a person who holds a class B license.

502.1(3) A person who does not have a current valid license shall not perform work as an electrician or as an unclassified person. A person shall not perform work which requires licensing and which is not specifically authorized under the license issued.

EXCEPTION 1: A person who holds a current valid license issued by a political subdivision may perform work as an electrician or unclassified person within the corporate limits of the political subdivision which issued the license.

EXCEPTION 2: A person who has submitted a completed application and the applicable fee to the board may perform work authorized by the license applied for, provided (a) that the person is not clearly unqualified for the license applied for, (b) that the person has, prior to January 1, 2008, been performing work equivalent to work authorized under the license being applied for, and (c) that, prior to the actual issuance of licenses by the board, a person may not perform work in a political subdivision which issues electrician licenses unless the person holds a current and valid license issued by that political subdivision.

NOTE: Exception 2 is temporary and will be rescinded when licenses are issued by the board. The rescission may occur as early as April 1, 2008, and is expected to occur no later than July 1, 2008.

EXCEPTION 3: A person may work for up to 100 continuous days as an unclassified person prior to obtaining a license. Any documented time during which a person has worked as an unclassified person prior to January 1, 2008, or any time during which a person has worked as a licensed unclassified person shall be credited to any applicable experience requirement. Any time during which a person works as an unclassified person without a license on or after January 1, 2008, shall not be counted toward any such experience requirement, except that a person may receive credit for time worked as an unclassified person on or after January 1, 2008, without a license if the person has applied for a license.

661—502.2(82GA,ch197) License requirements.

502.2(1) An electrical contractor license may be issued to a person who submits to the board the required application with the applicable fee, who holds a master electrician license, who is registered as a contractor with the labor services division of the Iowa department of workforce development, and who is not disqualified pursuant to rule 661—502.4(82GA,ch197). An electrical contractor license issued to a person who holds a class B master electrician license is subject to the same restriction of use as is the class B master electrician license.

502.2(2) A class A master electrician license may be issued to a person who submits to the board a completed application with the applicable fee, who is not disqualified from holding a license pursuant to rule 661—502.4(82GA,ch197), and who meets one of the following requirements:

a. Has completed one year of experience as a licensed journeyman electrician, and has passed a supervised written examination for master electrician approved by the board with a score of 75 or higher; or

b. As of December 31, 2007, held a current valid license as a master electrician issued by a political subdivision in Iowa, the issuance of which required passing a supervised written examination approved by the board, and one year of experience as a journeyman electrician; or

c. Holds a current class B master electrician license and has passed a supervised written examination for master electrician approved by the board with a score of 75 or higher.

502.2(3) A class B master electrician license may be issued to a person who submits to the board a completed application with the applicable fee, who is not disqualified from holding a license pursuant to rule 661—502.4(82GA,ch197), who presents credible evidence of having worked for a total of eight years (16,000 hours of cumulative experience) as a master electrician since 1989, and whose experience as a master electrician began on or before December 31, 1989.

502.2(4) A class A journeyman electrician license may be issued to a person who submits to the board a completed application with the applicable fee, who is not disqualified from holding a license pursuant to rule 661—502.4(82GA,ch197), and who meets one of the following requirements:

a. Has successfully completed an apprenticeship program registered by the Bureau of Apprenticeship and Training of the United States Department of Labor, has passed a supervised written examination for journeyman electrician approved by the board with a score of 75 or higher, and has completed four years of experience as an apprentice electrician; or

b. As of December 31, 2007, held a current valid license as a journeyman electrician issued by a political subdivision in Iowa, the issuance of which required passing a supervised written examination approved by the board, and has completed a registered apprenticeship program and four years of experience as an apprentice electrician; or

c. Holds a current class B journeyman electrician license and has passed a supervised written examination for journeyman electrician approved by the board with a score of 75 or higher.

502.2(5) A class B journeyman electrician license may be issued to a person who submits to the board a completed application with the applicable fee, who is not disqualified from holding a license pursuant to rule 661—502.4(82GA,ch197), who presents credible evidence of having worked for a total of eight years (16,000 hours of cumulative experience) as a journeyman or master electrician since 1989, and whose experience as a journeyman or master electrician began on or before December 31, 1990.

502.2(6) A special electrician license may be issued to a person who submits to the board a completed application with the applicable fee, who is not disqualified from holding a license pursuant to rule 661—502.4(82GA,ch197), and who meets the qualifications for any endorsement entered on the license. Each special electrician license shall carry one or more endorsements as specified in paragraphs "a" through "d."

a. Endorsement 1, "Irrigation System Wiring," shall be included on a special electrician license if the licensee requests it and has passed a supervised examination approved by the board or has completed two years, or 4,000 hours, of documented experience in the wiring of irrigation systems.

b. Endorsement 2, "Disconnecting and Reconnecting Existing Air Conditioning and Refrigeration Systems," shall

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be included on a special electrician license if the licensee requests it and has passed a supervised examination approved by the board or has completed two years of documented experience in the disconnecting and reconnecting of existing air conditioning and refrigeration systems.

c. Endorsement 3, "Sign Installation," shall be included on a special electrician license if the licensee requests that it be included. This endorsement does not authorize a licensee to connect power to a sign that has a voltage greater than 220V and an ampere rating greater than 20 amps. Initial installation or upgrading of the branch circuits supplying power to the sign shall be completed by a licensed master electrician or by a licensed journeyman electrician under the supervision of a master electrician.

d. Endorsement 4, "Residential Electrician," shall be included on a special electrician license if the licensee requests it and has passed a supervised written examination approved by the board or has completed four years of documented experience performing residential electrical work. A political subdivision may, by enactment of an ordinance filed with the board prior to its effective date, require that a special electrician performing work authorized by this endorsement be supervised by a master electrician.

502.2(7) An apprentice electrician license may be issued to a person who submits a completed application to the board with the applicable fee, who is not disqualified pursuant to rule 661—502.4(82GA,ch197) and who is participating in an apprenticeship training program that is registered with the Bureau of Apprenticeship and Training of the United States Department of Labor. A person may hold an apprentice electrician license for no more than six years from the original date on which an apprentice electrician license is granted, except that a person may apply to the board for an exception to this limitation based upon a documented hardship. "Documented hardship" includes, but is not limited to, an interruption in service as an apprentice electrician for active military duty or for an extended illness.

502.2(8) A license as an unclassified person may be issued to a person who submits a completed application to the board with the applicable fee, who is not disqualified pursuant to rule 661—502.4(82GA,ch197) and who is employed by a licensed electrical contractor.

661—502.3(82GA,ch197) License terms and fees. The following table sets out the length of term of each license and the fee for the license.

License Type	Term	Fee
Electrical Contractor	3 years	\$375
Master Electrician, Class A	3 years	\$375
Master Electrician, Class B	3 years	\$375
Journeyman Electrician, Class A	3 years	\$75
Journeyman Electrician, Class B	3 years	\$75
Special Electrician	3 years	\$75
Apprentice Electrician	1 year	\$25
Unclassified Person	1 year	\$20

502.3(1) Fees are payable in advance with the application, by check or warrant to the Department of Public Safety. The memo line of the check should read "Electrician Licensing Fees."

502.3(2) Notice of renewal shall be provided to each licensee no less than 30 days prior to the expiration of the current license.

661—502.4(82GA,ch197) Disqualifications for licensure. An application for a license shall be denied if any of the following apply:

502.4(1) The applicant fails to meet the requirements for the license for which the applicant has applied or the applicant fails to provide adequate documentation of any requirement.

502.4(2) The applicant has previously had a license revoked or suspended by the board, and the circumstances which formed the basis of the revocation or suspension have not been corrected. If a license was revoked or suspended and conditions were imposed for the restoration of the license, licensure shall be denied unless those conditions have been met.

502.4(3) The applicant has been denied, for cause, a license to work, or a license as an electrician has been revoked, for cause, in any other state or political subdivision and the applicant has not subsequently received a license from the state or political subdivision which denied or revoked the license. An applicant who has been denied a license pursuant to this provision may apply to the board for a license and, upon a showing of evidence satisfactory to the board that the condition or conditions which led to the denial or revocation no longer apply, the board may grant the license to the applicant.

502.4(4) The applicant falsifies or fails to provide any information requested in connection with the application or falsifies any other information provided to the board in support of the application.

502.4(5) The applicant may be denied a license if the applicant has previously been convicted of a criminal offense involving, but not limited to, fraud, misrepresentation, arson or theft, or if the applicant is currently delinquent in paying employment taxes to the state of Iowa or the United States. If the denial is based upon conviction of a criminal offense, the board shall examine the specific circumstances of the offense and may grant the license if, in the judgment of the board, sufficient time has passed since the conviction and there is no further evidence of criminal conduct on the part of the applicant.

661—502.5(82GA,ch197) License application. Any person seeking a license from the board shall submit a completed application to the board accompanied by the applicable fee payable by check, money order, or warrant to the Iowa Department of Public Safety. The memo area of the check should read "Electrician Licensing Fees." The application shall be submitted on the form prescribed by the board, which may be obtained from the board office.

661—502.6(82GA,ch197) Restriction of use of class B licenses by political subdivisions. Any political subdivision may disallow or restrict the use of a class B license to perform electrical work within the geographic limits of that subdivision through adoption of a local ordinance. A copy of any such ordinance shall be filed with the board office prior to the effective date of the ordinance.

EXCEPTION 1: An ordinance restricting or disallowing electrical work by holders of class B licenses shall not apply to work which is not subject to the issuance of permits by the political subdivision.

EXCEPTION 2: An ordinance restricting or disallowing electrical work by holders of class B licenses which was passed prior to January 1, 2008, shall be filed with the board as soon as practicable and, in any case, no later than April 1, 2008.

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661—502.7(82GA,ch197) Financial responsibility. Any holder of an electrical contractor license or any holder of an electrician license who is not employed by a licensed electrical contractor and who contracts to provide electrical work which requires a license issued pursuant to 661—Chapters 500 through 503 shall, at all times, maintain insurance coverage as provided in this rule.

502.7(1) The licensee shall maintain general and complete operations liability insurance in the amount of at least \$1 million for all work performed which requires licensing pursuant to 661—Chapters 500 through 503.

a. The carrier of any insurance coverage maintained by the licensee to meet this requirement shall notify the board 30 days prior to the effective date of cancellation or reduction of the coverage.

b. The licensee shall cease operation immediately if the insurance coverage required by this rule is no longer in force and other insurance coverage meeting the requirements of this rule is not in force. A licensee shall not initiate any electrical work which cannot reasonably be expected to be completed prior to the effective date of the cancellation of the insurance coverage required by this rule and of which the licensee has received notice, unless new insurance coverage meeting the requirements of this rule has been obtained and will be in force upon cancellation of the prior coverage.

502.7(2) Reserved.

These rules are intended to implement 2007 Iowa Acts, chapter 197.

CHAPTER 503
ELECTRICIAN AND ELECTRICAL CONTRACTOR
LICENSING PROGRAM—COMPLAINTS
AND DISCIPLINE

661—503.1(82GA,ch197) Complaints. Any person may file a complaint regarding work performed by any licensee or licensee applicant, or by an unlicensed person who should possess a license issued by the board. Complaints shall be filed either in writing or electronically.

661—503.2(82GA,ch197) Discipline. If a complaint alleging an act or acts in violation of rules adopted by the board, 2007 Iowa Acts, chapter 197, or any other provision of law deemed relevant by the board to the use of a license issued by the board is substantiated, the board may suspend the license for a specific period of time, or indefinitely, may revoke the license, or may reprimand the licensee. The holder of a license which is suspended or revoked shall receive notice of the suspension or revocation in writing by registered mail, return receipt requested, or by personal service. The notice shall include a statement that the licensee has the right to appeal the reprimand, suspension or revocation to the board within 14 days of receiving the notice, and that the reprimand, revocation or suspension shall not take effect until the time to file an appeal has expired. If an appeal is filed, the reprimand, suspension or revocation shall be stayed until the appeal has been acted upon.

EXCEPTION: If the board finds that a violation which is the basis of the suspension or revocation is such that allowing the licensee to continue to engage in work covered by the license would present an imminent threat to the safety of the public, the board may provide that the suspension or revocation take effect immediately upon notice being delivered to the licensee.

661—503.3(82GA,ch197) Action against an unlicensed person. If a person who is not licensed by the board has engaged in or is engaging in work requiring licensure by the

board, the board may assess a civil penalty against the person, may seek an injunction to prevent the person from continuing to engage in such work, or both. A person who is accused of engaging in work which requires licensure by the board without having such a license shall be notified of the specific allegations by registered mail, return receipt requested, or by personal service. The matter shall be referred to an administrative law judge employed by the department of inspections and appeals, who shall schedule a hearing on the matter within 30 days of notice having been provided to the person against whom the allegations have been made. The hearing may be rescheduled to a later date by mutual consent of the parties.

661—503.4(82GA,ch197) Appeals. A licensee whose license is disciplined, an applicant whose application for a license is denied, or a person who is not licensed by the board and who is assessed a civil penalty for engaging in an activity requiring a license may appeal the suspension, revocation, denial, or civil penalty to the board by notifying the board office of the appeal in writing within 30 calendar days after receiving notice of the suspension, revocation, denial, or civil penalty.

661—503.5(252J,82GA,ch197) Suspension or revocation for nonpayment of child support. The following procedures shall apply to actions taken by the board on a certificate of noncompliance received from the Iowa department of human services pursuant to Iowa Code chapter 252J.

503.5(1) The notice required by Iowa Code section 252J.8 shall be served upon the licensee by restricted certified mail, return receipt requested, or personal service in accordance with Iowa Rule of Civil Procedure 1.305. Alternatively, the licensee may accept service personally or through authorized counsel.

503.5(2) The effective date of revocation or suspension of a license, as specified in the notice required by Iowa Code section 252J.8, shall be 60 days following service upon the licensee.

503.5(3) Licensees shall keep the board informed of all court actions and all child support recovery unit actions taken under or in connection with Iowa Code chapter 252J and shall provide the board with copies, within 7 days of filing or issuance, of all applications filed with the district court pursuant to Iowa Code section 252J.9, all court orders entered in such actions, and withdrawals of certificates of noncompliance by the child support recovery unit.

503.5(4) All applicable fees for an application or reinstatement must be paid by the licensee before a license will be issued, renewed, or reinstated after the board has denied the issuance or renewal of a license or has suspended or revoked a license pursuant to Iowa Code chapter 252J.

503.5(5) In the event the licensee files a timely district court action following service of a notice pursuant to Iowa Code sections 252J.8 and 252J.9, the board shall continue with the intended action described in the notice upon the receipt of a court order lifting the stay, dismissing the action, or otherwise directing the board to proceed. For the purpose of determining the effective date of revocation or suspension of the license, the board shall count the number of days before the action was filed and the number of days after the action was disposed of by the court.

503.5(6) Suspensions or revocations imposed pursuant to this rule may not be appealed administratively to the board or within the department of public safety.

NOTE: The procedures established in rule 661—503.5(252J,82GA,ch197) implement the requirements of Iowa Code chapter 252J. The provisions of Iowa Code chap-

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ter 252J establish mandatory requirements for an agency which administers a licensing program, such as the one established in this chapter, and provide that actions brought under these provisions are not subject to contested case procedures established in Iowa Code chapter 17A, but must be appealed directly to district court.

These rules are intended to implement 2007 Iowa Acts, chapter 197, and Iowa Code chapter 252J.

CHAPTER 504

STANDARDS FOR ELECTRICAL WORK

661—504.1(82GA,ch197) Installation requirements. The provisions of the National Electrical Code, 2005 edition, published by the National Fire Protection Association, Batterymarch Park, Quincy, Massachusetts, are adopted as the requirements for electrical installations performed by persons licensed pursuant to 661—Chapters 500 through 503.

This rule is intended to implement 2007 Iowa Acts, chapter 197.

[Filed Emergency 12/17/07, effective 1/1/08]

[Published 1/16/08]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 1/16/08.

ARC 6537B

SECRETARY OF STATE[721]

Adopted and Filed Emergency After Notice

Pursuant to the authority of Iowa Code section 47.1, the Secretary of State hereby amends Chapter 21, "Election Forms and Instructions," Iowa Administrative Code.

2007 Iowa Acts, House File 653, provides a new process for persons who wish to register to vote on election day. These amendments revise existing rules regarding acceptable identification documents for voters to submit at the polls. The identification documents required for election day registration are different from the documents required by the existing rules. The amendment to subrules 21.3(1) and 21.3(2) distinguishes between the two types of identification documents and defines "current and valid," a phrase used to describe appropriate forms of identification. New rule 721—21.8(48A) is added to prescribe the form of notice to be sent to election day registrants if the U.S. Postal Service returns the acknowledgment notices.

These amendments were published under Notice of Intended Action on November 7, 2007, as **ARC 6405B**. The Secretary of State received many insightful comments and has made changes in the rules to reflect them. The following changes have been included:

New subrule 21.3(4) has been rewritten to improve clarity.

New subrule 21.3(5) has been rewritten to specify that nonoperator's ID cards that have an expiration date of "none" shall be considered current and valid. The Iowa Department of Transportation issues IDs that do not expire only to persons who are 70 years old or older.

New rule 721—21.7(48A) has been added to provide additional guidance for precinct election officials about inspecting ID documents and recording the names of persons who attest for election day registrants and to provide that persons who are in line to vote at the hour the polls close may register and vote if they meet the requirements to do so.

The Notice did not include any references to the new process in 2007 Iowa Acts, House File 653, for registering in-person absentee voters during the period after the close of registration and before election day. New Items 9 and 10 incorporate instructions for this process into the rules that prescribe the procedures for the operation of satellite absentee voting stations and for in-person absentee voting at commissioners' offices. Commissioners are required to keep lists of the names of persons who attest for new registrants and to send copies of those lists to the polls on election day with the list of names of persons who have requested absentee ballots.

The Secretary finds, pursuant to Iowa Code section 17A.5(2)"b"(2), that the normal effective date of these amendments should be waived and these amendments should be made effective on January 1, 2008. 2007 Iowa Acts, House File 653, is effective for elections held on or after January 1, 2008. Several counties will be holding elections on January 8, 2008. Having these rules in effect provides a service to the voters in those counties.

These amendments were adopted by the Secretary of State on December 12, 2007.

These amendments are intended to implement 2007 Iowa Acts, House File 653.

These amendments became effective on January 1, 2008. The following amendments are adopted.

ITEM 1. Amend rule 721—21.3(49), parenthetical implementation statute, as follows:
721—21.3(49,48A)

ITEM 2. Amend subrules 21.3(1) and 21.3(2) as follows:
21.3(1) Optional identification. A precinct election official may require identification from any person whom the official does not know.

21.3(2) Required identification. Precinct election officials shall require identification under the following circumstances:

a. From any person offering to vote whose name does not appear on the election register as an active voter.

b. From any person whose name appears on the election register as an inactive voter.

c. From any person offering to vote whose name is not on the election register and who wants to report a change of address from one precinct to another within the same county.

d. From any person who applies to register to vote on election day pursuant to 2007 Iowa Acts, House File 653, section 2.

ITEM 3. Rescind subrule 21.3(3) and adopt in lieu thereof the following **new** subrule:

21.3(3) Identification documents for persons other than election day registrants. Unless the person is registering to vote at the polls on election day, precinct election officials shall accept the following identification documents from any person who is asked to present ID:

a. Current and valid photo identification card; or

b. A copy of a current utility bill, bank statement, government check, paycheck, or other government document that shows the name and address of the voter.

ITEM 4. Renumber subrule **21.3(4)** as **21.3(6)** and adopt **new** subrules 21.3(4) and 21.3(5) as follows:

21.3(4) Identification for election day registrants.

a. A person who applies to register to vote on election day shall provide proof of identity and residence in the precinct where the person is applying to register and vote.

(1) Proof of identity must be a photo ID card that is current and valid and includes an expiration date. The following

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forms of identification are acceptable: an Iowa driver's license or nonoperator's ID, an out-of-state driver's license or nonoperator's ID, a United States passport, a United States military identification card, an identification card issued by an employer, or a student identification card issued by an Iowa high school or an Iowa postsecondary educational institution. If the photo ID does not show the person's address in the appropriate precinct, the person must show proof of residence.

(2) Proof of residence may be any of the following documents provided that the document shows the person's name and address in the precinct: residential lease, property tax statement, utility bill, bank statement, paycheck, government check, or other government document.

b. Any registered voter who attests for another person registering to vote at the polls on election day shall be a registered voter of the same precinct. The registered voter may be a precinct election official or a pollwatcher, but may not attest for more than one person applying to register at the same election.

21.3(5) Current and valid identification.

a. "Current and valid" or "ID," for the purposes of this rule, means identification that meets the following criteria:

(1) The expiration date on the ID has not passed. An ID is still valid on the expiration date. An Iowa nonoperator's ID that shows "none" as the expiration date shall be considered current and valid.

(2) The ID has not been revoked or suspended.

b. A current and valid ID may include a former address.

ITEM 5. Amend renumbered subrule 21.3(6) as follows:

21.3(6) *ID not provided.* A person who has been requested to provide identification and does not provide it shall vote only by special provisional ballot pursuant to Iowa Code section 49.81. *However, a person who is registering to vote on election day pursuant to 2007 Iowa Acts, House File 653, section 2, may establish identity and residency in the precinct by written oath of a person who is registered to vote in the precinct.*

ITEM 6. Amend rule **721—21.3(49,48A)**, implementation sentence, as follows:

This rule is intended to implement Iowa Code section 49.77, 2007 Iowa Acts, House File 653, section 2, and P.L. 107-252, Section 303.

Dear [name of voter],

You have registered and voted under Iowa's Election Day registration law. On [date], this office mailed an acknowledgment to you at the address you used on the voter registration form. The United States Postal Service has returned that acknowledgment to us as undeliverable.

Please return the enclosed response form no later than [date]. If we do not receive your response by [date], your voter registration record will be made inactive and we will notify the county attorney and the State Registrar of Voters.

Please note that voter registration fraud is a felony under Iowa law. Registration fraud includes submitting a voter registration application that is known by the person to be materially false, fictitious, forged, or fraudulent.

County Auditor and Commissioner of Elections

Date: _____

Response Form

Please confirm your residence at: _____

[address on registration] _____

OR

Explain why the Postal Service does not deliver your mail to that address.

ITEM 7. Amend subrule **21.4(1)**, paragraph "c," as follows:

c. Present proof of identity as required by ~~rule 21.3(49)~~ *subrule 21.3(3)*.

ITEM 8. Amend 721—Chapter 21 by renumbering rule **721—21.8(78GA, HF2330)** as **721—21.9(78GA, HF2330)** and adding the following **new** rules:

721—21.7(48A) Election day registration. In addition to complying with the identification provisions in rule 721—21.3(49,48A), precinct election officials shall comply with the following requirements:

21.7(1) Precinct election officials shall inspect the identification documents presented by election day registrants to verify the following:

a. The photograph shows the person who is registering to vote.

b. The name on the identification document is the same as the name of the applicant.

c. The address on the identification document is in the precinct where the person is registering to vote.

21.7(2) Precinct election officials shall verify that each person who attempts to attest to the identity and residence of a person who is registering to vote on election day is a registered voter in the precinct and has not attested for any other voter in the election. The officials shall note in the "remarks" column of the election register that the person has attested for an election day registrant.

21.7(3) Precinct election officials shall permit any person who is in line to vote at the time the polls close to register and vote on election day if the person otherwise meets all of the election day registration requirements.

This rule is intended to implement 2007 Iowa Acts, House File 653.

721—21.8(48A) Notice to election day registrant. The commissioner shall send to each person who registers to vote on election day, pursuant to 2007 Iowa Acts, House File 653, section 2, an acknowledgment of the registration by nonforwardable mail. If the postal service returns the acknowledgment as undeliverable, the commissioner shall send a notice to the voter by forwardable mail. The notice shall be in substantially the following form:

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- There appears to be an error in recording my address. My correct address is: _____
- I receive mail at a different address. My mailing address is: _____
- My address has changed since election day. My current address is: _____
- The Postal Service made a mistake. I do reside at [list registration address]: _____
- Other, please explain: _____

Signature of registrant _____

Date: _____

This rule is intended to implement 2007 Iowa Acts, House File 653.

ITEM 9. Amend subrule **21.300(11)**, numbered paragraph **“3,”** as follows:

3. Check registration. Check to see whether the applicant is a registered voter at the applicant’s current address. People who live in (county name) County but who are not currently registered to vote in the county may register to vote at the satellite absentee voting station until (the date registration closes for the election). Changes of name, address, telephone number or party affiliation may be submitted at any time.

After (date registration closes), anyone who requests an absentee ballot and who is not a registered voter in the county may register to vote if the person provides proof of identity and residence in the precinct in which the voter intends to vote. The voter must also complete an oath of person registering on election day. Otherwise, the person may cast only a special provisional ballot. Use the special provisional ballot envelopes.

Proof of identity must be a photo ID card that is current and valid and includes an expiration date. An ID is still current on the date it expires. An Iowa nonoperator’s ID card that shows “none” as an expiration date is considered current and valid. The following forms of identification are acceptable: an Iowa driver’s license or nonoperator’s ID, an out-of-state driver’s license or nonoperator’s ID, a United States passport, a United States military identification card, an identification card issued by an employer, or a student identification card issued by an Iowa high school or an Iowa postsecondary educational institution. If the photo ID does not show the person’s address in the appropriate precinct, the person must show proof of residence.

Proof of residence may be any of the following documents provided that the document shows the person’s name and address in the precinct: residential lease, property tax statement, utility bill, bank statement, paycheck, government check, or other government document.

A voter who does not have appropriate identification documents may have another registered voter from the same precinct attest to the person’s identity and residence. An attester must be a registered voter whose identity and residence have not been established by the attestation of another registered

voter and must live in the same precinct as the applicant. The attester shall not attest to the identity of more than one person. The commissioner shall keep a list of all persons who have attested for in-person absentee registrants and shall send the list to the polling place on election day with the list of absentee voters required by Iowa Code section 49.72.

ITEM 10. Amend 721—Chapter 21 by adding the following **new** rule:

721—21.302(48A) In-person absentee registration. After the close of voter registration for an election, a person who appears in person to apply for and vote an absentee ballot may register to vote if the person provides proof of identity and residence in the precinct in which the voter intends to vote. The voter must also complete an oath of person registering on election day. Otherwise, the person may cast only a provisional ballot. Provisional ballot envelopes shall be used.

21.302(1) Proof of identity must be a photo ID card that is current and valid and includes an expiration date. An ID is still current on the date it expires. An Iowa nonoperator’s ID card that shows “none” as an expiration date is considered current and valid. The following forms of identification are acceptable: an Iowa driver’s license or nonoperator’s ID, an out-of-state driver’s license or nonoperator’s ID, a United States passport, a United States military identification card, an identification card issued by an employer, or a student identification card issued by an Iowa high school or an Iowa postsecondary educational institution. If the photo ID does not show the person’s address in the appropriate precinct, the person must show proof of residence.

21.302(2) Proof of residence may be any of the following documents provided that the document shows the person’s name and address in the precinct: residential lease, property tax statement, utility bill, bank statement, paycheck, government check, or other government document.

21.302(3) A voter who does not have appropriate identification documents may have another registered voter from the same precinct attest to the person’s identity and residence. An attester must be a registered voter and must live in the same precinct as the applicant. A person may not attest to the identity and residence of another voter for an election if the

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person registered to vote under the provisions of 2007 Iowa Acts, House File 653, section 2, for the same election and the person's identity and residence were established by the attestation of another registered voter. The attester shall not attest to the identity of more than one person. The commissioner shall keep a list of all persons who have attested for in-person absentee registrants and send the list to the polling place on election day with the list of absentee voters required by Iowa Code section 49.72.

This rule is intended to implement 2007 Iowa Acts, House File 653.

[Filed Emergency After Notice 12/18/07, effective 1/1/08]
[Published 1/16/08]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 1/16/08.

ARC 6534B**HUMAN SERVICES
DEPARTMENT[441]****Adopted and Filed**

Pursuant to the authority of Iowa Code section 426B.4 and 2007 Iowa Acts, chapter 218, section 89, the Department of Human Services amends Chapter 25, "Disability Services Management," Iowa Administrative Code.

The amendments:

- Rescind Division I of Chapter 25, "Determination of State Payment Amount." The net expenditure report required under Division I has been replaced by the 634 reports that county auditors send to the Department of Management.
- Conform the rules in Division V of Chapter 25, "Risk Pool Funding," to statutory changes made in 2007 Iowa Acts, chapter 218.

The risk pool is one of three pools created in the property tax relief fund. The purpose of risk pool assistance is to enable counties that are having financial problems to avoid denying or withholding mental health, mental retardation, and developmental disabilities services from consumers who need them. For the past several years, no funds have been available for risk pool assistance. For state fiscal year 2008, the appropriation is \$560,000.

Counties must submit their applications for assistance to the Department by January 25 every year. By February 25, the Risk Pool Board will determine county eligibility for assistance and will award the available funding to eligible counties. If the requests from eligible counties exceed the funds available, funds will be awarded in proportion to each county's financial need as a percentage of the total requests. The amendments require the Risk Pool Board to report the unmet needs to the Department, the General Assembly, and the Mental Health, Mental Retardation, Developmental Disabilities, and Brain Injury Commission.

2007 Iowa Acts, chapter 218, has changed the eligibility criteria for assistance. To be eligible, a county must:

- Comply with Iowa Code requirements for county management plans for services.
- Have levied the maximum amount allowed under Iowa law for the county mental health, mental retardation, and developmental disabilities services fund for the current fiscal year.
- Have a services fund ending balance for the preceding fiscal year equal to or less than 20 percent of the county's actual gross expenditures for that fiscal year.
- Demonstrate a need for funding to continue support for mandated services or to avoid the reduction or elimination of services needed for specified reasons.

These amendments remove the previous criteria for assistance, which included unanticipated net expenditures and calculations using the net expenditure amount, a 105-percent test, a less-than-10-percent fund balance test, and a 101-percent test for the current fiscal year's budget. Provisions for a refund if the county levy was not at the maximum are removed, since a county in this situation will no longer be eligible for assistance. The category of "individual application" is removed, and a "preapproval" application is added. When a county applies for assistance more than 45 days before the funding decisions are made, the Department will issue a separate decision on whether the county meets the eligibility requirements for funding.

Notice of Intended Action on these amendments was published in the Iowa Administrative Bulletin on October 24, 2007, as **ARC 6332B**. The amendments to Division V were also Adopted and Filed Emergency and were published in the Iowa Administrative Bulletin on the same date as **ARC 6331B**. 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.

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). However, the Department does not have the authority to waive statutory requirements.

The Mental Health, Mental Retardation, Developmental Disabilities, and Brain Injury Commission adopted these amendments on December 13, 2007.

These amendments are intended to implement Iowa Code sections 331.439 and 426B.5(2) as amended by 2007 Iowa Acts, chapter 218 [House File 909].

These amendments shall become effective February 20, 2008, at which time the Adopted and Filed Emergency amendments are rescinded.

EDITOR'S NOTE: Pursuant to recommendation of the Administrative Rules Review Committee published in the Iowa Administrative Bulletin, September 10, 1986, the text of these amendments [Ch 25 Div. I, 25.61, 25.62, 25.63(1), 25.63(2), 25.64, 25.65(1)] is being omitted. These amendments are identical to those published under Notice as **ARC 6332B** and Adopted and Filed Emergency as **ARC 6331B**, IAB 10/24/07.

[Filed 12/14/07, effective 2/20/08]
[Published 1/16/08]

[For replacement pages for IAC, see IAC Supplement 1/16/08.]

ARC 6533B**HUMAN SERVICES
DEPARTMENT[441]****Adopted and Filed**

Pursuant to the authority of Iowa Code sections 225C.6(1)"b" and 331.438(4)"b"(9), the Department of Human Services amends Chapter 25, "Disability Services Management," Iowa Administrative Code.

Legislation in 2007 Iowa Acts, chapter 218, sections 87 and 88, clarifies data reporting responsibilities of county central point of coordination (CPC) administrators related to county expenditures for qualified mental health, mental retardation, and developmental disabilities services. Reporting is required as a condition of state payment. These amendments update the minimum disability services data set that county CPCs must submit annually to the Department. Under the amendments, the Department will receive from all Iowa counties the same types of data on services funded with mental health and developmental disabilities funds.

The amendments list the expenditure data and provider data needed and establish the format for data submission that must be used by counties. The amendments reflect changes that have been made to the Department's data warehouse.

HUMAN SERVICES DEPARTMENT[441](cont'd)

Unnecessary items have been eliminated, and data is grouped according to the requested report formats.

These amendments do not provide for waivers in specified situations, except that counties shall not be penalized for not reporting data that they did not collect before the effective date of these amendments. 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 previously Adopted and Filed Emergency and published in the Iowa Administrative Bulletin on July 18, 2007, as **ARC 6042B**. Notice of Intended Action to solicit comments on these amendments was published in the Iowa Administrative Bulletin on the same date as **ARC 6043B**. The Department received 19 comments on the Notice of Intended Action.

Several comments related to deficiencies in the county management information system (CoMIS) and requested that no changes be made in the minimum data set until a new system is designed. The Department supports the development of a new database and has staff participating in that development. However, it is extremely important that the data is collected now so that the Department can supply information that the Commission and the General Assembly have asked for concerning funding requests and changes to the MH/MR/DD/BI system. To date, the Department has not been able to supply comprehensive information because it has not received complete data in a consistent manner from counties.

Specific concerns related to the inclusion of provider data, diagnosis data, and service authorizations. Provider information has always been requested in CoMIS, but without a provider number it has been difficult to aggregate, because different counties have used different names for the same provider. The system allows the option of recording the DSM-IV diagnosis code as "unknown." The ICD-9 diagnosis code is optional. Service authorization data is not required for emergency services. The rules do not require entering all of this data into CoMIS. Data may be submitted in an Excel format or in comma-delimited text file (CSV) format. References to CSV files have been added to subrule 25.41(3).

In response to concerns about when a county would be penalized for missing data, the Department has added the following to subrule 25.41(2):

- Descriptions of situations of crisis and outreach efforts to identify or engage people in needed mental health services in paragraph "e";
- New paragraphs "f" and "g," which list data elements that must be reported in 100 percent or 90 percent of the records, respectively, to avoid penalties and which specify that penalties will not be applied until the reports of data for state fiscal year 2008 are submitted; and
- New paragraph "h," which explains the Department's process when the data a county has submitted does not meet specifications.

In response to concerns that data is being collected that is not being used, the Department has:

- Added new paragraph "i" to subrule 25.41(2) stating that aggregate reports received annually by December 1 will be posted on the Department's Web site within 90 days.
- Added new subparagraph (3) to paragraph 25.41(3)"a" stating that service authorization data will be removed from the minimum data set on June 30, 2011, if data from that file has not been used.

- Removed the data element "Other Paid (OTHPD)" from the requirements for the file named "WarehousePayment.xls" set forth in paragraph 25.41(3)"d."

The Mental Health, Mental Retardation, Developmental Disabilities, and Brain Injury Commission adopted these amendments on December 13, 2007.

These amendments are intended to implement Iowa Code section 225C.6A as amended by 2007 Iowa Acts, chapter 218, section 87; Iowa Code section 331.438; and Iowa Code section 331.439 as amended by 2007 Iowa Acts, chapter 218, section 88.

These amendments shall become effective February 20, 2008, at which time the Adopted and Filed Emergency amendments are rescinded.

The following amendments are adopted.

ITEM 1. Amend subrule **25.41(2)** as follows:

Amend paragraphs "d" and "e" as follows:

d. Service information including the decision on services, date of decision, date client terminated from CPC services and reason for termination, residence, approved service, service beginning dates, service ending dates, reason for terminating each service, approved units of services, and unit rate for service, *expenditure data, and provider data.*

e. Counties shall not be penalized in any fashion for failing to collect data elements in situations of crisis or in outreach efforts to identify or engage people in needed mental health services. *For the purposes of this rule:*

(1) *Situations of crisis include but are not limited to voluntary and involuntary hospitalizations, legal and transportation services associated with involuntary hospitalizations, emergency outpatient services, mobile crisis team services, jail diversion services, mental health services provided in a county jail, and other services for which the county is required to pay but does not have access to the client to collect the required information.*

(2) *Outreach efforts to identify or engage people in needed mental health services include but are not limited to mental health advocate services; services for homeless persons, refugees, or other legal immigrants; services for state cases who do not have documentation with them and are unable to help the county locate appropriate records; consultation; education to raise public awareness; 12-step or other support groups for persons with dual disorders; and drop-in centers.*

Adopt **new** paragraphs "f," "g," "h," and "i" as follows:

f. Although all of the data in the minimum data set are important to provide support for program analysis, a county shall be penalized for noncompliance with this rule if the county does not provide 100 percent reporting of the data elements listed in this paragraph. Beginning with the data reported for state fiscal year 2008, less than 100 percent reporting for the following items shall be viewed as noncompliance unless the data are exempted by paragraph "e":

(1) Client identifiers:

1. Lname3 (the first three letters of the client's last name).
 2. Last4SSN (the last four digits of the client's social security number).
 3. SEX (the client's sex).
 4. BDATE (the client's birth date).
- (2) CPC (central point of coordination).
- (3) Payment information:

HUMAN SERVICES DEPARTMENT[441](cont'd)

1. PYMTDATE (CoMIS payment date).
2. FUND CODE (CoMIS fund code).
3. DG (CoMIS diagnosis).
4. COACODE (CoMIS chart of accounts code).
5. BEGDATE (CoMIS service beginning date).
6. ENDDATE (CoMIS service ending date).
7. UNITS (CoMIS units of service).
8. COPD (CoMIS county paid).
- (4) ValidSSN (valid social security number indicator).
- (5) IsPerson (IsPerson indicator).

g. Although all of the data in the minimum data set are important to provide support for program analysis, a county shall be penalized for noncompliance with this rule if the county does not provide 90 percent reporting of the data elements listed in this paragraph beginning with the data reported for fiscal year 2008. Less than 90 percent reporting for the following items shall be viewed as noncompliance unless the data are exempted by paragraph "e":

- (1) Application Date (application date).
- (2) RESCO (residence county).
- (3) LEGCO (legal county).
- (4) Provider ID (vendor number).

h. The department shall analyze the data received on or before December 1 each year by December 15 or by the next business day if December 15 falls on a weekend or holiday.

(1) When a county's data submission does not meet the specifications in paragraph "f" or "g," the department will notify the county by E-mail.

(2) The county shall have 30 days from the date of the E-mail notice to submit the missing data or to provide an explanation of why the data cannot be reported.

(3) If the county does not report the data or provide an adequate explanation within 30 days, the department shall find the county in noncompliance.

i. The department shall post the aggregate reports received by December 1 on its Web site within 90 days.

ITEM 2. Rescind subrule 25.41(3) and adopt the following **new** subrule in lieu thereof:

25.41(3) Method of data collection. A county may choose to collect this information using the county management information system (CoMIS) program that was designed by the department or may collect the information through some other means. If a county chooses to use another system, the county must be capable of supplying the information in the same format as CoMIS.

a. Except as provided in subparagraph (3), each county shall submit the following files in Microsoft Excel format (version 97 to 2000) or comma-delimited text file (CSV) format using data from the associated CoMIS table or from the county's chosen management information system:

<u>Files to submit</u>	<u>Associated CoMIS Table</u>
WarehouseClient.xls or WarehouseClient.csv	Client Data
WarehouseIncome.xls or WarehouseIncome.csv	Income Review
WarehousePayment.xls or WarehousePayment.csv	Payment
WarehouseProvider.xls or WarehouseProvider.csv	Provider
WarehouseProviderServices.xls or WarehouseProviderServices.csv	tblProviderServices
WarehouseService.xls or WarehouseService.csv	Service Authorizations

(1) Paragraphs "b" through "g" list the data required in each file and specify the structure or description for each data item to be reported.

(2) The field names used in the report files must be exactly the same as indicated in the corresponding paragraph, including spaces, and must be entered in the first row for each sheet.

(3) The file labeled WarehouseService.xls or Warehouse Service.csv or service authorization (described in paragraph "g" of this subrule) shall be removed from this requirement on June 30, 2011, if data from this file have not been used by that date.

b. File name: WarehouseClient.xls or WarehouseClient.csv. Sheet name: Warehouse_Client_Transfer_Query.

Field Name	Data Type	Field Size	Format	Description
CPC	Number	3	0 decimal places	Central point of coordination number: county number preceded by a 1
RESCO	Number	3	0 decimal places	Residence county of client: 1-99 = County number 100 = State of Iowa 900 = Undetermined or in dispute
LEGCO	Number	3	0 decimal places	Legal county of client: 1-99 = County number 100 = State of Iowa 900 = Undetermined or in dispute
Lname3	Text	3		The first 3 characters of the last name
Last4SSN	Text	4		The last 4 digits of the client's social security number. If that number is unknown, then use the last 4 digits of the CLIENT ID# field and mark column "ValidSSN" with the value "No."
BDATE	Date	10	mm/dd/yyyy	Date of client's birth
SEX	Text	1		Sex of client: M = Male F = Female
Last Update	Date	10	mm/dd/yyyy	Date of last update to client record

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Field Name	Data Type	Field Size	Format	Description
SID	Text	8	9999999a	State identification number of client, if applicable (format of a valid number is 7 digits plus 1 alphabetical character).
ADD1	Text	50		First address line
ADD2	Text	50		Second address line (if applicable)
CITY	Text	50		City address line
STATE	Text	2		State code
ZIP	Number	5	0 decimal places	5-digit ZIP code
ETHN	Number	1	0 decimal places	Ethnicity of client: 0 = Unknown 1 = White, not Hispanic 2 = African-American, not Hispanic 3 = American Indian or Alaskan native 4 = Asian or Pacific Islander 5 = Hispanic 6 = Other (biracial; Sudanese; etc.)
MARITAL	Number	1	0 decimal places	Marital status of client: 1 = Single, never married 2 = Married (includes common-law marriage) 3 = Divorced 4 = Separated 5 = Widowed
EDUC	Number	2	0 decimal places	Education level of the client
RARG	Number	2	0 decimal places	Residential arrangement of client: 1 = Private residence/household 2 = State MHI 3 = State resource center 4 = Community supervised living 5 = Foster care or family life home 6 = Residential care facility 7 = RCF/MR 8 = RCF/PMI 9 = Intermediate care facility 10 = ICF/MR 11 = ICF/PMI 12 = Correctional facility 13 = Homeless shelter or street 14 = Other
LARG	Number	1	0 decimal places	Living arrangement of client: 1 = Lives alone 2 = Lives with relatives 3 = Lives with persons unrelated to client
INS	Number	1	0 decimal places	Health insurance owned by client: 1 = Client pays 3 = Medicaid 4 = Medicare 5 = Private third party 6 = Not insured 7 = Medically Needy
INSCAR	Text	50		First insurance company name, if applicable
INSCAR1	Text	50		Second insurance company name, if applicable
INSCAR2	Text	50		Third insurance company name, if applicable
VET	Text	1		Veteran status of client: Y = Yes N = No
CONSERVATOR	Number	1	0 decimal places	Conservator status of client: 1 = Self 2 = Other
GUARDIAN	Number	1	0 decimal places	Guardian status of client: 1 = Self 2 = Other

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Field Name	Data Type	Field Size	Format	Description
LEGSTAT	Number	1	0 decimal places	Legal status of client: 1 = Voluntary 2 = Involuntary, civil commitment 3 = Involuntary, criminal commitment
REFSO	Number	1	0 decimal places	Referral source of client: 1 = Self 2 = Family or friend 3 = Targeted case management 4 = Other case management 5 = Community corrections 6 = Social service agency other than case management 7 = Other
DSMIV	Text	50		DSM IV diagnosis code of client
ICD9	Text	50		ICD-9 diagnosis code (optional for county use; not tied to CoMIS entry)
DG	Number	2	0 decimal places	Disability group of client: 40 = Mental illness 41 = Chronic mental illness 42 = Mental retardation 43 = Other developmental disability 44 = Other categories
Application Date	Date	10	mm/dd/yyyy	Date of client's initial application
Outcome decision	Number	1	0 decimal places	Decision on client's application: 1 = Application accepted 2 = Application denied 3 = Decision pending
Decision date	Date	10	mm/dd/yyyy	Date decision was made on client's application
Denial reason	Text	2		Denial reason code: 00 = Not applicable 01 = Over income guidelines 1A = Over resource guidelines 02 = Does not meet county plan criteria 2A = Legal settlement in another county 2B = State case 3A = Brain injury 3B = Alzheimer's 3C = Substance abuse 3D = Other 04 = Does not meet service plan criteria 05 = Client desires to discontinue process 5A = Client fails to return requested information
Client exit date from CPC	Date	10	mm/dd/yyyy	Date client was terminated from CPC services
Exit reason	Number	1	0 decimal places	Reason client left the CPC system: 0 = Unknown 1 = Client voluntarily withdrew 2 = Client deceased 3 = Unable to locate consumer 4 = Ineligible due to reasons other than income 5 = Ineligible, over income guidelines 6 = Client moved out of state 7 = Client no longer needs service 8 = Client has legal settlement in another county
Review Date	Date	10	mm/dd/yyyy	Date of last application review
PhoneNumber	Text	50		Phone number of client
ValidSSN	Text	3	Generated for CoMIS users in the data extract only	Populate this field with YES if the client has a valid social security number. If the client does not have a valid social security number, populate this field with NO.
IsPerson	Text	3	Generated for CoMIS users in the data extract only	Populate this field with YES if the client is a person. If the client entry represents a nonperson such as administrative costs, populate this field with NO.

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c. File name: WarehouseIncome.xls or WarehouseIncome.csv. Sheet name: Warehouse_Income_Transfer_Query.

Field Name	Data Type	Field Size	Format	Description
CPC	Number	3	0 decimal places	Central point of coordination number: county number preceded by a 1
RESCO	Number	3	0 decimal places	Residence county of client: 1-99 = County number 100 = State of Iowa 900 = Undetermined or in dispute
LEGCO	Number	3	0 decimal places	Legal county of client: 1-99 = County number 100 = State of Iowa 900 = Undetermined or in dispute
Lname3	Text	3		The first 3 characters of the last name
Last4SSN	Text	4		The last 4 digits of the client's social security number. If that number is unknown, then use the last 4 digits of the CLIENT ID# field and mark column "ValidSSN" with the value "No."
BDATE	Date	10	mm/dd/yyyy	Date of client's birth
SEX	Text	1		Sex of client: M = Male F = Female
EMPL	Number	2	0 decimal places	Employment situation of client: 1 = Unemployed, available for work 2 = Unemployed, unavailable for work 3 = Employed full-time 4 = Employed part-time 5 = Retired 6 = Student 7 = Work activity employment 8 = Sheltered work employment 9 = Supported employment 10 = Vocational rehabilitation 11 = Seasonally employed 12 = In the armed forces 13 = Homemaker 14 = Other or not applicable 15 = Volunteer
House Hold Size	Number	2	0 decimal places	Number of people in client's household
INCSOUR	Number	2	0 decimal places	Primary income source of client: 1 = Family and friends 2 = Private relief agency 3 = Social security disability benefits 4 = Supplemental Security Income 5 = Social security benefits 6 = Pension 7 = Food assistance 8 = Veterans benefits 9 = Workers compensation 10 = General assistance 11 = Family investment program (FIP) 12 = Wages
Public Assistance Payments	Currency	14	2 decimal places	Monthly dollar amount for this income source (where applicable)
Social Security	Currency	14	2 decimal places	Monthly dollar amount for this income source (where applicable)
Social Security Disability	Currency	14	2 decimal places	Monthly dollar amount for this income source (where applicable)
SSI	Currency	14	2 decimal places	Monthly dollar amount for this income source (where applicable)
VA Benefits	Currency	14	2 decimal places	Monthly dollar amount for this income source (where applicable)
R/R Pension	Currency	14	2 decimal places	Monthly dollar amount for this income source (where applicable)
Child Support	Currency	14	2 decimal places	Monthly dollar amount for this income source (where applicable)

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Field Name	Data Type	Field Size	Format	Description
Employment Wages	Currency	14	2 decimal places	Monthly dollar amount for this income source (where applicable)
Dividend Interest	Currency	14	2 decimal places	Monthly dollar amount for this income source (where applicable)
Other Income	Currency	14	2 decimal places	Monthly dollar amount for this income source (where applicable)
Description 1	Text	50		Description of "Other Income"
Cash on hand	Currency	14	2 decimal places	Dollar amount for this resource type (where applicable)
Checking	Currency	14	2 decimal places	Dollar amount for this resource type (where applicable)
Savings	Currency	14	2 decimal places	Dollar amount for this resource type (where applicable)
Stocks/Bonds	Currency	14	2 decimal places	Dollar amount for this resource type (where applicable)
Time Certificates	Currency	14	2 decimal places	Dollar amount for this resource type (where applicable)
Trust Funds	Currency	14	2 decimal places	Dollar amount for this resource type (where applicable)
Other Resources	Currency	14	2 decimal places	Dollar amount for this resource type (where applicable)
Description 2	Text	50		Description of "Other Resources" (where applicable)
Other Resources 2	Currency	14	2 decimal places	Dollar amount for this resource type (where applicable)
Description 3	Text	50		Description of "Other Resources 2"
Date reviewed	Date	10	mm/dd/yyyy	Date income was last reviewed (where applicable)

d. File name: WarehousePayment.xls or WarehousePayment.csv. Sheet name: Warehouse_Payment_Transfer_Quer.

Field Name	Data Type	Field Size	Format	Description
CPC	Number	3	0 decimal places	Central point of coordination number: county number preceded by a 1
RESCO	Number	3	0 decimal places	Residence county of client: 1-99 = County number 100 = State of Iowa 900 = Undetermined or in dispute
LEGCO	Number	3	0 decimal places	Legal county of client: 1-99 = County number 100 = State of Iowa 900 = Undetermined or in dispute
Lname3	Text	3		The first 3 characters of the last name
Last4SSN	Text	4		The last 4 digits of the client's social security number. If that number is unknown, use the last 4 digits of the CLIENT ID# field and mark column "ValidSSN" with the value "No."
BDATE	Date	10	mm/dd/yyyy	Date of client's birth
SEX	Text	1		Sex of client: M = Male F = Female
PYMTDATE	Date	10	mm/dd/yyyy	Date county approves or makes payment
VENNAME	Text	50		Vendor or provider paid
COCODE	Number	3	0 decimal places	County where service was provided
FUND CODE	Text	10		Fund code for payment
DG	Number	2	0 decimal places	Disability group code for payment: 40 = Mental illness 41 = Chronic mental illness 42 = Mental retardation 43 = Other developmental disability 44 = Other categories
COACODE	Number	5	0 decimal places	Chart of accounts code for payment
BEGDATE	Date	10	mm/dd/yyyy	Beginning date of payment period
ENDDATE	Date	10	mm/dd/yyyy	Ending date of payment period
UNITS	Number	4	0 decimal places	Number of service units for payment
COPD	Currency	14	2 decimal places	Amount paid by the county
RECEIVED	Currency	14	2 decimal places	Amount received for reimbursement (if applicable)

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e. File name: WarehouseProvider.xls or WarehouseProvider.csv. Sheet name: Warehouse_Provider_Transfer_Que. (If the provider has more than one office location, enter information for the headquarters office.)

Field Name	Data Type	Field Size	Format	Description
Provider ID	Text	50		Provider identifier (tax ID code)
Provider Name	Text	50		Provider name
Provider Address1	Text	50		Provider address line 1
Provider Address2	Text	50		Provider address line 2 (if applicable)
City	Text	50		Provider city
State	Text	2		Provider state code
Zip	Text	10		Provider ZIP code
COCODE	Number	3	0 decimal places	Provider county code
PhoneNumber	Text	50		Provider phone number
Date of Last Update	Date	10	mm/dd/yyyy	Provider last updated date

f. File name: WarehouseProviderServices.xls or WarehouseProviderServices.csv. Sheet name: Warehouse_Provider_Services_Tra.

Field Name	Data Type	Field Size	Format	Description
Provider ID	Text	50		Provider identifier (tax ID code)
Provider Name	Text	50		Provider name
FUND CODE	Text	10		Fund code for payment
DG	Number	2	0 decimal places	Disability group code for payment: 40 = Mental illness 41 = Chronic mental illness 42 = Mental retardation 43 = Other developmental disability 44 = Other categories
COACODE	Number	5	0 decimal places	Chart of accounts code for service
RATE	Currency	14	2 decimal places	Payment rate

g. File name: WarehouseService.xls or WarehouseService.csv. Sheet name: Warehouse_Service_Transfer_Quer.

Field Name	Data Type	Field Size	Format	Description
CPC	Number	3	0 decimal places	Central point of coordination number: county number preceded by a 1
RESCO	Number	3	0 decimal places	Residence county of client: 1-99 = County number 100 = State of Iowa 900 = Undetermined or in dispute
LEGCO	Number	3	0 decimal places	Legal county of client: 1-99 = County number 100 = State of Iowa 200 = Iowa nonresident 900 = Undetermined or in dispute
Lname3	Text	3		The first 3 characters of the last name
Last4SSN	Text	4		The last 4 digits of the client's social security number. If that number is unknown, then use the last 4 digits of the CLIENT ID# field and mark column "ValidSSN" with the value "No."
BDATE	Date	10	mm/dd/yyyy	Date of client's birth
SEX	Text	1		Sex of client: M = Male F = Female
FUND CODE	Text	10		Fund code for service
DG	Number	2	0 decimal places	Disability group code for payment: 40 = Mental illness 41 = Chronic mental illness 42 = Mental retardation 43 = Other developmental disability 44 = Other category
COACODE	Number	5	0 decimal places	Chart of accounts code for service
Begin Date	Date	10	mm/dd/yyyy	Beginning date of service period

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Field Name	Data Type	Field Size	Format	Description
End Date	Date	10	mm/dd/yyyy	Ending date of service period
Ending Reason	Number	1	0 decimal places	Reason for terminating approval of service: 0 = NA 1 = Voluntary withdrawal 2 = Client no longer needs service 3 = Ineligible, over income guidelines 4 = Ineligible due to other than income 5 = Client moved out of state 6 = Client deceased 7 = Reauthorization
Units	Number	4	0 decimal places	Average number of service units approved monthly
Rate	Currency	14	2 decimal places	Dollar amount per service unit
Review Date	Date	10	mm/dd/yyyy	Date for next service review

[Filed 12/14/07, effective 2/20/08]
[Published 1/16/08]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 1/16/08.

ARC 6541B

NATURAL RESOURCE COMMISSION[571]

Adopted and Filed

Pursuant to the authority of Iowa Code subsection 455A.5(6), the Natural Resource Commission hereby adopts amendments to Chapter 33, "Resource Enhancement and Protection Program: County, City and Private Open Spaces Grant Programs," Iowa Administrative Code.

These amendments clarify the selection criteria that committees shall use to evaluate grant applications under this program.

Notice of Intended Action was published in the Iowa Administrative Bulletin on August 29, 2007, as **ARC 6200B**. A public hearing was held on September 28, 2007, during which a few suggestions were made to improve the amendments. Modifications to the Notice of Intended Action include changing the phrase "state or federally listed threatened and endangered species" to the more contemporary and inclusive reference of "species of greatest conservation need" in four places in the amendments, as used in Iowa's 2006 Iowa Wildlife Action Plan. Under Items 1 and 2, wording was inserted in reference to construction/development that describes and encourages grant applicants to follow ecological principles when making site improvements.

Additionally, Item 1 of the Notice had included a misplaced reference pertaining to private cost-share grant applications that has been deleted from subrule 33.30(4). The Notice also had allocated "points" to the scoring criteria, making it difficult for selection committees to score the criteria as they had in the past. The Notice was changed to allow the committees to score each criterion from 1 to 10, low to high, and to then assign varying weighted multipliers to each, yielding a final score.

These amendments are intended to implement Iowa Code chapter 455A.

These amendments will become effective February 20, 2008.

The following amendments are adopted.

ITEM 1. Amend subrule 33.30(4) as follows:

33.30(4) Project selection criteria. Under the competitive grants program, a project planning and review committee shall establish criteria and scoring systems to be utilized in project evaluation. Criteria and scoring systems must be distributed to all counties at least 90 days prior to project application deadline. Criteria will be reviewed at least annually to determine if amendments are needed. ~~Criteria and weight factor(s) shall include, but are not limited to, the following:~~ *The committee shall evaluate and rank the resource enhancement and protection (REAP) county conservation grant applications, scoring each criterion from 1 to 10, low to high, and using the following multipliers for each criterion:*

- ~~a. Public demand or need. (2)~~
- ~~b. Project uniqueness. (2)~~
- ~~c. Quality of site or project, or both. (3)~~
- ~~d. Urgency of proposed action. (2)~~
- ~~e. Multiple benefits to be provided. (2)~~
(This includes multiple recreational benefits, environmental quality benefits, and other similar benefits.)
- ~~f. Relationship to the Iowa statewide comprehensive outdoor recreation plan, Iowa open spaces protection plan and other current and relevant state, regional and local plans. (4)~~
- ~~g. Quality of public communications plan. (1)~~
- ~~h. Economic benefits to local, regional or state area. (1)~~
- ~~i. Geographic distribution. (1)~~
 - a. The committee shall use a multiplier of four for a demonstrated relationship to the state comprehensive outdoor recreation plan, the Iowa open spaces protection plan, the county resource enhancement plan, and other relevant local, state and federal plans.*
 - b. The committee shall use a multiplier of three for the quality of the site or the project, or both.*
 - (1) Quality of site. For land acquisition projects, the committee shall consider the following characteristics:*
 - 1. Level of significance. Relative rarity of the natural resources found on the project site, including but not limited to native vegetation, documented presence of species of greatest conservation need as defined by the Iowa Wildlife Action Plan developed by the department, which may be amended from time to time, or other uncommonly occurring but native resources.*
 - 2. Resource representation. Quality of the project site, including but not limited to the size and diversity of the project area and the vegetation and wildlife it supports.*
 - 3. Relation to public land. Proximity to existing wildlife management areas, existing parks and other public recreation areas, or other greenbelt areas already under public ownership and management.*

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(2) *Quality of project.* For construction projects, the committee shall consider plans that demonstrate the highest and best site-specific quality of design, including projects that use materials which incorporate energy savings and adhere to sustainable building principles, including waste minimizations and material reuse; plans for improvements that enhance the restoration or expansion of Iowa's natural resources or that use development principles which benefit the natural ecology of the proposed area; plans that include innovations or construction methods in the design and development of the project; and projects whose actual design and construction will exceed commonly accepted design and construction standards.

c. The committee shall use a multiplier of two for each of the following:

(1) *Multiple benefits.* The project provides the greatest number of public benefits/services to meet the public's diverse outdoor recreation interests.

(2) *Public need.* Demonstrated need for the project; increased public use of the project area as a result of the award, as documented through surveys and other testing methods; letters of support; and planning processes that consider social, demographic, ecological and economic considerations.

(3) *Urgency of project.* Specific factors or immediate threats to the project area that constitute urgency for acquisition or development, including but not limited to urban expansion, residential development, agricultural activities or clearing.

(4) *Unique project characteristics.* Documented relative rarity or uniqueness of the natural, cultural and historical resources found on the project site, including but not limited to the presence of rare or unique plant and animal species; rare, unique or protected ecosystems; and historical markers and other historically or culturally significant finds.

d. The committee shall use a multiplier of one for each of the following:

(1) *Communication plan.* Project sponsor's effort to inform and advise constituents and users about the importance of the proposed project and the plans to promote the proposed project to expected user groups.

(2) *Economic benefit.* Estimate of positive impact on local tourism, existing businesses, encouragement of new businesses, and values to nearby property owners.

ITEM 2. Amend subrule 33.40(5) as follows:

33.40(5) Criteria for project evaluation *Project selection criteria.* Criteria and weight factors to be used in scoring projects shall include, but are not limited to, the following: The committee shall evaluate and rank the resource enhancement and protection (REAP) city grant applications, scoring each criterion from 1 to 10, low to high, and using the following multipliers for each criterion:

a. ~~Quality of site or project, or both. (3)~~

b. ~~Direct recreational benefits. (2)~~

c. ~~Local need. (2)~~

d. ~~Number of people benefited. (2)~~

e. ~~Relationship to Iowa state comprehensive outdoor recreation plan, Iowa open spaces protection plan and other current and relevant state, regional and local plans. (4)~~

f. ~~Environmental benefits. (2)~~

g. ~~Quality of public communications plan. (1)~~

Up to 2 bonus and 3 penalty points may also be assigned based on prior grants, the size and number of grants already underway or approved within the applicant's community, or performance on past projects.

a. The committee shall use a multiplier of four for the relationship to relevant regional and statewide programs

based on the demonstrated relationship to the state comprehensive outdoor recreation plan, the Iowa open spaces protection plan, the county resource enhancement plan, and other relevant local, state and federal plans.

b. The committee shall use a multiplier of three for the quality of the site or the project, or both:

(1) *Quality of site for land acquisition projects.* The committee shall consider the following characteristics:

1. *Level of significance.* Relative rarity of the natural resources found on the project site, including but not limited to native vegetation, the documented presence of species of greatest conservation need as defined by the Iowa Wildlife Action Plan developed by the department, which may be amended from time to time, or other uncommonly occurring but native resources.

2. *Resource representation.* The quality of the project site, including but not limited to the size and diversity of the project area and the vegetation and wildlife it supports.

3. *Level of threat.* Specific factors or immediate threats to the project area that constitute urgency for acquisition and development, including but not limited to urban expansion, residential development, agricultural activities, or clearing.

4. *Relation to public land.* Proximity to existing wildlife management areas, existing parks, other public recreation areas or other greenbelt areas already under public ownership and management.

(2) *Quality of project.* For construction projects, the committee shall consider plans that demonstrate the highest and best site-specific quality of design, including projects that use materials which incorporate energy savings and adhere to sustainable building principles, including waste minimizations and material reuse; plans for improvements that enhance the restoration or expansion of Iowa's natural resources or that use development principles which benefit the natural ecology of the proposed area; plans that include innovations or construction methods in the design and development of the project; and projects whose actual design and construction will exceed commonly accepted design and construction standards.

c. The committee shall use a multiplier of two for each of the following:

(1) *Environmental benefits.* Projects that demonstrate a benefit to the surrounding environment, including but not limited to incorporation of land improvements that may have a positive impact on the larger ecosystem, such as timber or prairie establishment or wetland or filter strip development.

(2) *Public benefit.* A realistic estimate of the number of users of the project area and consideration of secondary benefits such as impacts on local tourism, surrounding businesses and adjacent property owners.

(3) *Local support.* Demonstrated need for the project and increased public use of the project area as a result of the award, as documented through surveys and other testing methods, letters of support, and planning processes that consider social, demographic, ecological and economic considerations.

d. The committee shall use a multiplier of one for a communication plan that identifies the project sponsor's effort to inform and advise constituents and users about the importance of the proposed project and plans to promote the proposed project to expected user groups.

ITEM 3. Amend subrule 33.50(5) as follows:

33.50(5) Criteria *Project selection criteria.* The following criteria and their respective weights shall be used by the committee, along with other criteria which are determined by the committee to be relevant. The committee shall evaluate

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and rank the resource enhancement and protection (REAP) private cost-share grant applications, scoring each criterion from 1 to 10, low to high, and using the following multipliers for each criterion:

- ~~a. Level of significance. (3)~~
- ~~b. Resource representation. (3)~~
- ~~c. Level of threat. (3)~~
- ~~d. Relationship to existing public land. (3)~~
- ~~e. Relationship to state comprehensive outdoor recreation plan, Iowa open spaces protection plan and other current and relevant state, regional and local plans. (3)~~
- ~~f. Rare or unique species or communities. (2)~~
- ~~g. Public benefits. (2)~~
- ~~h. Tourism and economic development potential. (1)~~
- ~~i. Geographic distribution. (1)~~
- ~~j. Multiple use potential. (1)~~
- ~~k. Available funds relative to project costs. (1)~~
- ~~l. Quality of public communications plan. (1)~~
- a. The committee shall use a multiplier of three for each of the following:

(1) *Level of significance.* The relative rarity of the natural resources found on the project site, including but not limited to native vegetation and the documented presence of species of greatest conservation need as defined by the Iowa Wildlife Action Plan developed by the department, which may be amended from time to time, or other uncommonly occurring but native resources.

(2) *Resource representation.* The quality of the project site, including but not limited to the size and diversity of the project area and the vegetation and wildlife it supports.

(3) *Level of threat.* Specific factors and immediate threats to the project area that constitute urgency for acquisition and development, including but not limited to urban expansion, residential development, agricultural activities, or clearing.

(4) *Relation to public land.* The proximity to existing wildlife management areas, existing parks, and other public recreation or greenbelt areas already under public ownership and management.

(5) *Relationship to relevant regional and statewide programs.* A demonstrated relationship to the state comprehen-

sive outdoor recreation plan, the Iowa open spaces protection plan, or the county resource enhancement plan. The committee may evaluate other relevant local, state and federal plans at its discretion.

b. The committee shall use a multiplier of two for each of the following:

(1) *Rare or unique species communities.* The documented presence of species of greatest conservation need as defined by the Iowa Wildlife Action Plan developed by the department, which may be amended from time to time, in addition to subparagraph 33.50(5)“a”(1).

(2) *Public benefits.* A demonstrated benefit to the public, including but not limited to expanded recreational or educational opportunities and incorporation of land improvements that may have a positive impact on the ecosystem, such as bank stabilization, wetland development, or filter strips.

c. The committee shall use a multiplier of one for each of the following:

(1) *Tourism and economic development potential.* Impact on local tourism, including any enhancements to the economy in the vicinity of the project.

(2) *Geographic distribution.* Project site is located in a city or county that has not received a REAP grant.

(3) *Multiple use potential.* Project site provides more than one public use, e.g., the project provides hunting, fishing and hiking opportunities to the public.

(4) *Additional funds.* Level of funds obligated in excess of the minimum cost-share requirements.

(5) *Quality of public communication plan.* Project sponsor's effort to inform and advise constituents and users about the importance of the proposed project and plans to promote the proposed project to expected user groups.

[Filed 12/20/07, effective 2/20/08]

[Published 1/16/08]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 1/16/08.

AGENCY	RULE	DELAY
Petroleum UST Fund Board, Iowa Comprehensive[591]	11.3(11)“b” [IAB 11/21/07, ARC 6423B]	Effective date of December 26, 2007, delayed until January 11, 2008, by the Administrative Rules Review Committee at its meeting held December 11, 2007. [Pursuant to §17A.4(6)]

ENVIRONMENTAL PROTECTION COMMISSION

At its December 11, 2007*, meeting, the Administrative Rules Review Committee voted to object to the provisions of subrule 567 IAC 113.2(8), relating to the closure of existing landfills.

The vote on this motion was as follows:

Ayes---6	Nays---3	Absent/Not Voting-1
Rep. Philip Wise, Vice-chair	Sen. Michael Connolly, Chair	Rep. David Jacoby
Sen. Jeff Angelo	Rep. Marcella Frevert	
Sen. Thomas Courtney	Sen. John Kibbie	
Rep. David Heaton		
Sen. James Seymour		
Rep. Linda Upmeyer		

This subrule is part of **ARC 5999B** and published in IAB Vol. XXX, No. 1 (7-04-2007). The committee takes this action pursuant to the authority of §17A.4(5). This subrule states:

113.2(8) Closure of existing MSWLF units.

a. Existing MSWLF units that cannot make the demonstration specified in paragraph 113.6(2)“a,” pertaining to airports, in 113.6(2)“b,” pertaining to floodplains, or in 113.6(2)“f,” pertaining to unstable areas, must close in accordance with rule 113.12(455B) and conduct postclosure activities in accordance with rule 113.13(455B).

b. Except as provided in paragraph 113.2(8)“c” below, existing MSWLF units that do not have an approved leachate collection system and a composite liner or a leachate collection system and an alternative liner modeled at an approved point of compliance shall cease accepting waste by October 1, 2007.

c. Existing MSWLF units that have an approved leachate collection system and a basal liner beneath the unit that is either a composite liner or an alternative liner modeled at an approved point of compliance, but that is not continuous onto the sides of the unit, may continue to place waste after October 1, 2007, in those portions of the unit directly underlaid by the basal liner. Such units shall be brought into compliance in accordance with subrule 113.2(9) by constructing a leachate collection system and liner on the sides of the unit that meet the requirements of subrule 113.7(5) and are continuous beneath and onto the sides of the unit.

A majority of the committee membership believes this rule is unreasonable because it terminates a right held by permitted facilities under the previous rules. That right was set out in subrule 113.7(1), which has been rescinded and provided:

113.7(1) *Design and construction.* Sanitary disposal projects designed and constructed in accordance with rules in effect at the time of construction shall not be required to be redesigned or reconstructed due to subsequent rule changes unless the department finds that such facilities are causing pollution. Such facilities shall be brought into compliance with rules in effect at the time of reconstructing, enlarging, or otherwise modifying the sanitary disposal project, or at the time of permit renewal.

A majority of the committee membership believes this subrule, which dates to 1977, gives those facilities which held an operating permit under the previous rules the right to continue utilizing their existing cells, unless it can be shown that a particular cell is causing pollution. These members are concerned that subrule 113.2(8) constitutes an improper regulatory taking.

*Objection filed 12/28/07.

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