



IOWA ADMINISTRATIVE BULLETIN

Published Biweekly

VOLUME XXX
April 9, 2008

NUMBER 21
Pages 1489 to 1552

CONTENTS IN THIS ISSUE

Pages 1497 to 1551 include **ARC 6685B** to **ARC 6705B** and **ARC 6707B** to **ARC 6711B**

ALL AGENCIES

Agency identification numbers	1495
Citation of administrative rules	1494
Schedule for rule making	1491

ECONOMIC DEVELOPMENT, IOWA DEPARTMENT OF[261]

Filed, Commission organization and procedures, ch 400 ARC 6705B	1533
---	------

ENVIRONMENTAL PROTECTION COMMISSION[567]

NATURAL RESOURCES DEPARTMENT[561]"umbrella" Filed, Animal feeding operations, 65.17, 65.112 ARC 6704B	1534
--	------

HUMAN SERVICES DEPARTMENT[441]

Notice, Federal or state earned income tax credit (EITC), 41.26(1), 41.27(7), 75.56(1), 75.57(7), 170.2(1) ARC 6686B	1497
Filed Emergency, Federal or state earned income tax credit (EITC), 41.26(1), 41.27(7), 75.56(1), 75.57(7), 170.2(1) ARC 6685B	1531
Filed, SSA program—annual adjustments to eligibility and payment levels, 51.4(1), 51.7, 52.1 ARC 6687B	1534
Filed, Social services block grant (SSBG) funds, 153.1 to 153.3, 153.5 ARC 6688B	1536
Filed Emergency After Notice, PAL participants— start-up allowance, 187.11(5), 187.12 ARC 6689B	1531

INSPECTIONS AND APPEALS DEPARTMENT[481]

Notice, Notification of an occurrence; determination of class of violation, 50.7, 56.9 ARC 6710B ...	1497
Filed, Food code provisions, amend chs 30, 31, 34, 35; rescind ch 32 ARC 6708B	1536
Filed, Hospitals—procedures for authentication of standing orders by physicians, 51.14(4)"e" ARC 6691B	1543

NATURAL RESOURCE COMMISSION[571]

NATURAL RESOURCES DEPARTMENT[561]"umbrella" Notice, Wildlife refuges, 52.1(2)"a" ARC 6701B	1498
---	------

Notice, Waterfowl and coot hunting seasons, 91.1, 91.3, 91.5(1), 91.6 ARC 6697B	1499
Notice, Game harvest reporting and landowner- tenant registration, 95.1, 95.2(3) ARC 6700B	1500
Notice, Wild turkey spring hunting, 98.5 ARC 6698B	1501
Notice, Wild turkey fall hunting by residents, 99.11 ARC 6696B	1502
Notice, Deer hunting by residents, 106.1, 106.2(3), 106.7(8), 106.10(2), 106.11, 106.14 ARC 6699B	1502
Notice, Hunting and trapping of furbearers, 108.7, 108.9(2) ARC 6703B	1504
Filed, Publicly owned lakes program, ch 31 ARC 6702B	1543
Filed, State parks and recreation areas, 61.2, 61.5(1), 61.15 ARC 6695B	1543

PROFESSIONAL LICENSURE DIVISION[645]

PUBLIC HEALTH DEPARTMENT[641]"umbrella" Filed, Board administrative processes; fees, chs 4, 5 ARC 6694B	1546
Filed, Funeral directors, amendments to chs 99 to 103, 105 ARC 6709B	1546

PUBLIC HEALTH DEPARTMENT[641]

Notice, Radiation, amendments to chs 38 to 42, 44, 46 ARC 6711B	1505
Filed, AIDS drug assistance program (ADAP), 11.86(1)"d" ARC 6690B	1550

PUBLIC HEARINGS

Summarized list	1492
-----------------------	------

TRANSPORTATION DEPARTMENT[761]

Notice, Regulations applicable to carriers, 520.1(1) ARC 6693B	1520
Notice, For-hire interstate motor carrier authority, 529.1 ARC 6692B	1522

UTILITIES DIVISION[199]

COMMERCE DEPARTMENT[181]"umbrella" Notice, Electronic filing, amend chs 1, 6, 7, 10, 11, 13; adopt ch 14 ARC 6707B	1523
---	------

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.

KATHLEEN K. WEST, Administrative Code Editor

Telephone: (515)281-3355

STEPHANIE A. HOFF, Deputy Editor

(515)281-8157

Fax: (515)281-5534

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>
23	Friday, April 18, 2008	May 7, 2008
24	Friday, May 2, 2008	May 21, 2008
25	Wednesday, May 14, 2008	June 4, 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*****

AGENCY	HEARING LOCATION	DATE AND TIME OF HEARING
HUMAN SERVICES DEPARTMENT[441]		
HCBS programs, amendments to ch 77 IAB 3/26/08 ARC 6669B	Room 128 Iowa Medicaid Enterprise Bldg. 100 Army Post Rd. Des Moines, Iowa	April 17, 2008 2 to 4 p.m.
HCBS and waiver services, 78.27, 78.41(7), 78.43(4), 79.1, 79.3(2) IAB 3/26/08 ARC 6676B	Room 128 Iowa Medicaid Enterprise Bldg. 100 Army Post Rd. Des Moines, Iowa	April 17, 2008 2 to 4 p.m.
INSPECTIONS AND APPEALS DEPARTMENT[481]		
Notification; class of violation, 50.7, 56.9 IAB 4/9/08 ARC 6710B	Third Floor Lucas State Office Bldg. Des Moines, Iowa	May 9, 2008 2:30 p.m.
IOWA FINANCE AUTHORITY[265]		
Low-income housing tax credit compliance manual, 12.3, 12.4 IAB 3/26/08 ARC 6681B	2015 Grand Ave. Des Moines, Iowa	April 15, 2008 10 a.m. to noon
NATURAL RESOURCE COMMISSION[571]		
Wildlife refuges, 52.1(2) IAB 4/9/08 ARC 6701B (ICN Network)	Contact (515)281-5918 or visit the department's Web site at www.iowadnr.gov for list of 18 ICN hearing locations.	April 29, 2008 6 to 9 p.m.
Waterfowl and coot hunting seasons, 91.1, 91.3, 91.5(1), 91.6 IAB 4/9/08 ARC 6697B (ICN Network)	Contact (515)281-5918 or visit the department's Web site at www.iowadnr.gov for list of 18 ICN hearing locations.	April 29, 2008 6 to 9 p.m.
Game harvest reporting; landowner- tenant registration, 95.1, 95.2(3) IAB 4/9/08 ARC 6700B (ICN Network)	Contact (515)281-5918 or visit the department's Web site at www.iowadnr.gov for list of 18 ICN hearing locations.	April 29, 2008 6 to 9 p.m.
Wild turkey spring hunting, 98.5 IAB 4/9/08 ARC 6698B (ICN Network)	Contact (515)281-5918 or visit the department's Web site at www.iowadnr.gov for list of 18 ICN hearing locations.	April 29, 2008 6 to 9 p.m.
Wild turkey fall hunting, 99.11 IAB 4/9/08 ARC 6696B (ICN Network)	Contact (515)281-5918 or visit the department's Web site at www.iowadnr.gov for list of 18 ICN hearing locations.	April 29, 2008 6 to 9 p.m.
Deer hunting by residents, 106.1, 106.2(3), 106.7(8), 106.10(2), 106.11, 106.14 IAB 4/9/08 ARC 6699B (ICN Network)	Contact (515)281-5918 or visit the department's Web site at www.iowadnr.gov for list of 18 ICN hearing locations.	April 29, 2008 6 to 9 p.m.

NATURAL RESOURCE COMMISSION[571] (Cont'd)

Bobcat, river otter and beaver trapping, 108.7, 108.9(2) IAB 4/9/08 ARC 6703B (ICN Network)	Contact (515)281-5918 or visit the department's Web site at www.iowadnr.com for list of 18 ICN hearing locations.	April 29, 2008 6 to 9 p.m.
--	--	-------------------------------

PROFESSIONAL LICENSURE DIVISION[645]

Occupational therapy screening, 206.1 IAB 3/26/08 ARC 6675B	Fifth Floor Board Conference Rm. Lucas State Office Bldg. Des Moines, Iowa	April 15, 2008 9 to 9:30 a.m.
---	--	----------------------------------

PUBLIC HEALTH DEPARTMENT[641]

Radiation, amendments to chs 38 to 42, 44, 46 IAB 4/9/08 ARC 6710B	4th Floor Conf. Rm. 415, Side 2 Lucas State Office Bldg. Des Moines, Iowa	April 29, 2008 8:30 a.m.
--	---	-----------------------------

PUBLIC SAFETY DEPARTMENT[661]

Dual sensor smoke detectors, 5.807 to 5.810, 210.1, 210.2 IAB 3/26/08 ARC 6661B	First Floor Public Conference Rm. 125 Public Safety Headquarters Bldg. 215 E. 7th St. Des Moines, Iowa	April 23, 2008 8:30 a.m.
---	---	-----------------------------

Flammable and combustible liquids—temporary containers, 221.3(1) IAB 3/26/08 ARC 6662B	First Floor Public Conference Rm. 125 Public Safety Headquarters Bldg. 215 E. 7th St. Des Moines, Iowa	April 23, 2008 9 a.m.
--	---	--------------------------

Certification of alarm system contractors and installers, ch 277 IAB 3/26/08 ARC 6667B (ICN Network)	ICN Room 122 Public Safety Headquarters Bldg. 215 E. 7th St. Des Moines, Iowa	April 17, 2008 3 to 5 p.m.
---	--	-------------------------------

Room 22, Library Bldg. Iowa Lakes Comm. College 300 S. 18th St. Estherville, Iowa	April 17, 2008 3 to 5 p.m.
--	-------------------------------

Room 24, Loof Hall Iowa Western Comm. College 2700 College Rd. Council Bluffs, Iowa	April 17, 2008 3 to 5 p.m.
--	-------------------------------

Room 150, Administration Bldg. Cedar Rapids Comm. School District 346 2nd Ave. SW Cedar Rapids, Iowa	April 17, 2008 3 to 5 p.m.
---	-------------------------------

Mount Pleasant Treatment Center 1200 E. Washington Mount Pleasant, Iowa	April 17, 2008 3 to 5 p.m.
---	-------------------------------

First Floor Public Conference Rm. 125 Public Safety Headquarters Bldg. 215 E. 7th St. Des Moines, Iowa	April 23, 2008 10 a.m.
---	---------------------------

RACING AND GAMING COMMISSION[491]

Licensing; harness racing; gambling games; accounting and cash control, 6.1, 6.2, 6.5(1), 9.4(11), 9.7, 11.4(5), 11.6, 11.7(4), 11.12(1), 12.11 IAB 3/26/08 ARC 6678	Suite B, 717 E. Court Des Moines, Iowa	April 15, 2008 9 a.m.
--	---	--------------------------

TRANSPORTATION DEPARTMENT[761]

Motor carrier safety and hazardous materials regulations, 520.1(1) IAB 4/9/08 ARC 6693B	Motor Vehicle Division Offices 6310 SE Convenience Blvd. Ankeny, Iowa	May 1, 2008 10 a.m. (If requested)
Interstate for-hire carrier regulations, 529.1 IAB 4/9/08 ARC 6692B	Motor Vehicle Division Offices 6310 SE Convenience Blvd. Ankeny, Iowa	May 1, 2008 9 a.m. (If requested)

UTILITIES DIVISION[199]

Electronic filing, amendments to chs 1, 6, 7, 10, 11, 13, 14 IAB 4/9/08 ARC 6707B	350 Maple St. Des Moines, Iowa	May 12, 2008 10 a.m.
---	-----------------------------------	-------------------------

CITATION of Administrative Rules

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

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

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

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

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

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

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

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

The following list will be updated as changes occur:

ADMINISTRATIVE SERVICES DEPARTMENT[11]
 AGRICULTURE AND LAND STEWARDSHIP DEPARTMENT[21]
 Agricultural Development Authority[25]
 Soil Conservation Division[27]
 ATTORNEY GENERAL[61]
 AUDITOR OF STATE[81]
 BEEF INDUSTRY COUNCIL, IOWA[101]
 BLIND, DEPARTMENT FOR THE[111]
 CAPITAL INVESTMENT BOARD, IOWA[123]
 CITIZENS’ AIDE[141]
 CIVIL RIGHTS COMMISSION[161]
 COMMERCE DEPARTMENT[181]
 Alcoholic Beverages Division[185]
 Banking Division[187]
 Credit Union Division[189]
 Insurance Division[191]
 Professional Licensing and Regulation Bureau[193]
 Accountancy Examining Board[193A]
 Architectural Examining Board[193B]
 Engineering and Land Surveying Examining Board[193C]
 Landscape Architectural Examining Board[193D]
 Real Estate Commission[193E]
 Real Estate Appraiser Examining Board[193F]
 Interior Design Examining Board[193G]
 Savings and Loan Division[197]
 Utilities Division[199]
 CORRECTIONS DEPARTMENT[201]
 Parole Board[205]
 CULTURAL AFFAIRS DEPARTMENT[221]
 Arts Division[222]
 Historical Division[223]
 ECONOMIC DEVELOPMENT, IOWA DEPARTMENT OF[261]
 City Development Board[263]
 Grow Iowa Values Board[264]
 IOWA FINANCE AUTHORITY[265]
 EDUCATION DEPARTMENT[281]
 Educational Examiners Board[282]
 College Student Aid Commission[283]
 Higher Education Loan Authority[284]
 Iowa Advance Funding Authority[285]
 Libraries and Information Services Division[286]
 Public Broadcasting Division[288]
 School Budget Review Committee[289]
 EGG COUNCIL, IOWA[301]
 ELDER AFFAIRS DEPARTMENT[321]
 EMPOWERMENT BOARD, IOWA[349]
 ENERGY INDEPENDENCE, OFFICE OF[350]
 ETHICS AND CAMPAIGN DISCLOSURE BOARD, IOWA[351]
 EXECUTIVE COUNCIL[361]
 FAIR BOARD[371]
 HUMAN RIGHTS DEPARTMENT[421]
 Community Action Agencies Division[427]
 Criminal and Juvenile Justice Planning Division[428]
 Deaf Services Division[429]
 Persons With Disabilities Division[431]
 Latino Affairs Division[433]
 Status of African-Americans, Division on the[434]
 Status of Women Division[435]

HUMAN SERVICES DEPARTMENT[441]
INSPECTIONS AND APPEALS DEPARTMENT[481]
 Employment Appeal Board[486]
 Foster Care Review Board[489]
 Racing and Gaming Commission[491]
 State Public Defender[493]
IOWA PUBLIC EMPLOYEES' RETIREMENT SYSTEM[495]
LAW ENFORCEMENT ACADEMY[501]
LIVESTOCK HEALTH ADVISORY COUNCIL[521]
LOTTERY AUTHORITY, IOWA[531]
MANAGEMENT DEPARTMENT[541]
 Appeal Board, State[543]
 City Finance Committee[545]
 County Finance Committee[547]
NATURAL RESOURCES DEPARTMENT[561]
 Energy and Geological Resources Division[565]
 Environmental Protection Commission[567]
 Natural Resource Commission[571]
 Preserves, State Advisory Board for[575]
PETROLEUM UNDERGROUND STORAGE TANK FUND
 BOARD, IOWA COMPREHENSIVE[591]
PREVENTION OF DISABILITIES POLICY COUNCIL[597]
PROPANE EDUCATION AND RESEARCH COUNCIL, IOWA[599]
PUBLIC DEFENSE DEPARTMENT[601]
 Homeland Security and Emergency Management Division[605]
 Military Division[611]
PUBLIC EMPLOYMENT RELATIONS BOARD[621]
PUBLIC HEALTH DEPARTMENT[641]
 Professional Licensure Division[645]
 Dental Board[650]
 Medicine Board[653]
 Nursing Board[655]
 Pharmacy Board[657]
PUBLIC SAFETY DEPARTMENT[661]
RECORDS COMMISSION[671]
REGENTS BOARD[681]
 Archaeologist[685]
REVENUE DEPARTMENT[701]
SECRETARY OF STATE[721]
SHEEP AND WOOL PROMOTION BOARD, IOWA[741]
TELECOMMUNICATIONS AND TECHNOLOGY COMMISSION, IOWA[751]
TRANSPORTATION DEPARTMENT[761]
 Railway Finance Authority[765]
TREASURER OF STATE[781]
TURKEY MARKETING COUNCIL, IOWA[787]
UNIFORM STATE LAWS COMMISSION[791]
VETERANS AFFAIRS, IOWA DEPARTMENT OF[801]
VETERINARY MEDICINE BOARD[811]
VOLUNTEER SERVICE, IOWA COMMISSION ON[817]
VOTER REGISTRATION COMMISSION[821]
WORKFORCE DEVELOPMENT DEPARTMENT[871]
 Labor Services Division[875]
 Workers' Compensation Division[876]
 Workforce Development Board and
 Workforce Development Center Administration Division[877]

ARC 6686B

HUMAN SERVICES
DEPARTMENT[441]

Notice of Intended Action

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

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

Pursuant to the authority of Iowa Code sections 234.6, 239B.4(6), and 249A.4, the Department of Human Services proposes to amend Chapter 41, “Granting Assistance,” Chapter 75, “Conditions of Eligibility,” and Chapter 170, “Child Care Services,” Iowa Administrative Code.

Legislation in 2007 Iowa Acts, chapter 161, section 1, provides that for tax year 2007 and thereafter, any state earned income tax credit (EITC) in excess of a person’s tax liability is refundable. Department policies for determining Family Investment Program (FIP) and Medicaid eligibility already specify that federal earned income tax credits are exempt as income, regardless of whether the payments are received with the regular paychecks or as a lump sum with the tax refund. However, the Department’s rules have not mentioned state income tax refunds, since previously the state earned income tax credit was nonrefundable.

These amendments clarify that for FIP eligibility and eligibility under a Family Medical Assistance Program (FMAP)-related Medicaid coverage group, both federal and state EITC payments are:

- Exempt as income; and
- Exempt as a resource in the month of receipt and the following month.

These amendments also establish the same income policy for the Child Care Assistance Program. (Resources are not considered in determining eligibility for Child Care Assistance.)

These amendments do not provide for waivers in specified situations, since exempting these payments is a benefit to clients who receive them. Requests for the waiver of any rule may be submitted under the Department’s general rule on exceptions at 441—1.8(17A,217).

These amendments were also Adopted and Filed Emergency and are published herein as **ARC 6685B**. The purpose of this Notice is to solicit comment on that submission, the subject matter of which is incorporated by reference.

Any interested person may make written comments on the proposed amendments on or before April 30, 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 sections 237A.13, 239B.7, and 249A.4 and Iowa Code Supplement section 422.12B.

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 6710B

INSPECTIONS AND APPEALS
DEPARTMENT[481]

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 135C.2, 135C.26 and 135C.36, the Department of Inspections and Appeals hereby gives Notice of Intended Action to amend Chapter 50, “Health Care Facilities Administration,” and Chapter 56, “Fining and Citations,” Iowa Administrative Code.

Item 1 rescinds 481—50.7(10A,135C) and adopts a new rule in lieu thereof to clarify when health care facilities must notify the Department of an occurrence. The rule clearly defines major injury and provides clarification on other occurrences that require notification. Item 2 amends 481—56.9(135C) to clarify the factors considered in determining the class of violation.

Any person may make written suggestions or comments on the proposed amendments on or before April 29, 2008. Written comments should be submitted to Steven Mandernach, Department of Inspections and Appeals, Lucas State Office Building, 3rd Floor, 321 E. 12th St., Des Moines, Iowa 50319; or by electronic mail to steven.mandernach@dia.iowa.gov.

A public hearing will be held on May 9, 2008, at 2:30 p.m. at the Department of Inspections and Appeals, Lucas State Office Building, 3rd Floor, 321 E. 12th St., Des Moines, at which time persons may present their views either orally or in writing. At the hearing, persons will be asked to give their names and addresses for the record and to confine their remarks to the subject of the amendments.

The amendments are not subject to waiver.

These amendments are intended to implement Iowa Code sections 135C.2, 135C.26, and 135C.35.

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

The following amendments are proposed.

ITEM 1. Rescind rule 481—50.7(10A,135C) and adopt the following **new** rule in lieu thereof:

481—50.7(10A,135C) Additional notification. The director or the director’s designee shall be notified within 24 hours, or the next business day, by the most expeditious means available (I,II,III):

50.7(1) Of any accident causing major injury.

a. “Major injury” shall be defined as any injury which:

- (1) Results in death; or
- (2) Requires admission to a higher level of care for treatment, other than for observation; or
- (3) Requires consultation with the attending physician, designee of the physician, or physician extender who determines, in writing on a form designated by the department, that an injury is a “major injury” based upon the circum-

INSPECTIONS AND APPEALS DEPARTMENT[481](cont'd)

stances of the accident, the previous functional ability of the resident, and the resident's prognosis.

b. The following are not reportable accidents:

(1) An ambulatory resident who falls when the facility or its employees have no culpability related to the fall, even if the resident sustains a major injury; or

(2) Spontaneous fractures; or

(3) Hairline fractures.

50.7(2) When damage to the facility is caused by a natural or other disaster.

50.7(3) When there is an assault on a resident resulting in injury.

50.7(4) When a resident wanders away without the knowledge of staff, regardless of injury.

50.7(5) When a resident attempts suicide, regardless of injury.

50.7(6) When a fire occurs in a facility.

50.7(7) When a defect or failure occurs in the fire sprinkler or fire alarm system.

NOTE: Additional reporting requirements are created by other rules and statutes, including but not limited to Iowa Code chapter 235B, which requires reporting of dependent adult abuse.

ITEM 2. Amend rule 481—56.9(135C) as follows:

481—56.9(135C) Factors determining selection of class of violation. In determining which class of violation will be designated in the citation, where more than one class is specified in the notation following the rule, the director of the department of inspections and appeals ~~may shall~~ consider evidence of the circumstances surrounding the violation, including, but not limited to, the following factors:

56.9(1) The *frequency and length of time* during which the violation occurred, *i.e., whether the violation was an isolated or a widespread occurrence, practice, or condition;*

56.9(2) The *frequency of the violation, i.e., whether the violation was an isolated or widespread occurrence, practice, or condition;*

56.9(3) The past history of the facility, as it relates to the nature of the violation, *i.e., whether the violation was a first-time occurrence or one which has occurred in the past at that facility;*

56.9(4) 56.9(3) The ~~intent culpability~~ of the facility, as it relates to the reasons the violation occurred;

56.9(5) 56.9(4) The extent of any harm to the residents or the effect on the health, safety, or security of the residents ~~which resulted from as a result of~~ the violation;

56.9(6) 56.9(5) The relationship of the violation to any other types of violations which have occurred in the facility, *i.e., whether other violations in combination with the violation in question, caused increased harm or adverse effects to the residents of the facility;*

56.9(7) 56.9(6) The actions of the facility after the occurrence of the violation, including when corrective measures, if any, were implemented *and whether the facility notified the director as required;*

56.9(8) 56.9(7) The accuracy and extent of records kept by the facility which relate to the violation, and the availability of such records to the department;

56.9(9) ~~The number of other types of related violations occurring simultaneously or within a short period of time of the violation in question.~~

56.9(8) *The rights of residents to make informed decisions with their doctor(s) and family/legal representative(s);*

56.9(9) *Whether the facility made a good-faith effort to address a high-risk resident's specific needs, and whether the evidence substantiates this effort.*

ARC 6701B**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 hereby gives Notice of Intended Action to amend Chapter 52, “Wildlife Refuges,” Iowa Administrative Code.

This amendment changes the dates restricting public access to refuges from September 10 through December 31 to September 1 through January 31 and redefines the Rathbun Area to apply to Appanoose, Lucas, and Wayne Counties, *i.e.*, all the counties that include the reservoir.

Any interested person may make written suggestions or comments on the proposed amendment on or before April 29, 2008. Written comments may be directed to the Wildlife Bureau's Web site at www.iowadnr.gov or may be sent to the Wildlife Bureau Chief, Department of Natural Resources, Wallace State Office Building, Des Moines, Iowa 50319-0034; fax (515)281-6794. Persons who wish to convey their views orally should contact the Wildlife Bureau at (515)281-5034 or at the Wildlife Bureau offices on the fourth floor of the Wallace State Office Building.

Also, there will be public hearings held at 18 locations via the Iowa Communications Network on April 29, 2008, from 6 to 9 p.m. Interested persons should contact the Department at (515)281-5918 for a list of hearing locations or go to the Department's Web site at www.iowadnr.gov. At the hearings, persons may present their views either orally or in writing. At the hearings, persons will be asked to give their names and addresses for the record and to confine their remarks to the subject of the amendment.

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

This amendment is intended to implement Iowa Code sections 481A.5, 481A.6, 481A.8 and 481A.39.

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 **52.1(2)**, paragraph “a,” as follows:

a. Restrictions. The following areas under the jurisdiction of the department of natural resources are established as game refuges where posted. It shall be unlawful to hunt, pursue, kill, trap, or take any wild animal, bird, or game on these areas at any time, and no one shall carry firearms thereon, except where and when specifically authorized by the depart-

NATURAL RESOURCE COMMISSION[571](cont'd)

ment of natural resources. It shall also be unlawful to trespass in any manner on the following areas, where posted, between the dates of September 10 and December 31 of each year, both dates inclusive, except that department personnel and law enforcement officials may enter the area at any time in performance of their duties, and hunters, under the supervision of department staff, may enter when specifically authorized by the department of natural resources.

<u>Area</u>	<u>County</u>
Lake Icaria	Adams
Pool Slough Wildlife Area	Allamakee
Rathbun Area	Appanoose, Lucas, Wayne
Sedan Bottoms	Appanoose
Wildlife Exhibit Area	Boone
Sweet Marsh	Bremer
Big Marsh	Butler
South Twin Lake	Calhoun
Round Lake	Clay
Allen Green Refuge	Des Moines
Henderson	Dickinson
Jemmerson Slough Complex	Dickinson
Spring Run	Dickinson
Ingham Lake	Emmet
Forney Lake	Fremont
Riverton Area	Fremont
Dunbar Slough	Greene
Bays Branch	Guthrie
Green Island Area	Jackson
Hawkeye Wildlife Area	Johnson
Muskrat Slough	Jones
Colyn Area	Lucas
Red Rock Area	Marion, Polk, Warren
Badger Lake	Monona
Tieville/Decatur Bend	Monona
Five Island Lake	Palo Alto
Big Creek-Saylorville Complex	Polk
Chichaqua Area	Polk
Smith Area	Pottawattamie
McCausland	Scott
Princeton Area	Scott
Prairie Rose Lake	Shelby
Otter Creek Marsh	Tama
Green Valley Lake	Union
Three Mile Lake	Union
Lake Sugema	Van Buren
Rice Lake Area	Winnebago
Snyder Lake	Woodbury
Elk Creek Marsh	Worth
Lake Cornelia	Wright

ARC 6697B

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 hereby gives

Notice of Intended Action to amend Chapter 91, “Waterfowl and Coot Hunting Seasons.” Iowa Administrative Code.

Chapter 91 gives the regulations for hunting waterfowl and coot and includes season dates, bag limits, possession limits, shooting hours, and areas open to hunting. Season dates are adjusted annually to comply with federal law and to ensure that seasons open on a weekend.

The proposed amendments adjust season dates for calendar date changes; remove the statewide two-day September Canada goose season; add an urban Canada goose zone around Cedar Falls and Waterloo; add parents and grandparents to the list of people eligible to hunt Canada geese on a landowner’s farm in areas closed to Canada geese hunting in Clay, Dickinson, Emmet, Jackson, and Butler Counties; and clarify who is eligible to hunt during the youth waterfowl season.

Any interested person may make written suggestions or comments on the proposed amendments on or before April 29, 2008. Written comments may be directed to the Wildlife Bureau’s Web site at www.iowadnr.gov or may be sent to the Wildlife Bureau Chief, Department of Natural Resources, Wallace State Office Building, Des Moines, Iowa 50319-0034; fax (515)281-6794. Persons who wish to convey their views orally should contact the Wildlife Bureau at (515)281-5034 or at the Wildlife Bureau offices on the fourth floor of the Wallace State Office Building.

Also, there will be public hearings held at 18 locations via the Iowa Communications Network on April 29, 2008, from 6 to 9 p.m. Interested persons should contact the Department at (515)281- 5918 for a list of hearing locations or go to the Department’s Web site at www.iowadnr.gov. Persons attending the hearings may present their views either orally or in writing. At the hearings, persons will be asked to give their names and addresses for the record and to confine their remarks to the subject of the amendments.

Any persons who intend to attend the public hearings and have special requirements such as those related to hearing or mobility impairments should contact the Department of Natural Resources and request specific accommodations.

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

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 subrules 91.1(2) and 91.1(3) as follows:
91.1(2) Season dates - north zone. For all ducks: September 22 20 through September 26 24 and October 13 18 through December 6 11.

91.1(3) Season dates - south zone. For all ducks: September 22 20 through September 26 24 and October 20 18 through December 13 11.

ITEM 2. Amend subrules 91.3(2) and 91.3(3) as follows:

91.3(2) Season dates - north zone. Canada geese and brant: September 29 27 through ~~December 9~~ October 5 and October 18 through December 21 and December 15 27 through January 1 11, 2008 2009. White-fronted geese: September 29 27 through December 9 7. Light geese (white and blue-phase snow geese and Ross’ geese): September 29 27 through January 13 11, 2008 2009.

91.3(3) Season dates - south zone. Canada geese and brant: September 29 27 through October 7 5 and October 20 18 through December 21 and December 27 through January

NATURAL RESOURCE COMMISSION[571](cont'd)

§ 11, 2008 2009. White-fronted geese: September 29 27 through December 9 7. Light geese (white and blue-phase snow geese and Ross' geese): September 29 27 through January 13 11, 2008 2009.

ITEM 3. Amend subrule 91.3(7), introductory paragraph, as follows:

91.3(7) Light goose conservation order season. Only light geese (white and blue-phase snow geese and Ross' geese) may be taken under a conservation order from the U.S. Fish and Wildlife Service from January 14 12, 2008 2009, through April 15, 2008 2009.

ITEM 4. Rescind and reserve subrule **91.3(8)**.

ITEM 5. Adopt **new** subrule 91.3(11) as follows:

91.3(11) Cedar Falls/Waterloo goose hunting zone.

- a. Season dates. September 1 through September 15.
- b. Bag limit. Daily bag limit is 5 Canada geese.
- c. Possession limit. Twice the daily bag limit.
- d. Zone boundary. The Cedar Falls/Waterloo goose hunting zone includes those portions of Black Hawk County bounded as follows: Beginning at the intersection of County Roads C66 and V49 in Black Hawk County, thence south along County Road V49 to County Road D38, thence west along County Road D38 to State Highway 21, thence south along State Highway 21 to County Road D35, thence west along County Road D35 to Grundy Road, thence north along Grundy Road to County Road D19, thence west along County Road D19 to Butler Road, thence north along Butler Road to County Road C57, thence north and east along County Road C57 to U.S. Highway 63, thence south along U.S. Highway 63 to County Road C66, thence east along County Road C66 to the point of beginning.

ITEM 6. Amend subrule **91.5(1)**, paragraph "b," subparagraph (9), as follows:

(9) Permits will be issued only to individual landowners or tenants; however, permit holders must specify, when requesting a permit, the names of all other individuals qualified to hunt on the permit. Individuals qualified to hunt on the permit shall include the landowners or tenants and their spouses or *domestic partners as defined by the Iowa department of administrative services, parents, grandparents, children, children's spouses, grandchildren, siblings and siblings' spouses only.*

ITEM 7. Amend rule 571—91.6(481A) as follows:

571—91.6(481A) Youth waterfowl hunt. A special youth waterfowl hunt will be held on October 6 4 and 7 5, 2007 2008, in the north duck hunting zone and October 6 4 and 7 5, 2007 2008, in the south duck hunting zone. Youth hunters must be *residents of Iowa as defined in Iowa Code section 483A.1A and less than 16 15 years old or younger.* Each youth hunter must be accompanied by an adult 18 years old or older. The youth hunter does not need to have a hunting license or stamps. The adult must have a valid hunting license and habitat stamp if normally required to have them to hunt and a state waterfowl stamp. Only the youth hunter may shoot ducks and coots. The adult may hunt for any other game birds for which the season is open. The daily bag and possession limits are the same as for the regular waterfowl season, as defined in rule 91.1(481A). All other hunting regulations in effect for the regular waterfowl season apply to the youth hunt.

ARC 6700B**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 section 455A.5, the Natural Resource Commission hereby gives Notice of Intended Action to amend Chapter 95, "Game Harvest Reporting and Landowner-Tenant Registration," Iowa Administrative Code.

Chapter 95 describes the requirements for the harvest reporting system and landowner-tenant registration system.

The proposed amendments change the reporting deadline to midnight of the day after the animal is tagged rather than the day it is killed so that if the hunter recovers the animal the following day, there is still adequate time to report the harvest. The amendments also clarify that the transportation tag and harvest report tag are two separate tags and add online registration through ELSI to the options that tenants may use to register for free licenses.

Any interested person may make written suggestions or comments on the proposed amendments on or before April 29, 2008. Written comments may be directed to the Wildlife Bureau's Web site at www.iowadnr.gov or may be sent to the Wildlife Bureau Chief, Department of Natural Resources, Wallace State Office Building, Des Moines, Iowa 50319-0034; fax (515)281-6794. Persons who wish to convey their views orally should contact the Wildlife Bureau at (515)281-5034 or at the Wildlife Bureau offices on the fourth floor of the Wallace State Office Building.

Also, there will be public hearings held at 18 locations via the Iowa Communications Network on April 29, 2008, from 6 to 9 p.m. Interested persons should contact the Department at (515)281-5918 for a list of hearing locations or go to the Department's Web site at www.iowadnr.gov. Persons attending the hearings may present their views either orally or in writing. At the hearings, persons will be asked to give their names and addresses for the record and to confine their remarks to the subject of the amendments.

Any persons who intend to attend the public hearings and have special requirements such as those related to hearing or mobility impairments should contact the Department of Natural Resources and request specific accommodations.

These amendments are intended to implement Iowa Code sections 481A.38, 481A.39, 481A.48, 483A.1 and 483A.7.

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

The following amendments are proposed.

ITEM 1. Amend subrule 95.1(1) as follows:

95.1(1) Reporting deadlines *for deer and turkey.*

a.—~~Deer.~~ A harvest report must be made by midnight on the day after the day of the kill, *animal is tagged or* before the deer ~~animal~~ is taken to a locker or taxidermist, ~~before the~~

NATURAL RESOURCE COMMISSION[571](cont'd)

deer is processed for consumption, or before the deer is transported out of state, whichever occurs first.

~~b. Wild turkey. A harvest report must be made no later than midnight on the day after the turkey is killed, before the turkey is taken to a locker or taxidermist, before the turkey is processed for consumption, or before the turkey is transported out of state, whichever occurs first.~~

ITEM 2. Amend subrule 95.1(3) as follows:

95.1(3) Report confirmation. After the report is made, the hunter will be given a ~~coded~~ *confirmation* number to write on the license and transportation *harvest report* tag to verify that the hunter has reported the kill. The *harvest report tag* and confirmation number ~~must remain on the transportation tag, and the tag must remain attached to the deer or wild turkey until the deer or turkey is processed for consumption.~~

ITEM 3. Amend subrule **95.2(3)**, paragraph “b,” as follows:

b. Tenants. A person who qualifies as a tenant but does not own any qualifying land ~~shall~~ *may register on the Internet through ELSI* or by mailing or faxing an affidavit obtained from DNR. A tenant may have to wait up to ten business days after the affidavit is received by DNR before obtaining a free license.

ARC 6698B

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 section 455A.5, the Natural Resource Commission hereby gives Notice of Intended Action to amend Chapter 98, “Wild Turkey Spring Hunting,” Iowa Administrative Code.

Rule 571—98.5(483A) gives the regulations for hunting wild turkeys during the spring and includes season dates, bag limits, possession limits, shooting hours, areas open to hunting, licensing procedures, means and method of take, and transportation tag requirements.

The proposed amendments clarify the language that defines who is eligible for free landowner-tenant licenses to make the requirements for the turkey season the same as those for the deer season.

Any interested person may make written suggestions or comments on the proposed amendments on or before April 29, 2008. Written comments may be directed to the Wildlife Bureau’s Web site at www.iowadnr.gov or may be sent to the Wildlife Bureau Chief, Department of Natural Resources, Wallace State Office Building, Des Moines, Iowa 50319-0034; fax (515)281-6794. Persons who wish to convey their views orally should contact the Wildlife Bureau at (515)281-5034 or at the Wildlife Bureau offices on the fourth floor of the Wallace State Office Building.

Also, there will be public hearings held at 18 locations via the Iowa Communications Network on April 29, 2008, from 6 to 9 p.m. Interested persons should contact the Department at (515)281-5918 for a list of hearing locations or go to the

Department’s Web site at www.iowadnr.gov. Persons attending the hearings may present their views either orally or in writing. At the hearings, persons will be asked to give their names and addresses for the record and to confine their remarks to the subject of the amendments.

Any persons who intend to attend the public hearings and have special requirements such as those related to hearing or mobility impairments should contact the Department of Natural Resources and request specific accommodations.

These amendments are intended to implement Iowa Code sections 481A.38, 481A.39, 481A.48, 483A.1 and 483A.7.

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

The following amendments are proposed.

ITEM 1. Amend subrule 98.5(1) as follows:

98.5(1) Who qualifies for a free turkey hunting license. ~~Owners or tenants of a farm unit, or a member of an owner or tenant’s family who resides with the owner or tenant, are eligible for free wild turkey spring hunting licenses. The owner or tenant does not have to reside on the farm unit but must be actively engaged in farming it. Nonresident landowners do not qualify. For purposes of obtaining a free wild turkey spring hunting license, all the land under the lawful control of a landowner and eligible family members or a tenant and eligible family members shall be considered as one farm unit, regardless of how that land is subdivided for agricultural or business purposes.~~

a. *Owners and tenants of a farm unit and the spouse or domestic partner as defined by the Iowa department of administrative services and juvenile child of an owner or tenant who reside with the owner or tenant are eligible for free turkey licenses. The owner or tenant does not have to reside on the farm unit but must be actively engaged in farming it. Nonresident landowners do not qualify.*

b. *“Juvenile child” means a person less than 18 years of age or a person who is 18 or 19 years of age and is in full-time attendance at an accredited school pursuing a course of study leading to a high school diploma or a high school equivalency diploma. A person 18 years of age or older who has received a high school diploma or high school equivalency diploma does not qualify.*

ITEM 2. Amend subrule 98.5(6) as follows:

98.5(6) Where free licenses are valid. A free license is valid only on the farm unit of the landowner or tenant. “Farm unit” means all parcels of land that are at least two contiguous acres in size, that are operated as a unit for agricultural purposes, and that are under lawful control of the landowner or tenant *regardless of how that land is subdivided for business purposes*. Individual parcels of land do not need to be adjacent to one another to be included in the farm unit. “Agricultural purposes” includes but is not limited to field crops, livestock, horticultural crops (e.g., from nurseries, orchards, truck farms, or Christmas tree plantations), and land managed for timber production.

ARC 6696B**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 section 455A.5, the Natural Resource Commission hereby gives Notice of Intended Action to amend Chapter 99, “Wild Turkey Fall Hunting by Residents,” Iowa Administrative Code.

Rule 571—99.11(481A) gives the regulations for hunting wild turkeys during the fall and includes season dates, bag limits, possession limits, shooting hours, areas open to hunting, licensing procedures, means and method of take, and transportation tag requirements.

The proposed amendments clarify the language that defines who is eligible for free landowner-tenant licenses to make the requirements for the turkey season the same as those for the deer season.

Any interested person may make written suggestions or comments on the proposed amendments on or before April 29, 2008. Written comments may be directed to the Wildlife Bureau’s Web site at www.iowadnr.gov or may be sent to the Wildlife Bureau Chief, Department of Natural Resources, Wallace State Office Building, Des Moines, Iowa 50319-0034; fax (515)281-6794. Persons who wish to convey their views orally should contact the Wildlife Bureau at (515)281-5034 or at the Wildlife Bureau offices on the fourth floor of the Wallace State Office Building.

Also, there will be public hearings held at 18 locations via the Iowa Communications Network on April 29, 2008, from 6 to 9 p.m. Interested persons should contact the Department at (515)281-5918 for a list of hearing locations or go to the Department’s Web site at www.iowadnr.gov. Persons attending the hearings may present their views either orally or in writing. At the hearings, persons will be asked to give their names and addresses for the record and to confine their remarks to the subject of the amendments.

Any persons who intend to attend the public hearings and have special requirements such as those related to hearing or mobility impairments should contact the Department of Natural Resources and request specific accommodations.

These amendments are intended to implement Iowa Code sections 481A.38, 481A.39, 481A.48, 483A.1 and 483A.7.

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

The following amendments are proposed.

ITEM 1. Amend subrule 99.11(1) as follows:

99.11(1) Who qualifies for free turkey hunting license. ~~Owners or tenants of a farm unit, or a member of an owner’s or tenant’s family that resides with the owner or tenant, are eligible for free turkey licenses. The owner or tenant does not have to reside on the farm unit but must be actively engaged in farming it. Nonresident landowners do not qualify.~~

a. ~~Owners and tenants of a farm unit and the spouse or domestic partner as defined by the Iowa department of administrative services and juvenile child of an owner or tenant who reside with the owner or tenant are eligible for free turkey licenses. The owner or tenant does not have to reside on the farm unit but must be actively engaged in farming it. Nonresident landowners do not qualify.~~

b. ~~“Juvenile child” means a person less than 18 years of age or a person who is 18 or 19 years of age and is in full-time attendance at an accredited school pursuing a course of study leading to a high school diploma or a high school equivalency diploma. A person 18 years of age or older who has received a high school diploma or high school equivalency diploma does not qualify.~~

ITEM 2. Amend subrule 99.11(6) as follows:

99.11(6) ~~Where free licenses are valid. Free licenses are valid only on that portion of the farm unit that is in a zone open to turkey hunting. “Farm unit” means all parcels of land that are operated as a unit for agricultural purposes and are under lawful control of the landowner or tenant. A free license is valid only on the farm unit of the landowner or tenant. “Farm unit” means all parcels of land that are at least two contiguous acres in size, that are operated as a unit for agricultural purposes, and that are under lawful control of the landowner or tenant regardless of how that land is subdivided for business purposes. Individual parcels of land do not need to be adjacent to one another to be included in the farm unit. For purposes of obtaining a free turkey hunting license, all the land under the lawful control of a landowner and eligible family members or a tenant and eligible family members shall be considered as one farm unit, regardless of how that land is subdivided for agricultural or business purposes. “Agricultural purposes” includes but is not limited to field crops, livestock, horticultural crops (e.g., nurseries, orchards, truck farms, or Christmas tree plantations), and land managed for timber production.~~

ARC 6699B**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 hereby gives Notice of Intended Action to amend Chapter 106, “Deer Hunting by Residents,” Iowa Administrative Code.

This chapter sets the season dates, shooting hours, license types, quotas and restrictions, method of take and tagging, and reporting requirements for resident deer hunting. It also includes rules for issuing depredation licenses and shooting permits.

The proposed amendments clarify that it is illegal to carry someone else’s license while hunting and restore the closing date for the late muzzleloader season to January 10. The amendments clarify that, if a youth hunter is unsuccessful, as specified in Iowa Code section 483A.8(7), the youth hunter may continue to use the hunter’s either-sex license. The

NATURAL RESOURCE COMMISSION[571](cont'd)

amendments clarify that hunters using a blind during the shotgun deer season are required to display blaze orange. The amendments implement the changes suggested from a Kaizen event that was held to improve the deer depredation process. The amendments remove the season extension that was established by an emergency rule making after the ice storms in 2007. The amendments also update the implementation clause.

Based on survey data received after the publication of this notice, the quotas provided for in the rules may be slightly modified to account for the results of those surveys.

Any interested person may make written suggestions or comments on the proposed amendments on or before April 29, 2008. Written comments may be directed to the Wildlife Bureau's Web site at www.iowadnr.gov or may be sent to the Wildlife Bureau Chief, Department of Natural Resources, Wallace State Office Building, Des Moines, Iowa 50319-0034; fax (515)281-6794. Persons who wish to convey their views orally should contact the Wildlife Bureau at (515)281-5034 or at the Wildlife Bureau offices on the fourth floor of the Wallace State Office Building.

Also, there will be public hearings held at 18 locations via the Iowa Communications Network on April 29, 2008, from 6 to 9 p.m. Interested persons should contact the Department at (515)281-5918 for a list of hearing locations or go to the Department's Web site at www.iowadnr.gov. Persons attending the hearings may present their views either orally or in writing. At the hearings, persons will be asked to give their names and addresses for the record and to confine their remarks to the subject of the amendments.

Any persons who intend to attend the public hearings and have special requirements such as those related to hearing or mobility impairments should contact the Department of Natural Resources and request specific accommodations.

These amendments are intended to implement Iowa Code sections 481A.38, 481A.39, 481A.48, 483A.24, 483A.24B, and 483A.24C.

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 571—106.1(481A), introductory paragraph, as follows:

571—106.1(481A) Licenses. When hunting deer, all hunters must have in their possession a valid deer hunting license and a valid resident hunting license and must have paid the habitat fee (if normally required to have a hunting license and to pay the habitat fee to hunt). No person while hunting deer shall carry or have in possession any license or transportation tag issued to another person. *No one who is issued a deer hunting license and transportation tag shall allow another person to use or possess that license or transportation tag while that person is deer hunting or tagging a deer.*

ITEM 2. 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 3. Amend subrule 106.7(8) as follows:

106.7(8) Ground Hunting from blinds. No person shall use a ground blind for hunting deer during the regular gun deer seasons *as defined in 106.2(3)*, unless such blind exhibits a solid blaze orange marking visible in all directions with a minimum height of 12 inches and a minimum width of 12 inches. *Such blaze orange shall be affixed directly on or directly on top of the blind. As used in this subrule, "ground blind" means a constructed place of concealment used for the purpose of hiding a person who is hunting from sight. A ground blind is not a naturally occurring feature that a hunter merely uses for concealment. For the purposes of this subrule, the term "blind" is defined as a place of concealment constructed, either wholly or partially from man-made materials, and used by a person who is hunting for the purpose of hiding from sight. A blind is not a naturally occurring landscape feature or an arrangement of natural or agricultural plant material that a hunter uses for concealment. In addition to the requirements in this subrule, hunters using blinds must also satisfy the requirements of wearing blaze orange as prescribed in Iowa Code section 481A.122.*

ITEM 4. Amend subrule 106.10(2) as follows:

106.10(2) Season dates. Deer of either sex may be taken statewide for 16 consecutive days beginning on the third Saturday in September. A person who is issued a youth deer hunting license and does not take a deer during the youth deer hunting season may use the deer hunting license and unused tag during the early muzzleloader, late muzzleloader and one of the shotgun seasons. The license will be valid for the type of deer and in the area specified on the original license. A youth hunting in one of these ~~the other~~ seasons must obtain a hunting license and habitat stamp or hunt with a licensed adult if required by Iowa Code section 483A.24. If the tag is filled during one of the seasons, the license will not be valid in subsequent seasons.

ITEM 5. Amend subrule 106.11(4) as follows:

106.11(4) Depredation permits. Two types of permits may be issued under a depredation management plan.

a. Deer depredation licenses. Deer depredation licenses may be sold to resident hunters only for the regular deer license fee for use during one or more legal hunting seasons. Depredation licenses will be available to producers of agricultural and horticultural crops.

(1) Depredation licenses will be issued in blocks of five licenses up to the number specified in the management plan.

(2) ~~Depredation licenses may be sold to individuals designated by the producer as having permission to hunt. A producer who enters into a depredation agreement will be issued a set of authorization numbers. Each authorization number allows a resident hunter to obtain a depredation license. A depredation license will only be valid for the taking of antlerless deer. The depredation license is valid only on the land designated in the depredation plan. The producer may transfer the authorization number to a resident hunter who has permission to hunt. The authorization number may be used to obtain a license in any season. The landowner or an eligible family member may obtain one depredation license for each season established by the commission. No other individual may initially obtain more than three depredation licenses per management plan. When a deer is reported harvested on one of these licenses, then another license may be obtained. Licenses will be sold by designated department field employees.~~

(3) Depredation licenses will be valid only for hunting antlerless deer, regardless of restrictions that may be imposed on regular deer hunting licenses in that county.

NATURAL RESOURCE COMMISSION[571](cont'd)

(4) Hunters may keep any deer legally tagged with a depredation license.

(5) All other regulations for the hunting season specified on the license will apply.

(6) Depredation licenses will be valid only on the land where damage is occurring and the immediately adjacent property unless the land is within a designated block hunt area as described in subparagraph (7). Other parcels of land in the farm unit not adjacent to the parcels receiving damage will not qualify.

(7) Block hunt areas are areas designated and delineated by wildlife biologists of the wildlife bureau to facilitate herd reduction in a given area where all producers may not qualify for the depredation program or in areas of persistent deer depredation. Depredation permits/licenses issued to producers within the block hunt zone/area are valid on all properties within the delineated boundaries. Individual landowner permission is required for hunters utilizing depredation licenses within the block hunt area boundaries. Creation of a given block hunt area does not authorize trespass.

b. Deer shooting permits. Permits for shooting deer outside an established hunting season may be issued to producers of high-value horticultural crops when damage cannot be controlled in a timely manner during the hunting seasons (such as late summer buck rubs in an orchard and winter browsing in a Christmas tree plantation) and to other agricultural producers who have an approved DNR deer depredation plan, and on areas such as airports where public safety may be an issue.

(1) Deer shooting permits will be issued at no cost to the applicant.

(2) The applicant or one or more designees approved by the department may take all the deer specified on the permit.

(3) Permits available to producers of high-value horticultural crops or agricultural crops may be valid for taking deer outside of a hunting season depending on the nature of the damage. The number and type of deer to be killed will be determined by a department depredation biologist and will be part of the deer depredation management plan.

(4) Permits issued due to public safety concerns may be used for taking any deer, as necessary, to address unpredictable intrusion which could jeopardize public safety. Permits may be issued for an entire year (January 1 through December 31) if the facility involved maintains a deerproof fence and signs an agreement with the department.

(5) Disposal of deer killed under these permits shall be coordinated with the local conservation officer. All deer killed must be recovered and processed for consumption. *A person who harvests a deer under a deer shooting permit issued pursuant to this subrule shall utilize the deer harvest reporting system and shall not be subject to different disposal or reporting requirements than are applicable to the harvest of deer pursuant to other deer hunting licenses except that all antlers from any deer taken must be turned over to a conservation officer to be disposed of according to department rules.*

(6) The times, dates, place and other restrictions on the shooting of deer will be specified on the permit.

~~(7) Antlers from all deer recovered must be turned over to the conservation officer to be disposed of according to department rules.~~

(8) For out-of-season shooting permits, there are no shooting hour restrictions; however, taking deer with an artificial light is prohibited by Iowa Code section 481A.93.

c. Depredation licenses and shooting permits will be issued in addition to any other licenses for which the hunters may be eligible.

d. Depredation licenses and shooting permits will not be issued if the producer restricts the legal take of deer from the property sustaining damage by limiting hunter numbers below levels required to control the deer herd. This restriction does not apply in situations where shooting permits are issued for public safety concerns.

ITEM 6. Rescind subrule **106.11(5)**.

ITEM 7. Rescind rule **571—106.14(481A)**.

ITEM 8. Amend **571—Chapter 106**, implementation clause, as follows:

These rules are intended to implement Iowa Code sections 481A.38, 481A.39, 481A.48, and 483A.24, 483A.24B, and 483A.24C.

ARC 6703B**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 hereby gives Notice of Intended Action to amend Chapter 108, “Mink, Muskrat, Raccoon, Badger, Opossum, Weasel, Striped Skunk, Fox (Red and Gray), Beaver, Coyote, River Otter, Bobcat, Gray (Timber) Wolf and Spotted Skunk Seasons,” Iowa Administrative Code.

This chapter sets the season dates, bag limits, possession limits and areas open to hunting and trapping furbearers.

These amendments add Harrison, Monona, Pottawattamie and Woodbury Counties to the area open for taking bobcat. The amendments also increase the quota from 400 to 500 for river otters and from 150 to 200 for bobcats. The amendments eliminate the restrictions on beaver trapping in Linn County.

Any interested person may make written suggestions or comments on the proposed amendments on or before April 29, 2008. Written comments may be directed to the Wildlife Bureau’s Web site at www.iowadnr.gov or may be sent to the Wildlife Bureau Chief, Department of Natural Resources, Wallace State Office Building, Des Moines, Iowa 50319-0034; fax (515)281-6794. Persons who wish to convey their views orally should contact the Wildlife Bureau at (515)281-5034 or at the Wildlife Bureau offices on the fourth floor of the Wallace State Office Building.

Also, there will be public hearings held at 18 locations via the Iowa Communications Network on April 29, 2008, from 6 to 9 p.m. Interested persons should contact the Department at (515)281-5918 for a list of hearing locations or go to the Department’s Web site at www.iowadnr.gov. Persons attending the hearings may present their views either orally or in writing. At the hearings, persons will be asked to give their names and addresses for the record and to confine their remarks to the subject of the amendments.

Any persons who intend to attend the public hearings and have special requirements such as those related to hearing or

NATURAL RESOURCE COMMISSION[571](cont'd)

mobility impairments should contact the Department of Natural Resources and request specific accommodations.

These amendments are intended to implement Iowa Code sections 481A.6, 481A.38, 481A.39, 481A.87 and 481A.90.

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

The following amendments are proposed.

ITEM 1. Amend subrule 108.7(2) as follows:

108.7(2) Open area. River otters may be taken statewide. Bobcats may be taken in the following counties: Adams, Appanoose, Clarke, Davis, Decatur, Des Moines, Fremont, *Harrison*, Henry, Jefferson, Lee, Lucas, Mills, *Monona*, Monroe, Montgomery, Page, *Pottawattamie*, Ringgold, Taylor, Union, Van Buren, Wapello, and Wayne, and *Woodbury*.

ITEM 2. Amend subrule **108.7(3)**, paragraph "**b**," as follows:

b. Quotas. The quota for the number of river otters that may be taken is ~~400~~ 500 statewide. The quota for the number of bobcats that may be taken is ~~150~~ 200 in the open area. The season shall end for river otters when the number of river otters trapped, as determined by the harvest reporting system, reaches ~~400~~ 500. The season shall end for bobcats when the number of bobcats taken, as determined by the harvest reporting system, reaches ~~150~~ 200. Trappers shall be allowed a 48-hour grace period after the quota is reached to clear their traps of river otters or bobcats. River otters or bobcats found in traps during the grace period may be kept even though the quota is exceeded provided that the trapper has not reached the trapper's personal bag limit. River otters or bobcats trapped after the grace period or in excess of the seasonal bag limit must be turned over to the department; the trapper shall not be penalized.

ITEM 3. Rescind subrule **108.9(2)**.

ARC 6711B**PUBLIC HEALTH
DEPARTMENT[641]****Notice of Intended Action**

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

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

Pursuant to the authority of Iowa Code sections 136B.4, 136C.3 and 136D.7, the Department of Public Health hereby gives Notice of Intended Action to amend Chapter 38, "General Provisions for Radiation Machines and Radioactive Materials," Chapter 39, "Registration of Radiation Machine Facilities, Licensure of Radioactive Materials and Transportation of Radioactive Materials," Chapter 40, "Standards for Protection Against Radiation," Chapter 41, "Safety Requirements for the Use of Radiation Machines and Certain Uses of Radioactive Materials," Chapter 42, "Minimum Certification Standards for Diagnostic Radiographers, Nuclear Medicine Technologists, and Radiation Therapists," Chapter 44,

"Minimum Requirements for Radon Mitigation," and Chapter 46, "Minimum Requirements for Tanning Facilities," Iowa Administrative Code.

The following paragraphs itemize the proposed changes: Items 1, 3, 9, and 13 amend the rules to reflect current federal regulations.

Item 2 adds an application fee for industrial radiographers. Fees are used to meet the costs of processing the application and issuing the permit card.

Item 4 adds a category for service provider registration. This category is added to clarify the categories of those required to register.

Item 5 corrects the language previously corrected elsewhere by changing the two-working-day period to a three-working-day period.

Item 6 rescinds a requirement for a permanent office in Iowa for registrants and licensees.

Item 7 adds an omitted reference.

Item 8 adds a new paragraph in order to meet the Nuclear Regulatory Commission compatibility requirements.

Items 10 and 12 amend language involving nationally tracked sources. Items 10 and 12 amend language to meet Nuclear Regulatory Commission compatibility requirements.

Item 11 corrects the address for obtaining forms.

Items 14 and 46 add clarifying language to require operators to have a current permit to practice. The permit is required by Chapter 42.

Items 16 to 21, 23 to 25, and 27 to 44 correct references to meet Nuclear Regulatory Commission compatibility requirements.

Item 22 amends the title of the studies. This change corrects language previously corrected elsewhere in Chapter 41 in order to meet the Nuclear Regulatory Commission compatibility requirements.

Item 26 rescinds a paragraph to meet Nuclear Regulatory Commission compatibility requirements.

Item 45 corrects the name of the college to meet Nuclear Regulatory Commission compatibility requirements.

Item 47 amends definitions and adds new definitions to meet FDA standards for digital mammography.

Item 48 adds language to include reinstatement for mammography certification.

Items 49 and 50 amend language to include suspension, revocation and denial of mammography certification.

Items 51 and 52 amend and adopt new language regarding the accreditation process for mammography facilities.

Item 53 adds new language for computers used for mammography interpretation.

Items 54 to 61 add and correct language for training and continuing education for physicians, physicists, and technologists involved with mammography.

Items 62 to 64 adopt new language for clarification of mammography requirements.

Item 65 changes the time requirements for retaining mammography films.

Items 66 to 68 add language for digital mammography or to specify film-screen mammography or digital mammography.

Item 69 adds language requiring the reviewing physician to sign the required audits.

Item 70 corrects language for base plus fog density tests.

Item 71 removes language allowing a different requirement before an effective date of October 28, 2002.

Item 72 adds a new paragraph for digital mammography units.

PUBLIC HEALTH DEPARTMENT[641](cont'd)

Items 73 and 75 add new language for digital mammography units.

Item 74 clarifies language for mammography equipment evaluations.

Item 76 adopts new definitions necessary for clarification of terms in mammography.

Item 77 clarifies the type of physicist needed for the mammography evaluations.

Item 78 changes the word “withdrawal” to “suspension or revocation” for clarification of mammography disciplinary actions.

Item 79 adds a statement requiring inspections after revocation of mammography authorization.

Items 80, 84, and 86 correct references and remove a quality control responsibility for mammography physicians.

Items 81, 83, 85, and 87 add language for physicians performing stereotactically guided breast biopsies. The wording adds requirements for physicians who do not maintain the experience or education requirements. Items 81 and 83 also adopt new language to require physicians to have an Iowa medical license.

Item 82 adopts new language to require physicians to be responsible for supervision of radiologic technologists during procedures.

Item 88 rearranges wording for clarification.

Item 89 adds language for requalification in mammography.

Item 90 adds language to restrict hours to be earned for continuing education in mammography.

Item 91 amends wording for clarification and adds wording for requalification in mammography.

Item 92 adds language for additional identifiers for mammography records and corrects the type of physicist allowed.

Item 93 changes “radiation physicist” to “medical physicist” to clarify the qualifications of the individual.

Item 94 adds a new paragraph for responsibilities for a supervising stereotactic biopsy physician.

Items 95 to 97 expand language that specifies the requirements for mammography equipment.

Item 98 adds wording to clarify the qualifications of a medical physicist in mammography.

Item 99 adds wording to include all types of individuals covered under Chapter 42.

Item 100 changes the term “podiatry assistant” to “podiatric radiographer.” The new term more accurately reflects the position. The amendment also clarifies definitions by specifying “advanced” CPR and by adding language to differentiate between indirect and direct supervision and adds two new definitions for “directly related” and “formally educated” for clarification.

Item 101 adds language to accurately reflect the supervision requirements for the different modalities.

Items 102, 103, 106, 109, 110, and 115 to 118 change the term “podiatry assistant” to “podiatric radiographer.” The new term more accurately reflects the position.

Item 104 changes wording to make the language more uniform.

Item 105 adds the word “current” to clarify the distinction between “expired” and “current.”

Items 107 and 111 add language for clarity.

Item 108 corrects a misspelled word.

Item 109 removes language requiring penalty hours for late submission of continuing education. This action follows guidelines of the national certification body.

Item 112 adds language to refer the various modalities to the proper area of the rules for training requirements. The

amendment explains the requirements to be submitted for approval of a training program and includes requirements for instructors.

Item 113 changes the word “trained” to “educated” to better define the requirements for a supervising individual.

Item 114 removes a provision allowing temporary certification. The requirement for examination before certification is now uniform with other modalities.

Item 119 adds wording to clarify the fees required for radon mitigation installations.

Item 120 adds wording to require posting of instructions in tanning rooms to make the requirement uniform with other parts of Chapter 46.

These rules are subject to waiver pursuant to the Department’s exemption provision contained at 641—38.3(136C). For this reason, the Department has not provided a specific provision for waiver of these particular rules.

Any interested person may make written suggestions or comments on these proposed amendments prior to the close of business on April 29, 2008. Such written materials should be directed to Chief of Bureau of Radiological Health, Iowa Department of Public Health, Lucas State Office Building, 5th Floor, 321 East 12th Street, Des Moines, Iowa 50319; fax (515)281-4529; or E-mail ccraig@idph.state.ia.us.

A public hearing will be held on April 29, 2008, at 8:30 a.m. in Fourth Floor Conference Room 415, Side 2, Iowa Department of Public Health, Lucas State Office Building, Des Moines, Iowa, at which time persons may present their views orally or in writing. At the hearing, persons will be asked to give their names and addresses for the record and to confine their remarks to the subject of the amendments.

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

These amendments are intended to implement Iowa Code chapters 136B, 136C, and 136D.

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

The following amendments are proposed.

ITEM 1. Amend subrule 38.1(2) as follows:

38.1(2) All references to Code of Federal Regulations (CFR) in this chapter are those in effect as of ~~April 30, 2007~~ *July 9, 2008*.

ITEM 2. Amend subrule **38.8(3)** by adopting **new** paragraph “**c**” as follows:

c. A nonrefundable fee of \$75 shall be submitted with each application, not associated with an agency-administered industrial radiography examination, for a trainee or trainer card issued to a radiographer’s assistant or an industrial radiographer.

ITEM 3. Amend subrule 39.1(3) as follows:

39.1(3) All references to any Code of Federal Regulations (CFR) in this chapter are those in effect as of ~~April 30, 2007~~ *July 9, 2008*.

ITEM 4. Amend subrule **39.3(3)**, paragraph “**d**,” by adopting **new** subparagraph (**5**) as follows:

(5) Calibration and compliance surveys of external beam radiation therapy units.

PUBLIC HEALTH DEPARTMENT[641](cont'd)

ITEM 5. Amend subrule **39.3(10)**, paragraph **“b,”** as follows:

b. If, for a specific case, the ~~two~~ *three*-working-day period would impose an undue hardship on the person, upon application to the agency, permission to proceed sooner may be granted.

ITEM 6. Amend subrule **39.4(20)** by rescinding paragraph **“c”** and relettering paragraph **“d”** as **“c.”**

ITEM 7. Amend subrule **39.4(29)**, paragraph **“1,”** introductory paragraph, as follows:

1. Manufacture and distribution of sources or devices containing radioactive material for medical use. An application for a specific license to manufacture and distribute sources and devices containing radioactive material to persons licensed pursuant to 641—41.2(136C) for use as a calibration or reference source or for the uses listed in 641—subrules 41.2(41), and 41.2(43), and 41.2(49) will be approved if:

ITEM 8. Amend subrule **39.4(33)**, paragraph **“g,”** subparagraph **(4)**, by renumbering numbered paragraph **“6”** as **“7”** and adopting a **new** numbered paragraph **“6”** as follows:

6. *A description of the physical security plan and material control and accounting plan provisions in place during decommissioning.*

6 7. For decommissioning plans calling for completion of decommissioning later than 24 months after plan approval, the plan shall include justification for the delay based on the criteria in paragraph **“i”** of this subrule.

ITEM 9. Amend subrule 40.1(5) as follows:

40.1(5) All references to Code of Federal Regulations (CFR) in this chapter are those in effect on or before ~~May 3, 2006~~ *July 9, 2008*.

ITEM 10. Amend subrule **40.99(8)**, introductory paragraph, as follows:

40.99(8) Each licensee that possesses Category 1 nationally tracked sources shall report its initial inventory of Category 1 nationally tracked sources to the National Source Tracking System by ~~November 15, 2007~~ *January 31, 2009*. Each licensee that possesses Category 2 nationally tracked sources shall report its initial inventory of Category 2 nationally tracked sources to the National Source Tracking System by ~~November 30, 2007~~ *January 31, 2009*. This information may be submitted by using any of the methods identified in subrule 40.99(6). The initial inventory report must include the following information:

ITEM 11. Amend **641—Chapter 40, Appendix D**, section I (c), second paragraph, as follows:

NRC Forms 540, 540A, 541, 541A, 542, and 542A, and the accompanying instructions, in hard copy, may be obtained from the ~~Information and Records Management Branch, by writing or calling the~~ Office of Information Resources Management Services, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0111, telephone (301) 415-~~7232~~ *5877* or by visiting the NRC's Web site at <http://www.nrc.gov> and selecting forms from the index found on the home page.

ITEM 12. Amend **641—Chapter 40, Appendix H**, as follows:

CHAPTER 40
APPENDIX H
NATIONALLY TRACKED SOURCE THRESHOLDS

The Terabecquerel (TBq) values are the regulatory standard. The curie (Ci) values specified are obtained by converting from the TBq value. The curie values are provided for practical usefulness only and are rounded after conversion.

Radioactive Material	Category 1 (TBq)	Category 1 (Ci)	Category 2 (TBq)	Category 2 (Ci)
Actinium-227	20	540	0.2	5.4
Americium-241	60	1,600	0.6	16.0
Americium-241/Be	60	1,600	0.6	16.0
Californium-252	20	540	0.2	5.4
Cobalt-60	30	810	0.3	8.1
Curium-244	50	1,400	0.5	14.0 14.0
Cesium-137	100	2,700	1.0	27.0
Gadolinium-153	1,000	27,000	10.0	270.0
Iridium-192	80	2,200	0.8	22.0
Plutonium-238	60	1,600	0.6	16.0
Plutonium-239/Be	60	1,600	0.6	16.0
Polonium-210	60	1,600	0.6	16.0
Promethium-147	40,000	1,100,000	400.0	11,000.0
Radium-226	40	1,100	0.4	11.0
Selenium-75	200	5,400	2.0	54.0
Strontium-90	1,000	27,000	10.0	270.0
Thorium-228	20	540	0.2	5.4
Thorium-229	20	540	0.2	5.4
Thulium-170	20,000	540,000	200.0	5,400.0
Ytterbium-169	300	8,100	3.0	81.0

PUBLIC HEALTH DEPARTMENT[641](cont'd)

ITEM 13. Amend subrule **41.1(1)**, paragraph “**b**,” as follows:

b. All references to any Code of Federal Regulations (CFR) in this chapter are those in effect as of ~~April 30, 2007~~ *July 9, 2008*.

ITEM 14. Amend subrule **41.1(3)**, paragraph “**a**,” subparagraph (2), numbered paragraph “**1**,” as follows:

1. Operators in medical facilities shall meet the requirements of 641—Chapter 42 as applicable, *and have a current permit to practice in diagnostic radiography*. The individual’s permit to practice shall be posted in the immediate vicinity of the general work area and visible to the public.

ITEM 15. Amend subrule **41.2(11)**, paragraph “**a**,” subparagraph (5), as follows:

(5) Require that only those individuals ~~specifically trained certified and issued a current permit to practice in accordance with 641—Chapter 42 as a nuclear medicine technologist or a radiation therapist, as applicable, or an Iowa-licensed physician and designated by the authorized user, shall be permitted to administer radionuclides (sealed sources only for radiation therapists) or radiation to patients or human research subjects. For a nuclear medicine technologist or a radiation therapist, the individual’s permit to practice shall be posted in the immediate vicinity of the general work area and be visible to the public.~~

ITEM 16. Amend subrule **41.2(31)**, paragraph “**b**,” subparagraph (2), as follows:

(2) A physician who is an authorized user and who meets the requirements specified in 41.2(68) or 41.2(69) and has work experience in eluting generator systems appropriate for preparation of radioactive drugs for imaging and localization studies, measuring and testing the eluate for radionuclide purity, and processing the eluate with reagent kits to prepare labeled radioactive drugs; or before May 3, 2006, who meets the requirements of 10 CFR 35.920 290; or

ITEM 17. Amend subrule **41.2(33)**, paragraph “**b**,” as follows:

b. Prepared by an authorized nuclear pharmacist, a physician who is an authorized user and who meets the requirements specified in 41.2(68) or 41.2(69), or an individual under the supervision of either as specified in 41.2(11);

ITEM 18. Amend subrule 41.2(67), introductory paragraph, as follows:

41.2(67) Training for uptake, dilution, and excretion studies. Except as provided in 41.2(75) ~~and 41.2(76)~~, the licensee shall require an authorized user of unsealed radioactive material for the uses authorized under 41.2(31) to be a physician who:

ITEM 19. Amend subrule **41.2(67)**, paragraph “**b**,” as follows:

b. Is an authorized user under 41.2(68) or 41.2(69), or before May 3, 2006, meets the requirements in ~~10 CFR 35.910, 35.920, or 35.930~~ *10 CFR 35.190, 35.290, or 35.390*, or meets equivalent agreement state requirements; or

ITEM 20. Amend subrule **41.2(67)**, paragraph “**c**,” subparagraph (1), numbered paragraph “**2**,” introductory paragraph, as follows:

2. Work experience, under the supervision of an authorized user who meets the requirements in 41.2(67), 41.2(68), or 41.2(69), or before May 3, 2006, the requirements in ~~10 CFR 35.910, 35.920, or 35.930~~ *10 CFR 35.190, 35.290, or*

35.390, or equivalent agreement state requirements, involving:

ITEM 21. Amend subrule **41.2(67)**, paragraph “**c**,” subparagraph (2), as follows:

(2) Has obtained written attestation, signed by a preceptor authorized user who meets the requirements in 41.2(67), 41.2(68), or 41.2(69), or before May 3, 2006, the requirements in ~~10 CFR 35.910, 35.920, or 35.930~~ *10 CFR 35.190, 35.290, or 35.390*, or equivalent agreement state requirements, that the individual has satisfactorily completed the requirements in 41.2(67)“a”(1) or 41.2(67)“c”(1) and has achieved a level of competency sufficient to function independently as an authorized user for the medical uses authorized in 41.2(31).

ITEM 22. Amend subrule **41.2(68)**, paragraph “**a**,” subparagraph (1), as follows:

(1) Complete 700 hours of training and experience in basic radionuclide handling techniques and radiation safety applicable to the medical use of unsealed radioactive material for ~~uptake, dilution, and excretion imaging and localization~~ studies that include the topics listed in 41.2(68)“c”(1)“1” and “2”; and

ITEM 23. Amend subrule **41.2(68)**, paragraph “**b**,” as follows:

b. Is an authorized user under 41.2(69) and meets the requirements in 41.2(68)“c”(1)“2,” seventh bulleted paragraph, or before May 3, 2006, meets the requirements in 10 CFR ~~35.920~~ *35.290*, or equivalent agreement state requirements; or

ITEM 24. Amend subrule **41.2(68)**, paragraph “**c**,” subparagraph (1), numbered paragraph “**2**,” introductory paragraph, as follows:

2. Work experience, under the supervision of an authorized user who meets the requirements in 41.2(68) or 41.2(68)“c”(1)“2,” seventh bulleted paragraph, and 41.2(69), or before May 3, 2006, meets the requirements in 10 CFR ~~35.920~~ *35.290*, or equivalent agreement state requirements, involving:

ITEM 25. Amend subrule **41.2(68)**, paragraph “**c**,” subparagraph (2), as follows:

(2) Has obtained written attestation, signed by a preceptor authorized user who meets the requirements in 41.2(68) or 41.2(68)“c”(1)“2,” seventh bulleted paragraph, or before May 3, 2006, meets the requirements in 10 CFR ~~35.920~~ *35.290*, or equivalent agreement state requirements, that the individual has satisfactorily completed the requirements in 41.2(68)“a”(1) or 41.2(68)“c”(1) and has achieved a level of competency sufficient to function independently as an authorized user for the medical uses authorized under 41.2(31) and 41.2(33).

ITEM 26. Rescind subrule **41.2(68)**, paragraph “**d**.”

ITEM 27. Amend subrule **41.2(69)**, paragraph “**b**,” subparagraph (1), numbered paragraph “**2**,” introductory paragraph, as follows:

2. Work experience, under the supervision of an authorized user who meets the requirements in 41.2(69), or before May 3, 2006, meets the requirements in 10 CFR ~~35.930~~ *35.390*, or equivalent agreement state requirements. A supervising authorized user who meets the requirements in 41.2(69)“b,” or before May 3, 2006, meets the requirements in 10 CFR ~~35.930~~ *35.390*(b) must also have experience in administering dosages in the same dosage category or cate-

PUBLIC HEALTH DEPARTMENT[641](cont'd)

gories (i.e., 41.2(69)“b”(1)“2,” seventh bulleted paragraph) as the individual requesting authorized user status. The work experience must involve:

ITEM 28. Amend subrule **41.2(69)**, paragraph “b,” subparagraph (2), as follows:

(2) Has obtained written attestation that the individual has satisfactorily completed the requirements in 41.2(69)“a”(1) and 41.2(69)“b”(1)“2,” seventh bulleted paragraph, or 41.2(69)“b”(1), and has achieved a level of competency sufficient to function independently as an authorized user for the medical uses authorized under 41.2(37). The written attestation must be signed by a preceptor authorized user who meets the requirements in 41.2(69), or before May 3, 2006, meets the requirements in 10 CFR ~~35.930~~ 35.390, or equivalent agreement state requirements. The preceptor authorized user who meets the requirements in 41.2(69)“b,” or before May 3, 2006, meets the requirements in 10 CFR ~~35.930~~ 35.390(b), must have experience in administering dosages in the same dosage category or categories (i.e., 41.2(69)“b”(1)“2,” seventh bulleted paragraph) as the individual requesting authorized user status.

ITEM 29. Amend subrule **41.2(70)**, paragraph “b,” subparagraph (1), numbered paragraph “2,” introductory paragraph, as follows:

2. 500 hours of work experience, under the supervision of an authorized user who meets the requirements in 41.2(70), or before May 3, 2006, meets the requirements in 10 CFR ~~35.940~~ 35.490, or equivalent agreement state requirements at a medical institution, involving:

ITEM 30. Amend subrule **41.2(70)**, paragraph “b,” subparagraphs (2) and (3), as follows:

(2) Has completed three years of supervised clinical experience in radiation oncology under an authorized user who meets the requirements in 41.2(70), or before May 3, 2006, meets the requirements in 10 CFR ~~35.940~~ 35.490, or equivalent agreement state requirements, as part of a formal training program approved by the Residency Review Committee for Radiation Oncology of the Accreditation Council for Graduate Medical Education or the Royal College of Physicians and Surgeons of Canada or the Committee on Postdoctoral Training of the American Osteopathic Association. This experience may be obtained concurrently with the supervised work experience required in 41.2(70)“b”(1)“2”; and

(3) Has obtained written attestation, signed by a preceptor authorized user who meets the requirements in 41.2(70), or before May 3, 2006, meets the requirements in 10 CFR ~~35.940~~ 35.490, or equivalent agreement state requirements, that the individual has satisfactorily completed the requirements in 41.2(70)“a”(1) or 41.2(70)“b”(1) and (2), and has achieved a level of competency sufficient to function independently as an authorized user of manual brachytherapy sources for the medical uses in 41.2(43).

ITEM 31. Amend subrule **41.2(71)**, paragraph “a,” as follows:

a. Is an authorized user under 41.2(70), or before May 3, 2006, meets the requirements in 10 CFR ~~35.940~~ 35.490 or ~~35.941~~ 35.491, or equivalent agreement state requirements; or

ITEM 32. Amend subrule **41.2(71)**, paragraph “b,” subparagraph (3), as follows:

(3) Has obtained written attestation, signed by a preceptor authorized user who meets the requirements in 41.2(70) or 41.2(71), or before May 3, 2006, meets the requirements in 10 CFR ~~35.940~~ 35.490 or ~~35.941~~ 35.491, or equivalent

agreement state requirements, that the individual has satisfactorily completed the requirements in 41.2(71)“a” and “b” and has achieved a level of competency sufficient to function independently as an authorized user of strontium-90 for ophthalmic use.

ITEM 33. Amend subrule **41.2(73)**, paragraph “b,” subparagraph (1), numbered paragraph “2,” introductory paragraph, as follows:

2. 500 hours of work experience, under the supervision of an authorized user who meets the requirements in 41.2(73), or before May 3, 2006, meets the requirements in 10 CFR ~~35.960~~ 35.690, or equivalent agreement state requirements at a medical institution, involving:

ITEM 34. Amend subrule **41.2(73)**, paragraph “b,” subparagraphs (2) and (3), as follows:

(2) Has completed three years of supervised clinical experience in radiation therapy under an authorized user who meets the requirements in 41.2(73), or before May 3, 2006, meets the requirements in 10 CFR ~~35.960~~ 35.690, or equivalent agreement state requirements, as part of a formal training program approved by the Residency Review Committee for Radiation Oncology of the Accreditation Council for Graduate Medical Education or the Royal College of Physicians and Surgeons of Canada or the Committee on Postdoctoral Training of the American Osteopathic Association. This experience may be obtained concurrently with the supervised work experience required by 41.2(73)“b”(1)“2”; and

(3) Has obtained written attestation that the individual has satisfactorily completed the requirements in 41.2(73)“a”(1) or 41.2(73)“b”(1) and (2), and 41.2(73)“c,” and has achieved a level of competency sufficient to function independently as an authorized user of each type of therapeutic medical unit for which the individual is requesting authorized user status. The written attestation must be signed by a preceptor authorized user who meets the requirements in 41.2(73), or before May 3, 2006, the requirements in 10 CFR ~~35.960~~ 35.690, or equivalent agreement state requirements for an authorized user for each type of therapeutic medical unit for which the individual is requesting authorized user status; and

ITEM 35. Amend subrule **41.2(74)**, paragraph “b,” subparagraph (2), as follows:

(2) Has obtained written attestation that the individual has satisfactorily completed the requirements in 41.2(74)“a”(1) and (2) and 41.2(74)“c” or 41.2(74)“b”(1) and 41.2(74)“c,” and has achieved a level of competency sufficient to function independently as an authorized medical physicist for each type of therapeutic medical unit for which the individual is requesting authorized medical physicist status. The written attestation must be signed by a preceptor authorized medical physicist who meets the requirements in 41.2(74), or before May 3, 2006, the requirements in 10 CFR ~~35.961~~ 35.51, or equivalent agreement state requirements for an authorized medical physicist for each type of therapeutic medical unit for which the individual is requesting authorized medical physicist status; and

ITEM 36. Amend subrule **41.2(81)**, paragraph “b,” as follows:

b. Is an authorized user under 41.2(69)“a” or “b” for uses in the oral administration of less than or equal to 33 millicuries (1.22 Gigabecquerels) of sodium iodide I-131 for which a written directive is required, or oral administration of greater than 33 millicuries (1.22 Gigabecquerels) of sodium iodide I-131, or before May 3, 2006, who meets the requirements in 10 CFR ~~35.930~~, ~~35.932~~, or ~~35.934~~ 35.390, 35.392,

PUBLIC HEALTH DEPARTMENT[641](cont'd)

or 35.394, or meets equivalent agreement state requirements; or

ITEM 37. Amend subrule **41.2(81)**, paragraph “c,” subparagraph (2), introductory paragraph, as follows:

(2) Has work experience, under the supervision of an authorized user who meets the requirements in 41.2(69)“a” or “b,” or 41.2(82), or before May 3, 2006, meets the requirements in 10 CFR ~~35.930, 35.932, or 35.934~~ 35.390, 35.392, or 35.394, or equivalent agreement state requirements. A supervising authorized user who meets the requirements in 41.2(69)“b” must also have experience in administering dosages as follows: oral administration of less than or equal to 33 millicuries (1.22 Gigabecquerels) of sodium iodide I-131, for which a written directive is required; or oral administration of greater than 33 millicuries (1.22 Gigabecquerels) of sodium iodide I-131. The work experience must involve:

ITEM 38. Amend subrule **41.2(81)**, paragraph “c,” subparagraph (3), as follows:

(3) Has obtained written attestation that the individual has satisfactorily completed the requirements in 41.2(81)“c”(1) and (2), and has achieved a level of competency sufficient to function independently as an authorized user for medical uses authorized under 41.2(37). The written attestation must be signed by a preceptor authorized user who meets the requirements in 41.2(69), 41.2(81), or 41.2(82), or before May 3, 2006, meets the requirements in 10 CFR ~~35.930, 35.932, or 35.934~~ 35.390, 35.392, or 35.394, or equivalent agreement state requirements. A preceptor authorized user who meets the requirements in 41.2(69)“b” must also have experience in administering dosages as follows: oral administration of less than or equal to 33 millicuries (1.22 Gigabecquerels) of sodium iodide I-131, for which a written directive is required; or oral administration of greater than 33 millicuries (1.22 Gigabecquerels) of sodium iodide I-131.

ITEM 39. Amend subrule **41.2(82)**, paragraph “b,” as follows:

b. Is an authorized user under 41.2(69)“a” or “b” for oral administration of greater than 33 millicuries (1.22 Gigabecquerels) of sodium iodide I-131, or before May 3, 2006, meets the requirements in 10 CFR ~~35.930 or 35.934~~ 35.390 or 35.394, or meets equivalent agreement state requirements; or

ITEM 40. Amend subrule **41.2(82)**, paragraph “c,” subparagraph (2), introductory paragraph, as follows:

(2) Has work experience, under the supervision of an authorized user who meets the requirements in 41.2(69)“a” or “b” or 41.2(82), or before May 3, 2006, meets the requirements in 10 CFR ~~35.930 or 35.934~~ 35.390 or 35.394, or equivalent agreement state requirements. A supervising authorized user who meets the requirements in 41.2(69)“b” must also have experience in oral administration of greater than 33 millicuries (1.22 Gigabecquerels) of sodium iodide I-131. The work experience must involve:

ITEM 41. Amend subrule **41.2(82)**, paragraph “c,” subparagraph (3), as follows:

(3) Has obtained written attestation that the individual has satisfactorily completed the requirements in 41.2(82)“c”(1) and (2), and has achieved a level of competency sufficient to function independently as an authorized user for medical uses authorized in 41.2(37). The written attestation must be signed by a preceptor authorized user who meets the requirements in 41.2(69) or 41.2(82), or before May 3, 2006, meets the requirements in 10 CFR ~~35.930 or 35.934~~ 35.390 or 35.394, or equivalent agreement state requirements. A pre-

ceptor authorized user who meets the requirements in 41.2(69)“b” must also have experience in oral administration of greater than 33 millicuries (1.22 Gigabecquerels) of sodium iodide I-131.

ITEM 42. Amend subrule **41.2(89)**, paragraphs “a,” “b,” and “c,” as follows:

a. Is an authorized user under 41.2(69), or before May 3, 2006, meets the requirements in 10 CFR ~~35.930~~ 35.390, for uses listed in 41.2(89), or meets equivalent agreement state requirements; or

b. Is an authorized user under 41.2(70) or 41.2(73), or before May 3, 2006, meets the requirements in 10 CFR ~~35.940 or 35.960~~ 35.490 or 35.690, or meets equivalent agreement state requirements, and who meets the requirements in 41.2(89)“d”; or

c. Is certified by a medical specialty board whose certification process has been recognized by the NRC or an agreement state under 41.2(70) or 41.2(73), or before May 3, 2006, meets the requirements in 10 CFR ~~35.940 or 35.960~~ 35.490 or 35.690, and who meets the requirements in 41.2(89)“d”; or

ITEM 43. Amend subrule **41.2(89)**, paragraph “d,” subparagraph (2), introductory paragraph, as follows:

(2) Has work experience, under the supervision of an authorized user who meets the requirements in 41.2(69) or 41.2(89), or before May 3, 2006, meets the requirements in 10 CFR ~~35.930~~ 35.390, or equivalent agreement state requirements, in the parenteral administration for which a written directive is required, of either any beta emitter or any photon-emitting radionuclide with a photon energy less than 150 keV or parenteral administration of any other radionuclide for which a written directive is required. A supervising authorized user who meets the requirements in 41.2(69) or before May 3, 2006, meets the requirements in 10 CFR ~~35.930~~ 35.390 must have experience in administering dosages of either any beta emitter or any photon-emitting radionuclide with a photon energy less than 150 keV or parenteral administration of any other radionuclide for which a written directive is required. The work experience must involve:

ITEM 44. Amend subrule **41.2(89)**, paragraph “d,” subparagraph (3), as follows:

(3) Has obtained written attestation that the individual has satisfactorily completed the requirements in 41.2(89)“b” or “c,” and has achieved a level of competency sufficient to function independently as an authorized user for the parenteral administration of unsealed by-product material requiring a written directive. The written attestation must be signed by a preceptor authorized user who meets the requirements in 41.2(69) or 41.2(89), or before May 3, 2006, meets the requirements in 10 CFR ~~35.930~~ 35.390, or equivalent agreement state requirements. A preceptor authorized user who meets the requirements in 41.2(69), or before May 3, 2006, meets the requirements in 10 CFR ~~35.930~~ 35.390, must have experience in administering dosages of either any beta emitter or any photon-emitting radionuclide with a photon energy less than 150 keV or at least three cases involving the parenteral administration of any other radionuclide for which a written directive is required.

ITEM 45. Amend subrule **41.3(6)**, paragraph “d,” as follows:

d. Be certified by the Canadian College of Medical Physics *Physicists in Medicine*; or

ITEM 46. Amend subrule **41.3(7)**, paragraph “a,” as follows:

PUBLIC HEALTH DEPARTMENT[641](cont'd)

a. Individuals who will be operating a therapeutic radiation machine for medical use shall be adequately instructed in the safe operating procedures and, be competent in the safe use of the equipment in accordance with 641—Chapter 42 as applicable, and hold a current permit to practice in radiation therapy.

ITEM 47. Amend subrule **41.6(1)** as follows:

Amend the following definition:

“Average glandular dose” means the energy deposited per unit mass of glandular tissue averaged over all the glandular tissue in the breast, calculated from values of entrance exposure in air, the X-ray beam quality (half-value layer), and compressed breast thickness. ~~The maximum average glandular dose should be 6 milliGray (0.6 rad) or less for a 2-view examination of the breast~~ For a 50 percent-50 percent adipose and glandular 4.2 centimeter breast, the average glandular dose shall not exceed 300 millirad (3 mGy). See also: “Dose.”

Adopt the following **new** definitions in alphabetical order:

“Annually” means within 10 to 14 months of previous occurrence.

“Computed radiography mammography” means a type of digital mammography in which the digital image receptor must be removed from the X-ray unit for the image to be read and processed by a separate image receptor reader.

“Direct detector technology” means a digital mammogram captured using a material which converts the X-ray energies directly to an electric signal.

“Full field digital mammography” means radiographic imaging of the breast using a digital image receptor with minimum dimensions of 18 × 23 cm to allow imaging the average size breast in a single exposure.

“Provisional certification” means the six-month certification time period in which a facility has to complete the accreditation/certification process.

“Reinstatement” means the process of recertification of a facility that has lost or voluntarily given up previous accreditation/certification.

“Soft copy review workstation” means a configuration of two 5 megapixel monitors used for the interpretation of full field digital mammogram images.

ITEM 48. Amend subrule **41.6(2)**, paragraph “**b**,” subparagraphs (6) and (8), as follows:

(6) The entire mammography system is evaluated *at least* annually by a medical physicist.

(8) Provisional or reinstatement certification. A new facility beginning operation after September 30, 1994, is eligible to apply for provisional or reinstatement certification. This will enable the facility to perform mammography and to obtain the clinical images needed to complete the accreditation process. To apply for and receive provisional or reinstatement certification, a facility must meet the requirements of 641—41.6(136C). Provisional or reinstatement certification shall be effective for up to six months from the date of issuance and cannot be renewed. The facility may apply for a one 90-day extension.

ITEM 49. Amend subrule **41.6(2)**, paragraph “**c**,” as follows:

c. ~~Withdrawal~~ Suspension, revocation, or denial of mammography certification.

(1) Mammography certification may be ~~withdrawn~~ suspended or revoked with cause if any facility or machine does not meet one or more of the standards of these rules, will not permit inspections or provide access to records or informa-

tion in a timely fashion, or has been guilty of misrepresentation in obtaining the certification.

(2) The facility shall have opportunity for a hearing in connection with a denial or ~~withdrawal~~, suspension or revocation of mammography certification in accordance with 641—Chapter 173.

(3) An emergency order ~~withdrawing~~ suspending or revoking certification may be issued in accordance with 641—173.3(17A) if the agency finds the radiation unit or facility violates rules that seriously affect the health, safety, and welfare of the public. An opportunity for hearing shall be held within ~~five~~ 20 working days after the issuance of the order. The order shall be effective during the proceedings.

(4) If certification is ~~withdrawn~~ revoked, the radiation machine shall not be used for mammography until reinstated.

(5) No change.

ITEM 50. Amend subrule **41.6(2)**, paragraph “**d**,” as follows:

d. Reinstatement of mammography certification *after revocation*.

(1) An application for reinstatement shall be submitted and processed ~~the same~~ as an initial application. *Appropriate corrective actions must be submitted with the application.*

(2) No change.

(3) A full certificate of reinstatement shall be issued only after the agency has inspected the radiation machine and determined that it meets the requirements of these rules.

ITEM 51. Amend subrule **41.6(2)**, paragraph “**f**,” as follows:

f. *The authorization of facilities is included in the accreditation process for facilities accredited by the state of Iowa. Determination of the quality of the mammograms produced by facilities accredited by the state of Iowa will be made. To make the determination, each facility will:*

(1) Provide at the time of initial registration and at renewal accreditation, new unit installation, or reaccreditation (at least every three years) thereafter, two original (not copies) mammography examinations which meet the following criteria for the clinical image review process by the agency:

1. and 2. No change.

3. Each mammography examination must have been interpreted as a “normal,” “negative” or “benign” examination.

(2) Provide randomly (at least every three years), at the request of agency mammography inspectors, two mammography examinations (mammograms) which meet the criteria in 41.6(2)“F”(1).

(3) ~~Have the film returned by the agency for inclusion in the patient’s file after quality interpretation by agency radiologists~~ Provide at the time of initial accreditation, new unit installation, or reaccreditation (at least every three years) thereafter, a phantom image taken with the unit being accredited within six months of the submission date for review by the agency.

(4) Be billed the fee for the quality interpretation review process as set forth in 641—subparagraph 38.8(1)“b”(2).

(5) Be provided with a written explanation of the results of the quality evaluation review process which will accompany the returned mammograms referred to in 41.6(2)“F”(3).

ITEM 52. Amend subrule **41.6(2)** by adopting **new** paragraph “**g**” and relettering existing paragraph “**g**” as “**h**”:

g. Facilities accredited by an approved accrediting body other than the state of Iowa must be authorized by the agency. Quality determination for these facilities will be made by the agency through a phantom image provided at the time of ini-

PUBLIC HEALTH DEPARTMENT[641](cont'd)

tial authorization, new unit authorization, or reauthorization (at least every three years) thereafter, taken with the unit being accredited within six months of the submission date.

ITEM 53. Amend subrule **41.6(2)** by adopting **new** paragraph **"i"** as follows:

i. Soft copy review workstation requirements. Soft copy review workstations used for final interpretation of mammogram images must be a configuration of two 5 megapixel monitors. The workstation must have a quality control program substantially the same as that outlined by the image receptor manufacturer's quality control manual or that outlined by the image receptor manufacturer's designated soft copy review workstation quality control manual.

ITEM 54. Amend subrule **41.6(3)**, paragraph **"a,"** subparagraph **(1)**, numbered paragraphs **"2"** to **"4,"** as follows:

2. *Either:*

• Be certified in an appropriate specialty area by a body determined by FDA to have procedures and requirements adequate to ensure that physicians certified by the body are competent to interpret radiological procedures, including mammography; or

• Have had at least three months of documented formal training in the interpretation of mammograms and in topics related to mammography. The training shall include instruction in radiation physics, including radiation physics specific to mammography, radiation effects, and radiation protection. The mammographic interpretation component shall be under the direct supervision of a radiologist who meets the requirements of 41.6(3)"a";

3. Have a minimum of 60 hours of documented medical education in mammography, which shall include: instruction in the interpretation of mammograms and education in basic breast anatomy, pathology, *and* physiology, technical aspects of mammography, and quality assurance and quality control in mammography. All 60 of these hours shall be Category 1 and at least 15 of the Category 1 hours shall have been acquired within the ~~three years~~ *36 months* immediately prior to the date that the radiologist qualifies as an interpreting physician. Hours spent in residency specifically devoted to mammography will be considered as equivalent to Category 1 continuing medical education credits and will be accepted if documented in writing by the appropriate representative of the training institution; ~~and~~

4. Unless the exemption in 41.6(3)"a"(3)"2" applies, have interpreted or multi-read at least 240 mammographic examinations within the six-month period immediately prior to the date that the radiologist qualifies as an interpreting physician. This interpretation or multi-reading shall be under the direct supervision of an interpreting physician; *and*

ITEM 55. Amend subrule **41.6(3)**, paragraph **"a,"** subparagraph **(1)**, by adopting **new** numbered paragraph **"5"** as follows:

5. Before an interpreting physician may begin independently interpreting mammograms produced by a new mammographic modality other than the modality in which the initial training was received, the interpreting physician shall have at least 8 hours of Category 1 continuing medical education credits in the new mammographic modality. An interpreting physician previously qualified to interpret full field digital mammography in another state will have six months to complete this requirement. The six-month time frame begins when the interpreting physician commences Iowa full field digital mammography interpretation.

ITEM 56. Amend subrule **41.6(3)**, paragraph **"a,"** subparagraph **(2)**, as follows:

(2) Continuing experience and education. All interpreting physicians shall maintain their qualifications by meeting the following requirements:

1. Following the second anniversary date of the end of the calendar quarter in which the requirements of 41.6(3)"a"(1) were completed, the interpreting physician shall have read or multi-read at least 960 mammographic examinations during the *prior* 24 months, ~~immediately preceding the date of the facility's annual inspection or the last day of the calendar quarter immediately preceding the inspection or any date during the 24-month period ending on the last day of the previous calendar quarter; or during any 24-month period~~ between the two. The facility will choose one of these dates to determine the 24-month period;

2. Following the third anniversary date of the end of the calendar quarter in which the requirements of 41.6(3)"a"(1) were completed, the interpreting physician shall have taught or completed at least 15 Category 1 continuing education units in mammography during the *prior* 36 months, ~~immediately preceding the date of the facility's annual MQSA inspection or the last day of the calendar quarter immediately preceding the inspection or any date in during the 36-month period ending on the last day of the previous calendar quarter; or during any 36-month period~~ between the two. The facility will choose one of these dates to determine the 36-month period; *and*.

3. ~~Before an interpreting physician may begin independently interpreting mammograms produced by screen film or full field digital mammographic modalities, the interpreting physician shall have at least 8 hours of category 1 continuing medical education credits in the mammographic modality. An interpreting physician who has previously qualified to interpret digital mammography in another state will have six months to complete this requirement. The six-month time frame starts when the interpreting physician commences Iowa digital mammography interpretation.~~

4.3. Units earned through teaching a specific course can be counted only once towards the 15 required by 41.6(3)"a"(2)"2" even if the course is taught multiple times during the previous 36 months.

4. *Continuing qualifications must be met and a current state of Iowa medical license must be in effect whenever mammography interpretations are performed by the physician.*

ITEM 57. Amend subrule **41.6(3)**, paragraph **"b,"** subparagraph **(2)**, as follows:

(2) Mammography requirements. ~~Prior to April 28, 1999, have~~ *Have* qualified as a radiologic technologist under 41.6(3)"b" ~~before April 28, 1999, or have completed at least 40 contact hours of documented training specific to mammography under the supervision of a qualified instructor after successful completion of at least a two-year radiography program. The hours of documented training shall include, but not necessarily be limited to:~~

1. Training in breast anatomy and physiology, positioning and compression, quality assurance/quality control techniques, and imaging of patients with breast implants, ~~and for full field digital mammography training, physics shall be included;~~

2. No change.

3. ~~At least 8 hours of training in each mammography modality to be used by the technologist in performing mammography examinations. The 8 hours shall not include hours derived from performance of supervised examinations; and~~

PUBLIC HEALTH DEPARTMENT[641](cont'd)

Before a radiologic technologist may begin independently performing mammographic examinations using a mammographic modality other than one of those for which the technologist received training under 41.6(3)“b”(2)“3,” the technologist shall have at least 8 hours of continuing education units in the new modality. The 8 hours may not be derived from the supervised examination of patients; and

ITEM 58. Amend subrule **41.6(3)**, paragraph “**b**,” subparagraph (3), as follows:

(3) Continuing education requirements:

1. Following the third anniversary date of the end of the calendar quarter in which the requirements of 41.6(3)“b”(1) and (2) were completed, the radiologic technologist shall have taught or completed at least 15 continuing education units in mammography during the *prior* 36 months immediately preceding the date of the facility’s annual MQSA inspection or the last day of the calendar quarter preceding the inspection or any date in, *during the 36-month period ending on the last day of the previous calendar quarter, or during any 36-month period* between the two. The facility will choose one of these dates to determine the 36-month period.

2. No change.

3. Requalification. A radiologic technologist who fails to meet the continuing education requirements of 41.6(3)“b”(3)“1” shall obtain a sufficient number of continuing education units in mammography to bring the total up to at least 15 in the previous ~~three years~~ 36 months. *The continuing education for requalification cannot be obtained by performing supervised mammography examinations.* The technologist may not resume performing unsupervised mammography examinations until the continuing education requirements are completed.

4. ~~Before a radiologic technologist may begin independently performing mammographic examinations using a mammographic modality other than one of those for which the technologist received training under 41.6(3)“b”(2)“3,” the technologist shall have at least 8 hours of continuing education in the new modality. Continuing qualifications must be met and an Iowa permit to practice radiography must be in effect whenever mammogram procedures are performed by the radiologic technologist.~~

5. *Only 50 percent of the total required mammography continuing education hours may be obtained through presenting, or acting as a trainer for, a continuing education or training program.*

ITEM 59. Amend subrule **41.6(3)**, paragraph “**b**,” subparagraph (4), as follows:

(4) Continuing experience requirements.

1. Following the second anniversary date of the end of the calendar quarter in which the requirements of 41.6(3)“b”(1) and (2) were completed or October 28, 1999, whichever is later, the radiologic technologist shall have performed a minimum of 200 mammography examinations during the *prior* 24 months, immediately preceding the date of the facility’s annual inspection or the last day of the calendar quarter preceding the inspection or any date in *during the 24-month period ending on the last day of the previous calendar quarter, or during any 24-month period* between the two. The facility will choose one of these dates to determine the 24-month period.

2. No change.

3. *Continuing qualifications must be met and an Iowa permit to practice radiography must be in effect whenever mammogram procedures are performed by the radiologic technologist.*

ITEM 60. Amend subrule **41.6(3)**, paragraph “**c**,” subparagraph (2), numbered paragraph “**2**,” as follows:

2. Prior to April 28, 1999, have:

- A bachelor’s degree or higher in a physical science from an accredited institution with no less than 10 semester hours or equivalent of college undergraduate or graduate level physics;.

- Forty contact hours of documented specialized training in conducting surveys of mammography facilities; and.

- ~~Have experience~~ *Experience* conducting surveys in at least one mammography facility and have a total of at least 20 mammography units. No more than one survey of a specific unit within a period of 60 days can be counted towards the total mammography unit survey requirement. The training and experience requirements must be met after fulfilling the degree requirement.

- Received at least eight hours of training in surveying units of the new mammographic modality before independently performing mammographic surveys of a new mammographic modality other than one for which the physicist received training to qualify under this subrule.

ITEM 61. Amend subrule **41.6(3)**, paragraph “**c**,” subparagraph (3), as follows:

(3) Continuing qualifications.

1. Continuing education. Following the third anniversary date of the end of the calendar quarter in which the requirements of 41.6(3)“c”(1) or (2) were completed, the medical physicist shall have taught or completed at least 15 continuing education units in mammography during the *prior* 36 months, immediately preceding the date of the facility’s annual inspection or the last day of the calendar quarter preceding the inspection or any date in *during the 36-month period ending on the last day of the previous calendar quarter, or during any 36-month period* between the two. The facility shall choose one of these dates to determine the 36-month period. Units earned through teaching a specific course ~~can~~ *shall* be counted only once towards the required 15 units in a 36-month period, even if the course is taught multiple times during the 36 months.

2. Continuing experience. Following the second anniversary date of the end of the calendar quarter in which the requirements of this subrule were completed or April 28, 1999, whichever is later, the medical physicist shall have surveyed at least two mammography facilities and a total of at least 6 mammography units during the *prior* 24 months, immediately preceding the date of the facility’s annual MQSA inspection or the last day of the calendar quarter immediately preceding the inspection or any date in *during the 24-month period ending on the last day of the previous calendar quarter, or during any 24-month period* between the two. The facility shall choose one of these dates to determine the 24-month period. No more than one survey of a specific facility within a 10-month period or a specific unit within a period of 60 days ~~can~~ *shall* be counted towards this requirement.

3. ~~Before a medical physicist may begin independently performing mammographic surveys of a new mammographic modality, that is, a mammographic modality other than one for which the physicist received training to qualify under this subrule, the physicist must receive at least 8 hours of training in surveying units of the new mammographic modality. Continuing qualifications must be met whenever medical physics services are provided by the medical physicist.~~

ITEM 62. Amend subrule **41.6(4)**, paragraph “**a**,” as follows:

PUBLIC HEALTH DEPARTMENT[641](cont'd)

a. The facility of ~~the~~ *performing the* current mammography examination must make all reasonable efforts to obtain the patient's recent mammography records, including original images or films, copies of written reports prepared by interpreting physicians, and other relevant information pertinent to previous mammograms that might be available from ~~others~~ *other facilities*, for comparison with the current mammography records.

ITEM 63. Amend subrule **41.6(4)**, paragraph "**b**," subparagraph **(8)**, introductory paragraph, as follows:

(8) A separate and distinct section entitled, "~~Overall Final Assessment~~" with findings classified in one of the following categories or an approved equivalent *the appropriate assessment term. One of the following terms in quotations or an approved equivalent must be included in the assessment:*

ITEM 64. Amend subrule **41.6(4)**, paragraph "**b**," subparagraph **(8)**, numbered paragraph "**6**," as follows:

6. ~~In cases where no final assessment category can be assigned due to incomplete workup,~~ "Incomplete: Need additional imaging evaluation" shall be assigned as an assessment *in cases where no final assessment category can be assigned due to incomplete workup*, and reasons why no assessment can be made shall be stated by the interpreting physician.

ITEM 65. Amend subrule **41.6(4)**, paragraph "**c**," subparagraphs **(2)** and **(3)**, as follows:

(2) Records retained by the facility must be retained for at least 60 calendar months following the date of service ~~or not less than ten years, as long as the patient continues consecutive mammograms.~~ *If no additional mammograms of the patient are performed, the records must be retained for at least ten years.*

(3) If the facility should cease to exist before the end of the ~~60-month period retention period~~, the records must be transferred to the patient or patient's physician or other mammographic facility.

ITEM 66. Amend subrule **41.6(5)**, paragraph "**e**," introductory paragraph, as follows:

e. Performance monitoring. The supplier shall routinely ensure that the performance of the mammography system is monitored. The parameters to be monitored *for film-screen mammography* shall include but not be limited to:

ITEM 67. Amend subrule **41.6(5)**, paragraph "**g**," as follows:

g. Evaluation of monitoring results. *Full field digital mammography units must comply with the quality control test requirements outlined by the performance criteria in the appropriate manufacturer's quality control manual.*

(1) Standards of image quality giving acceptable ranges of values for each of the parameters tested shall be established to aid in the evaluation. The standards of image quality related to dose shall include a requirement that the mean glandular dose for one craniocaudal view of a 4.5 4.2 cm compressed breast (50 percent adipose/50 percent glandular) or equivalent phantom shall not exceed 100 ~~mrad~~ (millirad) *millirad* for film-screen units with no grids, ~~or 300 mrad~~ *millirad* for film-screen units with grids, ~~or 300 millirad~~ *for full field digital units.*

(2) The monitoring results shall be compared routinely by the facility staff to the standards of image quality in 41.6(5)"k." If the results fall outside the acceptable range, the test shall be repeated. ~~If~~ *For film-screen mammography, if* the results continue to be unacceptable, the source of the problem shall be identified and corrected before further ex-

aminations are conducted. *For full field digital mammography, if any test results fall outside the performance criteria range listed for the unit, specific actions as directed in the appropriate quality control manual shall be followed.*

ITEM 68. Amend subrule **41.6(5)**, paragraph "**h**," introductory paragraph and subparagraph **(2)**, as follows:

h. Retake analysis program—*film-screen and full field digital.*

(2) All retakes shall be logged including date, technologist's name and reason for retake. A retake analysis shall be performed every 250 patients or quarterly, whichever comes first. *If more than 250 mammograms are performed in one week, weekly analysis is acceptable.*

ITEM 69. Amend subrule **41.6(5)**, paragraph "**i**," subparagraph **(3)**, as follows:

(3) Reviewing interpreting physician. Each facility shall designate at least one interpreting physician to review the medical outcomes audit data at least once every 12 months. This individual shall record the dates of the audit period(s) and shall be responsible for analyzing results based on this audit. This individual shall also be responsible for documenting the results, *and* notifying other interpreting physicians of the results and the facility aggregate results. If follow-up actions are taken, the reviewing interpreting physician shall also be responsible for documenting the nature of the follow-up. *The reviewing physician shall sign the medical audit as proof of the evaluation of the data.*

ITEM 70. Amend subrule **41.6(5)**, paragraph "**k**," subparagraph **(1)**, numbered paragraph "**1**," as follows:

1. The base plus fog density shall be ~~within~~ *below* plus 0.03 of the established operating level.

ITEM 71. Amend subrule **41.6(5)**, paragraph "**k**," subparagraph **(4)**, numbered paragraph "**3**," as follows:

3. Compression device performance. ~~A compression force of at least 25 pounds (111 newtons) for 15 seconds shall be provided. Effective October 28, 2002, the~~ *The* maximum compression force for the initial power drive shall be between 25 pounds (111 newtons) and 45 pounds (200 newtons).

ITEM 72. Amend subrule **41.6(5)**, paragraph "**k**," subparagraph **(7)**, by adopting new numbered paragraph "**3**" as follows:

3. Full field digital unit corrective actions shall be made as prescribed in the appropriate manufacturer's quality control manual or in accordance with the appropriate FDA-approved alternative requirements.

ITEM 73. Amend subrule **41.6(5)**, paragraph "**k**," subparagraph **(8)**, numbered paragraph "**2**," as follows:

2. The results of all tests conducted by the facility in accordance with 41.6(5)"k"(1) through (7) *for film-screen units*, as well as written documentation of any corrective actions taken and their results, shall be evaluated for adequacy by the medical physicist performing the survey. *Surveys of full field digital mammography units shall be conducted as described in the appropriate manufacturer's quality control manual. The results of the tests, any corrective actions taken and their results shall be evaluated for adequacy by the medical physicist performing the survey.*

ITEM 74. Amend subrule **41.6(5)**, paragraph "**k**," subparagraph **(9)**, as follows:

(9) Mammography equipment evaluations. Additional evaluations of mammography units or image processors or

PUBLIC HEALTH DEPARTMENT[641](cont'd)

any other applicable mammography system ancillary parts shall be conducted whenever a new unit or processor is installed at new installations, a unit or processor is disassembled and reassembled at disassembly, at reassembly, at the same or a new location, or when major components of a mammography unit or processor equipment are changed or repaired. These evaluations shall be used to determine whether the new or changed equipment meets the requirements of applicable standards in 41.6(5) and 41.6(6). All problems shall be corrected before the new or changed equipment is put into service for examinations or film processing. The mammography equipment evaluation shall be performed by a medical physicist or by an individual under the direct supervision of an Iowa-approved medical physicist.

ITEM 75. Amend subrule **41.6(6)** as follows:

Amend paragraph "**t**," catchwords, as follows:

t. Mobile units and vans—~~film screen.~~

Adopt **new** paragraph "**u**" as follows:

u. Mobile units and vans—full field digital. Appropriate manufacturer's quality control manual procedures and criteria shall be met.

ITEM 76. Amend subrule **41.7(1)** by adopting the following **new** definitions in alphabetical order:

"Procedure" means a stereotactically guided breast biopsy performed on a patient for diagnostic purposes.

"Qualified training physician" means a physician who is qualified under 41.7(3) to perform stereotactically guided breast biopsies and who has performed at least 24 procedures.

ITEM 77. Amend subrule **41.7(2)**, paragraph "**b**," subparagraph (5), as follows:

(5) The entire stereotactically guided breast biopsy system is evaluated annually by a ~~radiation~~ medical physicist who meets the requirements of this rule.

ITEM 78. Amend subrule **41.7(2)**, paragraph "**c**," as follows:

c. ~~Withdrawal~~ Suspension, revocation, or denial of authorization.

(1) Authorization may be ~~withdrawn~~ suspended or revoked with cause if any machine does not meet one or more of the standards of these rules.

(2) The facility shall have an opportunity for a hearing in connection with a denial, ~~or withdrawal~~ suspension, or revocation of authorization.

(3) An emergency order ~~withdrawing~~ suspending or revoking authorization may be issued if the agency finds the radiation machine or facility violates rules that seriously affect the health, safety and welfare of the public. An opportunity for hearing shall be held within ~~five~~ 20 working days after the issuance of the order. The order shall be effective during the proceedings.

(4) If authorization is ~~withdrawn~~ revoked, the radiation machine shall not be used until reinstated.

ITEM 79. Amend subrule **41.7(2)**, paragraph "**d**," subparagraphs (2) and (3), as follows:

(2) The agency shall inspect the radiation machine within 60 days of the approved reinstatement application. *If the reinstatement is after a revocation, appropriate corrective action shall be submitted with the application.*

(3) A certificate of full reinstatement shall be issued only after the agency has inspected the radiation machine and facility and determined that they meet the requirements of these rules.

ITEM 80. Amend subrule **41.7(3)**, paragraph "**a**," subparagraph (1), numbered paragraphs "**2**" and "**4**" to "**6**," as follows:

2. Shall have performed at least 12 stereotactically guided breast biopsies prior to July 1, 1998, or at least 3 hands-on stereotactically guided breast biopsies under a physician who is qualified under ~~41.6(3)"a"~~ 41.7(3) and has performed at least 24 stereotactically guided breast biopsies.

4. Shall be responsible for mammographic interpretation, be experienced as noted in ~~"2"~~ 41.7(3) "**a**"(1) "**2**" above and be experienced in the specific recommendations for each biopsy and lesion identification at time of each biopsy performed by that physician.

5. ~~Shall be responsible for oversight of all quality control and quality assurance activities.~~

6.5. Shall be responsible for the supervision of the radiologic technologist and the medical physicist during the procedure.

ITEM 81. Amend subrule **41.7(3)**, paragraph "**a**," subparagraph (2), as follows:

(2) Maintenance of proficiency and CME requirements.

1. Perform at least 12 stereotactically guided breast biopsies per year or requalify as specified above in ~~41.7(3)"a"~~(4). *If experience is not maintained, the physician must requalify by performing 3 procedures under direct supervision of a qualified training physician or an agency-approved manufacturer applications specialist before resuming unsupervised procedures.*

2. Obtain at least three hours of Category 1 CME or three hours of training approved by the agency in stereotactically guided breast biopsy every ~~three years~~ 36 months. *If education is not maintained, the physician must requalify by obtaining additional CME credits to reach 3 CME credits in the prior 36 months before resuming unsupervised procedures. These CMEs cannot be obtained by the performance of supervised procedures.*

3. *Continuing qualifications must be met and a current state of Iowa medical license must be in effect whenever procedures are performed independently by the physician.*

ITEM 82. Amend subrule **41.7(3)**, paragraph "**b**," subparagraph (1), as follows:

Amend numbered paragraph "**3**" as follows:

3. Must have performed at least 12 stereotactically guided breast biopsies prior to May 9, 2001, or at least 3 hands-on stereotactically guided breast biopsy procedures under a physician who is both qualified to interpret mammography perform stereotactic biopsy procedures according to ~~41.6(3)"a"~~ 41.7(3) and has performed at least 24 stereotactically guided breast biopsies.

Adopt **new** numbered paragraph "**5**" as follows:

5. Shall be responsible for supervision of the radiologic technologist during the procedure.

ITEM 83. Amend subrule **41.7(3)**, paragraph "**b**," subparagraph (2), as follows:

(2) Maintenance of proficiency and CME requirements.

1. Perform or participate in at least 12 stereotactically guided breast biopsies per year or requalify by performing 3 supervised procedures under direct supervision of a qualified training physician or an agency-approved manufacturer applications specialist before resuming unsupervised procedures.

2. Obtain at least three hours of Category 1 CME or three hours of training approved by the agency in stereotactically guided breast biopsy every ~~three years~~ 36 months. *If education is not maintained, the physician must requalify by ob-*

PUBLIC HEALTH DEPARTMENT[641](cont'd)

taining additional CME credits to reach 3 CME credits in the prior 36 months before resuming unsupervised procedures. These CMEs cannot be obtained by the performance of supervised procedures.

3. Continuing qualifications must be met and a current state of Iowa medical license must be in effect whenever unsupervised procedures are performed by the physician.

ITEM 84. Amend subrule **41.7(3)**, paragraph "**c**," subparagraph (1), numbered paragraphs "**4**" and "**7**" to "**10**," as follows:

4. Must have performed at least 12 stereotactically guided breast biopsies prior to July 1, 1998, or at least 3 hands-on stereotactically guided breast biopsy procedures under a physician who is both qualified according to 41.6(3)"a" 41.7(3) and has performed at least 24 stereotactically guided breast biopsies.

7. ~~Must be responsible for quality assurance activities including medical audit (tracking of number of biopsies done, cancers found, benign lesions, biopsies needing repeat, and complications).~~

8. ~~Must be responsible for the oversight of all quality control.~~

9.7. Must be responsible for the supervision of the radiologic technologist and the medical physicist during the procedure.

10.8. Must be responsible for post-biopsy management of the patient which may include referral to a surgeon for a follow-up on certain lesions.

ITEM 85. Amend subrule **41.7(3)**, paragraph "**c**," subparagraph (2), as follows:

(2) Maintenance of proficiency and CME requirements.

1. Perform at least 12 stereotactically guided breast biopsies per year or requalify by performing 3 supervised procedures under direct supervision of a qualified training physician or an agency-approved manufacturer applications specialist.

2. Obtain at least three hours of Category 1 CME or three hours of training approved by the agency in stereotactically guided breast biopsy every three years 36 months which includes post-biopsy management of the patient. *If education is not maintained, the physician must requalify by obtaining additional CME credits to reach 3 CME credits in the prior 36 months before resuming unsupervised procedures. These CMEs cannot be obtained by the performance of supervised procedures.*

3. Continuing qualifications must be met and a current state of Iowa medical license must be in effect whenever unsupervised procedures are performed by the physician.

ITEM 86. Amend subrule **41.7(3)**, paragraph "**d**," subparagraph (1), numbered paragraphs "**2**," "**5**," and "**7**" to "**10**," as follows:

2. Must have evaluated at least 240 mammograms per year in the prior two years 480 mammograms in the prior 24 months in consultation with a physician who is qualified according to 41.6(3)"a."

5. Must have performed at least 12 stereotactically guided breast biopsies prior to May 9, 2001, or at least 3 hands-on stereotactically guided breast biopsy procedures under a physician who is both qualified according to 41.6(3)"a" 41.7(3) and has performed at least 24 stereotactically guided breast biopsies.

7. ~~Must be responsible for quality assurance activities including medical audit (tracking of number of biopsies, cancers found, benign lesions, biopsies needing repeat and complications).~~

8. ~~Must be responsible for oversight of all quality control.~~

9.7. Must be responsible for the supervision of the radiologic technologist and the medical physicist during the procedure.

10.8. Must be responsible for post-biopsy management of the patient.

ITEM 87. Amend subrule **41.7(3)**, paragraph "**d**," subparagraph (2), as follows:

(2) Maintenance of proficiency and CME requirements.

1. Continue to evaluate at least 240 mammograms per year 480 mammograms every 24 months in consultation with a physician who is qualified according to 41.6(3)"a."

2. Perform at least 12 stereotactically guided breast biopsies per year or requalify by performing 3 supervised procedures under direct supervision of a qualified training physician or an agency-approved manufacturer applications specialist.

3. Obtain at least three hours of Category 1 CME or three hours of training approved by the agency in stereotactically guided breast biopsy every three years 36 months. *If education is not maintained, the physician must requalify by obtaining additional CME credits to reach 3 CME credits in the prior 36 months before resuming unsupervised procedures. The CME credits for requalification cannot be obtained by performing procedures.*

4. Continuing qualifications must be met and a current state of Iowa medical license must be in effect whenever unsupervised procedures are performed by the physician.

ITEM 88. Amend subrule **41.7(4)**, paragraph "**b**," as follows:

b. Must meet the following initial requirements:

(1) ~~Prior to July 1, 1998, have performed three hands-on stereotactically guided breast biopsy system physics surveys prior to July 1, 1998; or one hands-on stereotactically guided breast biopsy system physics survey under the guidance of a medical physicist qualified through 41.7(3)"a" and 41.7(4)"b."~~

(2) ~~On or after July 1, 1998, have performed one hands-on stereotactically guided breast biopsy system physics survey under the guidance of a medical physicist qualified to perform stereotactically guided breast biopsy system physics surveys. Have at least one stereotactically guided breast biopsy system physics survey per year after the initial qualifications are met; and three hours of continuing education in stereotactically guided breast biopsy system physics every three years after the initial qualifications are met.~~

ITEM 89. Amend subrule **41.7(4)**, paragraph "**c**," subparagraph (2), as follows:

(2) *Following the third anniversary in which the requirements of this subrule were met, Have have obtained at least three hours of continuing education in stereotactically guided breast biopsy system physics in during the previous 36 months or requalify by obtaining additional CME credits to reach 3 CME credits in the prior 36 months.*

ITEM 90. Amend subrule **41.7(5)**, paragraph "**b**," subparagraphs (1) and (2), as follows:

(1) Five hands-on stereotactically guided breast biopsy procedures on patients under the supervision of a qualified physician or technologist *qualified under rule 641—41.7(136C).*

(2) Three hours of continuing education in stereotactically guided breast biopsy. *The required continuing education*

PUBLIC HEALTH DEPARTMENT[641](cont'd)

cannot be obtained through the performance of supervised stereotactically guided breast biopsy procedures.

ITEM 91. Amend subrule **41.7(5)** as follows:

Amend paragraph "c" as follows:

c. Maintenance of proficiency and continuing education and experience requirements.

(1) Following the first anniversary in which the requirements of this subrule were met, ~~Have~~ have performed an average of at least 12 stereotactically guided breast biopsies per year after initial qualifications are met or requalify by performing 3 stereotactically guided breast biopsies under the supervision of a qualified physician or radiologic technologist qualified under 41.7(3) or 41.7(5).

(2) Following the third anniversary in which the requirements of this subrule were met, ~~Have~~ have obtained at least three hours of continuing education in stereotactically guided breast biopsy system physics in during the previous 36 months after initial qualifications are met or requalify by obtaining additional CME credits to reach 3 CME credits in the prior 36 months. The CMEs cannot be obtained by the performance of supervised procedures.

(3) If a stereotactic radiologic technologist performs only stereotactic procedures, the radiologic technologist must perform at least 100 stereotactic procedures during the prior 24 months, immediately preceding the date of the facility's annual inspection or the last day of the calendar quarter preceding the inspection or any date during the 24-month period ending on the last day of the previous calendar quarter, or any 24-month period between the two. ~~The requirements of~~ In this case, all requirements for radiologic technologists must be met with the exception of 41.6(3)"b"(4)"1" ~~do not apply in this case.~~

(4) Only 50 percent of the total required stereotactic continuing education hours may be obtained through presenting or acting as a trainer for a continuing education or training program.

Rescind paragraph "d."

ITEM 92. Amend subrule **41.7(6)**, paragraph "a," subparagraph (2), as follows:

(2) The name of the patient and one additional patient identifier.

ITEM 93. Amend subrule **41.7(7)**, paragraph "b," as follows:

b. The facility shall ensure that a general review of the program is conducted at least annually and have available the services of a qualified radiation medical physicist who is capable of establishing and conducting the program.

ITEM 94. Amend subrule **41.7(7)** by adopting the following new paragraph "c" and relettering existing paragraphs "c" to "f" as "d" to "g":

c. The facility shall name a supervising stereotactic biopsy physician who shall be responsible for:

(1) Quality assurance activities including the medical audit,

(2) Oversight of the quality control program, and

(3) Supervision of the radiologic technologist(s) and the medical physicist.

ITEM 95. Amend subrule **41.7(7)**, relettered paragraph "d," as follows:

d. Under the direction of the supervising physician, the radiation medical physicist shall have the responsibility for establishing and conducting the equipment quality assurance program. The program shall include:

(1) Conducting equipment performance monitoring functions, initially and then at least annually, to include:

1. Evaluation of biopsy unit assembly. Any failed items must be corrected within 30 days of the survey unless the medical physicist deems that the failure poses a serious injury risk to the patient, at which time the failure needs to be corrected before further procedures are performed.

2. Collimation.

• Digital – X-ray field must not extend beyond the image receptor by more than 5 mm on any side.

• Film-screen – On all sides other than the chest wall side, the X-ray field must be within the image receptor. The chest wall side must not extend beyond the image receptor by more than 2 percent.

• Any failures must be corrected within 30 days of the survey.

3. Evaluation of focal spot.

• Digital – Focal spot must not degrade from initial measurement. If reduction in lp/mm is found, focal spot must be corrected within 30 days of survey.

• Film-screen – Film-screen must show 13 lp/mm parallel to the anode-cathode axis and 11 lp/mm perpendicular to the anode-cathode axis. Failure to meet the performance criteria must be corrected within 30 days of survey.

4. kVp accuracy/reproducibility. kVp accuracy/reproducibility must be accurate to within +/- 5% of nominal kVp setting. Failures must be corrected before further procedures are performed.

5. Half-value layer measurement. HVL shall be greater than kVp/100 (in units of mm Al). Failures must be corrected before further procedures are performed.

6. Exposure reproducibility. Exposure must be reproducible to within +/- 15% of mean exposure. Failures must be corrected before further procedures are performed.

7. Breast entrance exposure, average glandular dose. Average glandular dose must be less than 300 millirad (3 milliGray) per exposure of a 50 percent glandular/50 percent adipose 4.5 centimeter breast. Failures must be corrected before further procedures are performed.

8. Image quality evaluation.

• Digital – Phantom image must meet the criteria of 5 fibers, 4 speck groups and 3 masses for the ACR accreditation phantom or 3 fibers, 3 speck groups and 2.5 masses for the mini phantom unless otherwise stated by the phantom manufacturer.

• Film-screen – Phantom image must meet the criteria of 4 fibers, 3 speck groups and 3 masses for the ACR phantom or 2 fibers, 2 speck groups and 2 masses for the mini phantom unless otherwise stated by the phantom manufacturer. The background density must be within +/- .20 of the established aim, and the density differences must be within +/- .05 of the established aim.

• Failures must be corrected before further procedures are performed.

9. Artifact evaluation. Any significant black or white artifacts seen in the image detector field must be corrected within 30 days of the survey.

10. Digital field uniformity. For units with region of interest (ROI) capability, the SNR in each corner must be within +/- 15% of the SNR in the center. Failures must be corrected within 30 days of the survey.

11. Localization simulation (gelatin phantom) test. Localization accuracy must be within 1 mm of target, and the test must include a portion of the test "lesion" in the sample chamber. Failures must be corrected before further procedures are performed.

PUBLIC HEALTH DEPARTMENT[641](cont'd)

11. Evaluation of the facility's technologist quality control program.

(2) and (3) No change.

ITEM 96. Amend subrule **41.7(7)**, relettered paragraph "e," as follows:

e. The supervising physician shall have the responsibility for establishing and conducting the quality control program in a facility with a fixed unit. In the case of a mobile stereotactic unit, the owner or designee shall assume the responsibility for establishing and conducting the quality assurance program. The program shall include:

(1) Localization accuracy (daily use and before using the localization unit after it is adjusted). *Each coordinate must be within manufacturer specifications for the intended target value. Failures must be corrected before further procedures are performed.*

(2) Visual checklist (monthly). *Any failed items must be corrected within 30 days.*

(3) Phantom image (weekly).

1. *Digital – Phantom image must meet the criteria of 5 fibers, 4 speck groups and 3 masses for the ACR accreditation phantom or 3 fibers, 3 speck groups and 2.5 masses for the mini phantom unless otherwise stated by the phantom manufacturer.*

2. *Film-screen – Phantom image must meet the criteria of 4 fibers, 3 speck groups and 3 masses for the ACR phantom or 2 fibers, 2 speck groups and 2 masses for the mini phantom unless otherwise stated by the phantom manufacturer. The background density must be within +/- .20 of the established aim, and the density difference must be within +/- .05 of the established aim.*

3. *Failures must be corrected before further procedures are performed.*

(4) Compression (semiannually). *The maximum auto drive compression force shall not exceed 45 pounds. Failures must be corrected within 30 days.*

(5) Processor sensitometry (daily before use with systems utilizing film).

ITEM 97. Amend subrule **41.7(7)**, relettered paragraph "f," as follows:

f. Each facility shall establish a medical audit program to ensure the accuracy and appropriateness of the procedures performed. This program shall include an imaging-pathology correlation for each biopsy performed, an ongoing analysis of biopsy results and periodic review of the utilization of the procedure. *The program must include the number of biopsies performed, the number of cancers found, the number of benign lesions found, and the number of biopsies repeated.*

ITEM 98. Amend subrule **41.7(7)**, relettered paragraph "g," as follows:

g. Additional *medical physicist* evaluations of stereotactic units shall be conducted whenever a new unit is installed, a unit is disassembled and reassembled at the same or a new location, or major components of a stereotactic unit are changed or repaired. These evaluations shall be used to determine whether the new or changed equipment meets the requirements of applicable standards in 41.7(7). All problems shall be corrected before the new or changed equipment is put into service for examinations. The stereotactic equipment evaluation shall be performed by a medical physicist qualified under 41.7(4) or by an individual under the direct supervision of an Iowa-approved a medical physicist qualified under 41.7(4).

ITEM 99. Amend subrule 42.1(1) as follows:

42.1(1) Applicability. Except as otherwise specifically provided, these rules apply to all individuals who operate as a diagnostic radiographer, nuclear medicine technologist, *radiologist assistant, podiatric radiographer*, or radiation therapist as defined below.

The provisions of this chapter are in addition to, and not in substitution for, any other applicable portions of 641—Chapters 38 to 41.

ITEM 100. Amend subrule **42.1(2)** as follows:

Amend the following definitions:

"Clinical podiatric sponsor" means a person who is licensed under Iowa Code chapter 149 and who is supervising a podiatric *radiography* student.

"Diagnostic radiographer" means an individual, other than a licensed practitioner, or podiatric *radiographer*, or dental assistant with radiography qualification, who applies X-radiation to the human body for diagnostic purposes while under the supervision of a licensed practitioner or registered nurse under 641—*subparagraph* 41.1(3)"a"(7). The types are as follows:

1. "General diagnostic radiographer" applies X-radiation to any part of the human body.

2. "Limited diagnostic radiographer" applies X-radiation to only the following body parts: chest, extremities (upper and lower), spine, or sinus. This individual is restricted to performing radiography in that area of the facility specifically designed for X-ray. This individual may not perform pediatric radiography (children under three years of age) without additional training in pediatric radiography taken as a part of the basic limited training or a specifically approved training program (see 42.2(6)).

3. "Limited in-hospital radiographer" applies X-radiation as permitted in 42.3(1)"c."

"~~Podiatry assistant~~ *Podiatric radiographer*" means an individual employed in a podiatry office who performs podiatric radiography but not CT or fluoroscopy.

"Special category course" means those programs still related to health care but indirectly related to diagnostic radiography, nuclear medicine technology, or radiation therapy. Such programs are: *advanced* CPR, educator's programs, management programs, personal improvement, for example.

"Supervision" means responsibility for and control of quality, radiation safety and protection, and technical aspects of the application of ionizing radiation to human beings for diagnostic or therapeutic purposes. *Indirect supervision is being physically present in the immediate vicinity and able to assist if needed. Direct supervision is physically observing and critiquing the actual procedure and giving immediate assistance if required.*

Add the following **new** definitions in alphabetical order:

"Directly related" means covering a subject listed in the training requirements for a specific certification.

"Formally educated" means completion of a formal course of training and testing approved by the agency.

ITEM 101. Amend subrule **42.2(1)**, paragraph "h," as follows:

h. ~~Work~~ *As a diagnostic radiographer, work only under the supervision of a licensed practitioner as defined in 641—38.2(136C); as a nuclear medicine technologist, work only under the supervision of an authorized user as defined in 641—41.2(136C); or as a radiation therapist, work only under the supervision of a licensed physician or authorized user as defined in 641—41.2(136C).*

PUBLIC HEALTH DEPARTMENT[641](cont'd)

ITEM 102. Amend subrule **42.2(1)**, paragraph “**j**,” as follows:

j. For ~~podiatry assistants~~ *podiatric radiographers* only, follow the application process in 42.7(4).

ITEM 103. Amend subrule **42.2(2)**, paragraphs “**a**,” “**b**,” and “**d**,” as follows:

a. Operating as a diagnostic radiographer, podiatric assistant *radiographer*, radiologist assistant, nuclear medicine technologist, or radiation therapist without meeting the requirements of this chapter.

b. Allowing any individual excluding a licensed practitioner as defined in 641—38.2(136C) to operate as a diagnostic radiographer, podiatric assistant *radiographer*, radiologist assistant, nuclear medicine technologist, or radiation therapist if that individual cannot provide proof of certification by the agency.

d. Submitting false information in order to obtain certification or renewal certification as a diagnostic radiographer, podiatric assistant *radiographer*, radiologist assistant, nuclear medicine technologist, or radiation therapist.

ITEM 104. Amend subrule **42.2(2)**, paragraph “**e**,” subparagraphs (1), (3), and (6), as follows:

(1) Any medical condition which may impair or limit the individual’s ability to perform *diagnostic* radiography, nuclear medicine procedures, or radiation therapy;

(3) A misdemeanor or felony which may impair or limit the individual’s ability to perform *diagnostic* radiography, nuclear medicine procedures, or radiation therapy;

(6) Performing ~~medical imaging~~ *diagnostic radiography*, radiation therapy, or nuclear medicine procedures without either supervision or a written order of a licensed practitioner;

ITEM 105. Amend subrule **42.2(2)**, paragraph “**g**,” as follows:

g. Failing to pay fees or costs required to meet the requirements of this chapter. Penalties for working without a *current* permit will be considered on a case-by-case basis.

ITEM 106. Amend subrule **42.2(3)**, paragraph “**a**,” subparagraph (9), as follows:

(9) ~~Podiatry assistant~~ *Podiatric radiographer*: See 42.7(5).

ITEM 107. Amend subrule **42.2(3)**, paragraph “**b**,” subparagraphs (5) and (6), as follows:

(5) No continuing education credit is approved for passing an initial certification examination or for basic CPR, hands-on practice, mandatory abuse reporting, or ultrasound or MRI courses that are less than 50 percent directly related to radiography, nuclear medicine, or radiation therapy.

(6) One-half hour of credit will be granted for each hour of formal demonstration of *equipment* by the application specialist. Content must be company-specific but not site-specific. Credit is limited to 50 percent of the total hours required.

ITEM 108. Amend subrule **42.2(3)**, paragraph “**e**,” as follows:

e. Proof of continuing education must be maintained for at least three years. Proof of continuing education may be a sign-in sheet, certificate, or answer sheet. It must be signed and dated by the presenter, program representative, or the individual’s supervisor. Individuals authorized for mammography must ~~meet~~ *meet* the records requirements in 641—41.6(136C) and 641—41.7(136C).

ITEM 109. Amend subrule **42.2(3)**, paragraph “**g**,” subparagraphs (2) and (3), as follows:

(2) Any individual who fails to complete the required continuing education before the continuing education due date but submits a written plan of correction to obtain the required hours ~~plus 3.0 additional penalty hours for limited technologists and 6.0 additional penalty hours for general technologists and 1.0 hour for podiatric assistants~~ and the fee required in 641—paragraph 38.8(6)“c” shall be allowed no more than 60 days after the original continuing education due date to complete the plan of correction and ~~additional penalty hours~~ and submit the documentation of completion of continuing education requirements. After 60 days, the certification shall be terminated and the individual shall not function as a diagnostic radiographer, radiation therapist, nuclear medicine technologist, *radiologist assistant*, or podiatric radiographer in Iowa.

(3) Once certification has been terminated, any individual who requests permission to reestablish certification within six months of the initial continuing education due date must submit proof of continuing education hours ~~plus penalty hours~~ and shall submit a late fee as set forth in 641—paragraph 38.8(6)“c” in addition to the annual fee set forth in 641—paragraph 38.8(6)“a” in order to obtain reinstatement of certification.

ITEM 110. Amend subrule **42.2(4)**, paragraph “**a**,” subparagraph (4), as follows:

(4) ~~Podiatry assistants~~ *Podiatric radiographers* must meet the requirements of 42.7(6).

ITEM 111. Amend subrule **42.2(4)**, paragraph “**e**,” introductory paragraph, as follows:

e. Upon the completion of the *recertification* training, the following must be submitted:

ITEM 112. Amend subrule **42.2(6)**, paragraph “**a**,” as follows:

a. Any individual wishing to train an individual as a diagnostic radiographer, nuclear medicine technologist, or radiation therapist must submit a training program to the agency for approval. *This provision includes individuals providing clinical training for out-of-state students. For radiologist assistants, see 641—42.6(136C). For podiatric radiographers, see 641—42.7(136C). No training may be started until written approval from the agency is received.* The training request must provide, *at a minimum*, the following:

(1) An outline of the didactic and clinical studies to meet the requirements of 42.3(1), 42.4(2), or 42.5(2), *as applicable*.

(2) Listed body parts to be taught if this is a limited radiography training program. *Procedures are limited to chest, extremities, spinal, or sinus radiography.*

(3) Proof that the:

1. *The instructor of a general training program* meets the requirements of this chapter as a two-year ~~trained~~ *educated* diagnostic radiographer, nuclear medicine technologist, or radiation therapist *holding a current Iowa general permit to practice and having at least two years of current experience* or is a licensed physician trained in the specific area of ~~competence~~ *the training program*.

2. *The instructor of a limited training program* meets the following:

- *The principal instructor of a limited training program is a general radiographer holding a current Iowa permit to practice and having at least two years of current experience*

PUBLIC HEALTH DEPARTMENT[641](cont'd)

or is a licensed physician trained in the specific area of the training program.

- *The on-site clinical instructor is a general radiographer holding a current Iowa permit to practice and having at least two years of current experience or is a limited radiographer holding a current Iowa permit to practice in the area of instruction and having at least two years of current experience. On-site clinical instructors shall be supervised by the principal instructor.*

(4) No change.

(5) A description of the testing to be used to determine proficiency of the didactic portion and the mechanism to be used to determine clinical competency. All clinical competency testing shall be conducted by the principal instructor.

(6) A statement of permission to allow a representative of the agency to periodically evaluate the progress of the student. The agency will evaluate all non-school students.

(7) A statement that the student will be directly supervised until the student's competency is documented and indirectly supervised after the student's competency is documented.

ITEM 113. Amend subrule **42.3(1)**, paragraph "**b**," subparagraph (1), numbered paragraph "**7**," as follows:

7. Clinical experience sufficient to demonstrate competency in the application of the above as specified by the department. Clinical experience must be directly supervised by a two-year trained educated general radiographer, licensed physician, chiropractor, or podiatrist who physically observes and critiques the actual X-ray procedures.

ITEM 114. Amend subrule **42.3(3)**, paragraph "**a**," introductory paragraph, as follows:

a. All individuals seeking to perform diagnostic radiography must, in addition to meeting the requirements in subrule 42.3(1), take and satisfactorily pass a written examination within six months of the issuance date of the temporary certification. Examination must include the following subject matter for each category of radiographer:

ITEM 115. Amend rule 641—42.7(136C), catchwords, as follows:

641—42.7(136C) Specific requirements for podiatric assistants radiographers.

ITEM 116. Amend subrule **42.7(1)**, paragraph "**a**," subparagraph (2), numbered paragraphs "**3**" and "**4**," as follows:

3. Be directly supervised by a podiatrist, general radiographer, or certified podiatric assistant radiographer; and

4. Not be started until notification of the desire to conduct a clinical training program has been submitted to this agency and verification of approval has been received by the podiatric sponsor; and

ITEM 117. Amend subrule **42.7(3)**, paragraph "**a**," as follows:

a. Students enrolled and participating in an approved course of clinical study for podiatry assistants podiatric radiographers or an approved school of medicine, osteopathy, or podiatry who, as part of their course of study, may apply ionizing radiation to a human being while under the supervision of a licensed practitioner.

ITEM 118. Amend subrule **42.7(5)**, paragraph "**c**," as follows:

c. Proofs of completion shall be retained by the podiatric assistant radiographer for four years.

ITEM 119. Amend subrule **44.4(6)**, paragraph "**b**," subparagraph (2), as follows:

(2) Pay annually a renewal fee of \$150 or a mitigation system installation surcharge fee of \$40 per mitigation system installed (as defined in 641—44.2(136B)) costing more than \$200, whichever is greater. With each renewal, a credentialed person must submit legal documentation of the number of mitigation systems installed the previous credentialing year. This number will be used to calculate the renewal fee. If an individual decides not to renew credentials the following year, all surcharge fees are to be paid in full within 30 days of the date of expiration of the credentials.

ITEM 120. Amend subrule **46.5(8)**, paragraph "**d**," subparagraph (2), as follows:

(2) Provide disposable eyewear in the tanning room at all times and post a sign stating that the disposable eyewear is available and that eyewear must be worn.

ARC 6693B

TRANSPORTATION DEPARTMENT[761]

Notice of Intended Action

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

Pursuant to the authority of Iowa Code sections 307.10, 307.12, 321.449 and 321.450, the Department of Transportation hereby gives Notice of Intended Action to amend Chapter 520, "Regulations Applicable to Carriers," Iowa Administrative Code.

Iowa Code section 321.449 requires the Department to adopt rules consistent with the Federal Motor Carrier Safety Regulations (FMCSR) promulgated under United States Code, Title 49, and found in 49 Code of Federal Regulations (CFR) Parts 385 and 390 to 399. Iowa Code section 321.450 requires the Department to adopt rules consistent with the Federal Hazardous Materials Regulations (HMR) promulgated under United States Code, Title 49, and found in 49 CFR Parts 107, 171 to 173, 177, 178 and 180. To ensure the consistency required by statute, the Department annually adopts the specified parts of 49 CFR as adopted by the United States Department of Transportation.

Commercial vehicles transporting goods in interstate commerce are subject to the FMCSR on the effective dates specified in the Federal Register (FR). Commercial vehicles transporting hazardous materials in interstate commerce or transporting certain hazardous materials intrastate are subject to the HMR on the effective dates specified in the FR. The adoption of the federal regulations by the Department will extend the enforcement of the regulations to commercial vehicles operated intrastate unless exempted by statute.

Proposed federal regulations are published in the FR to allow a period for public comment, and, after adoption, the final regulations are published in the FR. Each year a revised edition of 49 CFR is published, incorporating all of the final regulations adopted during the year. Although revised editions of 49 CFR are usually dated October or November, the publication is not actually available in Iowa for several months after that date.

The amendments to the FMCSR and the HMR that have become final and effective since the 2006 edition of the CFR are listed in the information below. The parts affected are followed by FR citations.

TRANSPORTATION DEPARTMENT[761](cont'd)

Amendments to the FMCSR and Federal HMRPart 173 (FR Vol. 71, No. 242, Page 75679, 12-18-06)

This CFR correction to Section 173.302a in 49 CFR, Parts 100 to 185, reinstates the second sentence of paragraph "d" pertaining to the maximum filling density of a cylinder containing diborane, which was inadvertently omitted from the original text. Effective date: December 18, 2006.

Parts 171, 172, 173, 178 and 180 (FR Vol. 71, No. 250, Pages 78596-78635, 12-29-06)

This final rule revised the HMR to maintain alignment with international standards by incorporating various amendments, including changes to proper shipping names, hazard classes, packing groups, special provisions, packaging authorizations, air transport quantity limitations and vessel stowage requirements. These revisions will harmonize the HMR with changes to the International Maritime Dangerous Goods Code, the International Civil Aviation Organization's Technical Instructions for the Safe Transport of Dangerous Goods by Air, and the United Nations Recommendations on the Transport of Dangerous Goods. Effective date: January 1, 2007.

Part 393 (FR Vol. 72, No. 43, Pages 9855-9871, 03-06-07)

This final rule amends the FMCSR to allow the use of automatic hydraulic inertia brake systems (surge brakes) on trailers when the ratios of gross vehicle weight ratings (GVWR) for the towing vehicle and trailer are within certain limits. A surge brake is a self-contained, permanently closed hydraulic brake system activated in response to the braking action of the towing vehicle. The amount of braking force developed by the trailer surge-brake system is proportional to the ratio of the towing vehicle to trailer weight and deceleration rate of the towing vehicle. Effective date: April 5, 2007.

Part 107 (FR Vol. 72, No. 85, Pages 24536-24539, 05-03-07)

This final rule amends the statutorily mandated registration and fee assessment program for persons who transport or offer for transportation certain categories and quantities of hazardous materials. This final rule eliminated a 24-hour, seven-days-per-week telephonic expedited registration system and adopted an exception from registration requirements for Indian tribes. There was no increase in registration fees in this final rule. Effective date: June 30, 2007.

Parts 171, 172, and 173 (FR Vol. 72, No. 85, Pages 25162-25177, 05-03-07)

This final rule amends the HMR to revise and consolidate the requirements applicable to the use of the International Civil Aviation Organization's Technical Instructions for the Safe Transport of Dangerous Goods by Air, the International Maritime Dangerous Goods Code, Transport Canada's Transportation of Dangerous Goods Regulations, and the International Atomic Energy Agency's Safety Standards Series: Regulations for the Safe Transport of Radioactive Material. The revisions and reformatting provide a user-friendly format to promote understanding of the conditions and limitations on the use of international standards and regulations. In addition, the Pipeline and Hazardous Materials Safety Administration authorizes the use in domestic transportation of portable tanks, cargo tank motor vehicles, and rail tank cars manufactured in accordance with Transport Canada's Transportation of Dangerous Goods Regulations. Effective date: October 1, 2007.

Part 393 (FR Vol. 72, No. 111, Pages 32011-32014, 06-11-07)

This final rule amends the FMCSR in response to a petition for reconsideration filed by the Truck Manufacturers As-

sociation. As requested by the petitioner, this amendment resolves an inconsistency between the Federal Motor Carrier Safety Administration's FMCSR and the National Highway Traffic Safety Administration's FMCSR regarding the location and placement of identification lamps on commercial motor vehicles. Effective date: July 11, 2007.

Part 393 (FR Vol. 72, No. 116, Page 33562, 06-18-07)

This CFR correction relates to a typographical error in the final rule issued on June 11, 2007. Effective date: July 11, 2007.

Parts 385, 390, and 395 (FR Vol. 72, No. 128, Pages 36760-36791, 07-05-07)

This final rule relates to certain regulations required by the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU). These regulations govern state compliance plans under the Motor Carrier Safety Assistance Program; withholding of federal-aid highway funds based on state noncompliance with the Commercial Driver's License Program; intrastate operations of interstate motor carriers; civil penalties and disqualifications for violations of out-of-service orders; civil penalties for denial of access to records and property and for violations of statutes and regulations governing hazardous materials transportation; exemption from the federal hours-of-service regulations for operators of commercial motor vehicles engaged in certain defined operations; exemption of drivers of propane service or pipeline emergency vehicles during emergency conditions requiring immediate response; and interstate transportation of household goods. The SAFETEA-LU provisions requiring these rules became effective on August 10, 2005. Adoption of the rules is a nondiscretionary ministerial action that was taken without issuing a notice of proposed rule making and receiving public comment, in accordance with an exception available to federal agencies under the Administrative Procedure Act. Effective date: September 4, 2007.

Part 393 (FR Vol. 72, No. 151, Pages 44035-44036, 08-07-07)

This final rule amends Part 393 of the FMCSR concerning parts and accessories necessary for safe operation in response to a petition for rule making filed by JHT Holdings, Inc. The petitioner requested that the previous provision excepting driveaway-towaway operations from supplying each power unit with a fire extinguisher be reinstated. This amendment is intended to correct that inadvertent omission in the final rule issued on August 15, 2005, by reinstating the exception language which was omitted during a previous revision. Effective date: September 6, 2007.

Part 171 (FR Vol. 72, No. 188, Pages 55090-55091, 09-28-07)

This final rule provides correction to errors in the final rule issued on May 3, 2007, by the Pipeline and Hazardous Materials Safety Administration which revised HMR Parts 171-180 to be consistent with the International Civil Aviation Organization's Technical Instructions for the Safe Transport of Dangerous Goods by Air, the International Maritime Dangerous Goods Code, the Transport Canada's Transportation of Dangerous Goods Regulations, and the International Atomic Energy Agency Safety Standards Series: Regulations for the Safe Transport of Radioactive Material. Effective date: September 28, 2007.

Parts 107, 171, 172, 173, 178 and 180 (FR Vol. 72, No. 189, Pages 55678-55697, 10-01-07)

This final rule corrects editorial errors, makes minor regulatory changes and, in response to requests for clarification, improves the clarity of certain provisions in the HMR. The

TRANSPORTATION DEPARTMENT[761](cont'd)

intended effect of this rule is to enhance the accuracy and reduce misunderstandings of the regulations. The amendments contained in this rule are nonsubstantive changes that do not impose new requirements. Effective date: October 1, 2007.

Parts 385, 390, 391, 392, 393, 395, and 397 (FR Vol. 72, No. 189, Pages 55697-55704, 10-01-07)

This final rule makes technical corrections throughout 49 CFR, Subtitle B, Chapter III. In 2007, the Federal Motor Carrier Safety Administration moved to 1200 New Jersey Avenue, SE, Washington, DC 20590. This rule changes obsolete references to the old address. In addition, the rule makes minor editorial changes to correct errors and omissions and improve clarity. This rule does not make any substantive changes to the affected parts of the FMCSR. Effective date: October 1, 2007.

Various portions of the federal regulations and Iowa statutes allow some exceptions when the exceptions will not adversely impact the safe transportation of commodities on the nation's highways. Granting additional exceptions for drivers and the motor carrier industry in Iowa would adversely impact the safety of the traveling public in Iowa.

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

1. Include the name, address, and telephone number of the person or agency authoring the comments or request.
2. Reference the number and title of the proposed rule, as given in this Notice, that is the subject of the comments or request.
3. Indicate the general content of a requested oral presentation.
4. Be addressed to the Department of Transportation, Office of Policy and Legislative Services, 800 Lincoln Way, Ames, Iowa 50010; fax (515)239-1639; Internet E-mail address: tracy.george@dot.iowa.gov.
5. Be received by the Office of Policy and Legislative Services no later than April 29, 2008.

A meeting to hear requested oral presentations is scheduled for Thursday, May 1, 2008, at 10 a.m. at the Iowa Department of Transportation's Motor Vehicle Division offices located at 6310 SE Convenience Boulevard, Ankeny, Iowa.

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

The proposed amendments may have an impact on small business. A request for a regulatory analysis pursuant to Iowa Code section 17A.4A must be submitted to the Office of Policy and Legislative Services at the address listed in this Notice by May 12, 2008.

These amendments are intended to implement Iowa Code chapter 321.

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

Proposed rule-making actions:

ITEM 1. Amend paragraph **520.1(1)“a”** as follows:

a. Motor carrier safety regulations. The Iowa department of transportation adopts the Federal Motor Carrier Safety Regulations, 49 CFR Parts 385 and 390-399 (October 1, 2006 2007).

ITEM 2. Amend paragraph **520.1(1)“b”** as follows:

b. Hazardous materials regulations. The Iowa department of transportation adopts the Federal Hazardous Materials Regulations, 49 CFR Parts 107, 171-173, 177, 178, and 180 (October 1, 2006 2007).

ARC 6692B

TRANSPORTATION DEPARTMENT[761]

Notice of Intended Action

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

Pursuant to the authority of Iowa Code sections 307.10 and 307.12, the Department of Transportation hereby gives Notice of Intended Action to amend Chapter 529, “For-Hire Interstate Motor Carrier Authority,” Iowa Administrative Code.

Because the Code of Federal Regulations (CFR) was updated in October 2007, the Department must cite the current version in the administrative rules. The amendments to the Federal Motor Carrier Safety Regulations (FMCSR) that have become final and effective since the 2006 edition of the CFR are listed in the information below. The parts affected are followed by the Federal Register (FR) citations.

Amendments to the FMCSR

Part 365 (FR Vol. 72, No. 189, Page 55697, 10-1-07)

This final rule makes technical corrections throughout 49 CFR, Subtitle B, Chapter III. In 2007, the Federal Motor Carrier Safety Administration moved to 1200 New Jersey Avenue, SE., Washington, DC 20590. This rule changes obsolete references to the old address in Part 365. Effective date: October 1, 2007.

Part 367 (FR Vol. 72, No. 164, Page 48585, 8-24-07)

This final rule establishes initial fees for 2007 and a fee bracket structure for the Unified Carrier Registration Agreement. This action is required under the Uniform Carrier Registration Act of 2005, enacted as Subtitle C of the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU). The Unified Carrier Registration Agreement replaced the Single State Registration System. Effective date: August 24, 2007.

Part 375 (FR Vol. 72, No. 128, Page 36760, 7-5-07)

This final rule adopts certain regulations required by SAFETEA-LU. The changes to Part 375 relate to interstate transportation of household goods. Definitions were amended and other conforming changes were adopted to comply with the statutory directives. Effective date: September 4, 2007.

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

1. Include the name, address, and telephone number of the person or agency authoring the comments or request.
2. Reference the number and title of the proposed rule, as given in this Notice, that is the subject of the comments or request.
3. Indicate the general content of a requested oral presentation.

TRANSPORTATION DEPARTMENT[761](cont'd)

4. Be addressed to the Department of Transportation, Office of Policy and Legislative Services, 800 Lincoln Way, Ames, Iowa 50010; fax (515)239-1639; Internet E-mail address tracy.george@dot.iowa.gov.

5. Be received by the Office of Policy and Legislative Services no later than April 29, 2008.

A meeting to hear requested oral presentations is scheduled for Thursday, May 1, 2008, at 9 a.m. at the Iowa Department of Transportation's Motor Vehicle Division offices located at 6310 SE Convenience Boulevard, Ankeny, Iowa.

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

The proposed amendment may have an impact on small business. A request for a regulatory analysis pursuant to Iowa Code section 17A.4A must be submitted to the Office of Policy and Legislative Services at the address listed in this Notice by May 12, 2008.

This amendment is intended to implement Iowa Code chapter 327B.

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

Proposed rule-making action:

Amend rule 761—529.1(327B) as follows:

761—529.1(327B) Motor carrier regulations. The Iowa department of transportation adopts the Code of Federal Regulations, 49 CFR Parts 365-368 and 370-379, dated October 1, 2006 2007, for regulating interstate for-hire carriers.

Copies of this publication are available from the state law library or through the Internet at <http://www.fmcsa.dot.gov>.

ARC 6707B

UTILITIES DIVISION[199]

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 Iowa Code sections 17A.4 and 476.2, the Utilities Board (Board) gives notice that on March 21, 2008, the Board issued an order in Docket No. RMU-08-2, In re: Electronic Filing [199 IAC chapters 1, 6, 7, 10, 11, 13, 14], “Order Commencing Rule Making.”

The proposed amendments add new Chapter 14, “Electronic Filing,” which establishes an electronic filing requirement, identifies exceptions to that requirement, and specifies procedures for using the Board's electronic filing system. The amendments also make changes to other Board rules to reflect the electronic filing requirement. The order commencing rule making contains a more thorough discussion of the proposed rule making. The order is available on the Board's Web site at www.state.ia.us/iub.

Pursuant to Iowa Code section 17A.4(1)“a” and “b,” any interested person may file a written statement of position pertaining to the proposed amendments. The statement must be filed on or before April 29, 2008, by filing an original and ten copies in a form substantially complying with 199 IAC

2.2(2). All written statements should clearly state the author's name and address and should make specific reference to this docket. All communications should be directed to the Executive Secretary, Iowa Utilities Board, 350 Maple Street, Des Moines, Iowa 50319-0069.

A public hearing to present oral comments on the proposed amendments will be held at 10 a.m. on May 12, 2008, in the Board's hearing room at the address listed above. Persons with disabilities who require assistive services or devices to observe or participate should contact the Utilities Board at (515)281-5256 in advance of the scheduled date to request that appropriate arrangements be made.

These amendments are intended to implement Iowa Code sections 17A.4 and 476.2.

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

The following amendments are proposed.

ITEM 1. Amend subrule 1.8(2) as follows:

1.8(2) Office hours. Office hours are 8 a.m. to 4:30 p.m., Monday to Friday. Offices are closed on Saturdays and Sundays and on official state holidays designated in accordance with state law. *Time provisions for electronic filing are found at 199—14.9(17A,476).*

ITEM 2. Amend subrule 1.8(4) as follows:

1.8(4) Cross reference to rules regarding electronic filing, placement of docket numbers on filings, service of documents, and required number of copies. *The board's rules regarding electronic filing are found at 199—Chapter 14. The board's rules regarding paper filing are found at 199—Chapter 7, including the board's rule regarding placement of docket numbers on filings is at 199—subrule 7.4(3); the board's rule regarding service of documents is at 199—subrule 7.4(6); and the board's rule regarding required number of copies of documents filed on paper is at 199—subrule 7.4(4).*

ITEM 3. Amend subrule 6.5(2) as follows:

6.5(2) The request for formal complaint proceedings shall be filed within 14 days after issuance of the proposed resolution or the specified date of utility action, whichever is later. The request shall be considered as filed on the date of the United States Postal Service postmark, the date personal service is made, or the date received *and accepted* in the board's records *and information* center. The request shall be in writing and must be delivered by United States Postal Service, other delivery service, or personal service, *or through the board's electronic filing system pursuant to 199—Chapter 14.* The request shall include the file number (C-XX-XXX) marked on the proposed resolution. It shall explain why the proposed resolution should be modified or rejected and propose an alternate resolution, including any temporary relief desired. Copies of the request shall be mailed to the consumer advocate and the parties.

ITEM 4. Amend subrule 7.1(1) as follows:

7.1(1) This chapter applies to contested case proceedings, investigations, and other hearings conducted by the board or a presiding officer, unless such proceedings, investigations, and hearings are excepted below, otherwise ordered in any proceeding if reasonably necessary to fulfill the objectives of the proceeding, or are subject to special rules or procedures that may be adopted in specific circumstances. If there are no other applicable procedural rules, this chapter applies to oth-

UTILITIES DIVISION[199](cont'd)

er types of agency action, unless the board or presiding officer orders otherwise. *The rules in this chapter regarding the content and format of pleadings, testimony, workpapers, and other supporting documents apply to both paper filings and electronic filings made pursuant to 199—Chapter 14. The rules in this chapter regarding filing, service, and number of copies required apply to paper filings. Where electronic filing is required, documents shall be filed and served according to 199—Chapter 14.*

ITEM 5. Amend rule 199—7.4(17A,474,476) as follows:

199—7.4(17A,474,476) General information.

7.4(1) Orders. All orders will be issued and placed in the board's records and information center. Orders shall be deemed effective upon issuance unless otherwise provided in the order. Parties and members of the public may view orders in the board's records and information center and may also view orders ~~(other than orders granting confidential treatment)~~ and a daily summary of filings on the board's Web site located at www.state.ia.us/iub.

7.4(2) Communications.

a. Electronic communications. Pleadings and other documents required to be electronically filed with the board shall be filed within the time limit, if any, for such filing, in accordance with the board's electronic filing rules at 199—Chapter 14. Unless otherwise specifically provided, all electronic communications and documents are officially filed upon publication on the board's Web site, as provided in 199—14.9(17A,476). Persons electronically filing a document with the board must comply with the service requirements in 199—14.16(17A,476).

a b. Paper communications. All paper communications to the board or presiding officer shall be addressed to the Executive Secretary, Iowa Utilities Board, 350 Maple Street, Des Moines, Iowa 50319-0069, unless otherwise specifically directed by the board or presiding officer. Pleadings and other ~~papers~~ documents required to be filed on paper with the board shall be filed within the time limit, if any, for such filing. Unless otherwise specifically provided, all communications and documents are officially filed upon receipt by the executive secretary in a form that complies with the board's filing requirements. Documents filed with the board shall comply with the requirements in 199—subrule 2.1(3). Persons filing a document with the board must comply with the service requirements in subrule 7.4(6) at the time the document is filed with the board.

b c. The board may accept order that filings be submitted electronically ~~from time to time in proceedings in which the electronic filing requirement in 199—14.2(17A,476) does not apply. Such filings shall be made pursuant to instructions that will be in 199—Chapter 14 and the board's published standards for electronic information or as delineated in the board order or other official statement authorizing requiring those filings. See rule 7.7(17A,476) for requirements for electronic information filed with the board.~~

7.4(3) No change.

7.4(4) Number of copies for paper filings.

a. An original and ten copies are required for most initial filings in a docket made with the board. There are some exceptions, which are listed below. The board or presiding officer may request additional copies.

A = Annual Report (rate-regulated 2 copies, non-rate-regulated 1 copy)

C = Complaints filed pursuant to 199—6.2(476) (original)

CCF = Customer Contribution Fund (original + 1 copy)

E = Electric Franchise or Certificate (original + 3 copies)

EAC = Energy Adjustment Clause (original + 3 copies)

EDR = Electric Delivery Reliability (original + 3 copies)

ES = Extended Area Services (original + 2 copies)

GCU = Generating Certificate Utility (original + 20 copies)

H = Accident (original + 1 copy)

HLP = Hazardous Liquid Pipeline (original + 2 copies)

NIA = Negotiated Interconnection Agreement (original + 3 copies)

P = Pipeline Permit (original + 2 copies)

PGA = Purchased Gas Adjustment (original + 3 copies)

R = Reports-Outages (original + 1 copy)

RFU = Refund Filing Utility (original + 4 copies)

RN = Rate Notification (original + 3 copies)

TF = Tariff Filing (original + 4 copies)

b. Unless otherwise ordered or specified in this rule, parties must either file an original and ten copies or make an electronic filing pursuant to 199—Chapter 14 of all filings including, but not limited to, pleadings and answers (rule 7.9(17A,476)), prefiled testimony and exhibits (rule 7.10(17A,476)), motions (rule 7.12(17A,476)), petitions to intervene and responses (rule 7.13(17A,476)), proposals for settlement and responses (rule 7.18(17A,476)), stipulations (rule 7.19(17A,476)), withdrawals (rule 7.21(17A,476)), briefs (subrule 7.23(8)), motions to vacate (subrule 7.23(11)), motions to reopen (rule 7.24(17A,476)), interlocutory appeals (rule 7.25(17A,476)), appeals from proposed decisions of the presiding officers and responses (rule 7.26(17A,476)), applications for rehearing and responses (rule 7.27(17A,476)), and requests for stay and responses (rule 7.28(17A,476)).

c. to e. No change.

7.4(5) No change.

7.4(6) Service of documents.

a. Method of service.

(1) Paper service. In situations where service of a paper document is permitted or required, and ~~Unless unless~~ otherwise specified by the board or presiding officer or otherwise agreed to by the parties, documents that are required to be served in a proceeding may be served by first-class mail or overnight delivery, properly addressed with postage prepaid, or by delivery in person. In expedited proceedings, if service is made by first-class mail instead of by overnight delivery or personal service, the sending party must supplement service by sending a copy by electronic mail or facsimile if an electronic mail address or facsimile number has been provided by the receiving party. When a document is served, the party effecting service shall file with the board proof of service in substantially the form prescribed in 199—subrule 2.2(16) or an admission of service by the party served or the party's attorney. The proof of service shall be attached to a copy of the document served. When service is made by the board, the board will attach a service list with a certificate of service signed by the person serving the document to each copy of the document served.

(2) Electronic service. The board's rule regarding electronic service is at 199—14.16(17A,476).

b. Date of service.

(1) Paper service. Unless otherwise ordered by the board or presiding officer, the date of service shall be the day when the document served is deposited in the United States mail or overnight delivery, is delivered in person, or otherwise as the parties may agree. Although service is effective, the document is not deemed filed with the board until it is received by the board pursuant to subrule 7.4(2).

UTILITIES DIVISION[199](cont'd)

(2) *Electronic service.* The board's rule regarding the date of electronic service is at 199—14.16(17A,476).

c. Parties entitled to service.

(1) *Paper service.* A party or other person filing a notice, motion, pleading, or other *paper* document in any proceeding shall contemporaneously serve the document on all other parties.

(2) *Electronic service.* The board's rule regarding electronic service is at 199—14.16(17A,476).

(3) *Service of documents containing confidential information.* Parties shall serve documents containing confidential information pursuant to a confidentiality agreement executed by the parties, if any. If the parties are unable to agree on a confidentiality agreement, they may ask the board or presiding officer to issue an appropriate order.

(4) *Service on consumer advocate.* A party formally filing any *paper* document or any other material *on paper* with the board shall serve three copies of the document or material on the consumer advocate at the same time as the filing is made with the board and by the same delivery method used for filing with the board. "Formal filings" include, but are not limited to, all documents that are filed in a docketed proceeding, or that request initiation of a docketed proceeding. The address of the consumer advocate is Office of Consumer Advocate, 310 Maple Street, Des Moines, Iowa 50319-0063.

d. No change.

7.4(7) and 7.4(8) No change.

7.4(9) Cross reference to public documents, and confidential filings, and *electronic filings*. The board's rule regarding public documents and confidential filings is at 199—1.9(22). The board's rule regarding electronic filing of documents containing confidential material is at 199—14.12(17A,476).

7.4(10) No change.

ITEM 6. Rescind rule 199—7.7(17A,476) and adopt in lieu thereof the following **new** rule:

199—7.7(17A,476) Electronic information. Filing of electronic information shall comply with the board's rules on electronic filing at 199—Chapter 14 and the board's published standards for electronic information, available on the board's Web site at www.state.ia.us/iub or from the board's records and information center.

ITEM 7. Amend rule 199—7.8(17A,476) as follows:

199—7.8(17A,476) Delivery of notice of hearing. When the board or presiding officer issues an order containing a notice of hearing, delivery of the order will be by first-class mail or by *electronic notice through the electronic filing system*, unless otherwise ordered.

ITEM 8. Amend rule 199—7.10(17A,476) as follows:

199—7.10(17A,476) Prefiled testimony and exhibits.

7.10(1) to 7.10(3) No change.

7.10(4) Prefiled testimony and exhibits must be accompanied by an affidavit in substantially the following form: "I, [person's name], being first duly sworn on oath, state that I am the same [person's name] identified in the testimony being filed with this affidavit, that I have caused the testimony [and exhibits] to be prepared and am familiar with its contents, and that the testimony [and exhibits] is true and correct to the best of my knowledge and belief as of the date of this affidavit."

7.10(5) (4) Prefiled testimony and exhibits *submitted on paper* shall include, where applicable:

a. All supporting workpapers.

(1) Unless otherwise ordered by the board or presiding officer, electronic workpapers in native electronic formats that comply with the ~~standards in rule 7.7(17A,476)~~ *board's standards for electronic information, which are available on the board's Web site or from the board's records and information center*, shall be provided. Noncompliant electronic workpapers shall be provided as a hard copy with a brief description of software and hardware requirements. Noncompliant electronic copies shall be provided upon request by any party, the board, or the presiding officer.

(2) All other workpapers and hard-copy printouts of electronic files shall be clearly tabbed and indexed, and pages shall be numbered. Each section shall include a brief description of the sources of inputs, operations contained therein, and where outputs are next used.

(3) Workpapers' underlying analyses and data presented in exhibits shall be explicitly referenced within the exhibit, including the name and other identifiers (e.g., cell coordinates) for electronic workpapers, and volume, tab, and page numbers for other workpapers.

(4) The source of any number used in a workpaper that was not generated by that workpaper shall be identified.

b. The derivation or source of all numbers used in either testimony or exhibits that were not generated by workpapers.

c. Copies of any specific studies or financial literature relied upon or complete citations for them if publicly available.

d. Electronic copies, in native electronic format, of all computer-generated exhibits that comply with the ~~standards in rule 7.7(17A,476)~~ *board's standards for electronic information, which are available on the board's Web site or in the board's records and information center*. Noncompliant electronic computer-generated exhibits shall be provided as a hard copy with a brief description of software and hardware requirements. Noncompliant electronic copies shall be provided upon request by any party, the board, or the presiding officer.

e. Unless otherwise ordered by the board or presiding officer, the following number of copies shall be filed:

(1) Electronic workpapers - two copies and two hard-copy printouts.

(2) Other workpapers - five copies.

(3) Specific studies or financial literature - two copies.

(4) Computer-generated exhibits - two copies.

7.10(5) *Any prefiled testimony, including workpapers and exhibits, that is subject to the electronic filing requirement shall comply with the board's standards for electronic information, which are available on the board's Web site or in the board's records and information center, and the electronic filing rules in 199—Chapter 14.*

7.10(6) No change.

ITEM 9. Amend rule 199—7.12(17A,476) as follows:

199—7.12(17A,476) Motions. Motions, unless made during hearing, shall be in writing, state the grounds for relief, and state the relief or order sought. Motions based on matters that do not appear of record shall be supported by affidavit. Motions *filed on paper* shall substantially comply with the form prescribed in 199—subrule 2.2(14). ~~Motions and shall be filed and served pursuant to rule 7.4(17A,476).~~ *Motions filed electronically shall substantially comply with the form prescribed in 199—subrule 2.2(14) and shall be filed according to 199—Chapter 14.* Any party may file a written response to a motion no later than 14 days from the date the motion is filed, unless the time period is extended or shortened by the board or presiding officer. When a statutory or other pro-

UTILITIES DIVISION[199](cont'd)

vision of law requires the board to issue a decision in the case in six months or less, written responses to a motion must be filed within 7 days of the date the motion is filed, unless otherwise ordered by the board or presiding officer. Failure to file a timely response may be deemed a waiver of objection to the motion. Requirements regarding motions related to discovery are contained at 199—subrules 7.15(4) and 7.15(5).

ITEM 10. Amend subrule 7.16(1) as follows:

7.16(1) Issuance.

a. An agency subpoena shall be issued to a party on request. The request shall be in writing and include the name, address, and telephone number of the requesting party. In the absence of good cause for permitting later action, a request for a subpoena must be received at least seven days before the scheduled hearing. *The board will issue subpoenas only on paper, not through the electronic filing system.*

b. Except to the extent otherwise provided by law, parties are responsible for service of their own subpoenas and payment of witness fees and mileage expenses. *Subpoenas cannot be served electronically through the electronic filing system.*

ITEM 11. Amend subrule 7.23(8) as follows:

7.23(8) Briefs.

a. No change.

b. Unless otherwise *electronically filed and served pursuant to 199—Chapter 14 or otherwise* ordered, parties shall file an original and ten copies of briefs with the board and shall serve two copies of briefs on the other parties pursuant to subrule 7.4(6). Parties may serve one paper copy and one copy by electronic mail on the other parties instead of two paper copies. Three copies of briefs shall be served on the consumer advocate pursuant to subrule 7.4(6).

c. and d. No change.

e. Briefs shall comply with the following requirements.

(1) The size of pages shall be 8½ by 11 inches.

(2) All printed matter must appear in at least 11-point type.

(3) There shall be margins of at least one inch on the top, bottom, right, and left sides of the sheet.

(4) The body of the brief shall be double-spaced.

(5) Footnotes may be single-spaced but shall not exceed one-half page in length.

(6) The printed matter may appear in any pitch, as long as the characters are spaced in a readable manner. Any readable font is acceptable.

(7) *Briefs filed electronically shall comply with the requirements in this paragraph and the standards for electronic information available on the board's Web site or in the board's records and information center.*

ITEM 12. Amend rule 199—7.26(17A,476) as follows:

199—7.26(17A,476) Appeals to board from a proposed decision of a presiding officer.

7.26(1) Notification of proposed decision. *A copy Notice of the presiding officer's proposed decision and order in a contested case shall be sent through the electronic filing system or by first-class mail if any paper filing requirements apply to the proceeding, on the date the order is issued, to the last-known address of each party. The decision shall normally include "Proposed Decision and Order" in the title and shall normally inform the parties of their right to appeal an adverse decision and the time in which an appeal must be taken.*

7.26(2) No change.

7.26(3) Any adversely affected party may appeal a proposed decision by timely filing a notice of appeal. *The If the electronic filing requirement applies to the proceeding in which the appeal is taken, the notice of appeal shall be electronically filed unless the appellant has received permission from the board to submit paper filings. If the electronic filing requirement does not apply, the appellant shall file an original and ten copies of the notice of appeal with the board, provide a copy to the presiding officer, and simultaneously serve a copy of the notice pursuant to subrule 7.4(6) on all parties.*

7.26(4) to 7.26(7) No change.

ITEM 13. Amend subrule 7.29(2) as follows:

7.29(2) Issuance of order.

a. An emergency adjudicative order shall contain findings of fact, conclusions of law, and policy reasons for the decision if it is an exercise of the board's discretion, to justify the determination of an immediate danger and the board's decision to take immediate action.

b. The written emergency adjudicative order shall be immediately delivered to persons who are required to comply with the order by the most reasonably available method, which may include one or more of the following methods: *notice through the electronic filing system; personal delivery; certified mail; first-class mail; fax; or E-mail.* To the degree practical, the board shall select the method or methods most likely to result in prompt, reliable delivery.

c. Unless the written emergency adjudicative order is delivered by personal service on the day issued, the board shall make reasonable efforts to contact the persons who are required to comply with the order by telephone, in person, or otherwise.

ITEM 14. Amend subrule 10.2(1), introductory paragraph, as follows:

10.2(1) A petition for a permit shall be made to the board upon the form prescribed and shall include all required exhibits. The petition shall be considered as filed upon receipt at the office of the board. An original and two copies of the petition and exhibits shall be filed, *unless the petition and exhibits are filed electronically pursuant to the board's electronic filing rules at 199—Chapter 14.* Required exhibits shall be in the following form:

ITEM 15. Amend subrule 11.2(1), introductory paragraph, as follows:

11.2(1) Forms of petition for a new or amended franchise. A petition for a new or amended franchise filed with the board shall be made in the following manner. A petition shall be made on forms prescribed by the board, shall be notarized, and shall have all required exhibits attached. Exhibits in addition to those required by this rule may be attached when appropriate. *Where the electronic filing requirement applies, the petition and exhibits shall be electronically filed pursuant to 199—Chapter 14.*

ITEM 16. Amend subrule 13.2(1), introductory paragraph, as follows:

13.2(1) A petition for a permit shall be made to the board upon the form prescribed and shall include all required exhibits. The petition shall be considered as filed upon receipt at the office of the board. An original and two copies of the petition and exhibits shall be filed, *unless the petition and exhibits are filed electronically pursuant to the board's electronic filing rules at 199—Chapter 14.* Required exhibits shall be in the following form:

UTILITIES DIVISION[199](cont'd)

ITEM 17. Adopt the following **new** chapter:

CHAPTER 14
ELECTRONIC FILING

199—14.1(17A,476) Purpose. The purpose of these rules is to establish an electronic filing requirement, to identify exceptions to the electronic filing requirement, and to specify procedures regarding electronic filing and service of documents filed with or issued by the board.

199—14.2(17A,476) Scope and applicability of electronic filing requirement. As of the date determined by the board, electronic filing is mandatory, unless specifically excepted by these rules. The board will publish on its Web site the effective date of the electronic filing requirement. When the electronic filing requirement is effective, all persons filing documents with the board shall file those documents electronically, subject to the exceptions in this chapter. The board will accept filings electronically pursuant to the rules in this chapter and the board's published standards for electronic information, available on the board's Web site (www.state.ia.us/iub) or from the board's records and information center, or as delineated in the board order or other official statement requiring those filings. The provisions of this chapter override any rule regarding filing and service of paper documents contained in 199—Chapter 7. In all circumstances in which the electronic filing requirement applies, the provisions of this chapter override any other board rule regarding number of copies, filing requirements, and service of papers. All other Chapter 7 rules otherwise apply to proceedings, investigations, and other hearings conducted by the board or a presiding officer which are subject to the electronic filing requirement. The board may suspend the electronic filing requirement by further notice as necessary.

199—14.3(17A,476) Definitions. Except where otherwise specifically defined by law:

“Accepted for filing” ordinarily means a filing will be published on the board's Web site. Certain documents will be accepted for filing without being published on the board's Web site. A filing that has been accepted for filing can be rejected at a later date if found not to comply with a board rule or order.

“Electronic filing” means the process of transmitting a document or collection of documents via the Internet to the board's electronic filing system for the purpose of submitting the document for board consideration.

“Electronic filing system” means the system used by the board's records and information center to accept and publish documents filed electronically and which allows the public and parties to view most documents filed with or issued by the board on the board's Web site.

“Guest user” means a person who uses the electronic filing system no more than twice a year to submit filings for the board's consideration.

“Publish” means to make a document available for public viewing or download by posting it on the board's Web site.

“Registered user” means a person who has complied with the board's requirements at 199—14.6(17A,476) to obtain a user ID and password in order to submit filings for the board's consideration through the board's electronic filing system.

199—14.4(17A,476) Exceptions; numbers of paper copies required. The following types of filings are not subject to the electronic filing requirement:

14.4(1) Filings made by any person who has been excused from the requirement by board order granting a request for permission to file paper documents. The board order granting permission to file paper documents shall specify the required number of paper copies of a document that must be filed.

14.4(2) Filings made in proceedings initiated before the effective date of the electronic filing requirement shall comply with all board rules regarding paper filings and number of copies provided, unless the board orders otherwise.

14.4(3) Informal consumer complaints. Consumers filing informal complaints pursuant to 199—6.2(476) are not required to electronically file complaints against utilities. Consumers may submit complaints electronically by using the online complaint form available on the board's Web site or by E-mail, or on paper by mail or facsimile. Informal consumer complaint files are available for public inspection in the board's records and information center. An informal complaint file will be made available on the board's Web site, to the extent reasonable, only if formal complaint proceedings are granted pursuant to 199—6.5(476).

14.4(4) Written objections to applications for electric transmission line franchises, pipeline permits, or hazardous liquid pipeline permits. Objectors are not required to electronically file written objections. Written objections in these cases may be submitted electronically through the electronic filing system pursuant to these rules, by using the objection form available on the board's Web site, or by E-mail; or the written comments may be submitted by letter or facsimile. Written objections will ordinarily be published on the board's Web site.

14.4(5) Comments from individuals in any other proceeding in which comments from the public are permitted. Individuals may submit comments electronically through the electronic filing system pursuant to these rules, by using any applicable online comment form available on the board's Web site, or by E-mail; or comments may be submitted by letter or facsimile. Comments from individuals will ordinarily be published on the electronic filing system.

14.4(6) Payment of required fees. Any payment required at the time of filing of a document must be delivered to the board's records and information center in person or by first-class mail or other delivery service. The filing will not be deemed complete and accepted until the required payment is received.

199—14.5(17A,476) Electronic filing procedures and required formats. Electronic documents shall be filed in accordance with the following procedures and required formats:

14.5(1) Persons who make infrequent filings with the board (i.e., no more than twice annually) may file as a guest user. Persons who make regular filings with the board shall register to obtain a user ID and password pursuant to registration procedures specified in 199—14.6(17A,476). The board may require an infrequent filer to become a registered user.

14.5(2) Electronic filings shall be made by uploading a document or collection of documents into the electronic filing system. E-mailing a document to the board does not constitute filing the document.

14.5(3) A filer must provide all required information when electronically filing a document.

14.5(4) Electronically filed documents shall be named in a way that accurately describes the contents of each document.

UTILITIES DIVISION[199](cont'd)

14.5(5) All documents shall be formatted in accordance with applicable rules governing formatting of paper documents.

14.5(6) All documents shall be formatted in accordance with the board's standards for electronic information, which are available on the board's Web site or from the board's records and information center.

14.5(7) Any text-based document which has been scanned for electronic filing must be full-text searchable.

14.5(8) Spreadsheets, workbooks, and databases included in filings shall include all cell formulae and cell references.

14.5(9) Hyperlinks and other navigational aids may be included in an electronically filed document. Each hyperlink must contain a text reference to the target of the link. Although hyperlinks may be included in a document as an aid to the reader, the material referred to by the hyperlinks is not considered part of the official record or filing unless the material itself is filed. Hyperlinks to cited authority may not replace standard citation format for constitutional citations, statutes, cases, rules, or other similarly cited materials.

14.5(10) The electronic filing system will display a "Filing Complete" notice when the upload of the filing is completed. If a "Filing Complete" notice does not appear, it is the filer's responsibility to contact the board's records and information center during regular business hours to determine the status of the filing.

14.5(11) After reviewing the filing, the board's records and information center will either accept or reject the filing. If the filing is accepted, the document (if not confidential) will be published on the board's Web site, and an electronic file stamp indicating the docket number(s) and date of filing will be added to the published document. A "Notice of Electronic Filing" containing a link to the published document will be sent by E-mail to the filer and to all parties identified on the service list as able to receive electronic service. Where a document is accompanied by a request for confidential treatment, the link will be to the public version of the document, in which information identified as confidential has been redacted (see 199—14.12(17A,476)). Where a filing consists only of a confidential document, such as a response to a board survey or other inquiry, which the board has deemed confidential pursuant to an order requiring the response, the document will not be published on the board's Web site. Acceptance of a document for filing is not a final determination that the document complies with all board requirements and is not a waiver of such requirements. If a filing is rejected, a "Notice of Rejection" explaining why the filing has been rejected will be sent by E-mail to the filer or the filer will be contacted by other appropriate means.

14.5(12) Errors. If a filer discovers an error in the electronic filing or publishing of a document, the filer shall contact the board's records and information center as soon as possible. The records and information center will review the situation and advise the filing party how the error will be addressed by the records and information center and what further action by the filer, if any, is required. Ordinarily, any modifications to a published document will require a revised filing with the board. If errors in the filing or publishing of a document are discovered by the board's records and information center, board staff will ordinarily notify the filer of the error and advise the filer of what further action, if any, is required to address the error. If the error is a minor one, the records and information center may either correct or disregard the error.

14.5(13) Electronic documents and the hearing process. If any prefiled testimony or exhibit that is electronically filed before the hearing is altered or corrected at the hearing in any way and admitted into evidence, the sponsoring party must electronically file the altered document at the earliest opportunity, but no later than three business days after the material is admitted into evidence. If any paper documents which have not been electronically filed before the hearing are admitted into evidence as exhibits at the hearing, the sponsoring party must electronically file the exhibits at the earliest opportunity, but no later than three business days after the material is admitted into evidence.

199—14.6(17A,476) Registration. To become a registered user, a person must complete a registration form, which is available on the board's Web site, and obtain a user ID and password. If a user believes the security of an existing password has been compromised, the user must change the password immediately.

199—14.7(17A,476) Electronic file. The official agency record in any proceeding is the electronic file maintained by the board's executive secretary. The board's executive secretary is responsible for maintaining an official electronic file in the board's electronic filing system for all documents filed electronically, receiving filings into the electronic filing system by electronic transmission, and scanning documents into the system that are not filed electronically, if feasible. The executive secretary may certify documents by digital signature and seal.

199—14.8(17A,476) Paper copies required.

14.8(1) Any map, plan and profile drawing, or oversized document that is required to be filed with the board shall be electronically filed as a PDF (Portable Document Format) file or a TIFF (Tag Image File Format) file, if the filer has access to an electronic version of the map, and in paper form. Two paper copies of each map, drawing, or other document filed pursuant to this rule shall also be filed. However, if the map, drawing, or other document is not electronically filed, then the number of paper copies specified in 199—subrule 7.4(4) or other applicable rule shall be filed.

14.8(2) Until December 31, 2008, filers shall provide the board with one paper copy of each document that is filed electronically, other than maps or other documents for which supplemental paper copies are required pursuant to subrule 14.8(1), unless more copies are required by board order. The paper copy may be provided by personal delivery or by first-class mail and shall be delivered or deposited in the mail within 24 hours of electronic filing. The electronic document stored in the electronic filing system and published on the board's Web site will function as the official filing.

199—14.9(17A,476) When electronic filings can be made; official filing date. Unless otherwise ordered, an electronic filing can be made at any time outside of any maintenance periods during which the system will not be available. The "Notice of Electronic Filing" generated when the document is published will record the date of the filing of the document. This date will be the official filing date of the document regardless of when the filer actually submitted the document to the electronic filing system. Documents uploaded into the electronic filing system by 3:30 p.m. central time on a business day, if accepted for publication, will be considered filed on that day. Documents uploaded into the electronic filing system after 3:30 p.m. central time on a business day or at any time on a nonbusiness day may, if accepted, be considered

UTILITIES DIVISION[199](cont'd)

filed on the next business day. Filings which require a payment will be considered filed on the date the board receives the payment.

199—14.10(17A,476) Notice of system unavailability. When the electronic filing system will not be available due to scheduled maintenance, a notice of the date, time, and expected duration of the unavailability will be posted on the board's Web site. When the electronic filing system is unexpectedly unable to receive filings during regular business hours continuously or intermittently for more than two hours, registered users will be notified of the problem by E-mail, if possible, and the public will be notified by the posting of a notice of the problem on the board's Web site, if possible.

199—14.11(17A,476) Technical difficulties. It is the responsibility of the filer to ensure that a document is timely filed to comply with jurisdictional deadlines. A technical failure of the electronic filing system, the filer's own computer equipment, or any other part of the filing system will not excuse the filer from compliance with a jurisdictional filing deadline. If a filer is not able to meet a nonjurisdictional deadline because of a technical failure, the filer must, by the earliest available conventional or electronic means, file the document and seek appropriate relief from the board.

199—14.12(17A,476) Documents containing confidential material. Confidential documents will not be published on the board's Web site. When filing a document containing confidential information, a person shall file one public version of the document with the confidential information redacted according to the board's standards for electronic information and one version of the document containing the confidential information. The two versions of the document shall be named according to the following convention: "Document Title – Public" and "Document Title – Confidential." It is the sole responsibility of the person submitting a public version of the electronic document to take appropriate measures to ensure that any embedded information for which confidential treatment is sought is nonviewable, nonsearchable, and nonreversible. Each page of the confidential version of the document shall be marked in a way that identifies it as belonging to the confidential version of the document. The confidential material itself shall be highlighted or otherwise distinguished on the page to identify what specific information is confidential. A filing including a document the filer asserts contains confidential information shall also include a separate document containing the request for confidential treatment pursuant to 199—subrule 1.9(6).

199—14.13(17A,476) Signatures.

14.13(1) Filings by registered users. The use of a user ID and password in accordance with the registration procedures specified in rule 14.6(17A,476) constitutes the filer's signature. Filers shall use "/s/" followed by the signer's name to indicate a signature where applicable. All pleadings must also include a signature block containing the signer's name, title, address, E-mail address, and telephone number. All electronic filings are presumed to have been made by the person whose user ID and password have been used to make the electronic filing.

14.13(2) Filings by guest users. The personal information required to submit a filing as a guest user constitutes the filer's signature. Filers shall use "/s/" followed by the signer's name to indicate a signature where applicable. All pleadings must also include a signature block containing the signer's name, title, address, E-mail address, and telephone number.

14.13(3) Documents with handwritten signatures. Any document bearing a handwritten signature must be scanned

and filed electronically. The filer must retain the original document for a period of two years or until the conclusion of the proceeding or the conclusion of an appeal, whichever is greater.

199—14.14(17A,476) Original documents. When a board rule requires the filing of an original document not prepared by the filer or the party on whose behalf the document is filed, such as an invoice or other document, the filer shall scan the original document and file the scanned document in the electronic filing system or request advance board approval of other arrangements. The filer must retain the original document for a period of two years or until the conclusion of the proceeding or the conclusion of an appeal, whichever is greater.

199—14.15(17A,476) Transcripts. Transcripts will be published on the board's Web site when they are available electronically and in a manner consistent with the terms of the contract with the court reporting service.

199—14.16(17A,476) Electronic service.

14.16(1) Service on parties able to receive electronic service. Unless otherwise provided by board rule or order, whenever a document is filed electronically, a "Notice of Electronic Filing" will be generated and sent to the filer and to representatives of the other parties who are able to receive electronic service and who are on the official service list. This notice will constitute valid service of electronically filed documents and board orders on parties accepting electronic service. The notice will include a service list providing names, addresses, and E-mail addresses of the persons who were sent the notice. No additional proof or certificate of service is required in matters in which all parties are able to receive electronic service. It is the responsibility of the filer to review the notice to ensure that all parties have been provided notice. All parties are responsible for ensuring that their E-mail accounts are monitored regularly and that E-mail notices sent to the account are opened in a timely manner.

14.16(2) Service on parties for whom electronic service is not available. The service list in each proceeding will be available on the board's Web site. The list will identify the representatives for each party and will also indicate the parties for whom electronic service is not available. Filers must serve a paper copy of any electronically filed document on all persons entitled to service for whom electronic service is not available, unless the parties agree to other arrangements. The date of service shall be the day when the document served is deposited in the United States mail or overnight delivery, is delivered in person, or otherwise as the parties may agree. A party serving a paper copy of any electronically filed document on a person for whom electronic service is not available shall file a certificate of service stating the manner in which service on such person was accomplished in a form consistent with the requirements of 199—subrule 2.2(16).

14.16(3) Service of board-generated documents. Orders issued by the board will be electronically filed. The electronic filing system will electronically transmit notice of posting of orders to all parties on the service list that are able to receive electronic service. This notice will constitute valid service of the order. The board's records and information center will mail paper copies of orders to parties who are not able to receive electronic service and to others as ordered. The records and information center will include a copy of the notice with the paper copy of the document.

UTILITIES DIVISION[199](cont'd)

14.16(4) Exceptions. Electronic service shall not be used to serve a document which (1) the filer asserts contains confidential material; or (2) initiates a proceeding, such as a complaint or application, except for orders opening inquiries, investigations, or rule-making proceedings, or other similar proceedings where the board has an official electronic service list on file.

14.16(5) Changes to service list. Filers wishing to change information on the service list shall file a notice of change of contact information. Other changes to the service list, such as a withdrawal of appearance or substitution of counsel, must be requested by means of an appropriate filing.

These rules are intended to implement Iowa Code sections 17A.4 and 476.2.

ARC 6685B**HUMAN SERVICES
DEPARTMENT[441]****Adopted and Filed Emergency**

Pursuant to the authority of Iowa Code sections 234.6, 239B.4(6), and 249A.4, the Department of Human Services amends Chapter 41, "Granting Assistance," Chapter 75, "Conditions of Eligibility," and Chapter 170, "Child Care Services," Iowa Administrative Code.

Legislation in 2007 Iowa Acts, chapter 161, section 1, provides that, for tax year 2007 and thereafter, any state earned income tax credit (EITC) in excess of a person's tax liability is refundable. Department policies for determining Family Investment Program (FIP) and Medicaid eligibility already specify that federal earned income tax credits are exempt as income, regardless of whether the payments are received with the regular paychecks or as a lump sum with the tax refund. However, the Department's rules have not mentioned state income tax refunds, since previously the state earned income tax credit was nonrefundable.

These amendments clarify that for FIP eligibility and eligibility under a Family Medical Assistance Program (FMAP)-related Medicaid coverage group, both federal and state EITC payments are:

- Exempt as income; and
- Exempt as a resource in the month of receipt and the following month.

These amendments also establish the same income policy for the Child Care Assistance Program. (Resources are not considered in determining eligibility for Child Care Assistance.)

These amendments do not provide for waivers in specified situations, since exempting these payments is a benefit to clients who receive them. Requests for the waiver of any rule may be submitted under the Department's general rule on exceptions at 441—1.8(17A,217).

The Council on Human Services adopted these amendments on March 12, 2008.

In compliance with Iowa Code section 17A.4(2), the Department finds that notice and public participation are unnecessary because these amendments clarify current policy on earned income tax credits. Notice and public comment are also impracticable because allowing the necessary time would delay the effective date of the rules until after the current tax period, which would be contrary to the intent of the amendment to the state tax code.

The Department finds that these amendments confer a benefit by allowing clients whose tax credits are more than their tax liability to receive the mandated refund without a decrease or loss of FIP, Medicaid, or Child Care Assistance benefits. Therefore, these amendments are filed pursuant to Iowa Code section 17A.5(2)"b"(2), and the normal effective date of these amendments is waived.

These amendments are also published herein under Notice of Intended Action as **ARC 6686B** to allow for public comment.

These amendments are intended to implement Iowa Code sections 237A.13, 239B.7, and 249A.4 and Iowa Code Supplement section 422.12B.

These amendments became effective March 12, 2008.

A fiscal impact summary prepared by the Legislative Services Agency pursuant to Iowa Code § 17A.4(3) will be available at <http://www.legis.state.ia.us/IAC.html> or at (515)

281-5279 prior to the Administrative Rules Review Committee's review of this rule making.

The following amendments are adopted.

ITEM 1. Amend subrule **41.26(1)**, paragraph "l," as follows:

l. ~~Earned~~ *Federal or state earned income tax credit* payments in the month of receipt and the following month, regardless of whether these payments are received with the regular paychecks or as a lump sum with the federal *or state* income tax refund.

ITEM 2. Amend subrule **41.27(7)**, paragraph "g," as follows:

g. *Earned Federal or state earned income tax credit.*

ITEM 3. Amend subrule **75.56(1)**, paragraph "l," as follows:

l. *Earned Federal or state earned income tax credit* payments in the month of receipt and the following month, regardless of whether these payments are received with the regular paychecks or as a lump sum with the federal *or state* income tax refund.

ITEM 4. Amend subrule **75.57(7)**, paragraph "f," as follows:

f. *Earned Federal or state earned income tax credit.*

ITEM 5. Amend subrule **170.2(1)**, paragraph "d," by adopting **new** subparagraph (28) as follows:

(28) *Federal or state earned income tax credit.*

[Filed Emergency 3/12/08, effective 3/12/08]

[Published 4/9/08]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 4/9/08.

ARC 6689B**HUMAN SERVICES
DEPARTMENT[441]****Adopted and Filed Emergency After Notice**

Pursuant to the authority of Iowa Code section 234.46, the Department of Human Services amends Chapter 187, "After-care Services and Supports," Iowa Administrative Code.

These amendments allow youth who are participating in the Preparation for Adult Living (PAL) Program to receive a start-up allowance to assist in covering initial costs for living on one's own, such as rental and utility deposits, food, and necessary household items. Start-up costs typically amount to well above the monthly stipend a youth begins receiving in the first month of eligibility. The Department has been approving funding for start-up costs through exceptions to policy. These amendments streamline the authorization process and set a uniform standard for awarding the allowance.

These amendments do not provide for waivers in specified situations because they benefit the youth affected. The Department has general procedures for requesting an exception to policy at 441—1.8(17A,217).

Notice of Intended Action on these amendments was published in the Iowa Administrative Bulletin on January 30, 2008, as **ARC 6583B**. The Department received no comments on the Notice of Intended Action. These amendments

HUMAN SERVICES DEPARTMENT[441](cont'd)

are identical to those published under Notice of Intended Action.

The Council on Human Services adopted these amendments on March 12, 2008.

The Department finds that these amendments confer a benefit on youth entering the PAL program by funding start-up expenses. Therefore, these amendments are filed pursuant to Iowa Code section 17A.5(2)"b"(2), and the normal effective date of these amendments is waived.

These amendments are intended to implement Iowa Code section 234.46.

These amendments became effective on April 1, 2008.

The following amendments are adopted.

ITEM 1. Amend subrule 187.11(5) as follows:

187.11(5) Financial need. ~~A youth whose unearned income exceeds the maximum payment determined according to 187.12(2) is not eligible for a stipend.~~ Initial and ongoing eligibility shall be based on the youth's income and need as determined according to ~~187.12(4) rule 441—187.12(234)~~.

ITEM 2. Amend rule 441—187.12(234) as follows:

Amend the introductory paragraph as follows:

441—187.12(234) Payment. The program administrator or designee shall issue a ~~monthly stipend payment~~ to each participant according to the following guidelines:

Amend subrule 187.12(2) as follows:

Amend the introductory paragraph as follows:

187.12(2) Amount of *monthly stipend*. The monthly stipend shall be based on the foster family basic daily maintenance rate for a child aged 16 or older. The maximum monthly ~~payment stipend~~ shall be calculated by multiplying the daily rate in 441—subrule 156.6(1) by 365 and dividing by 12.

Amend paragraph "b" as follows:

b. *Effect of income.*

(1) *When the monthly unearned income of the youth exceeds the maximum monthly stipend, the youth is not eligible for a stipend.*

(2) *When the net earnings of the youth exceed the maximum payment monthly stipend, the stipend shall be reduced the following month by 50 cents for every dollar earned over the maximum payment monthly stipend.*

Adopt **new** subrule 187.12(4) as follows:

187.12(4) Start-up allowance. When a youth is approved for the PAL program, the program administrator or designee may authorize a one-time start-up allowance in addition to the monthly stipend. The start-up allowance:

a. Is intended to assist in covering the initial costs of establishing the youth's living arrangement, such as rental and utility deposits, purchase of food, and purchase of necessary household items.

b. Shall be based on the youth's income and need as determined according to subrule 187.12(1).

c. Shall not exceed the maximum monthly stipend amount.

ITEM 3. Amend **441—Chapter 187, Division II**, implementation sentence, as follows:

These rules are intended to implement 2006 Iowa Acts, ~~Senate File 2217, Division V Code section 234.46.~~

[Filed Emergency After Notice 3/12/08, effective 4/1/08]

[Published 4/9/08]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 4/9/08.

ARC 6705B**ECONOMIC DEVELOPMENT, IOWA
DEPARTMENT OF[261]****Adopted and Filed**

Pursuant to the authority of Iowa Code section 17A.3(1), the Generation Iowa Commission hereby adopts new Chapter 400, "Commission Organization and Procedures," Iowa Administrative Code.

The Generation Iowa Commission was established within the Iowa Department of Economic Development by 2007 Iowa Acts, House File 617, for purposes of advising and assisting the Iowa Department of Economic Development in the retention and attraction of the young adult population in the state in both urban and rural areas. The rules describe the Commission's composition, meeting procedures and duties, as well as how the public may obtain information or make submissions or requests to the Commission.

These rules were published under Notice of Intended Action in the Iowa Administrative Bulletin on October 24, 2007, as **ARC 6364B**. In addition, the rules were simultaneously Adopted and Filed Emergency as **ARC 6365B**.

No comments were received about the proposed rules. The final rules are identical to the proposed rules.

The Commission adopted these rules on March 11, 2008.

These rules will become effective on May 14, 2008, at which time the Adopted and Filed Emergency rules are rescinded.

These rules are intended to implement Iowa Code Supplement section 15.421.

The following amendment is adopted.

Adopt the following **new** Part XII:

PART XII

GENERATION IOWA COMMISSION

CHAPTER 400

COMMISSION ORGANIZATION AND PROCEDURES

261—400.1(15,17A) Definitions.

"Commission" means the generation Iowa commission established by Iowa Code Supplement section 15.421.

"Department" or "IDED" means the Iowa department of economic development authorized by Iowa Code chapter 15.

261—400.2(15,17A) Generation Iowa commission.**400.2(1) Composition.**

a. Commission structure. The commission shall consist of 15 voting members appointed by the governor and 4 ex officio nonvoting members. The ex officio nonvoting members are 4 legislative members, 2 state senators and 2 state representatives and not more than 1 member from each chamber being from the same political party. Eight voting members shall constitute a quorum. An affirmative vote of a majority of voting members, excluding any member who has a conflict of interest, is necessary for the commission to take substantive action.

b. Terms. Commission members shall be appointed for three-year terms that begin and end as provided by Iowa Code section 69.19. However, the initial members shall be appointed to terms of less than three years to ensure that members serve staggered terms.

c. Voting members. At the time of appointment or reappointment, a voting member shall be at least 18 years of age, but less than 35 years of age.

400.2(2) Meetings.

a. The commission generally meets monthly. By notice of the regularly published meeting agendas, the commission may hold regular or special meetings at various locations within the state.

b. The commission shall annually elect a chairperson and vice chairperson.

c. Any interested party may attend and observe commission meetings except for such portion as may be closed pursuant to Iowa Code section 21.5.

d. Observers may use cameras or recording devices during the course of a meeting so long as the use of such devices does not materially hinder the proceedings. The chairperson may order that the use of these devices be discontinued if it causes interference and may exclude any person who fails to comply with that order.

e. Minutes of open meetings will be available for viewing at the commission's offices.

400.2(3) Duties. The duties of the commission are as follows:

a. Advise and assist the department in activities designed to retain and attract the young adult population.

b. Develop and make available best practices guidelines for employers to attract and retain young adult employees.

c. In the years that the written report required by rule 261—400.3(15,17A) is not updated, submit a written status report which shall include an analysis of progress made during the previous calendar year.

400.2(4) Commission offices. The commission is established within the department. Information about the commission is available through the department's Web site at www.iowalifechanging.com or at Attn: Generation Iowa Commission, Iowa Department of Economic Development, 200 East Grand Avenue, Des Moines, Iowa 50309. Written requests may be submitted to the commission at this address.

261—400.3(15,17A) Written report.

400.3(1) The commission shall submit a written report to the governor and general assembly of findings and recommendations regarding the status of efforts to attract and retain the young adult population in the state, career opportunities and educational needs of young adults, and the movement of the young adult population between rural areas and urban areas and between Iowa and other states.

400.3(2) The commission shall submit this report by January 15, 2008, January 15, 2009, and every odd-numbered year thereafter.

400.3(3) The commission shall vote on material to be included in the written report. An affirmative vote of two-thirds of the voting members shall be required for approval of the final report.

These rules are intended to implement Iowa Code Supplement section 15.421.

[Filed 3/19/08, effective 5/14/08]

[Published 4/9/08]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 4/9/08.

ARC 6704B**ENVIRONMENTAL PROTECTION
COMMISSION[567]****Adopted and Filed**

Pursuant to the authority of Iowa Code sections 459.103 and 459A.104, the Environmental Protection Commission hereby adopts amendments to Chapter 65, "Animal Feeding Operations," Iowa Administrative Code.

For confinement feeding operations or open feedlot operations that are required to submit manure/nutrient management plans, these amendments limit the application of liquid manure, process wastewater or settled open feedlot effluent to 100 pounds of available nitrogen per acre to land that is planted to soybeans or that will be planted to soybeans the next crop season. Effective May 14, 2013, the application of liquid manure, process wastewater or settled open feedlot effluent to such land is prohibited unless the Commission determines that available scientific evidence justifies alternative action. The prohibition will not become effective unless the Commission publishes a notice in the Iowa Administrative Bulletin confirming that it has reviewed the available scientific evidence and that the prohibition shall take effect on May 14, 2013.

Notice of Intended Action was published in the Iowa Administrative Bulletin on January 3, 2007, as **ARC 5636B**. Subsequently a Small Business Regulatory Analysis was requested and published in the Iowa Administrative Bulletin on September 26, 2007, as **ARC 6250B**.

There are two changes from the Notice of Intended Action. First, the actual deadline for the Commission's review, November 14, 2012, is specified in Items 2 and 4 rather than describing the deadline as six months prior to the effective date of the land application prohibition. Second, a sentence is added at the end of Items 2 and 4 indicating that the land application prohibition will not take effect unless the Commission publishes a notice in the Iowa Administrative Bulletin confirming that it has reviewed the available scientific evidence and that the prohibition shall take effect on May 14, 2013.

These amendments are intended to implement Iowa Code sections 459.103, 459.312, 459A.104 and 459A.208.

These amendments will become effective on May 14, 2008.

The following amendments are adopted.

ITEM 1. Amend paragraph **65.17(18)"c"** as follows:

c. Nitrogen-based application rates shall be based on the optimum crop yields as determined in 65.17(6) and crop nitrogen usage rate factor values in Table 4 at the end of this chapter or other credible sources. *However, subject to the prohibition in 65.17(20), liquid manure applied to land that is currently planted to soybeans or to land where the current crop has been harvested and that will be planted to soybeans the next crop season shall not exceed 100 pounds of available nitrogen per acre. Further, the 100 pounds per acre application limitation in the previous sentence does not apply on or after June 1 of each year; in that event 65.17(6) and Table 4 would apply as provided in the first sentence of this paragraph.*

ITEM 2. Amend rule 567—65.17(459) by adopting the following **new** subrule:

65.17(20) Liquid manure on land planted to soybeans. Effective May 14, 2013, the owner of a confinement feeding operation that is required to submit a manure management plan shall not apply liquid manure to land that is currently planted to soybeans or to land where the current crop has been harvested and that will be planted to soybeans the next crop season. Not later than November 14, 2012, the commission shall review the available scientific evidence and determine whether any further or alternative action is necessary. The prohibition on applying liquid manure shall not become effective unless the commission publishes a notice in the Iowa Administrative Bulletin confirming that it has reviewed the available scientific evidence and that the prohibition shall take effect on May 14, 2013.

ITEM 3. Amend subparagraph **65.112(8)"a"(2)** as follows:

(2) Calculations necessary to determine the land area required for the application of manure, process wastewater and open feedlot effluent from an open feedlot operation based on nitrogen or phosphorus use levels (as determined by phosphorus index) in order to obtain optimum crop yields according to a crop schedule specified in the nutrient management plan, and according to requirements specified in 65.17(4). *The 100 pounds of available nitrogen per acre limitation specified in 65.17(18)"c" (applicable to open feedlot operations because of requirements in 65.17(4)) pertaining to liquid manure applied to land currently planted to soybeans or to land where a soybean crop is planned applies only to liquid manure, process wastewater or settled open feedlot effluent.*

ITEM 4. Amend rule 567—65.112(459A) by adopting the following **new** subrule:

65.112(11) Settled open feedlot effluent on land planted to soybeans. Effective May 14, 2013, the owner of an open feedlot operation that is required to submit a nutrient management plan shall not apply liquid manure, process wastewater or settled open feedlot effluent to land that is currently planted to soybeans or to land where the current crop has been harvested that will be planted to soybeans the next crop season. Not later than November 14, 2012, the commission shall review the available scientific evidence and determine whether any further or alternative action is necessary. The prohibition on applying liquid manure, process wastewater or settled open feedlot effluent shall not become effective unless the commission publishes a notice in the Iowa Administrative Bulletin confirming that it has reviewed the available scientific evidence and that the prohibition shall take effect on May 14, 2013.

[Filed 3/19/08, effective 5/14/08]

[Published 4/9/08]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 4/9/08.

ARC 6687B**HUMAN SERVICES
DEPARTMENT[441]****Adopted and Filed**

Pursuant to the authority of Iowa Code section 234.6, the Department of Human Services amends Chapter 51, "Eligi-

HUMAN SERVICES DEPARTMENT[441](cont'd)

bility,” and Chapter 52, “Payment,” Iowa Administrative Code.

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

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

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

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

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

These amendments were previously Adopted and Filed Emergency and published in the Iowa Administrative Bulletin on January 2, 2008, as **ARC 6520B**. Notice of Intended Action to solicit comments on these amendments was published in the Iowa Administrative Bulletin as **ARC 6523B** on the same date. The Department received one comment on the Notice of Intended Action, a concern that the per diem rate for residential care was inadequate to carry out the requirements of the program. The Department has legislative authority only to raise the rates as necessary to meet the pass-along requirement. These amendments are identical to those Adopted and Filed Emergency and published under Notice of Intended Action.

The Council on Human Services adopted these amendments on March 12, 2008.

These amendments are intended to implement Iowa Code chapter 249.

These amendments shall become effective May 14, 2008, at which time the Adopted and Filed Emergency amendments are rescinded.

The following amendments are adopted.

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

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

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

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

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

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

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

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

\$697 \$708	Care allowance
\$ 88 \$ 91	Personal allowance
\$785 \$799	Total

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

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

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

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

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

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

[Filed 3/12/08, effective 5/14/08]
[Published 4/9/08]

EDITOR’S NOTE: For replacement pages for IAC, see IAC Supplement 4/9/08.

ARC 6688B**HUMAN SERVICES
DEPARTMENT[441]****Adopted and Filed**

Pursuant to the authority of Iowa Code section 234.6, the Department of Human Services amends 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 for 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 1, 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.

Notice of Intended Action on these amendments was published in the Iowa Administrative Bulletin on January 16, 2008, as **ARC 6546B**. The Department received no comments on the Notice of Intended Action. These amendments are identical to those published under Notice of Intended Action.

The Council on Human Services adopted these amendments on March 12, 2008.

These amendments are intended to implement Iowa Code section 234.6.

These amendments shall become effective on June 1, 2008.

EDITOR'S NOTE: Pursuant to recommendation of the Administrative Rules Review Committee published in the Iowa Administrative Bulletin, September 10, 1986, the text of these amendments [153.1 to 153.3, 153.5] is being omitted. These amendments are identical to those published under Notice as **ARC 6546B**, IAB 1/16/08.

[Filed 3/12/08, effective 6/1/08]
[Published 4/9/08]

[For replacement pages for IAC, see IAC Supplement 4/9/08.]

ARC 6708B**INSPECTIONS AND APPEALS
DEPARTMENT[481]****Adopted and Filed**

Pursuant to the authority of Iowa Code Supplement section 137F.2, the Department of Inspections and Appeals hereby amends Chapter 30, "Food and Consumer Safety," Chapter 31, "Food Establishment and Food Processing Plant Inspections," Chapter 34, "Home Food Establishments," and Chapter 35, "Contractor Requirements," and rescinds Chapter 32, "Food Protection and Certification Programs," Iowa Administrative Code.

This rule making adopts the 2005 Food and Drug Administration Food Code with Supplement; updates definitions and other provisions to be consistent with Iowa Code changes; updates the license fees to the amounts set in 2007 Iowa Acts, chapter 215 (Senate File 601); clarifies the procedures for fees not paid in a timely manner and clarifies provisions relating to violations; updates several references; accepts programs that are approved by the Conference on Food Protection as certified food safety programs; and rescinds Chapter 32 on food protection and certification programs.

Notice of Intended Action was published in the Iowa Administrative Bulletin on December 5, 2007, as **ARC 6454B**. A public hearing was held on December 27, 2007, at 10 a.m. at the office of the Department of Inspections and Appeals, Room 319, Lucas State Office Building, Des Moines, Iowa. Comments were received from industry and the public.

Comments received from industry concerned the posting of reports, which has been clarified in the adopted amendments; penalties, which are no longer being changed; the time period for appeals, which is no longer being changed; the sale of wild mushrooms and certain soft cheeses, which was clarified through communication with industry; the definition of "potentially hazardous foods," which was also clarified through communication with industry; concerns about whether the 2005 FDA Food Code exceptions relating to bare-hand contact were included in the rule making; and concerns about the training of food inspectors, which was clarified by providing industry with additional information about the training process. In addition, a commenter requested that the Department specifically require the inspection of all nutrition sites; that requirement has been incorporated into this rule making. Comments were also received from others who strongly supported the amendments proposed in the Notice of Intended Action.

The following changes were incorporated in response to comments received. In Item 3, the definition of "food establishment" was changed to specifically include nutrition sites. The posting requirements in Item 4 were changed so that they mirror the language in state law, and language was added to clarify what constitutes a current complaint. In Item 6, the proposed language in subrule 30.5(2) relating to penalties per day was not adopted. The proposed change in Item 10 to shorten the time period for filing an appeal from 30 days to 15 days was not adopted. In Item 11, several corrections were made to rule 481—31.1(137F), including changing the length of time in which nonpotentially hazardous food may be served, revising subrule 31.1(7) so that its wording is identical to the former subrule, correcting a reference in subrule 31.1(8) and changing the word "gap" to "break," changing the words "inspection fee" to "license fee" in subrule 31.1(9), and adding new subrule 31.1(11) to clarify that the Depart-

INSPECTIONS AND APPEALS DEPARTMENT[481](cont'd)

ment is the regulatory authority that approves deviations from the requirements concerning bare hand and arm contact and to ensure consistency statewide.

Changes were also made to cross references to reflect the publication of the 2007 Iowa Code Supplement.

These amendments were adopted by the Director on March 21, 2008.

These amendments shall become effective on July 1, 2008.

These amendments are intended to implement Iowa Code chapters 137C, 137D and 137F as amended by 2007 Iowa Acts, chapter 215.

The following amendments are adopted.

ITEM 1. Rescind rule 481—30.1(10A) and adopt the following **new** rule in lieu thereof:

481—30.1(10A) Food and consumer safety bureau. The food and consumer safety bureau inspects food establishments, egg handlers, food processing plants, home food establishments, food and beverage vending machines, and hotels and motels.

ITEM 2. Amend rule 481—30.2(10A) by adding the following introductory paragraph:

481—30.2(10A) Definitions. *If both the 2005 Food and Drug Administration Food Code with Supplement and rule 481—30.2(10A) define a term, the definition in rule 481—30.2(10A) is adopted.*

ITEM 3. Amend rule **481—30.2(10A)** as follows:

Amend the following definitions:

“Food establishment” means an operation that stores, prepares, packages, serves, vends or otherwise provides food for human consumption and includes a ~~food service operation in a salvage or distressed food operation, nutrition site as defined in 321—7.1(231),~~ school, summer camp, residential service substance abuse treatment facility, halfway house substance abuse treatment facility, correctional facility operated by the department of corrections, the state training school or the Iowa juvenile home. “Food establishment” does not include the following:

1. A food processing plant.
2. An establishment that offers only prepackaged foods that are not potentially hazardous.
3. A produce stand or facility which sells only whole, uncut fresh fruits and vegetables.
4. Premises which are a home food establishment pursuant to Iowa Code chapter 137D.
5. Premises which operate as a farmers market.
6. Premises of a residence in which food that is not potentially hazardous is sold for consumption off the premises to a consumer customer, if the food is labeled to identify the name and address of the person preparing the food and the common name of the food. *This exception does not apply to resale goods.*
7. A kitchen in a private home where food is prepared or stored for family consumption or in a bed and breakfast home.
8. A private home that receives catered or home-delivered food.
9. Child day care facilities and other food establishments located in hospitals or health care facilities ~~which that serve only patients and staff and~~ are subject to inspection by other state agencies or divisions of the department.
10. Supply vehicles, vending machine locations or boarding houses for permanent guests.

11. Establishments exclusively engaged in the processing of meat and poultry which are licensed pursuant to Iowa Code section 189A.3.

12. Premises covered by a current Class “A” beer permit as provided in Iowa Code chapter 123.

13. Premises covered or regulated by Iowa Code section 192.107 with a milk or milk products permit issued by the department of agriculture and land stewardship.

14. Premises or operations which are regulated by or subject to Iowa Code section 196.3 and which have an egg handler’s license.

15. The premises of a residence in which honey is stored; prepared; packaged, including by placement in a container; labeled; or from which honey is distributed.

16. *Premises regularly used by a nonprofit organization which engages in the serving of food on the premises as long as the nonprofit organization does not exceed the following restrictions:*

- a. *The nonprofit organization serves food no more than one day per calendar week and not on two or more consecutive days;*
- b. *Twice per year, the nonprofit organization may serve food to the public for up to three consecutive days; and*
- c. *The nonprofit organization may use the premises of another nonprofit organization not more than twice per year for one day to serve food.*

“Mobile food unit” means a food establishment that is self-contained, with the exception of grills and smokers, and readily movable, which either operates up to three consecutive days at one location or returns to a home base of operation at the end of each day.

“Pushcart” means a non-self-propelled vehicle food establishment limited to serving nonpotentially hazardous foods or commissary-wrapped foods maintained at proper temperatures, or ~~limited precooked foods that require limited assembly such as to the preparation and serving of frankfurters.~~

Rescind the definition of “potentially hazardous food.”

ITEM 4. Amend rule 481—30.3(137C,137D,137F,196) as follows:

481—30.3(137C,137D,137F,196) Licensing and postings.

A license to operate any of the above must be granted by the department of inspections and appeals. Application for a license is made on a form furnished by the department which contains the names of the business, owner, and manager; location of buildings; ~~or~~ and other data relative to the license requested. Applications are available from the ~~Inspections Division,~~ Department of Inspections and Appeals, *Food and Consumer Safety Bureau*, Lucas State Office Building, Des Moines, Iowa 50319-0083, *or from contractors.*

30.3(1) A license is not transferable. Licenses are not refundable unless the license is surrendered to the department prior to the effective date of the license.

30.3(2) A license is renewable and expires after one year.

30.3(3) A valid license *and the most recent inspection report, along with any current complaint or reinspections reports shall be posted no higher than eye level where the public can see it them.* Vending machines shall bear a tag to affirm the license. *For the purpose of this subrule, only founded complaint reports shall be considered a complaint. Founded complaints shall be posted until either the mail-in recheck form has been submitted to the regulatory authority or a recheck inspection has been conducted to verify that the violations have been corrected.*

30.3(4) Any change in business ownership or business location requires a new license. Vending machines, mobile

INSPECTIONS AND APPEALS DEPARTMENT[481](cont'd)

food units and pushcarts may be moved without obtaining a new license. A farmers market potentially hazardous food license may be used in the same county at different individual locations without obtaining a new license. Multiple locations operated simultaneously each require a separate license. Nutrition sites for the elderly licensed under Iowa Code chapter 137F may change locations in the same city without obtaining a new license.

30.3(5) The regulatory authority may require documentation from a license holder of the annual gross sales of food and drink sold by a licensed food establishment or a licensed food processing establishment. The documentation submitted by the license holder will be kept confidential and will be used to verify that the license holder is paying the appropriate license fee based on annual gross sales of food and drink. Documentation shall include at least one of the following:

- a. A copy of the firm's business tax return;
- b. Quarterly sales tax data;
- c. A letter from an independent tax preparer;
- d. Other appropriate records.

30.3(6) *A delinquent license shall only be renewed if it is renewed within 60 days of its expiration. If a delinquent license is not renewed within 60 days, an establishment must apply for a new license and meet all the requirements for licensure. Establishments that have not renewed the license within 60 days of the expiration of the license shall be closed by the department or a contractor. The establishment shall not be reopened until a new license application has been submitted and approved.*

This rule is intended to implement Iowa Code sections 10A.502(2), 137C.8, and 137D.2 and 137F.4 to 137F.6 as amended by 2002 Iowa Acts, House File 2620 chapter 137F as amended by 2007 Iowa Acts, chapter 215.

ITEM 5. Amend rule 481—30.4(137C,137D,196) as follows:

481—30.4(137C,137D,196) License fees. The license fee is the same for an initial license and a renewal license. Licenses expire one year from the date of issuance, except for temporary food establishments. Applications for licenses are available from the Department of Inspections and Appeals, ~~Inspections Division~~ *Food and Consumer Safety Bureau*, Lucas State Office Building, Des Moines, Iowa 50319-0083; or from a ~~contracting local health department contractor~~. License fees are set by the Iowa Code sections listed below and charged as follows:

30.4(1) Retail food establishments are based on annual gross sales of food or food products to consumer customers intended for preparation or consumption off the premises (Iowa Code *Supplement* section 137F.6) as follows:

- a. For annual gross sales of less than \$10,000—\$30 \$40.50;
- b. For annual gross sales of \$10,000 to \$250,000—\$75 \$101.25;
- c. For annual gross sales of \$250,000 to \$500,000—\$115 \$155.25;
- d. For annual gross sales of \$500,000 to \$750,000—\$150 \$202.50;
- e. For annual gross sales of \$750,000 or more—\$225 \$303.75.

30.4(2) Food service establishments are based on annual gross sales of food and drink for individual portion service intended for consumption on the premises (Iowa Code *Supplement* section 137F.6) or subject to Iowa sales tax as provided in Iowa Code section 422.45 as follows:

- a. For annual gross sales of less than \$50,000—\$50 \$67.50;
- b. For annual gross sales of \$50,000 to \$100,000—\$85 \$114.50;
- c. For annual gross sales of \$100,000 to \$250,000—\$175 \$236.25;
- d. For annual gross sales of \$250,000 to \$500,000—\$200 \$275.00;
- e. For annual gross sales of \$500,000 or more—\$225 \$303.75.

30.4(3) Food and beverage vending machines, \$20 for the first machine and \$5 for each additional machine (Iowa Code *Supplement* section 137F.6).

30.4(4) Home food establishments, \$25 \$33.75 (Iowa Code *Supplement* section 137D.2(1)).

30.4(5) Hotels are based on the number of rooms provided to transient guests (Iowa Code *Supplement* section 137C.9) as follows:

- a. For 1 to 15 guest rooms—\$20 \$27.00;
- b. For 16 to 30 guest rooms—\$30 \$40.50;
- c. For 31 to 75 guest rooms—\$40 \$54.00;
- d. For 76 to 149 guest rooms—\$50 \$57.50;
- e. For 150 or more guest rooms—\$75 \$101.25.

30.4(6) Mobile food unit or pushcart, \$20 \$27 (Iowa Code *Supplement* section 137F.6).

30.4(7) Temporary food service establishments issued for up to 14 consecutive days in conjunction with a single event or celebration, \$25 \$33.50 (Iowa Code *Supplement* section 137F.6).

~~A temporary food establishment license for a temporary food establishment located in a farmers market is valid at that site until December 31, 2001, provided the food establishment does not operate more than 14 consecutive days at this location. This paragraph will expire as of January 1, 2002.~~

30.4(8) For food processing plants, the annual license fee is based on the annual gross sales of food and food products handled at that plant or warehouse (Iowa Code *Supplement* section 137F.6) as follows:

- a. Annual gross sales of less than \$50,000—\$50 \$67.50;
- b. Annual gross sales of \$50,000 to \$250,000—\$100 \$135.00;
- c. Annual gross sales of \$250,000 to \$500,000—\$150 \$202.50;
- d. Annual gross sales of \$500,000 or more—\$250 \$337.50.

30.4(9) Egg handlers are based on the total number of cases of eggs purchased or handled during the month of April (Iowa Code *Supplement* section 196.3) as follows:

- a. For less than 125 cases—\$15 \$20.20;
- b. For 125 to 249 cases—\$35 \$47.25;
- c. For 250 to 999 cases—\$50 \$67.50;
- d. For 1,000 to 4,999 cases—\$100 \$135.00;
- e. For 5,000 to 9,999 cases—\$175 \$236.25;
- f. For 10,000 or more cases—\$250 \$337.50.

For the purpose of determining fees, each case shall be 30 dozen eggs.

~~**30.4(10)** Pursuant to 2002 Iowa Acts, House File 2620, section 2, a~~ A person selling potentially hazardous food at a farmers market must pay an annual license fee of \$100 for each county of operation. Persons who operate simultaneously at more than one location within a county are required to have a separate license for each location.

30.4(11) *If an establishment is licensed as a retail food establishment or food service establishment and has had a person in charge for the entire previous 12-month period who holds an active certified food protection manager certificate*

INSPECTIONS AND APPEALS DEPARTMENT[481](cont'd)

from a program approved by the Conference on Food Protection, and the establishment has not been issued a critical violation during the previous 12-month period, the establishment's license fee for the current renewal period shall be reduced by \$50 but no more than the establishment's total license fee(s).

30.4(12) The department shall charge a voluntary inspection fee of \$100 when a premises that is not a food establishment requests a voluntary inspection.

ITEM 6. Amend rule 481—30.5(137F) as follows:

481—30.5(137F) Penalty and delinquent fees.

30.5(1) Food establishment licenses and food processing plant licenses that are renewed by the licensee after the license expiration date shall be subject to a penalty of 10 percent of the license fee per month. *A license shall only be renewed if it meets the requirements set forth in subrule 30.3(5).*

30.5(2) A person who opens or operates a food establishment or food processing plant without a license is subject to a penalty of up to twice the amount of the annual license fee.

30.5(3) A person who violates Iowa Code chapter 137F or these rules shall be subject to a civil penalty of \$100 for each violation.

a. *For the department, prior to the assessment of any civil penalties, the licensee shall have the opportunity for a hearing conducted by the appeals division in the department of inspections and appeals.*

b. *For contractors, licensees shall have the opportunity for a hearing before the local board of health must be provided as required in rule 481—30.13(10A). If the hearing is conducted before the local board of health, the licensee may appeal to the department.*

c. *If the licensee does not appeal pursuant to rule 481—30.13(10A), the assessment shall become final after 15 days.*

This rule is intended to implement Iowa Code sections 137F.4, 137F.9 and 137F.17.

ITEM 7. Amend rule 481—30.8(137C,137D,137F) as follows:

481—30.8(137C,137D,137F) Inspection frequency.

30.8(1) Food establishments shall be inspected at an interval specified in ~~Section Subpart 8-401.49 of the Food Code Recommendations of the Food and Drug Administration.~~ Food service operations in schools, summer camps, assisted living facilities, residential service substance abuse treatment facilities, halfway house substance abuse treatment facilities, correctional facilities operated by the department of corrections, the state training school, and the Iowa juvenile home shall be inspected at least once annually.

30.8(2) Food processing plants shall be inspected at least once annually.

30.8(3) Hotels shall be inspected at least once biennially.

30.8(4) Home food establishments and vending machine license holders shall be inspected at least once annually.

30.8(5) Egg handlers shall be inspected at least once annually.

30.8(6) Farmers market potentially hazardous food licenses shall be inspected at least once annually.

This rule is intended to implement Iowa Code sections 137C.11, 137D.2, 137F.2 and 196.2 and Iowa Code Supplement section 137F.2.

ITEM 8. Rescind and reserve rule **481—30.10(137C, 137D,137F)**.

ITEM 9. Amend rule 481—30.11(22) as follows:

481—30.11(22) Examination of records. Information collected by the inspections division food and consumer safety bureau and contractors is considered public information. Records are stored in computer files and are not matched with any other data system. Information is available for public review and will be provided when requested from the office of the director. *Inspection reports are available for public viewing at <http://dia.iowa.gov/food/>.*

ITEM 10. Amend rule 481—30.13(10A) as follows:

481—30.13(10A,137F) Formal hearing. All decisions of the bureau may be contested by an adversely affected party. ~~Request~~ *A request for a hearing must be made in writing to the Department of Inspections and Appeals, Lucas State Office Building, Des Moines, Iowa 50319, within 30 days of the mailing or service of a decision. Appeals and hearings are controlled by 481—Chapter 10, "Contested Case Hearings."*

30.13(1) The proposed decision of the administrative law judge becomes final *if there is no appeal from or review of the proposed decision 30 days after it is mailed.*

30.13(2) Any request for administrative review of a proposed decision must:

a. Be made in writing;

b. Be filed with the director of the department of inspections and appeals within 30 days *of its issuance after the proposed decision was mailed to the aggrieved party (date of receipt by personal service or the postmarked date is time of filing);*

c. State the reason(s) for the request.

30.13(3) The decision of the director shall be based upon the record and becomes final agency action upon mailing.

This rule is intended to implement Iowa Code Supplement section 137F.2.

ITEM 11. Rescind rule 481—31.1(137F) and adopt the following **new** rule in lieu thereof:

481—31.1(137F) Inspection standards. The department adopts the 2005 Food Code with Supplement of the Food and Drug Administration as the state's "food code" with the following exceptions.

31.1(1) Section 3-201.11 is amended to allow honey which is stored; prepared, including by placement in a container; or labeled on or distributed from the premises of a residence to be sold in a food establishment.

31.1(2) Subparagraph 3-201.17(A)(4) is amended to state that field-dressed wild game shall not be permitted in food establishments.

31.1(3) Paragraph 3-502.12(A) is amended by adding the following: "Packaging of raw meat and poultry using an oxygen packaging method, with a 30-day 'sell by' date from the date it was packaged, shall be exempt from having a HACCP Plan."

31.1(4) Reserved.

31.1(5) Paragraph 4-301.12(C) is amended by adding the following: "Establishments need not have a three-compartment sink when each of the following conditions is met:

"1. Three or fewer utensils are used for food preparation;

"2. Utensils are limited to tongs, spatulas, and scoops; and

"3. The department has approved after verification that the establishment can adequately wash and sanitize these utensils."

31.1(6) Paragraph 5-203.11(C) is deleted.

31.1(7) Section 5-203.14 is amended by adding the following: "Water outlets with hose attachments, except for water heater drains and clothes washer connections, shall be

INSPECTIONS AND APPEALS DEPARTMENT[481](cont'd)

protected by a non-removable hose bibb backflow preventer or by a listed atmospheric vacuum breaker installed at least six inches above the highest point of usage and located on the discharge side of the last valve.”

31.1(8) Paragraph 5-402.11(D) is amended by adding the following: “A culinary sink or sink used for food preparation shall not have a direct connection between the sewage system and a drain originating from that sink. Culinary sinks or sinks used in food preparation shall be separated by an air break of not less than one inch between the outlet and the rim of the floor sink or receptor.”

31.1(9) Elder group homes as defined by Iowa Code section 231B.1 shall be inspected by the department, but Chapters 4 and 6 of the Food Code shall not apply. Elder group homes shall pay the lowest license fee in 481—subrule 30.4(2).

31.1(10) Nonprofit organizations that are licensed as temporary food establishments may serve nonpotentially hazardous food from an unapproved source for the duration of the event.

31.1(11) Section 3—301.11(D)(1) is amended by striking the words “regulatory authority” and inserting the word “department.”

ITEM 12. Amend rule 481—31.2(137F) as follows:

481—31.2(137F) Food processing plant standards.

1. Standards used to inspect establishments where wholesale food is manufactured, processed, packaged or stored are found in the Code of Federal Regulations in 21 CFR, Part 110, April 1, 1998 2007, publication, “Current Good Manufacturing Practices in Manufacturing, Processing, Packing or Holding Human Food.”

2. Standards used to inspect establishments where bakery products, flour, cereals, food dressings and flavorings are manufactured on a wholesale basis are found in the Code of Federal Regulations, in 21 CFR, Parts 136, 137 and 169, April 1, 1998 2007, publication.

3. Standards used to inspect establishments which process low-acid food in hermetically sealed containers are found in 21 CFR, Part 113, April 1, 1998 2007, “Thermally Processed Low-Acid Food Packaged in Hermetically Sealed Containers.”

4. Standards used to inspect establishments which process acidified foods are found in 21 CFR, Part 114, April 1, 1998 2007, “Acidified Foods.”

5. Standards used to inspect establishments which process bottled drinking water are found in the Code of Federal Regulations in 21 CFR, Parts 129 and 165, April 1, 1998 2007, publication publications, “Processing and Bottling of Bottled Drinking Water” and “Beverages.”

6. In addition to compliance with ~~31.2“1,”~~ rule 481—31.2(137F)“1,” manufacturers of packaged ice must comply with the following:

- Equipment must be cleaned on a schedule of frequency that prevents the accumulation of mold, fungus and bacteria. A formal cleaning program and schedule which ~~includes~~ include the use of sanitizers to eliminate microorganisms must be developed and used.

- Packaged ice must be tested every 120 days for the presence of bacteria.

- Plants that use a nonpublic water system must sample the water supply monthly for the presence of bacteria and annually for chemical and pesticide contamination.

Copies of these regulations are available from the ~~Inspection Division,~~ Department of Inspections and Appeals,

Bureau of Food and Consumer Safety, Lucas State Office Building, Des Moines, Iowa 50319-0083.

ITEM 13. Amend rule 481—31.3(137F) as follows:

481—31.3(137F) Trichinae control for pork products prepared at retail. Pork products prepared at retail shall comply with the Code of Federal Regulations found in 9 CFR, Section 318.10, January 1, 1998 2007, publication, regarding the destruction of possible live trichinae in pork and pork products. Examples of pork products that require trichinae control include raw sausages containing pork and other meat products, raw breaded pork products, bacon used to wrap around steaks and patties, and uncooked mixtures of pork and other meat products contained in meat loaves and similar types of products. The use of “certified pork” as authorized by the department of agriculture and land stewardship or the United States Department of Agriculture, Food Safety and Inspection Service shall meet the requirements of this rule.

ITEM 14. Rescind rule 481—31.4(137F) and adopt the following **new** rule in lieu thereof:

481—31.4(137F) Certified food protection programs. For purposes of Section 2-102.11, a program approved by the Conference on Food Protection shall meet the criteria for a certified food protection manager.

ITEM 15. Rescind rule 481—31.9(137F) and adopt the following **new** rule:

481—31.9(137F) Toilets and lavatories. Separate toilet facilities for men and women shall be provided in places which seat 50 or more people or in places which serve beer or alcoholic beverages.

ITEM 16. Amend rule 481—31.12(137F) as follows:

481—31.12(137F) Temporary food establishments and farmers market potentially hazardous food licensees.

31.12(1) Personnel.

a. Employees shall keep their hands and exposed portions of their arms clean.

b. Employees shall have clean garments, aprons and effective hair restraints. Smoking, eating or drinking in food booths is not allowed. All nonworking, unauthorized persons are to be kept out of the food booth.

c. All employees, including volunteers, shall be under the direction of the person in charge. The person in charge shall ensure that the workers are effectively cleaning their hands, that potentially hazardous food is adequately cooked, held or cooled, and that all multiuse equipment or utensils are adequately washed, rinsed and sanitized.

d. Employees and volunteers shall not work ~~in at a mobile food unit/pushcart~~ temporary food establishment or farmers market potentially hazardous food establishment licensees if ~~they~~ the employees and volunteers have open cuts, sores or communicable diseases. The person in charge shall take appropriate action to ensure that employees and volunteers who have a disease or medical condition transmissible by food are excluded from the food operation.

e. ~~All employees and volunteers~~ Every employee and volunteer must sign a logbook with the employee’s or volunteer’s name, address, telephone number and the date and hours worked. The logbook must be maintained for 30 days by the person in charge and be made available to the department upon request.

31.12(2) Food handling and service.

INSPECTIONS AND APPEALS DEPARTMENT[481](cont'd)

a. Dry storage. All food, equipment, utensils and single-service items shall be stored off the ground and above the floor on pallets, tables or shelving.

b. Cold storage. Refrigeration units shall be provided to keep potentially hazardous foods at 41°F or below. The inspector may approve an effectively insulated, hard-sided container with sufficient coolant for storage of less hazardous food or the use of such a container at events of short duration if the container maintains the temperature at 41°F or below.

c. Hot storage. Hot food storage units shall be used to keep potentially hazardous food at 140°F 135°F or above. Electrical equipment is required for hot holding, unless the use of propane stoves and grills capable of holding the temperature at 140°F 135°F or above is approved by the department. Sterno cans are allowed for hot holding if adequate temperatures can be maintained. Steam tables or other hot holding devices are not allowed to heat foods and are to be used only for hot holding after foods have been adequately cooked.

d. Cooking temperatures. As specified in the following chart, the minimum cooking temperatures for food products are:

165°F	<ul style="list-style-type: none"> • Poultry and game animals that are not commercially raised • Products stuffed or in a stuffing that contains fish, meat, pasta, poultry or ratite • All products cooked in a microwave oven
155°F	<ul style="list-style-type: none"> • Pork, rabbits Rabbits, ratite and game meats that are commercially raised • Ground or comminuted (such as hamburgers) meat fish products • Raw shell eggs not prepared for immediate consumption
145°F	<ul style="list-style-type: none"> • Raw Pork and raw shell eggs prepared for immediate consumption • Fish and other meat products not requiring a 155°F or 165°F cooking temperature as listed above

e. Consumer advisory requirement. If raw or undercooked animal food such as beef, eggs, fish, lamb, poultry or shellfish is offered in ready-to-eat form, the license holder (person in charge) shall post the *consumer advisory as required by the food code*, following language as a consumer advisory:

“Thoroughly cooking foods of animal origin such as beef, eggs, fish, lamb, pork, poultry, or shellfish reduces the risk of food-borne illness. Individuals with certain health conditions may be at a higher risk if these foods are consumed raw or undercooked. Consult your physician or public health official for further information.”

f. Thermometers. Each refrigeration unit shall have a numerically scaled thermometer to measure the air temperature of the unit accurately. A metal stem thermometer shall be provided where necessary to check the internal temperature of both hot and cold food. Thermometers must be accurate and have a range from 0°F to 220°F.

g. Food display. Foods on display must be covered. The public is not allowed to serve itself from opened containers of food or uncovered food items. Condiments such as ketchup, mustard, coffee creamer and sugar shall be served in individual packets or from squeeze containers or pump bottles. Milk shall be dispensed from the original container or from an approved dispenser. All fruits and vegetables must be washed before being used or sold. Food must be stored at least six inches off the ground. All cooking and serving areas shall be adequately protected from contamination. Barbeque areas

shall be roped off or otherwise protected from the public. All food shall be protected from customer handling, coughing or sneezing by wrapping, sneeze guards or other effective means.

h. Food preparation. *Unless otherwise approved by a variance from the department, no bare-hand contact of ready-to-eat food shall occur. Unless washing fruits and vegetables, food employees shall, to the extent practicable, avoid direct, bare-hand contact with ready-to-eat food. Establishments shall train food employees on the need and public health reasons for adequate hand washing and personal hygiene. The person in charge shall monitor employee hand-washing practices to ensure that employees are effectively cleaning their hands. One of the following alternatives shall be used by food employees when handling ready-to-eat food:*

(1) Single-use gloves, utensils, deli tissue, spatulas, tongs or dispensing equipment; or

(2) An approved antibacterial soap with all operations that permit limited bare-hand contact with ready-to-eat foods.

i. Approved food source. All food supplies shall come from a commercial manufacturer or an approved source. The use of food in hermetically sealed containers that is not prepared in an approved food processing plant is prohibited. Transport vehicles used to supply food products are subject to inspection and shall protect food from physical, chemical and microbial contamination.

j. Leftovers. ~~Leftovers may not be used, sold or given away in a temporary food establishment.~~ Hot-held foods that are not used by the end of the day must be discarded.

31.12(3) Utensil storage and warewashing.

a. Single-service utensils. The use of single-service plates, cups and tableware is ~~strongly recommended required.~~ The use of multiuse eating or drinking utensils must be approved by the department.

b. Dishwashing. ~~An~~ *If approved, an* adequate means to heat the water and a minimum of three basins large enough for complete immersion of the utensils are required to wash, rinse and sanitize utensils or food-contact equipment.

c. Sanitizers. Chlorine bleach or another approved sanitizer shall be provided for warewashing sanitization and wiping cloths. An appropriate test kit shall be provided to check the concentration of the sanitizer used. The person in charge shall demonstrate knowledge in the determination of the correct concentration of sanitizer to be used.

d. Wiping cloths. Wiping cloths shall be stored in a clean, 100 ppm chlorine sanitizer solution or equivalent. Sanitizing solution shall be changed as needed to maintain the solution in a clean condition.

31.12(4) Water.

a. Water supply. An adequate supply of clean water shall be provided from an approved source. Water storage units and hoses shall be food grade and approved for use in storage of water. If not permanently attached, hoses used to convey drinking water shall be clearly and indelibly identified as to their use. Water supply systems shall be protected against backflow or contamination of the water supply. Backflow prevention devices, if required, shall be maintained and adequate for their intended purpose.

b. Wastewater disposal. Wastewater shall be disposed of in an approved wastewater disposal system sized, constructed, maintained and operated according to law.

31.12(5) Premises.

a. Hand-washing container. An insulated container with at least a two-gallon capacity with a spigot, basin, soap and

INSPECTIONS AND APPEALS DEPARTMENT[481](cont'd)

dispensed paper towels shall be provided for hand washing. The container shall be filled with hot water.

b. Floors, walls and ceilings. If required, walls and ceilings shall be of tight design and weather-resistant materials to protect against the elements and flying insects. If required, floors shall be constructed of tight wood, asphalt, rubber or plastic matting or other cleanable material to control dust or mud.

c. Lighting. Adequate lighting shall be provided. Lights above exposed food preparation areas shall be shielded.

d. Food preparation surfaces. All food preparation or food contact surfaces shall be of a safe design, smooth, easily cleanable and durable.

e. Garbage containers. An adequate number of cleanable containers with tight-fitting covers shall be provided both inside and outside the establishment.

f. Toilet rooms. An adequate number of approved toilet and hand-washing facilities shall be provided at each event.

g. Clothing. Personal clothing and belongings shall be stored at a designated place in the establishment, adequately separated from food preparation, food service and dishwashing areas.

ITEM 17. Rescind and reserve **481—Chapter 32**.

ITEM 18. Amend subrule 34.1(4) as follows:

34.1(4) All potentially hazardous food must be refrigerated at 41°F or less, or held at 140°F ~~135°F~~ or higher, to control ~~bacteria~~ *bacterial* growth. Potentially hazardous foods that have been cooked and then refrigerated shall be reheated rapidly to an internal temperature of 165°F or higher before being placed in hot food storage holding units. Food warmers and other hot food holding units shall not be used for the reheating of potentially hazardous foods.

ITEM 19. Amend rule 481—34.2(137D) as follows:

481—34.2(137D) Enforcement.

34.2(1) All critical violations (~~four- and five-point items~~) shall be corrected within 10 days. Within 15 days, the license holder shall make a written report to the regulatory authority, stating the action taken to correct the critical violation. All noncritical violations shall be corrected by the next routine inspection *within the time period required by the inspection, but in all cases the violation shall be corrected within 90 days of the routine inspection.*

34.2(2) Violation of these rules or any provision of Iowa Code chapter 137D is a simple misdemeanor. The department may employ various remedies if violations are discovered.

- a. A license may be revoked.
- b. An injunction may be sought.
- c. A case may be referred to a county attorney for criminal prosecution.

ITEM 20. Amend rules **481—35.1(137A,137B,137C,137D,137E)** to **481—35.11(137A,137B,137C,137D,137E)**, parenthetical implementation statute, as follows:

~~(137A,137B,137C,137D,137E 137F)~~

ITEM 21. Amend rule 481—35.1(137C,137D,137F) as follows:

481—35.1(137C,137D,137F) Definitions. ~~Definitions~~ *The definitions* in 481—30.2(10A) and Iowa Code sections ~~137A.1, 137B.2, 137C.2, and 137D.1 and 137E.1~~ *Iowa Code Supplement section 137F.1* are hereby incorporated by reference as part of this chapter.

ITEM 22. Amend rule 481—35.2(137C,137D,137F) as follows:

481—35.2(137C,137D,137F) Contracts. A municipal corporation or county may enter into an agreement with the department to license, inspect and enforce under Iowa Code chapters ~~137A, 137B,~~ 137C, 137D and ~~137E~~ *137F*.

35.2(1) The department will investigate the municipal corporation or county to determine if it possesses adequate resources to fulfill the requirements of the contract.

35.2(2) A copy of the contract is available from the ~~Inspections Division,~~ Department of Inspections and Appeals, *Food and Consumer Safety Bureau,* Lucas State Office Building, Des Moines, Iowa 50319-0083.

ITEM 23. Rescind and reserve subrule **35.3(3)**.

ITEM 24. Amend subrule 35.4(1) as follows:

35.4(1) Contractor inspection personnel must possess experience and education qualifications equal to those required for state food ~~and sanitation~~ inspectors. Additionally, this experience must include application of the *food code FDA Model Retail Food Store Sanitation Code, the Food Service Sanitation Ordinance or similar food inspection regulations.*

Municipal corporations or counties that wish to contract with the department to perform food inspections under Iowa Code chapters ~~137A, 137B,~~ 137C, 137D and ~~137E~~ *137F*, but who do not have trained personnel to perform these services, shall reimburse the department for the cost of providing the required training.

ITEM 25. Amend rule 481—35.6(137C,137D,137F) as follows:

481—35.6(137C,137D,137F) Inspection standards. Inspections shall be completed using forms prescribed by the department for those inspections. The contractor shall follow applicable standards for inspections found in Iowa Code chapters ~~137A, 137B,~~ 137C, 137D and ~~137E~~ *137F as amended by 2007 Iowa Acts, chapter 215.* Inspections shall be conducted pursuant to ~~481—Chapters 30 to 34 and 37~~ *481—Chapters 30, 31, 34, 35, and 37.*

Copies of inspection standards are available from the ~~Inspections Division,~~ Department of Inspections and Appeals, *Food and Consumer Safety Bureau,* Lucas State Office Building, Des Moines, Iowa 50319-0083.

ITEM 26. Amend rule 481—35.7(137C,137D,137F) as follows:

481—35.7(137C,137D,137F) Enforcement. The contractor shall enforce state laws and rules, including ~~FDA~~ regulations adopted by reference. These regulations are the legal basis of authority in licensing and inspection of establishments under this contract.

ITEM 27. Amend rule 481—35.10(137C,137D,137F) as follows:

481—35.10(137C,137D,137F) Reporting requirements. A report of all inspections made during the previous month shall be submitted to the department by the fifteenth day of the following month.

The contractor shall submit a semiannual listing of all licenses issued in the last 12 months on June 30 and December 31 of each year. Other data on licenses and inspections under this contract shall be submitted as requested by the department.

The contractor shall provide a monthly report of inspections performed for beer and liquor code violations to the Al-

INSPECTIONS AND APPEALS DEPARTMENT[481](cont'd)

~~coholic Beverage Division, Department of Commerce, Ankeny, Iowa 50021.~~

~~The contractor shall provide a monthly report of inspections performed with fire code violations to the State Fire Marshal's Office, Department of Public Safety, Wallace State Office Building, Des Moines, Iowa 50319.~~

Inspection reports shall be uploaded to the department's food inspection database system at least monthly. The contractor shall ensure that the information uploaded to the department is accurate and complete. The contractor shall complete and submit to the department reports required by Iowa Code Supplement section 137F.3(4).

ITEM 28. Amend rule 481—35.11(137C,137D,137F) as follows:

481—35.11(137C,137D,137F) Contract rescinded. If the department determines that Iowa Code chapters ~~137A, 137B, 137C, 137D and 137E~~ 137F as amended by 2007 Iowa Acts, chapter 215, are not being enforced by the contractor, the department may rescind the agreement. Notification of the department's action will be provided to the contractor at least 30 days in advance of the action. The contractor has the right to request a hearing with the department to contest the action.

ITEM 29. Amend **481—Chapter 35**, implementation sentence, as follows:

These rules are intended to implement Iowa Code sections ~~137A.5, 137B.6, 137C.6 and 137E.3~~ and chapter ~~chapters 137C, 137D and 137F~~ as amended by 2007 Iowa Acts, chapter 215.

[Filed 3/21/08, effective 7/1/08]

[Published 4/9/08]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 4/9/08.

ARC 6691B**INSPECTIONS AND APPEALS DEPARTMENT[481]****Adopted and Filed**

Pursuant to the authority of Iowa Code sections 10A.104(5) and 135C.14, the Department of Inspections and Appeals hereby amends Chapter 51, "Hospitals," Iowa Administrative Code.

The adopted amendment makes a technical change in the procedures used by Iowa hospitals for the authentication of standing orders by a physician. The adopted amendment strikes the June 30, 2007, sunset provision of the paragraph and requires that standing orders be authenticated by the prescribing physician within 30 days of a patient's discharge. Adoption of the amendment provides for consistency in the authentication process used by Iowa hospitals when authenticating both standing and verbal orders.

The adopted amendment was approved by the Hospital Licensing Board at its November 29, 2007, meeting.

The State Board of Health initially reviewed the proposed amendment at its January 9, 2008, meeting. The Board approved the amendment at its March 12, 2008, meeting.

Notice of Intended Action was published in the Iowa Administrative Bulletin on January 30, 2008, as **ARC 6557B**. No public comment was received. The adopted amendment

is identical to that published under Notice of Intended Action.

This amendment will become effective May 14, 2008.

This amendment is intended to implement Iowa Code Supplement section 135B.7A.

The following amendment is adopted.

Amend subrule **51.14(4)**, paragraph "e," as follows:

e. Be dated, signed by the prescribing practitioner within a period not to exceed 30 days following a patient's discharge, and included in the patient's medical record. ~~This paragraph expires June 30, 2007.~~

[Filed 3/17/08, effective 5/14/08]

[Published 4/9/08]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 4/9/08.

ARC 6702B**NATURAL RESOURCE COMMISSION[571]****Adopted and Filed**

Pursuant to the authority of Iowa Code section 456A.33A, the Natural Resource Commission hereby rescinds Chapter 31, "Public-Owned Lakes Eligibility Process," and adopts new Chapter 31, "Publicly Owned Lakes Program," Iowa Administrative Code.

This 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.

Notice of Intended Action was published in the Iowa Administrative Bulletin on January 16, 2008, as **ARC 6540B**. No public hearing was requested and no comments were received. There were no changes to the Notice of Intended Action.

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

This amendment will become effective on May 14, 2008.

EDITOR'S NOTE: Pursuant to recommendation of the Administrative Rules Review Committee published in the Iowa Administrative Bulletin, September 10, 1986, the text of this amendment [Ch 31] is being omitted. This amendment is identical to that published under Notice as **ARC 6540B**, IAB 1/16/08.

[Filed 3/19/08, effective 5/14/08]

[Published 4/9/08]

[For replacement pages for IAC, see IAC Supplement 4/9/08.]

ARC 6695B**NATURAL RESOURCE COMMISSION[571]****Adopted and Filed**

Pursuant to the authority of Iowa Code subsection 455A.5(6), the Natural Resource Commission hereby

NATURAL RESOURCE COMMISSION[571](cont'd)

amends Chapter 61, "State Parks and Recreation Areas," Iowa Administrative Code.

These amendments formally recognize Honey Creek Resort State Park as a state park, establish rental fees for four new camping cabins at Prairie Rose State Park and a new day-use rental lodge at Lake Darling State Park, exempt Honey Creek Resort State Park from rules applicable to other state parks with some exceptions, and organize the rules to account for some of these changes. The new facilities at Prairie Rose and Lake Darling were completed as partnership projects with local friends groups and communities and are currently under construction.

Notice of Intended Action was published in the February 13, 2008, Iowa Administrative Bulletin as **ARC 6600B**. A public hearing was held on March 4, 2008. No public comments were received.

One change has been made since the amendments were published under Notice. A member of the Natural Resource Commission inquired about the cabin rental fees for Brushy Creek State Recreation Area. The cabin project did not materialize, and the cabins were never constructed. The Commission asked to have the subrule updated to remove the cabin

fees for Brushy Creek State Recreation Area since there are no cabins at this park.

These amendments will become effective on May 14, 2008.

These amendments are intended to implement Iowa Code sections 461A.3, 461A.3A, 461A.35, 461A.47, and 461A.57, and Iowa Code Supplement chapter 463C.

The following amendments are adopted.

ITEM 1. Amend rule **571—61.2(461A)** by adopting the following **new** definition in alphabetical order:

"State park managed by a management company" means the following area established by Iowa Code chapter 463C:

<u>Area</u>	<u>County</u>
Honey Creek Resort State Park	Appanoose

Use and management of this area are governed by rules established in this chapter, as well as by the indenture of trust entered into by and among the department, the treasurer of state, the Honey Creek Premiere Destination Park bond authority as established by Iowa Code chapter 463C, and Banker's Trust Corporation, dated October 1, 2006.

ITEM 2. Amend subrule **61.5(1)**, paragraph "a," as follows:

a. Cabin rental. This fee does not include tax. Tax will be calculated at time of final payment.

	<u>Per Night*</u>	<u>Per Week</u>
Backbone State Park, Delaware County		
Renovated modern cabins	\$ 50	\$300
Two-bedroom modern cabins	85	510
Deluxe cabins	100	600
Black Hawk State Park, Sac County	100	600
Brushy Creek State Recreation Area, Webster County		
 Nonequestrian camping cabins	35	210
 Equestrian camping cabins	40	240
Dolliver Memorial State Park, Webster County	35	210
Green Valley State Park, Union County	35	210
Honey Creek State Park, Appanoose County	35	210
Lacey-Keosauqua State Park, Van Buren County	50	300
Lake Darling State Park, Washington County	35	210
Lake of Three Fires State Park, Taylor County	50	300
Lake Wapello State Park, Davis County (Cabin Nos. 1-12)	60	360
Lake Wapello State Park, Davis County (Cabin No. 13)	85	510
Lake Wapello State Park, Davis County (Cabin No. 14)	75	450
Palisades-Kepler State Park, Linn County	50	300
Pine Lake State Park, Hardin County		
Studio cabins (four-person occupancy limit)	65	390
One-bedroom cabins	75	450
Pleasant Creek State Recreation Area, Linn County	25	150
<i>Prairie Rose State Park, Shelby County</i>	35	210
Springbrook State Park, Guthrie County	35	210
Stone State Park, Woodbury County	35	210
Waubonsie State Park, Fremont County		
Two-bedroom modern cabins	85	510
One-bedroom modern cabin	60	360
Two-bedroom camping cabins	50	300
One-bedroom camping cabin	35	210
Camping cabin	25	150

NATURAL RESOURCE COMMISSION[571](cont'd)

	<u>Per Night*</u>	<u>Per Week</u>
Wilson Island State Recreation Area, Pottawattamie County	25	150
Extra cots, where available	1	

*Minimum two nights

ITEM 3. Amend subrule **61.5(1)**, paragraph “**c**,” as follows:

c. Lodge rental per reservation. This fee does not include tax. Tax will be calculated at time of payment.

	<u>Per Weekday</u>	<u>Per Weekend Day</u>
	<u>M-Th***</u>	<u>Fr-Su</u>
A. A. Call State Park, Kossuth County	\$ 40	\$ 80
Backbone State Park Auditorium, Delaware County**	25	50
Backbone State Park, Delaware County	62.50	125
Beed’s Lake State Park, Franklin County	40	80
Bellevue State Park-Nelson Unit, Jackson County	50	100
Clear Lake State Park, Cerro Gordo County	50	100
Dolliver Memorial State Park-Central Lodge, Webster County**	30	60
Dolliver Memorial State Park-South Lodge, Webster County	37.50	75
Ft. Defiance State Park, Emmet County	35	70
George Wyth State Park, Black Hawk County**	35	70
Gull Point State Park, Dickinson County	100	200
Lacey-Keosauqua State Park, Van Buren County	35	70
Lake Ahquabi State Park, Warren County	45	90
<i>Lake Darling State Park, Washington County</i>	<i>100</i>	<i>200</i>
Lake Keomah State Park, Mahaska County	45	90
Lake Macbride State Park, Johnson County		
Beach lodge	35	70
Lodge	35	70
Lake of Three Fires State Park, Taylor County	35	70
Lake Wapello State Park, Davis County	30	60
Lewis and Clark State Park, Monona County	35	70
Palisades-Kepler State Park, Linn County	87.50	175
Pine Lake State Park, Hardin County	40	80
Pleasant Creek Recreation Area, Linn County**	37.50	75
Stone State Park, Woodbury/Plymouth Counties	62.50	125
Viking Lake State Park, Montgomery County	30	60
Walnut Woods State Park, Polk County	100	200
Wapsipinicon State Park, Jones County		
Heated year-round lodge	35	70
Unheated seasonal lodge	20	40

**Does not contain kitchen facilities

***The weekend day fee applies to New Year’s Day, Memorial Day, Fourth of July, Labor Day, Thanksgiving, and Christmas, even though the holiday may fall on a weekday.

ITEM 4. Amend 571—Chapter 61 by adopting the following **new** rule:

571—61.15(461A,463C) Honey Creek Resort State Park. This chapter shall not apply to Honey Creek Resort State Park, with the exception that subrules 61.7(1) through 61.7(9) and 61.7(11) through 61.7(16) and rule 61.12(461A) shall apply to the operation and management of Honey Creek Resort State Park. Where permission is required to be obtained from the department, an authorized representative of the department’s management company may provide such permission in accordance with policies established by the department.

ITEM 5. Amend **571—Chapter 61**, implementation sentence, as follows:

These rules are intended to implement Iowa Code sections 422.43, 455A.4, 461A.3, 461A.3A, 461A.35, 461A.38, 461A.39, 461A.42, 461A.43, 461A.45 to 461A.51, 461A.57, and 723.4 and Iowa Code ~~chapter~~ *chapters 463C and 724.*

[Filed 3/19/08, effective 5/14/08]
[Published 4/9/08]

EDITOR’S NOTE: For replacement pages for IAC, see IAC Supplement 4/9/08.

ARC 6694B**PROFESSIONAL LICENSURE
DIVISION[645]****Adopted and Filed**

Pursuant to the authority of Iowa Code section 147.53, the Professional Licensure Division hereby adopts new Chapter 4, "Board Administrative Processes," and Chapter 5, "Fees," Iowa Administrative Code.

The amendment adopts two new chapters incorporating existing language from administrative rules common to the 19 professional boards in the Professional Licensure Division. The reasons for consolidating these rules into common chapters are to reduce the duplication of administrative rules in the Division, to streamline the process when changes are made to rules that affect all 19 professional boards, and to incorporate provisions of 2007 Iowa Acts, Senate File 74, that rename and redesignate the professional boards.

Notice of Intended Action was published in the Iowa Administrative Bulletin on November 21, 2007, as **ARC 6409B**.

A public hearing was held on December 11, 2007, from 9 to 9:30 a.m. in the Fifth Floor Board Conference Room, Lucas State Office Building, Des Moines, Iowa. The Cosmetology Board commented that the cosmetology fees for temporary certificates, the jurisprudence examination and the written examination were no longer applicable. The Board made the changes in Chapter 5 to correct the fee schedule with respect to that comment. As a result, rule 645—5.5(147,157) now reads as follows:

“645—5.5(147,157) Cosmetology arts and sciences license fees. All fees are nonrefundable.

“5.5(1) License fee for license to practice cosmetology arts and sciences, license by endorsement, license by reciprocity, or an instructor's license is \$60.

“5.5(2) Biennial license renewal fee for each license for each biennium is \$60.

“5.5(3) Late fee for failure to renew before expiration is \$60.

“5.5(4) Reactivation fee for applicants licensed to practice cosmetology is \$120; for salons, \$144; and for schools, \$330.

“5.5(5) Duplicate or reissued license certificate or wallet card fee is \$20.

“5.5(6) Fee for verification of license is \$20.

“5.5(7) Returned check fee is \$25.

“5.5(8) Disciplinary hearing fee is a maximum of \$75.

“5.5(9) Fee for license to conduct a school teaching cosmetology arts and sciences is \$600.

“5.5(10) Fee for renewal of a school license is \$270 annually.

“5.5(11) Salon license fee is \$84.

“5.5(12) Biennial license renewal fee for each salon license for each biennium is \$84.

“5.5(13) Demonstrator and not-for-profit temporary permit fee is \$42 for the first day and \$12 for each day thereafter that the permit is valid.

“5.5(14) An initial fee or a reactivation fee for certification to administer microdermabrasion or utilize a certified laser product or an intense pulsed light (IPL) device is \$25 for each type of procedure or certified laser product or IPL device.

“5.5(15) An initial fee or a reactivation fee for certification of cosmetologists to administer chemical peels is \$25.

“This rule is intended to implement Iowa Code section 147.80 and chapter 157.”

These rules were adopted by each of the 19 professional licensure boards within the Professional Licensure Division at board meetings held in the months of January through March 2008, with the last board adopting the rules on March 18, 2008.

These rules will become effective May 14, 2008.

This amendment is intended to implement Iowa Code chapters 17A, 147 and 272C, Iowa Code Supplement section 147.13, and 2007 Iowa Acts, Senate File 74.

EDITOR'S NOTE: Pursuant to recommendation of the Administrative Rules Review Committee published in the Iowa Administrative Bulletin, September 10, 1986, the text of these rules [Chs 4, 5] is being omitted. With the exception of the changes noted above, these rules are identical to those published under Notice as **ARC 6409B**, IAB 11/21/07.

[Filed 3/19/08, effective 5/14/08]

[Published 4/9/08]

[For replacement pages for IAC, see IAC Supplement 4/9/08.]

ARC 6709B**PROFESSIONAL LICENSURE
DIVISION[645]****Adopted and Filed**

Pursuant to the authority of Iowa Code section 147.76, the Board of Mortuary Science hereby amends 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 105, "Fees," Iowa Administrative Code.

These 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.

Notice of Intended Action was published in the Iowa Administrative Bulletin on January 16, 2008, as **ARC 6545B**. A public hearing was held on February 5, 2008, from 9 to 9:30 a.m. in the Fifth Floor Board Conference Room, Lucas State Office Building. No comments were received. The adopted amendments have been revised as follows:

- In subrule 101.5(2), paragraph "b," the words "as approved by the board" have been deleted in the first sentence because the words are redundant.

- In paragraph 101.18(3)"b," subparagraph (2) has been revised to clarify that licensees who reactivate their licenses after five years will not be required to obtain two hours of continuing education related to Iowa law and rules because reactivation requirements include completion of one college credit hour covering Iowa law and rules and to clarify that independent study may account for 24 of the 48 hours required for reactivation of a funeral director's license.

- In subrule 102.2(1), a sentence has been added to clarify that 12 hours of the 24 hours of continuing education re-

PROFESSIONAL LICENSURE DIVISION[645](cont'd)

quired for license renewal shall be obtained through either in-person or live, real-time interactive media.

- In subrule 102.3(2), paragraph “d” has been revised to clarify that the restriction on independent study is not effective until January 1, 2009.

These amendments were adopted by the Board of Mortuary Science on March 13, 2008.

These amendments will become effective on May 14, 2008.

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

The following amendments are adopted.

ITEM 1. Amend **645—Chapters 99 to 103** 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:

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

ease 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~~ topically ~~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 *leakproof* 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:

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:

- The name, address, age and gender of the decedent whose human remains are to be cremated.
- The date, time of death and cause of death of the decedent.
- 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.
- The signature of the funeral director.
- The name and address of the crematory authorized to cremate the human remains.
- The name and signature of the authorizing person granting permission to cremate the human remains and the authorizing person’s relationship to the decedent.
- 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.

PROFESSIONAL LICENSURE DIVISION[645](cont'd)

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.

1. 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* 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~~ progress report of the intern *that has been signed by both the preceptor and the intern* on a board-prescribed form. ~~This The 6-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

PROFESSIONAL LICENSURE DIVISION[645](cont'd)

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.

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 col-~~

PROFESSIONAL LICENSURE DIVISION[645](cont'd)

lege course of at least one semester hour or equivalent *Verification of completion of 2 hours of continuing education* 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. ~~Beginning July 1, 2007, 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—subrule 102.3(1) and 645—paragraphs 102.3(2)“a,” “b,” “c,” and “e,”* within two years of *prior to filing the application for reactivation. Independent study identified in 645—paragraph 102.3(2)“f” shall not exceed 24 hours of the 48 hours;* 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. Beginning January 1, 2009, 12 hours of the 24 hours of continuing education required for renewal shall be earned by completing a program in which an instructor conducts the class employing either in-person or live, real-time interactive media.*

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. After January 1, 2009, continuing education credit obtained by 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 disqualification, 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).**

[Filed 3/21/08, effective 5/14/08]

[Published 4/9/08]

EDITOR’S NOTE: For replacement pages for IAC, see IAC Supplement 4/9/08.

ARC 6690B

**PUBLIC HEALTH
DEPARTMENT[641]**

Adopted and Filed

Pursuant to the authority of Iowa Code sections 141A.2 and 135.11, the Department of Public Health hereby amends Chapter 11, “Acquired Immune Deficiency Syndrome (AIDS),” Iowa Administrative Code.

This amendment expands eligibility for the AIDS Drug Assistance Program (ADAP) by adding a work-related deduction to the income criteria. As HIV/AIDS drug regimens improve, persons living with this disease are often staying in their jobs, working part-time, or returning to the workplace. It is often the case that these employment situations do not provide adequate insurance benefits to persons with HIV/AIDS to ensure that they have access to lifesaving medica-

PUBLIC HEALTH DEPARTMENT[641](cont'd)

tions. Consequently, the Department seeks to bring the Iowa AIDS Drug Assistance Program (ADAP) in line with those of most other Midwestern states and to expand program eligibility by including the work-related deduction described herein. There is sufficient federal funding to implement this change.

Notice of Intended Action was published in the Iowa Administrative Bulletin on January 30, 2008, as **ARC 6559B**. No public comment was received on this amendment. In addition, this amendment was simultaneously Adopted and Filed Emergency as **ARC 6558B**. This amendment is identical to the amendment published under Notice of Intended Action and Adopted and Filed Emergency.

This amendment was adopted by the State Board of Health on March 12, 2008.

This amendment shall become effective May 14, 2008, at which time the Adopted and Filed Emergency amendment is hereby rescinded.

This amendment is intended to implement Iowa Code section 141A.3.

The following amendment is adopted.

Amend subrule **11.86(1)**, paragraph “**d**,” as follows:

d. Has an annual gross family income that is less than or equal to 200 percent of the poverty level as determined by the most recent federal poverty guidelines published annually by the United States Department of Health and Human Services for the size of the household (*this income shall be determined after a \$500 work-related deduction is deducted from the monthly gross salary of an employed person with HIV/AIDS*);

[Filed 3/13/08, effective 5/14/08]

[Published 4/9/08]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 4/9/08.

IOWA ADMINISTRATIVE BULLETIN
Customer Service Center
Department of Administrative Services
Hoover State Office Building, Level A
Des Moines, Iowa 50319

PRSRT STD
U.S. Postage
PAID
Des Moines, Iowa
Permit No. 1195
