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PREFACE

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

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

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

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

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CITATION of Administrative Rules

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

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

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

Schedule for Rule Making 2008

NOTICE SUBMISSION DEADLINE	NOTICE PUB. DATE	HEARING OR COMMENTS 20 DAYS	FIRST POSSIBLE ADOPTION DATE 35 DAYS	ADOPTED FILING DEADLINE	ADOPTED PUB. DATE	FIRST POSSIBLE EFFECTIVE DATE	POSSIBLE EXPIRATION OF NOTICE 180 DAYS
Dec. 26 '07	Jan. 16 '08	Feb. 5 '08	Feb. 20 '08	Feb. 22 '08	Mar. 12 '08	Apr. 16 '08	July 14 '08
Jan. 11 '08	Jan. 30	Feb. 19	Mar. 5	Mar. 7	Mar. 26	Apr. 30	July 28
Jan. 25	Feb. 13	Mar. 4	Mar. 19	Mar. 21	Apr. 9	May 14	Aug. 11
Feb. 8	Feb. 27	Mar. 18	Apr. 2	Apr. 4	Apr. 23	May 28	Aug. 25
Feb. 22	Mar. 12	Apr. 1	Apr. 16	Apr. 18	May 7	June 11	Sept. 8
Mar. 7	Mar. 26	Apr. 15	Apr. 30	May 2	May 21	June 25	Sept. 22
Mar. 21	Apr. 9	Apr. 29	May 14	***May 14***	June 4	July 9	Oct. 6
Apr. 4	Apr. 23	May 13	May 28	May 30	June 18	July 23	Oct. 20
Apr. 18	May 7	May 27	June 11	June 13	July 2	Aug. 6	Nov. 3
May 2	May 21	June 10	June 25	***June 25***	July 16	Aug. 20	Nov. 17
May 14	June 4	June 24	July 9	July 11	July 30	Sept. 3	Dec. 1
May 30	June 18	July 8	July 23	July 25	Aug. 13	Sept. 17	Dec. 15
June 13	July 2	July 22	Aug. 6	Aug. 8	Aug. 27	Oct. 1	Dec. 29
June 25	July 16	Aug. 5	Aug. 20	***Aug. 20***	Sept. 10	Oct. 15	Jan. 12 '09
July 11	July 30	Aug. 19	Sept. 3	Sept. 5	Sept. 24	Oct. 29	Jan. 26 '09
July 25	Aug. 13	Sept. 2	Sept. 17	Sept. 19	Oct. 8	Nov. 12	Feb. 9 '09
Aug. 8	Aug. 27	Sept. 16	Oct. 1	Oct. 3	Oct. 22	Nov. 26	Feb. 23 '09
Aug. 20	Sept. 10	Sept. 30	Oct. 15	Oct. 17	Nov. 5	Dec. 10	Mar. 9 '09
Sept. 5	Sept. 24	Oct. 14	Oct. 29	Oct. 31	Nov. 19	Dec. 24	Mar. 23 '09
Sept. 19	Oct. 8	Oct. 28	Nov. 12	***Nov. 12***	Dec. 3	Jan. 7 '09	Apr. 6 '09
Oct. 3	Oct. 22	Nov. 11	Nov. 26	***Nov. 26***	Dec. 17	Jan. 21 '09	Apr. 20 '09
Oct. 17	Nov. 5	Nov. 25	Dec. 10	***Dec. 10***	Dec. 31	Feb. 4 '09	May 4 '09
Oct. 31	Nov. 19	Dec. 9	Dec. 24	***Dec. 24***	Jan. 14 '09	Feb. 18 '09	May 18 '09
Nov. 12	Dec. 3	Dec. 23	Jan. 7 '09	Jan. 9 '09	Jan. 28 '09	Mar. 4 '09	June 1 '09
Nov. 26	Dec. 17	Jan. 6 '09	Jan. 21 '09	Jan. 23 '09	Feb. 11 '09	Mar. 18 '09	June 15 '09
Dec. 10	Dec. 31	Jan. 20 '09	Feb. 4 '09	Feb. 6 '09	Feb. 25 '09	Apr. 1 '09	June 29 '09
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PRINTING SCHEDULE FOR IAB

<u>ISSUE NUMBER</u>	<u>SUBMISSION DEADLINE</u>	<u>ISSUE DATE</u>
25	Wednesday, May 14, 2008	June 4, 2008
26	Friday, May 30, 2008	June 18, 2008
1	Friday, June 13, 2008	July 2, 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
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Filing complaints by department of education employees, 11.38 IAB 5/7/08 ARC 6752B	Room 3 Southwest, Third Floor Grimes State Office Bldg. Des Moines, Iowa	May 28, 2008 1 p.m.
Late fee for SPR renewal, 14.121(6) IAB 5/7/08 ARC 6767B	Room 3 Southwest, Third Floor Grimes State Office Bldg. Des Moines, Iowa	May 28, 2008 1 p.m.
Reading preparation requirement, 14.123 IAB 5/7/08 ARC 6769B	Room 3 Southwest, Third Floor Grimes State Office Bldg. Des Moines, Iowa	May 28, 2008 1 p.m.
Class G license for school guidance counselors, 14.132 IAB 4/23/08 ARC 6743B	Room 3 Southwest, Third Floor Grimes State Office Bldg. Des Moines, Iowa	May 14, 2008 1 p.m.
General requirements for statement of professional recognition, 14.133 IAB 5/7/08 ARC 6753B	Room 3 Southwest, Third Floor Grimes State Office Bldg. Des Moines, Iowa	May 28, 2008 1 p.m.
Elimination of grandfather clause for English as a second language endorsement, 14.140(4) IAB 4/23/08 ARC 6726B	Room 3 Southwest, Third Floor Grimes State Office Bldg. Des Moines, Iowa	May 14, 2008 1 p.m.
Elimination of grandfather clause for talented and gifted endorsement, 14.140(13) IAB 4/23/08 ARC 6724B	Room 3 Southwest, Third Floor Grimes State Office Bldg. Des Moines, Iowa	May 14, 2008 1 p.m.
Elimination of grandfather clause for business—all endorsement, 14.141(3) IAB 4/23/08 ARC 6735B	Room 3 Southwest, Third Floor Grimes State Office Bldg. Des Moines, Iowa	May 14, 2008 1 p.m.
Removal of educational strategist endorsement, 15.5 IAB 5/7/08 ARC 6771B	Room 3 Southwest, Third Floor Grimes State Office Bldg. Des Moines, Iowa	May 28, 2008 1 p.m.
Audiologists—SPR renewal requirements, 15.10(3) IAB 5/7/08 ARC 6756B	Room 3 Southwest, Third Floor Grimes State Office Bldg. Des Moines, Iowa	May 28, 2008 1 p.m.
Speech-language pathologists—SPR renewal requirements, 15.12(3) IAB 5/7/08 ARC 6757B	Room 3 Southwest, Third Floor Grimes State Office Bldg. Des Moines, Iowa	May 28, 2008 1 p.m.
School social workers—SPR renewal requirements, 15.19(3) IAB 5/7/08 ARC 6758B	Room 3 Southwest, Third Floor Grimes State Office Bldg. Des Moines, Iowa	May 28, 2008 1 p.m.
Statement of professional recognition renewal requirements, 17.14 IAB 5/7/08 ARC 6766B	Room 3 Southwest, Third Floor Grimes State Office Bldg. Des Moines, Iowa	May 28, 2008 1 p.m.
Code of conduct and ethics—protected classes, 25.3(6) IAB 4/23/08 ARC 6716B	Room 3 Southwest, Third Floor Grimes State Office Bldg. Des Moines, Iowa	May 14, 2008 1 p.m.

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Code of rights and responsibilities— protected classes, 26.3 IAB 4/23/08 ARC 6719B	Room 3 Southwest, Third Floor Grimes State Office Bldg. Des Moines, Iowa	May 14, 2008 1 p.m.
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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.
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INSURANCE DIVISION[191]

Pharmacy benefits managers, ch 59 IAB 5/7/08 ARC 6781B	330 Maple St. Des Moines, Iowa	May 28, 2008 10 a.m.
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LABOR SERVICES DIVISION[875]

OSHA amendments adopted by reference, 10.20 IAB 5/7/08 ARC 6777B	Stanley Room 1000 E. Grand Ave. Des Moines, Iowa	May 28, 2008 10:30 a.m.
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Elevator safety board, 71.2(2), 72.1, 72.7, 72.22, 72.24, 73.8, ch 77 IAB 4/23/08 ARC 6718B	Capitol View Room 1000 E. Grand Ave. Des Moines, Iowa	May 14, 2008 1:30 p.m. (If requested)
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Air and ventilation for combustion air sources, 91.1(2), 91.13 IAB 5/7/08 ARC 6787B	Stanley Room 1000 E. Grand Ave. Des Moines, Iowa	May 28, 2008 1:30 p.m. (If requested)
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Prize payment to minors, 11.6 IAB 5/7/08 ARC 6788B	Iowa Lottery Headquarters 2323 Grand Ave. Des Moines, Iowa	May 28, 2008 10 a.m. (If requested)
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Physical, mental and clinical competency evaluations, 24.4 IAB 4/23/08 ARC 6739B	Suite C 400 SW 8th St. Des Moines, Iowa	May 13, 2008 3:15 p.m.
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NATURAL RESOURCE COMMISSION[571]

Boating speed for Lake Odessa, 40.9(3) IAB 5/7/08 ARC 6785B	Briggs Civic Center 317 N. Water St. Wapello, Iowa	May 29, 2008 7 p.m.
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No-wake zone on Catfish Creek, 40.57 IAB 5/7/08 ARC 6784B	Fourth Floor West Conf. Room Wallace State office Bldg. Des Moines, Iowa	May 27, 2008 10:30 a.m.
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E.B. Lyons Nature Center Mines of Spain State Recreation Area Dubuque, Iowa	May 27, 2008 3 to 7 p.m.
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PROFESSIONAL LICENSURE DIVISION[645]

Chiropractic physicians, rescind chs 40, 46; amend chs 41, 44, 45 IAB 5/7/08 ARC 6780B	Fifth Floor West Conf. Room Lucas State office Bldg. Des Moines, Iowa	May 27, 2008 9 to 9:30 a.m.
Chiropractic physicians—temporary certificate, continuing education, 41.5, 44.3(2) IAB 5/7/08 ARC 6778B	Fifth Floor West Conf. Room Lucas State office Bldg. Des Moines, Iowa	May 27, 2008 9 to 9:30 a.m.
Chiropractic physicians—training requirements for chiropractic assistants, 43.1, 43.12, 45.2(1) IAB 5/7/08 ARC 6779B	Fifth Floor West Conf. Room Lucas State office Bldg. Des Moines, Iowa	May 27, 2008 9:30 to 10 a.m.
Physician assistants, rescind chs 325, 330; amend chs 326, 328, 329 IAB 5/7/08 ARC 6786B	Fifth Floor West Conf. Room Lucas State office Bldg. Des Moines, Iowa	May 27, 2008 9:30 to 10 a.m.
Board of athletic training, rescind chs 350, 354; amend chs 351 to 353 IAB 4/23/08 ARC 6717B	Fifth Floor Board Conf. Rm. Lucas State Office Bldg. Des Moines, Iowa	May 14, 2008 9 to 9:30 a.m.

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Keep Iowa beautiful program, 122.2, 122.5, 122.7(3) IAB 4/23/08 ARC 6722B	Systems Planning Conference Room 800 Lincoln Way Ames, Iowa	May 15, 2008 10 a.m. (If requested)
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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.
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VETERINARY MEDICINE BOARD[811]

Veterinary practice; auxiliary personnel, amendments to chs 1 to 14 IAB 4/23/08 ARC 6747B	Second Floor Conference Room Wallace State Office Bldg. Des Moines, Iowa	May 27, 2008 2 p.m.
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Due to reorganization of state government by 1986 Iowa Acts, chapter 1245, it was necessary to revise the agency identification numbering system, i.e., the bracketed number following the agency name.

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

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

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

The following list will be updated as changes occur:

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ARC 6752B**EDUCATIONAL EXAMINERS
BOARD[282]****Notice of Intended Action**

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

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

Pursuant to the authority of Iowa Code section 272.2, the Board of Educational Examiners hereby gives Notice of Intended Action to amend Chapter 11, “Complaints, Investigations, Contested Case Hearings,” Iowa Administrative Code.

During the 2007 legislative session, legislation was passed to expand the list of those who can file a professional practices complaint with the Board to include employees of the Department of Education. New rule 282—11.38(256,272) sets forth the procedures for the filing of complaints by employees of the Department of Education.

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

Any interested party or persons may present their views either orally or in writing at the public hearing that will be held Wednesday, May 28, 2008, at 1 p.m. in Room 3 Southwest, Third Floor, Grimes State Office Building, East 14th Street and Grand Avenue, Des Moines, Iowa.

At the hearing, persons will be asked to give their names and addresses for the record and to confine their remarks to the subject of the proposed amendment. Persons who wish to make oral presentations at the public hearing may contact the Executive Director, Board of Educational Examiners, Grimes State Office Building, East 14th Street and Grand Avenue, Des Moines, Iowa 50319-0147, or at (515)281-5849, prior to the date of the public hearing.

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

Any interested person may make written comments or suggestions on the proposed amendment before 4 p.m. on Friday, May 30, 2008. Written comments and suggestions should be addressed to Marcia J. Henderson, Board Secretary, Board of Educational Examiners, at the above address, or sent by E-mail to marcia.henderson@iowa.gov, or by fax to (515)281-7669.

This amendment is intended to implement Iowa Code chapter 272.

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

The following amendment is proposed.

Adopt **new** rule 282—11.38(256,272) as follows:

282—11.38(256,272) Reporting by department of education employees.

11.38(1) Method of reporting. A report of misconduct made by the director, pursuant to Iowa Code Supplement section 256.9(56), or made by an employee of the department of education, pursuant to Iowa Code Supplement section

272.15(2), shall comply with the requirements of subrule 11.37(1).

11.38(2) Confidentiality. Information reported to the board in accordance with this rule is privileged and confidential, except as provided in Iowa Code section 272.13.

11.38(3) Review and investigation of report. The report shall be reviewed and investigated pursuant to subrules 11.37(4) and 11.37(5).

ARC 6767B**EDUCATIONAL EXAMINERS
BOARD[282]****Notice of Intended Action**

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

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

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

The proposed amendment is needed to reflect the addition of a late fee to the statement of professional recognition (SPR) if the SPR is not renewed on time and to remove a date that is no longer needed.

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

Any interested party or persons may present their views either orally or in writing at the public hearing that will be held Wednesday, May 28, 2008, at 1 p.m. in Room 3 Southwest, Third Floor, Grimes State Office Building, East 14th Street and Grand Avenue, Des Moines, Iowa.

At the hearing, persons will be asked to give their names and addresses for the record and to confine their remarks to the subject of the proposed amendment. Persons who wish to make oral presentations at the public hearing may contact the Executive Director, Board of Educational Examiners, Grimes State Office Building, East 14th Street and Grand Avenue, Des Moines, Iowa 50319-0147, or at (515)281-5849, prior to the date of the public hearing.

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

Any interested person may make written comments or suggestions on the proposed amendment before 4 p.m. on Friday, May 30, 2008. Written comments and suggestions should be addressed to Marcia J. Henderson, Board Secretary, Board of Educational Examiners, at the above address, or sent by E-mail to marcia.henderson@iowa.gov, or by fax to (515)281-7669.

This amendment is intended to implement Iowa Code chapter 272.

A fiscal impact summary prepared by the Legislative Services Agency pursuant to Iowa Code § 17A.4(3) will be available at <http://www.legis.state.ia.us/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.

EDUCATIONAL EXAMINERS BOARD[282](cont'd)

Amend subrule 14.121(6) as follows:

14.121(6) Late fees. Effective September 1, 2004, an additional fee of \$25 per calendar month, not to exceed \$150, shall be imposed if a renewal application, a two-year exchange license, or a Class A, B, C, D, or E license or a *statement of professional recognition (SPR)* is submitted after the date of expiration of a practitioner's license. Waiver of the late fee will be granted only upon a showing of extraordinary circumstances rendering imposition of the fee unreasonable.

ARC 6769B**EDUCATIONAL EXAMINERS
BOARD[282]****Notice of Intended Action**

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

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

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

The proposed amendment to rule 282—14.123(272) fulfills the requirements of legislation regarding reading preparation for teachers.

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

Any interested party or persons may present their views either orally or in writing at the public hearing that will be held Wednesday, May 28, 2008, at 1 p.m. in Room 3 Southwest, Third Floor, Grimes State Office Building, East 14th Street and Grand Avenue, Des Moines, Iowa.

At the hearing, persons will be asked to give their names and addresses for the record and to confine their remarks to the subject of the proposed amendment. Persons who wish to make oral presentations at the public hearing may contact the Executive Director, Board of Educational Examiners, Grimes State Office Building, East 14th Street and Grand Avenue, Des Moines, Iowa 50319-0147, or at (515)281-5849, prior to the date of the public hearing.

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

Any interested person may make written comments or suggestions on the proposed amendment before 4 p.m. on Friday, May 30, 2008. Written comments and suggestions should be addressed to Marcia J. Henderson, Board Secretary, Board of Educational Examiners, at the above address, or sent by E-mail to marcia.henderson@iowa.gov, or by fax to (515)281-7669.

This amendment is intended to implement Iowa Code chapter 272.

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

The following amendment is proposed.

Amend rule 282—14.123(272) as follows:

282—14.123(272) Requirements for an original teaching subject area endorsement. Following are the basic requirements for the issuance of a license with an endorsement.

14.123(1) Baccalaureate degree from a regionally accredited institution.

14.123(2) Completion of an approved human relations component.

14.123(3) Completion of the exceptional learner program, which must include preparation that contributes to the education of individuals with disabilities and the gifted and talented.

14.123(4) Professional education core. Completed coursework or evidence of competency in:

a. to m. No change.

n. *Preparation in reading programs, including reading recovery, and integration of reading strategies into content area methods coursework.*

14.123(5) No change.

ARC 6753B**EDUCATIONAL EXAMINERS
BOARD[282]****Notice of Intended Action**

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

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

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

The proposed rule establishes the general requirements for the Statement of Professional Recognition (SPR). The proposed rule will make all of the Statements of Professional Recognition (SPR) renewable. Making the SPRs renewable will give the Board of Educational Examiners the ability to ensure that a practitioner receiving an SPR is also renewing the practitioner's other license as required. Also, the amendment will allow the Board to do the abbreviated background check that is performed on all other renewals.

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

Any interested party or persons may present their views either orally or in writing at the public hearing that will be held Wednesday, May 28, 2008, at 1 p.m. in Room 3 Southwest, Third Floor, Grimes State Office Building, East 14th Street and Grand Avenue, Des Moines, Iowa.

At the hearing, persons will be asked to give their names and addresses for the record and to confine their remarks to the subject of the proposed amendment. Persons who wish to make oral presentations at the public hearing may contact the Executive Director, Board of Educational Examiners, Grimes State Office Building, East 14th Street and Grand Avenue, Des Moines, Iowa 50319-0147, or at (515)281-5849, prior to the date of the public hearing.

EDUCATIONAL EXAMINERS BOARD[282](cont'd)

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

Any interested person may make written comments or suggestions on the proposed amendment before 4 p.m. on Friday, May 30, 2008. Written comments and suggestions should be addressed to Marcia J. Henderson, Board Secretary, Board of Educational Examiners, at the above address, or sent by E-mail to marcia.henderson@iowa.gov, or by fax to (515)281-7669.

This amendment is intended to implement Iowa Code chapter 272.

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

The following amendment is proposed.

Adopt **new** rule 282—14.133(272) as follows:

282—14.133(272) Requirements for a statement of professional recognition (SPR).

14.133(1) Authorization. The holder of this authorization may serve in the capacity in which the holder is licensed by another board for pupils from birth to age 21 (and to a maximum allowable age in accordance with Iowa Code section 256B.8).

The legalization for these support personnel is through board of educational examiners recognition of professional licensure.

14.133(2) Program requirements. The applicant must:

- a. Hold the degree required by licensure rules.
- b. Hold a valid license to practice in Iowa as granted by the professional licensure division, department of public health.

14.133(3) Procedure for acquiring a statement of professional recognition (SPR).

- a. An applicant must submit the following documents:
 - (1) A copy of a temporary or regular license from the professional licensure division, department of public health, including the dates of validity of the license.
 - (2) An official transcript.
 - b. A temporary SPR will then be issued for one school year if the class of license from the professional licensure division is temporary.
 - c. A regular SPR will be issued with verification of a regular license and of at least a bachelor's degree.
 - d. Other.
 - (1) Renewal requirements for this authorization are set out in 282—Chapter 17.
 - (2) See 282—Chapter 15 for specific requirements for audiologists, speech-language pathologists, and social workers.
 - (3) See subrule 14.140(11) for school nurse SPRs.

ARC 6771B**EDUCATIONAL EXAMINERS BOARD[282]****Notice of Intended Action**

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

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

Pursuant to the authority of Iowa Code section 272.2, the Board of Educational Examiners hereby gives Notice of Intended Action to amend Chapter 15, “Requirements for Special Education Endorsements,” Iowa Administrative Code.

The proposed amendment removes an outdated endorsement. The Educational Strategist was an endorsement that was used during a transitional time to assist schools and AEAs in staffing their special education programs. This endorsement is no longer available from any Iowa college or university.

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

Any interested party or persons may present their views either orally or in writing at the public hearing that will be held Wednesday, May 28, 2008, at 1 p.m. in Room 3 Southwest, Third Floor, Grimes State Office Building, East 14th Street and Grand Avenue, Des Moines, Iowa.

At the hearing, persons will be asked to give their names and addresses for the record and to confine their remarks to the subject of the proposed amendment. Persons who wish to make oral presentations at the public hearing may contact the Executive Director, Board of Educational Examiners, Grimes State Office Building, East 14th Street and Grand Avenue, Des Moines, Iowa 50319-0147, or at (515)281-5849, prior to the date of the public hearing.

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

Any interested person may make written comments or suggestions on the proposed amendment before 4 p.m. on Friday, May 30, 2008. Written comments and suggestions should be addressed to Marcia J. Henderson, Board Secretary, Board of Educational Examiners, at the above address, or sent by E-mail to marcia.henderson@iowa.gov, or by fax to (515)281-7669.

This amendment is intended to implement Iowa Code chapter 272.

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

The following amendment is proposed.

Rescind and reserve rule **282—15.5(272)**.

ARC 6756B**EDUCATIONAL EXAMINERS
BOARD[282]****Notice of Intended Action**

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

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

Pursuant to the authority of Iowa Code section 272.2, the Board of Educational Examiners hereby gives Notice of Intended Action to amend Chapter 15, “Requirements for Special Education Endorsements,” Iowa Administrative Code.

The proposed amendment would make applicants aware of the renewal requirements for the statement of professional recognition (SPR) for audiologists.

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

Any interested party or persons may present their views either orally or in writing at the public hearing that will be held Wednesday, May 28, 2008, at 1 p.m. in Room 3 Southwest, Third Floor, Grimes State Office Building, East 14th Street and Grand Avenue, Des Moines, Iowa.

At the hearing, persons will be asked to give their names and addresses for the record and to confine their remarks to the subject of the proposed amendment. Persons who wish to make oral presentations at the public hearing may contact the Executive Director, Board of Educational Examiners, Grimes State Office Building, East 14th Street and Grand Avenue, Des Moines, Iowa 50319-0147, or at (515)281-5849, prior to the date of the public hearing.

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

Any interested person may make written comments or suggestions on the proposed amendment before 4 p.m. on Friday, May 30, 2008. Written comments and suggestions should be addressed to Marcia J. Henderson, Board Secretary, Board of Educational Examiners, at the above address, or sent by E-mail to marcia.henderson@iowa.gov, or by fax to (515)281-7669.

This amendment is intended to implement Iowa Code chapter 272.

A fiscal impact summary prepared by the Legislative Services Agency pursuant to Iowa Code § 17A.4(3) will be available at <http://www.legis.state.ia.us/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 15.10(3) as follows:

15.10(3) Option 2: Statement of professional recognition (SPR). If an applicant has completed a master’s degree in audiology but has not completed the education sequence or chooses not to be certified, the applicant must obtain a license from the Iowa board of speech pathology and audiology examiners, department of public health. Additionally, the person is required to obtain an SPR from the board of educational examiners.

a. and b. No change.

c. Renewal requirements for this SPR are set out in 282—Chapter 17.

ARC 6757B**EDUCATIONAL EXAMINERS
BOARD[282]****Notice of Intended Action**

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

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

Pursuant to the authority of Iowa Code section 272.2, the Board of Educational Examiners hereby gives Notice of Intended Action to amend Chapter 15, “Requirements for Special Education Endorsements,” Iowa Administrative Code.

The proposed amendment would make applicants aware of the renewal requirements for the statement of professional recognition (SPR) for speech-language pathologists.

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

Any interested party or persons may present their views either orally or in writing at the public hearing that will be held Wednesday, May 28, 2008, at 1 p.m. in Room 3 Southwest, Third Floor, Grimes State Office Building, East 14th Street and Grand Avenue, Des Moines, Iowa.

At the hearing, persons will be asked to give their names and addresses for the record and to confine their remarks to the subject of the proposed amendment. Persons who wish to make oral presentations at the public hearing may contact the Executive Director, Board of Educational Examiners, Grimes State Office Building, East 14th Street and Grand Avenue, Des Moines, Iowa 50319-0147, or at (515)281-5849, prior to the date of the public hearing.

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

Any interested person may make written comments or suggestions on the proposed amendment before 4 p.m. on Friday, May 30, 2008. Written comments and suggestions should be addressed to Marcia J. Henderson, Board Secretary, Board of Educational Examiners, at the above address, or sent by E-mail to marcia.henderson@iowa.gov, or by fax to (515)281-7669.

This amendment is intended to implement Iowa Code chapter 272.

A fiscal impact summary prepared by the Legislative Services Agency pursuant to Iowa Code § 17A.4(3) will be available at <http://www.legis.state.ia.us/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 15.12(3) as follows:

15.12(3) Option 2: Statement of professional recognition (SPR). If an applicant has completed a master’s degree in speech pathology but has not completed the education sequence or chooses not to be certified, the applicant must obtain a license from the Iowa board of speech pathology and audiology examiners, department of public health. Addition-

EDUCATIONAL EXAMINERS BOARD[282](cont'd)

ally, the person is required to obtain an SPR from the board of educational examiners.

a. and b. No change.

c. *Renewal requirements for this SPR are set out in 282—Chapter 17.*

ARC 6758B**EDUCATIONAL EXAMINERS
BOARD[282]****Notice of Intended Action**

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

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

Pursuant to the authority of Iowa Code section 272.2, the Board of Educational Examiners hereby gives Notice of Intended Action to amend Chapter 15, “Requirements for Special Education Endorsements,” Iowa Administrative Code.

The proposed amendment would make applicants aware of the renewal requirements for the statement of professional recognition (SPR) for school social workers.

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

Any interested party or persons may present their views either orally or in writing at the public hearing that will be held Wednesday, May 28, 2008, at 1 p.m. in Room 3 Southwest, Third Floor, Grimes State Office Building, East 14th Street and Grand Avenue, Des Moines, Iowa.

At the hearing, persons will be asked to give their names and addresses for the record and to confine their remarks to the subject of the proposed amendment. Persons who wish to make oral presentations at the public hearing may contact the Executive Director, Board of Educational Examiners, Grimes State Office Building, East 14th Street and Grand Avenue, Des Moines, Iowa 50319-0147, or at (515)281-5849, prior to the date of the public hearing.

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

Any interested person may make written comments or suggestions on the proposed amendment before 4 p.m. on Friday, May 30, 2008. Written comments and suggestions should be addressed to Marcia J. Henderson, Board Secretary, Board of Educational Examiners, at the above address, or sent by E-mail to marcia.henderson@iowa.gov, or by fax to (515)281-7669.

This amendment is intended to implement Iowa Code chapter 272.

A fiscal impact summary prepared by the Legislative Services Agency pursuant to Iowa Code § 17A.4(3) will be available at <http://www.legis.state.ia.us/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 15.19(3) as follows:

15.19(3) Option 2: Statement of professional recognition (SPR).

a. The special education director (or designee) of the area education agency or local education agency must submit an application to request that the authorization be issued. The application must include:

a. (1) An official transcript that reflects the master’s degree in social work; and

b. (2) The licensed independent social worker (LISW) or licensed master social worker (LMSW) license issued by the Iowa board of social work examiners.

b. *Renewal requirements for this SPR are set out in 282—Chapter 17.*

ARC 6766B**EDUCATIONAL EXAMINERS
BOARD[282]****Notice of Intended Action**

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

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

Pursuant to the authority of Iowa Code section 272.2, the Board of Educational Examiners hereby gives Notice of Intended Action to amend Chapter 17, “Renewal of Licenses,” Iowa Administrative Code.

The proposed rule sets out the requirements to renew a statement of professional recognition (SPR).

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

Any interested party or persons may present their views either orally or in writing at the public hearing that will be held Wednesday, May 28, 2008, at 1 p.m. in Room 3 Southwest, Third Floor, Grimes State Office Building, East 14th Street and Grand Avenue, Des Moines, Iowa.

At the hearing, persons will be asked to give their names and addresses for the record and to confine their remarks to the subject of the proposed amendment. Persons who wish to make oral presentations at the public hearing may contact the Executive Director, Board of Educational Examiners, Grimes State Office Building, East 14th Street and Grand Avenue, Des Moines, Iowa 50319-0147, or at (515)281-5849, prior to the date of the public hearing.

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

Any interested person may make written comments or suggestions on the proposed amendment before 4 p.m. on Friday, May 30, 2008. Written comments and suggestions should be addressed to Marcia J. Henderson, Board Secretary, Board of Educational Examiners, at the above address, or sent by E-mail to marcia.henderson@iowa.gov, or by fax to (515)281-7669.

This amendment is intended to implement Iowa Code chapter 272.

A fiscal impact summary prepared by the Legislative Services Agency pursuant to Iowa Code § 17A.4(3) will be available at <http://www.legis.state.ia.us/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.

EDUCATIONAL EXAMINERS BOARD[282](cont'd)

Adopt **new** rule 282—17.14(272) as follows:

282—17.14(272) Renewal requirements for a statement of professional recognition (SPR).

17.14(1) Renewal of the SPR.

- a. The applicant must:
 - (1) Apply for renewal every five years.
 - (2) Maintain continual licensure with the board with which the applicant holds other licensure.
 - (3) Complete continuing education as required by the board with which the applicant holds other licensure.

b. The SPR shall be valid for five years.

c. The fee for issuance of the SPR certificate shall be the same as for a standard license. All fees are nonrefundable.

17.14(2) Each applicant renewing an SPR must submit documentation of completion of the child and dependent adult abuse training approved by the state abuse education review panel. A waiver of this requirement may apply under the following conditions with appropriate documentation of any of the following:

a. A person is engaged in active duty in the military service of this state or of the United States.

b. The application of this requirement would impose an undue hardship on the person for whom the waiver is requested.

c. A person is practicing a licensed profession outside this state.

d. A person is otherwise subject to circumstances that would preclude the person from satisfying the approved child and dependent adult abuse training in this state.

ARC 6789B

ELDER AFFAIRS DEPARTMENT[321]

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 231.14 and 231.44, the Elder Affairs Department hereby gives Notice of Intended Action to rescind Chapter 9, “Resident Advocate Committees,” Iowa Administrative Code, and to adopt a new Chapter 9 with the same title.

The proposed new chapter changes the processes for membership on resident advocate committees, requires committee members to be trained on a regular basis, and removes language that has not been utilized for several years.

Any interested person may make written suggestions or comments on the proposed amendment on or before May 27, 2008. Such written suggestions or comments should be directed to the Department of Elder Affairs, 200 10th Street, Des Moines, Iowa 50309; E-mailed to Danika.Rosales@iowa.gov; or faxed to (515)242-3300.

This amendment is intended to implement Iowa Code section 231.44.

A fiscal impact summary prepared by the Legislative Services Agency pursuant to Iowa Code § 17A.4(3) will be available at <http://www.legis.state.ia.us/IAC.html> or at (515)

281-5279 prior to the Administrative Rules Review Committee’s review of this rule making.

The following amendment is proposed.

Rescind 321—Chapter 9 and adopt the following **new** chapter in lieu thereof:

CHAPTER 9

RESIDENT ADVOCATE COMMITTEES

321—9.1(231) Definitions. Words and phrases used in this chapter are as defined in 321 IAC 1 unless the context indicates otherwise. The following definitions also apply to this chapter.

“Committee” means a resident advocate committee as provided in Iowa Code sections 135C.25 and 231.44.

“Relatives” means any one of the following: father, mother, son, daughter, brother, sister, aunt, uncle, first cousin, nephew, niece, wife, husband, father-in-law, mother-in-law, son-in-law, daughter-in-law, brother-in-law, sister-in-law, stepparent, stepbrother, stepchild, stepsister, half sister, half brother, grandparent or grandchild.

“Resident’s advocate/ombudsman” means the state long-term care resident’s advocate as provided in Iowa Code section 231.42.

321—9.2(231) Resident advocate committees established.

9.2(1) Committee for each licensed facility. Pursuant to Iowa Code sections 135C.25 and 231.41 through 231.44, a resident advocate committee shall be established for each licensed health care facility as defined in Iowa Code section 135C.1 and shall operate within the scope of the Code of Iowa and this chapter.

9.2(2) Committee membership. The committee shall consist of a number of members sufficient to meet the needs of the residents. The minimum number of members in facilities licensed to serve fewer than 15 residents is one; the minimum number of members in facilities licensed to serve 15 or more residents is two.

9.2(3) Committee member residence. Committee members shall reside within the service area of the facility.

321—9.3(231) Application for committee membership.

An interested individual may apply to the department for membership. Individuals, AAAs and other organizations are encouraged to recommend potential volunteers for committee membership to the department pursuant to Iowa Code section 135C.25.

9.3(1) Application forms. Application forms may be obtained from the department at the address listed in 321 IAC 2.3(2), from the department Web site or from organizations designated by the department.

9.3(2) Submission of forms. Each applicant shall complete and submit an application for membership to the department at the address in 321 IAC 2.3(2).

9.3(3) Membership restriction. Applications shall be approved only when written consent is submitted by both the resident’s advocate/ombudsman and the administrator of the facility if an applicant:

- a. Has an ownership interest in the facility; or
- b. Is employed by the facility or a competing facility; or
- c. Has been employed by the facility within the past three years; or
- d. Is related to an employee, board member, or licensee of the facility; or
- e. Is a public employee involved with the sponsoring or placement of residents in the facility; or
- f. Is an administrator of a long-term care facility; or
- g. Is a professional consultant to the facility.

ELDER AFFAIRS DEPARTMENT[321](cont'd)

9.3(4) Waiver of membership restriction. When the resident's advocate/ombudsman or the facility administrator does not approve an application, the membership restriction for relatives in paragraph 9.3(3)"d" may be waived by the director if sufficient evidence can be presented showing that the membership will not cause a conflict of interest.

321—9.4(231) Appointment to resident advocate committees.

9.4(1) Notification. Acceptance of an application shall be confirmed by letter within 15 business days of receipt of the application by the director or designee. Each facility shall be notified of final committee appointments.

9.4(2) Orientation. All applicants shall complete the required orientation prior to final appointment and the beginning of volunteer duties.

321—9.5(231) Objection to and termination of appointments to resident advocate committees.

9.5(1) Filing an objection. A facility administrator who objects to a particular member's participation on the committee for that facility may file a written objection with the director. The objection shall be investigated as a confidential complaint, and all parties shall be notified of the director's decision.

9.5(2) Reasons for termination. A committee member's appointment may be terminated by the director for any of the following reasons:

- a. Falsification of information on the application form;
- b. Acting as a member prior to appointment;
- c. Attending less than one-half of the meetings convened each year by the resident advocate committee chairperson;
- d. Conviction of an illegal activity;
- e. Breaching confidentiality;
- f. Failure to attend approved training for two consecutive years; and
- g. Actions which are found by the director to violate these rules or the intent of the state long-term care ombudsman program.

9.5(3) Notification of termination. The director shall notify, in writing, the committee chairperson and the facility of the termination of a resident advocate committee member's appointment.

321—9.6(231) Request for reconsideration of appointment or termination of appointment.

9.6(1) Request. A request for reconsideration concerning appointment, nonappointment or termination shall be made in writing to the department within 30 days of the written notice of the director's action.

9.6(2) Decision. The director shall consider the request within 30 days of receipt and notify all parties of the decision.

321—9.7(231) Resident advocate committee structure and procedures.

9.7(1) Structure. Every committee shall have a chairperson and secretary selected by the membership. The chairperson shall coordinate the activities of the committee. The secretary shall record minutes of each meeting and prepare reports as necessary. The chairperson and secretary shall be elected to a term of not more than three years.

9.7(2) Resident visits. Committee members shall spend at least three hours each month making visits to observe residents at different times of the day and in differing circumstances and shall document the visits.

9.7(3) Meetings. The committee shall meet at least quarterly and on other occasions as required to accomplish its responsibilities. The chairperson shall notify all members of

the time and place of each meeting at least two weeks in advance.

a. The administrator and staff of the facility shall not attend committee meetings except upon request of the committee.

b. Confidential information shall not be discussed during meetings if anyone other than committee members is present.

c. Reports of each visit shall be discussed with the committee as appropriate.

d. The secretary shall complete the meeting minutes summary form designated by the department. Copies of the form shall be submitted to the facility administrator and to the office of the resident's advocate/ombudsman within ten business days following the meeting.

e. The forms shall be retained by the facility for a period of at least two years and shall be available to the department of inspections and appeals and the department of elder affairs upon request.

321—9.8(231) Duties of the committee. Committee members shall, at a minimum, participate in one training session approved by the department each calendar year. Committee members shall represent and advocate for the rights of residents of the facility. As a part of this advocacy, committee members shall investigate complaints and grievances according to the procedures established in rule 321—9.11(231).

321—9.9(231) Committee access and assistance.

9.9(1) Access. The committee shall have access to facilities, persons and records as provided in the Act, and Iowa Code section 231.42 and this chapter.

9.9(2) Assistance to the committee. The committee may request information, advice and counsel from the facility administrator or the department. When, in the performance of duties, a committee member contacts anyone on behalf of residents, the committee member shall clearly identify himself or herself and shall clearly state the purpose of and justification for such contact.

321—9.10(231) Confidentiality.

9.10(1) Access restriction. Resident advocate committee members shall not have access to the following records unless access is granted by the resident or the resident's responsible party, such as a guardian or conservator, and the resident's advocate/ombudsman:

- a. Medical, financial or personal records of residents; or
- b. Records of the social services department of the facility.

9.10(2) Nondisclosure of information. The committee shall not disclose information concerning residents or the operation of a facility in a manner that will identify individuals or the facility, except to the state long-term care ombudsman program or as requested by the department of inspections and appeals in the investigation of a facility.

321—9.11(231) Committee response to complaints and grievances. Throughout the investigation of all complaints and grievances, the committee shall maintain objectivity and act as advocates for residents without being adversaries of the facility.

9.11(1) In all investigations, the committee shall:

a. Maintain the dignity and privacy of residents, as shall all other persons involved in a complaint or grievance investigation.

b. Using the procedures appropriate to the source of the complaint, receive and investigate complaints or grievances

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from an individual or the department regarding the rights and welfare of residents.

c. Seek to resolve the complaint or grievance and, if feasible, prevent unnecessary regulatory action against a facility. However, the committee shall not prevent or dissuade regulatory action when necessary to protect or achieve the rights of residents.

d. Solicit input from the complainant and the resident regarding the choices for action to be pursued by the committee.

9.11(2) Action upon receipt of a complaint or grievance. The committee may contact the facility administrator to discuss the allegations only if doing so does not violate confidentiality.

a. Information that identifies the complainant or resident shall be confidential unless the complainant or resident has given permission to the committee to disclose this information. This permission shall be documented in a committee member's notes.

b. The investigating committee member shall make at least one unannounced visit to the facility.

c. The committee shall, to the extent possible, ascertain the facts of the situation through personal observation of conditions and activities in the facility and by talking with all persons who may have knowledge regarding the matter under investigation.

d. If a resolution cannot be reached, the committee may contact the resident's advocate/ombudsman for follow-up action as appropriate.

e. Committee members shall keep the complainant informed of progress in the investigation.

321—9.12(231) Complaints referred from the department of inspections and appeals. The following procedures shall apply to complaints received or initiated by the department of inspections and appeals and referred to the department of elder affairs for investigation by a resident advocate committee.

9.12(1) Confidentiality. Information that may identify the complainant or resident shall be confidential.

9.12(2) Notification. Depending on the circumstances in each instance, the state long-term care ombudsman program shall provide adequate verbal information within three days to a member of the appropriate resident advocate committee so that an investigation may proceed. Written notification shall be provided within seven days.

9.12(3) Investigation. Investigation of the complaint or grievance shall be conducted in accordance with rule 321—9.11(231).

321—9.13(231) Accountability measures.

9.13(1) The committee shall use a standardized form developed by the department, to be completed by the secretary, to specify issues and concerns identified by residents, the facility's response, and whether the matter has been resolved.

9.13(2) An issue or concern shall be designated as resolved when the committee and the facility agree it has been resolved. If there are unresolved issues and the facility disagrees with the committee's determination regarding the resolution of an issue or concern, the facility may request a review by the resident's advocate/ombudsman by submitting a written request within 20 calendar days of receipt of the form described in this rule.

9.13(3) Upon receipt of a request for review, the resident's advocate/ombudsman shall contact the facility administrator and the chairperson of the resident advocate committee to

discuss the request. The resident's advocate/ombudsman has the discretion to:

a. Uphold the committee's determination,

b. Designate the issue or concern as resolved, or

c. Redefine the issue or concern as a means to negotiate a compromise.

9.13(4) The decision of the resident's advocate/ombudsman shall be made within 20 calendar days of the receipt of a request for review. Additional time may be allotted by agreement of the resident advocate committee and the facility administrator.

9.13(5) An aggrieved party has 30 calendar days from the receipt of written notice of the decision of the resident's advocate/ombudsman to request a hearing pursuant to 321 IAC 13.

9.13(6) All appeals and judicial review shall be conducted pursuant to 321 IAC 13.

321—9.14(231) Reporting statistics. The office of the resident's advocate/ombudsman shall record the number of issues and concerns listed on the forms submitted by the committees and the number resolved. Each year, the office of the resident's advocate/ombudsman shall calculate the percentage of issues and concerns that are resolved, based on the total number of issues and concerns identified between January 1 and December 31 of the preceding year. Prior to May 1 of each year, the office of the resident's advocate/ombudsman shall report the resolution rate of each facility to the department of human services.

321—9.15(231) Severability. Should any rule, subrule, paragraph, phrase, sentence or clause of this chapter be declared invalid or unconstitutional for any reason, the remainder of this chapter shall not be affected.

These rules are intended to implement Iowa Code section 231.44.

ARC 6775B**HUMAN SERVICES
DEPARTMENT[441]****Notice of Intended Action**

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

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

Pursuant to the authority of Iowa Code section 249A.4, the Department of Human Services proposes to amend Chapter 75, “Conditions of Eligibility,” and Chapter 76, “Application and Investigation,” Iowa Administrative Code.

These amendments:

- Exempt income from temporary employment by the U.S. Bureau of the Census from consideration in determining Medicaid eligibility and benefits. The Centers for Medicare and Medicaid Services is encouraging states to adopt this policy. Many low-income people obtain temporary employment during the census and might be discouraged from doing so if the income would affect their benefits.

- Make technical corrections to remove references to obsolete policies related to suspensions of eligibility and retrospective budgeting.

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• Make technical corrections to clarify policies that have been troublesome on appeal or have raised questions about implementation.

• Make technical changes to update terminology referring to persons who are eligible for Medicaid and locations where various functions may take place in the Department.

Clarifications include the following:

• An Indian Health Service office may become qualified to determine presumptive eligibility for pregnant women.

• When the Department does not receive requested forms or information, assistance will be denied or canceled.

• Forms may be submitted electronically.

• A dependent child who is absent for educational purposes may continue to be counted in the household for the Child Medical Assistance Program.

• No allowance is made for child care expenses if one parent is able to take care of the children.

• Stepparents are allowed work expenses for care of an incapacitated adult.

• Proration of a nonrecurring lump sum begins with the month when the lump sum is received.

• Applicants determined eligible under the coverage group for treatment of breast or cervical cancer are not issued a Medical Assistance Eligibility Card. They are issued a Presumptive Medicaid Eligibility Notice of Decision as proof of eligibility.

These amendments do not provide for waivers in specified situations because the exemption of census income is a benefit and the other changes are technical changes that clarify existing policy. Requests for the waiver of any rule may be submitted under the Department's general rule on exceptions at 441—1.8(17A,217).

Any interested person may make written comments on the proposed amendments on or before May 28, 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 249A.3 and 249A.4.

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

The following amendments are proposed.

ITEM 1. Amend rule 441—75.1(249A) as follows:

Amend subrule **75.1(1)** by rescinding and reserving paragraph "**b.**"

Amend subrule **75.1(5)** by striking the phrase "recipients of Medicaid" and inserting the phrase "Medicaid members" in lieu thereof.

Amend subrule **75.1(14)**, paragraph "**a.**" by striking the word "recipient" and inserting the word "member" in lieu thereof.

Amend subrule **75.1(28)**, paragraph "**a.**" subparagraph (2), as follows:

(2) Moneys received as a lump sum, except as specified in subrules 75.56(4) and 75.56(7) and paragraphs 75.57(8)"b" and "c," shall be treated in accordance with ~~paragraph paragraphs~~ 75.57(9)"b" and "c."

Amend subrule **75.1(30)** as follows:

Amend paragraph "**a.**" subparagraph (3), by adopting **new** numbered paragraph "**4**" as follows:

4. Is an Indian health service office or a health program or facility operated by a tribe or tribal organization under the Indian Self-Determination Act.

Amend paragraph "**f.**" subparagraph (1), as follows:

(1) ~~Denied~~ *Issued a presumptive eligibility decision* by a qualified provider.

Amend subrule 75.1(31) as follows:

Amend the catchwords as follows:

75.1(31) Persons and families ~~terminated~~ *canceled* from the family medical assistance program (FMAP) due to the increased earnings of the specified relative in the eligible group.

Amend paragraph "**f**" by striking the word "recipient" wherever it appears and inserting the word "member" in lieu thereof.

Amend paragraph "**h**" as follows:

h. If the family receives transitional Medicaid coverage during the entire initial six-month period and ~~has returned the department has received~~, by the twenty-first day of the fourth month, a complete Notice of Decision/Quarterly Income Report, Form 470-2663 or 470-2663(S), Medicaid shall continue for an additional six months, subject to paragraphs "g" and "i" of this subrule.

(1) ~~Failure to return a completed form shall result in cancellation of assistance~~ *If the department does not receive a completed form by the twenty-first day of the fourth month, assistance shall be canceled.*

(2) A completed form is a ~~form with one that has~~ all items answered, is signed, is dated ~~no earlier than the first day of the budget month~~, and is accompanied by verification as required in paragraphs 75.57(1)"f" and 75.57(2)"1."

Amend paragraph "**i.**" introductory paragraph and subparagraph (1), as follows:

i. ~~Assistance Medicaid shall be terminated end~~ at the close of the first or fourth month of the additional six-month period if any of the following conditions ~~exist exists~~:

(1) ~~The family fails to return department does not receive~~ a complete Notice of Decision/Quarterly Income Report, Form 470-2663 or 470-2663(S), by the twenty-first day of the first month or the fourth month of the additional six-month period as required in paragraph 75.1(31)"h," unless the family establishes good cause for failure to report on a timely basis. Good cause ~~for failure to return the report timely~~ shall be established when the family demonstrates *that* one or more of the following conditions exist:

1. There was a serious illness or death of ~~the recipient or a member of someone in the recipient's family.~~

2. No change.

3. ~~The recipient family offers a good cause beyond the recipient's family's control.~~

4. There was a failure to receive the department's notification for a reason not attributable to the ~~recipient family.~~ Lack of a forwarding address is attributable to the ~~recipient family.~~

Amend subrule **75.1(35)**, paragraph "**d.**" subparagraph (1), as follows:

(1) Income policies specified in subrules 75.57(1) through 75.57(8), and paragraphs 75.57(9)"b," "c," "g," "h," and "i" regarding treatment of earned and unearned income are applied to FMAP-related and CMAP-related persons when determining initial eligibility and ~~the two-step process~~ for determining continuing eligibility unless otherwise specified. The three-step process for determining initial eligibility and the two-step process for determining ongoing eligibility,

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as described at rule 441—75.57(249A), shall not apply to medically needy persons.

ITEM 2. Amend rule 441—75.25(249A) as follows:

Amend the introductory paragraph as follows:

441—75.25(249A) Definitions. *Unless otherwise specified, the definitions in this rule shall apply to 441—Chapters 75 through 85 and 88.*

Rescind the definition of “eligible recipient.”

Amend the definitions of “client,” “conditionally eligible recipient,” “incurred medical expenses,” “member,” “obligated medical expense,” and “responsible relative” as follows:

“Client” shall mean *all of the following*:

1. ~~an~~ A Medicaid applicant; ~~for or~~
2. ~~a recipient of~~ A Medicaid member;
3. *A person who is conditionally eligible for Medicaid;*
- and
4. *A person whose income or assets are considered in determining eligibility for an applicant or member.*

“Conditionally eligible recipient” shall mean *that a medically needy person who has completed the application process and has been assigned a medically needy certification period and spenddown amount but who has not spent down met the spenddown amount for the certification period or has been assigned a monthly premium but has not yet paid the premium for that month.*

“Incurred medical expenses” for medically needy shall mean (1) medical bills paid by a recipient client, responsible relative, or state or political subdivision program other than Medicaid during the retroactive certification period or certification period, or (2) unpaid medical expenses for which the recipient client or responsible relative remains obligated.

“Member” shall mean a person who has been determined eligible for medical assistance under rule 441—75.1(249A). *For the medically needy program, “member” shall mean a medically needy person who has income at or less than the medically needy income level (MNIL) or who has reduced countable income to the MNIL during the certification period through spenddown.* “Member” may be used interchangeably with “recipient.” This definition does not apply to the phrase “household member.”

“Obligated medical expense” for medically needy shall mean a medical expense for which the recipient client or responsible relative continues to be legally liable.

“Responsible relative” for medically needy shall mean a spouse, parent, or stepparent living in the household of the eligible recipient client.

ITEM 3. Amend rule 441—75.50(249A) as follows:

Amend the introductory paragraph as follows:

441—75.50(249A) Definitions. *The following definitions apply to this division in addition to the definitions in rule 441—75.25(249A).*

Rescind the definitions of “budget month” and “client.”

ITEM 4. Amend subrule 75.51(2) as follows:

75.51(2) Cancellation for failure to return review form.

When all eligibility factors are met, assistance shall be reinstated when a completed Review/Recertification Eligibility Document (RRED), Form 470-2881, 470-2881(M), 470-4083 (Spanish), or 470-4083(M), is received by the county office department within ten days of the date a cancellation notice is sent to the recipient member because the form was incomplete or not returned.

ITEM 5. Amend rule **441—75.52(249A)** as follows:

Amend subrule **75.52(2)**, paragraph “a,” by striking the word “recipient” and inserting the word “member” in lieu thereof and paragraph “b” by striking the word “recipient’s” and inserting the word “member’s” in lieu thereof.

Amend subrule 75.52(4) as follows:

75.52(4) Recipient Client responsibilities. For the purposes of this subrule, recipients “clients” shall include persons who received assistance subject to recoupment because the persons were ineligible.

a. The recipient client shall cooperate by giving complete and accurate information needed to establish eligibility.

b. The recipient client shall complete Form 470-2881, 470-2881(M), 470-4083 (Spanish), or 470-4083(M), Review/Recertification Eligibility Document (RRED), or Form 470-3118 or 470-3118(S), Medicaid Review, when requested by the department in accordance with these rules. The department shall supply the form to the recipient client as needed, or upon request, and shall pay the cost of postage to return the form.

(1) When the form is issued in the department’s regular end-of-month mailing, the recipient client shall return the completed form to the local office department by the fifth calendar day of the report review month.

(2) When the form is not issued in the department’s regular end-of-month mailing, the recipient client shall return the completed form to the local office department by the seventh day after the date it is mailed by the department.

(3) ~~Failure to return~~ *If the department does not receive a completed form, shall result in cancellation of assistance shall be canceled.* A completed form is a form with one that has all items answered, is signed, is dated no earlier than the first day of the budget month, and is accompanied by verification as required in paragraphs 75.57(1)“f” and 75.57(2)“l.”

(4) A copy of a form received by fax or electronically shall be given have the same effect as the original form.

c. The recipient client shall report any change in the following circumstances at the annual review or upon the addition of an individual to the eligible group:

(1) to (10) No change.

d. All recipients clients shall timely report any change in the following circumstances at any time:

(1) to (4) No change.

e. Recipients Clients described at subrule 75.1(35) shall also timely report any change in income from any source and any change in care expenses at any time.

f. to h. No change.

ITEM 6. Amend subrule **75.53(4)**, paragraph “b,” subparagraph (2), as follows:

(2) An individual is out of the home to secure education or training, as defined for children in paragraph 75.54(1)“b” as long as the child remains a dependent and as defined for adults in 441—subrule 93.114(1), first sentence, as long as the specified relative retains supervision of the child.

ITEM 7. Amend subrule **75.55(2)**, paragraphs “a” and “b,” by striking the words “county office” wherever they appear and inserting the word “department” in lieu thereof.

ITEM 8. Amend rule 441—75.56(249A) as follows:

Amend subrule **75.56(1)** as follows:

Amend the introductory paragraph by striking the words “an applicant or recipient” and inserting the words “a client” in lieu thereof.

Amend paragraph “a” by striking the word “recipient” and inserting the word “client” in lieu thereof.

Amend paragraphs “e” and “f” as follows:

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e. A reserve of other property, real or personal, not to exceed \$2,000 for applicant assistance units and \$5,000 for recipient member assistance units. EXCEPTION: Applicant assistance units with that contain at least one member person who was a recipient Medicaid member in Iowa in the month prior to before the month of application are subject to the \$5,000 limit. Resources of the applicant or the recipient assistance unit shall be determined in accordance with persons considered, as described at subrule 75.56(2).

f. Money which is counted as income in a for the month, during that same month; and that part of lump-sum income defined at subparagraph paragraph 75.57(9)“c”(2) reserved for the current or future month's income.

Amend subrule 75.56(2), paragraph “d,” by striking the word “recipient” and inserting the word “member” in lieu thereof and by striking the word “recipients” and inserting the word “members” in lieu thereof.

Amend subrule 75.56(4), introductory paragraph; subrule 75.56(6), paragraphs “a” and “d”; and subrule 75.56(7), paragraph “a,” by striking the word “recipient” wherever it appears and inserting the word “member” in lieu thereof.

Amend subrule 75.56(8), paragraph “a,” as follows:

a. Conservatorships established before February 9, 1994. The department shall determine whether assets from a conservatorship, except one established solely for the payment of medical expenses, are available by examining the language of the order establishing the conservatorship.

(1) Funds clearly conserved and available for care, support, or maintenance shall be considered toward resource or income limitations.

(2) When the county-office department worker questions whether the funds in a conservatorship are available, the county-office worker shall refer the conservatorship to the central office. When assets in the conservatorship are not clearly available, central office staff may contact the conservator and request that the funds in the conservatorship be made available for current support and maintenance. When the conservator chooses not to make the funds available, the department may petition the court to have the funds released either partially or in their entirety or as periodic income payments.

(3) Funds in a conservatorship that are not clearly available shall be considered unavailable until the conservator or court actually makes the funds available.

(4) Payments received from the conservatorship for basic or special needs are considered income.

ITEM 9. Amend rule 441—75.57(249A) as follows:

Amend the introductory paragraph by substituting the word “department” for the words “county office” and by substituting the word “member” for “recipient.”

Amend subrule 75.57(1), paragraphs “d” and “f,” as follows:

d. When the applicant or recipient client sells property on contract, proceeds from the sale shall be considered exempt as income. The portion of any payment that represents principal is considered a resource upon receipt as defined in subrule 75.56(4). The interest portion of the payment is considered a resource the month following the month of receipt.

f. The applicant or recipient client shall cooperate in supplying verification of all unearned income and of any change in income, as defined at rule 441—75.50(249A).

(1) When the information is available, the county-office department shall verify job insurance benefits by using information supplied to the department by Iowa workforce development. When the county-office department uses this information as verification, job insurance benefits shall be consid-

ered received the second day after the date that the check was mailed by Iowa workforce development. When the second day falls on a Sunday or federal legal holiday, the time shall be extended to the next mail delivery day.

(2) When the client notifies the county-office department that the amount of job insurance benefits used is incorrect, the client shall be allowed to verify the discrepancy. The client must report the discrepancy prior to before the eligibility month or within ten days of the date on the Notice of Decision, Form 470-0485, 470-0486, or 470-0486(S), applicable to the eligibility month, whichever is later.

Amend subrule 75.57(2), paragraphs “b,” “i,” and “l,” as follows:

b. Each person in the assistance unit is entitled to a deduction for care expenses subject to the following limitations.

(1) Persons in the eligible group and excluded parents shall be allowed care expenses for a child or incapacitated adult in the eligible group.

(2) Stepparents as described at paragraph 75.57(8)“b” and self-supporting parents on underage parent cases as described at paragraph 75.57(8)“c” shall be allowed incapacitated adult care or child care expenses for the ineligible dependents of the stepparent or self-supporting parent.

(1) Child (3) Unless both parents are in the home and one parent is physically and mentally able to provide the care, child care or care for an incapacitated adult shall be considered a work expense in the amount paid for care of an individual each child or incapacitated adult, not to exceed \$175 per month, or \$200 in the case of per month for a child under the age of two, per month or the going rate in the community, whichever is less.

(2) (4) If both parents are in the home, adult or child care expenses shall not be allowed when one parent is unemployed and is physically and mentally able to provide the care.

(3) (5) The deduction is allowable only when the care covers the actual hours of the individual's employment plus a reasonable period of time for commuting; or the period of time when the individual who would normally care for the child or incapacitated adult is employed at such hours that the individual is required to sleep during the waking hours of the child or incapacitated adult, excluding any hours a child is in school.

(4) (6) Any special needs of a physically or mentally handicapped child or adult shall be taken into consideration in determining the deduction allowed.

(5) (7) The expense shall be verified by a receipt or a statement from the provider of care and shall be allowed when paid to any person except a parent or legal guardian of the child or another member of the eligible group, or to any person whose needs are met by diversion of income from any person in the eligible group.

i. Gross income from providing child care in the applicant's or recipient's member's own home shall include the total payments received for the service and any payment received due to the Child Nutrition Amendments of 1978 for the cost of providing meals to children.

(1) In determining profit from providing child care services in the applicant's or recipient's member's own home, 40 percent of the total gross income received shall be deducted to cover the costs of producing the income, unless the individual applicant or member requests to have actual expenses in excess of the 40 percent considered.

(2) When the applicant or recipient member requests to have expenses in excess of the 40 percent considered, profit

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shall be determined in the same manner as specified at paragraph 75.57(2)“j.”

1. The applicant or ~~recipient~~ *member* shall cooperate in supplying verification of all earned income and of any change in income, as defined at rule 441—75.50(249A). A self-employed ~~individual applicant or member~~ shall keep any records necessary to establish eligibility.

Amend subrule 75.57(3) by striking the word “recipient” wherever it appears and inserting the word “member” in lieu thereof and by striking the word “recipient’s” and inserting the word “member’s” in lieu thereof.

Amend subrule 75.57(5), paragraph “t,” by striking the word “recipient” and inserting the word “member” in lieu thereof.

Amend subrule 75.57(7), paragraph “ah,” as follows:

ah. All census earnings received by temporary workers from the Bureau of the Census for ~~Census 2000 during the period of April 1, 2000, through January 31, 2001.~~

Amend subrule 75.57(8), paragraph “b,” introductory paragraph and subparagraph (8), as follows:

b. Treatment of income in stepparent cases. The income of a stepparent who is not included in the eligible group, but who is living with the parent in the home of the ~~an eligible child(ren),~~ *child* shall be given the same consideration and treatment as that of a parent subject to the limitations of subparagraphs (1) through (10) below.

(8) A nonexempt, nonrecurring lump sum received by a stepparent shall be considered as income ~~in the budget month and counted in computing eligibility in the same manner as it would be treated for a parent.~~ Any portion of the nonrecurring lump sum retained by the stepparent in the month following the month of receipt shall be considered a resource to the stepparent *if that portion is not exempted according to paragraph 75.56(1)“f.”*

Amend subrule 75.57(9) as follows:

Amend paragraph “c” as follows:

c.—Lump-sum income.

(4) *b.* Recurring lump-sum income. Recurring lump-sum earned and unearned income, except for the income of the self-employed, shall be prorated over the number of months for which the income was received and applied to the eligibility determination for the same number of months.

(1) Income received by an individual employed under a contract shall be prorated over the period of the contract.

(2) Income received at periodic intervals or intermittently shall be prorated over the period covered by the income and applied to the eligibility determination for the same number of months, ~~except periodic.~~ *Exception: Periodic or intermittent income from self-employment shall be treated as described at paragraph 75.57(9)“i.”*

(3) When the lump-sum income is earned income, appropriate disregards, deductions and diversions shall be applied to the monthly prorated income. Income is prorated when a recurring lump sum is received at any time.

(2) *c.* Nonrecurring lump-sum income. Moneys received as a nonrecurring lump sum, except as specified in subrules 75.56(4) and 75.56(7) and at paragraphs 75.57(8)“b” and “c,” shall be treated in accordance with this rule. Nonrecurring lump-sum income includes an inheritance, an insurance settlement or tort recovery, an insurance death benefit, a gift, lottery winnings, or a retroactive payment of benefits, such as social security, job insurance, or workers’ compensation.

(1) Nonrecurring lump-sum income shall be considered as income in the month of receipt and counted in computing eligibility, unless the income is exempt.

(2) When countable income exclusive of any family investment program grant but including countable lump-sum income exceeds the needs of the eligible group under their current coverage group, the countable lump-sum income shall be prorated. The number of full months for which a monthly amount of the lump sum shall be counted as income in the eligibility determination is derived by dividing the total of the lump-sum income and any other countable income received in or projected to be received in the month the lump sum was received by the schedule of living costs, as identified at subrule 75.58(2), for the eligible group. This period of ~~time~~ is referred to as the period of proration. Any income remaining after this calculation shall be applied as income to the first month following the period of proration and disregarded as income thereafter.

(3) The period of proration shall begin with the month ~~following a ten-day notice of adverse action when the nonrecurring lump sum was received, whether or not the receipt of the lump sum was timely reported. The period of proration shall begin with the month following the receipt of the lump sum when the receipt of the lump sum was not timely reported. If receipt of the lump sum was reported timely and the calculation was completed timely, no recoupment shall be made. If receipt of the lump sum was not reported timely or the calculation was not completed timely, recoupment shall begin with the month of receipt of the nonrecurring lump sum.~~

(4) The period of proration shall be shortened when:

1. ~~the~~ *The* schedule of living costs as defined at subrule 75.58(2) increases. ~~The period of proration shall be shortened by the amount which; or~~

2. *A portion of the lump sum* is no longer available to the eligible group due to loss, ~~or theft,~~ or because the person controlling the lump sum no longer resides with the eligible group and the lump sum is no longer available to the eligible group; ~~or~~

3. ~~The period of proration shall also be shortened when there~~ *There* is an expenditure of the lump sum made for the following circumstances unless there was insurance available to meet the expense: Payments made on medical services for the former eligible group or their dependents for services listed in 441—Chapters 78, 81, 82, and 85 at the time the expense is reported to the department; the cost of necessary repairs to maintain habitability of the homestead requiring the spending of over \$25 per incident; cost of replacement of exempt resources as defined in subrule 75.56(1) due to fire, tornado, or other natural disaster; or funeral and burial expenses. The expenditure of these funds shall be verified.

(5) When countable income, including the lump-sum income, is less than the needs of the eligible group in accordance with the provisions of their current coverage group, the lump sum shall be counted as income for the month of receipt.

(6) For purposes of applying the lump-sum provision, the eligible group is defined as all eligible persons and any other individual whose lump-sum income is counted in determining the period of proration.

(7) During the period of proration, individuals not in the eligible group when the lump-sum income was received may be eligible as a separate eligible group. Income of this eligible group plus income, ~~excluding the lump-sum income already considered,~~ of the parent or other legally responsible person in the home, *excluding the lump-sum income already considered,* shall be considered as available in determining eligibility.

HUMAN SERVICES DEPARTMENT[441](cont'd)

Amend paragraph “i,” subparagraph (4), by striking the words “county office” and inserting the word “department” in lieu thereof.

ITEM 10. Amend rule **441—76.1(249A)** as follows:

441—76.1(249A) Application. *Each person wishing to do so shall have the opportunity to apply for assistance without delay.*

76.1(1) Application forms. *The applicant shall immediately be given an application form to complete. When the applicant requests that the form be mailed, the department shall send the necessary form in the next outgoing mail.*

a. An application for family medical assistance-related Medicaid programs shall be submitted on the Health and Financial Support Application, Form 470-0462 or Form 470-0466 (Spanish); the Health Services Application, Form 470-2927 or Form 470-2927(S); the HAWK-I Application, Comm. 156; or the HAWK-I Electronic Application Summary and Signature Page, Form 470-4016. ~~The Health Services Application, Form 470-2927 or Form 470-2927(S), shall be used for persons applying for assistance under the medically needy program as provided at 441—subrule 75.1(35).~~

b. An application for SSI-related Medicaid shall be submitted on the Health Services Application, Form 470-2927 or Form 470-2927(S), *or the Health and Financial Support Application, Form 470-0462 or Form 470-0466 (Spanish).* ~~The Health Services Application, Form 470-2927 or Form 470-2927(S), shall be used for persons applying for assistance under the medically needy program as provided at 441—subrule 75.1(35).~~

c. A person who is a recipient of supplemental security income (SSI) benefits shall not be required to complete a separate Medicaid application. If the ~~county~~ department does not have all information necessary to establish that an SSI recipient meets all Medicaid eligibility requirements, the SSI recipient may be required to complete Form 470-2304, 470-2304(S), 470-0364, or 470-0364(S), SSI Medicaid Information, and may be required to attend an interview to clarify information on this form.

d. An application for Medicaid for persons in foster care shall be submitted on Form 470-2927 or Form 470-2927(S), Health Services Application.

~~76.1(1)~~ **76.1(2) Place of filing.** An application may be filed *over the Internet* or in any local office of the department or in any disproportionate share hospital, federally qualified health center or other facility in which outstationing activities are provided. The hospital, health center, or facility shall forward the application to the department office responsible for completing the eligibility determination.

a. to d. No change.

~~76.1(2)~~ **76.1(3) Date and method of filing application.** An application is considered filed on the date an identifiable application, Form 470-0462, 470-0466 (Spanish), 470-2927, or 470-2927(S), is received and date-stamped in any place of filing specified in subrule ~~76.1(4)~~ **76.1(2)**.

a. to c. No change.

d. A copy of an application received by fax *or electronically* at one of the places described above shall ~~be given~~ *have* the same effect as the *an* original application.

e. and f. No change.

~~76.1(3)~~ **76.1(4) Applicant cooperation.** An applicant must cooperate with the department in the application process, which may include providing information or verification, attending a scheduled face-to-face interview, or signing documents. Failure to cooperate in the application process shall serve as a basis for rejection of an application.

~~76.1(4) Who may apply.~~ Each person wishing to do so shall have the opportunity to apply for assistance without delay. The applicant shall immediately be given an application form to complete. When the applicant requests that the forms be mailed, the department shall send the necessary forms in the next outgoing mail.

~~76.1(5) to 76.1(7)~~ No change.

ITEM 11. Amend rule **441—76.2(249A)**, introductory paragraph, as follows:

441—76.2(249A) Information and verification procedure. The decision with respect to eligibility shall be based primarily on information furnished by the applicant or member. The department shall notify the applicant or member in writing of additional information or verification that is required to establish eligibility. This notice shall be provided to the applicant or member personally, or by mail or facsimile. Applicants for whom eligibility is determined in whole or in part by the Social Security Administration (SSA) shall make application to the SSA within five working days of referral by the department. ~~Failure of the applicant or member to supply~~ *If, by the due date, the department does not receive the information or verification, or refusal by the applicant or member to authorize the department an authorization to secure obtain* the information or verification, ~~from other sources shall serve as a basis for rejection of an or a request for an extension of the due date, the application or cancellation of assistance shall be denied or assistance canceled.~~ Five working days shall be allowed for the applicant or member to supply *and the department to receive* the information or verification requested by the department. The department may extend the deadline for a reasonable period of time when the applicant or member is making every effort but is unable to secure the required information or verification from a third party.

ITEM 12. Amend subrule 76.3(4) as follows:

76.3(4) The application is pending due to nonreceipt of information which is beyond the control of the ~~client~~ *applicant* or department. *It is the responsibility of the applicant to provide information to the department timely or to ask for an extension of time before the due date when additional time is needed to secure the information or verification.*

ITEM 13. Amend rule 441—76.6(249A) as follows:

Amend subrule 76.6(1) as follows:

76.6(1) Pregnant woman. The eligible person is a pregnant woman determined presumptively eligible in accordance with 441—subrule 75.1(30). These persons shall be issued a Presumptive Medicaid Eligibility Notice of Decision, Form 470-2580 or 470-2580(S), by the ~~department~~ *provider*.

Adopt **new** subrule 76.6(3) as follows:

76.6(3) Breast and cervical cancer. The eligible person is one who has been determined presumptively eligible for treatment of breast or cervical cancer or a precancerous condition in accordance with 441—paragraph 75.1(40)“c.” These persons shall be issued a Presumptive Medicaid Eligibility Notice of Decision, Form 470-2580 or 470-2580(S), by the provider.

ITEM 14. Amend subrule 76.7(5) as follows:

76.7(5) Women eligible for family planning services only shall complete Form 470-4071, Family Planning Medicaid Review, as part of the reinvestigation process. Form 470-4071 shall be issued at least 30 days before the end of the eligibility period. The woman must submit the completed review form before the end of the eligibility period to any ~~department local office or~~ location specified in paragraph

HUMAN SERVICES DEPARTMENT[441](cont'd)

76.1(1)“d.” 76.1(2)“d.” Women who fail to submit Form 470-4071 before the end of the eligibility period must reapply as directed in rule 441—76.1(249A).

ITEM 15. Amend rule 441—76.8(249A) as follows:

441—76.8(249A) Investigation by quality control or the food stamp investigation section of the department of inspections and appeals. The recipient or applicant *client* shall cooperate with the department when the recipient's *client's* case is selected by quality control or the food stamp investigation section of the department of inspections and appeals for verification of eligibility unless the investigation revolves solely around the circumstances of a person whose income and resources do not affect medical assistance eligibility. (See department of inspections and appeals rules in 481—Chapter 72.) Failure to do so shall serve as a basis for cancellation of assistance unless the Medicaid eligibility is determined by the Social Security Administration. Once a person's eligibility is denied or canceled for failure to cooperate, the person may reapply but shall not be determined eligible until cooperation occurs.

ITEM 16. Amend rule 441—76.10(249A) as follows:

441—76.10(249A) Applicant and recipient Client responsibilities.

76.10(1) An applicant or recipient eligible *In coverage groups for which Medicaid because of eligibility is determined using income and resource policies related to the supplemental security income (SSI) program, except for actual recipients of SSI, clients* shall timely report any changes in the following circumstances to the department: *EXCEPTION: Persons actually receiving SSI benefits are exempted from these reporting requirements unless they have a trust or are applying for or receiving home- and community-based waiver services.*

a. to k. No change.

76.10(2) An applicant or recipient eligible *In coverage groups for which Medicaid because of eligibility is determined using the family medical assistance program (FMAP) income and resource policies, clients* shall report changes in accordance with 441—paragraphs 75.52(4)“c” through “e.” After assistance has been approved, changes occurring during the month are effective the first day of the next calendar month, provided the notification requirements at rule 441—76.4(249A) can be met.

76.10(3) A report shall be considered timely when received ~~in~~ by the local office department:

a. ~~within~~ *Within* ten days from the date the change is known to the recipient member or authorized representative ~~and ; or~~

b. ~~within~~ *Within* five days from the date the change is known to the applicant or authorized representative.

76.10(4) When a change is not timely reported, any incorrect program expenditures shall be subject to recovery from the recipient client.

76.10(5) No change.

ITEM 17. Amend rule 441—76.11(249A) as follows:

Amend the introductory paragraph by striking the word “recipient” wherever the word appears and inserting the word “member” in lieu thereof.

Amend subrules 76.11(1) and 76.11(2) by striking the phrase “in the county office” wherever it appears and inserting the phrase “by the department” in lieu thereof.

Amend subrule 76.11(3) by striking the word “recipients” and inserting the word “members” in lieu thereof.

ITEM 18. Amend subrule 76.12(1), definitions of “agency error” and “client,” as follows:

“Agency error” means medical assistance incorrectly paid to or for the client because of action attributed to the department as the result of one or more of the following circumstances:

1. Misfiling or loss of forms or documents.
2. Errors in typing or copying.
3. Computer input errors.
4. Mathematical errors.
5. Failure to determine eligibility correctly or to certify assistance in the correct amount when all essential information was available to the county office department.

6. Failure to make prompt revisions in medical payment following changes in policies requiring the changes as of a specific date.

“Client” means a current or former applicant or recipient of Medicaid member.

ARC 6770B

HUMAN SERVICES DEPARTMENT[441]

Notice of Termination

Pursuant to the authority of Iowa Code section 249A.4, the Department proposed a fee schedule for Medicaid payments to home health agencies in a Notice of Intended Action published in the Iowa Administrative Bulletin on October 10, 2007, as **ARC 6305B**. Pursuant to an Amended Notice of Intended Action published in the Iowa Administrative Bulletin on October 24, 2007, as **ARC 6345B**, a public hearing on the proposed amendments was held on November 19, 2007. The Department received comments from seven persons and organizations, many of them concerning the financial hardship the proposed amendments would effect on some home health agencies. The Iowa Alliance in Home Care, which represents approximately 80 percent of Iowa home health agencies, requested that the Department not adopt the proposed amendments until there was sufficient funding to allow the rates to be at 100 percent of the Medicare “low-utilization payment adjustment” (LUPA) level. The Department does not anticipate having sufficient funding to reach that level this year. Therefore, rule making on **ARC 6305B** is terminated.

ARC 6772B

HUMAN SERVICES DEPARTMENT[441]

Notice of Intended Action

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

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

Pursuant to the authority of Iowa Code section 514I.5, the Department of Human Services proposes to amend Chapter 86, “Healthy and Well Kids in Iowa (HAWK-I) Program,” Iowa Administrative Code.

HUMAN SERVICES DEPARTMENT[441](cont'd)

The proposed amendments:

- Exempt both federal and state earned income tax credit payments from consideration as income in determining eligibility for the HAWK-I Program. This exemption is consistent with the policy in other Department assistance programs. This change was also Adopted and Filed Emergency and is published herein as **ARC 6751B**.

- Exempt earnings from temporary employment with the U.S. Bureau of the Census from consideration as income. This policy is authorized and encouraged by the Centers for Medicare and Medicaid Services. Preliminary activities related to the 2010 Census have begun in some states.

- Clarify that the effective date of coverage for a child who has been denied Medicaid eligibility is the first day of the month after the month when the Department received the Medicaid application unless the child has health insurance on that date. If so, coverage will be effective on the first day of the month after the child loses health insurance coverage.

- Define the first day of the ten days allowed for an enrollee to report changes that may affect eligibility as the first working day after the change takes place, instead of the day the change occurred. This change will allow enrollees more time to report and will be consistent with other policies that define a period for action.

- Clarify the effective date of a positive or negative change in eligibility or benefits resulting from a report of a change in family circumstances, depending on whether the change in circumstances is reported timely.

- Make other technical changes to make the rules more precise and easier to understand.

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).

Any interested person may make written comments on the proposed amendments on or before May 28, 2008. Comments should be directed to Mary Ellen Imlau, Bureau of Policy Analysis and Appeals, Department of Human Services, Hoover State Office Building, 1305 East Walnut Street, Des Moines, Iowa 50319-0114. Comments may be sent by fax to (515)281-4980 or by E-mail to policyanalysis@dhs.state.ia.us.

These amendments are intended to implement Iowa Code chapter 514I.

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

The following amendments are proposed.

ITEM 1. Amend rule **441—86.1(514I)** by adopting the following **new** definitions in alphabetical order:

“Applicant” shall mean all parents, spouses, and children under the age of 19 who are counted in the HAWK-I family size and who are listed on the application or renewal form.

“Family” shall mean all parents, spouses, and children under the age of 19 who are counted in the HAWK-I family size.

ITEM 2. Amend rule **441—86.2(514I)** as follows:

Amend the introductory paragraph as follows:
441—86.2(514I) Eligibility factors. The decision with respect to eligibility shall be based primarily on information furnished by the applicant, *the enrollee*, or *recipient a person acting on behalf of the applicant or enrollee*. A child must meet the following eligibility factors to participate in the HAWK-I program.

Amend subrule **86.2(2)**, paragraph “b,” by adopting **new** subparagraphs (44) and (45) as follows:

(44) A federal or state earned income tax credit, regardless of whether the payment is received with the regular paycheck or as a lump sum with the federal or state income tax refund.

(45) All earnings received by temporary workers from the U.S. Bureau of the Census.

Amend subrule 86.2(3), introductory paragraph, as follows:

86.2(3) Family size. For purposes of establishing initial and ongoing eligibility under the HAWK-I program, the family size shall consist of all persons living together who are children ~~and under the age of 19~~ or who are parents of those children as defined below. EXCEPTION: Persons who are receiving Supplemental Security Income (SSI) under Title XVI of the Social Security Act or who are voluntarily excluded in accordance with the provisions of paragraph “c” below are not considered in determining family size.

ITEM 3. Amend subrules 86.3(7) and 86.3(8) as follows: as follows:

86.3(7) Information and verification procedure. The decision with respect to eligibility shall be based primarily on information furnished by the applicant ~~or~~, enrollee, *or person acting on behalf of the applicant or enrollee*.

a. The third-party administrator shall notify the applicant ~~or~~, enrollee, *or person acting on behalf of the applicant or enrollee* in writing of additional information or verification that is required to establish eligibility. The third-party administrator shall provide this notice to the applicant ~~or enrollee~~ personally, ~~or~~ by mail, or by facsimile.

b. Failure of the applicant ~~or enrollee~~ to supply the information or verification or refusal by the applicant ~~or enrollee~~ to authorize the third-party administrator to secure the information shall serve as a basis for rejection of the application or cancellation of coverage.

c. The applicant ~~or~~, enrollee, *or person acting on behalf of the applicant or enrollee* shall have ten working days to supply the information or verification requested by the third-party administrator. The third-party administrator may extend the deadline for a reasonable period of time when the applicant ~~or~~, enrollee, *or person acting on behalf of the applicant or enrollee* is making every effort but is unable to secure the required information or verification from a third party.

86.3(8) Time limit for decision. The third-party administrator shall make a decision regarding the applicant's eligibility to participate in the HAWK-I program within ten working days from the date of receiving the completed application and all necessary information and verification unless the application cannot be processed within the period for a reason that is beyond the control of the third-party administrator.

a. EXCEPTION: When the application is referred for a Medicaid eligibility determination and Medicaid eligibility is denied, the third-party administrator shall determine HAWK-I eligibility no later than ten working days from the date of the notice of Medicaid denial unless additional verification is needed.

b. “Day one” of the ten-day period shall mean the first working day following the date of receipt of a completed application and all necessary information and verification.

ITEM 4. Amend subrule 86.5(2) as follows:

86.5(2) Referrals from Medicaid.

a. *Cancellation of Medicaid.* Coverage for children who are determined eligible for the HAWK-I program on the basis of a referral from Medicaid *due to cancellation of Medicaid benefits* shall be effective the first day of the month after

HUMAN SERVICES DEPARTMENT[441](cont'd)

Medicaid eligibility is lost, regardless of the date of the referral, in order to ensure that there is no break in coverage. *However, when such a child does not meet the provisions of subrule 86.2(4), coverage shall be effective the first day of the month following the month in which health insurance coverage is lost.*

b. Denial of Medicaid. Coverage for children who are determined eligible for the HAWK-1 program on the basis of a referral from Medicaid due to denial of Medicaid benefits shall be effective no earlier than the first day of the month following the month in which the Medicaid application was received in accordance with 441—subrule 76.1(2). However, when such a child does not meet the provisions of subrule 86.2(4), coverage shall be effective the first day of the month following the month in which health insurance coverage is lost.

ITEM 5. Amend rule 441—86.10(514I) as follows:

Amend the introductory paragraph as follows:

441—86.10(514I) Reporting changes. Changes that may affect eligibility shall be reported *timely* to the third-party administrator ~~as soon as possible but~~. *“Timely” shall mean no later than ten working days after the change occurred. “Day one” of the ten-day period shall begin with mean the first working day following the date of the change. The parent, guardian, or other adult responsible for the child shall report the change. If the child is emancipated, married, or otherwise in an independent living situation, the child shall be responsible for reporting the change.*

Adopt **new** subrules 86.10(8), 86.10(9), and 86.10(10) as follows:

86.10(8) Information reported by a third party. Information reported by a third party shall not be acted upon until the information is verified in accordance with subrule 86.3(7).

86.10(9) Cooperation. The provisions of subrule 86.3(7) shall apply when a request for information or verification is made due to a change. In addition, failure of the enrollee or of the person acting on behalf of the enrollee to provide requested information or verification that may affect eligibility for the program shall result in cancellation and recoupment of all payments made by the department on behalf of the enrollee during the period in question.

86.10(10) Effective date of change in eligibility.

a. When a change in circumstances has a positive effect on eligibility, the change in eligibility shall be effective no earlier than the month following the month in which the change in circumstances was reported, regardless of when the change was reported.

b. When a change in circumstances has an adverse effect on eligibility, the change in eligibility shall be effective no earlier than the month following the issuance of a timely notification, in accordance with the provisions of rule 441—86.11(514I). When the change in circumstances was not reported timely, as defined in this rule, benefits shall be recouped beginning with the month following the month in which the change occurred.

c. When an anticipated change in circumstances is reported before the change occurs, no action shall be taken until the change actually occurs and is verified in accordance with the provisions of subrule 86.3(7).

ARC 6781B

INSURANCE DIVISION[191]

Notice of Intended Action

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

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

Pursuant to the authority of Iowa Code Supplement section 510B.3, the Iowa Insurance Division hereby gives Notice of Intended Action to adopt new Chapter 59, “Pharmacy Benefits Managers,” Iowa Administrative Code.

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

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

Any interested person may make written comments on the proposed rules on or before May 27, 2008. Written comments may be sent to Susan Voss, Commissioner, 330 Maple Street, Des Moines, Iowa 50319. Comments may also be submitted electronically to susan.voss@iid.state.ia.us.

A public hearing will be held at the office of the Insurance Division at 10 a.m. on May 28, 2008. The Division is located at 330 Maple Street, Des Moines, Iowa.

These rules are intended to implement Iowa Code chapters 17A and 514L and Iowa Code Supplement chapter 510B.

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

The following **new** chapter is proposed.

CHAPTER 59

PHARMACY BENEFITS MANAGERS

191—59.1(510B) Purpose. The purpose of this chapter is to administer the provisions of Iowa Code Supplement chapter 510B relating to the regulation of pharmacy benefits managers.

191—59.2(510B) Definitions. The terms defined in Iowa Code Supplement section 510B.1 shall have the same meaning for the purposes of this chapter. The definitions contained in 191—Chapter 58, “Third-Party Administrators,” and 191—Chapter 78, “Uniform Prescription Drug Information Card,” of the Iowa Administrative Code are incorporated by reference. As used in this chapter:

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

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

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

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

191—59.3(510B) Timely payment of pharmacy claims.

59.3(1) All benefits payable under a pharmacy benefits management plan shall be paid as soon as feasible but within 20 days after receipt of a clean claim when the claim is submitted electronically and shall be paid within 30 days after receipt of a clean claim when the claim is submitted in paper format.

59.3(2) Payments to the pharmacy or pharmacist for clean claims are considered to be overdue if not paid within 20 or 30 days, whichever is applicable. If any clean claim is not timely paid, the pharmacy benefits manager must pay the pharmacy or pharmacist interest at the rate of 10 percent per annum commencing the day after any claim payment or portion thereof was due until the claim is finally settled or adjudicated in full.

59.3(3) Existing contracts between clients and pharmacy benefits managers shall comply with the requirement that clean claims be paid within 20 or 30 days, whichever is applicable, when such contracts are renegotiated on or after July 1, 2008, but no later than December 31, 2009.

191—59.4(510B) Study. On or before December 31, 2008, the commissioner will examine the feasibility of requiring a 15-day payment schedule for electronically submitted claims. The examination shall include economic impact on pharmacy benefits managers, patients, and Iowa pharmacies.

191—59.5(510B) Complaints.

59.5(1) Each pharmacy benefits manager shall develop an internal system to record and report complaints. This system shall include but not be limited to:

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

59.5(2) All internal complaints received and resolved by the pharmacy benefits manager shall be submitted to the commissioner on a quarterly basis within 30 days after the calendar quarter has ended.

191—59.6(510B) Auditing practices.

59.6(1) An audit of the pharmacy records by a pharmacy benefits manager shall be conducted in accordance with the following:

- a. The pharmacy benefits manager conducting the initial on-site audit must provide the pharmacy written notice at least one week prior to conducting any audit;
- b. Any audit which involves clinical or professional judgment must be conducted by or in consultation with a pharmacist;

c. When a pharmacy benefits manager alleges an overpayment has been made to a pharmacy or pharmacist, the pharmacy benefits manager shall provide the pharmacy or pharmacist sufficient documentation to determine the specific claims included in the alleged overpayment;

d. A pharmacy may use the records of a hospital, physician or other authorized practitioner of the healing arts for drugs or medicinal supplies, written or transmitted by any means of communication, for purposes of validating the pharmacy record with respect to orders or refills of a legend or narcotic drug;

e. Each pharmacy shall be audited under the same standards and parameters as other similarly situated pharmacies audited by the pharmacy benefits manager;

f. The period covered by an audit may not exceed two years from the date on which the claim was submitted to or adjudicated by a managed care company, insurance company, third-party payor, or any pharmacy benefits manager that represents such companies, groups, or a department;

g. Unless otherwise consented to by the pharmacy, an audit may not be initiated or scheduled during the first seven calendar days of any month due to the high volume of prescriptions filled during that time;

h. The preliminary audit report must be delivered to the pharmacy within 120 days after conclusion of the audit. A final written audit report shall be received by the pharmacy within six months of the preliminary audit report or final appeal, whichever is later;

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

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

59.6(2) Notwithstanding any other provision in this rule, the entity conducting the audit shall not use the accounting practice of extrapolation in calculating the recuperation of contractual penalties for audits.

59.6(3) Recuperation of any disputed funds shall occur only after final disposition of the audit, including the appeals process as set forth in subrule 59.6(4).

59.6(4) Each pharmacy benefits manager conducting an audit shall establish an appeals process under which a pharmacy may appeal an unfavorable preliminary audit report to the pharmacy benefits manager. If, following the appeal, the pharmacy benefits manager finds that an unfavorable audit report or any portion thereof is unsubstantiated, the pharmacy benefits manager shall dismiss the audit report or said portion without the necessity of any further proceedings.

59.6(5) Each pharmacy benefits manager conducting an audit shall, after completion of any review process, provide a copy of the final audit report to the plan sponsor.

59.6(6) This rule shall not apply to any investigative audit which involves fraud, willful misrepresentation, abuse, or any other statutory provision which authorizes investigations relating to but not limited to insurance fraud.

59.6(7) External review of audit decision. The pharmacy or pharmacist may request an external review of the final decision of an audit finding by filing with the commissioner a written request for an external review of the finding. This written request must be filed with the commissioner within 30 days of the receipt of the final determination decision.

INSURANCE DIVISION[191](cont'd)

191—59.7(510B) Termination of pharmacy contracts.

59.7(1) A pharmacy or pharmacist shall not be terminated from the network or penalized by a pharmacy benefits manager solely because of filing a complaint, grievance or appeal.

59.7(2) A pharmacy or pharmacist shall not be terminated from the network or penalized by a pharmacy benefits manager due to any disagreement with the decision of the pharmacy benefits manager to deny or limit benefits to covered persons or due to any assistance provided to covered persons by the pharmacy or pharmacist in obtaining reconsideration of the decision of the pharmacy benefits manager.

59.7(3) Prior to termination of a pharmacy or pharmacist from the network, the pharmacy benefits manager must provide written explanation to the pharmacy or pharmacist of the reason for the termination. The pharmacy benefits manager must provide the written explanation at least 30 days prior to the termination date unless the termination is based on the loss of the pharmacy's or pharmacist's license, cancellation of professional liability coverage or conviction of fraud.

59.7(4) Termination of a contract between a pharmacy benefits manager and a pharmacy or pharmacist or termination of a pharmacy or pharmacist from the network of the pharmacy benefits manager shall not release the pharmacy benefits manager from the obligation to make payments due to the pharmacy or pharmacist for services rendered before the contract of the pharmacy or pharmacist was terminated.

59.7(5) External review of termination decision. The pharmacy or pharmacist may request an external review of the final decision to terminate the contract between the pharmacy benefits manager and the pharmacy or pharmacist by filing with the commissioner a written request for an external review of the decision. This written request must be filed with the commissioner within 30 days of receipt of the final termination decision.

191—59.8(17A) Appeals and review. A pharmacy or pharmacist adversely affected may appeal to the commissioner in accordance with rule 191—3.27(17A).

These rules are intended to implement Iowa Code chapters 17A and 514L and Iowa Code Supplement chapter 510B.

ARC 6777B

LABOR SERVICES DIVISION[875]

Notice of Intended Action

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

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

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

The proposed amendment adopts by reference changes to federal occupational safety and health regulations. The changes are part of a long-term project of the U.S. Department of Labor to update its references to consensus and industry standards. The changes delete language referring to various national consensus standards that the U.S. Department of Labor has determined are no longer necessary or appropriate. The changes also correct a citation.

The principal reasons for adoption of this amendment are to implement Iowa Code chapter 88, to protect the safety and health of Iowa's workers, and to make Iowa's occupational safety and health regulations more current and consistent with federal regulations.

Pursuant to Iowa Code subsection 88.5(1)(a), Iowa must adopt the federal standards.

Written data, views, or arguments to be considered in adoption shall be submitted no later than May 28, 2008, to Division of Labor Services, 1000 East Grand Avenue, Des Moines, Iowa 50319-0209. Comments may be sent electronically to kathleen.uehling@iwd.iowa.gov.

A public hearing will be held on May 28, 2008, at 10:30 a.m. in the Stanley Room at Iowa Workforce Development, 1000 East Grand Avenue, Des Moines, Iowa. The public will be given the opportunity to make oral statements and submit documents. The facility for the oral presentations is accessible to and functional for persons with physical disabilities. Persons who have special requirements should telephone (515)242-5869 in advance to arrange access or other needed services.

This amendment is intended to implement Iowa Code section 88.5.

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

The following amendment is proposed.

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

72 Fed. Reg. 71068 (December 14, 2007)

ARC 6787B

LABOR SERVICES DIVISION[875]

Notice of Intended Action

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

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

Pursuant to the authority of Iowa Code section 89.14, the Boiler and Pressure Vessel Board hereby gives Notice of Intended Action to amend Chapter 91, “General Requirements for All Objects,” Iowa Administrative Code.

The proposed amendments change the requirements for a combustion air source.

The purposes of these amendments are to make the rules more current and internally consistent, to make the rules blend with requirements adopted by the Iowa Department of Public Safety, to protect the safety of the public, and to implement legislative intent.

If a request for an oral presentation is received by the close of business on May 27, 2008, from 25 interested persons, a governmental subdivision, or an agency or association of 25 or more persons, a public hearing will be held on May 28, 2008, at 1:30 p.m. in the Stanley Room at 1000 East Grand Avenue, Des Moines, Iowa. Interested persons will be given the opportunity to make oral statements and file documents concerning the proposed amendments. The facility for the oral presentations is accessible to and functional for persons

LABOR SERVICES DIVISION[875](cont'd)

with physical disabilities. Persons who have special requirements should telephone (515)242-5869 in advance to arrange access or other needed services.

Written data, views, or arguments to be considered in adoption shall be submitted no later than May 28, 2008, to the Division of Labor Services, 1000 East Grand Avenue, Des Moines, Iowa 50319-0209. Comments may be sent electronically to kathleen.uehling@iwd.iowa.gov.

These amendments are intended to implement Iowa Code chapter 89.

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

The following amendments are proposed.

ITEM 1. Rescind and reserve subrule **91.1(2)**.

ITEM 2. Amend rule 875—91.13(89) as follows:

875—91.13(89) Air and ventilation.

91.13(1) Notice concerning other rules. *The division and the Iowa department of public safety both enforce requirements concerning air and ventilation. Objects that are covered by both sets of rules must comply with both sets of rules.*

91.13(2) Documentation. *Documentation of compliance with any requirement of this rule shall be maintained in the boiler room. However, it is not necessary to maintain documentation of the louvered area.*

91.13(3) Codes adopted by reference. *For this rule, the following codes, including references in the codes, are adopted by reference:*

a. *International Mechanical Code (IMC), Chapters 2 and 7, except Section 701.1.*

b. *National Fire Protection Association Standard for the Installation of Oil Burning Equipment, NFPA 31.*

c. *National Fire Protection Association National Fuel Gas Code, NFPA 54.*

d. *National Fire Protection Association Liquefied Petroleum Gas Code, NFPA 58.*

e. *National Fire Protection Association Boiler and Combustion Systems Hazards Code, NFPA 85.*

91.13(4) Installations after September 20, 2008. *Fuel-burning objects installed or reinstalled after September 20, 2008, shall comply with subrule 91.13(7) or at least one of the following applicable codes:*

a. *The 2006 edition of the IMC 2006. This code is applicable to all fuel-burning objects.*

b. *The 2006 edition of NFPA 31.*

c. *The 2006 edition of NFPA 54.*

d. *The 2008 edition of NFPA 58.*

e. *The 2007 edition of NFPA 85.*

91.13(5) Installations from September 20, 2006, to September 20, 2008. *Fuel-burning objects installed or reinstalled from September 20, 2006, to September 20, 2008, shall comply with subrule 91.13(7) or at least one of the following applicable codes:*

a. *The 2006 edition of NFPA 31.*

b. *The 2006 edition of NFPA 54.*

c. *The 2004 edition of NFPA 58.*

d. *The 2004 edition of NFPA 85.*

91.13(6) Installations prior to September 20, 2006. *Objects installed prior to September 20, 2006, shall comply with the 2006 edition of the IMC or subrule 91.13(7). Objects that are in compliance with the version of subrule 91.13(7) that was in effect at the time of installation or reinstallation shall be considered in compliance with this subrule. Previous*

versions of subrule 91.13(7), such as rule 875—91.13(89), rule 875—203.13(89), rule 347—49.12(89), and rule 530—49.12(89), are available for reference at http://www.iowaworkforce.org/labor/boiler_inspection.htm.

91.13(7) Iowa combustion air requirements. *A permanent source of outside air shall be provided for each room to permit satisfactory combustion of fuel and ventilation if necessary under normal operations. The minimum ventilation for coal, gas, or oil burners in rooms containing objects is based on the Btu's per hour, required air, and louvered area. The minimum net louvered area shall not be less than 1 square foot. The following table shall be used to determine the net louvered area in square feet:*

INPUT (Btu's per hour)	MINIMUM AIR REQUIRED (cubic feet <i>per minute</i>)	MINIMUM LOUVERED AREA (net square feet)
500,000	125	1.0
1,000,000	250	1.0
2,000,000	500	1.6
3,000,000	750	2.5
4,000,000	1,000	3.3
5,000,000	1,200	4.1
6,000,000	1,500	5.0
7,000,000	1,750	5.8
8,000,000	2,000	6.6
9,000,000	2,250	7.5
10,000,000	2,500	8.3

When mechanical ventilation is used, the supply of combustion and ventilation air to the objects and the firing device shall be interlocked with the fan so the firing device will not operate with the fan off. The velocity of the air through the ventilating fan shall not exceed 500 feet per minute and the total air delivered shall be equal to or greater than shown above.

ARC 6788B

LOTTERY AUTHORITY, IOWA[531]

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 99G.9(3), the Iowa Lottery Authority hereby proposes to amend Chapter 11, “Prizes,” Iowa Administrative Code.

Chapter 11 is being amended to clarify the requirements for prize payment to minors.

Any interested party may submit written comments concerning this proposed amendment or may submit a written request to make an oral presentation. The comments or request must include all of the following: the name, address, and telephone number of the party making the comments or request; a reference to the specific proposed amendment that is the subject of the comments or request; and the general content of a requested oral presentation.

All comments or requests should be addressed to the Iowa Lottery Rules Administrator and should either be mailed

LOTTERY AUTHORITY, IOWA[531](cont'd)

to the Iowa Lottery Authority, 2323 Grand Avenue, Des Moines, Iowa 50312; faxed to (515)725-7861; or E-mailed to mtooman@ialottery.com. All comments or requests for oral presentations must be received by the Lottery Rules Administrator no later than May 27, 2008.

A meeting to hear requested oral presentations is scheduled for May 28, 2008, at 10 a.m. at the Iowa Lottery headquarters. The meeting will be canceled without further notice if no oral presentations are requested.

This amendment is intended to implement Iowa Code chapter 99G.

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

The following amendment is proposed.

Amend rule 531—11.6(99G) as follows:

531—11.6(99G) Prize payment to minors. If the person entitled to a prize is under the age of 18, the payment of the prize may be made by delivery of a draft payable *cash or a check* payable to the order of the minor or to a parent or legal guardian of the minor. Claim forms and tickets submitted by minors must be signed by a parent or legal guardian of the minor.

This rule is intended to implement Iowa Code Supplement sections 99G.9(3), 99G.21(2), 99G.30(3), and 99G.31.

ARC 6785B

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 40, “Boating Speed and Distance Zoning,” Iowa Administrative Code.

Chapter 40 specifies the areas where limitations are needed to permit appropriate utilization of specific water areas.

This amendment adds two areas to the no-wake areas designated for Lake Odessa. These narrow channels will be dredged in 2008 to allow hydraulic connection of water areas for fish movement during low-water periods in summer and winter. The life of these channels can be significantly extended by reducing boat wakes and resultant shoreline erosion. Both channels are well protected from wind fetch and wave erosion, so boat activity will be the primary source of shoreline erosion in these two locations.

Any interested person may make written suggestions or comments on the proposed amendment on or before May 29, 2008. Written comments may be sent to Bill Ohde, Odessa Wildlife Management Unit, 260 Mulberry, Suite 3, Wapello, Iowa 52653. Persons who wish to convey their views orally should contact Bill Ohde at (319)523-8319 or visit the Wildlife Bureau offices on the fourth floor of the Wallace State Office Building.

There will be a public hearing on May 29, 2008, at 7 p.m. at the Briggs Civic Center, 317 N. Water Street, Wapello, Iowa, 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 amendment.

Any persons who intend to attend the public hearing 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 462A.17, 462A.26, and 462A.31.

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

The following amendment is proposed.

Amend rule 571—40.9(462A) by adopting the following **new** subrule:

40.9(3) All motorboats, except authorized emergency vessels, shall be operated at no-wake speed year around, on those portions of Lake Odessa known as the lateral ditch, between the main lake and Bebee Pond, and on the channel between Yankee Chute and Beaver Pond.

ARC 6784B

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(6), the Natural Resource Commission hereby gives Notice of Intended Action to amend Chapter 40, “Boating Speed and Distance Zoning,” Iowa Administrative Code.

This amendment establishes a no-wake zone on Catfish Creek by placement of regulatory buoys beginning at the mouth of Catfish Creek and extending upstream to the confluence of Catfish Creek and Granger Creek. Catfish Creek, which runs through Mines of Spain State Recreation Area, continues to increase in popularity for “quiet water activities” such as canoeing, kayaking, water-based ecotours and wildlife watching. Watercraft entering the area at a great speed creates wake problems for boaters and visitors who are pursuing these activities.

Any person may make written comments on this proposed amendment on or before May 27, 2008. Such comments and written material should be directed to the State Parks Bureau, Iowa Department of Natural Resources, Wallace State Office Building, 502 East 9th Street, Des Moines, Iowa 50319-0034. Persons who wish to convey their comments orally should contact Sherry Arntzen with the State Parks Bureau at (515)242-6233.

Two public hearings will be held on May 27, 2008, at which time persons may present their views either orally or in writing. The first hearing will begin at 10:30 a.m. in the

NATURAL RESOURCE COMMISSION[571](cont'd)

Fourth Floor West Conference Room at the Wallace State Office Building in Des Moines. The second hearing will be held from 3 to 7 p.m. at the E.B. Lyons Nature Center at Mines of Spain State Recreation Area in Dubuque. 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 attend the public hearing and have special needs 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 section 462A.26.

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

571—40.57(462A) Zoning of Catfish Creek, Mines of Spain State Recreation Area, Dubuque County. All vessels shall be operated at no-wake speed within the area beginning at the mouth of Catfish Creek and extending upstream to the confluence of Catfish Creek and Granger Creek and designated by uniform marker buoys approved by the natural resource commission.

ARC 6764B**PROFESSIONAL LICENSING AND REGULATION BUREAU[193]****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 546.2, the Professional Licensing and Regulation Bureau hereby gives Notice of Intended Action to amend Chapter 13, “Public Records and Fair Information Practices,” Iowa Administrative Code.

These amendments implement changes required by 2008 Iowa Acts, Senate File 2179, which was signed by the Governor on April 11, 2008.

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

Consideration will be given to all written suggestions or comments received on or before May 27, 2008, concerning the proposed amendments. Comments should be addressed to Glenda Loving, Professional Licensing and Regulation Bureau, 1920 S.E. Hulsizer, Ankeny, Iowa 50021, or faxed to (515)281-7411. E-mail may be sent to glenda.loving@iowa.gov.

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 paragraph **13.12(2)“f”** and reletter paragraphs “g” to “m” as “f” to “l.”

ITEM 2. Amend subrule 13.17(3) as follows:

13.17(3) License renewal. Licensees are requested to supply a wide range of information in connection with license renewal, including continuing education information, criminal history and disciplinary actions, as provided by board statutes, rules and application forms, both on paper and electronically. Failure to provide requested information may result in denial of the application. Most information contained on renewal applications is treated as public information freely available for public examination, but some information, such as ~~criminal history credit card numbers~~, may be confidential under state or federal law.

ARC 6780B**PROFESSIONAL LICENSURE DIVISION[645]****Notice of Intended Action**

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

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

Pursuant to the authority of Iowa Code section 147.76, the Board of Chiropractic hereby gives Notice of Intended Action to rescind Chapter 40, “Administrative and Regulatory Authority for the Board of Chiropractic,” to amend Chapter 41, “Licensure of Chiropractic Physicians,” Chapter 44, “Continuing Education for Chiropractic Physicians,” and Chapter 45, “Discipline for Chiropractic Physicians,” and to rescind Chapter 46, “Fees,” Iowa Administrative Code.

The proposed amendments rescind chapters and rules that duplicate existing rules in 645—Chapters 4 and 5.

Any interested person may make written comments on the proposed amendments no later than May 27, 2008, addressed to Pierce Wilson, Professional Licensure Division, Department of Public Health, Lucas State Office Building, Des Moines, Iowa 50319-0075; E-mail pwilson@idph.state.ia.us.

A public hearing will be held on May 27, 2008, from 9 to 9:30 a.m. in the Fifth Floor Board Conference Room, Lucas State Office Building, at which time persons may present their views either orally or in writing. At the hearing, persons will be asked to give their names and addresses for the record and to confine their remarks to the subject of the proposed amendments.

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

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

The following amendments are proposed.

PROFESSIONAL LICENSURE DIVISION[645](cont'd)

ITEM 1. Rescind and reserve **645—Chapter 40**.

ITEM 2. Rescind and reserve rules **645—41.7(151)**, **645—41.11(147)**, **645—41.12(147)**, and **645—41.13(17A, 151,272C)**.

ITEM 3. Rescind and reserve rules **645—44.4(151, 272C)**, **645—44.5(151,272C)**, **645—44.6(272C)**, and **645—44.7(151,272C)**.

ITEM 4. Rescind and reserve rule **645—45.5(151)**.

ITEM 5. Rescind and reserve **645—Chapter 46**.

ARC 6778B**PROFESSIONAL LICENSURE
DIVISION[645]****Notice of Intended Action**

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

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

Pursuant to the authority of Iowa Code section 147.76, the Board of Chiropractic hereby gives Notice of Intended Action to amend Chapter 41, “Licensure of Chiropractic Physicians,” and Chapter 44, “Continuing Education for Chiropractic Physicians,” Iowa Administrative Code.

The proposed amendments change the conditions that the Board will consider for granting a temporary certificate, modify requirements to qualify for a temporary certificate, allow fee credit toward a permanent license for applicants who have a temporary certificate, and clarify continuing education requirements.

Any interested person may make written comments on the proposed amendments no later than May 27, 2008, addressed to Pierce Wilson, Professional Licensure Division, Department of Public Health, Lucas State Office Building, Des Moines, Iowa 50319-0075; E-mail pwilson@idph.state.ia.us.

A public hearing will be held on May 27, 2008, from 9 to 9:30 a.m. in the Fifth Floor Board Conference Room, Lucas State Office Building, at which time persons may present their views either orally or in writing. At the hearing, persons will be asked to give their names and addresses for the record and to confine their remarks to the subject of the proposed amendments.

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

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

The following amendments are proposed.

ITEM 1. Amend subrule 41.5(2) as follows:

41.5(2) Demonstrated need. An applicant must establish that a need exists for the issuance of a temporary license and that the need serves the public interest. An applicant may *only* meet the demonstrated need requirement by proving that the need meets one of the following conditions:

a. The applicant will provide chiropractic services in connection with a special activity, event or program conducted in this state;

b. The applicant will provide chiropractic services in connection with a state emergency as proclaimed by the governor; *or*

c. The applicant previously held an unrestricted license to practice chiropractic in this state and will provide gratuitous chiropractic services as a voluntary public service; *or*.

d. ~~The applicant will provide chiropractic services during a disability or long-term illness of an Iowa-licensed chiropractic physician.~~

The temporary certificate shall be issued only for conditions stated in paragraphs “a” through “d.”

ITEM 2. Amend subrule **41.5(3)**, paragraph “d,” as follows:

d. Provide a copy of a chiropractic diploma (no larger than 8½” × 11”) from a chiropractic school accredited by the CCE and approved by the board *and submit an official certificate of completion of 120 hours of physiotherapy from a board-approved chiropractic college. The physiotherapy course must include a practicum component.*

ITEM 3. Adopt **new** subrule 41.5(6) as follows:

41.5(6) A temporary license holder who meets all licensure conditions as specified in rule 645—41.2(151) may obtain a permanent license in lieu of the temporary certificate. To obtain a permanent license, the applicant shall submit any additional documentation required for permanent licensure that was not submitted as a part of the temporary certificate application. The applicant may receive fee credit toward the permanent licensure fee equivalent to the fee paid for the temporary permit if the application for the permanent license and all required documentation is received by the board prior to the expiration of the temporary permit.

ITEM 4. Amend subrule **44.3(2)**, paragraph “a,” subparagraph (1), as follows:

(1) At least 36 hours of continuing education credit obtained from a program that directly relates to clinical case management of chiropractic patients. Beginning with the July 1, 2006 2008, to June 30, 2008 2010, renewal cycle, at least 24 of these hours shall be earned by completing a program in which an instructor conducts the class employing either a *traditional in-person classroom-type presentation or a live, real-time interactive media presentation through the Iowa Communications Network (ICN)*. The remaining 12 hours may be obtained by independent study, including on-line instruction.

ARC 6779B**PROFESSIONAL LICENSURE
DIVISION[645]****Notice of Intended Action**

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

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

Pursuant to the authority of Iowa Code section 147.76, the Board of Chiropractic hereby gives Notice of Intended Ac-

PROFESSIONAL LICENSURE DIVISION[645](cont'd)

tion to amend Chapter 43, "Practice of Chiropractic Physicians," and Chapter 45, "Discipline for Chiropractic Physicians," Iowa Administrative Code.

The proposed amendments adopt new rules defining the chiropractic physician's responsibilities for training requirements of chiropractic assistants and change the time line for maintaining records to be consistent with other rules.

Any interested person may make written comments on the proposed amendments no later than May 27, 2008, addressed to Pierce Wilson, Professional Licensure Division, Department of Public Health, Lucas State Office Building, Des Moines, Iowa 50319-0075; E-mail pwilson@idph.state.ia.us.

A public hearing will be held on May 27, 2008, from 9:30 to 10 a.m. in the Fifth Floor Board Conference Room, Lucas State Office Building, at which time persons may present their views either orally or in writing. At the hearing, persons will be asked to give their names and addresses for the record and to confine their remarks to the subject of the proposed amendments.

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

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

The following amendments are proposed.

ITEM 1. Amend rule **645—43.1(151)** by adopting the following **new** definitions in alphabetical order:

"Active chiropractic physiotherapy" means therapeutic treatment performed by the patient with the assistance and guidance of the chiropractic assistant including, but not limited to, exercises and functional activities that promote strength, endurance, flexibility, and coordination.

"Chiropractic assistant" means a person who has satisfactorily completed a chiropractic assistant training program to perform selected chiropractic health care services under the supervision of a chiropractic physician.

"Passive chiropractic physiotherapy" means therapeutic treatment administered by the chiropractic assistant and received by the patient including, but not limited to, mechanical, electrical, thermal, or manual methods.

"Supervising chiropractic physician" means the Iowa licensed chiropractor responsible for supervision of services provided to a patient by a chiropractic assistant.

"Supervision" means the physical presence and direction of the supervising chiropractic physician at the location where services are rendered.

ITEM 2. Adopt **new** rule 645—43.12(151) as follows:

645—43.12(151) Chiropractic assistants. The requirements of this rule shall become effective on July 1, 2009.

43.12(1) Supervisory responsibilities of the chiropractic physician.

a. The supervising chiropractic physician shall ensure at all times that the chiropractic assistant has the necessary training and skills as required by these rules to competently perform the delegated services.

b. The supervising chiropractic physician may delegate services to a chiropractic assistant that are within the scope of practice of the chiropractic physician in a manner consistent with these rules. Violation of these rules shall be grounds for discipline under 645—Chapter 45.

c. A chiropractic physician shall not delegate to the chiropractic assistant the following:

(1) Services outside the chiropractic physician's scope of practice;

(2) Initiation, alteration, or termination of chiropractic treatment programs;

(3) Chiropractic manipulation and adjustments;

(4) Diagnosis of a condition.

d. A supervising chiropractic physician shall ensure that a chiropractic assistant is informed of the supervisor and chiropractic assistant relationship and is responsible for all services performed by the chiropractic assistant.

43.12(2) Education requirements for chiropractic assistants.

a. The supervising chiropractic physician shall ensure that a chiropractic assistant has completed a chiropractic assistant training program. A chiropractic assistant training program shall include training and instruction on the use of chiropractic physiotherapy procedures related to services to be provided by the chiropractic assistant. Any chiropractic assistant training program shall be provided by an approved CCE-accredited chiropractic college.

b. Chiropractic assistants performing active chiropractic physiotherapy procedures are required to complete 12 hours of instruction, of which 6 hours shall be clinical experience under the supervision of the chiropractic physician.

c. Chiropractic assistants performing passive chiropractic physiotherapy procedures are required to complete 12 hours of instruction, of which 6 hours shall be clinical experience under the supervision of the chiropractic physician.

d. If both paragraphs "b" and "c" apply, then 12 hours of instruction for active chiropractic physiotherapy procedures and 12 hours of instruction for passive chiropractic physiotherapy procedures shall be required for a total of 24 hours of instruction.

e. The chiropractic physician shall maintain in the chiropractic physician's primary place of business proof of the chiropractic assistant's completion of the training program. Copies of such documents shall be provided to the board upon request.

ITEM 3. Amend subrule **45.2(1)**, paragraph "g," as follows:

g. Failure to maintain for a minimum of five six years from one of the following dates, as applicable, clinical and fiscal records in support of services rendered. For the purposes of this rule, clinical records shall include all laboratory and diagnostic imaging studies.

ARC 6786B

PROFESSIONAL LICENSURE DIVISION[645]

Notice of Intended Action

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

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

Pursuant to the authority of Iowa Code section 147.76, the Board of Physician Assistants hereby gives Notice of Intended Action to rescind Chapter 325, "Administrative and Regulatory Authority for the Board of Physician Assistants," to amend Chapter 326, "Licensure of Physician Assistants,"

PROFESSIONAL LICENSURE DIVISION[645](cont'd)

Chapter 328, "Continuing Education for Physician Assistants," and Chapter 329, "Discipline for Physician Assistants," and to rescind Chapter 330, "Fees," Iowa Administrative Code.

The proposed amendments rescind chapters and rules that duplicate existing rules in 645—Chapters 4 and 5.

Any interested person may make written comments on the proposed amendments no later than May 27, 2008, addressed to Pierce Wilson, Iowa Board of Physician Assistants, Professional Licensure Division, Department of Public Health, Lucas State Office Building, Des Moines, Iowa 50319-0075; E-mail pwilson@idph.state.ia.us.

A public hearing will be held on May 27, 2008, from 9:30 to 10 a.m. in the Fifth Floor Board Conference Room, Lucas State Office Building, at which time persons may present their views either orally or in writing. At the hearing, persons will be asked to give their names and addresses for the record and to confine their remarks to the subject of the proposed amendments.

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

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

The following amendments are proposed.

ITEM 1. Rescind and reserve **645—Chapter 325**.

ITEM 2. Rescind and reserve rules **645—326.5(148C), 645—326.12(147), 645—326.13(147), and 645—326.14(272C)**.

ITEM 3. Rescind and reserve rules **645—328.4(148C, 272C), 645—328.5(148C, 272C), 645—328.6(148C, 272C), and 645—328.7(148C, 272C)**.

ITEM 4. Rescind and reserve rule **645—329.5(148C)**.

ITEM 5. Rescind and reserve **645—Chapter 330**.

the method for calculating the number of signatures needed. This specific situation is addressed in this proposed amendment to rule 721—21.601(43), which prescribes the method of calculating the number of signatures required following a change in the number of supervisors. The signature requirement is to be calculated by dividing the number of registered voters in the county by the number of supervisor districts, then multiplying the quotient by .01.

Any interested person may make written suggestions or comments on this proposed amendment through May 27, 2008. Written suggestions or comments should be directed to Sandy Steinbach, Director of Elections, Office of the Secretary of State, First Floor, Lucas State Office Building, Des Moines, Iowa 50319.

Persons who want to convey their views orally should contact the Secretary of State's office by telephone at (515) 281-5823 or in person at the Secretary of State's offices on the first floor of the Lucas State Office Building. Requests for a public hearing must be received by May 27, 2008.

This amendment is intended to implement Iowa Code section 45.1.

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

The following amendment is proposed.

Amend rule 721—21.601(43), introductory paragraph, as follows:

721—21.601(43) Plan III supervisor district candidate signatures after a change in the number of supervisors or adoption of districts. After the number of supervisors has been increased or decreased pursuant to Iowa Code section 331.203 or 331.204, *or after the method of electing supervisors has been changed pursuant to Iowa Code section 331.207 to require election by the voters of a district*, the signatures for candidates at the next primary and general elections shall be calculated as follows:

ARC 6773B

SECRETARY OF STATE[721]

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 47.1, the Secretary of State hereby gives Notice of Intended Action to amend Chapter 21, "Election Forms and Instructions," Iowa Administrative Code.

This proposed amendment is intended to provide guidance to counties that have recently changed the method of electing county supervisors from at-large to Plan III districts. Iowa Code section 45.1(6) provides that candidates who are nominated by petition must have signatures from eligible electors of the supervisor district equal in number to at least 1 percent of the number of registered voters in the supervisor district on July 1 in the year preceding the year in which the office will appear on the ballot. If the county did not have supervisor districts in the preceding year, there is no guidance regarding

ARC 6774B

**SOIL CONSERVATION
DIVISION[27]**

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 161C.2(4), the Division of Soil Conservation gives Notice of Intended Action to amend Chapter 12, "Water Protection Practices—Water Protection Fund," Iowa Administrative Code.

The amendments proposed by this Notice of Intended Action increase the maximum dollar amount for the cost-share provisions concerning water protection practices relating to woodlands, native grasses and forbs.

These amendments do not contain a waiver but are subject to the Department's general waiver.

Any interested person may make written suggestions or comments on these proposed amendments by no later than

SOIL CONSERVATION DIVISION[27](cont'd)

4 p.m. on Wednesday, May 28, 2008. Written comments and suggestions should be directed to Margaret Thomson, Iowa Department of Agriculture and Land Stewardship, Wallace State Office Building, Des Moines, Iowa 50319; or E-mailed to Margaret.Thomson@IowaAgriculture.gov.

These amendments are intended to implement Iowa Code chapter 161C.

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

The following amendments are proposed.

ITEM 1. Amend subrule 12.81(2) as follows:

12.81(2) Forest management plan required. A forest management plan approved by the forestry division bureau of the department of natural resources is required for the practices of timber stand improvement, tree planting, site preparation for natural regeneration, and rescue treatments.

ITEM 2. Amend rule 27—12.84(161C) as follows:

27—12.84(161C) Cost-share rates. The following cost-share rates shall apply for eligible practices designated in rule 12.82(161C). The use of state cost-share funds alone or in combination with other public funds shall not exceed the limits established by these rules.

12.84(1) Windbreaks.

a. 75 percent of *the* actual cost, not to exceed \$15 \$18.75 per tree and \$2.25 per shrub, to establish or restore windbreaks.

b. Actual cost, not to exceed \$8 \$10 per rod, for permanent fences, to protect planted area from grazing, excluding boundary and road fencing.

c. Total cost-share for establishment, restoration, and fencing for windbreaks shall not exceed \$1200 per windbreak.

12.84(2) Field windbreaks.

a. 75 percent of *the* actual cost, not to exceed \$365 \$450 per acre.

b. Actual cost, not to exceed the lesser of \$8 \$10 per rod or \$45 \$50 per acre protected, for permanent fences, to protect planted area from grazing, excluding boundary and road fencing.

12.84(3) Timber stand improvement.

a. 75 percent of *the* actual cost, not to exceed \$75 \$120 per acre for *prescribed wood burning*, thinning, pruning crop trees, or releasing seedlings or young trees.

b. Actual cost, not to exceed the lesser of \$8 \$10 per rod or \$45 \$50 per acre protected, for permanent fences, to protect planted area from grazing, excluding boundary and road fencing.

12.84(4) Tree planting.

a. 75 percent of the actual cost, not to exceed \$365 \$450 per acre, for tree planting including the following:

- (1) Establishing ground cover,
- (2) Trees and tree-planting operations,
- (3) Weed and pest control,
- (4) Mowing, disking, and spraying.

b. 75 percent of *the* actual cost, not to exceed \$120 \$150 per acre for woody plant competition control.

c. Actual cost, not to exceed the lesser of \$8 \$10 per rod or \$45 \$50 per acre protected, for permanent fences, to protect planted area from grazing, excluding boundary and road fencing.

12.84(5) Site preparation for natural regeneration.

a. 75 percent of the actual cost, not to exceed \$120 per acre of site preparation.

b. Actual cost, not to exceed the lesser of \$8 per rod or \$45 per acre protected, for permanent fences, to protect treated area from grazing, excluding boundary and road fencing.

12.84(6) Riparian forest buffer. 75 percent of *the* actual cost or estimated cost, whichever is less.

12.84(7) Rescue treatment.

a. 75 percent of the actual cost, not to exceed \$60 per acre to establish alternate cover for competition control.

b. A one-time payment of 75 percent of the actual cost, not to exceed \$15 per acre to control damaging rodent populations.

c. 75 percent of *the* actual cost, not to exceed \$365 \$450 per acre, for plantation replanting including the following:

- (1) Establishing ground cover,
- (2) Trees and tree planting,
- (3) Weed control.

d. \$2 per rod, not to exceed \$24 per acre, for temporary electric fencing to control deer browse damage.

12.84(8) Planned grazing systems. 75 percent of *the* actual cost or estimated cost, whichever is less. Does not include boundary fences or road fences. Fencing limited to \$8 \$10 per rod. Development of a water source is not eligible.

12.84(9) Conservation cover. 75 percent of *the* actual cost or estimated cost, whichever is less.

NOTICE—USURY

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

May 1, 2007 — May 31, 2007	6.50%
June 1, 2007 — June 30, 2007	6.75%
July 1, 2007 — July 31, 2007	6.75%
August 1, 2007 — August 31, 2007	7.00%
September 1, 2007 — September 30, 2007	7.00%
October 1, 2007 — October 31, 2007	6.75%
November 1, 2007 — November 30, 2007	6.50%
December 1, 2007 — December 31, 2007	6.50%
January 1, 2008 — January 31, 2008	6.25%
February 1, 2008 — February 29, 2008	6.00%
March 1, 2008 — March 31, 2008	5.75%
April 1, 2008 — April 30, 2008	5.75%
May 1, 2008 — May 31, 2008	5.50%

ARC 6763B

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 476.103, the Utilities Board (Board) gives notice that on April 10, 2008,

UTILITIES DIVISION[199](cont'd)

the Board issued an order in Docket No. RMU-08-3, In re: Requested Amendments to Unauthorized Changes in Telecommunications Service Rules [199 IAC 22], "Order Commencing Rule Making." The Board is noticing for public comment proposed amendments to 199 IAC 22.23(476).

Iowa Code section 476.103(1) authorizes the Board to adopt rules to protect consumers from unauthorized changes in telecommunications service.

The proposed amendments to 199 IAC 22.23(476) were submitted by the Consumer Advocate Division of the Department of Justice (Consumer Advocate) in response to the decision of the Iowa Supreme Court in Office of Consumer Advocate v. Iowa Utilities Board, ___ N.W.2d ___, No. 06-0541 (Iowa 2008), which held in part that rules set forth in 199 IAC 22.23(476) regarding verification of carrier changes in service do not require verification of the terms of that authorization.

The Board does not find it necessary to propose a separate waiver provision in this rule making. The Board's general waiver provision in 199 IAC 1.3(17A,474,476,78GA, HF2206) is applicable to these amendments.

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 May 27, 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.

These amendments are intended to implement Iowa Code section 476.103.

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 **22.23(1)** as follows:

Amend the definitions of "cramming" and "slamming" as follows:

"Cramming" means the addition or deletion of a product or service for which a separate charge is made to a telecommunication customer's account without the ~~verified consent~~ *authorization* of the affected customer. "Cramming" does not include the addition of extended area service to a customer account pursuant to board rules, even if an additional charge is made. "Cramming" does not include telecommunications services that are ~~initiated or requested~~ *authorized* by the customer, including dial-around services such as "10-10-XXX," directory assistance, operator-assisted calls, acceptance of collect calls, and other casual calling by the customer.

"Slamming" means the designation of a new provider of a telecommunications service to a customer, including the initial selection of a service provider, without the ~~verified consent~~ *authorization* of the customer. "Slamming" does not include the designation of a new provider of a telecommunications service to a customer made pursuant to the sale or transfer of another carrier's customer base, provided that the designation meets the requirements of 199 IAC 22.23(2)"e."

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

"Authorization" means approval or permission for a change in service given by or on behalf of a customer. "Authorization" does not include words of assent given by or on behalf of a customer in reasonable reliance on material misstatements of fact made by or on behalf of a carrier.

Rescind the definition of "verified consent."

ITEM 2. Amend subrule **22.23(2)** by rescinding paragraph "a" and adopting the following **new** paragraph in lieu thereof:

a. Authorization required. Unauthorized changes in telecommunications service, including but not limited to cramming and slamming, are prohibited.

ARC 6762B

**AGRICULTURE AND LAND
STEWARDSHIP DEPARTMENT[21]**

Adopted and Filed Emergency

Pursuant to the authority of Iowa Code section 163.1, the Department of Agriculture and Land Stewardship hereby amends Chapter 64, "Infectious and Contagious Diseases," and Chapter 65, "Animal and Livestock Importation," Iowa Administrative Code.

The time frame for having a negative TB test has been changed from 30 to 60 days for cattle being exhibited at a fair or show when the cattle come from a state without a TB-free status and for cattle, bison and goats brought into the state. The 60-day time frame is necessary in order to avoid false positive tests. The new time frame conforms the Department's administrative rules with United States Department of Agriculture rules.

Pursuant to Iowa Code section 17A.4(2), the Department finds that notice and public participation are impracticable. Notice and public participation would result in needless delays.

The Department also finds, pursuant to Iowa Code section 17A.5(2)"b"(2), that the normal effective date of these amendments, 35 days after publication, should be waived and the amendments should be made effective upon filing with the Administrative Rules Coordinator. These amendments confer a benefit to the public because they increase animal safety and health by using an improved and more accurate testing time frame.

No waiver provision is included in these amendments.

These amendments became effective on April 11, 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 **64.34(2)**, paragraph "**a**," subparagraph **(1)**, as follows:

(1) Have had an individual animal test conducted within ~~30~~ 60 days of the exhibition; or

ITEM 2. Amend subrule **65.4(3)**, paragraph "**a**," subparagraph **(2)**, as follows:

(2) A negative tuberculosis test is required within ~~30~~ 60 days prior to importation for cattle or bison six months of age or older that are not exempted by 65.4(3)"a"(1).

ITEM 3. Amend subrule **65.6(2)**, paragraph "**b**," subparagraph **(1)**, numbered paragraph "**3**," as follows:

3. Originate from a herd not known to be infected with, or exposed to, tuberculosis and be accompanied by proof of a negative tuberculosis test conducted within ~~30~~ 60 days of importation.

[Filed Emergency 4/11/08, effective 4/11/08]

[Published 5/7/08]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 5/7/08.

ARC 6750B

**AGRICULTURE AND LAND
STEWARDSHIP DEPARTMENT[21]**

Adopted and Filed Emergency

Pursuant to the authority of Iowa Code sections 189.2(2) and 215.24, the Department of Agriculture and Land Stewardship hereby amends Chapter 85, "Weights and Measures," Iowa Administrative Code.

The amendment updates the standards used in the Department's device, inspection, testing and packaging programs.

Pursuant to Iowa Code section 17A.4(2), the Department finds that notice and public participation are impracticable. Notice and public participation would result in needless delays.

The Department also finds, pursuant to Iowa Code section 17A.5(2)"b"(2), that the normal effective date of this amendment, 35 days after publication, should be waived and the amendment should be made effective upon filing with the Administrative Rules Coordinator. The amendment confers a benefit to the public because it allows the most up-to-date standards to be used.

No waiver provision is included in this amendment.

This amendment became effective on April 8, 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 amendment is adopted.

Amend rule 21—85.39(189,215) as follows:

21—85.39(189,215) Weights and measures. The specifications, tolerances and regulations for commercial weighing and measuring devices, together with amendments thereto, as recommended by the National Institute of Standards and Technology and published in National Institute of Standards and Technology Handbook 44 amended or revised as of July 1, ~~2003~~ 2007, shall be the specifications, tolerances and regulations for commercial weighing and measuring devices in the state of Iowa, except as modified by state statutes, or by rules adopted and published by the Iowa department of agriculture and land stewardship and not rescinded.

The National Institute of Standards and Technology (NIST) Handbooks 130 and 133: Weights and Measures Law, Packaging and Labeling, Method of Sale, Type Evaluation and Checking the Net Contents of Packaged Goods, and all supplements, as promulgated by the National Institute of Standards and Technology amended or revised as of July 1, ~~2003~~ 2007, are adopted in their entirety by this reference.

This rule is intended to implement Iowa Code sections 189.9, 189.13, 189.17, 215.14, 215.18 and 215.23.

[Filed Emergency 4/8/08, effective 4/8/08]

[Published 5/7/08]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 5/7/08.

ARC 6751B**HUMAN SERVICES
DEPARTMENT[441]****Adopted and Filed Emergency**

Pursuant to the authority of Iowa Code section 514I.5, the Department of Human Services amends Chapter 86, "Healthy and Well Kids in Iowa (HAWK-I) Program," 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 in excess of a person's tax liability is refundable. Department policies for determining eligibility in the Family Investment Program and Family Medical Assistance Program-related Medicaid coverage groups exempt both federal and state earned income tax credit payments as income and as a resource. This amendment establishes the same income policy for the HAWK-I program. (Resources are not considered in determining HAWK-I eligibility.)

This amendment does not provide for waivers in specified situations, since exempting earned income tax credit 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 HAWK-I Board adopted this amendment on April 7, 2008.

In compliance with Iowa Code section 17A.4(2), the Department finds that notice and public participation are unnecessary because this amendment clarifies 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 amendment until after the current tax period, which would be contrary to the intent of the amendment to the state tax code.

The Department also finds that this amendment confers a benefit by allowing clients whose tax credits are more than their tax liability to receive the mandated refund without a loss of HAWK-I benefits. Therefore, this amendment is filed pursuant to Iowa Code section 17A.5(2)"b"(2), and the normal effective date of the amendment is waived.

This amendment is also included in a Notice of Intended Action published herein as **ARC 6772B** to allow for public comment.

This amendment is intended to implement Iowa Code section 514I.5 and Iowa Code Supplement section 422.12B.

This amendment became effective April 8, 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 amendment is adopted.

Amend subrule **86.2(2)**, paragraph "**b**," by adopting **new** subparagraph (**44**) as follows:

(44) A federal or state earned income tax credit, regardless of whether the payment is received with the regular paycheck or as a lump sum with the federal or state income tax refund.

[Filed Emergency 4/8/08, effective 4/8/08]

[Published 5/7/08]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 5/7/08.

ARC 6754B**HUMAN SERVICES
DEPARTMENT[441]****Adopted and Filed Emergency**

Pursuant to the authority of Iowa Code section 249A.4, the Department of Human Services amends Chapter 92, "Iowa-Care," Iowa Administrative Code.

This amendment reflects the annual update in IowaCare premiums as required by Iowa Code section 249J.8. Premiums are recalculated annually based on changes in federal poverty income guidelines published each year by the U.S. Department of Health and Human Services. By law, the monthly premium shall not exceed one-twelfth of 5 percent of the member's annual family income. Members whose family income is less than 100 percent of the federal poverty level pay no premium.

These recalculations have resulted in an increased premium of \$1 per month for most of the premium increment levels. The new premium amounts will be applied to new applications and renewal applications. A member's premium does not change during the member's approved enrollment period. Because the income thresholds for each level also change due to the new poverty income guidelines, a member may be moved to a lower premium level at renewal if the member's income remains unchanged.

This amendment does not provide for waivers in specified situations because all households should be subject to the same sliding-scale premiums. Requests for the waiver of any rule may be submitted under the Department's general rule on exceptions at 441—1.8(17A,217).

The Council on Human Services adopted this amendment on April 9, 2008.

In compliance with Iowa Code section 17A.4(2), the Department finds that notice and public participation are unnecessary because this amendment simply reflects the implementation of an existing methodology that is already adopted in statute and rules.

The Department also finds that this amendment confers a benefit by avoiding confusion about the application of the rule. The amounts cited in 441—paragraph 92.7(1)"a" of the Iowa Administrative Code conform to the updated amounts that took effect April 1, 2008, based on paragraph 92.7(1)"b." Therefore, this amendment is filed pursuant to Iowa Code section 17A.5(2)"b"(2), and the normal effective date of the amendment is waived.

This amendment is intended to implement Iowa Code section 249J.8.

This amendment became effective April 9, 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 amendment is adopted.

Amend paragraph **92.7(1)"a"** as follows:

a. The monthly premium amount is based on the household's countable monthly income as a percentage of the federal poverty level for a household of that size. ~~The Effective April 1, 2008,~~ premium amounts based on this percentage effective ~~April 1, 2007,~~ are as follows:

HUMAN SERVICES DEPARTMENT[441](cont'd)

When the household's income is at or below:	Each member's premium amount is:
100% of federal poverty level	\$ 0
110% of federal poverty level	\$42 \$43
120% of federal poverty level	\$46 \$47
130% of federal poverty level	\$51 \$52
140% of federal poverty level	\$55 \$56
150% of federal poverty level	\$59 \$60
160% of federal poverty level	\$63 \$64
170% of federal poverty level	\$68 \$69
180% of federal poverty level	\$72 \$73
190% of federal poverty level	\$76 \$77
200% of federal poverty level	\$80 \$82

[Filed Emergency 4/9/08, effective 4/9/08]
[Published 5/7/08]

EDITOR'S NOTE: For replacement pages for IAC, see IAC
Supplement 5/7/08.

ARC 6755B**CORRECTIONS DEPARTMENT[201]****Adopted and Filed**

Pursuant to the authority of Iowa Code sections 904.804 and 904.813, the Department of Corrections hereby rescinds Chapter 37, "Iowa State Industries," Iowa Administrative Code, and adopts a new Chapter 37 with the same title.

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

Notice of Intended Action was published in the Iowa Administrative Bulletin on January 16, 2008, as **ARC 6538B**. A public hearing was held on February 5, 2008, from 11 a.m. to 1 p.m. in the First Floor Conference Room of the Iowa Department of Corrections. No written or oral testimony was received.

Nonsubstantive technical changes were made to the Notice of Intended Action for clarification purposes.

These rules were approved during the Iowa State Industries Board meeting held on March 14, 2008.

These rules will become effective June 11, 2008.

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

EDITOR'S NOTE: Pursuant to recommendation of the Administrative Rules Review Committee published in the Iowa Administrative Bulletin, September 10, 1986, the text of these rules [Ch 37] is being omitted. With the exception of the changes noted above, these rules are identical to those published under Notice as **ARC 6538B**, IAB 1/16/08.

[Filed 4/9/08, effective 6/11/08]
[Published 5/7/08]

[For replacement pages for IAC, see IAC Supplement 5/7/08.]

ARC 6768B**EDUCATIONAL EXAMINERS
BOARD[282]****Adopted and Filed**

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

The amendment to rule 281—14.142(272) allows an administrator from another state to obtain the same license in Iowa that is held in the other state, and the administrator will not be required to complete the coursework for other grade levels.

Notice of Intended Action was published in the Iowa Administrative Bulletin on February 27, 2008, as **ARC 6606B**. A public hearing on the amendment was held on March 19, 2008. No one attended the public hearing, and no written comments were received. This amendment is identical to that published under Notice.

This amendment is intended to implement Iowa Code chapter 272.

This amendment will become effective June 11, 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 [14.142] is being omitted. This amendment is identical to that published under Notice as **ARC 6606B**, IAB 2/27/08.

[Filed 4/16/08, effective 6/11/08]
[Published 5/7/08]

[For replacement pages for IAC, see IAC Supplement 5/7/08.]

ARC 6783B**ENVIRONMENTAL PROTECTION
COMMISSION[567]****Adopted and Filed**

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

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

Notice of Intended Action was published in the Iowa Administrative Bulletin on January 2, 2008, as **ARC 6517B**. A public hearing was held on February 4, 2008. The Department did not receive any oral or written comments at the public hearing or any written comments before the public comment period closed on February 5, 2008.

The Department made one minor change to the adopted rules from those published under Notice of Intended Action. Item 17 has been combined with Item 16 and the subsequent items have been renumbered.

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

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

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gas definition from the legislation enacted in 2007 Iowa Acts, Senate File 485 (Iowa Code Supplement section 455B.131(7)).

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

Item 3 amends subrule 21.1(3) to include greenhouse gases in the emissions inventories provisions. 2007 Iowa Acts, Senate File 485 (Iowa Code Supplement section 455B.152) requires the reporting of greenhouse gas emissions through a greenhouse gas emissions inventory requirement.

Item 4 amends paragraph 22.1(2)"r," which is the construction permit exemption for internal combustion engines with a brake horsepower rating of less than 400. The amendment makes clear that this equipment may be subject to the federal New Source Performance Standards (NSPS) for stationary compression ignition internal combustion engines specified in 40 Code of Federal Regulations (CFR) Part 60, Subpart IIII, and adopted by reference in paragraph 23.1(2)"yyy." Use of the construction permit exemption does not relieve an owner or operator of the duty to comply with the NSPS requirements.

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

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

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

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

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

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

- Amendments to the NSPS General Provisions (Subpart A) to allow a facility to petition for an extension to performance testing deadlines when events beyond the facility's control prevent compliance with the testing deadline.
- Amendments to the NSPS for electrical steam generating units (EGUs) and industrial-commercial-institutional steam generating units. EPA finalized amendments to add compliance alternatives for certain sources, to revise certain record-keeping and reporting requirements, to correct technical and editorial errors, and to update the grammatical style. EPA has rewritten all four subparts (Subparts D, Da, Db and Dc) to accommodate the amendments and the new format.
- Amendments to the NSPS for other solid waste incinerators (OSWI) (Subpart EEEE). These amendments make corrections to the averaging time for opacity (visible emissions) measurements.
- Amendments to the NSPS for equipment leaks of Volatile Organic Compounds (VOC) in the Synthetic Organic Chemicals Manufacturing Industry (SOCMI) (Subparts VV and VVa). The federal amendments being adopted are described in Item 12. EPA also promulgated a new NSPS for equipment leaks of VOC at new petroleum refineries (Subpart GGGa) and revised the NSPS for existing petroleum facilities (Subpart GGG). However, the Department is not adopting Subpart GGGa because Iowa does not have any petroleum refineries and very likely will never have any petroleum refineries.

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

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

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

EPA also finalized standards for new SOCMI that commence construction, reconstruction or modification after November 7, 2006. The standards for new SOCMI (Subpart VVa) generally parallel the changes for existing SOCMI, but

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also include more stringent leak detection levels, additional record keeping, and additional instrument calibration requirements. The amendment to paragraph 23.1(2)“nn” includes adoption by reference of Subpart VVa for new SOCMIs.

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

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

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

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

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

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

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

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

Item 16 amends subrule 23.1(4) to add new paragraphs “du” through “eq.” This amendment preserves the same organizational format between federal NESHAP in 40 CFR

Part 63 and the state adoption of NESHAP in subrule 23.1(4). The adopted amendment in Item 16 combines the amendments that were proposed in the Notice as Item 16 and Item 17.

EPA has reserved several subparts in Part 63 as placeholders, which are Subparts UUUUU, VVVVV, XXXXX, AAAAA, IIIII, JJJJJ and KKKKK. Corresponding paragraphs are added to the administrative rules and similarly reserved as “du,” “dv,” “dx,” “ea,” “ei,” “ej,” and “ek.”

The Department also is reserving four paragraphs that correspond to EPA-promulgated standards that the Department is not adopting at this time, and does not plan to adopt in the future. The federal standards not being adopted are NESHAP for the following source categories: polyvinyl chloride and co-polymer production (Subpart DDDDD); primary copper smelting (Subpart EEEEE); secondary copper smelting (Subpart FFFFF); and primary nonferrous metal smelting—zinc, cadmium and beryllium (Subpart GGGGG). The Department is not adopting these four NESHAP because Iowa does not have, and likely will not have, any facilities subject to these standards. Paragraphs “ed” through “eg” correspond to the federal subparts that the Department is not adopting.

The Department is adopting by reference several new area source NESHAP that EPA promulgated in July 2007. The new standards being adopted are for the following source categories: acrylic and modacrylic fiber production (Subpart LLLLL); carbon black production (Subpart MMMMM); chemical manufacturing of chromium compounds (Subpart NNNNN); flexible polyurethane foam production and fabrication (Subpart OOOOO); lead acid battery manufacturing (Subpart PPPPP); and wood preserving (Subpart QQQQQ). These new standards are adopted under new paragraphs “el” through “eq.” At this time, the Department has identified only one area source NESHAP, lead acid battery manufacturing (Subpart PPPPP), which may require one facility to install additional control equipment and to conduct emissions testing. The Department and the University of Northern Iowa Air Emissions Assistance Program will work with the facility to assist with the compliance requirements. The facility must comply with the requirements of the new NESHAP standard by June 2008.

Item 17 amends subparagraph 23.1(6)“a”(2), which includes a calculation for determining an emission limit based upon stack height. The amendment updates a reference to the federal provisions under 40 CFR 52.21, and also corrects the symbol for “good engineering practice stack height” from “Hg” to the correct subscript form, “H_g.”

Item 18 amends subparagraph 23.3(2)“c”(1), the provisions for prevention of fugitive dust, to add numbered paragraph “6.” The amendment adds “vehicle speed control” as a reasonable precaution to prevent the discharge of visible emissions of fugitive dust beyond the lot line of the property on which the emissions are generated. The amount of fugitive dust generated from a road or other surface used for vehicle movement is greatly influenced by the speed of a vehicle on the surface. Reducing the speed of vehicles traveling on a surface has long been recognized by the Department as a reasonable method to prevent the discharge of visible fugitive dust emissions.

Item 19 amends subrule 23.4(12) to make corrections to the emission limits for incinerators. The visible emissions (opacity) limit for incinerators is 40 percent. The current rules are intended to allow incinerators to emit up to 60 percent opacity in the case of an operation breakdown or the cleaning of control equipment for specified periods of time

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without being in violation. However, this provision contains an error that states that incinerators may emit opacity in excess of 60 percent during these times. The amendment corrects this error to specify that incinerators may emit above 40 percent opacity but no more than 60 percent opacity during periods of operation breakdown or during the cleaning of control equipment.

Items 20 through 23 amend subrule 25.1(9), paragraph 25.1(10)“a,” subrule 25.1(12) and rule 567—25.2(455B), respectively, to adopt by reference recent EPA technical amendments to performance test methods for NSPS (40 CFR Part 60) and the Acid Rain program (40 CFR Part 75).

Item 24 revises subrule 33.3(1) to amend the PSD program definition for “volatile organic compound” or “VOC.” EPA amended the federal definition as explained in Item 1.

These amendments are intended to implement Iowa Code Supplement section 455B.131(7), section 455B.133, and Supplement section 455B.152.

These amendments will become effective on June 11, 2008.

EDITOR'S NOTE: Pursuant to recommendation of the Administrative Rules Review Committee published in the Iowa Administrative Bulletin, September 10, 1986, the text of these amendments [amendments to Chs 20 to 23, 25, 33] is being omitted. These amendments are identical to those published under Notice as **ARC 6517B**, IAB 1/2/08.

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[For replacement pages for IAC, see IAC Supplement 5/7/08.]

ARC 6782B**ENVIRONMENTAL PROTECTION
COMMISSION[567]****Adopted and Filed**

Pursuant to the authority of Iowa Code sections 455B.105 and 455B.173, the Environmental Protection Commission hereby amends Chapter 61, “Water Quality Standards,” Iowa Administrative Code.

The Notice of Intended Action was published in the Iowa Administrative Bulletin on October 24, 2007, as **ARC 6351B**. Six public hearings were held, with notice of the hearings sent to various individuals, organizations, associations and interest groups, and to statewide news network organizations. Comments were received from approximately 1,260 persons and organizations. A responsiveness summary addressing the comments may be obtained from the Department of Natural Resources at <http://www.iowadnr.com/water/uaa.html>.

The adopted amendments have been modified from those published under Notice. Prior to presenting the amendments to the Environmental Protection Commission for approval, the Department made specific changes to 47 stream segments. The modifications were made after all comments from the public comment process were considered.

The changes made to the Notice prior to presentation to the Commission are as follows:

1. Beaver Creek (Butler/Black Hawk) – added Class A3 near New Hartford and Parkersburg.

2. Big Creek (Henry/Des Moines) – changed from Class A2 to Class A1 for entire assessed reach.

3. Bloody Run (Clayton) – changed from Class A2 to Class A1 for entire assessed reach.

4. Boyer River – changed from Class A2 to Class A1 for majority of the assessed reach.

5. Buffalo Creek (Jones/Buchanan) – changed from Class A2 to Class A1 to Buffalo Creek Park.

6. Buttrick Creek (Greene) – changed from Class A2 to Class A1 for entire assessed reach.

7. Cedar Creek (Wapello/Jefferson) – changed from Class A2 to Class A1 to Fairfield; added Class A3 near Johnson-Noel Buckeye Wildlife Area in Wapello County.

8. Cedar Creek (Calhoun/Greene) – changed from Class A2 to Class A3 near University 40 Park in Greene County.

9. Cedar Creek (Sac/Pocahontas) – changed from Class A2 to Class A1 very near the mouth.

10. Clear Creek (Iowa/Johnson) – changed from Class A2 to Class A3 to Tiffin.

11. Cloie Branch (Dubuque) – changed from Class A2 to Class A3 to Clay Hill Road.

12. Crow Creek (Scott) – changed from Class A2 to Class A3 to Utica Road.

13. Deer Creek (Tama) – changed from Class A2 to Class A3 for entire assessed reach.

14. Durion Creek (Dubuque/Delaware) – changed from Class A2 to Class A3 through Worthington.

15. Eagle Creek (Wright/Hamilton) – changed from Class A2 to Class A1 to 290th Street.

16. East Boyer River – changed from Class A2 to Class A1 near the dam in Denison.

17. East Branch Iowa River – changed from Class A2 to Class A1 to Garner.

18. English River – changed from Class A2 to Class A1 for entire assessed reach.

19. Floyd River – changed from Class A2 to Class A1 for entire assessed reach.

20. Hardin Creek (Greene/Calhoun) – changed from Class A2 to Class A1 to Jefferson.

21. Iowa River – changed from Class A2 to Class A1 for entire assessed reach.

22. Little Rock River – changed from Class A2 to Class A1 for entire assessed reach.

23. Little Turkey River (Chickasaw/Fayette) – changed from Class A2 to Class A1 to the Waucoma Impoundment dam.

24. Long Branch (Guthrie) – Diamondhead Lake changed to Class A1, B(LW), HH.

25. Maple River – changed from Class A2 to Class A1 for entire assessed reach.

26. Maquoketa River – changed from Class A2 to Class A1 to Backbone Lake dam and Class A3 to Highway 3.

27. Middle Raccoon River – changed from Class A2 to Class A3 near Carroll.

28. Middle River – changed from Class A2 to Class A1 to Guthrie/Adair county line.

29. Mill Creek (Cherokee/O'Brien) – changed from Class A2 to Class A1 to Bear Creek, changed to Class A3 near Paullina.

30. Nodaway River – changed from Class A2 to Class A3 near Clarinda.

31. North Fork Maquoketa River – changed from Class A2 to Class A1 to Highway 136.

32. North Raccoon River – changed from Class A2 to Class A1 to Vogel Access.

33. North River – changed from Class A2 to Class A1 for entire assessed reach.

34. North Skunk River – changed from Class A2 to Class A1 for entire assessed reach.

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35. Ocheyedan River – changed from Class A2 to Class A1 for entire assessed reach.

36. Odebolt Creek (Sac/Ida) – changed from Class A2 to Class A3 near Ida Grove.

37. Rock Creek (Cedar) – changed from Class A2 to Class A3 near Red Oak Park.

38. South Fork Catfish Creek (Dubuque) – changed from Class A2 to Class A3 near Dubuque.

39. South Skunk River – changed from Class A2 to Class A1 for entire assessed reach.

40. Trout Run (Trout Creek) – changed from Class A2 to Class A3 to Highway 9.

41. Unnamed Creek (Davis) – changed from Class A2 to Class A3 for entire assessed reach.

42. Wapsipinicon River – changed from Class A2 to Class A1 for entire assessed reach.

43. West Branch Wapsinonoc Creek (Muscatine/Cedar) – slight change of initial recommendation from Class A2 to Class A1.

44. West Buttrick Creek (Greene/Webster) – changed from Class A2 to Class A1 to Spring Lake Park.

45. West Nishnabotna River – changed from Class A2 to Class A1 to West Fork West Nishnabotna River.

46. Whitewater Creek (Dubuque/Jones) – changed from Class A2 to Class A1 to Fillmore Recreation Area.

47. Willow Creek (Carroll/Greene/Guthrie) – changed from Class A2 to Class A1 to near the Carroll/Guthrie county line.

48. Rule making terminated for: Competine Creek (Jefferson) – more data needed for completion.

49. Rule making terminated for: Little Beaver Creek – inadvertently added to the Notice of Intended Action.

50. Rule making terminated for: Unnamed Creek (Wineshiek County near City of Calmar) – more data needed for completion.

51. Revise “Unnamed Creek (Crawford County near City of Westside)” from Notice of Intended Action to be “East Boyer River (Crawford County near City of Westside)” – wrong stream name inadvertently applied.

The amendments were presented to the Environmental Protection Commission on April 8, 2008. Public comments were accepted, and the amendments were discussed by the Commission. At that time, adoption of the amendments was tabled and a special meeting of the Commission was set for April 16, 2008. After further discussion on April 16, the Commission adopted amendments to the stream classifications adopted by reference in this rule making. In addition to adopting the 51 amendments described above, the Commission adopted the following amendments:

Amendment #1. The Commission removed the following stream segments from the rule making because the Commission determined that these streams warrant an A1 recreational use designation:

1. Badger Creek in Warren County from 25th Street to the confluence with the North River.

2. Beaver Creek in Butler County from Moore’s Access to the confluence with the Cedar River.

3. Beaver Creek in Polk and Dallas Counties from the confluence with the Des Moines River to the Dallas/Boone county line.

4. Boyer River – entire reach.

5. Brushy Creek within the Brushy Creek State Recreation Area.

6. Buffalo Creek from the Buffalo Creek Park boundary to 220th Street.

7. Cedar Creek in Greene and Calhoun Counties from the mouth to the upper boundary of the University 40 Park.

8. Cedar Creek in Sac, Calhoun and Pocahontas Counties from the mouth to the 196th St. Bridge.

9. Hardin Creek in Greene and Calhoun Counties from its mouth to 170th Street.

Amendment #2. The Commission changed the following stream segments to an A3 recreational use designation:

1. Bear Creek near Shellsburg from the mouth to Palo Marsh Road.

2. Buckeye Creek in Wapello County from the mouth to 215th Street.

3. Clear Creek from the area currently proposed to be designated A3 upstream to the confluence with the unnamed creek near Chambers Rd.

4. Lake Creek in Calhoun County from the confluence with the unnamed creek in Section 11, T 86 N, R 34 W, to the confluence with the unnamed creek in Section 12, T 86 N, R 34 W.

5. Linn Creek in Marshall County from 18th Street to the bridge at Marshalltown Rd., also known as Marshall Blvd.

6. Lotts Creek in Humboldt County between Michigan and Montana Avenues.

7. Middle Raccoon River in Carroll County from area currently proposed to be designated A3 upstream to the confluence with unnamed creek above the last Sauk Rail Trail bridge.

8. Trout Creek from the confluence with the Upper Iowa River to the Decorah Trout Hatchery.

9. Milford Creek from the mouth to Lower Gar Lake.

With the inclusion of the modifications described above, this Adopted and Filed rule making changes the Commission’s Water Quality Standards (WQS) as summarized below:

1. Revises and lists approximately 100 river and stream segments as Class A2 Secondary Contact Recreational Use designated waters in the rule-referenced document “Surface Water Classification.”

2. Revises and lists approximately 136 river and stream segments as both Class A2 Secondary Contact Recreational Use and Class B(WW-2) Warm Water-Type 2 designated waters in the rule-referenced document “Surface Water Classification.”

3. Revises and lists 4 stream segments as both Class A2 Secondary Contact Recreational Use and Class B(WW-3) Warm Water-Type 3 designated waters in the rule-referenced document “Surface Water Classification.”

4. Revises and lists 11 river and stream segments as both Class A3 Children’s Recreational Use and Class B(WW-2) Warm Water-Type 2 designated waters in the rule-referenced document “Surface Water Classification.”

5. Revises and lists 31 river and stream segments as Class A3 Children’s Recreational Use designated waters in the rule-referenced document “Surface Water Classification.”

6. Revises and lists 5 river and stream segments as Class B(WW-2) Warm Water-Type 2 designated waters in the rule-referenced document “Surface Water Classification.”

7. Revises and lists 9 stream segments as Class B(WW-2) Warm Water-Type 2 and no recreational use designated waters in the rule-referenced document “Surface Water Classification.”

8. Revises and lists 1 stream segment as Class B(WW-3) Warm Water-Type 3 and no recreational use designated waters in the rule-referenced document “Surface Water Classification.”

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Additional information on Iowa's Water Quality Standards and the Department's rules can be found on the Department's Web site at <http://www.iowadnr.com/water/standards/index.html>.

These amendments may have an impact upon small businesses.

These amendments are intended to implement Iowa Code chapter 455B, division III, part 1.

These amendments will become effective June 11, 2008.

The following amendments are adopted.

Amend subrule 61.3(5) as follows:

61.3(5) Surface water classification. The department hereby incorporates by reference "Surface Water Classification," effective ~~March 22, 2006~~ *June 11, 2008*. This document may be obtained on the department's Web site at <http://www.iowadnr.com/water/standards/index.html>.

[Filed 4/18/08, effective 6/11/08]

[Published 5/7/08]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 5/7/08.

ARC 6759B**HUMAN SERVICES
DEPARTMENT[441]****Adopted and Filed**

Pursuant to the authority of Iowa Code section 234.6, the Department of Human Services amends Chapter 11, "Overpayments," Iowa Administrative Code.

These amendments restructure Chapter 11 to accommodate the collection of debts due to trafficking in Food Assistance benefits. "Trafficking" is the buying or selling of electronic benefits transfer (EBT) cards or trading benefits for firearms, ammunition, explosives, controlled substances, or any consideration other than eligible food. The value of the trafficked benefits is not an overpayment, since the benefits were correctly issued to an eligible household, but is a federal debt that the state is required to collect. This debt is treated as an intentional program violation for collection purposes.

These amendments change the title of the chapter to "Collection of Public Assistance Debts," substitute the term "debt" for "overpayment," and redefine the term "debtor" to include persons found guilty of trafficking and persons who have fraudulently received Medicaid services. Language is added to clarify procedure on establishment of a claim and when a claim is subject to collection action. The amendments also update the definition of "public assistance" to include the IowaCare program and update form titles and program names.

These amendments do not provide for waivers in specified situations. Requests for the waiver of any rule may be submitted under the Department's general rule on exceptions at 441—1.8(17A,217). However, the Department does not have the authority to waive federal requirements.

These amendments were previously Adopted and Filed Emergency and published in the Iowa Administrative Bulletin on November 7, 2007, as **ARC 6370B**. Notice of Intended Action to solicit comments on these amendments was published in the Iowa Administrative Bulletin as **ARC 6371B** on the same date. The Department received no public comments on the Notice of Intended Action but has made a

number of technical changes based on suggestions from the Department of Inspections and Appeals:

- Added a sentence to the definition of debtor in Item 2 to clarify that for Medicaid purposes, the term may include a person who is not a Medicaid member but who has fraudulently received Medicaid services.

- Removed paragraph 11.2(2)"f." The reference to a form in former paragraph "f" was inadvertently overlooked when the rule on FIP intentional program violation was rescinded effective January 1, 2007. Paragraphs "g," "h" and "i" are relettered as "f," "g" and "h," respectively. Relettered paragraph "h" is corrected to reflect the new title "Demand Letter for Child Care Assistance Agency Error Overissuance" for Form 470-3628. New paragraph "i" is added to reflect the actual form number for the "Demand Letter for Child Care Assistance Client Error Benefit Overissuance," which is 470-3807.

- Added to subrule 11.2(4) another circumstance when collection action does not occur due to an exception to policy.

- Struck the phrase "the percentage to" in subrule 11.3(3) to clarify the sentence.

- Struck from subparagraphs 11.4(1)"b"(1) and 11.5(1)"b"(1) an exemption for debts under investigation for fraud and added an exemption for circumstances when debt collection is suspended due to an exception to policy. Collection action is not suspended during a fraud investigation.

- Struck the phrase "on or about the first working day of the" from subrule 11.4(2) and substituted the phrase "twice each" to reflect the current practice regarding submission of debtor lists to the Department of Administrative Services (twice each month).

- Restructured sections of subrule 11.4(5) and paragraph 11.5(1)"a" to address unnumbered and unlettered paragraphs.

- Struck from paragraph 11.5(1)"a" an exemption for referral for court prosecution. Collection action is not suspended when a case is referred for prosecution.

- Added language to paragraph 11.5(1)"a" to clarify that the period for determining that a debtor is delinquent does not begin until the due date for the demand letter as defined in 441—subrule 65.21(4), which is 20 days after the letter is issued.

- Clarified language in subrule 11.5(4) about when the Treasury Department will impose an offset fee.

The Council on Human Services adopted these amendments on April 9, 2008.

These amendments are intended to implement Iowa Code sections 217.34, 234.6(4), 239B.14, and 249A.5.

These amendments shall become effective June 11, 2008, at which time the Adopted and Filed Emergency amendments are rescinded.

The following amendments are adopted.

ITEM 1. Amend **441—Chapter 11**, title and preamble, as follows:

**CHAPTER 11
OVERPAYMENTS****COLLECTION OF PUBLIC ASSISTANCE DEBTS****PREAMBLE**

These rules define the department's policies regarding the collection of ~~overpayments~~ *public assistance debts*. These rules outline what information must be maintained for each claim for an overpayment *or other debt owed the department* and how the payments are to be applied. These rules also out-

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line the criteria for withholding part or all of federal or state refunds or other state payments owed to the debtor and how they are applied to the debtor's claim for *payment of the overpayment debt*.

ITEM 2. Amend rule **441—11.1(217)** as follows:

Rescind the definitions of “eligible overpayment” and “overpayment.”

Amend the following definitions:

“Debtor” shall mean a current or former recipient of public assistance that has been determined by the department to be responsible for the repayment of a particular *overpayment debt*. For food stamps assistance, “debtor” shall include all adult members of the food stamp assistance household participating at the time the *food assistance overpayment or program violation* occurred and shall include *nonrecipients found guilty of violating food assistance program rules by committing an act such as, but not limited to, trafficking*. For child care assistance, “debtor” may include the current or former provider or current or former recipient of child care assistance. For Medicaid, “debtor” shall include the Medicaid member and any nonmember who fraudulently receives services.

“Public assistance” shall mean family investment program, food stamps assistance, Medicaid, state supplementary assistance, PROMISE JOBS, child care assistance, refugee cash assistance, IowaCare, and HAWK-I program.

“Repayment agreement” shall mean an agreement entered into voluntarily between the department and the debtor for the repayment of *overpayments debts*. Agreements shall be made on:—1. Form 470-0495, *Repayment Contract; Agreement to Pay a Debt, or on a notice of debt listed in subrule 11.2(2)*.

2. ~~Form 470-0338, Demand Letter for Food Stamp Agency Error Overissuance;~~

3. ~~Form 470-3486, Demand Letter for Food Stamp Intentional Program Violation Overissuance;~~

4. ~~Form 470-3487, Demand Letter for Food Stamp Inadvertent Household Error Overissuance;~~

5. ~~Form 470-2616, Demand Letter for FIP/RCA Agency Error Overissuance;~~

6. ~~Form 470-3489, Demand Letter for FIP/RCA Intentional Program Violation Overissuance;~~

7. ~~Form 470-3490, Demand Letter for FIP/RCA Client Error Overissuance;~~

8. ~~Form 470-3990, Demand Letter for PROMISE JOBS Agency Error Overissuance;~~

9. ~~Form 470-3991, Demand Letter for PROMISE JOBS Client Error Overissuance;~~

10. ~~Form 470-3992, Demand Letter for PROMISE JOBS Provider Error Overissuance;~~

11. ~~Form 470-2891, Demand Letter for Medicaid or State Supplementary Assistance Overpayment;~~

12. ~~Form 470-3627, Demand Letter for Child Care Assistance Provider Error Overissuance;~~

13. ~~Form 470-3628, Demand Letter for Child Care Assistance Client Error Benefit Overissuance;~~

14. ~~Form 470-3984, Notice of Healthy and Well Kids in Iowa (HAWK-I) Premium Overpayment.~~

“Written notification” shall refer to mean the written notification sent to a current or former recipient of public assistance *debtor* by the department on Form 470-1668, Notice of Setoff of an Iowa Income Tax Refund for Debts Owed the Department of Human Services, Form 427-0538, Notice of Income Offset Against State Warrants for Debts Owed the Department of Human Services, and Form 427-0539, Notice

of Income (Payroll) Offset Against State Warrants for Debts Owed the Department of Human Services.

ITEM 3. Amend rule 441—11.2(217) as follows:

441—11.2(217) Accounts Establishment of claim.

11.2(1) Accounts. The department shall maintain an account for each *overpayment debt* that has occurred. The account shall contain the following:

11.2(1) a. A debtor name and account number.

11.2(2) b. Program in which the *overpayment debt* occurred.

11.2(3) c. Date *overpayment the debt* was discovered.

11.2(4) d. Inclusive dates of the *overpayment debt*.

11.2(5) e. Total dollar amount of each *overpayment debt*.

11.2(6) f. Primary cause of the *overpayment debt*.

11.2(7) g. Any transaction applied to this *overpayment debt*.

11.2(2) Notice of debt. A claim is established when the first notice of the debt is issued to the household on one of the following forms:

a. Form 470-0338, *Demand Letter for Food Assistance Agency Error Overissuance.*

b. Form 470-2616, *Demand Letter for FIP/RCA Agency Error Overissuance.*

c. Form 470-2891, *Demand Letter Notice of Medical Assistance Overpayment.*

d. Form 470-3486, *Demand Letter for Food Assistance Intentional Program Violation Overissuance.*

e. Form 470-3487, *Demand Letter for Food Assistance Inadvertent Household Error Overissuance.*

f. Form 470-3490, *Demand Letter for FIP/RCA Client Error Overissuance.*

g. Form 470-3627, *Demand Letter for Child Care Assistance Provider Error Overissuance.*

h. Form 470-3628, *Demand Letter for Child Care Assistance Agency Error Overissuance.*

i. Form 470-3807, *Demand Letter for Child Care Assistance Client Error Benefit Overissuance.*

j. Form 470-3984, *Notice of Healthy and Well Kids in Iowa (HAWK-I) Premium Overpayment.*

k. Form 470-3990, *Demand Letter for PROMISE JOBS Agency Error Overissuance.*

l. Form 470-3991, *Demand Letter for PROMISE JOBS Client Error Overissuance.*

m. Form 470-3992, *Demand Letter for PROMISE JOBS Provider Error Overissuance.*

n. Form 470-4179, *Notice of Food Assistance Trafficking Debt.*

11.2(3) Change in debt. An additional notice of debt shall be issued if a change occurs in the amount or period of the debt.

11.2(4) Collection action. No collection action shall be initiated on:

a. A debt for which no notice of debt has been issued to the household.

b. A debt that is in appeal status.

c. A debt that is in suspended status due to an exception to policy.

ITEM 4. Amend rule 441—11.3(217) as follows:

441—11.3(217) Application of payment. The department shall apply any payment received to the debtor's *overpayment(s)* as follows: *Payment shall be applied only to debts subject to collection pursuant to subrule 11.2(4).*

11.3(1) Application of payment to single program area. Payment shall be applied only to eligible overpayments.

HUMAN SERVICES DEPARTMENT[441](cont'd)

a. If there is more than one eligible overpayment debt in a program, payment shall be applied first:

(1) First to all overpayments debts which have an agreement in chronological order of discovery, and then

(2) Then to overpayments debts which do not have an agreement in chronological order of discovery until all overpayments debts have been paid in full or the full payment amount has been exhausted.

b. For food stamps assistance, payment shall also be applied first to all overpayments debts with an agreement and then to overpayments debts without an agreement. Within those two groupings, payment shall be applied first in the following order:

(1) First to state-only overpayments debts in chronological order of discovery, then

(2) Then to intentional program violation (IPV) overpayments debts in chronological order of discovery, then

(3) Then to inadvertent household error (IHE) overpayments debts in chronological order of discovery, and then

(4) Then to agency error overpayments debts in chronological order of discovery.

11.3(2) Application of payment to multiple program areas. If there are overpayments debts in more than one program area of public assistance, payments received shall be applied to those program areas as indicated by the mode of repayment (food stamp coupons assistance benefits, FIP benefits) or as indicated by the client at the time of payment.

11.3(3) Application of undesignated cash payment. If an undesignated cash payment is received, it shall be applied to each program area proportionally based on the percentage to the cumulative balance of all overpayments debts in all program areas combined.

Rescind and reserve subrule **11.3(4)**.

ITEM 5. Amend subrules **11.4(1)**, **11.4(2)**, **11.4(3)**, **11.4(5)**, **11.4(7)**, **11.5(1)**, and **11.5(6)** by striking the terms “overpayment” and “overpayments” wherever the terms appear and inserting the terms “debt” or “debts” in lieu thereof.

ITEM 6. Amend rule 441—11.4(217) as follows:

Amend subrule **11.4(1)**, paragraph “b,” subparagraph (1), as follows:

(1) The overpayment debt is under investigation for fraud in suspended status due to an exception to policy or is in an appeal status, or

Amend subrule 11.4(2) as follows:

11.4(2) Frequency of submission. The department shall submit to the department of administrative services on or about the first working day of the twice each month a list of those debtors who have an overpayment a debt meeting the criteria in subrule 11.4(1).

Amend subrule 11.4(5) as follows:

11.4(5) Appeal rights. When a debtor wishes to contest the claim of the department, a written request shall be submitted to the department within 15 days after the written notification is mailed. When the request is received within the 15-day limit, a hearing shall be granted pursuant to rules in 441—Chapter 7.

a. If the department is upheld in the final decision, the setoff process shall continue and the refund, rebate, or other state payment shall be applied to the appropriate delinquent overpayments debts.

b. If the department is reversed in the final decision, the debtor’s refund, rebate, or other state payment shall be released to the debtor by the department of administrative services.

ITEM 7. Amend subrules **11.5(1)** and **11.5(6)** by striking the term “food stamp” wherever it appears and inserting the term “food assistance” in lieu thereof and by striking the term “overissuance” wherever it appears and inserting the term “debt” in lieu thereof.

ITEM 8. Amend rule 441—11.5(217) as follows:

Amend subrule **11.5(1)**, paragraph “a,” as follows:

a. Individuals Debtors not participating in the food stamp assistance program shall be subject to collection action through the treasury offset program (TOP) which includes, but is not limited to, federal salary offset and federal tax refund offset.

(1) Individuals Debtors shall be referred to TOP if they are delinquent in repaying their food stamp overissuance assistance debt and there is a claim or combination of claims with an unpaid balance which exceeds \$25.

(2) No claim which is less than three months old or more than ten years old as of January 31 of the offset year shall be referred. Exception: Claims which have had a final judgment entered are not subject to the ten-year time limit.

(3) Individuals Debtors are delinquent in repaying their food stamp overissuance assistance debt if:

(1) A repayment agreement has not been signed and 180 days have elapsed since the due date of the second demand letter as defined in 441—subrule 65.21(4) minus any days the claim was not subject to collection action because of an appeal or because the claim was referred for court prosecution.

(2) A repayment agreement has been signed but the individual responsible for repaying the debt debtor has failed to make the agreed-upon payments and has failed to make up the missed payments. The individual debtor shall be referred to TOP when 180 days have elapsed since the first of the month following the month that the individual debtor failed to make the agreed-upon payment and has not subsequently made up the missed payment.

Amend subrule **11.5(1)**, paragraph “b,” subparagraph (1), as follows:

(1) The overpayment debt is under investigation for fraud in suspended status due to an exception to policy or is in an appeal status, or

Amend subrule 11.5(4) as follows:

11.5(4) Offset fee. For each year offset that the Treasury Department effects an offset against an individual referred to TOP, Treasury will charge the individual for one offset a fee.

ITEM 9. Amend **441—Chapter 11**, implementation sentence, as follows:

These rules are intended to implement Iowa Code section sections 217.34, as amended by 2003 Iowa Acts, House File 534, section 209 234.12, 239B.14, and 249A.5.

[Filed 4/10/08, effective 6/11/08]

[Published 5/7/08]

EDITOR’S NOTE: For replacement pages for IAC, see IAC Supplement 5/7/08.

ARC 6761B

**HUMAN SERVICES
DEPARTMENT[441]**

Adopted and Filed

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

This amendment adjusts the premiums assessed for the coverage group "Medicaid for employed people with disabilities" (MEPD). Iowa Code section 249A.3, subsection 2, paragraph "a," specifies that a person in this group whose gross income exceeds 150 percent of the federal poverty level shall pay a premium based on a sliding fee schedule. The maximum premium must be commensurate with the cost of group health insurance for state employees. The Iowa State Plan for Medical Assistance, approved by the federal Centers for Medicare and Medicaid Services as a condition of federal funding, provides that the maximum premium shall be equal to 7.5 percent of the person's gross income.

The cost of state employee health insurance changes each year in January. Previously the Department has adjusted the premiums effective January 1 using the insurance costs for the previous year. The Department of Health and Human Services announces new poverty level guidelines annually in the first months of the year. Therefore, the income levels used to calculate the premium increments quickly become out of date. Effective with this amendment, the Department intends to make the annual premium adjustment after both the state employee insurance costs and the federal poverty level for the year are known.

This amendment moves the premium adjustment to the middle of the calendar year, applies changes in state insurance costs sooner, and minimizes the period when the poverty level in effect for eligibility does not match the poverty level used in calculating the premium levels. Because the federal poverty level has increased at a lower percentage than the cost of state employee health insurance, the top of the new premium scale ends at a higher percentage of the federal poverty level. This amendment is necessary to keep the maximum premium at 7.5 percent of income.

Under this amendment, the maximum premium amount increases from \$443 per month to \$535 per month, for a person whose income is 824 percent of the federal poverty level. Approximately one-fourth of the MEPD members pay premiums. Most have incomes close to 150 percent of the federal poverty level, so their premiums will increase \$1 per month. Premiums will decrease for members whose income will fall into a lower poverty level increment because of the new poverty level amounts and increment breaking points.

This amendment does not provide for waivers in specific situations because all members should be subject to the same premium collection activity based on similar income tests. Requests for the waiver of any rule may be submitted under the Department's general rule on exceptions at 441—1.8(17A,217).

Notice of Intended Action on this amendment was published in the Iowa Administrative Bulletin on February 27, 2008, as **ARC 6615B**. The Department received no comments on the Notice of Intended Action. This amendment is identical to that published under Notice of Intended Action.

The Council on Human Services adopted this amendment on April 9, 2008.

This amendment is intended to implement Iowa Code section 249A.3(2)"a."

This amendment shall become effective on July 1, 2008. The following amendment is adopted.

Amend subrule **75.1(39)**, paragraph "**b**," subparagraph **(3)**, as follows:

(3) Premiums shall be assessed as follows:

IF THE INCOME OF THE ELIGIBLE INDIVIDUAL APPLICANT IS ABOVE:	THE MONTHLY PREMIUM IS:
150% of Federal Poverty Level	\$28 \$29
178% 180% of Federal Poverty Level	\$52 \$53
206% 220% of Federal Poverty Level	\$78 \$80
234% 240% of Federal Poverty Level	\$101 \$110
262% of Federal Poverty Level	\$126 \$140
290% 318% of Federal Poverty Level	\$151 \$170
318% 342% of Federal Poverty Level	\$175 \$200
346% of Federal Poverty Level	\$202
374% 390% of Federal Poverty Level	\$225 \$230
402% 425% of Federal Poverty Level	\$250 \$260
430% 460% of Federal Poverty Level	\$275 \$291
489% 500% of Federal Poverty Level	\$307 \$323
548% of Federal Poverty Level	\$341 \$354
607% of Federal Poverty Level	\$374 \$392
666% of Federal Poverty Level	\$406 \$430
725% of Federal Poverty Level	\$443 \$471
824% of Federal Poverty Level	\$535

[Filed 4/10/08, effective 7/1/08]
[Published 5/7/08]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 5/7/08.

ARC 6760B

**HUMAN SERVICES
DEPARTMENT[441]**

Adopted and Filed

Pursuant to the authority of Iowa Code section 249A.30A, the Department of Human Services amends Chapter 75, "Conditions of Eligibility," Chapter 81, "Nursing Facilities," Chapter 82, "Intermediate Care Facilities for the Mentally Retarded," and Chapter 85, "Services in Psychiatric Institutions," Iowa Administrative Code.

Legislation in 2007 Iowa Acts, chapter 218 (House File 909), increased the Medicaid personal needs allowance for residents in the following facilities to \$50 per month and provided that residents who have less than \$50 monthly income may receive a supplemental state payment to bring their income up to \$50 if funding is specifically appropriated for this payment.

- Intermediate care facilities for persons with mental retardation (ICF/MR)
- Intermediate care facilities for persons with mental illness (ICF/MI)
- Psychiatric medical institutions for children (PMIC)

The Department did implement the increased personal needs allowance (see **ARC 6019B**, published in the Iowa Administrative Bulletin on July 4, 2007) but did no rule mak-

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ing regarding the supplemental payments, since no funding was appropriated for state fiscal year 2008. The increased personal needs allowance and the supplemental payments were implemented for nursing facility residents in state fiscal year 2007 (see **ARC 5211B**, published in the Iowa Administrative Bulletin on July 5, 2006), and funding was appropriated for supplemental payments to nursing facility residents for state fiscal year 2008.

These amendments add provisions to allow this supplemental payment for Medicaid residents of an ICF/MR or ICF/MI, so that administrative rules accommodate this supplemental payment if funding is specifically appropriated by future legislation. These amendments do not address a supplemental payment for residents of PMICs. Children receiving PMIC care are likely to have parents that provide for their personal needs. The parents' income is not considered in determining the child's financial participation except in the first month of placement.

The amendments add the condition of a specific appropriation to the existing provision for supplemental payments to residents of nursing facilities to make the language parallel across facilities and add a cross reference to supplemental payment rules to the rule establishing the personal needs allowance. The amendments also make technical changes to update form number references in Chapter 82.

These amendments do not provide for waivers in specified situations since the amendments are based on statutory provisions the Department has no authority to waive.

Notice of Intended Action on these amendments was published in the Iowa Administrative Bulletin on January 30, 2008, as **ARC 6586B**. 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 April 9, 2008.

These amendments are intended to implement Iowa Code Supplement section 249A.30A.

These amendments shall become effective on July 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 [75.16(2), 81.23, 82.5, 82.9(1), 82.14(2), 82.17 to 82.19, 85.47] is being omitted. These amendments are identical to those published under Notice as **ARC 6586B**, IAB 1/30/08.

[Filed 4/10/08, effective 7/1/08]
[Published 5/7/08]

[For replacement pages for IAC, see IAC Supplement 5/7/08.]

ARC 6776B**UTILITIES DIVISION[199]****Adopted and Filed**

Pursuant to Iowa Code sections 17A.4, 476.2, 476A.12, 478.2, 479.4, and 479.5, the Utilities Board (Board) gives notice that on April 17, 2008, the Board issued an order in Docket No. RMU-08-1, In re: Amendments to Informational Meeting Accessibility Requirements [199 IAC 10.3(1),

11.4(1), 13.3(1), and 24.7(2)], "Order Adopting Amendments."

The Board is adopting amendments to subrules 10.3(1), 11.4(1), 13.3(1), and 24.7(2) to reflect the rescission of Iowa Code section 104A.3 and to update accessibility requirements for facilities used for informational meetings under Board rules. Current rules refer to Iowa Code section 104A.3 and the Americans with Disabilities Act of 1990 to establish standards recommended for facilities used for informational meetings for proposed gas pipelines, electric lines, hazardous liquid pipelines, and electric power generating facilities. The adopted rules reference the Americans with Disabilities Act Guidelines, Chapter 4, which is the standard used by the Iowa State Building Code Commissioner.

Notice of Intended Action for these amendments was published in the March 12, 2008, Iowa Administrative Bulletin as **ARC 6626B**. No comments were filed opposing the proposed amendments or suggesting changes to the proposed amendments. The Board has made editorial revisions to the proposed amendments for clarity. No substantive changes have been made. The order adopting the amendments can be found on the Board's Web site, www.state.ia.us/iub.

These amendments are intended to implement Iowa Code sections 17A.4, 476.2, 476A.12, 478.2, 479.5, and 479B.4.

These amendments will become effective on June 11, 2008.

The following amendments are adopted.

ITEM 1. Amend subrule 10.3(1) as follows:

10.3(1) Facilities. Prospective petitioners for a permit shall be responsible for all negotiations and compensation for a suitable facility to be used for each informational meeting, including but not limited to a building or facility which is in *substantial* compliance with the requirements of the Americans with Disabilities Act *Accessibility Guidelines, Chapter 4, where such a building or facility is reasonably available of 1990, parking facilities and electronic voice amplification equipment when over 100 notices are served.* Reasonable effort shall be made to select a building or facility that conforms to the access requirements of Iowa Code section 104A.3, subsections 2, 3, and 4.

ITEM 2. Amend subrule 11.4(1) as follows:

11.4(1) Facilities. Prospective petitioners for franchise shall be responsible for all negotiations and compensation for a suitable facility to be used for each informational meeting, including but not limited to a building or facility which is in *substantial* compliance with the requirements of the Americans with Disabilities Act *Accessibility Guidelines, Chapter 4, where such a building or facility is reasonably available of 1990, and parking facilities, and electronic voice amplification equipment when over 100 notices are served.* Reasonable effort shall be made to select a building or facility that conforms to the access requirements of Iowa Code section 104A.3, subsections 2, 3, and 4.

ITEM 3. Amend subrule 13.3(1) as follows:

13.3(1) Facilities. Prospective petitioners for a permit shall be responsible for all negotiations and compensation for a suitable facility to be used for each informational meeting, including but not limited to a building or facility which is in *substantial* compliance with the requirements of the Americans with Disabilities Act *Accessibility Guidelines, Chapter 4, where such a building or facility is reasonably available of 1990, parking facilities and electronic voice amplification equipment when over 100 notices are served.* Reasonable effort shall be made to select a building or facility

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ty that conforms to the access requirements of Iowa Code section 104A.3, subsections 2, 3, and 4.

ITEM 4. Amend subrule 24.7(2) as follows:

24.7(2) Meeting facilities. The applicant shall be responsible for all negotiations and compensation for a suitable meeting place facility to be used for the informational meeting, including *but not limited to* a building or facility which is in *substantial* compliance with the requirements of the Americans with Disabilities Act *Accessibility Guidelines, Chapter 4, where such a building or facility is reasonably available of 1990, parking facilities, and electronic voice amplification equipment if necessary.* Reasonable effort shall be made to select a building or facility that conforms to the access requirements of Iowa Code section 104A.3, subsections 2, 3, and 4.

[Filed 4/18/08, effective 6/11/08]

[Published 5/7/08]

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ARC 6765B

UTILITIES DIVISION[199]

Adopted and Filed

Pursuant to the authority of Iowa Code sections 17A.4, 17A.7, 476.1, 476.2, and 476.6(8), the Utilities Board (Board) gives notice that on April 15, 2008, the Board issued an order in Docket No. RMU-07-11, In re: Electric Energy Adjustment Clause, "Order Adopting Rule Making." The Board is adopting amendments to 199 IAC 20.1(3), 20.9(476), 20.13(476), and 20.17(476).

The adopted amendments reflect new emissions allowances under the federal law. The amendments also exempt from the energy adjustment clause (EAC) refund transactions that are called "vintage trades" (sale or trade of allow-

ances from one year for allowances from another year). Under the adopted amendments, only the net difference between the sale or trade values of the different vintages of allowances would flow through the EAC, thus eliminating any generational inequity in their treatment under the current rules. Other changes adopted include an amendment to the definition of "historical costs" and definitions of options for use in a recognized hedging strategy.

The Notice of Intended Action for Docket No. RMU-07-11 was published in IAB Vol. XXX, No. 18 (2/27/08) p. 1354, as **ARC 6616B**. The Consumer Advocate Division of the Department of Justice, Interstate Power and Light Company, and MidAmerican Energy Company filed written comments. All three commenters also appeared at the oral presentation on April 8, 2008; all written and oral comments received supported the amendments. The adopted amendments are identical to those published under Notice of Intended Action and, therefore, no additional notice prior to adopting these amendments is required.

The Board does not find it necessary to adopt a separate waiver provision in this rule making. The Board's general waiver provision in 199 IAC 1.3(17A,474,476,78GA, HF2206) is applicable to these amendments.

These amendments will become effective on June 11, 2008.

These amendments are intended to implement Iowa Code section 476.6(8).

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 [20.1(3), 20.9(2), 20.13(1), 20.17(1), 20.17(2), 20.17(8) to 20.17(10)] is being omitted. These amendments are identical to those published under Notice as **ARC 6616B**, IAB 2/27/08.

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