



IOWA ADMINISTRATIVE BULLETIN

Published Biweekly

VOLUME XXXIII
February 9, 2011

NUMBER 16
Pages 1107 to 1166

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PREFACE

The Iowa Administrative Bulletin is published biweekly 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"]; and agricultural credit corporation maximum loan rates [535.12].

PLEASE NOTE: Underscore indicates new material added to existing rules; ~~strike through~~ indicates 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	(Rule)
441 IAC 79.1(1)	(Subrule)
441 IAC 79.1(1)"a"	(Paragraph)
441 IAC 79.1(1)"a"(1)	(Subparagraph)

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

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

NOTE: In accordance with Iowa Code section 7.17, a rule number within the Iowa Administrative Code includes a reference to the statute which the rule is intended to implement: 441—79.1(249A).

Schedule for Rule Making 2011

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

<u>ISSUE NUMBER</u>	<u>SUBMISSION DEADLINE</u>	<u>ISSUE DATE</u>
18	Friday, February 18, 2011	March 9, 2011
19	Friday, March 4, 2011	March 23, 2011
20	Friday, March 18, 2011	April 6, 2011

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*****

ENGINEERING AND LAND SURVEYING EXAMINING BOARD[193C]

Academic transcripts, 3.1(3) IAB 2/9/11 ARC 9369B	Professional Licensing Bureau Offices 1920 SE Hulsizer Rd. Ankeny, Iowa	March 16, 2011 1 to 4:30 p.m.
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ENVIRONMENTAL PROTECTION COMMISSION[567]

Air quality program—scope, services and funding options, 22.1(3)“b,” 22.106, ch 30, 33.1, 33.2 IAB 2/9/11 ARC 9366B	Air Quality Bureau 7900 Hickman Rd. Windsor Heights, Iowa	March 11, 2011 1 to 3 p.m.
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NPDES General Permit No. 5 for mining and processing facilities, 64.14, 64.15(5), 64.16(3)“a” IAB 2/9/11 ARC 9364B	Fourth Floor Conference Rooms Wallace State Office Bldg. Des Moines, Iowa	March 8, 2011 1 p.m.
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HOMELAND SECURITY AND EMERGENCY MANAGEMENT DIVISION[605]

Emergency management performance grant—allocation and distribution process, 7.7 IAB 1/26/11 ARC 9345B	Auditorium Western Iowa Tech Community College Cherokee, Iowa	February 15, 2011 7 p.m.
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Red Oak Fire Station 1904 North Broadway St. Red Oak, Iowa	February 22, 2011 7 p.m.
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Room 5, Rural Health Education Center Indian Hills Community College 525 Grandview Ave. Ottumwa, Iowa	February 24, 2011 7 p.m.
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Floyd County Courthouse 101 South Main St. Charles City, Iowa	February 28, 2011 7 p.m.
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Johnson Cty. Emergency Operations Center 4529 Melrose Ave. Iowa City, Iowa	March 1, 2011 7 p.m.
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Polk Cty. Emergency Operations Center 1907 Carpenter Ave. (east entrance) Des Moines, Iowa	March 8, 2011 7 p.m.
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HUMAN SERVICES DEPARTMENT[441]

Foster group care, juvenile shelter, and detention facilities, amendments to chs 105, 114, 115 IAB 2/9/11 ARC 9368B	First Floor SE Conference Rooms 1 and 2 Hoover State Office Bldg. Des Moines, Iowa	March 3, 2011 1 to 2:30 p.m.
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INSURANCE DIVISION[191]

Autism spectrum disorders coverage, 35.40 IAB 1/26/11 ARC 9340B	330 Maple St. Des Moines, Iowa	February 17, 2011 10 a.m.
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INTERIOR DESIGN EXAMINING BOARD[193G]

Registration renewal, 2.1(4) IAB 2/9/11 ARC 9347B	Professional Licensing Conference Room Second Floor 1920 SE Hulsizer Rd. Ankeny, Iowa	March 1, 2011 9 a.m.
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NATURAL RESOURCE COMMISSION[571]

Concessions, 14.1 to 14.6 IAB 2/9/11 ARC 9363B	Fourth Floor West Conference Room Wallace State Office Bldg. Des Moines, Iowa	March 1, 2011 2 p.m.
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Chiropractic physicians— renewal notices, 41.8(1) IAB 2/9/11 ARC 9354B	Fifth Floor Board Conference Room Lucas State Office Bldg. Des Moines, Iowa	March 1, 2011 1:30 to 2 p.m.
Physician assistants—category II continuing education, 328.3(2)“b” IAB 2/9/11 ARC 9360B	Fifth Floor Board Conference Room Lucas State Office Bldg. Des Moines, Iowa	March 1, 2011 2 to 2:30 p.m.

PUBLIC HEALTH DEPARTMENT[641]

Emergency medical services— provider education/training/ certification, ch 131 IAB 1/26/11 ARC 9342B (ICN Teleconference System)	Rooms 517 & 518, Fifth Floor Lucas State Office Bldg. Des Moines, Iowa Teleconference Access: 1-866-685-1580 (Conference Code: 5152810437)	February 18, 2011 9 to 11 a.m.
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REAL ESTATE COMMISSION[193E]

Licensee provision of proof of insurability, 19.6(8) IAB 1/26/11 ARC 9338B	Professional Licensing Conference Room Second Floor 1920 SE Hulsizer Rd. Ankeny, Iowa	February 15, 2011 1 p.m.
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Iowa youth mentoring program certification, 8.1 to 8.6 IAB 1/26/11 ARC 9341B	Iowa Tourism Room 200 E. Grand Ave. Des Moines, Iowa	February 18, 2011 1 to 2 p.m.
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The following list will be updated as changes occur.

“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 are included alphabetically in SMALL CAPITALS at the left-hand margin.

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ARC 9369B

**ENGINEERING AND LAND SURVEYING
EXAMINING BOARD[193C]**

Notice of Intended Action

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

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

Pursuant to the authority of Iowa Code section 542B.6, the Engineering and Land Surveying Examining Board proposes to amend Chapter 3, “Application and Renewal Process,” Iowa Administrative Code.

This amendment clarifies requirements regarding academic transcripts for license and examination applicants. This clarification will enable license and examination applicants to submit materials that are in line with Board expectations and will therefore provide for a more efficient application process.

Any interested person may make written or oral suggestions or comments on the proposed amendment on or before March 16, 2011. Comments should be directed to Robert Lampe, Executive Officer, Iowa Engineering and Land Surveying Examining Board, 1920 SE Hulsizer Road, Ankeny, Iowa 50021; by telephone at (515)281-7360; or by E-mail to robert.lampe@iowa.gov.

A public hearing will be held on Wednesday, March 16, 2011, from 1 to 4:30 p.m. at the offices of the Professional Licensing Bureau, 1920 SE Hulsizer Road, Ankeny, Iowa. At the hearing, persons who wish to speak will be asked to give their names and addresses for the record and to confine their remarks to the subject of the proposed amendment.

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

This amendment is subject to waiver or variance pursuant to 193—Chapter 5.

This amendment was approved by the Board on January 6, 2011.

This amendment is intended to implement Iowa Code sections 542B.2, 542B.13, 542B.14, and 542B.20.

The following amendment is proposed.

Amend subrule 3.1(3) as follows:

3.1(3) Academic transcripts.

a. United States institutions. Completion of post-high school education shall be evidenced by the board’s receipt of an applicant’s transcripts directly from the office of the registrar of each institution attended.

b. Institutions outside the United States. Transcripts from institutions located outside the boundaries of the United States of America shall be sent directly from the institution to an evaluation service and shall be evaluated for authenticity and substantial equivalency with Accreditation Board for Engineering and Technology, Inc. (ABET) or Engineering Accreditation Commission (EAC) accredited engineering programs. To be readily acceptable, such evaluations shall be from the Center for Professional Engineering Education Services (CPEES) National Council of Examiners for Engineering and Surveying (NCEES). However, the board may accept evaluations from other recognized foreign credential evaluators ~~satisfactorily~~ satisfactorily satisfactory to the board. ~~The expense of the evaluation is at the expense responsibility of the applicant.~~ Each evaluation shall be sent directly to the board from the evaluation service and shall include a copy of the transcript in the form sent to the evaluation service directly from the educational institution. Each evaluation must address both whether the transcript is authentic and whether the engineering program is equivalent to those accredited by ABET or EAC.

ARC 9366B

ENVIRONMENTAL PROTECTION COMMISSION[567]

Notice of Intended Action

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

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

Pursuant to the authority of Iowa Code section 455B.133, the Environmental Protection Commission hereby gives Notice of Intended Action to amend Chapter 22, “Controlling Pollution,” to adopt a new Chapter 30, “Fees,” and to amend 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 this rule making is to gain stakeholder input related to the scope, services, and funding options available to address budget challenges facing the Department’s air quality program. Five options are proposed in these amendments. Currently the Title V operating permit program rules allow the Department to collect up to \$56 per ton for air pollutants emitted.

In December, the Department presented the Commission with a proposed one-year fee cap of \$65 per ton. Members of the Commission requested that the Department explore alternative proposals in order to continue to provide the same level of service. The five options presented in this rule making were developed as a result of the Commission’s comments and subsequent Department review.

Subrule 22.106(1) describes when the Title V fee is due and how it is calculated. The subrule directs the Department to present to the Commission each year no later than the March Commission meeting an estimated or proposed budget to cover the reasonable cost of administering the Title V program. The Title V fee is then calculated by dividing the estimated budget by the chargeable emissions as reported by facilities each March 31. The subrule requires that the Title V fee be set by the Commission no later than the May Commission meeting. The annual fee must be set at or below the Title V fee cap. This subrule also establishes the maximum Title V fee (fee cap), which can only be changed through administrative rule making. Since the program’s inception, the Title V fee cap has been raised twice.

The Title V fee is required under the federal Clean Air Act (42 U.S.C. 7401-7671q) to be paid by those facilities with potential emissions that exceed the major stationary source thresholds. A major stationary source, also referred to as a Title V facility, is a facility that has the potential to emit 100 tons per year (tpy) or more of any air pollutant; or the potential to emit 10 tpy or more of any individual hazardous air pollutant; or the potential to emit 25 tpy or more of any combination of hazardous air pollutants. Currently Iowa has 278 Title V facilities which are affected by this rule making. Examples of Title V facilities include electric utilities, grain processors, cement plants, and manufacturing operations.

In Iowa, the Title V fee is currently based on the first 4,000 tons of each regulated air pollutant emitted each year from each major stationary source in the state. Regulated air pollutants for which Title V fees are paid include: particulate matter equal to or less than 10 micrometers in diameter (PM₁₀), sulfur dioxide (SO₂), nitrogen oxides (NO_x), volatile organic compounds (VOC), lead (Pb), and 187 hazardous air pollutants (HAP). The Title V fee is required to be sufficient to cover all reasonable (direct and indirect) costs required to develop and administer the Title V program requirements (42 U.S.C. 7661a).

The Title V fee is calculated by dividing the estimated budget by the chargeable emissions as reported by facilities each March 31. The Title V fees are due each July 1 and fund the program for the entire year. For example, the Title V fees to be paid on July 1, 2011, are based on 2010 emissions and will fund the program for state fiscal year (SFY) 2012, or July 1, 2011, to June 30, 2012.

In the current fee structure, the Title V fee increases as emissions decrease. Emission levels have varied over the history of the program. A sharp decline in tons occurred after SFY 2007’s peak of 242,000 tons, to SFY 2011’s current low of 166,000 tons.

ENVIRONMENTAL PROTECTION COMMISSION[567](cont'd)

The Title V fee cap was created when the Title V program was adopted in the early 1990s. Stakeholders wanted the Department to have flexibility when setting the Title V fee but also wanted a maximum fee specified in administrative rules to allow appropriate notice for planning purposes.

The current Title V fee cap of \$56 was set in 2009 for fees collected on July 1, 2009, and July 1, 2010, with the expectation that emissions would not decline (Table 1). However, the economic downturn combined with implementation of federal regulations led to a steeper than anticipated decline in emissions.

Table 1: Fees Collected Under the \$56 Title V Fee Cap

Date Fee Collected	Fee	Predicted Emissions	Actual Emissions
July 1, 2009	\$52	224,000	201,000
July 1, 2010	\$56	224,000	166,000

The current Title V fee of \$56 was established at the May 2010 Commission meeting and was based on 166,000 tons. The reduced emissions dictated a reduction of \$1.2 million in expenditures for the current fiscal year in order not to exceed the maximum fee.

The Department has a long established tradition of meeting with stakeholders regarding Title V fiscal matters. The Department recently met with members of the public, industry, and environmental groups to obtain preliminary input on the Title V fee cap. Meetings were conducted on November 12, November 19, and December 2, 2010. The initial proposal to stakeholders, which is reflected below in Option 2, presented a five-year fee cap of \$89.

Budget projections and estimates of further reductions in actual emissions indicate that revenue must be increased to maintain the current level of service. Emissions are anticipated to continue to decline by 5 percent, to 158,000 tons for the upcoming year, based on proposed and existing federal regulations. The five-year tonnage estimate predicts a decline to 138,000 tons.

Estimated expense increases include an additional \$305,000 or 4.9 percent in personnel costs, including the Department's indirect rate. Professional service contracts are estimated to increase by \$100,000 or 3.4 percent. Expense increases also include restoration of the ambient monitoring support for equipment and analysis to SFY 2010 levels, which is an estimated increase of \$371,000. Finally, an additional \$11,000 is restored to allow maintenance of access to existing electronic records. Total Title V expenses are projected at \$10,727,000, leaving a remaining \$18,000 for adjustments that may be needed in the budget process.

Consequences of projected underfunding of the air quality program include insufficient data for complex permitting projects, significant delays in permit issuance, and the inability to complete federal requirements in a timely manner. Possible consequences are listed in Table 2 below.

If the Title V fee cap is not raised, reduced staffing would increase by 20 percent the issuance time for preconstruction and operating permits. Significant additional federal standards such as new ambient air quality standards and emissions standards for hazardous air pollutants already have increased permit issuance time, and it will continue to rise without sustained or increased support. Small business assistance provided by the University of Northern Iowa and the Iowa Department of Economic Development would, in addition to the reduction in the current year, be further reduced or eliminated. The ambient air monitoring network, which informs Iowans whether their health is being protected, would be reduced or eliminated. The ambient air monitoring network also provides critical data to industry in support of quick permitting which, if reduced or eliminated, could significantly slow economic development projects by up to one year. If implementation of the federal Clean Air Act requirements declines below acceptable levels, U.S. EPA may pursue a deficiency finding for all or part of the state's implementation of the Act.

ENVIRONMENTAL PROTECTION COMMISSION[567](cont'd)

Table 2: Possible Consequences If Revenue Is Not Increased

Possible Program Reductions or Eliminations	Result
Curtail provision of electronic records	Facilities and the public will have to physically come to the Air Quality Bureau for records or pay higher costs to obtain records. Lack of additional staffing will result in delays in facilities' ability to apply for permits.
Reduce funding to local programs for major source support	Local programs will have to scale back their assistance and rate of permitting or collect additional fees locally to maintain the same level of service.
Significantly reduce or eliminate the small business assistance programs	Assisting small businesses would become the responsibility of existing staff who already have full permitting and compliance assistance duties.
Reduce level of effort in regional modeling of interstate transport of air pollutants	Mischaracterizations of Iowa facilities' emissions would be carried into federal and regional air pollution reduction plans. This may result in unnecessary regulation of Iowa facilities in the future.
Reduce assistance to facilities and communities approaching or near nonattainment	Increasing numbers of areas would show nonattainment or exceedances of the health standards. Severe impacts on economic growth would also result.
Eliminate supplemental funding of Attorney General's support	Elimination of early review and prioritization of enforcement cases would result. Failure to take timely action when appropriate will excessively disrupt industry efforts to come back into compliance.
Reduce equipment support for monitoring network	Increased periods of downtime on monitors will increase the number of instances where high values will be required to be substituted for missing data. This will increase the likelihood of "calculated" violations.
Curtail development of compliance assistance tools and outreach activities	Facilities and industry groups will no longer have specific guidance from the Department on the implementation of new Hazardous Air Pollutant or New Source Performance Standards, likely decreasing the level of compliance. Outreach on explaining permit requirements or permitting site visits will also be drastically reduced or possibly eliminated.
Reduce level of effort in operating permit issuance, construction permit issuance, compliance reviews, inspections, federal rule adoptions, attainment and nonattainment planning, emissions inventory collection and analysis, ambient air monitoring, dispersion and regional modeling, public records support, and stack-test observation	Planning and adopting federal and state regulations, including those requirements in permits, providing compliance assistance and measuring and monitoring compliance and air quality are all integral to ensuring that the quality of the air Iowan's breathe meets federally established, scientifically credible air quality standards. Those standards are set to ensure that children, the elderly, those with health challenges, and the healthy have air to breathe that is not injurious to health.

Sufficient funding for critical program elements is not provided for in these options, including the following: additional staffing required for mandatory greenhouse gas permitting; resources and staffing needed to comply with new requirements of many federal air quality standards; staffing requirements if nonattainment areas are declared in the state; and restoration of a portion of the small business permit assistance program that was eliminated to help balance the SFY 2010 budget (Table 3).

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Table 3: Unfunded Requirements and Needs for SFY 2012

Unfunded Requirements	Explanation	Cost
Greenhouse gas permitting	Based on current estimates	\$300,000
NO ₂ monitoring equipment, operation, maintenance	New NAAQS* requirements	\$218,400
SO ₂ monitoring equipment, operation, maintenance	New NAAQS requirements	\$331,700
Ozone monitoring equipment, operation, maintenance	New NAAQS requirements	\$783,400
PM _{2.5} monitoring equipment, operation, maintenance	New NAAQS requirements	\$161,300
Nonattainment staffing	Six FTEs in 2 areas	\$450,000
Unfunded Needs	Explanation	Cost
Air toxics at schools evaluations	Three FTEs and equipment	\$275,000
Forecasting	Three FTEs and equipment	\$300,000
Records imaging	Backlog and ongoing	\$130,000
Reinvestment in small business assistance	Restore permitting assistance	\$230,000

* National Ambient Air Quality Standards

Support for new monitoring to determine whether air quality meets new federal standards for sulfur dioxide, nitrogen dioxide, and ozone and ongoing support for monitoring are critical. The Department is faced with curtailing its investigation of the air toxics at schools report that indicated dangerous levels of toxics near some schools in Iowa. New reviews of greenhouse gases in permits will slow permitting without investment of additional resources. Forecasting of air contaminant levels which may not meet new, more stringent health-based standards will not be funded. Electronic access to records will maintain only the existing records. Electronic records access is now available only for most document types created prior to January 2005. No resources are provided in the Title V budget to accommodate any relocation expenses if the Bureau were required to move out of the current location.

In consideration of existing regulatory authority, previous meetings and discussions with stakeholders on funding alternatives, and the time constraints for developing this rule making, several alternatives were explored. These alternatives developed into specific funding options. The following are the five options proposed to increase the Department's Air Quality Bureau revenue.

Option 1 (Item 2)

Proposed Item 2 amends subrule 22.106(1) to establish a Title V fee cap of \$65 per ton based on a conservative estimate of the budgetary needs for the next year. Item 2 is the original proposal provided to the Commission at the December 2010 Commission meeting. Item 2 provides status quo services and does not address funding for critical program elements indicated in Table 3.

Option 2 (Item 3)

Proposed Item 3 amends subrule 22.106(1) to establish a Title V fee cap of \$89 per ton based on a conservative estimate of the budgetary needs for the next five years. Item 3 would fund the program and allow the Department time to find additional efficiencies and funding resources. This information was provided to stakeholders in November 2010. The Title V fee for SFY 2012 would likely be set at \$65 per ton at the May Commission meeting. Item 3 provides status quo services and does not address funding for critical program elements indicated in Table 3.

Option 3 (Item 4)

Proposed Item 4 amends subrule 22.106(1) to establish an annual minimum Title V fee of \$5,000 and to raise the Title V fee cap to \$65 per ton. Item 4 would require every Title V facility to pay a \$5,000 minimum fee and also pay a lowered per-ton emission fee. A minimum Title V fee would provide for a more equitable system because each facility would pay for the costs to issue initial Title V permits, renewals, and modifications to Title V permits; to review emissions; and to inspect facilities. A minimum Title V fee also would provide the Department with a more stable basis of funding and enable the Department to rely less on fees based on variable emissions. Assuming 275 facilities

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remain in the Title V program, a \$5,000 minimum Title V fee would provide \$1,375,000 in revenue. The remainder of the budget would be accommodated by a \$56 per-ton emissions fee. The \$5,000 Title V minimum fee and emissions fee of \$56 per ton would increase fees paid by approximately 250 facilities and decrease fees paid by approximately 25 facilities. The details of the change on a facility basis are listed in the Title V Fee Cap Scenarios spreadsheet on the Commission Web site, <http://www.iowadnr.gov/epc/11jan18a.html>. The Title V fee cap of \$65 per ton is anticipated to provide sufficient funds through the next two years (SFY 2012-2013). The first payment of the base fee would be due on July 1, 2011. Item 4 provides status quo services and does not address funding for critical program elements indicated in Table 3.

Option 4 (Item 5)

Proposed Item 5 amends subrule 22.106(2) to remove the 4,000-ton ceiling on emissions, reduce the fee to \$47 per ton, and retain the fee cap of \$56 per ton. Based on the SFY 2010 budget estimate and using 158,000 tons of chargeable emissions, with an additional 62,000 tons of pollutants that currently exceed the 4,000-ton cap, the Title V fee would be reduced under this option to \$47 per ton. Carbon monoxide would continue to be excluded from the list of chargeable pollutants. The details of the change on a facility basis are listed in the Title V Fee Cap Scenarios spreadsheet on the Commission Web site, <http://www.iowadnr.gov/epc/11jan18a.html>. Five facilities would incur higher fees while the remaining 270 facilities would have reduced fees. These five facilities may reduce emissions in the future based on existing and proposed federal regulations. Item 5 provides status quo services and does not address funding for critical program elements indicated in Table 3.

Option 5 (Items 1, 6, 7 and 8)

Proposed Items 1, 6, 7 and 8 amend paragraph 22.1(3)“b” and rule 567—33.1(455B) and adopt new 567—Chapter 30 and rule 567—33.2(455B) to establish a preconstruction permit application fee for Title V facilities. The Department’s air pollution control program is one of the few in the country that does not charge a preconstruction permit fee. A Title V or major source preconstruction permit application fee would fund construction permitting activities and remove the expenses from the emissions-based fee. Stakeholders have commented on the desire to fund preconstruction permit activities in an alternate manner. In the current fee structure, all Title V facilities support preconstruction permit activities.

Proposed Item 1 directs major construction permit applicants to pay a preconstruction application fee. Item 1 would charge fees on only those Title V facilities that use the service.

Proposed Item 6 creates a new Chapter 30 entitled “Fees.” In Item 6, three separate levels of application fees are proposed. A prevention of significant deterioration (PSD) project would have a \$20,000 application fee with a \$5,000 per-emission point fee. Non-PSD complex projects would have a \$10,000 application fee with a \$1,500 per-emission point fee. Standard project fees would be \$3,000 per application. Item 6 would also establish an applicability determination fee of \$1,000 for each determination request submitted to the Department, separate from the preconstruction permitting review.

Proposed Items 7 and 8 refer applicants for prevention of significant deterioration (PSD) permits to new Chapter 30 for fee requirements.

Preconstruction permit activities include application completeness review; site visits as needed; review of application purpose with applicant; emission calculations review; applicability determination; modeling; stack test observation; record keeping; reporting determinations; engineering evaluation; permit drafting; modifying draft permits based on applicant comments; permit issuance; and associated tracking database and records support.

The current cost of these activities has been quantified and adjusted to reflect the estimated level of permitting for the upcoming year. The fees established in Option 5 would, beginning July 1, 2011, for state fiscal year 2012, provide approximately \$1.2 million annually. Iowa Code section 445B.133(8)“a” authorizes Title V source fees that are deposited into the air contaminant source fund set forth in Iowa Code section 455B.133B.

Any person may make written suggestions or comments on the proposed amendments on or before March 11, 2011. The Department specifically requests comments regarding the possibility of adopting rules that combine aspects of proposed Options 1 through 5. Written comments should be directed to

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Wendy Walker, Department of Natural Resources, Air Quality Bureau, 7900 Hickman Road, Suite 1, Windsor Heights, Iowa 50324. Comments may be sent by fax to (515)242-5094 or by electronic mail to wendy.walker@dnr.iowa.gov.

An informational meeting will be held on February 22, 2011, at 10 a.m. at the Department's Air Quality Bureau offices located at 7900 Hickman Road, Windsor Heights, Iowa. At the informational meeting, DNR staff will be available to answer questions about the proposed amendments.

A public hearing will be held on March 11, 2011, from 1 to 3 p.m. at the Department's Air Quality Bureau at the address listed above. Comments may be submitted orally or in writing during the public hearing. All comments must be received no later than 4:30 p.m. on March 11, 2011.

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

These amendments are intended to implement Iowa Code section 455B.133.

The following amendments are proposed.

ITEM 1. Amend paragraph **22.1(3)“b,”** introductory paragraph, as follows:

b. Construction permit applications. Each application for a construction permit shall be submitted to the department on the form “Air Construction Permit Application.” Major stationary sources shall include an application fee pursuant to 567—Chapter 30. Final plans and specifications for the proposed equipment or related control equipment shall be submitted with the application for a permit and shall be prepared by or under the direct supervision of a professional engineer licensed in the state of Iowa in conformance with Iowa Code section 542B.1, or consistent with the provisions of Iowa Code section 542B.26 for any full-time employee of any corporation while doing work for that corporation. The application for a permit to construct shall include the following information:

ITEM 2. Amend subrule 22.106(1) as follows:

22.106(1) Fee established. Any person required to obtain a Title V permit shall pay an annual fee based on the total tons of actual emissions of each regulated air pollutant, beginning November 15, 1994. Beginning July 1, 1996, Title V operating permit fees will be paid on or before July 1 of each year. The fee shall be based on actual emissions required to be included in the Title V operating permit application and the annual emissions statement for the previous calendar year. The department and the commission will review the fee structure on an annual basis and adjust the fee as necessary to cover all reasonable costs required to develop and administer the programs required by the Act. The department shall submit the proposed budget for the following fiscal year to the commission no later than the March meeting. The commission shall set the fee based on the reasonable cost to run the program and the proposed budget no later than the May commission meeting of each year. The commission shall provide an opportunity for public comment prior to setting the fee. The commission shall not set the fee higher than ~~\$56~~ \$65 per ton without adopting the change pursuant to formal rule making.

ITEM 3. Amend subrule 22.106(1) as follows:

22.106(1) Fee established. Any person required to obtain a Title V permit shall pay an annual fee based on the total tons of actual emissions of each regulated air pollutant, beginning November 15, 1994. Beginning July 1, 1996, Title V operating permit fees will be paid on or before July 1 of each year. The fee shall be based on actual emissions required to be included in the Title V operating permit application and the annual emissions statement for the previous calendar year. The department and the commission will review the fee structure on an annual basis and adjust the fee as necessary to cover all reasonable costs required to develop and administer the programs required by the Act. The department shall submit the proposed budget for the following fiscal year to the commission no later than the March meeting. The commission shall set the fee based on the reasonable cost to run the program and the proposed budget no later than the May commission meeting of each year. The commission shall provide an opportunity for public comment prior to setting the fee. The commission shall not set the fee higher than ~~\$56~~ \$89 per ton without adopting the change pursuant to formal rule making.

ENVIRONMENTAL PROTECTION COMMISSION[567](cont'd)

ITEM 4. Amend subrule 22.106(1) as follows:

22.106(1) Fee established. Any person required to obtain a Title V permit shall pay an annual emission fee based on the total tons of actual emissions of each regulated air pollutant, beginning November 15, 1994; and shall pay an annual base fee, beginning [insert effective date of these amendments]. Beginning July 1, 1996, Title V operating permit fees will be paid on or before July 1 of each year. The emission fee shall be based on actual emissions required to be included in the Title V operating permit application and the annual emissions statement for the previous calendar year. The department and the commission will review the fee structure on an annual basis and adjust the fee fees as necessary to cover all reasonable costs required to develop and administer the programs required by the Act. The department shall submit the proposed budget for the following fiscal year to the commission no later than the March meeting. The commission shall set the fee fees based on the reasonable cost to run the program and the proposed budget no later than the May commission meeting of each year. The commission shall provide an opportunity for public comment prior to setting the fee fees. The commission shall not set the emission fee higher than ~~\$56~~ \$65 per ton or the base fee higher than \$5,000 without adopting the change pursuant to formal rule making.

ITEM 5. Amend subrule 22.106(2) as follows:

22.106(2) Fee calculation. The fee amount shall be calculated based on ~~the first 4,000 tons of each~~ regulated air pollutant or contaminant emitted each year from each major source.

ITEM 6. Adopt the following new 567—Chapter 30:

CHAPTER 30
FEES

567—30.1(455B) Definition.

“*Project*,” for the purpose of this chapter, means one or more preconstruction permit applications submitted simultaneously to construct, install, reconstruct or alter any equipment or control equipment.

567—30.2(455B) Title V construction permit fees.

30.2(1) Fee required. Effective July 1, 2011, a nonrefundable application fee for each major stationary source preconstruction project required in accordance with 567—subrule 22.1(1) or 567—Chapter 33 or requests for federally enforceable limits through permitting shall be submitted with each preconstruction project application. Undefined terms are defined pursuant to 567—Chapters 20, 22 and 33.

a. Each applicant for a project that is required to obtain a prevention of significant deterioration (PSD) permit (567—Chapter 33) shall pay \$20,000 per project and \$5,000 per emission point.

b. Each applicant for a project that is not required to obtain a prevention of significant deterioration (PSD) permit (567—Chapter 33) and the project: (1) includes more than five permits, or (2) requires a case-by-case review under 112(g) of the Act, or (3) requests a voluntary operating permit, or (4) requires a public comment period shall pay \$10,000 per project and \$1,500 per emission point.

c. Each applicant for a project that is not required to obtain a prevention of significant deterioration (PSD) permit (567—Chapter 33) and the project: (1) includes five or fewer permit applications, or (2) does not require a case-by-case review under 112(g) of the Act, or (3) does not request a voluntary operating permit, or (4) does not involve a public comment period shall pay \$3,000 per project.

30.2(2) Fees for determinations. The fee for a request for determination regarding whether a preconstruction permit application is required shall be \$1,000 per determination request.

30.2(3) Payment of fees. Fees shall be paid by check or money order and be made payable to the “Iowa Department of Natural Resources” and be sent to the department at the address on the preconstruction permit application forms.

30.2(4) Correction of errors.

a. If an owner or operator, or the department, finds an administrative error in a construction permit issued by the department, the owner or operator shall submit to the department revised preconstruction

ENVIRONMENTAL PROTECTION COMMISSION[567](cont'd)

permit application forms that indicate the necessary corrections. These forms shall be submitted as soon as possible after the errors are discovered.

b. Fees shall not be assessed for administrative errors as specified in paragraph 30.2(4) “a.” These rules are intended to implement Iowa Code section 455B.133.

ITEM 7. Amend rule **567—33.1(455B)**, first unnumbered paragraph, as follows:
Rule 567—33.2(455B) ~~is reserved~~ refers to fees established in 567—Chapter 30.

ITEM 8. Adopt the following **new** rule 567—33.2(455B):

567—33.2(455B) Application fee. Each application for a prevention of significant deterioration (PSD) permit pursuant to 567—33.3(455B) shall include an application fee pursuant to 567—Chapter 30.

ARC 9364B**ENVIRONMENTAL PROTECTION COMMISSION[567]****Notice of Intended Action**

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

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

Pursuant to the authority of Iowa Code sections 455B.173 and 455B.105(11), the Environmental Protection Commission hereby gives Notice of Intended Action to amend Chapter 64, “Wastewater Construction and Operation Permits,” Iowa Administrative Code.

The purpose of this rule making is to allow reissuance of NPDES General Permit No. 5 for mining and processing facilities. Iowa Code subsection 455B.173(11) allows the Commission to adopt a general permit that will cover numerous facilities to the extent they are representative of a class of facilities that can be identified and conditioned by a single permit. General Permit No. 5 was originally issued July 18, 2001, and expired July 17, 2006. This rule making will reissue General Permit No. 5 for a period of five years.

General Permit No. 5 authorizes discharge to surface water throughout the State of Iowa of wash water, materials transport water, scrubber water used for air pollution control, water used for dust suppression, mine or quarry dewatering, and noncontact cooling water used for ancillary mining equipment. Facilities covered under the permit are primarily engaged in mining or quarrying dimension stone; crushed and broken limestone; construction sand and gravel; clay, ceramic, and refractory minerals; and miscellaneous nonmetallic minerals, except fuels.

The primary pollutants of concern with discharges from mining and quarrying operations are suspended solids and pH, and the general permit includes limitations for these parameters to ensure protection of water quality. Based on information provided by the mining and quarrying community, sulfate is an additional pollutant of concern. The draft permit requires that every facility seeking coverage under the general permit submit a sample result for sulfate in its Notice of Intent (NOI). The sample result will determine whether the discharge from the facility is eligible for coverage under NPDES General Permit No. 5. Any discharge with a sulfate concentration greater than 1,514 mg/L will not be eligible for coverage under the general permit, and the facility will be required to apply for an individual permit.

Discharges to Outstanding Iowa Waters (OIW), Outstanding National Resource Waters (ONRW), and state-owned artificial and natural lakes are not authorized under General Permit No. 5. These discharges that are not authorized are in addition to discharges already excluded from coverage by the previously issued permit.

ENVIRONMENTAL PROTECTION COMMISSION[567](cont'd)

The draft permit requires that new and expanded dischargers use best management practices to reduce the discharge of pollutants. The best management practices include using settled wash water for dust suppression, maximizing settling of suspended solids, recycling materials wash water whenever practical, and using hydraulic dredging whenever practical and affordable (sand and gravel facilities only).

The amendments to Chapter 64 that accompany the draft general permit are summarized below.

1. Requirements are added to notify the DNR when there is a change in the operator of mining and processing facilities permitted by General Permit No. 5 and to specify that the operator of the facility is subject to all terms and conditions of the general permit.

2. The effective date for the reissued General Permit No. 5 is established.

3. The General Permit No. 5 annual fees are added to the fee schedule.

Any interested persons may file written comments on the proposed amendments on or before March 16, 2011. Written comments or questions regarding the proposed amendments should be directed to Karen Lodden, NPDES Section, Iowa Department of Natural Resources, 502 E. 9th Street, Des Moines, Iowa 50319; fax (515)281-8895; or E-mail Karen.Lodden@dnr.iowa.gov.

Oral or written comments will also be accepted at a public hearing that will be held March 8, 2011, at 1 p.m. in the Fourth Floor Conference Rooms of the Wallace State Office Building, 502 East 9th Street, Des Moines, Iowa.

At the hearing, persons will be asked to give their names and addresses for the record and to confine their remarks to the subject of the amendments.

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 to advise of special needs.

A fiscal impact summary prepared by the Legislative Services Agency pursuant to Iowa Code section 17A.4(4) 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.

These amendments are intended to implement Iowa Code chapter 455B, division III, part 1.

The following amendments are proposed.

ITEM 1. Amend rule 567—64.14(455B), catchwords, as follows:

567—64.14(455B) Transfer of title ~~or~~ and owner ~~or~~ operator address change.

ITEM 2. Adopt the following **new** subrules 64.14(1) and 64.14(2):

64.14(1) *Permits issued under rule 567—64.2(455B), 567—64.3(455B), or 567—64.6(455B), except 64.6(1) "a"(5).* If title to any disposal system or part thereof for which a permit has been issued is transferred, the new owners shall be subject to all terms and conditions of the permit. Whenever title to a disposal system or part thereof is changed, the department shall be notified in writing of such change within 30 days of the occurrence. No transfer of the authorization to discharge from the facility represented by the permit shall take place prior to notification of the department of the transfer of title. Whenever the address of the owner is changed, the department shall be notified in writing within 30 days of the address change. Electronic notification is not sufficient; all title transfers and address changes must be reported to the department by mail.

64.14(2) *Permits issued under 64.6(1) "a"(5).* When the operator of a facility changes, the department must be notified of the transfer within 30 days. When a discharge is covered by the general permit, the operator of record shall be subject to all terms and conditions of the permit. No transfer of the authorization to discharge from the facility represented by the permit shall take place prior to notification of the department of the transfer. Whenever the address of the operator is changed, the department shall be notified in writing within 30 days of the address change. Electronic notification is not sufficient; all transfers and address changes must be reported to the department by mail.

ITEM 3. Amend subrule 64.15(5) as follows:

64.15(5) "Discharge from Mining and Processing Facilities," NPDES General Permit No. 5, effective ~~July 18, 2001~~ July 18, 2011.

ENVIRONMENTAL PROTECTION COMMISSION[567](cont'd)

ITEM 4. Amend subparagraph 64.16(3)“a”(5) as follows:

(5) Discharge from Mining and Processing Facilities, NPDES General Permit No. 5. Fees as established in Iowa Code section 455B.197 are to be submitted by August 30 of every year unless a multiyear fee payment was received in an earlier year. New facilities seeking General Permit No. 5 coverage shall submit fees with the Notice of Intent for coverage. Maximum coverage is five years, four years, three years, and one year, respectively. In the event a facility is no longer eligible to be covered under General Permit No. 5, the remainder of the fees previously paid by the facility shall be applied toward its individual permit fees.

Annual Permit Fee	\$125 (per year)
or	
Five-year Permit Fee	\$500
Four-year Permit Fee	\$400
Three-year Permit Fee	\$300

New facilities seeking General Permit No. 5 coverage shall submit fees with the Notice of Intent for coverage. Maximum coverage is for five years. Coverage may also be obtained for four years, three years, or one year, as shown in the fee schedule above. Existing facilities shall submit annual fees by August 30 of every year, unless a multiyear fee payment was received in an earlier year. In the event a facility is no longer eligible to be covered under General Permit No. 5, the remainder of the fees previously paid by the facility shall be applied toward its individual permit fees.

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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 11, “Collection of Public Assistance Debts,” and Chapter 76, “Application and Investigation,” Iowa Administrative Code.

The proposed amendments relate to legislation proposed by the Department, which is currently drafted as LSB 1238 DP. The proposed bill would amend Iowa Code sections on debt collection to include unpaid premiums assessed by the Department for medical assistance. Currently, two medical assistance programs utilize a fee schedule for member participation in the cost of medical coverage. The two programs are the Medicaid coverage group for working persons who have disabilities, described at 441—subrule 75.1(39), and the IowaCare program, described at 441—Chapter 92. In both programs, members with the lowest income are not assessed a premium. Working persons with disabilities who have sufficient income must pay the monthly premium before assistance is given and do not have the option to claim hardship for inability to pay the premium.

IowaCare members who are assessed a premium have the opportunity to claim hardship and pay a partial premium or no premium. However, an IowaCare member who neither pays the premium nor claims hardship will have benefits canceled for failure to pay the assessed premiums when a premium remains unpaid after the sixtieth day past the due date. Since the member was eligible during the period for which the premiums were due, this is technically not an “overpayment” as medical assistance debts have customarily been defined.

HUMAN SERVICES DEPARTMENT[441](cont'd)

The proposed legislation and the proposed amendments to the rules will make a debt based on unpaid premiums subject to the same collection procedures as a debt for assistance that a member received when ineligible. These collection procedures may include setoff of state tax refunds or other payments.

These amendments would also change the due date for the return of verifications for applications from five working days to ten calendar days to align with the due date for the return of all other requested verifications. This change will give applicants more time to submit information and avoid denial of the application for failure to provide necessary information.

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 March 1, 2011. Comments should be directed to Mary Ellen Imlau, Bureau of Policy Coordination, Department of Human Services, Hoover State Office Building, 1305 East Walnut Street, Des Moines, Iowa 50319-0114. Comments may be sent by fax to (515)281-4980 or by E-mail to policyanalysis@dhs.state.ia.us.

These amendments are intended to implement Iowa Code section 249A.5.

The following amendments are proposed.

ITEM 1. Amend rule **441—11.1(217)**, definition of “Debtor,” as follows:

“*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 debt. For food assistance, “debtor” shall include all adult members of the food 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 any Medicaid member and any or nonmember who fraudulently receives services or owes a debt of unpaid premium payments for medical assistance.

ITEM 2. Amend subrules 76.2(4) and 76.2(5) as follows:

76.2(4) *Providing additional information.* The department shall notify the applicant 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.

a. The department shall allow the applicant ~~five working~~ ten calendar days to supply the information or verification requested. Applicants for whom eligibility is determined in whole or in part by the Social Security Administration shall make application to the Social Security Administration within ~~five working~~ ten calendar days of referral by the department.

b. to d. No change.

76.2(5) *Reporting of changes.* The applicant shall report any change as defined at 441—paragraph 75.52(4)“*c*” which occurs during the application process within ~~five working~~ ten calendar days of the change. Changes that occur after approval for benefits shall be reported in accordance with 441—paragraph 75.52(4)“*c*.”

ITEM 3. Amend subrule 76.10(3) as follows:

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

a. Within ten calendar days from the date the change is known to the member or authorized representative; or

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

ITEM 4. Adopt the following **new** definition in subrule **76.12(1)**:

“*Premiums paid for medical assistance*” means monthly premiums assessed to a member or household for Medicaid or IowaCare coverage.

HUMAN SERVICES DEPARTMENT[441](cont'd)

ITEM 5. Amend subrules 76.12(2) and 76.12(3) as follows:

76.12(2) Amount subject to recovery. The department shall recover from a client all Medicaid funds incorrectly expended to or on behalf of the client and all unpaid premiums assessed by the department for medical assistance. The incorrect expenditures or unpaid premiums may result from client or agency error, or administrative overpayment.

76.12(3) Notification. All clients shall be promptly notified on 470-2891, Notice of Medical Assistance Overpayment, when it is determined that assistance was incorrectly expended or when assessed premiums are unpaid.

a. Notification of incorrect expenditures shall include:

- (1) ~~for~~ For whom assistance was paid;
- (2) ~~the time~~ The period during which assistance was incorrectly paid;
- (3) ~~the~~ The amount of assistance subject to recovery; and
- (4) ~~the~~ The reason for the incorrect expenditure.

b. Notification of unpaid premiums shall include:

- (1) The amount of the premium; and
- (2) The month covered by the medical assistance premium.

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HUMAN SERVICES DEPARTMENT[441]

Notice of Intended Action

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

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

Pursuant to the authority of Iowa Code section 249A.4, the Department of Human Services proposes to amend Chapter 78, “Amount, Duration and Scope of Medical and Remedial Services,” Chapter 79, “Other Policies Relating to Providers of Medical and Remedial Care,” and Chapter 90, “Targeted Case Management,” Iowa Administrative Code.

The proposed amendments update coverage and payment provisions for Medicaid case management services to do the following:

- Correct outdated terminology and remove language on child welfare decategorization counties that is no longer applicable.
- Clarify when contacts made by E-mail are an allowable case management activity.
- Clarify that when case management activities are provided through an assertive community treatment (ACT) program, they are not also reimbursable as targeted case management.
- Remove outdated effective dates.

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 March 1, 2011. Comments should be directed to Mary Ellen Imlau, Bureau of Policy Coordination, Department of Human Services, Hoover State Office Building, 1305 East Walnut Street, Des Moines, Iowa 50319-0114. Comments may be sent by fax to (515)281-4980 or by E-mail to policyanalysis@dhs.state.ia.us.

These amendments are intended to implement Iowa Code section 249A.4.

The following amendments are proposed.

HUMAN SERVICES DEPARTMENT[441](cont'd)

ITEM 1. Rescind rule 441—78.33(249A) and adopt the following new rule in lieu thereof:

441—78.33(249A) Case management services. Payment will be approved for targeted case management services that are provided pursuant to 441—Chapter 90 to:

1. Members who are 18 years of age or over and have a primary diagnosis of mental retardation, developmental disabilities, or chronic mental illness as defined in rule 441—90.1(249A).

2. Members who are under 18 years of age and are receiving services under the HCBS intellectual disability waiver or children's mental health waiver.

This rule is intended to implement Iowa Code section 249A.4.

ITEM 2. Amend paragraph **79.1(1)“d”** as follows:

d. Fee for service with cost settlement. ~~Effective July 1, 2009, providers~~ Providers of case management services shall be reimbursed on the basis of a payment rate for a 15-minute unit of service based on reasonable and proper costs for service provision. The fee will be determined by the department with advice and consultation from the appropriate professional group and will reflect the amount of resources involved in service provision.

(1) to (3) No change.

ITEM 3. Amend subparagraph **79.1(24)“a”(1)** as follows:

(1) ~~Effective July 1, 2009, a~~ A unit of case management is 15 minutes.

ITEM 4. Amend subparagraph **90.5(1)“e”(2)** as follows:

(2) The case manager shall have at least one contact per month with the member, the member's legally authorized representative, the member's family, service providers, or other entities or individuals. This contact may be face-to-face or by telephone. The contact may also be by written communication, including letters, E-mail, and fax, when the written communication directly pertains to the needs of the member. E-mail contacts are allowed only when other means of communication are not feasible for the member, representative or family and the necessity for E-mail communication is documented in the member's comprehensive service plan. A copy of any written communication must be maintained in the case file. When E-mail communication is used, there must be clear two-way communication in the member's record showing an exchange of information as well as follow-up activity related to the information.

ITEM 5. Amend subrule 90.5(2) as follows:

90.5(2) Exclusions. Payment shall not be made for activities otherwise within the definition of case management when any of the following conditions exist:

a. The activities are an integral component of another covered Medicaid service, including but not limited to assertive community treatment (ACT).

b. to e. No change.

ITEM 6. Amend subrule 90.8(2) as follows:

90.8(2) Emergency coverage. ~~Effective October 1, 2009, a~~ A provider of case management shall have an on-call system to ensure that, in the event of an emergency, members have access to a case manager 24 hours per day, including weekends and holidays. Expectations and parameters for emergency coverage are as follows:

a. to d. No change.

ARC 9368B**HUMAN SERVICES DEPARTMENT[441]****Notice of Intended Action**

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

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

Pursuant to the authority of Iowa Code sections 232.142 and 237.3, the Department of Human Services proposes to amend Chapter 105, “County and Multicounty Juvenile Detention Homes and County and Multicounty Juvenile Shelter Care Homes,” Chapter 114, “Licensing and Regulation of All Group Living Foster Care Facilities for Children,” and Chapter 115, “Licensing and Regulation of Comprehensive Residential Facilities for Children,” Iowa Administrative Code.

The proposed amendments:

- Prohibit the use of prone restraint (a physical restraint technique in which a child is held face down on the floor) in foster group care facilities, emergency juvenile shelters, and juvenile detention facilities. Safer methods of physical restraint exist. This change will align restraint standards for these facilities with state standards already adopted for educational settings and for psychiatric medical institutions for children.

- Allow attestations of employee health to be provided by advanced registered nurse practitioners or physician assistants as well as physicians. This change will make it easier for facility staff to obtain these statements, especially in rural areas.

- Add requirements for 24-hour supervision by staff members who are awake for the entire shift (instead of staff who are available while sleeping at the facility). For group care, these requirements were previously included in 441—Chapter 185, “Rehabilitative Treatment Services,” which has been rescinded.

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 March 3, 2011. Comments should be directed to Mary Ellen Imlau, Bureau of Policy Coordination, 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.

The Department will also hold a public hearing for the purpose of receiving comments on the proposed amendments on Thursday, March 3, 2011, from 1 to 2:30 p.m. in First Floor Southeast Conference Rooms 1 and 2 at the Hoover State Office Building, 1305 East Walnut Street, Des Moines, Iowa.

Persons with disabilities who require assistive services or devices to observe or participate should contact the Bureau of Policy Coordination at (515)281-8440 before the scheduled date to request that appropriate arrangements be made.

These amendments are intended to implement Iowa Code section 232.142 and chapter 237.

The following amendments are proposed.

ITEM 1. Adopt the following **new** definitions in rule **441—105.1(232)**:

“*Physical restraint*” means direct physical contact required on the part of a staff person to prevent a child from hurting self, others, or property.

“*Prone restraint*” means a physical restraint in which a child is held face down on the floor.

ITEM 2. Amend subrule 105.3(2) as follows:

105.3(2) Health of employees. ~~Staff~~ Each staff person who ~~have~~ has direct client contact or ~~are~~ is involved in food preparation shall be medically determined to be free of serious infectious communicable diseases and able to perform ~~their~~ assigned duties. A statement by a ~~physician~~ physician ~~(as defined in Iowa Code~~

HUMAN SERVICES DEPARTMENT[441](cont'd)

~~section 135.1~~ attesting to these facts shall be secured at the time of employment ~~and whenever necessary thereafter~~ and filed in the personnel records of ~~that the~~ staff person. A new statement shall be secured at least every three years. The statement shall be signed by one of the following:

- a. A physician as defined in Iowa Code section 135.1(4);
- b. An advanced registered nurse practitioner who is registered with and certified by the Iowa board of nursing to practice nursing in an advanced role; or
- c. A physician assistant licensed under Iowa Code chapter 148C.

ITEM 3. Amend subrule 105.16(3) as follows:

105.16(3) *Physical restraint.* The use of physical restraint shall be employed only to prevent the child from injury to self, to others, or to property. Physical restraint must be conducted with the child in a standing position whenever possible.

- a. No staff person shall use any restraint that obstructs the airway of a child.
- b. Prone restraint is prohibited. Staff persons who find themselves involved in the use of a prone restraint when responding to an emergency must take immediate steps to end the prone restraint.
- c. If a staff person physically restrains a child who uses sign language or an augmentative mode of communication as the child's primary mode of communication, the child shall be permitted to have the child's hands free of restraint for brief periods unless the staff member determines that such freedom appears likely to result in harm to the child, others, or property.
- d. The rationale and authorization for the use of physical restraint, and staff action and procedures carried out to protect the ~~children's~~ child's rights and to ensure their safety, shall be clearly set forth in the child's record by the responsible staff persons.

ITEM 4. Adopt the following **new** definition in rule **441—114.2(237)**:

"Prone restraint" means a physical restraint in which a child is held face down on the floor.

ITEM 5. Amend subrule 114.7(2) as follows:

114.7(2) *Health of staff.* ~~Staff~~ Each staff person who ~~have~~ has direct client contact or ~~are~~ is involved in food preparation shall be medically determined to be free of serious infectious communicable diseases and able to perform their assigned duties. A statement ~~by a physician (as defined in Iowa Code section 135.1(5))~~ attesting to these facts shall be secured at the time of employment ~~and whenever necessary thereafter~~ and filed in the staff record of the staff person. A new statement shall be secured at least every three years. The statement shall be signed by one of the following:

- a. A physician as defined in Iowa Code section 135.1(4);
- b. An advanced registered nurse practitioner who is registered with and certified by the Iowa board of nursing to practice nursing in an advanced role; or
- c. A physician assistant licensed under Iowa Code chapter 148C.

ITEM 6. Amend paragraph **114.8(2)"a"** as follows:

a. Children shall be provided with 24-hour awake supervision. There shall be at least one awake and readily accessible staff person on duty for each currently occupied living unit. The staff person shall make regular visual checks at least every hour throughout the night. A log shall be kept of all checks, including the time of the check and any significant observations. Policies for nighttime checks shall be in writing.

ITEM 7. Amend subrule 114.20(3) as follows:

114.20(3) *Physical restraint.* The use of physical restraint shall be employed only to prevent behavior extremely disruptive to others or to prevent the child from injury to self, to others, or to property. Physical restraint must be conducted with the child in a standing position whenever possible.

- a. No staff person shall use any restraint that obstructs the airway of a child.
- b. Prone restraint is prohibited. Staff persons who find themselves involved in the use of a prone restraint when responding to an emergency must take immediate steps to end the prone restraint.
- c. If a staff person physically restrains a child who uses sign language or an augmentative mode of communication as the child's primary mode of communication, the child shall be permitted to have

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the child's hands free of restraint for brief periods unless the staff person determines that such freedom appears likely to result in harm to the child, others, or property.

d. The rationale and authorization for the use of physical restraint and staff action and procedures carried out to protect the child's rights and to ensure safety shall be clearly set forth ~~clearly~~ in the child's record by the responsible professional staff persons.

ITEM 8. Amend paragraph **115.4(1)“b”** as follows:

~~b.~~ A staff person shall be in each living unit at all times when children are in residence ~~and there shall be a minimum of three nighttime checks between the hours of 12 midnight and 6 a.m. These checks shall be logged. Policies for nighttime checks shall be in writing.~~

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HUMAN SERVICES DEPARTMENT[441]

Notice of Intended Action

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

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

Pursuant to the authority of Iowa Code section 234.6, the Department of Human Services proposes to rescind Chapter 155, “Child Abuse Prevention Program,” Iowa Administrative Code, and to adopt a new Chapter 155 with the same title.

The proposed new chapter updates the rules that define and structure the child abuse prevention program. Program services are provided at the local level through community-based child abuse prevention projects. Program funds are administered by an entity under contract with the Department. The current administrative services contract for this program will expire June 30, 2011. The Department is issuing a request for proposals (RFP) for a single statewide performance-based administrative services contract for state fiscal year 2012.

The current rules limit the Department's ability to purchase the services needed by narrowly dictating the procurement process. The required process also does not align with current state rules regarding the purchase of services. Furthermore, the Child Abuse Prevention and Treatment Act, Public Law 111-320, places new requirements on states in regard to community-based prevention of child abuse.

Rescinding Chapter 155 and adopting a new chapter with a more generalized description of the program will allow the Department to guide the program's direction through the RFP and contracting process. Annual goals will be set for the program by the child abuse prevention program advisory committee and implemented through the contractor's process for disbursement of program funds. Setting detailed program objectives and processes through the request for proposals and the contract for program administration will allow the Department to implement program changes as required by the federal government without requiring the need for rule changes.

These rules 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 rules on or before March 1, 2011. Comments should be directed to Mary Ellen Imlau, Bureau of Policy Coordination, 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 rules are intended to implement Iowa Code sections 235A.1 and 235A.2.

The following amendment is proposed.

HUMAN SERVICES DEPARTMENT[441](cont'd)

Rescind 441—Chapter 155 and adopt the following **new** chapter in lieu thereof:

CHAPTER 155
CHILD ABUSE PREVENTION PROGRAM

PREAMBLE

These rules define and structure the child abuse prevention program. Services are provided through a single statewide performance-based contract for the administration of funds to be used at the local level for community-based child abuse prevention projects.

441—155.1(235A) Definitions.

“Advisory committee” or *“committee”* means the child abuse prevention program advisory committee authorized by Iowa Code section 217.3A.

“Child abuse prevention program” or *“program”* means the program established by Iowa Code section 235A.1. Use of either term in the context of this chapter refers to the program as a whole rather than individual projects funded under the program.

“Community-based volunteer coalition or council” or *“community council”* means that group of persons who, by consensus of a community’s human service providers, represent that community’s interests in the area of prevention of child abuse and neglect and who serve in that representational capacity without compensation. The consensus of the community’s human service providers may be demonstrated through letters of support or similar documentation.

“Contractor” means the single agency or organization with which the department contracts for the administration of child abuse prevention program funds.

“Department” means the Iowa department of human services.

“Director” means the director of the department of human services.

“Fiscal year” means the 12-month period for which child abuse prevention program funds are appropriated.

“Grant project” means a project funded under the child abuse prevention program as awarded by the contractor.

441—155.2(235A) Availability of funds. In any year in which the legislature appropriates funds for the child abuse prevention program, the department shall solicit proposals for the program administration contract through formal competitive procurement conducted according to the requirements of 11—Chapters 106 and 107.

441—155.3(235A) Eligibility requirements. Eligibility for the program administration contract is limited to statewide agencies or organizations that make maximum use of voluntary administrative services.

441—155.4(235A) Contract for program administration. The department shall contract with a single agency or organization to:

1. Administer the appropriated funds and any grants, gifts or bequests to the department that are specifically designated by their source for use in the child abuse prevention program; and

2. Study and evaluate community-based prevention projects and educational programs for the problems of families and children in accordance with the provisions of Iowa Code section 235A.1 and this chapter.

441—155.5(235A) Awarding of grants. In any year in which the department contracts with an agency or organization for the administration of child abuse prevention program funds, the contractor shall solicit grant project proposals. Funds for the grant projects shall be applied for and received by community-based volunteer coalitions or councils. Grant projects may be awarded to fund the

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establishment or expansion of community-based prevention projects or educational programs for the prevention of child abuse and neglect.

155.5(1) The advisory committee shall establish specific program goals for each fiscal year in which program funds are appropriated. These program goals shall address the current and emerging needs of children and families throughout the state.

155.5(2) The contractor shall widely disseminate a request for grant project proposals consistent with all state and federal procurement requirements. The request for grant project proposals shall fully describe the child abuse prevention program goals and the procedures for applying for and receiving program funds, as agreed upon in the administration contract.

155.5(3) All grant project proposals shall be reviewed by the contractor, who shall consult with the advisory committee on grant project selection. The committee shall advise the department as to the contractor's compliance with the established program goals.

These rules are intended to implement Iowa Code sections 235A.1 and 235A.2.

ARC 9353B**HUMAN SERVICES DEPARTMENT[441]****Notice of Intended Action**

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

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

Pursuant to the authority of Iowa Code section 234.6, the Department of Human Services proposes to amend Chapter 172, “Family-Centered Child Welfare Services,” Iowa Administrative Code.

The proposed amendments update the rules on family-centered services to:

- Reflect the standard state contracting terminology, which refers to “the agency” rather than “the department” and “the contractor” rather than “the provider.”
- Clarify who may be included in the provision of services.
- Conform the expectations for contractors to the language of the requests for proposals that are currently in process (bid number ACFS-11-097) for new contracts to be effective on July 1, 2011.

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 March 1, 2011. Comments should be directed to Mary Ellen Imlau, Bureau of Policy Coordination, Department of Human Services, Hoover State Office Building, 1305 East Walnut Street, Des Moines, Iowa 50319-0114. Comments may be sent by fax to (515)281-4980 or by E-mail to policyanalysis@dhs.state.ia.us.

These amendments are intended to implement Iowa Code section 234.6.

The following amendments are proposed.

ITEM 1. Amend **441—Chapter 172**, preamble, as follows:

PREAMBLE

These rules define and describe procedures for delivery of family-centered child welfare services. The rules describe the service definitions and eligibility criteria, ~~provider~~ contractor selection and contracting processes, performance measures, billing and payment methods, procedures for client appeals, and service review and audit procedures.

ITEM 2. Amend the following definitions in rule **441—172.1(234)**:

“Conditionally safe child” means that ~~a safety concern is one or more signs of present or impending danger to a child are identified on Form 470-4132 or 470-4132(S), Safety Assessment/Plan, for which a~~

HUMAN SERVICES DEPARTMENT[441](cont'd)

which are not offset by the child's degree of vulnerability or the caretaker's protective capacity. A safety plan is required.

"*Family safety, risk, and permanency service*" means a service that uses strategies and interventions designed to achieve safety and permanency for a child with an open ~~department~~ agency child welfare case, regardless of the setting in which the child resides.

"*Safe child*" means that ~~there are no signs of present or impending dangers~~ danger to the a child, are identified or that existing dangers one or more signs of present or impending danger are controlled by identified but the child's degree of vulnerability or the caregiver's protective capacities offset the current threat. The child is not likely to be in imminent danger of maltreatment.

"*Safety plan service*" means a service that is designed to monitor the safety of a child during the ~~department's~~ agency's child protective assessment or child in need of assistance assessment process.

"*Service area manager*" means the ~~department~~ agency official responsible for managing the ~~department's~~ agency's programs, operations, and budget within one of the ~~eight department~~ agency service areas.

ITEM 3. Adopt the following **new** definitions in rule **441—172.1(234)**:

"*Agency*" means the Iowa department of human services.

"*Child vulnerability*" means the degree that a child cannot on the child's own avoid, negate, or minimize the impact of present or impending danger.

"*Contractor*" means a private organization authorized to do business in Iowa that has entered into a contract with the agency to provide one or more of the services defined in this chapter. "Contractor" refers to the organization that is named as the responsible party in the contract and whose authorized representative has signed the contract.

ITEM 4. Rescind the definitions of "Department," "Family" and "Provider" in rule **441—172.1(234)**.

ITEM 5. Strike "department" and "department's" wherever they appear in rules **441—172.2(234)**, **441—172.3(234)**, **441—172.5(234)** and **441—172.11(234)**, subrule **172.13(3)**, rules **441—172.21(234)** and **441—172.23(234)**, subrule **172.24(1)**, rules **441—172.30(234)**, **441—172.31(234)** and **441—172.33(234)** and subrule **172.34(1)** and insert "agency" and "agency's" in lieu thereof.

ITEM 6. Strike "provider" and "providers" wherever they appear in rules **441—172.3(234)**, **441—172.11(234)**, **441—172.21(234)**, **441—172.23(234)**, **441—172.31(234)** and **441—172.33(234)** and insert "contractor" and "contractors" in lieu thereof.

ITEM 7. Amend rule 441—172.4(234) as follows:

441—172.4(234) Reimbursement. Billed services that meet the requirements of this chapter and the contract between the ~~department~~ agency and the ~~provider~~ contractor shall become a liability of the state. The format and process for submitting billings to the ~~department~~ agency and for receiving ~~department~~ agency payments shall be specified in all ~~provider~~ contractor contracts with the ~~department~~. The ~~department~~ agency shall process claims for payment promptly upon submission by the ~~provider~~ contractor.

172.4(1) The ~~provider~~ contractor shall bear ultimate responsibility for the completeness and accuracy of all billings submitted.

172.4(2) The ~~provider~~ contractor shall maintain all financial and service records that are necessary to substantiate the ~~provider's~~ contractor's claims submitted for reimbursement for services provided to ~~department~~ agency clients as specified in the ~~provider's~~ contractor's contract with the ~~department~~.

ITEM 8. Amend rule 441—172.6(234) as follows:

441—172.6(234) Reviews and audits. ~~Providers of~~ Contractors for the services described in this chapter shall be subject to review and audit procedures established by the ~~department~~ agency. Information on these procedures shall be included in the request for proposals and in contracts resulting from the procurement process.

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ITEM 9. Amend **441—Chapter 172**, Division II, preamble, as follows:

PREAMBLE

Family-centered safety plan services are designed to maintain children safely in their own families whenever possible. These services use strategies and interventions to monitor and evaluate the safety of children who, during a child protective assessment or during the ~~department's~~ agency's child in need of assistance assessment ~~process~~, are assessed to be conditionally safe.

ITEM 10. Amend rule 441—172.10(234) as follows:

441—172.10(234) Service requirements. A ~~provider of~~ contractor providing a safety plan service shall meet the following requirements:

172.10(1) The service shall meet the minimum expectations defined in the ~~provider's~~ contract with the department.

172.10(2) The ~~provider~~ contractor shall provide interventions and supports based on the particular service needs identified for each child and family.

172.10(3) The ~~provider~~ contractor shall design interventions that:

a. to d. No change.

ITEM 11. Amend rule 441—172.12(234) as follows:

441—172.12(234) Service eligibility. ~~Family-centered safety plan services may be provided to a child who, during a child protective assessment or child in need of assistance assessment process, has been assessed by department staff to be conditionally safe.~~

172.12(1) The agency shall refer a family for family-centered safety plan services when:

a. A child in the family is alleged to be a victim of abuse (an "alleged child victim") on a child protective assessment or is the subject of a child in need of assistance assessment (a "child subject"); and

b. During the child protective assessment or child in need of assistance assessment, the agency determines that the alleged child victim or child subject is conditionally safe.

172.12(2) When the agency approves a case for safety plan services, the following persons may be included in service provision:

a. The alleged child victim or child subject;

b. Any whole, half, or step siblings of the alleged child victim or child subject who reside in the same household; and

c. The parents, stepparents, adoptive parents, or caretakers of the alleged child victim or child subject.

ITEM 12. Amend subrule 172.13(2) as follows:

172.13(2) Service activities. The activities to be provided by safety plan services shall be as described in the scope of services section of the request for proposals. At a minimum, a ~~provider of~~ contractor for safety plan services shall do all of the following:

a. Be available 24 hours a day, seven days per week.

b. Respond to the ~~department~~ agency worker within one hour after the ~~provider~~ contractor receives a referral call.

c. Initiate face-to-face contact with the ~~family~~ alleged child victim or child subject and the child's parents within 24 hours of the referral call from the ~~department~~ agency worker.

d. Make daily face-to-face contact with the referred family unless the department worker identifies a different frequency in the safety plan alleged child victim or child subject and the child's parents as identified in Form 470-4661 or 470-4661(S), Safety Plan, and Form 470-5011, Safety Plan Services Referral Face Sheet. The frequency of contact with siblings and others involved in the case shall be as identified on Form 470-5011.

e. Provide an E-mail contact electronic communication to update the department agency worker within 24 hours by the end of the next calendar day after each contact with the child or family a person included in service provision.

f. Attend all family team meetings held on behalf of the family during the service delivery period.

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g. Respond within two hours to any family crisis during the service delivery period, ~~and update the department worker with an oral or E-mail contact.~~

(1) The response may be made either face to face or by telephone, depending on the situation.

(2) Immediately following the response, the contractor shall report the crisis and the response to the agency worker or the worker's supervisor via telephone or electronic communication.

h. Attend court hearings about the child upon request of the court or the ~~department~~ agency worker.

ITEM 13. Amend rule 441—172.14(234) as follows:

441—172.14(234) Monitoring of service delivery.

172.14(1) Case management. During the time a child and the child's family are approved to receive safety plan services, the ~~department~~ agency worker shall be responsible for providing case management. The ~~department~~ agency worker shall maintain contact with the family and the family's ~~provider~~ contractor to ensure that factors that present risks to the safety and well-being of children in the family are being adequately addressed.

172.14(2) Provider Contractor progress reports. A ~~provider of contractor for~~ provider of contractor for safety plan services shall submit client reports in accordance with the requirements concerning format, content, and frequency that are specified in the ~~provider's contract with the department.~~

172.14(3) Outcome measures. The ~~department~~ agency shall establish outcome-based performance measures for safety plan services. These performance measures shall:

a. Be specified in each ~~provider's contract with the department;~~ and

b. Be aligned with the measures defined by the federal government as part of the child and family services review process.

ITEM 14. Amend rule 441—172.15(234) as follows:

441—172.15(234) Billing and payment.

172.15(1) Unit of service. Safety plan services shall be delivered based on a 15-calendar-day unit of service with an established per-unit payment rate that shall be specified in each ~~provider's contract.~~ The ~~department~~ agency worker may purchase up to two units of service for a ~~child and family case.~~

172.15(2) Performance-based payments. Contracts for safety plan services may contain provisions under which a portion of the payment to the ~~provider contractor~~ is connected to the ~~provider's contractor's~~ level of achievement on specified outcome-based performance measures. Any provisions for performance-based payments shall be described in the ~~department's agency's request for proposals and in provider contracts with the department~~ the contract.

ITEM 15. Amend rule 441—172.20(234) as follows:

441—172.20(234) Service requirements. Family safety, risk, and permanency services shall meet the following requirements:

172.20(1) The service shall meet the minimum expectations defined in the ~~provider's contract with the department.~~

172.20(2) The ~~provider contractor~~ shall have flexibility to select interventions and supports based on the particular service needs identified for each child and family.

172.20(3) The ~~provider contractor~~ shall:

a. Identify family strengths and protective capacities;

b. Build on these strengths in the ~~provider's contractor's~~ interventions with children and families;

c. to g. No change.

ITEM 16. Amend rule 441—172.22(234) as follows:

441—172.22(234) Service eligibility. Family safety, risk, and permanency services may be provided to ~~a child and to the child's family~~ when the child meets the following criteria: in subrules 172.22(1) and 172.22(2).

172.22(1) The child is eligible for ~~department~~ child welfare services based on:

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- a. The child's adjudication as a child in need of assistance; or
- b. The child's placement out of home under the care and supervision of the ~~department~~ agency; or
- c. Evaluation of the child's age, the findings of a child abuse assessment report, and the family's risk assessment score.

172.22(2) No change.

172.22(3) When the agency approves a case for family safety, risk, and permanency services, the following persons may be included in service provision:

- a. A child or children who are determined eligible for service under this rule;
- b. Any whole, half, or step siblings of that child or children who:
 - (1) Reside in the same household at the time of service referral,
 - (2) Move into the household during the service delivery period, or
 - (3) Are in placement under the care and supervision of the agency; and
- c. The parents, stepparents, adoptive parents, or caretakers of that child or children and any adult who has a significant relationship with the child or children.

ITEM 17. Amend subrules 172.24(2) and 172.24(3) as follows:

172.24(2) ~~*Provider Contractor progress reports.*~~ A ~~provider of contractor~~ for family safety, risk, and permanency services shall submit ~~service progress reports on clients receiving services~~ in accordance with the format, content, and frequency requirements as specified in the ~~department's~~ agency's request for proposals and in the ~~provider's contract with the department.~~

172.24(3) ~~*Outcome measures.*~~ The ~~department~~ agency shall establish outcome-based performance measures for family safety, risk, and permanency services. These performance measures shall:

- a. Be specified in ~~department contracts with providers~~ each contract; and
- b. Be aligned with the measures defined by the federal government as part of the child and family services review process.

ITEM 18. Amend rule 441—172.25(234) as follows:

441—172.25(234) Billing and payment.

172.25(1) ~~*Unit of service.*~~ Family safety, risk, and permanency services shall be purchased based on a calendar month as one unit of service.

- a. A monthly payment rate shall be established for each contract.
- b. When services are opened or closed with ~~department~~ agency worker approval during a calendar month, payment shall be prorated based on the number of days the case was approved for services during the month, including both the beginning and ending dates of service. The amount paid for each day of service shall be the ~~provider's~~ contractor's monthly rate divided by 30.

172.25(2) ~~*Performance-based payments.*~~ Contracts for family safety, risk, and permanency services may contain provisions under which a portion of the ~~provider's~~ contractor's payment is connected to the ~~provider's~~ contractor's level of outcome-based performance achievement. Any performance-based payment provisions and procedures shall be described in the ~~department's~~ agency's request for proposals and in ~~provider contracts with the department~~ each contract.

ITEM 19. Amend **441—Chapter 172**, Division IV, preamble, as follows:

PREAMBLE

Family-centered supportive child welfare services are specific services that ~~department~~ agency workers may approve and deliver at various points during the course of a child's and family's involvement with the ~~department's~~ agency's child welfare system to address the children's safety, permanency, and well-being.

ITEM 20. Amend rule 441—172.32(234) as follows:

441—172.32(234) Service eligibility. Supportive child welfare services are designed to provide services for children when:

HUMAN SERVICES DEPARTMENT[441](cont'd)

1. The ~~department~~ agency has initiated a child protective assessment in response to receipt of a ~~report of child maltreatment~~ abuse allegations concerning the child or another child within the same family; or
2. The ~~department~~ agency has assumed care and supervision of a child placed in out-of-home care; or
3. The ~~department~~ agency has opened a child welfare service case on the child or family following a child abuse assessment or juvenile court action; or
4. A child in need of assistance petition has been filed on behalf of the child and the court has set a date for the prehearing conference or adjudication hearing.

ITEM 21. Amend subrules 172.34(2) and 172.34(4) as follows:

172.34(2) Family team meeting facilitation.

a. Family team meeting facilitation shall be purchased based on either:

- (1) A payment rate for each facilitated family team meeting; or
- (2) A monthly payment to a ~~provider~~ contractor to facilitate family team meetings.

b. No change.

172.34(4) Service-area-specific services. The unit of services and unit cost for service-area-specific services shall be defined in the request for proposals and ~~provider~~ contracts resulting from the procurement process.

ARC 9347B

INTERIOR DESIGN EXAMINING BOARD[193G]

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 544C.3, the Interior Design Examining Board hereby gives Notice of Intended Action to amend Chapter 2, “Registration,” Iowa Administrative Code.

The proposed amendment to subrule 2.1(4) will eliminate outdated language pertaining to biennial registration renewals.

A public hearing will be held on March 1, 2011, at 9 a.m. in the Professional Licensing Conference Room, Second Floor, 1920 S.E. Hulsizer Road, Ankeny, Iowa, at which time persons may present their views on the proposed amendment either orally or in writing. At the hearing, persons who wish to speak will be asked to give their names and addresses for the record and to confine their remarks to the subject of the proposed amendment.

Consideration will be given to all written suggestions or comments received by 4:30 p.m. on March 1, 2011. Comments should be addressed to David Batts, Executive Officer, Iowa Interior Design Examining Board, 1920 S.E. Hulsizer Road, Ankeny, Iowa 50021; or faxed to (515)281-7411. E-mail may be sent to David.Batts@Iowa.gov.

This amendment is intended to implement Iowa Code section 544C.5.

The following amendment is proposed.

Amend subrule 2.1(4) as follows:

2.1(4) Applications.

a. ~~Persons applying for certificates of registration on or prior to June 30, 2007, shall submit an application on a form provided by the board and shall pay a registration fee of \$350.~~

b. ~~Registration certificates issued in response to applications filed on or prior to June 30, 2007, shall expire on June 30, 2009, and shall thereafter be converted to a staggered biennial renewal schedule.~~

INTERIOR DESIGN EXAMINING BOARD[193G](cont'd)

~~e. Commencing with applications for initial or renewal registration filed on or after July 1, 2007, certificates~~ Certificates issued to registrants with last names beginning with A through K shall expire on June 30 of even-numbered years, and certificates issued to registrants with last names beginning with L through Z shall expire on June 30 of odd-numbered years. Registration fees and continuing education requirements shall be applied pro rata to those registrants whose certificates expire in less than two years.

ARC 9363B**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 sections 455A.5(6), 461A.3, and 461A.4, the Natural Resource Commission hereby gives Notice of Intended Action to amend Chapter 14, “Concessions,” Iowa Administrative Code.

The proposed amendments:

1. Update the definition of “concession operation” by removing the reference to firewood sales. Also, the definition of “friends group or organization” is updated to include those groups whose purpose may be to promote and enhance the Iowa state park system.
2. Rescind the rule regarding advertising and adopt a new rule that establishes the new process to advertise for new concession operations and the process to renew concession contracts.
3. Rescind the rule regarding the bid process and adopt a new rule that establishes the new process for bidding new concession operations, placement of vending machines, selling of firewood only, and concession operations run by friends groups.
4. Rescind the rule regarding selection of the concessionaire and adopt a new rule that establishes the criteria to be used to evaluate concession proposals.
5. Establish a new provision that allows the Department to have other vendors provide certain concession services if the services are not under contract with the current concessionaire and the current concessionaire declines to provide the service.
6. Clarify when a temporary letter of authorization is necessary if Commission approval is required by statute.
7. Update language to replace “park ranger” with “park staff” since there are other classifications of permanent park staff that may be involved with concession operations.

Any interested person may make written suggestions or comments on the proposed amendments on or before March 1, 2011. Such written material should be directed to Sherry Arntzen, State Parks Bureau, Department of Natural Resources, Wallace State Office Building, 502 East Ninth Street, Des Moines, Iowa 50319-0334. Comments may be sent by fax to (515)281-6794 or by E-mail to Sherry.Arntzen@dnr.iowa.gov. Persons who wish to convey their views orally should contact Sherry Arntzen at (515)242-6233.

There will be a public hearing on March 1, 2011, at 2 p.m. in the Fourth Floor West Conference Room in the Wallace State Office Building, at which time persons may present their views orally or in writing. At the hearing, persons will be asked to give their names and addresses for the record and to confine their remarks to the subject of the amendments.

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

These amendments are intended to implement Iowa Code sections 461A.3 and 461A.4.

The following amendments are proposed.

NATURAL RESOURCE COMMISSION[571](cont'd)

ITEM 1. Amend rule **571—14.1(461A)**, definition of “Concession operation,” as follows:

“*Concession operation*” means operating a business within a concession area in a state park or recreation area including, but not limited to, boat rental, snack food sales, beach operation, and sale of fishing bait and tackle, firewood sales, etc.

ITEM 2. Amend rule **571—14.1(461A)**, definition of “Friends group or organization,” as follows:

“*Friends group or organization*” means an organization incorporated under Iowa Code chapter 504A as a not-for-profit group which has been formed solely for the purpose of promoting and enhancing a particular state park, ~~or~~ recreation area, or the Iowa state park system, or any combination of the three.

ITEM 3. Rescind rule 571—14.2(461A) and adopt the following **new** rule in lieu thereof:

571—14.2(461A) Advertising or notice procedure.

14.2(1) *New concession.*

a. Advertising. When the department desires to obtain a new concession operation to offer multiple concession services in an area, the department shall advertise the request for proposals on the targeted small business Web site at <http://www.iowalifechanging.com/business/tsb/tsbsearchlogin.asp> and the department’s requests for proposals Web site at <http://www.iowadnr.gov/rfp.html>. The department shall advertise a notice for the request for proposals in one newspaper of statewide circulation and in the newspaper(s) designated by the county to be used for official publications in the county in which the state park or recreation area is located.

b. The notice shall state the following:

- (1) The names and location of the area(s) in which concession operations are available.
- (2) The general types of services the department would expect a concessionaire to furnish.
- (3) Information regarding how to obtain the request for proposals information.
- (4) The deadline for submission of proposals to the department.

c. The department shall allow a minimum of 15 days between the date of publication of advertisements and the deadline for submission of proposals.

d. The request for proposals shall include the following information:

(1) A scope of work that contains detailed information regarding the types of services expected to be offered by the concessionaire and the history of the gross receipts reported for the previous five operating years by the prior concessionaire (if applicable); bid terms acceptable to the department; the name, address, and telephone number of the person to contact regarding the request for proposals; and the date and time by which the proposals must be received by the department.

(2) A map of the park in which the concession operation is proposed.

(3) A sample of the contract the successful bidder will be expected to sign.

(4) Samples of report forms that the concessionaire must submit to the department while in operation.

14.2(2) *Renewal of existing concession operation.*

a. The department may, at its option, mutually agree with the concessionaire to renew a contract during or at the end of its term. A concessionaire may request renewal during the term of a contract after a minimum three years of concession operation and a minimum of six months prior to expiration of the existing contract. The provisions of the renewal contract shall be negotiated between the department and the concessionaire. Should either party choose not to renew the contract, appropriate notice shall be sent to the other party four months prior to the expiration date of the existing contract, and the department may advertise for bids in accordance with this chapter.

b. The department shall publish a notice of intent to renew a concession contract that has been negotiated in accordance with paragraph 14.2(2)“a.” The notice shall be published in the same manner as provided in paragraph 14.2(1)“a” and shall solicit public comments regarding the renewal.

c. The department director shall, upon review of comments received, determine whether to solicit bids or proceed with the renewal of the existing contract and shall notify the concessionaire of the decision in writing. If the director denies the renewal request, the existing concessionaire may request a contested case proceeding pursuant to Iowa Code chapter 17A.

NATURAL RESOURCE COMMISSION[571](cont'd)

ITEM 4. Rescind rule 571—14.3(461A) and adopt the following **new** rule in lieu thereof:

571—14.3(461A) Bidding process.

14.3(1) Proposals. Persons interested in operating a concession in a state park or recreation area shall submit a proposal in the format requested in the request for proposals. It is the bidder's responsibility to inspect the area proposed for concession operation and be fully aware of the condition and physical layout of the area. The proposal shall also include an explanation of any proposed operation not mentioned in the request for proposals. Concession facilities shall be bid on an "as is" basis unless the department agrees in writing to undertake certain improvements.

- a. The department reserves the right to reject any or all bids.
- b. If no bids are received for a concession operation, the department may:
 - (1) Readvertise for bids; or
 - (2) Contact interested persons and attempt to negotiate a contract; or
 - (3) Determine that there will be no concession operation in that particular area that year.

14.3(2) Vending machines.

- a. Placement of vending machines in state parks and recreation areas shall not be subject to the advertising and bidding process established by this chapter.
- b. Such machines may be placed in state parks and recreation areas only by the publisher or distributor of the newspaper to be sold, the distributor of the soft drink to be sold in the machines, or by private vending machine companies.
- c. Companies placing vending machines in state parks and recreation areas must submit a proposal to the department that states the location, number, and type of vending machines to be placed; the price(s) that will be charged to the public; and the proposed fee or commission to be paid to the state.
- d. Any fees or commissions to be paid by the vendor to the state shall be paid directly to the department's central office in Des Moines, Iowa.
- e. The department will not install new electrical lines, concrete pads, or any other items needed to enable installation of vending machines.

14.3(3) Firewood sales.

- a. Firewood sales contracts shall not be subject to the advertising and bidding process established by this chapter.
- b. Persons interested in selling firewood in a state park or recreation area that has no other concessionaire, or if the concessionaire has declined the opportunity to sell firewood, shall submit a request to the department that identifies the area(s) where the firewood would be sold, the price to be charged to the public, and the proposed fee or commission to be paid to the state.
- c. All firewood sold or distributed in state parks and recreation areas shall be accompanied with a firewood label that meets labeling requirements identified in 21—46.16(177A).
- d. All firewood that originates from a quarantined area and that is sold or distributed in state parks and recreation areas must be certified by the United States Department of Agriculture to show that the firewood has been processed or treated according to applicable federal regulations.

14.3(4) Friends group or organization.

- a. Concession contracts with a friends group or organization, as defined in 571—14.1(461A), in state parks and recreation areas shall not be subject to the advertising and bidding process established by this chapter.
- b. A friends group or organization shall submit a proposal to operate a concession operation at a particular state park or recreation area. The proposal shall state the services to be provided, the proposed hours of operation, and proposed staffing.
- c. All net proceeds from the sale of merchandise and other concession services shall be spent on state park or recreation area improvement projects.

NATURAL RESOURCE COMMISSION[571](cont'd)

ITEM 5. Rescind rule 571—14.4(461A) and adopt the following **new** rule in lieu thereof:

571—14.4(461A) Selection of a concessionaire. The department shall select the concessionaire it determines to be best suited for a concession operation in a state park or recreation area upon evaluation of the following information:

1. The services proposed in the concession operation, including whether foods and drinks recommended by the most current version of the Iowa department of public health's "Comprehensive Nutrition and Physical Activity Plan" are being offered.
2. The concessionaire's managerial experience and other concession-related experience.
3. The concessionaire's financial stability, based upon a review of the concessionaire's existing profitability, equity, available cash, and other applicable financial data.
4. The annual lease payment bid.
5. The length of contract proposed (five-year maximum).
6. A check of all business and personal references given in the proposal.
7. The use of environmentally friendly practices and materials including, but not limited to, participation in recycling programs, use of items that contain recycled content materials, use of energy-efficient appliances and equipment, and light pollution reduction.
8. The results of a criminal background check, driver's license record check, and child abuse registry check.

ITEM 6. Amend subrule 14.5(3) as follows:

14.5(3) Exclusive rights. The contract gives the concessionaire exclusive rights to conduct the concession operation ~~on~~ in a particular state park or recreation area. The concessionaire must have department approval prior to allowing other vendors to do business in the area under the terms of the contract. ~~This provision does not prohibit the department from allowing noncompetitive type vendors in an area during a department sponsored special event such as the forest craft festival. This provision does not prohibit the department from allowing other vendors in an area if the department identifies a service that is not under contract with the concessionaire and the concessionaire declines to provide that service.~~

ITEM 7. Amend subrule 14.5(4) as follows:

14.5(4) Temporary authorization. If necessary, the department director shall have authority to issue a temporary letter of authorization to enable the successful bidder to operate a concession pending approval of the contract by the commission if commission approval is required by statute. The letter of authorization will incorporate all stipulations and conditions of the contract. The term of the letter of authorization shall not exceed 90 calendar days from the date of issuance.

ITEM 8. Amend rule 571—14.6(461A) as follows:

571—14.6(461A) Dispute resolution. Should a dispute arise between the concessionaire and the department as to the interpretation of contract stipulations or whether the concessionaire is performing satisfactorily, the initial step ~~of~~ for resolving the dispute will be an informal meeting and discussion between the park ~~ranger~~ staff and the district parks supervisor or other department personnel in charge of the area and the concessionaire. If the matter cannot be resolved, the concessionaire or ~~area~~ department personnel in charge of the area may request a meeting with parks bureau staff in the central office of the department. The bureau chief shall, if possible, resolve the dispute to the satisfaction of all parties. If the dispute cannot be resolved, the contract shall be terminated and the department may advertise for bids in accordance with this chapter. The requirements of Iowa Code section 17A.18(3) shall apply to any contract termination under the provisions of this ~~paragraph~~ rule. The provisions of this ~~paragraph~~ rule shall not be a bar to or prerequisite of the provisions of rule 571—14.7(461A).

ARC 9354B**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,” Iowa Administrative Code.

The proposed amendment removes the requirement for the Board to send a renewal notice to the licensee. This change is being made to make licensure requirements consistent with Code of Iowa changes.

Any interested person may make written comments on the proposed amendment no later than March 1, 2011, 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 March 1, 2011, from 1:30 to 2 p.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 amendment.

This amendment is intended to implement Iowa Code chapters 21, 147, 151 and 272C.

The following amendment is proposed.

Amend subrule 41.8(1) as follows:

41.8(1) The biennial license renewal period for a license to practice as a chiropractic physician shall begin on July 1 of an even-numbered year and end on June 30 of the next even-numbered year. ~~The board shall send a renewal notice by regular mail to each licensee at the address on record at least 60 days prior to the expiration of the license.~~ The licensee is responsible for renewing the license prior to its expiration. Failure of the licensee to receive the notice from the board does not relieve the licensee of the responsibility for renewing the license.

ARC 9360B**PROFESSIONAL LICENSURE DIVISION[645]****Notice of Intended Action**

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

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

Pursuant to the authority of Iowa Code section 147.76, the Board of Physician Assistants hereby gives Notice of Intended Action to amend Chapter 328, “Continuing Education for Physician Assistants,” Iowa Administrative Code.

The proposed amendment clarifies renewal application requirements regarding Category II continuing education credit.

Any interested person may make written comments on the proposed amendment no later than March 1, 2011, addressed to Pierce Wilson, Professional Licensure Division, Department of Public Health, Lucas State Office Building, Des Moines, Iowa 50319-0075; E-mail pwilson@idph.state.ia.us.

PROFESSIONAL LICENSURE DIVISION[645](cont'd)

A public hearing will be held on March 1, 2011, from 2 to 2:30 p.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 amendment.

This amendment is intended to implement Iowa Code chapters 21, 147, 148C and 272C.

The following amendment is proposed.

Amend paragraph **328.3(2)“b”** as follows:

b. For the remaining 50 hours of required continuing medical education (CME), Category I or Category II (~~elective~~) credit, as accepted by the National Commission on Certification for Physician Assistants (NCCPA), shall satisfy the CME requirements. In case of audit, licensees shall provide an activity log for all Category II credits for which a certificate of completion is not available. The activity log shall list for each activity the date and type of activity and number of hours claimed per activity.

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:

February 1, 2010 — February 28, 2010	5.50%
March 1, 2010 — March 31, 2010	5.75%
April 1, 2010 — April 30, 2010	5.75%
May 1, 2010 — May 31, 2010	5.75%
June 1, 2010 — June 30, 2010	5.75%
July 1, 2010 — July 31, 2010	5.50%
August 1, 2010 — August 31, 2010	5.25%
September 1, 2010 — September 30, 2010	5.00%
October 1, 2010 — October 31, 2010	4.75%
November 1, 2010 — November 30, 2010	4.75%
December 1, 2010 — December 31, 2010	4.50%
January 1, 2011 — January 31, 2011	4.75%
February 1, 2011 — February 28, 2011	5.25%

ARC 9349B

AGING, DEPARTMENT ON[17]

Adopted and Filed

Pursuant to the authority of Iowa Code section 231.14, the Department on Aging amends Chapter 8, "Long-Term Care Resident's Advocate/Ombudsman," Iowa Administrative Code.

These amendments provide procedures for volunteer access to facility records and also clarify that a civil penalty of not more than \$1,500 may be imposed for interference with the duties of the state or a local long-term care resident's advocate/ombudsman.

Notice of Intended Action on these amendments was published in the Iowa Administrative Bulletin on November 17, 2010, as **ARC 9227B**. The Department received no public comments on the Notice of Intended Action. These amendments have been changed since publication of the Notice of Intended Action. Item 3 has been added to update the implementation sentence for Chapter 8.

The Commission on Aging adopted these amendments on January 10, 2011.

These amendments are intended to implement 2010 Iowa Acts, Senate File 2263.

These amendments will become effective on March 16, 2011.

The following amendments are adopted.

ITEM 1. Amend rule 17—8.3(231) as follows:

17—8.3(231) Interference.

8.3(1) A local long-term care resident's advocate/ombudsman or trained volunteer long-term care ombudsman certified under rule 17—8.7(231) who is denied access to a resident or tenant in a long-term care facility, assisted living program, or elder group home; or to medical and personal records while in the course of conducting official duties or whose work is interfered with during the course of an investigation shall report such denial or interference to the office of the state long-term care resident's advocate who will report the interference to the director of the department on aging.

8.3(2) Access to facility records. Copies of a resident's medical or personal records maintained by the facility, or other records of a long-term care facility, assisted living program, or elder group home, may be made with the permission of the resident, the resident's responsible party, or the legal representative of the resident. All medical and personal records shall be made available to a volunteer long-term care ombudsman for review if:

a. The volunteer long-term care ombudsman has written permission from the resident, the legal representative of the resident, or the responsible party; and

b. Access to the records is necessary to investigate a complaint; and

c. The volunteer long-term care ombudsman obtains approval of the resident's advocate/ombudsman or designee.

ITEM 2. Amend rule 17—8.4(231) as follows:

17—8.4(231) Monetary civil penalties—basis. The director, in consultation with the state long-term care resident's advocate/ombudsman, may impose a monetary civil penalty of not more than \$1,500 on an officer, owner, director, or employee of a long-term care facility, assisted living program, or elder group home who intentionally prevents, interferes with, or attempts to impede the duties of the state or a local long-term care resident's advocate/ombudsman. If the director imposes a penalty for a violation under this rule, no other state agency shall impose a penalty for the same interference violation.

AGING, DEPARTMENT ON[17](cont'd)

ITEM 3. Amend **17—Chapter 8**, implementation sentence, as follows:

These rules are intended to implement ~~2010 Iowa Acts, Senate File 2263, section 7~~ Iowa Code section 231.42.

[Filed 1/11/11, effective 3/16/11]

[Published 2/9/11]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 2/9/11.

ARC 9359B

ARCHITECTURAL EXAMINING BOARD[193B]

Adopted and Filed

Pursuant to the authority of Iowa Code section 544A.29, the Architectural Examining Board hereby amends Chapter 4, "Rules of Conduct," Iowa Administrative Code.

This amendment adopts new subrule 4.1(9), which requires a supervisor to respond to an intern request to verify experience hours and gives the supervisor the option to reject the submission and send it back for further revision.

The amendment is subject to waiver or variance pursuant to 193—Chapter 5.

Notice of Intended Action was published December 15, 2010, in the Iowa Administrative Bulletin as **ARC 9260B**. No comments were received. This amendment is identical to that published under Notice of Intended Action.

The Board adopted this amendment on January 19, 2011.

This amendment will become effective March 16, 2011.

The following amendment is adopted.

Adopt the following **new** subrule 4.1(9):

4.1(9) Intern Development Program supervisor. The Intern Development Program supervisor shall not fail to respond to a request to verify experience hours reported to the National Council of Architectural Registration Board's Intern Development Program when requested by NCARB, the board, or a subordinate, associate, or intern who is, or has been, supervised by the Intern Development Program supervisor.

[Filed 1/19/11, effective 3/16/11]

[Published 2/9/11]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 2/9/11.

ARC 9365B

ENVIRONMENTAL PROTECTION COMMISSION[567]

Adopted and Filed

Pursuant to the authority of Iowa Code sections 455B.105(11), 455B.173, 455B.186, and 455B.197, the Environmental Protection Commission hereby amends Chapter 60, "Scope of Title—Definitions—Forms—Rules of Practice," Chapter 64, "Wastewater Construction and Operation Permits," and Chapter 66, "Pesticide Application to Waters," Iowa Administrative Code.

The purpose of this rule making is to allow for the use of a new General Permit (No. 7) to authorize discharge of biological pesticides and chemical pesticides which leave a residue to waters of the United States, as required by U.S. Sixth Circuit Court of Appeals in their decision on January 7, 2009. This decision vacated the U.S. EPA's final rule exempting pesticides applied in accordance with the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) from the Clean Water Act (CWA) permitting requirements. The states and EPA have until April 9, 2011, to issue final general NPDES permits for pesticide applications.

ENVIRONMENTAL PROTECTION COMMISSION[567](cont'd)

Coverage under the draft NPDES Pesticides General Permit No. 7 (PGP) will be required for the application of: (1) biological pesticides whether or not they leave a residue, and (2) chemical pesticides which leave a residue (hereinafter collectively “pesticides”) that result in residue discharges to waters of the United States. Applicable pesticide applications include those for control of aquatic nuisance insects; weeds, algae, and bacteria or fish parasites; aquatic nuisance animals; and forest canopy pests. Irrigation return flows and agricultural runoff are not covered under the PGP as they are specifically exempted from the CWA.

The permit requires all operators to implement Best Management Practices (BMPs) to minimize discharges resulting from pesticide applications. These BMPs include following label instructions, conducting regular equipment maintenance, and visually monitoring application sites when possible. Larger applicators have additional requirements, including the submittal of a Notice of Intent (NOI) for coverage under the permit, the submittal of annual activity reports, and the preparation of pesticide discharge management plans.

Two requirements of Iowa’s General Permit No. 7 may be seen as more stringent than the draft federal pesticides permit EPA put on public notice: (1) the requirement, which is not included in EPA’s permit, to obtain prior approval before applying pesticides to sources of drinking water (Class C waters) and (2) the requirement to notify the Department within 6 hours of a hazardous condition, as opposed to the 24-hour notification requirement in EPA’s permit. The Department has historically required preapproval for pesticide applications to Class C waters based on Iowa Code section 455B.186 and 567—Chapter 66. The 6-hour hazardous condition notification requirement is identical to the requirement in 567—131.2(455B). Because both the prior-approval requirement and the hazardous condition notification requirement are currently present in existing rules, no additional fiscal impact will be placed on citizens or the State.

The amendments to Chapters 60, 64, and 66 that are adopted herein to accompany the PGP found at www.iowadnr.gov/water/npdes/pesticides.html are summarized below.

Chapter 60:

(1) Add the new Notice of Intent, Notice of Termination, and Annual Reporting forms for the new General Permit No. 7.

Chapter 64:

(1) Exempt discharges of biological pesticides and chemical pesticides that do not reach the waters of the United States from the requirement to obtain a DNR operating permit.

(2) Require the issuance of a General Permit No. 7 (the PGP) for specific pesticide discharges that reach waters of the United States.

(3) Exempt pesticide discharges which do not meet the thresholds established in the PGP from the requirement to submit a Notice of Intent.

(4) Establish effective and expiration dates for the PGP.

(5) Exempt the PGP from the collection of permitting fees.

(6) Make other changes as needed to accommodate the issuance of the PGP.

Chapter 66:

(1) Add references to Chapter 64 and the PGP.

(2) Remove the existing requirements, the denial conditions, and the special conditions for the previous aquatic pesticides general permit. All of these requirements and conditions are included in the PGP.

Notice of Intended Action for these amendments was published in the September 8, 2010, Iowa Administrative Bulletin as **ARC 9056B**. Comments were received during the public comment period and at six public hearings.

The adopted amendments were modified from those published under Notice of Intended Action based on the comments received during the public comment period. The following changes were made to the adopted amendments:

1. The phrase “which leave a residue” in 64.3(1)“f” was removed, and the phrase “water of the state” was changed to “water of the United States” in 66.1(1) for clarification purposes.

2. In Items 1, 3 and 8, form numbers were omitted as they have not been established yet.

ENVIRONMENTAL PROTECTION COMMISSION[567](cont'd)

The following modifications were made to General Permit No. 7 based on comments received during the public comment period and on changes made to EPA's draft federal pesticides permit:

1. Changes to the Notice of Intent thresholds were made to: (a) raise the linear mile weed threshold from 60 miles to 75 miles and from 60 acres to 80 acres; (b) raise the mosquito threshold from 1,000 acres to 6,400 acres; (c) raise the forest canopy threshold from 640 acres to 6,400 acres; and (d) raise the nuisance animal threshold from 20 acres to 80 acres to match EPA's updated draft permit and to ensure that Notices of Intent for coverage under the PGP are received only from the largest pesticide applicators.

2. The forest canopy use category was expanded to include ground application as well as aerial application, and the weed and algae use category was expanded to include fungi to match EPA's draft permit.

3. In order to simplify the requirement and to match EPA's latest draft permit, the submittal time for NOIs was changed to when an annual threshold is exceeded, rather than when an operator knows or should have reasonably known they would exceed a threshold.

4. The initial NOI submittal date was extended until October 9, 2011, to match EPA's draft permit and to allow time for program rollout.

5. The requirement that operators identify the target "species" was changed to a requirement that operators identify the target "pest" to match EPA's draft permit.

6. The requirement to maintain records for equipment cleaning and repair was removed to match EPA's draft permit.

These amendments may have an impact upon small businesses.

These amendments are intended to implement Iowa Code sections 455B.105(11), 455B.173, 455B.186 and 455B.197.

These amendments shall become effective March 30, 2011.

The following amendments are adopted.

ITEM 1. Adopt the following new paragraphs **60.3(2)“w”** and **“x”**:

w. Notice of Intent for Coverage Under NPDES General Permit No. 7, "Pesticide General Permit (PGP) for Point Source Discharges to Waters of the United States From the Application of Pesticides."

x. Notice of Discontinuation From Coverage Under General Permit No. 7.

ITEM 2. Reletter paragraph **60.3(3)“j”** as **60.3(3)“k.”**

ITEM 3. Adopt the following new paragraph **60.3(3)“j”**:

j. General Permit No. 7, "Pesticide General Permit (PGP) for Point Source Discharges to Waters of the United States From the Application of Pesticides," Annual Monitoring Report.

ITEM 4. Adopt the following new paragraph **64.3(1)“f”**:

f. Discharges from the application of biological pesticides and chemical pesticides where the discharge does not reach a water of the United States as defined in 40 CFR Part 122.2.

ITEM 5. Adopt the following new subparagraph **64.3(4)“b”(7)**:

(7) For the discharge of biological pesticides and chemical pesticides which leave a residue to a water of the United States (as defined in 40 CFR Part 122.2) that meet any of the thresholds established in General Permit No. 7 after March 30, 2011.

ITEM 6. Amend subparagraph **64.3(11)“b”(4)** as follows:

(4) Failure to submit such records and information as the director shall require both generally and as a condition of the ~~operation~~ permit in order to ensure compliance with the discharge conditions specified in the permit.

ITEM 7. Adopt the following new subparagraph **64.4(2)“a”(5)**:

(5) Discharges from the application of biological pesticides and chemical pesticides which leave a residue where the discharge will reach a water of the United States as defined in 40 CFR Part 122.2.

ITEM 8. Adopt the following new subparagraph **64.6(1)“a”(6)**:

(6) General Permit No. 7, "Pesticide General Permit (PGP) for Point Source Discharges to Waters of the United States From the Application of Pesticides."

ENVIRONMENTAL PROTECTION COMMISSION[567](cont'd)

ITEM 9. Amend subparagraphs **64.6(1)“c”(2)** and **(3)** as follows:

(2) General ~~Permit~~ Permits No. 4, No. 5, No. 6, and No. 7. There are no public notification requirements for ~~this permit~~ these permits.

~~(3) General Permit No. 5. There are no public notification requirements for this permit.~~

ITEM 10. Amend paragraph **64.6(3)“c”** as follows:

c. The department finds that water well construction and well service discharge ~~is~~ are not managed in a manner consistent with the conditions specified in General Permit No. 6-, or

ITEM 11. Adopt the following **new** paragraph **64.6(3)“d”**:

d. The department finds that discharges from biological pesticides and chemical pesticides which leave a residue are not managed in a manner consistent with the conditions specified in General Permit No. 7.

ITEM 12. Amend subrule 64.8(2) as follows:

64.8(2) *Renewal of coverage under a general permit.* Coverage under a general permit will be renewed subject to the terms and conditions in paragraphs “a” to “d.”

a. If a permittee intends to continue an activity covered by a general permit beyond the expiration date of the general permit, the permittee must reapply and submit a complete Notice of Intent ~~as follows:~~ in accordance with 64.6(1).

~~(1) For storm water discharge associated with industrial activity, complete Notice of Intent requirements are listed in 64.6(1).~~

~~(2) Reserved.~~

b. No change.

c. A person holding a general permit is subject to the terms of the permit until it expires or a Notice of Discontinuation is submitted in accordance with 64.6(5). If the person holding a general permit continues the activity beyond the expiration date, the conditions of the expired general permit will remain in effect provided the permittee submits a complete Notice of Intent for coverage under a renewed or reissued general permit within 180 days after the expiration date of the expired general permit. If the person continues an activity for which the general permit has expired and the general permit has not been reissued or renewed, the discharge must be permitted with an individual NPDES permit according to the procedures in 64.3(4) “a.”

d. No change.

ITEM 13. Adopt the following **new** subrule 64.15(7):

64.15(7) “Pesticide General Permit (PGP) for Point Source Discharges to Waters of the United States From the Application of Pesticides,” NPDES General Permit No. 7, effective March 30, 2011, to March 29, 2016.

ITEM 14. Adopt the following **new** subrule 64.16(6):

64.16(6) “Pesticide General Permit (PGP) for Point Source Discharges to Waters of the United States From the Application of Pesticides,” NPDES General Permit No. 7. No fees shall be assessed.

ITEM 15. Amend subrules 66.1(1) and 66.1(2) as follows:

66.1(1) *Prohibited discharges.* Pesticides, ~~including aquatic pesticides,~~ shall not be applied to any water of the state ~~designated in 567—subrule 61.3(5) as Class “A,” Class “C,” high quality, or high quality resource~~ United States (as defined in 40 CFR Part 122.2) except as provided in 66.1(2) and 567—Chapter 64.

66.1(2) *Allowable applications.* ~~Aquatic pesticides~~ Pesticides may be applied to any water of the state ~~designated in 567—subrule 61.3(5) as Class “A,” Class “C,” high quality, or high quality resource~~ provided that the applicator has a valid Category 5—aquatic pest control certification from the department of agriculture and land stewardship pursuant to 21—paragraph 45.22(2)“e,” and has received a permit from the department United States (as defined in 40 CFR Part 122.2) in accordance with these rules: 567—Chapter 64 and NPDES General Permit No. 7, “Pesticide General Permit (PGP) for Point Source Discharges to Waters of the United States From the Application of Pesticides.”

ENVIRONMENTAL PROTECTION COMMISSION[567](cont'd)

ITEM 16. Rescind and reserve subrules **66.1(3)** to **66.1(5)**.

[Filed 1/21/11, effective 3/30/11]

[Published 2/9/11]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 2/9/11.

ARC 9350B

HUMAN SERVICES DEPARTMENT[441]

Adopted and Filed

Pursuant to the authority of Iowa Code section 234.6(4), the Department of Human Services amends Chapter 47, "Diversion Initiatives," Iowa Administrative Code.

The amendments:

- Change the name of the Promoting Healthy Marriage program to Promoting Awareness of the Benefits of a Healthy Marriage. The new name more accurately reflects the program's purpose, which is to promote awareness of the benefits of a healthy marriage.
- Align the implementation of annual adjustments to the federal poverty guidelines for the program with the annual adjustments to income and allotment limits for the Food Assistance program. This change provides for consistent eligibility determination both for households that are categorically eligible for Food Assistance due to eligibility for the Promoting Awareness of the Benefits of a Healthy Marriage program and for the relatively few households that cannot meet categorical eligibility criteria.

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).

Notice of Intended Action on these amendments was published in the Iowa Administrative Bulletin on November 17, 2010, as **ARC 9225B**. The Department received no comments on the Notice of Intended Action. These amendments are identical to the amendments published under Notice of Intended Action.

The Council on Human Services adopted these amendments on January 12, 2011.

These amendments are intended to implement Iowa Code section 234.6.

These amendments shall become effective on April 1, 2011.

The following amendments are adopted.

ITEM 1. Amend **441—Chapter 47**, Division I title and preamble, as follows:

DIVISION I
PROMOTING AWARENESS OF THE BENEFITS OF A HEALTHY MARRIAGE

PREAMBLE

These rules implement the Iowa promoting awareness of the benefits of a healthy marriage program. This program uses federal funds from the Temporary Assistance to Needy Families (TANF) block grant to provide information to certain households about the benefits of a healthy and stable marriage. Eligibility for this program also establishes categorical eligibility for the Iowa food assistance program under 441—Chapter 65.

ITEM 2. Amend rules 441—47.1(234) and 441—47.2(234) as follows:

441—47.1(234) Eligibility criteria. Eligibility for the promoting awareness of the benefits of a healthy marriage program is always determined in conjunction with determination of eligibility for ~~the~~ food assistance ~~program~~ under 441—Chapter 65.

47.1(1) Application. There is no separate application for the ~~promoting healthy marriage~~ program. Eligibility for the program is determined whenever the department determines a household's eligibility for food assistance.

47.1(2) Resources. There is no asset test for the ~~promoting healthy marriage~~ program.

HUMAN SERVICES DEPARTMENT[441](cont'd)

47.1(3) Income. The household’s gross countable monthly income determined according to rule 441—65.29(234) must be less than or equal to 160 percent of the current federal poverty guidelines for the household size. The income eligibility limits as described in this subrule are revised each October 1 to reflect the annual adjustment to the federal poverty guidelines.

47.1(4) Otherwise eligible for food assistance. The household must meet all eligibility criteria for the food assistance program except as provided in this rule. A household that includes a member who is currently disqualified from the food assistance program due to an intentional program violation is not eligible for the ~~promoting healthy marriage~~ program.

47.1(5) Minimum food assistance benefit. The household must be eligible for a monthly food assistance benefit greater than zero. Households with a monthly food assistance benefit of zero are not eligible for the ~~promoting healthy marriage~~ program.

441—47.2(234) Notice and eligibility period. A household that meets all of the eligibility criteria in rule 441—47.1(234) shall receive written notice of its eligibility for the promoting awareness of the benefits of a healthy marriage program.

47.2(1) No change.

47.2(2) Eligibility period. A household that is determined eligible for the ~~promoting healthy marriage~~ program shall remain eligible for the program until the earlier of the following events:

a. and b. No change.

[Filed 1/12/11, effective 4/1/11]

[Published 2/9/11]

EDITOR’S NOTE: For replacement pages for IAC, see IAC Supplement 2/9/11.

ARC 9351B

HUMAN SERVICES DEPARTMENT[441]

Adopted and Filed

Pursuant to the authority of Iowa Code sections 252D.22 and 252D.17(13), the Department of Human Services amends Chapter 97, “Collection Services Center,” Iowa Administrative Code.

The amendments implement a legislative requirement that payors of income begin submitting child support payments to the Collection Services Center electronically (rather than by check) no later than June 30, 2015, unless an exemption applies. The use of electronic funds transmission is a faster and safer way for payors of income to make payments. Since the payments are not sent through the U.S. mail, payments are received timely and provide a stable payment frequency for families receiving the support.

The amendments provide a phased-in implementation schedule, beginning with larger employers, since they often already have the capability to make other types of payments electronically. The schedule is as follows:

<u>Number of Employees</u>	<u>Deadline for Compliance</u>
1,000 or more	December 31, 2011
500 to 999	December 31, 2012
200 to 449	December 31, 2013
100 or more with an agent for payroll processing	December 31, 2013

Payors of income that have fewer than 200 employees and process their own payroll and all payors of income that have fewer than 100 employees are exempt from these requirements, since for these payors electronic submission would be less cost-effective and possibly more of a hardship to implement. The amendments emphasize electronic funds transmission, but also allow payment via a secure Web site as an alternative if electronic funds transmission is an undue hardship.

HUMAN SERVICES DEPARTMENT[441](cont'd)

Requests for a 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 for these amendments was published in the Iowa Administrative Bulletin on November 3, 2010, as **ARC 9215B**. The Department held four public hearings for the purpose of receiving comments on the proposed amendments. No one attended the hearings. 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 January 12, 2011.

These amendments are intended to implement Iowa Code section 252D.17(13).

These amendments will become effective April 1, 2011.

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 [97.1, 97.4, 97.5] is being omitted. These amendments are identical to those published under Notice as **ARC 9215B**, IAB 11/3/10.

[Filed 1/12/11, effective 4/1/11]

[Published 2/9/11]

[For replacement pages for IAC, see IAC Supplement 2/9/11.]

ARC 9352B**HUMAN SERVICES DEPARTMENT[441]****Adopted and Filed**

Pursuant to the authority of Iowa Code sections 252B.5(10) and 252H.4(4) and 2010 Iowa Acts, Senate File 2158, section 10, the Department of Human Services amends Chapter 99, "Support Establishment and Adjustment Services," Iowa Administrative Code.

These amendments are technical changes to conform the rules to statutory changes regarding the review, adjustment, and modification of court orders for child and medical support. The Child Support Recovery Unit is responsible for periodic review of support orders when the support has been assigned to the state due to the payee's receipt of public assistance. A parent also has the right to request the review of a support order for which the Unit is currently providing enforcement. The purpose of the review is to determine whether the amount of the support obligation should be adjusted in light of the current child support guidelines and the current circumstances of the parents.

The statutory changes were made to comply with the federal Deficit Reduction Act of 2005, Public Law 109-71, and have already been implemented. Those changes:

- Shortened some waiting periods for review and adjustment. Under the normal review process, the Child Support Recovery Unit must notify the parents of its intent to review the order, collect information from the parents and, after a waiting period, conduct the review and issue a notice of decision on the intended adjustment. The prereview waiting period, for example, has been reduced from 30 days to 15 days.

- Enabled the Child Support Recovery Unit to conduct a review using financial information to which the Unit already has access, notify the parents of the recalculated support amount, and ask if either parent disagrees. This abbreviated method of review is authorized in Iowa Code section 252H.14A.

Under either process, the parent has the right to challenge the decision by requesting a second review or requesting a court hearing on the second review decision.

In addition, the amendments to subrules 99.83(5), 99.85(1) and 99.85(3) update references to sections in the reorganized Iowa Code chapter 598. Other amendments adopted herein eliminate unnumbered paragraphs in the rules.

These amendments do not provide for waivers in specified situations because they are technical changes to conform the rules to statutory changes. The rules and Iowa Code chapter 252H already

HUMAN SERVICES DEPARTMENT[441](cont'd)

provide for parties' rights to challenge a review, obtain a second review, or present information to a judge if a party disagrees with the outcome of a review.

Notice of Intended Action on these amendments was published in the Iowa Administrative Bulletin on November 3, 2010, as **ARC 9195B**. The Department received comments on the Notice of Intended Action from one person, requesting that all time frames be extended and further limits be placed on the Department's ability to gather information. Since time frames and procedures in these amendments are based on statutory mandates, the amendments have not been changed in response to public comment. However, references to 2010 Iowa Acts, Senate File 2158, have been updated to 2011 Iowa Code references and, as a consequence, Item 14, which amended the implementation sentence for Division V, has not been adopted.

The Council on Human Services adopted these amendments on January 12, 2011.

These amendments are intended to implement Iowa Code sections 252B.5 to 252B.7 and 598.21C(2) and Iowa Code chapter 252H.

These amendments shall become effective on April 1, 2011.

The following amendments are adopted.

ITEM 1. Amend paragraph **99.62(1)“b”** as follows:

b. ~~The right to any ongoing medical support obligation is currently assigned to the state and the support order does not already contain medical support provisions.~~

ITEM 2. Amend paragraph **99.62(3)“b”** as follows:

b. ~~Procedures to modify a support order may be initiated when all of the following conditions are met: the order does not include provisions for medical support.~~

~~(1) The order does not include provisions for health insurance coverage or other medical support.~~

~~(2) Health insurance coverage for the children affected by the support order is available at a reasonable cost to the parent required to pay support.~~

~~(3) The children are not otherwise adequately covered under a health benefit plan by the custodial parent or spouse of the custodial parent, excluding coverage under Medicaid.~~

~~For the purpose of this rule, health insurance is considered reasonable in cost if it is employment-related or other group health insurance as specified in Iowa Code section 598.21(4)“a.”~~

ITEM 3. Amend subrules 99.63(2) to 99.63(4) as follows:

99.63(2) Notice of intent to review. One of the following shall apply:

a. ~~At least 30~~ 15 days before the review is conducted, the child support recovery unit shall serve notice of its intent to review the order on each parent affected by the child support obligation. This notice shall include a request that the parties complete a financial statement and provide verification of income. The notice shall be served in accordance with Iowa Code section 252B.26 or 252H.15.

b. If the conditions of Iowa Code section 252H.14A(1) are met, the unit may conduct a review using information accessible to the unit without:

(1) Issuing a notice under paragraph 99.63(2)“a,” or

(2) Requesting additional information from the parent.

99.63(3) Notice of review outcome decision. ~~After the child support recovery unit completes the review of the child support obligation in accordance with rule 441—99.62(252B,252H), the unit shall send issue a notice to the last known address of each parent of decision in accordance with Iowa Code section 252H.14A or 252H.16 stating whether or not an adjustment is appropriate and, if so, the unit's intent to enter an administrative order for adjustment.~~

a. and *b.* No change.

99.63(4) Challenges to outcome of review. ~~Each parent shall be allowed 10 days from the date of the notice of decision to submit a written request for a second review challenging this the determination to of the child support recovery unit. The procedure for challenging the determination is as follows:~~

a. The parent challenging the determination shall submit the request for a second review in writing to the child support recovery unit stating the reasons for the request and providing written evidence necessary to support the challenge. The request must be submitted:

HUMAN SERVICES DEPARTMENT[441](cont'd)

(1) Within 10 days from the date of a notice of decision issued pursuant to Iowa Code section 252H.16, or

(2) Within 30 days from service of a notice of decision issued pursuant to Iowa Code section 252H.14A.

b. and c. No change.

d. ~~If~~ For a review initiated under Iowa Code section 252H.15, if either parent disputes the second decision, the objecting parent may request a court hearing within ~~30~~ 15 days from the date the notice of decision is issued or within 10 days of the date the second notice of decision is issued, whichever is later.

e. For a review initiated under Iowa Code section 252H.14A, either parent may request a court hearing within 10 days of the issuance of the second notice of decision.

f. If the unit receives a timely written request or the unit determines that a court hearing is necessary, the unit shall certify the matter to the district court. An objecting parent may seek recourse by filing a private petition for modification through the district court.

ITEM 4. Amend subrule 99.64(1), introductory paragraph, as follows:

99.64(1) *Financial statements.* ~~Both~~ Except for a review initiated under Iowa Code section 252H.14A, both parents subject to the order to be reviewed shall provide a financial statement and verification of income within ten days of service of the notice of the unit's intent to review the obligation. If a review is initiated under Iowa Code section 252H.14A and the first notice of decision is challenged as described in subrule 99.63(4), both parents shall be requested to provide a financial statement and verification of income within ten days of the unit's request.

ITEM 5. Amend subrule 99.64(2) as follows:

99.64(2) *Independent sources.* The child support recovery unit may utilize other resources to obtain or confirm information concerning the financial circumstances of the parents subject to the order to be reviewed.

a. These resources include, but are not limited to, the following: the Iowa workforce development department, the Iowa department of revenue, the Internal Revenue Service, the employment, revenue, and child support recovery agencies of other states, and the Social Security Administration.

b. In the absence of other verification of income and deductions allowed under the mandatory support guidelines, the child support recovery unit may estimate the net earned income of a parent for the purpose of determining the amount of support that would be due under the guidelines by deducting 20 percent from the gross earned income confirmed by an independent source. A parent may challenge this estimate by providing verification of actual earned income deductions.

ITEM 6. Amend subrule 99.65(3) as follows:

99.65(3) *Private counsel.* ~~After the notice of intent to review and adjust has been served issued as described in subrule 99.63(2) or 99.63(3),~~ any party may choose to be represented personally by private counsel. Any party who retains private counsel shall notify the child support recovery unit of this fact in writing.

ITEM 7. Amend rule 441—99.66(252B,252H) as follows:

441—99.66(252B,252H) *Medical support.* The child support recovery unit, or its attorney, shall review the medical support provisions contained in any permanent child support order which is subject to review under rule 441—99.65(252B,252H) and shall include in any adjustment order a provision for ~~an employment-related or other group health benefit plan~~ medical support as defined in Iowa Code chapter 252E, and as set forth in 441—Chapter 98, Division I, or other appropriate provisions pertaining to medical support for all children affected directly by the child support order under review.

ITEM 8. Amend subrule 99.67(2) as follows:

99.67(2) *Other documentation.* Supporting financial documentation such as state and federal income tax returns, ~~paycheck~~ pay stubs, IRS Form W-2, bank statements, and other written evidence of financial status may be disclosed to the court after the notice of ~~intent to review and adjust~~ has been served issued as described in subrule 99.63(2) or 99.63(3), unless otherwise prohibited by state or federal law.

HUMAN SERVICES DEPARTMENT[441](cont'd)

ITEM 9. Amend **441—Chapter 99**, Division IV, implementation sentence, as follows:

These rules are intended to implement Iowa Code sections 252B.5 to 252B.7 and ~~598.21(9)~~ 598.21C(2) and Iowa Code chapter 252H.

ITEM 10. Amend subrule 99.83(5) as follows:

99.83(5) *Noncompliance by minor obligors.* The unit may initiate procedures to modify a support order if a parent requests modification in writing or the unit determines that it is appropriate when:

- a. An obligor who is under 18 years of age fails to comply with the requirement to attend parenting classes pursuant to Iowa Code section ~~598.21A~~ 598.21G; or
- b. An obligor who is 19 years of age or younger fails to provide proof of compliance with education requirements described in Iowa Code section ~~598.21(4)“e”~~ 598.21B(2)“e”; or
- c. The obligor no longer meets the age requirements as defined in Iowa Code section ~~598.21A~~ 598.21B(2)“e” or ~~598.21(4)“e.”~~ 598.21G.

ITEM 11. Amend subparagraph **99.84(1)“b”(2)** as follows:

(2) If the modification is based on subrules 99.83(1) through 99.83(5), notice shall be provided to each parent. The notice shall be served in accordance with the Iowa Rules of Civil Procedure or Iowa Code section 252B.26 or 252H.19.

ITEM 12. Amend subrules 99.85(1) and 99.85(3) as follows:

99.85(1) *Financial statements.* Parents subject to the order shall provide a financial statement and verification of income within ten days of a written request by the unit.

a. If the modification action is based on a substantial change of circumstances;:

(1) ~~the~~ The requesting party must provide Form 470-2749, Request to Modify a Child Support Order, and documentation that proves the amount of change in net income and the date the change took place, such as;:

~~(1)~~ 1. Copies of state and federal income tax returns, W-2 statements, or pay stubs, or

~~(2)~~ 2. A signed statement from an employer or other source of income.

(2) The unit shall review the request and documentation. If appropriate, the unit shall issue to each parent a notice of intent to modify the order as stated in subrule 99.84(1) and a financial statement. Each parent shall complete and sign the financial statement and return it to the unit with verification of income and deductions as described in subrule 99.1(3).

b. ~~If the modification action is based on addition of a child; changing reserved, zero-dollar amount, or medical-provisions-only obligations; making a correction (if financial information is needed); or noncompliance by a minor obligor, as defined in Iowa Code section 598.21A or 598.21(4)“e,”~~ The unit may require a completed and signed financial statement and verification of income from each parent as described in subrule 99.1(3): if the modification is based on:

(1) Addition of a child;

(2) Changing a reserved or zero-dollar-amount obligation;

(3) Changing a medical-provisions-only obligation;

(4) Making a correction (if financial information is needed); or

(5) Noncompliance by a minor obligor as defined in Iowa Code section 598.21B(2)“e” or 598.21G.

~~(1)~~ c. The unit may also request that a parent requesting a modification provide an affidavit regarding the financial circumstances of the nonrequesting parent when the unit is otherwise unable to obtain financial information concerning the nonrequesting parent. The requesting parent shall complete the affidavit if the parent possesses sufficient information to do so.

~~(2)~~ d. The unit may also use the most recent wage rate information published by the department of workforce development or the median income for parents on the unit caseload to estimate the net earned income of a parent when a parent has failed to return a completed financial statement when requested and complete and accurate information is not readily available from other sources.

~~(3)~~ e. Self-employment income will be determined as described in subrule 99.1(5).

99.85(3) *Guidelines calculations.*

a. The unit shall determine;

HUMAN SERVICES DEPARTMENT[441](cont'd)

(1) ~~the~~ The appropriate amount of the child support obligation (excluding cost-of-living alteration amounts) as described in rules 441—99.1(234,252B) through 441—99.5(234,252B), and shall determine

(2) ~~medical~~ Medical support provisions as described in Iowa Code chapter 252E and rules 441—98.1(252E) through 441—98.7(252E).

b. If the modification action is due to noncompliance by a minor obligor, as defined in Iowa Code section ~~598.21A~~ 598.21B(2) “e” or ~~598.21(4)“e,”~~ 598.21G, the unit will impute an income to the obligor equal to a 40-hour workweek at the state minimum wage, unless the parent’s education, experience, or actual earnings justify a higher income.

ITEM 13. Amend rule 441—99.87(252H) as follows:

441—99.87(252H) Voluntary reduction of income.

99.87(1) The unit shall not modify the support order based on a substantial change of circumstances if a change in income is:

a. ~~due~~ Due to a voluntary reduction in net monthly income attributable to the actions of the party, or is

b. ~~due~~ Due to any material misrepresentation of fact concerning any financial information submitted to the child support recovery unit.

99.87(2) The unit may request verification that a loss of employment was not voluntary or that all facts concerning financial information are true. Verification may include, but is not limited to, a statement from the employer, a doctor, or other person with knowledge of the situation.

[Filed 1/12/11, effective 4/1/11]

[Published 2/9/11]

EDITOR’S NOTE: For replacement pages for IAC, see IAC Supplement 2/9/11.

ARC 9355B

PUBLIC HEALTH DEPARTMENT[641]

Adopted and Filed

Pursuant to the authority of Iowa Code section 135.11, the Department of Public Health hereby amends Chapter 92, “Iowa Fatality Review Committee,” Iowa Administrative Code.

The rules in Chapter 92 describe the formation of and protocol for the Iowa fatality review committee, an ad hoc committee appointed on a case-by-case basis to determine whether the Department of Human Services and others involved with a case of child abuse resulting in the death of a child responded appropriately. These amendments place the responsibility for this committee in the State Medical Examiner’s office.

Notice of Intended Action was published in the November 17, 2010, Iowa Administrative Bulletin as **ARC 9236B**. No comments were received. The adopted amendments are identical to those published under Notice.

The State Board of Health adopted these amendments on January 12, 2011.

These amendments will become effective on March 16, 2011.

These amendments are intended to implement Iowa Code section 135.43.

The following amendments are adopted.

ITEM 1. Rescind the definition of “Director” in rule **641—92.2(135)**.

ITEM 2. Amend rule 641—92.3(135) as follows:

641—92.3(135) Committee. The committee is an ad hoc committee appointed by the ~~director~~ state medical examiner on a case-by-case basis. The committee shall include a medical examiner, a pediatrician who is knowledgeable concerning deaths of children, and a person involved in law enforcement. The committee may also consult with individuals with specific child death expertise as

PUBLIC HEALTH DEPARTMENT[641](cont'd)

necessary to perform the duties and responsibilities of the committee. The ~~department~~ office of the state medical examiner shall provide staffing and administrative support to the committee.

ITEM 3. Amend rule 641—92.4(135) as follows:

641—92.4(135) Formation of the committee. The ~~director~~ state medical examiner may appoint a committee to review the death of a child under the age of 18 upon the request from a member of the legislature or the governor in cases in which a report of suspected child abuse had been filed with the department of human services pursuant to Iowa Code section 232.70 within two years preceding the child's death.

ITEM 4. Amend subrule 92.6(1) as follows:

92.6(1) Upon completion of the review, the ~~director~~ state medical examiner shall submit the committee's report to:

a. to c. No change.

ITEM 5. Adopt the following new subrule 92.6(3):

92.6(3) If deemed appropriate by the committee, the committee may, at any point in the review, recommend to the department of human services, appropriate law enforcement agencies, and any other person involved with child protection, interventions intended to prevent harm to a child who is related to or is living in the same home as a child whose case is reviewed by the committee.

[Filed 1/18/11, effective 3/16/11]

[Published 2/9/11]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 2/9/11.

ARC 9356B

PUBLIC HEALTH DEPARTMENT[641]

Adopted and Filed

Pursuant to the authority of Iowa Code section 147A.4, the Department of Public Health hereby amends Chapter 130, "Emergency Medical Services Advisory Council," Iowa Administrative Code.

The rules in Chapter 130 describe the purpose, membership, appointment process, officers, and meeting procedures for the Emergency Medical Services Advisory Council. These amendments add representatives to the Council.

Notice of Intended Action was published in the November 17, 2010, Iowa Administrative Bulletin as **ARC 9237B**. No comments were received. The adopted amendments are identical to those published under Notice.

The State Board of Health adopted these amendments on January 12, 2011.

These amendments will become effective on March 16, 2011.

These amendments are intended to implement Iowa Code chapter 147A.

The following amendments are adopted.

ITEM 1. Rescind and reserve subparagraph **130.3(2)"b"(3)**.

ITEM 2. Amend paragraph **130.3(2)"e"** as follows:

e. Three out-of-hospital emergency medical care providers, with at least one representing volunteer EMS and one representing a private service program, from the Iowa EMS Association.

PUBLIC HEALTH DEPARTMENT[641](cont'd)

- ITEM 3. Adopt the following **new** paragraph **130.3(2)“f”**:
f. Two at-large volunteer emergency medical care providers.

[Filed 1/18/11, effective 3/16/11]

[Published 2/9/11]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 2/9/11.

ARC 9357B

PUBLIC HEALTH DEPARTMENT[641]

Adopted and Filed

Pursuant to the authority of Iowa Code section 147A.4, the Department of Public Health hereby amends Chapter 132, “Emergency Medical Service—Service Program Authorization,” Iowa Administrative Code.

The rules in Chapter 132 describe the standards for the authorization of EMS services. These amendments remove references to basic care.

Notice of Intended Action was published in the November 17, 2010, Iowa Administrative Bulletin as **ARC 9240B**. No comments were received. The adopted amendments are identical to those published under Notice.

The State Board of Health adopted these amendments on January 12, 2011.

These amendments will become effective on March 16, 2011.

These amendments are intended to implement Iowa Code chapter 147A.

The following amendments are adopted.

ITEM 1. Rescind the definitions of “Basic ambulance service” and “Basic care” in rule **641—132.1(147A)**.

ITEM 2. Amend paragraph **132.7(5)“a”** as follows:

a. A temporary service program authorization may be issued to services that wish to operate during special events that may need emergency medical care coverage ~~at a level other than basic care~~. Temporary authorization is valid for a period of 30 days unless otherwise specified on the certificate of authorization or unless sooner suspended or revoked. Temporary authorization shall apply to those requirements and standards for which the department is responsible. Applicants shall complete and submit the necessary forms to the department at least 30 days prior to the anticipated date of need.

ITEM 3. Rescind and reserve subparagraph **132.8(2)“a”(1)**.

ITEM 4. Amend subrule 132.8(9) as follows:

132.8(9) Implementation. The director may grant exceptions and variances from the requirements of this chapter for any ambulance or nontransport service. Exceptions or variations shall be reasonably related to undue hardships which existing services experience in complying with this chapter. Services requesting exceptions and variances shall be subject to other applicable rules adopted pursuant to Iowa Code chapter 147A. ~~Nothing in this chapter shall be construed to require any nontransport service to provide a level of care beyond minimum basic care standards.~~

[Filed 1/18/11, effective 3/16/11]

[Published 2/9/11]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 2/9/11.

ARC 9358B**PUBLIC HEALTH DEPARTMENT[641]****Adopted and Filed**

Pursuant to the authority of Iowa Code sections 135.26 and 613.17(2b), the Department of Public Health hereby amends Chapter 143, "Automated External Defibrillator Program," Iowa Administrative Code.

The rules in Chapter 143 describe the automated external defibrillator (AED) program, which provides funds for eligible organizations seeking to implement an early defibrillator program and the standards for maintenance of an AED device in accordance with Iowa Code section 613.17(2b). These amendments provide authorization for local fire departments with AEDs to respond to cardiac arrest events in their communities.

Notice of Intended Action was published in the November 17, 2010, Iowa Administrative Bulletin as **ARC 9241B**. No comments were received. These amendments have been changed since publication of the Notice of Intended Action. The term "EMS service" has been changed to "EMS service program" in the first sentence of rule 641—143.16(147A), and a reference to Iowa Code chapter 147A has been added to the implementation sentence at the end of Item 3.

The State Board of Health adopted these amendments on January 12, 2011.

These amendments will become effective on March 16, 2011.

These amendments are intended to implement Iowa Code chapters 135 and 613.

The following amendments are adopted.

ITEM 1. Reserve rules **641—143.13** to **641—143.15**.

ITEM 2. Insert the following **new** heading before rule 641—143.16(147A):

FIRE DEPARTMENT RESPONSE WITH AUTOMATED EXTERNAL DEFIBRILLATOR

ITEM 3. Adopt the following **new** rules 641—143.16(147A) to 641—143.18(147A):

641—143.16(147A) Purpose. The purpose of these rules is to allow a local fire department that is not authorized as an EMS service program and that has an AED to respond to cardiac arrest events in the department's community. These rules are intended to enhance and supplement the local EMS system with nontraditional early defibrillation programs.

641—143.17(147A) Definitions. For the purpose of these rules, the following definitions shall apply:

"Automated external defibrillator" or "AED" means an external semiautomatic device that determines whether defibrillation is required.

"CPR" means training and successful course completion in cardiopulmonary resuscitation, AED, and obstructed airway procedures for all age groups according to recognized national standards.

"Emergency medical care provider" means an individual who has been trained to provide emergency and nonemergency medical care at the first responder, EMT-basic, EMT-intermediate, EMT-paramedic, paramedic specialist or other certification levels recognized by the department before 1984 and who has been issued a certificate by the department.

"Local fire department" means a paid, volunteer, or combination fire protection service provided by a benefited fire district under Iowa Code chapter 357B or by a county, municipality or township or a private corporate organization that has a valid contract to provide fire protection service for a benefited fire district, county, municipality, township or governmental agency. "Local fire department" does not include a military or private industrial fire department or an authorized Iowa EMS service.

"Service program" or "service" means any medical care ambulance service or nontransport service that has received authorization by the department.

641—143.18(147A) Local fire department AED service registration. A local fire department that desires to allow its firefighters to use an AED may register with the department to provide AED coverage.

PUBLIC HEALTH DEPARTMENT[641](cont'd)

143.18(1) Training requirements. Local fire department personnel wishing to provide AED coverage shall have current course completion in CPR.

143.18(2) Local fire department AED service—registration, guidelines, and standards. A local fire department may register with the department to provide AED coverage. Local fire departments seeking registration with the department shall:

a. Complete the department's AED service registration form initially and every five years thereafter.

b. Provide an AED liaison to be responsible for supervision of the AED service.

c. Ensure that the AED is maintained and inspected in accordance with rule 641—143.12(135).

d. Maintain records of all maintenance and inspections of the AED for the usable life of the device.

e. Ensure that the fire department's AED providers maintain AED and CPR skill competency.

f. Identify which authorized Iowa ambulance service program(s) will provide patient transportation.

g. Ensure that emergency medical care is limited to CPR and AED.

143.18(3) Complaints and investigations. Complaints and investigations shall be conducted as with any complaint received against an EMS service program in accordance with rule 641—132.10(147A).

These rules are intended to implement Iowa Code chapters 135, 147A and 613.

[Filed 1/18/11, effective 3/16/11]

[Published 2/9/11]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 2/9/11.

ARC 9362B

TRANSPORTATION DEPARTMENT[761]

Adopted and Filed

Pursuant to the authority of Iowa Code sections 307.10 and 307.12, the Department of Transportation on January 20, 2011, adopted amendments to Chapter 130, "Signing Manual," Iowa Administrative Code.

Notice of Intended Action for these amendments was published in the December 15, 2010, Iowa Administrative Bulletin as **ARC 9290B**.

Iowa Code section 321.252 requires the Department to adopt a manual and specifications for a uniform system of traffic control devices for use upon highways within this state.

The Manual on Uniform Traffic Control Devices (MUTCD) is issued by the Federal Highway Administration (FHWA) under 23 CFR Part 655, Subpart F. The FHWA's final rule adopting the 2009 Edition of the MUTCD was published in the Federal Register on December 16, 2009.

The amendments to Chapter 130 replace the 2003 edition of the MUTCD, including Revision No. 1, with the 2009 edition dated January 15, 2010; allow portable or part-time stop signs to be used at school crossings; define the MUTCD as the standard guide in the design and application of traffic control devices and permit the use of engineering judgment; and define the format and usage of "Standard" statements.

Various portions of the federal regulations and Iowa statutes allow some exceptions when the exceptions will not adversely impact the safe transportation of commodities on the nation's highways.

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

These amendments are intended to implement Iowa Code chapter 321.

These amendments will become effective March 16, 2011.

Rule-making actions:

ITEM 1. Amend rule 761—130.1(321), introductory paragraph, as follows:

761—130.1(321) Manual. The "Manual on Uniform Traffic Control Devices" (MUTCD), ~~2003~~ 2009 Edition ~~including Revision No. 1 dated November 2004~~ dated December 2009, published by the

TRANSPORTATION DEPARTMENT[761](cont'd)

U.S. Department of Transportation, Federal Highway Administration, shall constitute the manual and specifications for a uniform system of traffic control devices for use upon the highways of this state.

ITEM 2. Amend subrule 130.1(1) as follows:

130.1(1) The department makes the following exception to the MUTCD for school zones: In Part 2, Section ~~2B.05~~ 2B.04, paragraph 12, of the MUTCD, ~~STOP Sign Applications~~ Right-of-Way at Intersections, Standard, in lieu of the sentence “Portable or part-time STOP or YIELD signs shall not be used except for emergency and temporary traffic control zone purposes,” the department adopts the following: “Portable or part-time STOP signs may be used only in the following situations:

1. When necessary for emergency and temporary traffic control zone purposes, or
2. In school zones at appropriate school crosswalks.”

ITEM 3. Renumber subrule **130.1(2)** as **130.1(4)**.

ITEM 4. Adopt the following new subrules 130.1(2) and 130.1(3):

130.1(2) The department makes the following exception to the MUTCD, Section 1A.09, Engineering Study and Engineering Judgment: Add the following paragraphs to the Guidance section prior to paragraph 03:

“The decision to use a particular device at a particular location should be made on the basis of either an engineering study or the application of engineering judgment. While the MUTCD provides standards, guidance, and options for design and application of traffic control devices, the MUTCD should not be considered a substitute for engineering judgment.

“Engineering judgment should be exercised in the selection and application of traffic control devices, as well as in the location and design of the roads and streets that the devices complement.”

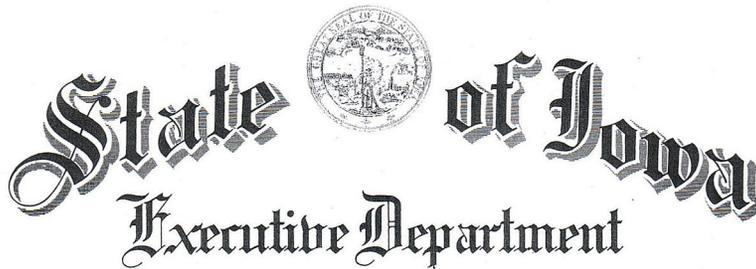
130.1(3) The department makes the following exception to the MUTCD, Section 1A.13, Definitions of Headings, Words, and Phrases in this Manual, paragraph 01, definition of “Standard,” to read as shown:

“A. Standard—a statement of required, mandatory, or specifically prohibitive practice regarding a traffic control device. All Standard statements are labeled, and the text appears in bold type. The verb ‘shall’ is typically used. The verbs ‘should’ and ‘may’ are not used in Standard statements. Standard statements are sometimes modified by Options.”

[Filed 1/21/11, effective 3/16/11]

[Published 2/9/11]

EDITOR’S NOTE: For replacement pages for IAC, see IAC Supplement 2/9/11.



IN THE NAME AND BY THE AUTHORITY OF THE STATE OF IOWA

EXECUTIVE ORDER NUMBER SIXTY-NINE

- WHEREAS, the proliferation of Project Labor Agreements as a result of Executive Order Number 22, dated February 3, 2010, issued by Governor Chet Culver has impacted the essence and the spirit of the competitive bidding process for state funded projects and has infringed upon Iowa's Right to Work law; and
- WHEREAS, in the procurement of public projects, Project Labor Agreements have disadvantaged small business, minority and women owned companies and contractors throughout the State of Iowa; and
- WHEREAS, Project Labor Agreements have increased the costs of Public Works Projects, chilled the competitive bidding environment for Public Works Projects, and thereby caused detriment to the Iowa taxpayer and our citizenship; and
- WHEREAS, the State of Iowa shall endeavor to encourage efficiency and reward contractor innovation in the procurement and construction of Public Works Projects by avoiding the use of Project Labor Agreements, which only increase limitations and restrictions on a contractor's ability to perform effectively; and
- WHEREAS, fair and open contracting for publicly funded construction projects aids in lowering the cost of such projects and ensures that all workers, both union and non-union, have a fair and equal opportunity to work on Public Works Projects being built in the great State of Iowa.

Now, therefore, I, Terry E. Branstad, Governor of the State of Iowa, by virtue of the power and authority vested in me by the Constitution and statutes of the State of Iowa, do hereby rescind Executive Order Number 22, dated February 3, 2010, issued by Governor Chet Culver. Further, I order and issue this Executive Order prohibiting the use of Project Labor Agreements by the State of Iowa and its Political Subdivisions on Public Works Projects effective immediately:

1. For the purposes of this Order, the following definitions shall apply:
 - a. "State Funds" as used in this order includes any tax payer dollars or other funds of the State, including, but not limited to, general fund obligations, funds derived from the assessment of fines, fees of any sort, income taxes, corporate taxes, property taxes, sales taxes, taxes on gaming revenues, funds derived from the proceeds on the issuance general purpose, appropriation and/or revenue bonds, projects funded from the Rebuild Iowa Infrastructure Fund, projects funded by road use tax funds, projects funded in whole or in part by state grants, financial assistance, loans, forgivable loans, loan guarantees, subsidies, tax exemptions and tax credits.
 - b. "Political Subdivision" as used in this Order includes a city, county, township, school district, area education agency, institutions under the control of the State Board of Regents, community colleges, or any other local board, commission, committee, council, association or tribal council that receives or uses any State Funds.
 - c. "Project Labor Agreement" means an arrangement mentioned or outlined within the project specifications or bidding documents of a Public Works Project that imposes requirements, controls or limitations on staffing, source

- of employee referrals, assignment of work, source of insurance and benefits including health, life and disability insurance and retirement pensions, training programs or standards, or wages; or requires a contractor to enter into any sort of agreement as a condition of submitting a bid that directly or indirectly limits or requires the contractor to recruit, train or hire employees from a particular source to perform work on the Public Works Project.
- d. "Public Owner" as used in this order includes any person or entity receiving or using State Funds in whole or in part, including the State, its Departments, its Agencies, its Political Subdivisions, any board or commission of the State or of a Political Subdivision of the State, any institution supported in whole or in part by State Funds, or any agent, officer, official, or authority of any of these.
 - e. "Public Works Project" as used in this order means a building or other project which is constructed by or under the control of a Public Owner and is paid for in whole or in part with State Funds or funds from any federal source. Public Works Project includes, but is not limited to, any contract for the construction, rehabilitation, alteration, conversion, extension, maintenance, or repair of buildings, highways, bridges, tunnels, transportation facilities, water or sewage treatment plants, power plants, or other improvements to real property.
 - f. "Labor Organization" as used in this Order shall have the same meaning as it has in 29 U.S.C. 152(5) and 42 U.S.C. 2000e(d), and shall also include and mean an area or state building and construction trades or crafts council, organization or association or comparable body.
2. The State, its Departments, its Agencies, its Political Subdivisions, and any Public Owner shall not enter into or utilize a Project Labor Agreement on any Public Works Project. The State, its Departments, its Agencies, its Political Subdivisions, and any Public Owner shall also not enter into or utilize any sort of agreement that attempts to impose any of the following requirements as a condition of submitting a bid or entering into a construction contract for or relating to a Public Works Project:
- a. Controls or puts limitations on staffing.
 - b. Serves as a single source of employee referrals.
 - c. Designates assignment of work.
 - d. Stipulates a specific source of insurance and benefits including health, life and disability insurance and retirement pensions.
 - e. Requires proprietary training programs or standards.
 - f. Mandates wage levels, except in those instances of federal Davis-Bacon wage requirements.
3. Through this Order, a contractor shall not be obligated to become a party to a contract with any Labor Organization nor shall it be required to observe the terms and conditions of a contract entered into with one or more Labor Organizations for the construction of any Public Works Project.
4. This Order shall apply to any and all Public Works Projects for which a construction contract has not yet been entered into by the State, its Departments, its Agencies or any of its Political Subdivisions, unless otherwise prohibited by federal law or regulation. Further, with respect to all contracts for Public Works Projects which were entered into prior to the date of this Order but where the lowest, responsible and responsive bidder had not yet been selected, the State, its Departments, Agencies, and all Political Subdivisions affected must take action, to the extent practical and permitted by law, to conform said contracts, related bid specifications, project agreements, and other controlling documents, in order to conform to and implement the provisions of this Order. However, this Order shall not govern any contracts for Public Works Projects that were both entered into and where the lowest, responsible and responsive bidder had been selected prior to the date of this Order.
5. The heads of all State Departments and Agencies, and Political Subdivisions of the state will immediately revoke any orders, rules, regulations, guidelines, or policies related to contracts for Public Works Projects which are not consistent with this Order, or immediately commence revocation action pursuant to law. In addition, the heads of all State Departments and Agencies, and Political Subdivisions of such, will immediately promulgate and implement any orders, rules, regulations, guidelines, or policies necessary to comply with the purposes and intent of this Order.

6. If any provision of this Order, or the application of such provision to any person or circumstance, is held to be invalid, the remaining provisions, as applied to any person or circumstance, shall not be affected thereby.

7. This Order is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity, by any party against the State of Iowa, its Departments, Agencies, or Political Subdivisions, or its officers, employees, or agents, or any other person.



IN TESTIMONY WHEREOF, I have hereunto subscribed my name and caused the Great Seal of Iowa to be affixed. Done at Des Moines this 14th day of January, in the year of our Lord two thousand eleven.


TERRY E. BRANSTAD
GOVERNOR

ATTEST:


MATTHEW SCHULTZ
SECRETARY OF STATE


State of Iowa
Executive Department

IN THE NAME AND BY THE AUTHORITY OF THE STATE OF IOWA

EXECUTIVE ORDER NUMBER SEVENTY

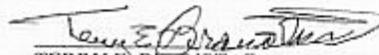
- WHEREAS, the act of filing an application for restoration of the rights of citizenship is an important and necessary aspect of an offender's process of reintegration into society; and
- WHEREAS, the payment of restitution owed by an offender after having been completely discharged from criminal sentence is an important component in determining if the restoration of rights of citizenship is appropriate; and
- WHEREAS, offenders ought to fulfill their financial obligations to pay court costs and fines, and the restoration of the rights of citizenship process can serve to address the problem of unpaid obligations by facilitating the payment of court costs and fines; and
- WHEREAS, the Constitution of the State of Iowa and the Iowa Code provide an appropriate process and necessary flexibility to ensure that the process for restoration of citizenship rights is just; and
- WHEREAS, Executive Order Number 42, dated July 4, 2005, issued by Governor Thomas J. Vilsack utilized a process that granted the restoration of citizenship rights automatically; and
- WHEREAS, Article IV, section 16 of the Constitution of the State of Iowa empowers the Governor with authority to restore the rights of citizenship that were forfeited by reason of conviction.

Now, therefore, I, Terry E. Branstad, Governor of the State of Iowa, by virtue of the power and authority vested in me by the Constitution and Laws of the State of Iowa, do hereby order that:

- I. Executive Order Number 42, dated July 4, 2005, issued by Governor Thomas J. Vilsack, shall be rescinded.
- II. Nothing in this Order shall affect the restoration of the rights of citizenship granted prior to the date of this Order.



IN TESTIMONY WHEREOF, I have hereunto subscribed my name and caused the Great Seal of Iowa to be affixed. Done at Des Moines this 14th day of January, in the year of our Lord two thousand eleven.


 TERRY E. BRANSTAD
 GOVERNOR

ATTEST:

 MATTHEW SCHULTZ
 SECRETARY OF STATE