



IOWA ADMINISTRATIVE BULLETIN

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NUMBER 18
Pages 1843 to 1904

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- Filed, Election of officers; competency examination or alcohol or drug screening, 4.3(2), 4.15 **ARC 7586B** 1898
 Filed, Board of barbering, rescind chs 20, 26; amend chs 21 to 25 **ARC 7578B** 1899
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- Notice, General cleanup, amend chs 71 to 75, 79, 80, 120, 123, 124; rescind ch 78 **ARC 7592B** 1870
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- Notice, Notification rules for natural gas and electric utilities and electric transmission companies, 19.17, 20.19 **ARC 7585B** 1884
 Filed, Natural gas and electric plant additions, gas distribution main extensions, and electric line extensions, 19.3(10), 20.3(13) **ARC 7584B** 1900

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”]; agricultural credit corporation maximum loan rates [535.12]; and regional banking—notice of application and hearing [524.1905(2)].

PLEASE NOTE: Underscore indicates new material added to existing rules; ~~strike through~~ indicates deleted material.

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STEPHANIE A. HOFF, Deputy Editor		(515)281-8157
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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 2009

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

PRINTING SCHEDULE FOR IAB

<u>ISSUE NUMBER</u>	<u>SUBMISSION DEADLINE</u>	<u>ISSUE DATE</u>
20	Friday, March 6, 2009	March 25, 2009
21	Friday, March 20, 2009	April 8, 2009
22	Friday, April 3, 2009	April 22, 2009

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*****

The Administrative Rules Review Committee will hold its regular, statutory meeting on Friday, March 6, 2009, at 8 a.m. in Room 116, State Capitol, Des Moines, Iowa. The following rules will be reviewed:

AGRICULTURE AND LAND STEWARDSHIP DEPARTMENT[21]

- Administration—updates to department structure, amendments to ch 1 Filed Emergency **ARC 7587B** 2/25/09
- Pesticides—airial applicators and aerial applicator consultants, 45.1(1), 45.22(17)
 - Filed Emergency After Notice **ARC 7556B** 2/11/09
- Pesticides—timing of application near registered apiaries, record keeping, 45.26(3)“i,” 45.31
 - Filed Emergency After Notice **ARC 7572B** 2/11/09
- Electronic warehouse receipts and credit-sale contracts, amendments to chs 90, 91 Filed **ARC 7553B** 2/11/09

ARCHITECTURAL EXAMINING BOARD[193B]

- Professional Licensing and Regulation Bureau[193]
COMMERCE DEPARTMENT[181]“umbrella”
- Application by reciprocity, 2.2 Notice of Termination **ARC 7543B** 2/11/09
- Application by reciprocity, 2.2 Notice **ARC 7545B** 2/11/09

COLLEGE STUDENT AID COMMISSION[283]

- EDUCATION DEPARTMENT[281]“umbrella”
- All Iowa opportunity foster care grant program—definition of “Iowa resident,” 9.2 Notice **ARC 7574B** 2/11/09

CORRECTIONS DEPARTMENT[201]

- General administration; personnel; supervision under interstate compact, rescind chs 4, 6, 46
 - Notice **ARC 7560B** 2/11/09

CULTURAL AFFAIRS DEPARTMENT[221]

- Iowa community cultural grants program—applicant eligibility, 6.3 Notice **ARC 7589B** 2/25/09

DENTAL BOARD[650]

- PUBLIC HEALTH DEPARTMENT[641]“umbrella”
- Placement of provisional appliances by dental hygienists, 10.3, 10.5(3)“b” Notice **ARC 7568B** 2/11/09
- Public health supervision—interval for dental examination, 10.5(3)“a”(3) Notice **ARC 7555B** 2/11/09
- Dental and dental hygiene examinations, 11.5(2)“e,” 12.3, 12.4 Notice **ARC 7567B** 2/11/09
- Appeal procedure for denial of licensure and registration, 11.10, 20.8 Notice **ARC 7575B** 2/11/09

ECONOMIC DEVELOPMENT, IOWA DEPARTMENT OF[261]

- Waiver of wage and nonstatutory program requirements under certain limited conditions, 68.2(6), 68.4(7)“a”(1), 174.4, 175.4 Filed **ARC 7557B** 2/11/09
- Targeted jobs withholding tax credit program, 71.1 to 71.6 Filed **ARC 7561B** 2/11/09
- Small business disaster recovery financial assistance program, ch 78 Filed **ARC 7558B** 2/11/09

EDUCATIONAL EXAMINERS BOARD[282]

- EDUCATION DEPARTMENT[281]“umbrella”
- NCATE-accredited programs, 13.19 Notice **ARC 7600B** 2/25/09

ELDER AFFAIRS DEPARTMENT[321]

- Iowa family caregiver support program, ch 14 Filed **ARC 7599B** 2/25/09

ENERGY INDEPENDENCE, OFFICE OF[350]

- Electronic recording of proceedings; funds for administrative costs; confidentiality, 3.3(2)“c,” 4.4(3), 4.9 to 4.11 Notice **ARC 7573B** 2/11/09

ENGINEERING AND LAND SURVEYING EXAMINING BOARD[193C]

- Professional Licensing and Regulation Bureau[193]
COMMERCE DEPARTMENT[181]“umbrella”
- Monument placement standards for land surveyors, 11.2, 11.7 Notice of Termination **ARC 7542B** 2/11/09

ENVIRONMENTAL PROTECTION COMMISSION[567]

- NATURAL RESOURCES DEPARTMENT[561]“umbrella”
- Air quality, 22.1(2)“r,” 22.8(1), 23.1 Filed **ARC 7565B** 2/11/09
- Private sewage disposal systems, 64.15(4), ch 69 Filed **ARC 7569B** 2/11/09
- Animal feeding operations—surface application of manure on frozen or snow-covered ground, 65.1, 65.3, 65.17(3)“e,” 65.100, 65.101, 65.112(8) Notice **ARC 7570B** 2/11/09
- Animal feeding operations—update of references, 65.1, 65.3(3), 65.17(6), 65.100, 65.101(6), 65.104(7), 65.105(3), 65.112 Notice **ARC 7564B** 2/11/09

HISTORICAL DIVISION[223]

CULTURAL AFFAIRS DEPARTMENT[221]"umbrella"

Historical resource development program funding policies, 49.2, 49.3 Filed **ARC 7583B** 2/25/09**HOMELAND SECURITY AND EMERGENCY MANAGEMENT DIVISION[605]**

PUBLIC DEFENSE DEPARTMENT[601]"umbrella"

Community disaster grants, ch 13 Notice **ARC 7581B**, also Filed Emergency **ARC 7580B** 2/25/09**HUMAN SERVICES DEPARTMENT[441]**

Applicant's/participant's responsibility to provide information or verification to department,

40.24, 40.27, 76.2, 76.7, 170.5 Notice **ARC 7590B** 2/25/09Temporary measures related to disasters, 58.41 to 58.45 Filed **ARC 7577B** 2/25/09Assignment of rights to medical payments from third parties, 75.2(2), 75.2(4) Filed **ARC 7546B** 2/11/09State-funded family planning program, 76.1(2)"d," ch 87 Filed Emergency After Notice **ARC 7544B** 2/11/09

Medicaid—health care data match program, payment from other sources, 76.13, 80.3,

80.5(2) Filed **ARC 7547B** 2/11/09Supplemental rebates for diabetic supplies, 78.6, 78.9, 78.10, 78.28 Filed **ARC 7548B** 2/11/09In-home health related care, 177.4(5), 177.6(3), 177.11(1) Filed **ARC 7549B** 2/11/09**IOWA FINANCE AUTHORITY[265]**Supplemental cap allocation for 2008, 8.11 Filed **ARC 7579B** 2/25/09**IOWA PUBLIC EMPLOYEES' RETIREMENT SYSTEM[495]**Contribution rates for special service members, 4.6 Filed **ARC 7591B** 2/25/09**LABOR SERVICES DIVISION[875]**

WORKFORCE DEVELOPMENT DEPARTMENT[871]"umbrella"

Federal occupational safety and health regulations—adoption by reference, 10.20, 26.1

Notice **ARC 7541B** 2/11/09**LIBRARIES AND INFORMATION SERVICES DIVISION[286]**

EDUCATION DEPARTMENT[281]"umbrella"

Waivers or variances from administrative rules, ch 10 Filed **ARC 7596B** 2/25/09Declaratory orders, ch 11 Filed **ARC 7597B** 2/25/09Petitions for rule making, ch 12 Filed **ARC 7598B** 2/25/09**NATURAL RESOURCES DEPARTMENT[561]**

Septic tank time-of-transfer requirements; exemption for electronics tower and wind turbine

leases, 9.1(4)"a," 9.2(1) Filed **ARC 7588B** 2/25/09**PROFESSIONAL LICENSURE DIVISION[645]**

PUBLIC HEALTH DEPARTMENT[641]"umbrella"

Election of officers; competency examination or alcohol or drug screening, 4.3(2), 4.15

Filed **ARC 7586B** 2/25/09Board of barbering, rescind chs 20, 26; amend chs 21 to 25 Filed **ARC 7578B** 2/25/09

Board of nursing home administrators, rescind chs 140, 145; amend chs 141, 143, 144

Filed **ARC 7576B** 2/11/09Board of podiatry—residency programs, 220.2(11), 220.7(3) Notice of Termination **ARC 7552B** 2/11/09**PUBLIC HEALTH DEPARTMENT[641]**Out-of-hospital do-not-resuscitate orders, ch 142, appendix A Filed **ARC 7550B** 2/11/09Maintenance of AED device, 143.10 to 143.12 Filed **ARC 7551B** 2/11/09**PUBLIC SAFETY DEPARTMENT[661]**Ignition interlock devices, rescind ch 7; adopt ch 158 Notice **ARC 7566B** 2/11/09Public records and fair information practices, rescind ch 25; adopt ch 80 Filed **ARC 7562B** 2/11/09Closed circuit surveillance systems, 141.1 to 141.3, 141.5(9), 141.6(9), 141.10 Notice **ARC 7563B** 2/11/09**RACING AND GAMING COMMISSION[491]**

INSPECTIONS AND APPEALS DEPARTMENT[481]"umbrella"

Harness racing; thoroughbred and quarter horse racing; gambling games, 9.7(1)"d"(3), 10.5,

10.6(2), 10.7(1)"d"(3), 11.1, 11.12(8)"a" Notice **ARC 7554B** 2/11/09

REAL ESTATE APPRAISER EXAMINING BOARD[193F]

Professional Licensing and Regulation Bureau[193]
COMMERCE DEPARTMENT[181]"umbrella"

Certification of residential and general real property appraisers, amend chs 1, 3, 4, 11, 12;
adopt chs 5, 6; rescind chs 13, 14 Notice **ARC 7595B**..... 2/25/09

REAL ESTATE COMMISSION[193E]

Professional Licensing and Regulation Bureau[193]
COMMERCE DEPARTMENT[181]"umbrella"

Trust accounts—tax identification number and depository address, 13.1(2) Filed **ARC 7559B**..... 2/11/09

REVENUE DEPARTMENT[701]

General cleanup, amend chs 71 to 75, 79, 80, 120, 123, 124; rescind ch 78 Notice **ARC 7592B** 2/25/09
Tax stamp for unprocessed marijuana plants, 91.2, 91.3 Notice **ARC 7593B** 2/25/09

SOIL CONSERVATION DIVISION[27]

AGRICULTURE AND LAND STEWARDSHIP DEPARTMENT[21]"umbrella"

Summer construction incentives funding, 10.41(5), 10.60(2) Notice **ARC 7594B**..... 2/25/09

UTILITIES DIVISION[199]

COMMERCE DEPARTMENT[181]"umbrella"

Natural gas and electric plant additions, gas distribution main extensions, and electric line
extensions, 19.3(10), 20.3(13) Filed **ARC 7584B**..... 2/25/09
Notification rules for natural gas and electric utilities and electric transmission companies,
19.17, 20.19 Notice **ARC 7585B** 2/25/09

ADMINISTRATIVE RULES REVIEW COMMITTEE MEMBERS

Regular, statutory meetings are held the second Tuesday of each month at the seat of government as provided in Iowa Code section 17A.8. A special meeting may be called by the Chair at any place in the state and at any time.

EDITOR’S NOTE: Terms ending April 30, 2011.

Senator Merlin Bartz
2081 410th Street
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Representative Marcella R. Frevert
P.O. Box 324
Emmetsburg, Iowa 50536

Senator Thomas Courtney
2200 Summer Street
Burlington, Iowa 52601

Representative David Heaton
510 East Washington
Mt. Pleasant, Iowa 52641

Senator Wally Horn
101 Stoney Point Road, SW
Cedar Rapids, Iowa 52404

Representative Tyler Olson
P.O. Box 2389
Cedar Rapids, Iowa 52406

Senator John P. Kibbie
P.O. Box 190
Emmetsburg, Iowa 50536

Representative Nathan Reichert
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901 White Street
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AGENCY	HEARING LOCATION	DATE AND TIME
CORRECTIONS DEPARTMENT[201]		
General administration; personnel; supervision under interstate compact, rescind chs 4, 6, 46 IAB 2/11/09 ARC 7560B	Department of Corrections 510 E. 12th St. Des Moines, Iowa	March 3, 2009 11 a.m. to 1 p.m.
CULTURAL AFFAIRS DEPARTMENT[221]		
Iowa community cultural grants program—applicant eligibility, 6.3 IAB 2/25/09 ARC 7589B	Tone Room, Third Floor West Historical Building 600 E. Locust St. Des Moines, Iowa	March 17, 2009 10 a.m.
DENTAL BOARD[650]		
Placement of provisional appliances by dental hygienists, 10.3, 10.5(3)“b” IAB 2/11/09 ARC 7568B	Board Conference Room, Suite D 400 SW 8th St. Des Moines, Iowa	March 3, 2009 10 a.m.
Public health supervision—interval for dental examination, 10.5(3)“a”(3) IAB 2/11/09 ARC 7555B	Board Conference Room, Suite D 400 SW 8th St. Des Moines, Iowa	March 3, 2009 10 a.m.
Dental and dental hygiene examinations, 11.5(2)“e,” 12.3, 12.4 IAB 2/11/09 ARC 7567B	Board Conference Room, Suite D 400 SW 8th St. Des Moines, Iowa	March 3, 2009 10 a.m.
Appeal procedure for denial of licensure and registration, 11.10, 20.8 IAB 2/11/09 ARC 7575B	Board Conference Room, Suite D 400 SW 8th St. Des Moines, Iowa	March 3, 2009 10 a.m.
EDUCATIONAL EXAMINERS BOARD[282]		
NCATE-accredited programs, 13.19 IAB 2/25/09 ARC 7600B	Room 3 Southwest, Third Floor Grimes State Office Bldg. Des Moines, Iowa	March 18, 2009 1 p.m.
ENVIRONMENTAL PROTECTION COMMISSION[567]		
Iowa antidegradation implementation procedure, 61.2(2) IAB 2/11/09 ARC 7571B	Falcon Civic Center 1305 5th Ave. NE Independence, Iowa Northeast Iowa Community College Suite 102, Waukon Wellness Center 1220 3rd Ave. NW Waukon, Iowa	March 3, 2009 10 a.m. March 3, 2009 6 p.m.

AGENCY	HEARING LOCATION	DATE AND TIME
ENVIRONMENTAL PROTECTION COMMISSION[567] (Cont'd)		
Animal feeding operations—surface application of manure on frozen or snow-covered ground, 65.1, 65.3, 65.17(3)“c,” 65.100, 65.101, 65.112(8) IAB 2/11/09 ARC 7570B	Auditorium Wallace State Office Bldg. 502 E. 9th St. Des Moines, Iowa	March 16, 2009 9 a.m.
	Washington County Conservation Board Education Center, Marr Park 2943 Highway 92 Ainsworth, Iowa	March 16, 2009 6 p.m.
	American Legion Hall 302 Main St. Dedham, Iowa	March 18, 2009 6 p.m.
	Northeast Iowa Community College Room 115, Dairy Center 1527 Highway 150 South Calmar, Iowa	March 20, 2009 1 p.m.
	City Hall 125 Central Ave. SE Orange City, Iowa	March 23, 2009 6 p.m.
	Lime Creek Nature Center 3501 Lime Creek Rd. Mason City, Iowa	March 24, 2009 6 p.m.
Animal feeding operations—update of references, 65.1, 65.3(3), 65.17(6), 65.100, 65.101(6), 65.104(7), 65.105(3), 65.112 IAB 2/11/09 ARC 7564B	Iowa Lakes Community College Room 108, Gateway North 1900 N. Grand Ave. Spencer, Iowa	March 3, 2009 7 p.m.
	Department of Natural Resources Conference Room, Field Office 4 1401 Sunnyside Lane Atlantic, Iowa	March 4, 2009 9 a.m.
	Room 123 Kirkwood Ctr. for Continuing Education 7725 Kirkwood Blvd. Cedar Rapids, Iowa	March 4, 2009 3 p.m.
	Fifth Floor Conference Room Wallace State Office Bldg. 502 E. 9th St. Des Moines, Iowa	March 5, 2009 2 p.m.
HOMELAND SECURITY AND EMERGENCY MANAGEMENT DIVISION[605]		
Community disaster grants, ch 13 IAB 2/25/09 ARC 7581B	Conference Room, Bldg. W-4 Camp Dodge Johnston, Iowa	March 20, 2009 10 a.m.
LABOR SERVICES DIVISION[875]		
Adoption by reference of federal OSHA regulations, 10.20, 26.1 IAB 2/11/09 ARC 7541B	Stanley Room 1000 E. Grand Ave. Des Moines, Iowa	March 4, 2009 10:30 a.m.

AGENCY	HEARING LOCATION	DATE AND TIME
PUBLIC SAFETY DEPARTMENT[661]		
Ignition interlock devices, rescind ch 7; adopt ch 158 IAB 2/11/09 ARC 7566B	First Floor Public Conference Room Public Safety Headquarters Bldg. 215 E. 7th St. Des Moines, Iowa	March 10, 2009 8:30 a.m.
Closed circuit surveillance systems, 141.1 to 141.3, 141.5(9), 141.6(9), 141.10 IAB 2/11/09 ARC 7563B	First Floor Public Conference Room Public Safety Headquarters Bldg. 215 E. 7th St. Des Moines, Iowa	March 10, 2009 8 a.m.
RACING AND GAMING COMMISSION[491]		
Harness racing; thoroughbred and quarter horse racing; gambling games, 9.7(1)“d”(3), 10.5, 10.6(2), 10.7(1)“d”(3), 11.1, 11.12(8)“a” IAB 2/11/09 ARC 7554B	Suite B 717 E. Court Des Moines, Iowa	March 3, 2009 9 a.m.
UTILITIES DIVISION[199]		
Notification rules for natural gas and electric utilities and electric transmission companies, 19.17, 20.19 IAB 2/25/09 ARC 7585B	350 Maple St. Des Moines, Iowa	March 26, 2009 10 a.m.

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

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

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

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

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ARC 7589B**CULTURAL AFFAIRS DEPARTMENT[221]****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 303.1 and 303.1A, the Department of Cultural Affairs hereby gives Notice of Intended Action to amend Chapter 6, "Iowa Community Cultural Grants (ICCG) Program," Iowa Administrative Code.

The proposed amendment removes language which requires applicants that apply through a fiscal agent to be in the process of applying for their own federal tax exemption and to already be registered Iowa nonprofit organizations.

Public comments concerning the proposed amendment will be accepted until 4:30 p.m. on March 17, 2009. Interested persons may submit written or oral comments by contacting Kristen Vander Molen, Department of Cultural Affairs, Historical Building, 600 East Locust Street, Des Moines, Iowa 50319-0290; fax (515)281-6975; E-mail Kristen.VanderMolen@iowa.gov. Persons who wish to convey their views orally should contact the Department of Cultural Affairs at (515)281-4228.

Also, there will be a public hearing on March 17, 2009, at 10 a.m. at the above address in the Tone Board Room, Third Floor West, at which time persons may present their views either orally or in writing. At the hearing, persons will be asked to give their names and addresses for the record and to confine their remarks to the subject of the amendment.

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

This amendment is intended to implement Iowa Code section 303.3(1).

The following amendment is proposed.

Amend rule **221—6.3(303)**, definition of "Eligible applicant," as follows:

"Eligible applicant" means an incorporated city in Iowa, county government, tribal council, or an Iowa community group which is federally tax-exempt under United States Internal Revenue Code Section 501(c)(3) and incorporated under the Iowa nonprofit corporation Act. ~~Iowa nonprofit community groups which have applied for and are awaiting determination of federal tax-exempt status~~ may apply for ICCG funds through a fiscal agent which is federally tax-exempt and otherwise eligible to apply.

ARC 7600B**EDUCATIONAL EXAMINERS BOARD[282]****Notice of Intended Action**

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

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

Pursuant to the authority of Iowa Code section 272.2, the Board of Educational Examiners hereby gives Notice of Intended Action to amend Chapter 13, "Issuance of Teacher Licenses and Endorsements," Iowa Administrative Code.

EDUCATIONAL EXAMINERS BOARD[282](cont'd)

This amendment removes the requirement that teacher preparation programs be accredited by NCATE. NCATE has changed its criteria for approval of programs, and the criteria are in conflict with the system used by the Board of Educational Examiners.

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

Any interested party or persons may present their views either orally or in writing at the public hearing that will be held Wednesday, March 18, 2009, at 1 p.m. in Room 3 Southwest, Third Floor, Grimes State Office Building, East 14th Street and Grand Avenue, Des Moines, Iowa.

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

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

Any interested person may make written comments or suggestions on the proposed amendment before 4 p.m. on Friday, March 20, 2009. Written comments and suggestions should be addressed to Kim Cunningham, Board Secretary, Board of Educational Examiners, at the above address, or sent by E-mail to kim.cunningham@iowa.gov, or by fax to (515)281-7669.

This amendment is intended to implement Iowa Code chapter 272.

The following amendment is proposed.

Rescind and reserve rule **282—13.19(272)**.

ARC 7581B

**HOMELAND SECURITY AND
EMERGENCY MANAGEMENT DIVISION[605]**

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 2009 Iowa Acts, House File 64, division III, section 8, the Homeland Security and Emergency Management Division proposes to adopt Chapter 13, "Community Disaster Grants," Iowa Administrative Code.

New Chapter 13 is intended to implement 2009 Iowa Acts, House File 64, which creates the Community Disaster Grant Program and provides an appropriation. Chapter 13 is intended to specify how the Homeland Security and Emergency Management Division will administer the grant program.

Consideration will be given to all written suggestions or comments on the proposed amendment on or before March 17, 2009. Such written materials should be sent to the Administrative Rules Coordinator, Iowa Homeland Security and Emergency Management Division, Camp Dodge, Building W-4, Johnston, Iowa 50131; fax (515)725-3260.

Also, there will be a public hearing on March 20, 2009, at 10 a.m. in the Homeland Security and Emergency Management Division Conference Room, Building W-4, at Camp Dodge, Johnston, Iowa, at which time persons may present their views either orally or in writing. At the hearing, persons will be asked to give their names and addresses for the record and to confine their remarks to the subject of the rules.

HOMELAND SECURITY AND EMERGENCY MANAGEMENT DIVISION[605](cont'd)

Any persons who intend to attend the public hearing and have special requirements such as hearing or mobility impairments should contact the Homeland Security and Emergency Management Division and advise of specific needs.

This amendment was also Adopted and Filed Emergency and is published herein as **ARC 7580B**.

These rules are intended to implement 2009 Iowa Acts, House File 64, division III.

ARC 7590B**HUMAN SERVICES DEPARTMENT[441]****Notice of Intended Action**

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

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

Pursuant to the authority of Iowa Code sections 234.6, 239B.4(6), and 249A.4, the Department of Human Services proposes to amend Chapter 40, "Application for Aid," Chapter 76, "Application and Investigation," and Chapter 170, "Child Care Services," Iowa Administrative Code.

The proposed amendments clarify that the applicant or participant for Family Investment Program assistance, medical assistance, or child care assistance has the primary responsibility for providing information and verification needed for the Department to establish eligibility and benefits. If the applicant or participant fails to supply the information or verification requested and does not request assistance and authorize the Department to obtain the specific information or verification, that failure is a basis for denial or cancellation of assistance.

The Department has recently added a general release of information to applications and review documents used for these programs. If the applicant or participant signs the optional general release of information, the Department may be able to use the release to help obtain information from third parties to determine eligibility and benefits. In some instances, the use of a generic release will allow the Department to assist the client in obtaining the necessary information more quickly.

The reason for these amendments is to clarify that signing the optional general release does not absolve the applicant or participant from all responsibility for providing requested information or verification. Use of the general release is not appropriate in all instances, and, due to the general nature of the form, it will not always be honored by collateral contacts. When the Department needs specific information, the Department will notify the client. If the client is not able to provide the information, the client is responsible for asking the Department worker for help and for giving a specific authorization for the Department to obtain the requested information.

These amendments also include a change to subrule 76.7(4) inadvertently omitted from the amendments adding Medicaid coverage for children in subsidized guardianship that were published in the Iowa Administrative Bulletin on December 3, 2008, as **ARC 7386B**.

Clients are not required to sign the general release of information. A client who is not able to provide the requested information or verification may ask the Department for assistance.

Any interested person may make written comments on the proposed amendments on or before March 18, 2009. Comments should be directed to Mary Ellen Imlau, Bureau of Policy Analysis and Appeals, Department of Human Services, Hoover State Office Building, 1305 East Walnut Street, Des Moines, Iowa 50319-0114. Comments may be sent by fax to (515)281-4980 or by E-mail to policyanalysis@dhs.state.ia.us.

These amendments are intended to implement Iowa Code chapters 239B and 249A and section 237A.13.

The following amendments are proposed.

HUMAN SERVICES DEPARTMENT[441](cont'd)

ITEM 1. Amend paragraph **40.24(1)“b,”** introductory paragraph, as follows:

b. The department shall notify the applicant in writing of additional information or verification that is required to establish eligibility for assistance. Failure of the applicant to supply the information or verification requested ~~or refusal by the applicant to request assistance and~~ authorize the department to secure the requested information or verification from other sources, shall serve as a basis for denial of assistance. Signing a general authorization for release of information to the department does not meet this responsibility.

ITEM 2. Amend paragraph **40.27(4)“c”** as follows:

c. The recipient has the primary responsibility for providing information and verification needed to establish eligibility and the amount of the family investment program grant. The recipient shall supply, insofar as the recipient is able, ~~additional information and verification needed to establish eligibility and the amount of the family investment program grant~~ within five working days from the date a written request is mailed by the department to the recipient’s current mailing address or given to the recipient. The department shall extend the deadline when the recipient requests an extension because the recipient is making every effort to supply the information or verification but is unable to do so.

(1) “Supply” shall mean that the requested information or verification is received by the department by the specified due date.

(2) ~~The recipient shall give written permission for release of information when~~ When the recipient is unable to furnish information or verification needed to establish eligibility and the amount of the family investment program grant, the recipient shall request assistance from the department.

(3) Failure to supply the information or verification requested or ~~refusal to request assistance and~~ authorize the department to secure the requested information or verification from other sources shall serve as a basis for cancellation of assistance. Signing a general authorization for release of information to the department does not meet this responsibility.

ITEM 3. Amend rule 441—76.2(249A), introductory paragraph, as follows:

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

ITEM 4. Amend rule 441—76.7(249A) as follows:

441—76.7(249A) Reinvestigation. Reinvestigation shall be made as often as circumstances indicate but in no instance shall the period of time between reinvestigations exceed 12 months.

76.7(1) The member shall supply, insofar as the member is able, additional information needed to establish eligibility within five working days from the date a written request is issued.

a. The member shall give written permission for the release of information when the member is unable to furnish information needed to establish eligibility.

b. Failure to supply the information or verification requested or refusal to request assistance and authorize the department to secure the requested information from other sources shall serve as a basis for

HUMAN SERVICES DEPARTMENT[441](cont'd)

cancellation of Medicaid. Signing a general authorization for release of information to the department does not meet this responsibility.

76.7(2) and **76.7(3)** No change.

76.7(4) The review for foster children or children in subsidized adoption or subsidized guardianship shall be completed on Form 470-2914, Foster Care and Subsidized Adoption Medicaid Review, according to the time schedule of the family medical assistance program or supplemental security income program for disabled children, as applicable.

76.7(5) No change.

ITEM 5. Amend paragraph **170.5(2)“f”** as follows:

f. The client refuses or fails to supply ~~documentation of eligibility as to need or income information or verification requested or to request assistance and authorize the department to secure the required information or verification from other sources (signing a general authorization for release of information to the department does not meet this responsibility);~~ or

ITEM 6. Amend paragraph **170.5(3)“c”** as follows:

c. The client refuses or fails to supply ~~documentation of eligibility as to need and income information or verification requested or to request assistance and authorize the department to secure the required information or verification from other sources (signing a general authorization for release of information to the department does not meet this responsibility);~~ or

ARC 7595B**REAL ESTATE APPRAISER EXAMINING BOARD[193F]****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 543D.5, the Real Estate Appraiser Examining Board hereby gives Notice of Intended Action to amend Chapter 1, “Organization and Administration,” Chapter 3, “Examination,” and Chapter 4, “Associate Real Property Appraiser,” to rescind Chapter 5, “Certified Residential Real Property Appraiser,” and adopt a new Chapter 5 with the same title, to rescind Chapter 6, “Certified General Real Property Appraiser,” and adopt a new Chapter 6 with the same title, to amend Chapter 11, “Continuing Education,” and Chapter 12, “Fees,” and to rescind Chapter 13, “Certified Residential Appraiser Education Requirements,” and Chapter 14, “Certified General Appraiser Education Requirements,” Iowa Administrative Code.

The proposed amendments to Chapters 1 and 3 reorganize provisions relating to types of appraiser classifications and to examinations, correct a typographical error, clarify grounds for denial of a certificate, and rescind subrules whose content is now contained in new Chapters 5 and 6. The proposed amendments to Chapter 4 remove an obsolete explanatory note at the beginning of the chapter and update the cross references in rule 193F—4.5(543D). New Chapters 5 and 6 reflect a complete rewrite of the existing chapters to provide for ease of reading in a manner that more accurately describes the certification process. The proposed amendments to Chapter 11 further define requirements for hardship and disability provisions to bring the State of Iowa into compliance with federally mandated guidelines as set forth by the Appraisal Qualifications Board. The proposed amendment to Chapter 12 adds the fees for voluntary submission of work product for review as provided in new Chapters 5 and 6. Chapters 13 and 14 are rescinded, and the relevant content is moved to new Chapters 5 and 6.

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

Consideration will be given to all written suggestions or comments on the proposed amendments received on or before March 17, 2009. Comments should be addressed to Sylvia King, Professional

REAL ESTATE APPRAISER EXAMINING BOARD[193F](cont'd)

Licensing and Regulation Bureau, 1920 SE Hulsizer Road, Ankeny, Iowa 50021; or faxed to (515) 281-7411. E-mail may be sent to sylvia.king@iowa.gov.

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

The following amendments are proposed.

ITEM 1. Adopt the following **new** rule 193F—1.17(543D):

193F—1.17(543D) Types of appraiser classifications. There are three types of appraiser classifications:

1. Associate real property appraiser. This classification consists of those persons who meet the requirements of 193F—Chapter 4.

2. Certified residential real property appraiser. This classification consists of those persons who meet the requirements of 193F—Chapter 5.

3. Certified general real property appraiser. This classification consists of those persons who meet the requirements of 193F—Chapter 6.

ITEM 2. Amend **193F—Chapter 3**, title, as follows:

~~EXAMINATION~~ GENERAL PROVISIONS FOR EXAMINATIONS

ITEM 3. Rescind and reserve rule **193F—3.1(543D)**.

ITEM 4. Amend subrule 3.2(2) as follows:

3.2(2) The board shall enter into a contractual relationship with a qualified testing service to develop and administer ~~AQB-endorsed~~ AQB-approved examinations and shall maintain control over the examination process.

ITEM 5. Rescind and reserve subrules **3.2(3)** and **3.2(4)**.

ITEM 6. Amend subrule 3.4(1) as follows:

3.4(1) All initial applications for certification or associate registration shall be made on forms provided by the board. The board may deny an application as described in Iowa Code sections 543D.12 and 543D.17. Specific examples of grounds for denial include knowingly making a false statement, submitting false information, refusing to provide complete information in response to a question in an application for certification, or participating in any form of fraud or misrepresentation; the revocation of another professional license; or a conviction, including a conviction based upon a plea of guilty or nolo contendere, of a crime which is substantially related to the qualifications, functions and duties of a person developing real estate appraisals and communicating real estate appraisals to others. The board may also deny an application based on disciplinary action taken against an associate appraiser registration.

ITEM 7. Rescind subrule **3.4(4)**.

ITEM 8. Rescind and reserve rule **193F—3.5(543D)**.

ITEM 9. Rescind the explanatory note at the beginning of **193F—Chapter 4**.

ITEM 10. Amend rule 193F—4.5(543D) as follows:

193F—4.5(543D) Applying for certification as a certified residential appraiser or certified general appraiser. An associate appraiser may apply for certification as a certified residential real property appraiser by satisfying the requirements of 193F—~~Chapters Chapter 5 and 13~~, or as a certified general real property appraiser by satisfying the requirements of 193F—~~Chapters Chapter 6 and 14~~. The requirements for each type of certification include education, ~~experience~~, examination, and experience, which includes work product review.

ITEM 11. Rescind 193F—Chapter 5 and adopt the following **new** chapter in lieu thereof:

REAL ESTATE APPRAISER EXAMINING BOARD[193F](cont'd)

CHAPTER 5
CERTIFIED RESIDENTIAL REAL PROPERTY APPRAISER**193F—5.1(543D) General.**

5.1(1) The certified residential real property appraiser classification qualifies the appraiser to appraise one- to four-unit residential properties without regard to value or complexity. The classification includes the appraisal of vacant or unimproved land that is utilized for one- to four-unit residential properties or for which the highest and best use is for one- to four-unit residential properties. The classification does not include the appraisal of subdivisions for which a development analysis/appraisal is necessary.

5.1(2) Certification is composed of three parts: education, examination, and experience, which includes work product review.

193F—5.2(543D) Education. Education requirements for an applicant to obtain a certificate as a certified residential real property appraiser shall be in compliance with the criteria as set forth by the Appraiser Qualifications Board (AQB) of the Appraisal Foundation.

5.2(1) Formal education.

a. Applicants must hold an associate's degree or higher from an accredited college, junior college, community college, or university. In lieu of the associate's degree, an applicant shall successfully pass all of the following collegiate subject matter courses from an accredited college, junior college, community college, or university:

- (1) English composition;
- (2) Principles of economics (micro or macro);
- (3) Finance;
- (4) Algebra, geometry, or higher mathematics;
- (5) Statistics;
- (6) Computer science; and
- (7) Business or real estate law.

b. Total hours of equivalent college courses in lieu of an associate's degree are 21 semester credit hours or equivalent. If an accredited college or university (accredited by the Commission on Colleges, by a regional or national accreditation association, or by an accrediting agency that is recognized by the U.S. Secretary of Education) accepts the College-Level Examination Program® (CLEP) examination(s) and issues a transcript for the examination(s) showing the college's or university's approval, the CLEP credit will be considered as credit for the college course.

5.2(2) Core criteria. In addition to the associate's degree or 21 semester hours, an applicant must complete 200 creditable class hours before taking the AQB-approved examination. All courses must be AQB-approved under 2008 criteria to be considered creditable. The required courses and 200 hours consist of the following:

<i>a.</i>	Basic appraisal principles	30 hours
<i>b.</i>	Basic appraisal procedures	30 hours
<i>c.</i>	The 15-hour USPAP course or equivalent	15 hours
<i>d.</i>	Residential market analysis and highest and best use	15 hours
<i>e.</i>	Residential appraiser site valuation and cost approach	15 hours
<i>f.</i>	Residential sales comparison and income approaches	30 hours
<i>g.</i>	Residential report writing and case studies	15 hours
<i>h.</i>	Statistics, modeling and finance	15 hours
<i>i.</i>	Advanced residential applications and case studies	15 hours
<i>j.</i>	Appraisal subject matter electives	20 hours

193F—5.3(543D) Examination. The prerequisite for taking the AQB-approved examination is completion of 200 creditable course hours as specified in subrule 5.2(2). For 5.2(2)“c,” equivalency shall be determined through the AQB course approval program or by an alternate method established

REAL ESTATE APPRAISER EXAMINING BOARD[193F](cont'd)

by the AQB. USPAP qualifying education shall be awarded only when the class is instructed by at least one AQB-certified USPAP instructor who holds a state-issued certified residential or certified general appraiser credential in active status and good standing.

5.3(1) In order to qualify to sit for the certified residential real property appraiser examination, the applicant must:

a. Complete the board's application form and provide copies of documentation of completion of all courses claimed that qualify the applicant to sit for the examination.

b. Pay the fee specified in 193F—Chapter 12.

5.3(2) The board may verify educational credits claimed. Undocumented credits will be sufficient cause to invalidate the examination results pursuant to 193F—paragraph 3.3(2) "c."

5.3(3) Responsibility for documenting the educational credits claimed rests with the applicant.

5.3(4) An applicant must supply the original examination scores when applying for certification. Copies of the scores will not be accepted.

5.3(5) If an applicant who has passed an examination does not obtain the related appraiser credential within 24 months after passing the examination, that examination result loses its validity to support issuance of an appraiser credential. To regain eligibility for the credential, the applicant must retake and pass the examination. This requirement applies to individuals obtaining an initial certified credential or upgrading from an associate credential.

193F—5.4(543D) Supervised experience required for initial certification. Commencing with experience attained on or after July 1, 2007, all experience required for initial certification pursuant to Iowa Code section 543D.9 shall be performed as a registered associate real property appraiser under the direct supervision of a certified real property appraiser pursuant to the provisions of 193F—Chapter 15.

5.4(1) Acceptable experience. The board will accept as qualifying experience the documented experience attained while the applicant for initial certification was in an educational program recognized by the Appraisal Qualifications Board and Appraisal Subcommittee as providing qualifying experience for initial certification, whether or not the applicant was registered as an associate real property appraiser at the time the educational program was completed. Such programs, if approved by federal authorities, will incorporate direct supervision by a certified real property appraiser and such additional program features as to satisfy the purpose of requiring that qualifying experience be attained by the applicant as an associate real property appraiser.

5.4(2) Exceptions.

a. Applicants for initial certification in Iowa who request that the board approve unsupervised experience or experience performed in the absence of registration as an associate real property appraiser may file an application for approval on a form provided by the board. The burden shall be on the applicant to establish by clear and convincing evidence all of the following:

(1) The experience is qualifying experience under the substantive and documentation standards of the Appraisal Qualifications Board and Appraisal Subcommittee.

(2) Denial of the application would impose an undue hardship on the applicant.

(3) The nature of the experience attained is qualitatively and substantially equivalent to the experience an associate real property appraiser would receive under the direct supervision of a certified real property appraiser pursuant to the standards established in 193F—Chapter 15.

(4) Approval of the application would foster the board's goal of fair and consistent treatment of applicants.

(5) A basis exists beyond the individual control of the applicant to explain why the experience at issue could not have been attained by the applicant as an associate real property appraiser under the direct supervision of a certified real property appraiser.

b. Among the circumstances the board may consider favorably in ruling on an application for approval of unsupervised experience or experience attained by the applicant in the absence of registration as an associate real property appraiser are:

(1) The experience was attained in a jurisdiction that, at the time, did not register associate real property appraisers or otherwise offer an associate, trainee or equivalent category of certification.

REAL ESTATE APPRAISER EXAMINING BOARD[193F](cont'd)

(2) The applicant attained the experience while employed in a county assessor's office engaged in mass appraisals, and the experience would otherwise qualify under applicable federal standards.

(3) The experience was attained between July 1, 2007, and January 1, 2008, and the appraiser could not reasonably have become registered and associated with a supervising certified appraiser by July 1, 2007, which is the effective date of the requirement that qualifying experience be attained by the applicant as an associate real property appraiser working under the direct supervision of a certified real property appraiser.

193F—5.5(543D) Demonstration of experience. The experience necessary for certification pursuant to Iowa Code section 543D.9 must meet the requirements of this rule. The objective of the demonstration of experience is to ensure that, before the applicant is issued a certificate, the applicant has obtained sufficient diversified experience to perform an appraisal.

5.5(1) The applicant shall provide to the board an appraisal log that includes all information required by the AQB as a precondition for certification and shall maintain the log contemporaneously with the performance of supervised real property appraisal services. The appraisal log shall, at a minimum, include the following for each appraisal:

- a. Type of property;
- b. Date of report;
- c. Address of appraised property;
- d. Description of work performed by the associate appraiser and of the supervising appraiser's scope of review and supervision;
- e. Number of actual work hours by the associate appraiser on the assignment; and
- f. Signature and state certification number of the supervising appraiser. Separate appraisal logs shall be maintained for each supervising appraiser, if applicable.

5.5(2) The applicant shall accumulate a total of 2500 hours of appraisal experience in no fewer than 24 months. While the hours may be cumulative, the 24 months must have elapsed before the applicant can be certified. Experience claimed must have been performed in compliance with USPAP. Acceptable appraisal experience includes, but is not limited to, the following:

- a. Fee and staff appraisal;
- b. Ad valorem tax appraisal;
- c. Review appraisal;
- d. Appraisal analysis;
- e. Real estate consulting;
- f. Highest and best use analysis; and
- g. Feasibility analysis/study.

5.5(3) The types of experience set out in 5.5(2) are intended neither to exclude other sorts of appraisal experience nor to prescribe a specified minimum array of experience. However, an applicant who cannot demonstrate a background of experience of the diversity manifested by this rule shall bear the burden of showing that the applicant's experience is of sufficient quality and diversity to fulfill the objective of the demonstration of experience.

5.5(4) An applicant may be required to appear before the board or its representative to supplement or verify evidence of experience, which shall be in the form of written reports or file memoranda.

5.5(5) The board may require inspection, by the board itself or by its representatives, of documentation relating to an applicant's claimed experience. Such inspection may be made at the board's offices or such other place as the board may designate.

193F—5.6(543D) Work product review.

5.6(1) An applicant shall submit an appraisal log for the six months immediately preceding the date of application. The board will then select three appraisals at random for work product review and request that the applicant submit a CD and four paper copies each of the selected appraisals along with the appropriate form and fee. The fee for work product review of the appraisals is provided in 193F—Chapter 12. The board may select the appraisals at random from the entire log or within certain types of appraisals.

REAL ESTATE APPRAISER EXAMINING BOARD[193F](cont'd)

The board reserves the right to request one or more additional appraisals if those submitted by the applicant raise issues concerning the applicant's competency or compliance with applicable appraisal standards or the degree to which the submitted appraisals are representative of the applicant's work product. Such additional appraisals may be selected at random from the applicant's log or may be selected specifically to provide an example of the applicant's work product regarding a particular type of appraisal. Applicants may also be requested to submit their work files for one or more of the submitted appraisals.

5.6(2) The board shall treat all appraisals received as public records unless the applicant notifies the board at the time of submission that a submitted appraisal is subject to the confidentiality provisions of appraisal standards or is otherwise confidential under state or federal law. While applicants are encouraged to submit appraisals actually performed for clients, applicants may submit one or more demonstration appraisals if the appraisals are prepared based on factual information in the same manner as applicable to actual appraisal assignments and are clearly marked as demonstration appraisals.

5.6(3) An applicant seeking to upgrade to a certified general real property appraiser shall submit one residential appraisal and two commercial appraisals for review.

5.6(4) The board, or a committee of the board, will evaluate the submitted work product for USPAP compliance with applicable appraisal standards. The board may submit one or more of the appraisals to a peer review consultant for an opinion on the appraiser's compliance with applicable appraisal standards.

5.6(5) The work product review process is not intended as an endorsement of an applicant's work product. No applicant or appraiser shall represent the results of work product review in communications with a client or in marketing to potential clients in a manner which falsely portrays the board's work product review as an endorsement of the appraiser or the appraiser's work product. Failure to comply with this prohibition may be grounds for discipline as a practice harmful or detrimental to the public.

5.6(6) The board views work product review, in part, as an educational process. While the board may deny an application based on an applicant's failure to adhere to appraisal standards or otherwise demonstrate a level of competency upon which the public interest can be protected, the board will attempt to work with applicants deemed in need of assistance to arrive at a mutually agreeable remedial plan. A remedial plan may include additional education, desk review, a mentoring program, or additional precertification experience.

5.6(7) An applicant who is denied certification based on the work product review described in this rule, or on any other ground, shall be entitled to a contested case hearing as provided in rule 193—7.39(546,272C). Notice of denial shall specify the grounds for denial, which may include any of the work performance-related grounds for discipline against a certified appraiser.

5.6(8) If probable cause exists, the board may open a disciplinary investigation against a certificate holder based on the work product review of an applicant. A potential disciplinary action could arise, for example, if the applicant is a certified residential real property appraiser seeking an upgrade to a certified general real property appraiser, or where the applicant is uncertified and is working under the supervision of a certified real property appraiser who cosigned the appraisal report.

5.6(9) After accumulating a minimum of 500 hours of appraisal experience, an applicant may voluntarily submit work product to the board to be reviewed by a peer reviewer for educational purposes only. A maximum of three reports may be submitted for review during the experience portion of the certification process. The fee for voluntary submissions of work product for review is provided in 193F—Chapter 12.

5.6(10) The board will retain the appraisals for as long as needed as documentation of the board's actions for the Appraisal Subcommittee or as needed in a pending proceeding involving the work product of the applicant or the applicant's supervisor. When no longer needed for such purposes, the work product may be retained or destroyed at the board's discretion.

5.6(11) Upon successful completion of the work product review process, an applicant will have 60 days to submit an application.

REAL ESTATE APPRAISER EXAMINING BOARD[193F](cont'd)

193F—5.7(543D) Upgrade to a certified general real property appraiser. To upgrade from a certified residential real property appraiser to a certified general real property appraiser, an applicant must complete the following additional education, examination, and experience requirements.

5.7(1) Education.

a. Formal education. Certified residential real property appraisers must satisfy the college-level education requirements as specified in rule 193F—6.2(543D).

b. Core criteria. In addition to the bachelor's degree or 30 semester hours, an applicant must complete 100 creditable class hours before taking the AQB-approved examination. All courses must be AQB-approved under 2008 criteria to be considered creditable. The required courses and 100 hours consist of the following:

- | | |
|--|----------|
| (1) General appraiser market analysis and highest and best use | 15 hours |
| (2) General appraiser sales comparison approach | 15 hours |
| (3) General appraiser site valuation and cost approach | 15 hours |
| (4) General appraiser income approach | 45 hours |
| (5) General appraiser report writing and case studies | 10 hours |

5.7(2) Examination. An applicant must satisfy the examination requirements as specified in rule 193F—6.3(543D).

5.7(3) Experience. An applicant must satisfy the experience requirements as specified in rule 193F—6.4(543D).

5.7(4) Work product review. An applicant must satisfy the work product review requirements as specified in rule 193F—6.5(543D).

These rules are intended to implement Iowa Code section 543D.5.

ITEM 12. Rescind 193F—Chapter 6 and adopt the following **new** chapter in lieu thereof:

CHAPTER 6
CERTIFIED GENERAL REAL PROPERTY APPRAISER

193F—6.1(543D) General.

6.1(1) The certified general real property appraiser classification qualifies the appraiser to appraise all types of real property.

6.1(2) All certified general real property appraisers must comply with the competency rule of USPAP.

6.1(3) Certification is composed of three parts: education, examination, and experience, which includes work product review.

193F—6.2(543D) Education. Education requirements for an applicant to obtain a certificate as a certified general real property appraiser shall be in compliance with the criteria as set forth by the Appraiser Qualifications Board (AQB) of the Appraisal Foundation.

6.2(1) Formal education.

a. Applicants must hold a bachelor's degree or higher from an accredited college, junior college, community college, or university. In lieu of the bachelor's degree, an applicant shall successfully pass all of the following collegiate subject matter courses from an accredited college, junior college, community college, or university:

- (1) English composition;
- (2) Microeconomics;
- (3) Macroeconomics;
- (4) Finance;
- (5) Algebra, geometry, or higher mathematics;
- (6) Statistics;
- (7) Computer science;
- (8) Business or real estate law; and

REAL ESTATE APPRAISER EXAMINING BOARD[193F](cont'd)

(9) Two elective courses in accounting, geography, agricultural economics, business management, or real estate.

b. Total hours of equivalent college courses in lieu of a bachelor's degree are 30 semester credit hours or equivalent. If an accredited college or university (accredited by the Commission on Colleges, by a regional or national accreditation association, or by an accrediting agency that is recognized by the U.S. Secretary of Education) accepts the College-Level Examination Program® (CLEP) examination(s) and issues a transcript for the examination(s) showing the college's or university's approval, the CLEP credit will be considered as credit for the college course.

6.2(2) Core criteria. In addition to the bachelor's degree or 30 semester hours, an applicant must complete 300 creditable class hours before taking the AQB-approved examination. All courses must be AQB-approved under 2008 criteria to be considered creditable. The required courses and 300 hours consist of the following:

<i>a.</i> Basic appraisal principles	30 hours
<i>b.</i> Basic appraisal procedures	30 hours
<i>c.</i> The 15-hour USPAP course or equivalent	15 hours
<i>d.</i> General appraiser market analysis and highest and best use	30 hours
<i>e.</i> General appraiser site valuation and cost approach	30 hours
<i>f.</i> General appraiser sales comparison approach	30 hours
<i>g.</i> General appraiser income approach	60 hours
<i>h.</i> General appraiser report writing and case studies	30 hours
<i>i.</i> Statistics, modeling and finance	15 hours
<i>j.</i> Appraisal subject matter electives	30 hours

193F—6.3(543D) Examination. The prerequisite for taking the AQB-approved examination is completion of 300 creditable course hours as specified in subrule 6.2(2). For 6.2(2)“c,” equivalency shall be determined through the AQB course approval program or by an alternate method established by the AQB. USPAP qualifying education shall be awarded only when the class is instructed by at least one AQB-certified USPAP instructor who holds a state-issued certified residential or certified general appraiser credential in active status and good standing.

6.3(1) In order to qualify to sit for the certified general real property appraiser examination, the applicant must:

- a.* Complete the board's application form and provide copies of documentation of completion of all courses claimed that qualify the applicant to sit for the examination.
- b.* Pay the fee specified in 193F—Chapter 12.

6.3(2) The board may verify educational credits claimed. Undocumented credits will be sufficient cause to invalidate the examination results pursuant to 193F—paragraph 3.3(2)“c.”

6.3(3) Responsibility for documenting the educational credits claimed rests with the applicant.

6.3(4) An applicant must supply the original examination scores when applying for certification. Copies of the scores will not be accepted.

6.3(5) If an applicant who has passed an examination does not obtain the related appraiser credential within 24 months after passing the examination, that examination result loses its validity to support issuance of an appraiser credential. To regain eligibility for the credential, the applicant must retake and pass the examination. This requirement applies to individuals obtaining an initial certified credential or upgrading from an associate credential.

193F—6.4(543D) Supervised experience required for initial certification. Commencing with experience attained on or after July 1, 2007, all experience required for initial certification pursuant to Iowa Code section 543D.9 shall be performed as a registered associate real property appraiser under the direct supervision of a certified real property appraiser pursuant to the provisions of 193F—Chapter 15.

6.4(1) Acceptable experience. The board will accept as qualifying experience the documented experience attained while the applicant for initial certification was in an educational program recognized by the Appraisal Qualifications Board and Appraisal Subcommittee as providing qualifying experience

REAL ESTATE APPRAISER EXAMINING BOARD[193F](cont'd)

for initial certification, whether or not the applicant was registered as an associate real property appraiser at the time the educational program was completed. Such programs, if approved by federal authorities, will incorporate direct supervision by a certified real property appraiser and such additional program features as to satisfy the purpose of requiring that qualifying experience be attained by the applicant as an associate real property appraiser.

6.4(2) Exceptions.

a. Applicants for initial certification in Iowa who request that the board approve unsupervised experience or experience performed in the absence of registration as an associate real property appraiser may file an application for approval on a form provided by the board. The burden shall be on the applicant to establish by clear and convincing evidence all of the following:

(1) The experience is qualifying experience under the substantive and documentation standards of the Appraisal Qualifications Board and Appraisal Subcommittee.

(2) Denial of the application would impose an undue hardship on the applicant.

(3) The nature of the experience attained is qualitatively and substantially equivalent to the experience an associate real property appraiser would receive under the direct supervision of a certified real property appraiser pursuant to the standards established in 193F—Chapter 15.

(4) Approval of the application would foster the board's goal of fair and consistent treatment of applicants.

(5) A basis exists beyond the individual control of the applicant to explain why the experience at issue could not have been attained by the applicant as an associate real property appraiser under the direct supervision of a certified real property appraiser.

b. Among the circumstances the board may consider favorably in ruling on an application for approval of unsupervised experience or experience attained by the applicant in the absence of registration as an associate real property appraiser are:

(1) The experience was attained in a jurisdiction that, at the time, did not register associate real property appraisers or otherwise offer an associate, trainee or equivalent category of certification.

(2) The applicant attained the experience while employed in a county assessor's office engaged in mass appraisals, and the experience would otherwise qualify under applicable federal standards.

(3) The experience was attained between July 1, 2007, and January 1, 2008, and the appraiser could not reasonably have become registered and associated with a supervising certified appraiser by July 1, 2007, which is the effective date of the requirement that qualifying experience be attained by the applicant as an associate real property appraiser working under the direct supervision of a certified real property appraiser.

193F—6.5(543D) Demonstration of experience. The experience necessary for certification pursuant to Iowa Code section 543D.9 must meet the requirements of this rule. The objective of the demonstration of experience is to ensure that, before the applicant is issued a certificate, the applicant has obtained sufficient diversified experience to perform an appraisal.

6.5(1) The applicant shall provide to the board an appraisal log that includes all information required by the AQB as a precondition for certification and shall maintain the log contemporaneously with the performance of supervised real property appraisal services. The appraisal log shall, at a minimum, include the following for each appraisal:

a. Type of property;

b. Date of report;

c. Address of appraised property;

d. Description of work performed by the associate appraiser and of the supervising appraiser's scope of review and supervision;

e. Number of actual work hours by the associate appraiser on the assignment; and

f. Signature and state certification number of the supervising appraiser. Separate appraisal logs shall be maintained for each supervising appraiser, if applicable.

6.5(2) The applicant shall accumulate a total of 3000 hours of appraisal experience in no fewer than 30 months, of which 1500 hours must consist of nonresidential appraisal experience. While the hours

REAL ESTATE APPRAISER EXAMINING BOARD[193F](cont'd)

may be cumulative, the 30 months must have elapsed before an applicant can be certified. Experience claimed must have been performed in compliance with USPAP. Acceptable appraisal experience includes, but is not limited to, the following:

- a. Fee and staff appraisal;
- b. Ad valorem tax appraisal;
- c. Review appraisal;
- d. Appraisal analysis;
- e. Real estate consulting;
- f. Highest and best use analysis; and
- g. Feasibility analysis/study.

6.5(3) The types of experience set out in 6.5(2) are intended neither to exclude other sorts of appraisal experience nor to prescribe a specified minimum array of experience. However, an applicant who cannot demonstrate a background of experience of the diversity manifested by this rule shall bear the burden of showing that the applicant's experience is of sufficient quality and diversity to fulfill the objective of the demonstration of experience.

6.5(4) An applicant may be required to appear before the board or its representative to supplement or verify evidence of experience, which shall be in the form of written reports or file memoranda.

6.5(5) The board may require inspection, by the board itself or by its representatives, of documentation relating to an applicant's claimed experience. Such inspection may be made at the board's offices or such other place as the board may designate.

193F—6.6(543D) Work product review.

6.6(1) An applicant shall submit an appraisal log for the six months immediately preceding the date of application. The board will then select three appraisals at random for work product review and request that the applicant submit a CD and four paper copies each of the selected appraisals along with the appropriate form and fee. The fee for work product review of the appraisals is provided in 193F—Chapter 12. The board may select the appraisals at random from the entire log or within certain types of appraisals. The board reserves the right to request one or more additional appraisals if those submitted by the applicant raise issues concerning the applicant's competency or compliance with applicable appraisal standards or the degree to which the submitted appraisals are representative of the applicant's work product. Such additional appraisals may be selected at random from the applicant's log or may be selected specifically to provide an example of the applicant's work product regarding a particular type of appraisal. Applicants may also be requested to submit their work files for one or more of the submitted appraisals.

6.6(2) The board shall treat all appraisals received as public records unless the applicant notifies the board at the time of submission that a submitted appraisal is subject to the confidentiality provisions of appraisal standards or is otherwise confidential under state or federal law. While applicants are encouraged to submit appraisals actually performed for clients, applicants may submit one or more demonstration appraisals if the appraisals are prepared based on factual information in the same manner as applicable to actual appraisal assignments and are clearly marked as demonstration appraisals.

6.6(3) An applicant seeking original or upgrade certification as a certified general real property appraiser shall submit one residential appraisal and two commercial appraisals for review.

6.6(4) The board, or a committee of the board, will evaluate the submitted work product for USPAP compliance with applicable appraisal standards. The board may submit one or more of the appraisals to a peer review consultant for an opinion on the appraiser's compliance with applicable appraisal standards.

6.6(5) The work product review process is not intended as an endorsement of an applicant's work product. No applicant or appraiser shall represent the results of work product review in communications with a client or in marketing to potential clients in a manner which falsely portrays the board's work product review as an endorsement of the appraiser or the appraiser's work product. Failure to comply with this prohibition may be grounds for discipline as a practice harmful or detrimental to the public.

6.6(6) The board views work product review, in part, as an educational process. While the board may deny an application based on an applicant's failure to adhere to appraisal standards or otherwise

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demonstrate a level of competency upon which the public interest can be protected, the board will attempt to work with applicants deemed in need of assistance to arrive at a mutually agreeable remedial plan. A remedial plan may include additional education, desk review, a mentoring program, or additional precertification experience.

6.6(7) An applicant who is denied certification based on the work product review described in this rule, or on any other ground, shall be entitled to a contested case hearing as provided in rule 193—7.39(546,272C). Notice of denial shall specify the grounds for denial, which may include any of the work performance-related grounds for discipline against a certified appraiser.

6.6(8) If probable cause exists, the board may open a disciplinary investigation against a certificate holder based on the work product review of an applicant. A potential disciplinary action could arise, for example, if the applicant is a certified residential real property appraiser seeking an upgrade to a certified general real property appraiser, or where the applicant is uncertified and is working under the supervision of a certified real property appraiser who cosigned the appraisal report.

6.6(9) After accumulating a minimum of 500 hours of appraisal experience, an applicant may voluntarily submit work product to the board to be reviewed by a peer reviewer for educational purposes only. A maximum of three reports may be submitted for review during the experience portion of the certification process. The fee for voluntary submissions of work product for review is provided in 193F—Chapter 12.

6.6(10) The board will retain the appraisals for as long as needed as documentation of the board's actions for the Appraisal Subcommittee or as needed in a pending proceeding involving the work product of the applicant or the applicant's supervisor. When no longer needed for such purposes, the work product may be retained or destroyed at the board's discretion.

6.6(11) Upon successful completion of the work product review process, an applicant will have 60 days to submit an application.

These rules are intended to implement Iowa Code section 543D.5.

ITEM 13. Amend subrule 11.2(9) as follows:

11.2(9) A person certified or registered to practice real estate appraising in Iowa shall be deemed to have complied with Iowa's continuing education requirements for periods in which the person is a resident of another state or district having continuing education requirements for real estate appraising and meets all requirements of that state or district. Waivers may not be granted to credential holders who have failed to meet the continuing education requirements. Deferrals may not be granted to credential holders, except in the case of persons returning from active military duty. Those persons Credential holders returning from active military duty may be placed in active status for a period of up to 90 days pending completion of all continuing education requirements. To qualify, the credential holder must submit a request in writing and provide a copy of the military orders.

ITEM 14. Rescind and reserve rule **193F—11.3(272C,543D)**.

ITEM 15. Amend rule 193F—12.1(543D) as follows:

193F—12.1(543D) Required fees. The following fee schedule applies to certified general, certified residential and associate appraisers.

Initial examination application fee	\$100
Examination fee (and reexamination fee)	\$145
Biennial registration fee for active status:	
Certified general real property appraiser	\$360
Certified residential real property appraiser	\$360
Associate real property appraiser	\$250
Biennial registration fee for inactive status:	
Certified general real property appraiser	\$100

REAL ESTATE APPRAISER EXAMINING BOARD[193F](cont'd)

Certified residential real property appraiser	\$100
Associate real property appraiser	\$50
Temporary practice permit fee (each request)	\$150
Reciprocal application fee (one time only)	\$50
Reciprocal registration fee (biennial)	\$360
Fee to reinstate a lapsed license	\$150 (plus the registration fee)
Fee to reinstate an inactive license to active status	\$50
Reissuance or replacement of a lost, destroyed, or stolen certificate or registration	\$50
Work product review fees:	
Original submission, certified residential	\$300
Original submission, certified general	\$650
Additional residential reports as requested by the board	\$150 per report
Additional nonresidential reports as requested by the board	\$250 per report
<u>Voluntary submission of residential reports for review</u>	<u>\$150 per report</u>
<u>Voluntary submission of nonresidential reports for review</u>	<u>\$250 per report</u>

ITEM 16. Rescind and reserve **193F—Chapter 13 and Chapter 14.**

ARC 7592B

REVENUE DEPARTMENT[701]

Notice of Intended Action

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

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

Pursuant to the authority of Iowa Code chapter 17A and sections 421.14, 421.17, 425.8, 425.37, 426A.7, 427.1(19), and 428A.11, the Department of Revenue hereby gives Notice of Intended Action to amend Chapter 71, "Assessment Practices and Equalization," Chapter 72, "Examination and Certification of Assessors and Deputy Assessors," Chapter 73, "Property Tax Credit and Rent Reimbursement," Chapter 74, "Mobile, Modular, and Manufactured Home Tax," and Chapter 75, "Property Tax Administration," to rescind Chapter 78, "Property Tax Exemptions," and to amend Chapter 79, "Real Estate Transfer Tax and Declarations of Value," Chapter 80, "Property Tax Credits and Exemptions," Chapter 120, "Organization and Operation," Chapter 123, "Certification," and Chapter 124, "Courses," Iowa Administrative Code.

These proposed amendments clean up various provisions in existing rules.

An item-by-item explanation is not given for these amendments as they are not controversial and do not establish new policy or change existing policy. The changes correct grammar and Iowa Code references, delete outdated rules, update rules, provide clarification for existing rules, reflect administrative changes, recognize department reorganization, and combine two chapters of property tax credit and exemption rules into one chapter.

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

REVENUE DEPARTMENT[701](cont'd)

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

The Department has determined that these proposed amendments may have an impact on small business. The Department has considered the factors listed in Iowa Code section 17A.4A. The Department will issue a regulatory analysis as provided in Iowa Code section 17A.4A if a written request is filed by delivery or by mailing postmarked no later than March 30, 2009, to the Policy Section, Taxpayer Service and Policy Division, Department of Revenue, Hoover State Office Building, P.O. Box 10457, Des Moines, Iowa 50306. The request may be made by the Administrative Rules Review Committee, the Administrative Rules Coordinator, at least 25 persons signing that request who each qualify as a small business or an organization representing at least 25 such persons.

Any interested person may make written suggestions or comments on these proposed amendments on or before March 17, 2009. Such written comments should be directed to the Policy Section, Taxpayer Service and Policy Division, Department of Revenue, Hoover State Office Building, P.O. Box 10457, Des Moines, Iowa 50306.

Persons who want to convey their views orally should contact the Policy Section, Taxpayer Service and Policy Division, Department of Revenue, at (515)281-8036 or at the Department of Revenue offices on the fourth floor of the Hoover State Office Building.

Requests for a public hearing must be received by March 20, 2009.

These amendments are intended to implement Iowa Code chapters 404, 405, 425, 426A, 427, 427A, 427B, 427C, 428, 428A, 435, and 441.

The following amendments are proposed.

ITEM 1. Amend numbered paragraph **71.12(2)“c”(3)“2”** as follows:

2. The department appraiser shall appraise the property selected unless it is ineligible because of any of the following restrictions:

~~Vacant building~~

Current year sale

Partial assessment

Prior equalization appraisal

Tax-exempt

~~Only one portion of a total property unit (example—a parking lot of a grocery store)~~

Value established by court action

Value is not more than ~~\$5,000~~ \$10,000

Building on leased land

ITEM 2. Amend subrule 72.2(6) as follows:

72.2(6) Review of examination. Persons who have taken the examination may, after presenting proper identification, review their examinations in the office of the department's property tax ~~section~~ division within 60 days after the date the examination has been administered. The review shall consist only of examining the person's own answer sheet indicating the questions answered incorrectly and the question book. Persons reviewing their examinations shall not be permitted to take notes or otherwise transcribe information during this review, nor shall they have access to the answers to questions contained in the examination. Persons who review their examinations shall be permitted to do so only once, and shall not be eligible to take an examination for the position of assessor or deputy assessor for a period of at least 30 days following the date of the review of the examinations.

ITEM 3. Amend rule 701—72.5(441) as follows:

701—72.5(441) Regular certification.

72.5(1) To obtain regular certification, a person must pass the examination and (a) possess two years' appraisal-related experience at the time of ~~successfully writing~~ passing the examination, or (b) have obtained temporary certification, received a provisional appointment as assessor, and successfully completed the course of study prescribed by the director as provided in Iowa Code section 441.5.

REVENUE DEPARTMENT[701](cont'd)

72.5(2) If subsequent to ~~the successful writing of~~ passing the examination a person who has not received a provisional appointment as assessor attains two years' appraisal-related experience, the person must again ~~successfully write~~ pass the examination to obtain regular certification.

72.5(3) A regular certificate ~~shall expire~~ expires two years after the most recent date certification is granted by the director. However, the regular certificate of a person who receives an appointment as assessor ~~shall remain~~ remains valid until the person's resignation or removal from the position of assessor, even though more than two years may have expired since certification was last granted.

72.5(4) A regular certificate may at any time be renewed if the person possessing such a certificate ~~successfully rewrites~~ passes the assessor examination. A regular certificate so renewed shall remain valid for a period of two years from the date certification was last granted, except as provided in subrule 72.5(3).

This rule is intended to implement Iowa Code section 441.5.

ITEM 4. Amend subrules 72.6(1) and 72.6(3) as follows:

72.6(1) To obtain temporary certification, a person who does not possess two years' appraisal-related experience must ~~successfully write~~ pass the examination for the position of assessor.

72.6(3) The temporary certificate of a person who does not receive a provisional appointment as assessor may be renewed if the person ~~successfully rewrites~~ retakes and passes the assessor examination. A temporary certificate so renewed shall remain valid for a period of two years from the date temporary certification was last granted.

ITEM 5. Rescind and reserve rule ~~701—72.7(441)~~.

ITEM 6. Amend subrules 72.8(1) and 72.8(4) as follows:

72.8(1) A person who ~~successfully writes~~ passes the examination for assessor or deputy assessor shall be granted regular deputy assessor certification by the director and shall be eligible for appointment to a deputy assessor position.

72.8(4) A deputy assessor regular certificate may at any time be renewed if the person possessing such a certificate ~~successfully rewrites~~ passes the assessor or deputy assessor examination. A deputy assessor certificate so renewed shall remain valid for a period of two years from the date certification was last granted, except as provided in subrule 72.8(3).

ITEM 7. Rescind and reserve rule ~~701—72.9(441)~~.

ITEM 8. Amend subrule 72.10(2) as follows:

72.10(2) After the appointment of a new assessor, the assessor may appoint one or more deputy assessors from the registers of persons certified as eligible for appointment as assessor or deputy assessor ~~or the assessor may appoint as deputy assessor a person holding a restricted deputy assessor certificate valid for that assessing jurisdiction~~. The assessor shall notify the director immediately of persons appointed as deputy assessors, the vacating of office by a deputy assessor, or a change in a deputy assessor's legal name.

ITEM 9. Amend rule ~~701—72.13(441)~~ as follows:

701—72.13(441) Course of study for provisional appointees. A person who possesses temporary certification and receives a provisional appointment as assessor shall within 18 months of the appointment complete a course of study prescribed and administered by the department of revenue. The course of study shall include the following: (1) attendance of at least one basic assessment school conducted by the department of revenue; (2) field instruction by appraisal personnel of the department of revenue; (3) the actual appraisal of representative properties in each class of real estate; and (4) attendance at the annual school of instruction sponsored by the department of revenue and the Iowa State Association of Assessors. In the event a person is unable to attend the annual school of instruction due to circumstances beyond the person's control, the director may, upon the request of the person, substitute comparable instruction for the fulfillment of this requirement. At three-month intervals following the appointment of the assessor, department of revenue appraisal personnel shall complete a review of the assessor's performance and discuss the review with the assessor. If the review indicates

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unsatisfactory progress is being made toward developing a working knowledge of appraisal principles, the assessor shall be informed as to how the assessor's performance could be improved. Not less than 60 nor more than 90 days before the expiration of the 18-month period, the director of revenue shall inform the assessor and the conference board of the assessor's jurisdiction of the director's determination as to whether the assessor satisfactorily completed the course. If the assessor satisfactorily completes the course, the assessor shall be granted regular certification. If the assessor does not satisfactorily complete the course, the director shall revoke the assessor's temporary certificate and notify the assessor and the conference board of the revocation and that the person is no longer eligible to hold the position of assessor.

This rule is intended to implement Iowa Code section 441.5.

ITEM 10. Amend subrule 72.14(3) as follows:

72.14(3) Removal of member. A member of an examining board may be removed from office only after specific charges have been filed against the member and a public hearing has been held if requested by the member.

ITEM 11. Amend rule **701—72.14(441)**, implementation sentence, as follows:

This rule is intended to implement Iowa Code sections 441.2, 441.3, 441.4, and 441.6.

ITEM 12. Amend subrule 72.18(8) as follows:

72.18(8) Review of examination. Persons who have taken a course examination may, after presenting proper identification, review their ~~examination~~ examinations in the office of the department's property tax ~~section~~ division within 60 days after the date the examination has been administered. The review shall consist only of examining the person's own answer sheet and the question book. Persons reviewing their examinations shall not be permitted to take notes or otherwise transcribe information during this review, nor shall they have access to the answers to questions contained in the examination. Persons who review their examinations shall be permitted to do so only once, and shall not be eligible to take the same examination for a period of at least 30 days following the date of the review of the examinations.

ITEM 13. Amend rule 701—73.24(425) as follows:

701—73.24(425) Income: spouse. The income of a spouse does not have to be reported on the claimant's return unless the spouse lived with the claimant at the property upon which the property tax credit or rent reimbursement is claimed. If the spouse lived with the claimant for only a portion of the base year, only that portion of the spouse's income which was received while living with the claimant must be reported as income on the claimant's return. If the spouse is eligible to claim a credit or reimbursement, the spouse does not have to include any income that was reported on the other claimant's (spouse's) return.

This rule is intended to implement Iowa Code subsection 425.17(6).

ITEM 14. Amend subrule 73.27(4) as follows:

73.27(4) Special assessment installment due in current fiscal year. The amount of a special assessment credit claim to be reimbursed by the Iowa department of revenue pursuant to Iowa Code section 425.23 is limited to the amount of the installment payable during the current fiscal year for persons described in ~~1993 Iowa Acts, chapter 180, section 4, Iowa Code section 425.17, subsection 2, paragraph "a,"~~ or one-half of that amount for persons described in ~~1993 Iowa Acts, chapter 180, section 4, Iowa Code section 425.17, subsection 2, paragraph "b."~~

ITEM 15. Amend rule **701—73.27(425)**, implementation sentence, as follows:

This rule is intended to implement Iowa Code section 425.23(3) ~~as amended by 1998 Iowa Acts, House File 2513,~~ and is effective for special assessment credit claims filed on or after January 1, 1999.

ITEM 16. Amend rule 701—73.32(425) as follows:

701—73.32(425) Annual adjustment factor. Beginning with claims filed in 2000, the income levels used for determining the allowable percent of property tax credit or rent reimbursement, special

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assessment credit, or the amount of the mobile home reduced tax rate shall be adjusted each year to reflect the inflation factor as computed pursuant to Iowa Code section 422.4.

This rule is intended to implement Iowa Code sections 425.23(4) and 435.22(2) ~~as amended by 1998 Iowa Acts, House File 2513.~~

ITEM 17. Amend subrule 74.4(3) as follows:

74.4(3) Claims. Claims for the reduced tax rate must be filed with the county treasurer on or before June 1 immediately preceding the fiscal year during which the taxes are due. The county treasurer may extend the time for filing a claim for reduced tax rate through September 30 of the same calendar year if good cause exists. The director of revenue may also extend the time for filing a claim through December 31 of the same calendar year if good cause exists. Late reduced tax rate claims will be reimbursed by the director directly to the claimant upon proof of tax payment. The claimant must own and occupy the home at the time the claim for credit is filed or, if the claimant is deceased, at the time of the claimant's death or, if a late claim, on June 1 of the claim year. The claim forms shall be provided by the department of revenue.

ITEM 18. Amend rule 701—75.3(445) as follows:

701—75.3(445) When delinquent. The first half installment of taxes shall become delinquent if not received by the county treasurer on or before the last business day preceding October 1, and the second half installment shall become delinquent if not received by the county treasurer on or before the last business day preceding April 1. If mailed, the payment envelope must bear a postmark date preceding October 1 or April 1 to avoid delinquency. ~~However, in those instances when the last day of September or March is a Saturday or Sunday, the taxes become delinquent on the second business day of October or April, whichever is applicable.~~ If paid electronically, the payment must be initiated by midnight on ~~or before~~ the last day of the month preceding the delinquent date to avoid interest on the taxes. However, in those instances when the last day of September or March is a Saturday or Sunday, the taxes become delinquent on the second business day of October or April, whichever is applicable. Delinquent taxes shall draw interest at the rate specified in Iowa Code section 445.39.

This rule is intended to implement Iowa Code Supplement section 445.37 ~~as amended by 2002 Iowa Acts, House File 2246.~~

ITEM 19. Rescind and reserve **701—Chapter 78**.

ITEM 20. Amend subrule 79.1(6) as follows:

79.1(6) Multiple parcels. If the real estate conveyance contains multiple parcels and the parcels are located in more than one county, the tax is to be paid to each county in which the ~~property is~~ parcels are located based on the consideration paid for each property parcel or proportionate parcel located in each county.

ITEM 21. Amend rule **701—79.1(428A)**, implementation sentence, as follows:

This rule is intended to implement Iowa Code chapter 428A ~~as amended by 2001 Iowa Acts, Senate File 372 and House File 736.~~

ITEM 22. Amend subrule 79.3(2) as follows:

79.3(2) Report of sales. County recorders and city and county assessors shall complete the appropriate portions of the real estate transfer-declaration of value form for each real estate transfer for which a declaration of value has been completed by the buyer, seller, or agent. The completion of the completed real estate transfer-declaration of value forms constitutes the preparation of a shall be used in preparing the quarterly sales report to be submitted to the director of revenue department as required by Iowa Code section 421.17(6).

ITEM 23. Amend subrule 79.4(3) as follows:

79.4(3) Limited partnership defined. “Limited partnership” means a partnership as defined in Iowa Code section ~~545.1~~ 488.102(13) and which owns or leases agricultural land or is engaged in farming.

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ITEM 24. Amend rule 701—79.6(428A) as follows:

701—79.6(428A) Public access to declarations of value. Declarations of value are public records and shall be made available for public inspection in accordance with Iowa Code chapter ~~68A~~ 22.

This rule is intended to implement Iowa Code chapter 428A.

ITEM 25. Amend paragraph **80.2(1)“a”** as follows:

a. No military service tax exemption shall be allowed unless the first application for the military service tax exemption is signed by the owner of the property or the owner's qualified designee and filed with the city or county assessor on or before July 1 of the current assessment year (1970 O.A.G. 437). Once filed, the claim for exemption is applicable to subsequent years and no further filing shall be required provided the claimant or the claimant's spouse owns the property on July 1 of each year. The assessor, county auditor, and county board of supervisors shall act on the claim in accordance with Iowa Code section ~~427.6 as amended by 1999 Iowa Acts, chapter 151, section 88~~ 426A.14. A claim filed after July 1 of any calendar year applies to the following assessment year.

ITEM 26. Amend paragraphs **80.2(2)“i”** and **“o”** as follows:

i. A remainder is not eligible to receive a military service tax exemption on property to which a remainder interest is ~~paid~~ held until expiration of the life estate. (1946 O.A.G. 155)

o. In the event both a husband and wife are qualified veterans, they may each claim their military service tax exemption on their jointly owned property. (1946 O.A.G. ~~194~~ 154) If property is solely owned by one spouse, the owner spouse may claim both exemptions on ~~such~~ the property providing the nonowner ~~spouse does not claim his or her exemption~~ spouse's exemption is not claimed on other property.

ITEM 27. Amend rule **701—80.2(22,35,426A)**, implementation sentence, as follows:

This rule is intended to implement Iowa Code sections 22.7, 35.1, and 35.2 and chapter 426A ~~as amended by 2005 Iowa Acts, chapter 115, and 2006 Iowa Acts, House File 2751.~~

ITEM 28. Amend subrule 80.3(7) as follows:

80.3(7) No exemption shall be allowed unless the department of natural resources has certified that the primary use of the property for which the taxpayer is seeking an exemption is to control or abate air or water pollution or to enhance the quality of any air or water in this state or that the primary use of the property is for recycling. Recycling property is property used primarily in the manufacturing process and resulting directly in the conversion of waste glass, waste plastic, wastepaper products, waste paperboard, or waste wood products into new raw materials or products composed primarily of recycled material.

ITEM 29. Amend subrule 80.4(8) as follows:

80.4(8) The exemption authorized by Iowa Code subsection 427.1(21) extends only until the final payment due date of the borrower's original low-rent housing development mortgage on the property or until the borrower's original low-rent housing development mortgage is paid in full or expires, whichever is sooner. If the original mortgage is refinanced, the exemption shall apply only until what would have been the final payment due date under the original mortgage or until the refinanced mortgage is paid in full or expires, whichever is sooner. This exemption for refinanced projects applies to those projects refinanced on or after January 1, 2005.

ITEM 30. Amend paragraph **80.6(6)“a”** as follows:

a. An eligible property owner shall file an application for exemption with the assessor between January 1 and February 1, inclusive, of the year for which the value added is first assessed for tax purposes. The amount of “actual value added” shall be the difference between the assessed value of the property on January 1 of the year value is added to the property and the assessed value of the property the following assessment year. An application cannot be filed if a valid ordinance has not been enacted in accordance with Iowa Code section 427B.1 (O.A.G. 82-3-5). If an application is not filed by February 1 of the year for which the value added is first assessed, the taxpayer cannot receive in subsequent years the partial exemption for that value added (O.A.G. 82-1-17). However, if a taxpayer has received prior approval in accordance with Iowa Code section 427B.4 and subrule 80.6(2), the application is to be filed

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by not later than February 1 of the year for which the total value added is first assessed as the approved completed project.

ITEM 31. Amend subrule 80.8(8) as follows:

80.8(8) Value added. As used in this rule, the term “value added” means the amount of increase in the actual value of real estate directly attributable to improvements made as part of a revitalization project. The amount of “actual value added” shall be the difference between the assessed value of the property on January 1 of the year value is added to the property and the assessed value of the property the following assessment year. “Value added” does not include any increase in actual (market) value attributable to that portion of the real estate assessed prior to the year in which revitalization improvements are first assessed. The sales price of the property rather than the assessed value of the property may be used in determining the percentage increase required to qualify for exemption if the improvements were begun within one year of the date the property was purchased.

ITEM 32. Amend subparagraph **80.9(6)“f”(1)** as follows:

(1) Fruit-tree or forest reservations. Property which has received an exemption as a fruit-tree or forest reservation is not subject to the recapture tax if the property is maintained as a fruit-tree or forest reservation for at least five full calendar years following the last calendar year for which the property was exempt as a fruit-tree or forest reservation.

ITEM 33. Amend subrule 80.12(2) as follows:

80.12(2) Eligibility for exemption. To qualify for exemption, the property must be used in ~~connection~~ an operation connected with, or in conjunction with, a publicly owned sanitary landfill to collect methane gas or other gases produced as a byproduct of waste decomposition and convert the gas to energy or in an operation connected with, or in conjunction with, a publicly owned sanitary landfill to collect waste ~~that will be used~~ would otherwise be collected by, or deposited with, a publicly owned sanitary landfill in order to decompose the waste to produce methane gas or other gases for conversion into energy. The property used to decompose the waste and convert the waste to gas is not eligible for the exemption.

ITEM 34. Amend rule **701—80.12(427)**, implementation sentence, as follows:

This rule is intended to implement Iowa Code section 427.1(29) ~~as amended by 2001 Iowa Acts, Senate File 520.~~

ITEM 35. Amend rule 701—80.13(427B) as follows:

701—80.13(427B,476B) Wind energy conversion property.

80.13(1) Property that does not qualify for the wind energy production tax credit. A city council or county board of supervisors may provide by ordinance for the special valuation of wind energy conversion property. If the ordinance is repealed, the special valuation applies through the nineteenth assessment year following the first year the property was assessed. Once the ordinance has been repealed and the special valuation is no longer applicable, the property shall be valued at market value rather than 30 percent of net acquisition cost. The special valuation applies to property first assessed on or after the effective date of the ordinance. The local assessor shall value the property in accordance with the schedule provided in Iowa Code section 427B.26(2). ~~Public utility property~~ The property qualifies for special valuation provided the taxpayer files a declaration of intent with the local assessor by February 1 of the assessment year in which the property is first assessed for tax to have the property locally assessed. The property shall not be assessed until the assessment year following the year the entire wind plant is completed. A wind plant is completed when it is placed in service.

80.13(2) Property that qualifies for the wind energy production tax credit. The wind energy production tax credit applies to electrical production facilities placed in service on or after July 1, 2005, but prior to July 1, ~~2008~~ 2012. These facilities are to be assessed by the department of revenue for a period of 12 years, and the taxes payable on the facilities are to be paid to the department at the same time as regular property taxes. The owner of the facility shall file an annual report with the department by May 1 of each year during the 12-year assessment period, and the department shall certify the assessed value of the facility by November 1 of each year to the county auditor. The board

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of supervisors shall notify the county treasurer to state on the tax statement that the property taxes are to be paid to the department of revenue. The board shall also notify the department of those facilities that are required to pay the property taxes to the department. The department of revenue shall notify the county treasurer of the date the taxes were paid within five business days of receipt, and the notification shall authorize the county treasurer to mark the record as paid in the county system.

This rule is intended to implement Iowa Code section 427B.26 and Supplement chapter 476B.

ITEM 36. Reserve rules **701—80.28** to **701—80.49**.

ITEM 37. Adopt the following new rules 701—80.50(427,441) to 701—80.56(427):

701—80.50(427,441) Responsibility of local assessors.

80.50(1) The assessor shall determine the taxable status of all property. If an application for exemption is required to be filed, the assessor shall consider the information contained in the application in determining the taxable status of the property. The assessor may also request from any property owner or claimant any additional information necessary to the determination of the taxable status of the property. For property subject to Iowa Code subsection 427.1(14), the assessor shall not base the determination of the taxable status of property solely on the statement of objects or purposes of the organization, institution, or society seeking an exemption. The use of the property rather than the objects or purposes of the organization, institution, or society shall be the controlling factor in determining the taxable status of property. (*Evangelical Lutheran G.S. Society v. Board of Review of Des Moines*, 200 N.W.2d 509; *Northwest Community Hospital v. Board of Review of Des Moines*, 229 N.W.2d 738.)

80.50(2) In determining the taxable status of property, the assessor shall construe the appropriate exemption statute and these rules in a strict manner. If there exists any doubt as to the taxable status of property, the property shall be subject to taxation. The burden shall be upon the claimant to show that the exemption should be granted. (*Evangelical Lutheran G.S. Society v. Board of Review of Des Moines*, 200 N.W.2d 509; *Southside Church of Christ of Des Moines v. Des Moines Board of Review*, 243 N.W.2d 650; *Aerie 1287, Fraternal Order of Eagles v. Holland*, 226 N.W.2d 22.)

80.50(3) If the assessor determines that all or part of a property is subject to taxation, the assessor shall notify the taxpayer by the issuance of an assessment roll as provided in Iowa Code sections 441.26 and 441.27. If the assessor determines that property has been erroneously exempted from taxation, the assessor shall revoke the exemption for the current assessment year but not for prior assessment years.

80.50(4) The assessor's determination of the taxable status of property may be appealed to the local board of review pursuant to Iowa Code section 441.37.

This rule is intended to implement Iowa Code chapter 427 and sections 441.17(11), 441.26, and 441.27.

701—80.51(441) Responsibility of local boards of review.

80.51(1) If the board of review determines that property has been erroneously exempted from taxation, the board of review shall revoke the exemption for the current assessment year, but not for prior assessment years, and shall give notice to the taxpayer as provided in Iowa Code section 441.36.

80.51(2) If the board of review acts in response to a protest arising from an assessor's determination of the taxable status of property, the board of review shall notify the taxpayer of its disposition of the protest in accordance with the provisions of Iowa Code section 441.37.

This rule is intended to implement Iowa Code sections 441.35, 441.36, and 441.37.

701—80.52(427) Responsibility of director of revenue. The director may revoke or modify an exemption on property if the exemption is found to have been erroneously granted by the local taxing officials. Any taxpayer or taxing district may request that the director revoke or modify an exemption, or the director may on the director's own determination revoke or modify an exemption. The director may revoke or modify an exemption for the tax year commencing in the tax year in which the request is made to the director or for the tax year commencing in the tax year in which the director's own motion is filed. The director shall hold a hearing on the appropriateness of the exemption prior to issuing an order for revocation or modification. The director's order to revoke or modify an exemption may be

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appealed in accordance with Iowa Code chapter 17A or in the district court of the county in which the property is located.

This rule is intended to implement Iowa Code section 427.1(16).

701—80.53(427) Application for exemption.

80.53(1) Each society or organization seeking an exemption under Iowa Code subsection 427.1(5), 427.1(8), 427.1(21), or 427.1(33) shall file with the appropriate assessor a statement containing the following information:

- a.* The legal description of the property for which an exemption is requested.
- b.* The use of all portions of the property, including the percentage of space not used for the appropriate objects of the society or organization and the percentage of time such space is so utilized.
- c.* A financial statement showing the income derived and the expenses incurred in the operation of the property.
- d.* The name of the organization seeking the exemption.
- e.* If the exemption is sought under Iowa Code subsection 427.1(8), the appropriate objects of the society or organization.
- f.* The book and page number on which is recorded the contract of purchase or the deed to the property and any lease by which the property is held.
- g.* An oath that no persistent violations of the laws of the state of Iowa will be permitted or have been permitted on such property.
- h.* The signature of the president or other responsible official of the society or organization showing that information contained in the claim has been verified under oath as correct.

80.53(2) The statement of objects and uses required by Iowa Code subsection 427.1(14) shall be filed only on forms prescribed by the director of revenue and made available by assessors.

80.53(3) Applications for exemptions required under Iowa Code subsection 427.1(14) must be filed with the assessor not later than February 1 of the year for which the exemption is requested.

80.53(4) If a properly completed application is not filed by February 1 of the assessment year for which the exemption would apply, no exemption shall be allowed against the property for that year (1964 O.A.G. 437).

This rule is intended to implement Iowa Code section 427.1, subsections 5, 8, 14, 19 to 24, 27, and 29 to 33.

701—80.54(427) Partial exemptions. In the event a portion of property is determined to be subject to taxation and a portion of the property exempt from taxation, the taxable value of the property shall be an amount which bears the same relationship to the total value of the entire property as the area of the portion subject to taxation bears to the area of the entire property. If a portion of a structure is subject to taxation, a proportionate amount of the value assigned to the land upon which the structure is located shall also be subject to taxation.

This rule is intended to implement Iowa Code subsection 427.1(14).

701—80.55(427,441) Taxable status of property.

80.55(1) The status of property on July 1 of the fiscal year which commences during the assessment year determines eligibility of the property for exemption in situations where no claim is required to be filed to procure a tax exemption. If the property is in a taxable status on July 1, no exemption is allowable for that fiscal year. If the property is in an exempt status on July 1, no taxes are to be levied against the property during that fiscal year. Exceptions to this rule are as follows:

- a.* Land acquired by the state of Iowa or a political subdivision thereof after July 1 in connection with the establishment, improvement, or maintenance of a public road shall be taxable for that portion of the fiscal year in which the property was privately owned.
- b.* All current and delinquent tax liabilities are to be canceled and no future taxes levied against property acquired by the United States or its instrumentalities, regardless of the date of acquisition, unless

REVENUE DEPARTMENT[701](cont'd)

the United States Congress has authorized the taxation of specific federally owned property (1980 O.A.G. 80-1-19). The following exceptions apply:

(1) Property owned by the Federal Housing Authority (FHA) and property owned by the Federal Land Bank Association are subject to taxation, and any tax liabilities existing at the time of the acquisition are not to be canceled (1982 O.A.G. 82-1-16; 12 USCS §2055).

(2) Existing tax liabilities against property acquired by the Small Business Administration are not to be canceled if the acquisition takes place after the date of levy. However, no taxes are to be levied if the acquisition takes place prior to the levy date or for subsequent fiscal years in which the Small Business Administration owns the property on July 1 (15 USCS §646).

c. Land owned by the state and leased by the department of corrections or the department of human services pursuant to Iowa Code section 904.302, 904.705, or 904.706 to an entity that is not exempt from property tax is subject to taxation for the term of the lease. This provision applies to leases entered into on or after July 1, 2003. The lessor shall file a copy of the lease with the county assessor of the county where the land is located.

80.55(2) The status of property during the fiscal year for which an exemption was claimed determines eligibility of the property for exemption in situations where a claim is required to be filed to procure a tax exemption. If the property is used for an appropriate purpose for which an exemption is allowable for all of the fiscal year for which the exemption is claimed, no taxes are to be levied against the property during that fiscal year. If the property for which an exemption has been claimed and received is used for an appropriate purpose for which an exemption is allowable for only a portion of the fiscal year for which the exemption is claimed, the taxes shall be prorated in accordance with the period of time the property was in a taxable status during the fiscal year.

This rule is intended to implement Iowa Code sections 427.1(1), 427.1(2), 427.2, 427.18, and 427.19.

701—80.56(427) Abatement of taxes. The board of supervisors may abate the taxes levied against property acquired by gift or purchase if the property was acquired after the deadline for filing a claim for property tax exemption if the property would have been exempt under Iowa Code section 427.1, subsection 7, 8, or 9, if a timely claim had been filed.

This rule is intended to implement Iowa Code section 427.3.

ITEM 38. Amend **701—Chapter 120**, title, as follows:

~~ORGANIZATION AND OPERATION~~
REASSESSMENT EXPENSE FUND

ITEM 39. Amend rule 701—120.1(421) as follows:

701—120.1(421) ~~Organization of committee~~ Reassessment expense fund. The reassessment expense fund ~~committee consists of the director of revenue, director, office of management, and the chairperson of the state board of tax review. One of the three members is selected as the chairperson and it is the duty of the chairperson to call and chair meetings. The reassessment expense fund committee shall appoint a secretary who shall take minutes of committee meetings and maintain the committee's records. The committee is established to authorize~~ is created in the office of the treasurer of state for the purpose of providing loans to city and county conference boards for conducting reassessments of property from the reassessment expense fund for assessing jurisdictions used in reappraising a class or classes of property within the jurisdiction. A majority of the members must be present to constitute a quorum and a majority vote by those members present shall govern and control. The office of the committee is maintained in the office of the Department of Revenue in the Hoover State Office Building, Des Moines, Iowa 50319. The director of revenue is responsible for maintaining and administering the reassessment expense fund. Persons wishing to obtain information pertaining to the ~~committee~~ reassessment expense fund or to make submissions or requests should direct correspondence to ~~that address~~ the attention of the Director, Department of Revenue, Hoover State Office Building, Des Moines, Iowa 50319.

This rule is intended to implement Iowa Code section 421.30.

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ITEM 40. Amend rule 701—120.2(421), introductory paragraph, as follows:

701—120.2(421) Application for loan. Applications for ~~loan loans~~ from the reassessment expense fund may be made by a conference board established under Iowa Code section 441.2. The application shall be made on forms provided by the director of revenue and shall be submitted to the director ~~who will forward the application to the reassessment expense fund committee~~. Applications shall contain the following information:

ITEM 41. Amend rule 701—120.3(421) as follows:

701—120.3(421) Criteria for granting loan. In determining whether to grant a loan from the reassessment expense fund and the amount of any such loan, the ~~reassessment expense fund committee~~ director shall consider the following factors:

1. to 4. No change.

~~In the event the reassessment expense fund committee denies a request for a loan or approves a loan in an amount less than that requested by the assessing jurisdiction, the assessing jurisdiction may, within ten days of receipt of notice of the committee's decision, request the committee to reconsider the original request. Such reconsideration by the committee shall be considered final action on the matter and the committee's final decision may be appealed to the district court.~~

This rule is intended to implement Iowa Code section 421.30.

ITEM 42. Amend rule 701—123.2(441) as follows:

701—123.2(441) Confidentiality. Examinations shall be held confidential ~~to~~ by the members of the assessment education advisory committee and by persons designated by the director to have access to the examinations. Persons given access to the examinations are those persons administering the ~~examination examinations~~, the instructors of the course for which the ~~exam is~~ examinations are given and those persons entrusted with the storage and retention of examinations by the director. The department of revenue will store records of attendance at the courses and scores of the examinations. Any person having access to examinations shall not divulge in any manner not provided by law the results of any examination.

ITEM 43. Amend rule **701—123.3(441)**, second unnumbered paragraph, as follows:

In situations in which the required number of hours of credit must be prorated, at least 60 percent of the credits earned must be tested credit. For example, if ~~the person in the example immediately above~~ a person must earn 31 hours of credit for certification during ~~the a~~ 15-month period, at least 19 of the hours must be tested credit ($31 \times .60 = 18.6 = 19$). Partial credit hours shall be rounded to the nearest whole number.

ITEM 44. Amend rule 701—124.1(441) as follows:

701—124.1(441) Course selection. The courses selected by the assessor education advisory committee for the continuing education program shall emphasize the areas outlined in rule 701—122.4(441). In establishing courses, the committee will consider current assessor training programs in Iowa and other states, and information from other sources.

ARC 7593B**REVENUE DEPARTMENT[701]****Notice of Intended Action**

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

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

Pursuant to the authority of Iowa Code chapter 17A and section 453B.2, the Department of Revenue hereby gives Notice of Intended Action to amend Chapter 91, "Administration of Marijuana and Controlled Substances Stamp Tax," Iowa Administrative Code.

Item 1 reflects that the Department sells four different tax stamps for the four different tax rates rather than three as the existing rule states. The tax stamp for unprocessed marijuana plants was omitted from the existing rule.

Item 2 corrects an Iowa Code reference.

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

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

The Department has determined that these proposed amendments may have an impact on small business. The Department has considered the factors listed in Iowa Code section 17A.4A. The Department will issue a regulatory analysis as provided in Iowa Code section 17A.4A if a written request is filed by delivery or by mailing postmarked no later than March 30, 2009, to the Policy Section, Taxpayer Service and Policy Division, Department of Revenue, Hoover State Office Building, P.O. Box 10457, Des Moines, Iowa 50306. The request may be made by the Administrative Rules Review Committee, the Administrative Rules Coordinator, at least 25 persons signing that request who each qualify as a small business or an organization representing at least 25 such persons.

Any interested person may make written suggestions or comments on these proposed amendments on or before March 17, 2009. Such written comments should be directed to the Policy Section, Taxpayer Service and Policy Division, Department of Revenue, Hoover State Office Building, P.O. Box 10457, Des Moines, Iowa 50306.

Persons who want to convey their views orally should contact the Policy Section, Taxpayer Service and Policy Division, Department of Revenue, at (515)281-8036 or at the Department of Revenue offices on the fourth floor of the Hoover State Office Building.

Requests for a public hearing must be received by March 20, 2009.

These amendments are intended to implement Iowa Code chapter 453B.

The following amendments are proposed.

ITEM 1. Amend rule **701—91.2(453B)**, first unnumbered paragraph, as follows:

The director shall offer for sale ~~three~~ four different stamps: (1) a stamp for a substance consisting of or containing marijuana, (2) a stamp for taxable substances other than marijuana which are sold by weight, ~~and~~ (3) a stamp for taxable substances other than marijuana which are not sold by weight, and (4) a stamp for each unprocessed marijuana plant. Each package or container which contains a taxable substance must have a stamp affixed to it. The stamps will be issued in denominations requested by the purchaser so long as the minimum purchase price for a single stamp purchase transaction is \$215 or more. In addition, the denomination of individual stamps cannot be less than the price for ten dosage units, multiples of ten dosage units, one whole gram, or multiples of one gram even if the stamp will be affixed to a package containing less than ten dosage units or multiples thereof, or only a portion of one gram or multiples thereof.

REVENUE DEPARTMENT[701](cont'd)

ITEM 2. Amend rule 701—91.3(453B), introductory paragraph, as follows:

701—91.3(453B) Refunds pertaining to unused stamps. At any time up to 30 days after the expiration date as indicated on the stamp, any unused stamp may be returned to the department and a refund requested in accordance with Iowa Code section ~~422.73(2)~~ 422.73(1) and rules promulgated thereunder.

ARC 7594B

SOIL CONSERVATION DIVISION[27]

Notice of Intended Action

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

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

Pursuant to the authority of Iowa Code section 161A.4(1), the Division of Soil Conservation of the Department of Agriculture hereby gives Notice of Intended Action to amend Chapter 10, "Iowa Financial Incentive Program for Soil Erosion Control," Iowa Administrative Code.

The existing summer construction incentive provisions for soil erosion control provide an increased cost-share rate for constructing conservation practices from June 1 to September 15. The summer construction incentive is being revised with an incentive payment for the establishment of conservation cover in place of cropland to allow for the establishment of permanent conservation practices during the growing season.

Any interested persons may make written suggestions or comments on the proposed amendments on or before 4:30 p.m. on March 17, 2009. Written comments should be addressed to Margaret Thomson, Iowa Department of Agriculture and Land Stewardship, Wallace State Office Building, 502 East Ninth Street, Des Moines, Iowa 50319. Comments may also be submitted by fax to (515)281-6236 or by E-mail to Margaret.Thomson@IowaAgriculture.gov.

These proposed amendments are subject to the Division's general waiver provisions.

These amendments are intended to implement Iowa Code section 161A.2.

The following amendments are proposed.

ITEM 1. Amend subrule 10.41(5) as follows:

10.41(5) Summer construction incentives (SCI). ~~Unspent funds distributed to the voluntary program in any fiscal year may be used for SCI cost share up to 60 percent if there are not adequate requests for permanent practices to obligate the balance. Funds are available for the planting of a conservation cover crop in place of cropland during the growing season to extend the construction season for the purpose of the installation of conservation practices. This practice shall be applied using the conservation crop rotation standard.~~

ITEM 2. Amend subrule 10.60(2) as follows:

10.60(2) ~~Summer construction incentives. Commissioners may enter agreements providing for cost sharing up to 60 percent of the cost of establishing approved, permanent soil and water conservation practices where the establishment of that practice involves a construction project which begins after June 1 but before September 15 of any calendar year. Commissioners shall not use state cost sharing funds to pay such incentives when requests for cost sharing at the 50 percent level are sufficient to use all of the district's allocation for that fiscal year. In addition to cost share for the establishment of a permanent conservation practice, up to \$200 per acre is available for the establishment of a conservation cover crop and to offset income lost from cropland acres taken out of production during the growing season. Payment will be made upon completion of the permanent conservation practice. To qualify:~~

~~a. The field being treated shall be in row cropland during the growing season in which the permanent conservation practice is being constructed.~~

SOIL CONSERVATION DIVISION[27](cont'd)

b. The construction area shall be planted with a conservation cover either before or after the construction of the permanent conservation practice.

c. The construction of the permanent conservation practice shall take place between June 15 and October 15. Work must be started and completed between these dates and verified by the technician prior to payment of the incentive.

d. Only the land necessary for the construction is eligible for this incentive. The construction work area shall be determined by the technician.

e. The construction work area shall not be used to grow a row crop except for the required conservation cover crop.

TREASURER OF STATE

Notice—Public Funds Interest Rates

In compliance with Iowa Code chapter 74A and section 12C.6, the committee composed of Treasurer of State Michael L. Fitzgerald, Superintendent of Credit Unions James E. Forney, Superintendent of Banking Thomas B. Gronstal, and Auditor of State David A. Vaudt have established today the following rates of interest for public obligations and special assessments. The usury rate for February is 4.50%.

INTEREST RATES FOR PUBLIC OBLIGATIONS AND ASSESSMENTS

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

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

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

New official state interest rates, effective February 10, 2009, setting the minimums that may be paid by Iowa depositories on public funds are listed below.

TIME DEPOSITS

7-31 days	Minimum 0.35%
32-89 days	Minimum 0.60%
90-179 days	Minimum 0.60%
180-364 days	Minimum 0.85%
One year to 397 days	Minimum 1.30%
More than 397 days	Minimum 1.60%

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

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

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:

March 1, 2008 — March 31, 2008	5.75%
April 1, 2008 — April 30, 2008	5.75%
May 1, 2008 — May 31, 2008	5.50%
June 1, 2008 — June 30, 2008	5.75%
July 1, 2008 — July 31, 2008	6.00%
August 1, 2008 — August 31, 2008	6.00%
September 1, 2008 — September 30, 2008	6.00%
October 1, 2008 — October 31, 2008	6.00%
November 1, 2008 — November 30, 2008	5.75%
December 1, 2008 — December 31, 2008	5.75%
January 1, 2009 — January 31, 2009	5.50%
February 1, 2009 — February 28, 2009	4.50%
March 1, 2009 — March 31, 2009	4.50%

ARC 7585B

UTILITIES DIVISION[199]

Notice of Intended Action

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

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

Pursuant to the authority of Iowa Code sections 17A.4, 476.1, and 476.2 and chapters 478 and 479, the Utilities Board (Board) gives notice that on February 2, 2009, the Board issued an order in Docket No. RMU-2009-0001, In re: Amendments to Incident and Outage Notification Rules for Natural Gas and Electric Utilities and Establishing Notification Rules for Electric Transmission Companies [199 IAC 19.17 and 20.19], “Order Commencing Rule Making,” proposing amendments updating the Board rules for incident and outage notification by natural gas utilities and electric utilities and establishing notification requirements for electric transmission companies. The Board is proposing the changes to these rules based upon its experience since the adoption of the existing rules in March 2008. The order containing the background and support for this rule making can be found on the Board’s Web site, www.state.ia.us/iub.

Pursuant to Iowa Code section 17A.4(1)“a” and “b,” any interested person may file a written statement of position pertaining to the proposed amendments. The statement must be filed on or before March 17, 2009. The statement should be filed electronically through the Board’s electronic filing system (EFS). Instructions for making an electronic filing can be found on the EFS Web site at <http://efs.iowa.gov>.

Any person who does not have access to the Internet may file comments on paper pursuant to 199 IAC 14.4(5). An original and ten copies of paper comments shall be filed. Both electronic and written filings shall comply with the format requirements in 199 IAC 2.2(2) and clearly state the author’s name and address and make specific reference to this docket. All paper communications should be directed to the Executive Secretary, Iowa Utilities Board, 350 Maple Street, Des Moines, Iowa 50319-0069.

UTILITIES DIVISION[199](cont'd)

An oral presentation to receive oral comments on the proposed amendments will be held at 10 a.m. on March 26, 2009, in the Board's hearing room at the address listed above. Persons with disabilities who require assistive services or devices to observe or participate should contact the Utilities Board at (515)281-5256 in advance of the scheduled date to request that appropriate arrangements be made.

These amendments are intended to implement Iowa Code sections 17A.4, 476.1, and 476.2 and chapters 478 and 479.

The following amendments are proposed.

ITEM 1. Amend paragraph **19.17(1)“e”** as follows:

~~e. Any other incident considered significant by the utility~~ An interruption of service of more than two hours to an airport, health care facility, water treatment facility, sewer plant, or other significant public facility, or where there is a significant loss of service in the utility's service area.

ITEM 2. Amend subrule 19.17(2) as follows:

19.17(2) Information required.

~~a. The utility shall notify the board by telephone.~~ Notice shall be provided as soon as the utility learns of a reportable incident that meets the criteria in subrule 19.17(1) or as soon as practical, of any reportable incident by calling the board duty officer at 515-745-2332 or by sending an electronic message to the duty officer at IUBDutyOfficer@iub.state.ia.us. The caller or person sending the electronic message shall leave a call-back number for a person who can provide the following information:

~~a- (1) The name of the utility, the name and telephone number of the person making the report, and the name and telephone number of a contact person knowledgeable about the incident.~~

~~b- (2) The location of the incident.~~

~~c- (3) The time of the incident.~~

~~d- (4) The number of deaths or personal injuries and the extent of those injuries, if any. The number of services interrupted.~~

~~e- (5) An initial estimate of damages. The number of deaths or personal injuries and the extent of those injuries, if any.~~

~~f- (6) The number of services interrupted. An initial estimate of damages.~~

~~g- (7) A summary of the significant information available to the utility regarding the probable cause of the incident and extent of damages.~~

~~h- (8) Any oral or written report required by the U.S. Department of Transportation, and the name of the person who made the oral report or prepared the written report.~~

(9) The estimated time until service will be restored.

b. The natural gas utility shall provide updates to the board as new or additional information becomes available until all service is restored.

ITEM 3. Amend subrule 20.19(1) as follows:

20.19(1) Notification. ~~Each electric utility shall notify the board of any outage that results, or is expected to result, in the following:~~

~~a. —Loss of service for more than two hours to substantially all of a municipality, including the surrounding area served by the same utility;~~

~~b. —Loss of service for more than two hours to 20 percent of the customers in a utility's established zone or area;~~

~~c. —Loss of service for more than two hours to more than 3,600 customers in a metropolitan area;~~

~~d. —A major event as defined in subrule 20.18(4); or~~

~~e. —Any other outage considered significant by the electric utility.~~

a. Each electric utility shall notify the board, as soon as practical, of an outage that is expected to result in any of the following:

(1) Loss of service for more than two hours to all customers in a municipality or to a significant number of customers in a municipality and the surrounding area served by the same utility.

(2) A major event as defined in subrule 20.18(4).

UTILITIES DIVISION[199](cont'd)

(3) An interruption of service of more than two hours to an airport, a health care facility, a water treatment facility, a sewer plant, or other significant public facility, or where there is a significant loss of service in the utility's service area.

b. Electric utilities with over 50,000 customers shall notify the board of any outage that results, or is expected to result, in loss of service for more than two hours to 20 percent of the customers in a utility's established operating zone or area or more than 3,600 customers in a metropolitan area.

c. Municipal electric or electric cooperative utilities with over 4,000 customers shall notify the board of any outage that is expected to result in loss of service for more than two hours to 20 percent or more of the utility's customers.

ITEM 4. Amend paragraph **20.19(2)"a,"** introductory paragraph, as follows:

a. Notice shall be provided as soon as the utility learns of ~~the~~ an outage that meets the criteria in subrule 20.19(1), or as soon as practical thereafter, by calling the board duty officer at 515-745-2332 or by sending an electronic message to the duty officer at IUBDutyOfficer@iub.state.ia.us. The caller or person sending the electronic message shall leave a call-back number for a person who can provide the following information:

ITEM 5. Amend paragraph **20.19(3)"e"** as follows:

e. The number of ~~people~~ contract and mutual aid personnel used to assist the host utility personnel working to restore service.

ITEM 6. Adopt the following **new** subrule 20.19(4):

20.19(4) Notification by electric transmission companies. Electric transmission companies shall notify the board of any outage that results, or is expected to result, in the loss of service by an electric utility reportable under subrule 20.19(1). The notice shall include the names of the distribution utilities directly affected by the outage.

ARC 7587B

AGRICULTURE AND LAND STEWARDSHIP DEPARTMENT[21]

Adopted and Filed Emergency

Pursuant to the authority of Iowa Code section 159.5, the Department of Agriculture and Land Stewardship hereby amends Chapter 1, "Administration," Iowa Administrative Code.

Chapter 1 establishes the administrative structure of the Department. These amendments reflect the current structure of the Department and align Bureaus with their appropriate Division.

Pursuant to Iowa Code section 17A.4(2), the Department finds that notice and public participation are unnecessary because these amendments update outdated administrative rules to reflect the Department's existing structure.

Pursuant to Iowa Code section 17A.5(2)"b"(2), the Department further finds that the normal effective date of these amendments, 35 days after publication, should be waived and these amendments be made effective February 5, 2009. These amendments provide a benefit to the public by providing accurate information about the Department.

These amendments are intended to implement Iowa Code sections 17A.3 and 17A.4 and Iowa Code chapter 159.

These amendments became effective February 5, 2009.

The following amendments are adopted.

ITEM 1. Amend subrule 1.1(4) as follows:

1.1(4) The department is organized into three branches known as the consumer protection and ~~regulatory affairs~~ industry services division, the ~~market development and administrative services administration~~ division, and the soil conservation division. ~~A division director heads each division. The deputy secretary of agriculture heads the administration division, and division directors head the consumer protection and industry services division and the soil conservation division.~~ The directors assist the secretary in the implementation of the secretary's policies within the various bureaus, laboratories, and units assigned to that division. The directors shall also assist the secretary in supervising the work of the various bureaus and units assigned to that division, provide the expertise of their division to other divisions where appropriate, and perform other duties as assigned by the secretary.

ITEM 2. Rescind and reserve subrule **1.1(5)**.

ITEM 3. Amend rule 21—1.2(159), introductory paragraph, as follows:

21—1.2(159) Consumer protection and ~~regulatory affairs~~ industry services division. In addition to the duties outlined in subrule 1.1(4), the director of the consumer protection and ~~regulatory affairs~~ industry services division advises the secretary of activities and any impending or potential problems that have come to the attention of the division's personnel. ~~The director shall serve as a liaison between the department and the attorney general's office and county attorney offices.~~ The bureaus and laboratories under the supervision of the consumer protection and ~~regulatory affairs~~ industry services division are as follows:

ITEM 4. Amend subrule 1.2(7) as follows:

1.2(7) Weights and measures bureau. This bureau inspects and licenses for commercial use all weights and measures or weighing and measuring devices; conducts petroleum products sampling and testing, tests and certifies antifreeze, and conducts random package and labeling inspections of products offered for sale; registers and licenses all service agencies and persons who service or repair commercial weighing and measuring devices; approves or rejects all blueprints on new scale installations; and approves or rejects bonds for scale installation. The bureau maintains the state metrology laboratory and, following the rules and regulations of the National Institute of Standards and Technology and using the weights and measures standards that are traceable to the National Institute of Standards and Technology, adjusts, certifies and seals weights and measures used by state inspectors, commercial repairers and private industry. The bureau deals with renewable fuels and coproducts by facilitating

AGRICULTURE AND LAND STEWARDSHIP DEPARTMENT[21](cont'd)

increased production and consumption of products made from Iowa's agricultural commodities and by encouraging production and use of renewable fuels and coproducts.

ITEM 5. Adopt the following **new** subrules 1.2(12) to 1.2(16):

1.2(12) Agricultural diversification and market development bureau. This bureau processes applications for organic certification and works closely with the Iowa organic standards board to ensure approval of those applications that meet state and federal regulations. This bureau provides marketing opportunities for diversified agricultural products throughout the state.

1.2(13) Agricultural marketing bureau. This bureau works with the various boards of Iowa agricultural organizations to assist and support their respective marketing efforts. The bureau also seeks new opportunities to assist Iowa's private firms to find markets for their products. Additionally, the bureau provides Iowa livestock and grain producers with essential market information on a timely basis through the market news reporting service, a joint effort with the United States Department of Agriculture.

1.2(14) Audit bureau. This bureau analyzes reports filed by feed and fertilizer companies for fees paid into the general fund of the state. The bureau also makes audits to check for compliance with check-off law for the commodity promotion boards.

1.2(15) Horse and dog bureau. This bureau promotes the Iowa horse and dog breeding industry by registering qualified Iowa-foaled horses and Iowa-whelped dogs and working in cooperation with the racing industry. The bureau administers the payment of breeder awards to the breeders of qualified winning horses and dogs.

1.2(16) Horticulture and farmers' market bureau. This bureau includes the following units:

a. Horticulture. This unit lends direction, continuity, leadership, and administrative services and guidance to the Iowa horticulture industry. The horticulture unit works with the Iowa State Horticultural Society to promote and encourage horticulture with the individual affiliate groups and the Iowa State Horticultural Society as a whole. The unit identifies and helps determine the market potential for horticultural crops such as ornamental plants, fruits and vegetables, Christmas trees, herbs, mushrooms, grapes, nuts, and turf products. The horticulture unit monitors the conditions of the industry and identifies, collects, and distributes pertinent information concerning horticulture and related interests. The unit acts as a resource for horticultural producers and provides referrals for assistance in marketing, production, financial aid, disaster programs, and regulatory issues. The horticulture unit acts as a liaison between industry organizations, other state and federal agencies, universities, noncommercial horticultural groups, and the agricultural community.

b. Farmers' markets. This unit assists in the organization and improvement of farmers' markets throughout the state. The unit collects and distributes information pertinent to the markets and provides market managers assistance in vendor recruitment, market promotion, and regulatory issues.

c. Farmers' market nutrition programs. This unit administers programs designed to provide a supplemental source of fresh, locally grown fruits and vegetables for women, infants, and children, seniors, and other clients; and to increase the production, distribution, and consumption of locally grown fruits and vegetables.

ITEM 6. Amend rule 21—1.3(159), introductory paragraph, as follows:

21—1.3(159) ~~Market development and administrative services~~ Administration division. In addition to the duties outlined in subrule 1.1(4), the director of the ~~market development and administrative services administration~~ Administration division, who is the deputy secretary of agriculture, assists the secretary in the preparation and presentation of the department's budget to the governor and the general assembly. The division provides personnel services and works with the secretary and other divisions in the selection, hiring, and most phases of employment record keeping and processing relative to pay, benefits, and employee status changes in relation to the department. The director shall serve as a liaison between the department and the department of management, the department of ~~personnel administrative services~~, and the state auditor. The bureaus and units under the supervision of the division are as follows:

AGRICULTURE AND LAND STEWARDSHIP DEPARTMENT[21](cont'd)

- ITEM 7. Rescind and reserve subrules **1.3(2)** and **1.3(3)**.
- ITEM 8. Rescind and reserve subrule **1.3(5)**.
- ITEM 9. Rescind and reserve subrules **1.3(7)** and **1.3(8)**.
- ITEM 10. Rescind and reserve subrule **1.3(10)**.

[Filed Emergency 2/5/09, effective 2/5/09]

[Published 2/25/09]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 2/25/09.

ARC 7580B

HOMELAND SECURITY AND EMERGENCY MANAGEMENT DIVISION[605]

Adopted and Filed Emergency

Pursuant to the authority of 2009 Iowa Acts, House File 64, division III, section 8, the Homeland Security and Emergency Management Division adopts Chapter 13, "Community Disaster Grants," Iowa Administrative Code.

New Chapter 13 is intended to implement 2009 Iowa Acts, House File 64, which creates the Community Disaster Grant Program and provides an appropriation. Chapter 13 is intended to specify how the Homeland Security and Emergency Management Division will administer the grant program.

In compliance with Iowa Code section 17A.4(3), the Homeland Security and Emergency Management Division finds that notice and public participation regarding these rules are impracticable because of the immediate need to disburse the grant funds in accordance with 2009 Iowa Acts, House File 64, division III.

The Homeland Security and Emergency Management Division also finds, pursuant to Iowa Code section 17A.5(2)"b"(2), that the normal effective date of these rules should be waived and these rules should be made effective on February 2, 2009, as they confer a benefit upon the citizens of Iowa.

The Iowa Homeland Security and Emergency Management Division adopted this chapter on February 2, 2009.

This amendment is also published herein under Notice of Intended Action as **ARC 7581B** to allow for public comment.

These rules became effective February 2, 2009.

These rules are intended to implement 2009 Iowa Acts, House File 64, division III.

The following amendment is adopted.

Adopt the following **new** 605—Chapter 13:

CHAPTER 13 COMMUNITY DISASTER GRANTS

605—13.1(29C,83GA,HF64) Purpose. In accordance with 2009 Iowa Acts, House File 64, the homeland security and emergency management division shall award disaster recovery grants to cities and counties based on their pro-rata share of damage costs associated with Presidential disaster declaration DR-1763-IA and incurred after May 24, 2008, and before August 14, 2008. The pro-rata share shall be based on the obligated funds from the Federal Emergency Management Agency Individual Assistance Program and Small Business Administration Disaster Loan Program as of February 2, 2009. The grant moneys shall be used by the eligible recipients for disaster-related costs not otherwise funded by federal or nonfederal sources. Each eligible city and county that completes and submits an application by April 1, 2009, shall receive a minimum of \$2,000. Community disaster grants are not covered by the competitive grant procedures set forth in 605—Chapter 8.

HOMELAND SECURITY AND EMERGENCY MANAGEMENT DIVISION[605](cont'd)

605—13.2(29C,83GA,HF64) Eligibility. Eligible recipients are those cities and counties located within the declared counties for Presidential disaster declaration DR-1763-IA. The incident period for this disaster is from May 24, 2008, to August 14, 2008.

605—13.3(29C,83GA,HF64) Notification of eligibility.

13.3(1) The administrator shall notify each eligible recipient of the availability of funds and provide to the eligible recipient the associated application for grant funds. The notification shall also include an estimated allocation based on rule 13.5(29C,83GA,HF64).

13.3(2) The notification shall be made to the chairpersons of the board of supervisors for eligible counties and the mayors of eligible cities.

13.3(3) The notification shall specify that all applications shall be mailed to the Iowa Homeland Security and Emergency Management Division, 7105 NW 70th Avenue, Camp Dodge, Building W-4, Johnston, Iowa 50131.

13.3(4) All applications shall be received by the division no later than April 1, 2009. Applications received after April 1, 2009, will be rejected, and no grant funding will be provided to the applicant. The applicant's allocated funds will be allocated on a pro-rata share basis amongst the applications that were received in a timely manner and in accordance with rule 13.5(29C,83GA,HF64).

605—13.4(29C,83GA,HF64) Eligible use of the grant funds.

13.4(1) Moneys awarded under this grant program shall be used by the recipient for disaster-related costs not otherwise funded by federal or nonfederal sources and may be used for any of the following purposes:

- a. Nonprofit organization assistance.
- b. Assistance for the public purchase of land and accompanying structures if financial assistance for such purchases is not available from the Federal Emergency Management Agency or when a nonfederal match is required for a grant involved in the public purchase of land and accompanying structures.
- c. Assistance for the repair, replacement, or upgrade of public infrastructure damaged by the disaster, including measures to assist in the mitigation of future damage due to natural disasters.
- d. Assistance for the increased costs associated with the reevaluation and assessment of property due to the natural disasters occurring in 2008.
- e. Small business assistance.
- f. Assistance for the replacement or rehabilitation of housing.

13.4(2) The associated chairperson or mayor shall certify that funds received in accordance with this grant will be used for disaster-related costs not otherwise funded from a federal or nonfederal source.

13.4(3) Any funds not spent in accordance with the eligible uses as defined in this rule will be subject to recoupment by the division.

605—13.5(29C,83GA,HF64) Allocation of grant funds.

13.5(1) The preliminary allocation of grant funds shall be conducted on February 2, 2009. This allocation shall be based on a pro-rata share of each eligible recipient's disaster damage costs associated with Presidential disaster declaration DR-1763-IA as calculated by obligated funds from the Federal Emergency Management Agency Individual Assistance Program and Small Business Administration Disaster Loan Program as of February 2, 2009. Each eligible recipient shall be allocated at least \$2,000.

13.5(2) The final allocation of funds shall be conducted on April 2, 2009. An eligible recipient shall be considered a qualified recipient only if the recipient has completed and submitted the approved application on or before April 1, 2009. The allocation shall be based on a pro-rata share of each qualified recipient's disaster damage costs associated with Presidential disaster declaration DR-1763-IA as calculated by obligated funds from the Federal Emergency Management Agency Individual Assistance Program and Small Business Administration Disaster Loan Program as of February 2, 2009. Each qualified recipient shall receive at least \$2,000.

HOMELAND SECURITY AND EMERGENCY MANAGEMENT DIVISION[605](cont'd)

605—13.6(29C,83GA,HF64) Application for grant funds.

13.6(1) The application for the grant funds allocated according to these rules shall include the following information:

- a. The name of the city or county making the request.
- b. The county in which the city is located.
- c. The name of the mayor or chairperson of the board of supervisors who will sign the application.
- d. The address of the recipient.
- e. Specifications for individual projects that the recipient has selected for grant funding to include the following:
 - (1) Category of the individual project in accordance with rule 13.4(29C,83GA,HF64);
 - (2) Narrative of proposed work to be completed;
 - (3) Anticipated costs, including detail of major cost elements;
 - (4) Time line of milestones and a completion date of the project no later than June 30, 2010;
 - (5) Detail of governance structure used to administer the funds for the recipient, including designation of community disaster grant manager;
 - (6) Performance measures and basis of evaluation for project.

13.6(2) The application shall require the recipient to certify that the projects listed in the application are for disaster-related costs that have not otherwise been funded from other federal or nonfederal sources.

13.6(3) The application shall require the recipient to certify that the recipient will submit a written report to Iowa homeland security and emergency management by January 1, 2010, specifying the allocation and uses of the moneys received from this grant.

13.6(4) The application shall require the recipient to certify that the recipient understands these funds may be subject to audit by the state auditor.

13.6(5) The application will be created by the division and included in the initial notification as specified in rule 13.3(29C,83GA,HF64). Additionally, the division will make the application and these rules available on the division's Web site, www.iowahomelandsecurity.org.

These rules are intended to implement Iowa Code chapter 29C and 2009 Iowa Acts, House File 64, section 8.

[Filed Emergency 2/2/09, effective 2/2/09]

[Published 2/25/09]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 2/25/09.

ARC 7599B**ELDER AFFAIRS DEPARTMENT[321]****Adopted and Filed**

Pursuant to the authority of Iowa Code sections 231.14, 231.23A and 249H.10, the Elder Affairs Department hereby adopts new Chapter 14, "Iowa Family Caregiver Support Program," Iowa Administrative Code.

This new chapter provides support services for family caregivers of persons aged 60 and over and for grandparents or persons who are relative caregivers of children. It also establishes standards for those services and includes a severability rule.

Notice of Intended Action was published in the Iowa Administrative Bulletin on December 31, 2008, as **ARC 7456B**. The public comment period for this Notice ended January 21, 2009.

Four comments regarding new Chapter 14 were received. One expressed concern that the term "community care" is not defined. The Department does not believe the absence of this definition will create problems but will revisit the issue in the future, if necessary. No changes were made as a result of this comment.

The second comment expressed concern about a lack of clarity regarding who is eligible for services as outlined in rule 14.3(231,249H). Explanation and definitions are provided in rules 14.1(231,249H) and 14.2(249H). No changes were made as a result of this comment.

The third comment expressed concern about the following sentence in rule 14.4(231,249H): "The area agencies on aging (AAAs) will determine if the grandparent component of the program is offered based on the availability of funds." The commenter was concerned that the sentence could be interpreted to mean that the AAAs as a group will make this decision when, in fact, each AAA will make this decision individually. In response to this comment, clarification was made and the sentence now reads: "Each area agency on aging (AAA) will determine if the grandparent component of the program is offered based on the availability of funds."

The fourth comment expressed concern that the definition for conflict of interest outlined in rule 14.7(231,249H) could be interpreted too broadly. The Department feels the definition is reasonable and will use common sense application when enforcing the rule. No changes were made as a result of this comment.

The Commission adopted these rules during a special meeting on February 6, 2009.

These rules will become effective April 1, 2009.

These rules are intended to implement Iowa Code sections 231.23A and 249H.10.

EDITOR'S NOTE: Pursuant to recommendation of the Administrative Rules Review Committee published in the Iowa Administrative Bulletin, September 10, 1986, the text of these rules [Ch 14] is being omitted. With the exception of the change noted above, these rules are identical to those published under Notice as **ARC 7456B**, IAB 12/31/08.

[Filed 2/6/09, effective 4/1/09]

[Published 2/25/09]

[For replacement pages for IAC, see IAC Supplement 2/25/09.]

ARC 7583B**HISTORICAL DIVISION[223]****Adopted and Filed**

Pursuant to the authority of Iowa Code sections 303.1 and 303.1A, the Department of Cultural Affairs hereby amends Chapter 49, "Historical Resource Development Program Grants," Iowa Administrative Code.

HISTORICAL DIVISION[223](cont'd)

The amendments to Chapter 49 add language that limits the frequency of applications, clarifies limitations on matching fund sources, and requires public access to historical resources funded by the Historical Resource Development Program.

Notice of Intended Action for these amendments was published in the Iowa Administrative Bulletin on December 3, 2008, as **ARC 7387B**. A public hearing was held on December 23, 2008, at 10 a.m. No public comment was received. The adopted amendments are identical to those published under Notice.

These amendments were approved by the Director on January 26, 2009, and adopted on February 4, 2009.

These amendments will become effective on April 1, 2009.

These amendments are intended to implement Iowa Code chapter 303.

EDITOR'S NOTE: Pursuant to recommendation of the Administrative Rules Review Committee published in the Iowa Administrative Bulletin, September 10, 1986, the text of these amendments [49.2, 49.3] is being omitted. These amendments are identical to those published under Notice as **ARC 7387B**, IAB 12/3/08.

[Filed 2/4/09, effective 4/1/09]

[Published 2/25/09]

[For replacement pages for IAC, see IAC Supplement 2/25/09.]

ARC 7577B

HUMAN SERVICES DEPARTMENT[441]

Adopted and Filed

Pursuant to the authority of Iowa Code sections 217.6, 234.6, 239B.4(4), 249A.4, and 514I.5, the Department of Human Services amends Chapter 58, "Emergency Assistance," Iowa Administrative Code.

These amendments implement a new division intended to allow the Department to deliver services more effectively during or following a disaster emergency declared by state or federal officials. This division includes rules that temporarily supersede departmental rules that would otherwise apply. The temporary rules are intended to meet special circumstances that arise from each unique disaster emergency, with the primary purpose of reducing barriers to accessing and receiving services that may result from the disaster emergency. The rules are time-limited and specify the period in which they will be in effect.

Some rules are limited in geographic scope to correspond with specific locales designated as disaster areas by state or federal officials. Others are applied statewide because the disaster emergency is of such a nature or magnitude that doing so allows the Department to most effectively allocate resources and deliver services. Rules implemented under this division must be consistent with applicable federal requirements, including any waivers that may be granted due to the disaster emergency.

These amendments were previously Adopted and Filed Emergency and published in the Iowa Administrative Bulletin on July 30, 2008, as **ARC 6994B**. Notice of Intended Action to solicit comments on the amendments was published in the Iowa Administrative Bulletin on the same date as **ARC 6995B**. The Department received no comments on the Notice of Intended Action. These amendments are identical to those Adopted and Filed Emergency and published under Notice of Intended Action.

These amendments do not provide for waivers in specified situations since the changes benefit recipients in the programs affected.

The Council on Human Services adopted these amendments on October 8, 2008.

These amendments are intended to implement Iowa Code chapters 234, 237A, 239B, 249, 249A, 249J, and 514I.

HUMAN SERVICES DEPARTMENT[441](cont'd)

These amendments shall become effective April 1, 2009, at which time the Adopted and Filed Emergency amendments are rescinded.

EDITOR'S NOTE: Pursuant to recommendation of the Administrative Rules Review Committee published in the Iowa Administrative Bulletin, September 10, 1986, the text of these amendments [58.41 to 58.45] is being omitted. These amendments are identical to those published under Notice as **ARC 6995B** and Adopted and Filed Emergency as **ARC 6994B**, IAB 7/30/08.

[Filed 1/26/09, effective 4/1/09]

[Published 2/25/09]

[For replacement pages for IAC, see IAC Supplement 2/25/09.]

ARC 7579B

IOWA FINANCE AUTHORITY[265]

Adopted and Filed

Pursuant to the authority of Iowa Code sections 17A.3(1)“b” and 7C.12, the Executive Director of the Iowa Finance Authority, as the Governor's designee pursuant to section 7C.12 of the Iowa Code, hereby amends Chapter 8, “Private Activity Bond Allocation,” Iowa Administrative Code.

The purpose of this amendment is to implement recently enacted federal legislation, the Housing and Economic Recovery Act of 2008, H.R. 3221, by adopting new rule 265—8.11(7C).

Notice of Intended Action was published in the Iowa Administrative Bulletin on August 27, 2008, as **ARC 7101B**. The Authority received no public comments on the proposed amendment. This amendment was also Adopted and Filed Emergency and was published in the Iowa Administrative Bulletin on August 27, 2008, as **ARC 7099B**. This amendment is identical to that published under Notice and Adopted and Filed Emergency.

This amendment is intended to implement Iowa Code section 7C.12 and the Housing and Economic Recovery Act of 2008, H.R. 3221.

The Executive Director of the Iowa Finance Authority adopted this amendment on January 27, 2009.

This amendment will become effective on April 1, 2009, at which time the Adopted and Filed Emergency amendment is hereby rescinded.

The following amendment is adopted.

Adopt the following **new** rule 265—8.11(7C):

265—8.11(7C) Supplemental cap allocation for 2008. The supplemental state ceiling received by the state of Iowa in calendar year 2008 for housing purposes as a result of federal legislation known as the Housing and Economic Recovery Act of 2008 shall be allocated by the governor's designee to the Iowa finance authority for such single-family and multifamily uses as the authority deems necessary and appropriate to ensure full and efficient use of the supplemental state ceiling.

This rule is intended to implement Iowa Code section 7C.12 and the Housing and Economic Recovery Act of 2008, H.R. 3221.

[Filed 1/30/09, effective 4/1/09]

[Published 2/25/09]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 2/25/09.

ARC 7591B

IOWA PUBLIC EMPLOYEES' RETIREMENT SYSTEM[495]

Adopted and Filed

Pursuant to the authority of Iowa Code sections 97B.4 and 97B.15, the Iowa Public Employees' Retirement System (IPERS) hereby amends Chapter 4, "Employers," Iowa Administrative Code.

The amendments implement the new contribution rates for special service members as provided by the legislature effective July 1, 2009.

Notice of Intended Action was published in the Iowa Administrative Bulletin on December 31, 2008, as **ARC 7453B**. A public hearing was held on January 20, 2009. No one attended the public hearing, and no written comments were received. These amendments are identical to those published under Notice.

There are no waiver provisions included in the proposed amendments.

These amendments were prepared after consultation with IPERS administration, the Benefits Advisory Committee and Investment, Legal, Operations and Benefits Divisions.

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

These amendments will become effective on July 1, 2009.

The following amendments are adopted.

ITEM 1. Amend subrule 4.6(2) as follows:

4.6(2) Contribution rates for sheriffs and deputy sheriffs.

	Effective July 1, 2007	Effective July 1, 2008	Effective July 1, 2009
Combined rate	15.40%	15.04%	<u>15.24%</u>
Employer	7.70%	7.52%	<u>7.62%</u>
Employee	7.70%	7.52%	<u>7.62%</u>

ITEM 2. Amend subrule 4.6(3) as follows:

4.6(3) Contribution rates for protection occupation.

	Effective July 1, 2007	Effective July 1, 2008	Effective July 1, 2009
Combined rate	14.11%	14.08%	<u>15.34%</u>
Employer	8.47%	8.45%	<u>9.20%</u>
Employee	5.64%	5.63%	<u>6.14%</u>

[Filed 2/6/09, effective 7/1/09]

[Published 2/25/09]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 2/25/09.

ARC 7596B

LIBRARIES AND INFORMATION SERVICES DIVISION[286]

Adopted and Filed

Pursuant to the authority of Iowa Code sections 17A.9A and 256.52, the Commission of Libraries hereby adopts new Chapter 10, "Waivers or Variances from Administrative Rules," Iowa Administrative Code.

The rules are designed to implement Iowa Code section 17A.9A, which permits agencies to adopt procedures for granting waivers and variances from administrative rules. The rules establish the processes and requirements for requesting a waiver or variance from an administrative rule of the

LIBRARIES AND INFORMATION SERVICES DIVISION[286](cont'd)

Libraries and Information Services Division. The rules are adopted in response to a request for rule making filed by a public library.

Notice of Intended Action was published as **ARC 7464B** in the December 31, 2008, Iowa Administrative Bulletin. Public comments were allowed until January 20, 2009. No written or oral comments were received. These rules are identical to those published under Notice.

These rules are intended to implement Iowa Code section 17A.9A.

These rules will become effective April 1, 2009.

EDITOR'S NOTE: Pursuant to recommendation of the Administrative Rules Review Committee published in the Iowa Administrative Bulletin, September 10, 1986, the text of these rules [Ch 10] is being omitted. These rules are identical to those published under Notice as **ARC 7464B**, IAB 12/31/08.

[Filed 2/6/09, effective 4/1/09]

[Published 2/25/09]

[For replacement pages for IAC, see IAC Supplement 2/25/09.]

ARC 7597B**LIBRARIES AND INFORMATION SERVICES DIVISION[286]****Adopted and Filed**

Pursuant to the authority of Iowa Code sections 17A.9 and 256.52, the Commission of Libraries hereby adopts new Chapter 11, "Declaratory Orders," Iowa Administrative Code.

The rules are designed to implement Iowa Code section 17A.9, which requires agencies to adopt rules that provide for the form, content, and filing of petitions for declaratory orders, the procedural rights of persons in relation to the petitions, and the disposition of the petitions. The rules describe the classes of circumstances in which the agency will not issue a declaratory order. Declaratory orders must be consistent with the public interest and with the general policy of this chapter to facilitate and encourage agency issuance of reliable advice.

Notice of Intended Action was published as **ARC 7465B** in the December 31, 2008, Iowa Administrative Bulletin. Public comments were allowed until January 20, 2009. No written or oral comments were received. These rules are identical to those published under Notice.

These rules will become effective on April 1, 2009.

These rules are intended to implement Iowa Code sections 17A.9 and 256.52.

EDITOR'S NOTE: Pursuant to recommendation of the Administrative Rules Review Committee published in the Iowa Administrative Bulletin, September 10, 1986, the text of these rules [Ch 11] is being omitted. These rules are identical to those published under Notice as **ARC 7465B**, IAB 12/31/08.

[Filed 2/6/09, effective 4/1/09]

[Published 2/25/09]

[For replacement pages for IAC, see IAC Supplement 2/25/09.]

ARC 7598B**LIBRARIES AND INFORMATION SERVICES DIVISION[286]****Adopted and Filed**

Pursuant to the authority of Iowa Code sections 17A.3 and 256.52, the Commission of Libraries hereby adopts new Chapter 12, "Petitions for Rule Making," Iowa Administrative Code.

The rules are designed to implement Iowa Code section 17A.7, which mandates agencies to adopt procedures for interested persons to use to petition an agency requesting adoption, amendment, repeal, or review of administrative rules.

LIBRARIES AND INFORMATION SERVICES DIVISION[286](cont'd)

Notice of Intended Action was published as **ARC 7466B** in the December 31, 2008, Iowa Administrative Bulletin. Public comments were allowed until January 20, 2009. No written or oral comments were received. These rules are identical to those published under Notice.

These rules are intended to implement Iowa Code sections 17A.7 and 256.52.

These rules will become effective April 1, 2009.

EDITOR'S NOTE: Pursuant to recommendation of the Administrative Rules Review Committee published in the Iowa Administrative Bulletin, September 10, 1986, the text of these rules [Ch 12] is being omitted. These rules are identical to those published under Notice as **ARC 7466B**, IAB 12/31/08.

[Filed 2/6/09, effective 4/1/09]

[Published 2/25/09]

[For replacement pages for IAC, see IAC Supplement 2/25/09.]

ARC 7588B**NATURAL RESOURCES DEPARTMENT[561]****Adopted and Filed**

Pursuant to the authority of Iowa Code section 558.69, the Department of Natural Resources hereby amends Chapter 9, "Groundwater Hazard Documentation," Iowa Administrative Code.

These amendments have two purposes. The first purpose is to implement the septic tank time-of-transfer requirements adopted by the Iowa Legislature in 2008 Iowa Acts, Senate File 261. The second purpose is to provide an exemption for leases related to electronics towers and wind turbines.

Notice of Intended Action was published in the Iowa Administrative Bulletin on December 31, 2008, as **ARC 7454B**. A public hearing was held on Friday, January 23, 2009, and public comments were received through that date. One comment was received in writing and comments were received orally from one interested person at the public hearing.

The comments and the Department's responses are as follows:

1. A comment was received indicating that the Department should not require the Groundwater Hazard Statement for the recording of leases. The Department is conscious of the concern that the requirement of the Groundwater Hazard Statement in conjunction with leases can be considered overly burdensome. In 2001 the Department limited the requirement to leases with a term of five years or more. Prior to that date, the Groundwater Hazard Statement had been required for recorded leases with a term of one year or more. In this rule making, the Department exempts leases for electronics towers and wind turbines. However, the primary purpose of the Groundwater Hazard Statement is to notify buyers of property of any potential hazards located on that property. When a lessee will occupy a property for five years or more, the Department believes it is appropriate for the lessee to be aware of such hazards. In response to the comment, the Department has revised Item 1 to clarify that a lease of land does not include a lease of a portion of a building such as an apartment lease or business location within a mall or other multitenant building.

Additionally, parties are not required to record all leases. Types of leases for which a Groundwater Hazard Statement may not be necessary or appropriate (e.g., hunting leases) are also likely to be the types of leases for which recording is not deemed necessary. The Department has been unable to develop a specific list of all potential leasehold interests and therefore has determined that the adopted rule making limits the exemption appropriately.

2. A comment was received indicating that the Department should update the instructions for the Groundwater Hazard Statement form, adopted by reference herein, to list the exemptions from the on-site wastewater time-of-transfer inspection requirements. The instructions have now been updated.

3. A comment was received indicating that the Groundwater Hazard Statement form should provide an option for indicating that a time-of-transfer inspection is not needed because a building will be demolished. This option has been added to the form.

NATURAL RESOURCES DEPARTMENT[561](cont'd)

4. A comment was received indicating that the Department should provide a fillable electronic version of the form on its Web site. The Department will explore this option and make such a form available if possible. It is anticipated that the Iowa Bar Association will also develop an electronic version of the form.

These amendments are intended to implement Iowa Code section 455B.172 as amended by 2008 Iowa Acts, chapter 1033, and section 558.69.

These amendments shall become effective April 1, 2009.

The following amendments are adopted.

ITEM 1. Amend paragraph **9.1(4)“a”** as follows:

a. Any recorded lease of land which has a term of five years or more; except leases related to the construction or maintenance of cell phone, television, radio or similar electronics towers and leases related to the construction or maintenance of electricity-generating wind turbines. Leases or easements reserving rights to the future construction of the tower and wind turbine structures exempted by this subrule are similarly exempted. A lease of land does not include a lease of a portion of a building such as an apartment lease or business location within a mall or other multitenant building.

ITEM 2. Amend subrule 9.2(1) as follows:

9.2(1) The transferor, ~~their~~ or the transferor's agent or attorney shall sign department Form 542-0960, “Groundwater Hazard Statement,” which may be obtained from the department or local county recorder. An agent or attorney may sign the form for the transferor, but in doing so the agent or attorney represents that a good faith inquiry of the transferor has been made regarding the information contained in the form, and that ~~the information~~ is correct. The department hereby adopts by reference Form 542-0960, “Groundwater Hazard Statement,” as amended through April 1, 2009. For all real estate transactions dated July 1, 2009, or later, a county recorder shall accept only the amended and revised form, as adopted by reference. The department authorizes the reproduction of Form 542-0960 by any person through photocopying or electronic means so long as the general format and wording are not altered in the reproduction thereof.

[Filed 2/5/09, effective 4/1/09]

[Published 2/25/09]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 2/25/09.

ARC 7586B

PROFESSIONAL LICENSURE DIVISION[645]

Adopted and Filed

Pursuant to the authority of Iowa Code section 147.53, the Professional Licensure Division hereby amends Chapter 4, “Board Administrative Processes,” Iowa Administrative Code.

The amendments to Chapter 4 remove the requirement that a board elect a secretary and replace the rule that pertains to physical, mental, and clinical competency examinations and alcohol or drug screenings. These amendments are being adopted in order to ensure that the rules are consistent with statute.

Notice of Intended Action was published in the Iowa Administrative Bulletin on September 24, 2008, as **ARC 7165B**.

A public hearing was held on October 14, 2008, from 9 to 9:30 a.m. in the Fifth Floor Board Conference Room, Lucas State Office Building, Des Moines, Iowa. No public comments were received. These amendments are identical to those published under Notice.

These amendments were adopted by each of the 19 professional licensure boards within the Professional Licensure Division at board meetings held in the months of November 2008 through early February 2009.

These amendments will become effective April 1, 2009.

PROFESSIONAL LICENSURE DIVISION[645](cont'd)

These amendments are intended to implement Iowa Code chapter 272C.

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 [4.3(2), 4.15] is being omitted. These amendments are identical to those published under Notice as **ARC 7165B**, IAB 9/24/08.

[Filed 2/5/09, effective 4/1/09]

[Published 2/25/09]

[For replacement pages for IAC, see IAC Supplement 2/25/09.]

ARC 7578B**PROFESSIONAL LICENSURE DIVISION[645]****Adopted and Filed**

Pursuant to the authority of Iowa Code section 147.76, the Board of Barbering hereby rescinds Chapter 20, "Administrative and Regulatory Authority for the Board of Barbering," amends Chapter 21, "Licensure of Barbers," Chapter 22, "Sanitation for Barbershops and Barber Schools," Chapter 23, "Barber Schools," Chapter 24, "Continuing Education for Barbers," and Chapter 25, "Discipline for Barbers, Barber Instructors, Barbershops and Barber Schools," and rescinds Chapter 26, "Fees," Iowa Administrative Code.

These amendments update and clarify outdated language and rescind duplicative language found in 645—Chapters 4 and 5. Amendments to rule 645—21.16(17A,147,272C) and subrule 24.2(1) require a barber instructor to obtain four hours of continuing education in teaching methodology in addition to the eight hours of continuing education required for renewal or reactivation of the barber license. The amendments also update rules to be consistent with legislative changes promulgated by 2008 Iowa Acts, House File 2212 (Iowa Code chapter 142D).

Notice of Intended Action was published in the Iowa Administrative Bulletin on December 3, 2008, as **ARC 7401B**. A public hearing was held on December 23, 2008, from 9 to 9:30 a.m. in the Fifth Floor Board Conference Room, Lucas State Office Building. No comments were received.

Since publication of the Notice, an item has been added to rescind rule 645—21.6(158), which pertains to licensure by reciprocal agreement. This rule is now found at 645—4.7(147). Subsequent items have been renumbered accordingly.

Additionally, rule 645—24.7(158,272C), which pertains to grounds for disciplinary action, has been rescinded as part of Item 25 of this rule making. This rule is now found at 645—4.13(272C).

These amendments were adopted by the Board of Barbering on January 27, 2009.

These amendments will become effective on April 1, 2009.

These amendments are intended to implement Iowa Code chapters 21, 142D, 147, 158 and 272C.

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 [rescind Chs 20, 26; amend Chs 21 to 25] is being omitted. With the exception of the changes noted above, these amendments are identical to those published under Notice as **ARC 7401B**, IAB 12/3/08.

[Filed 1/29/09, effective 4/1/09]

[Published 2/25/09]

[For replacement pages for IAC, see IAC Supplement 2/25/09.]

ARC 7584B**UTILITIES DIVISION[199]****Adopted and Filed**

Pursuant to Iowa Code sections 17A.4, 476.1, 476.2, and 476.8, the Utilities Board (Board) gives notice that on February 2, 2009, the Board issued an order in Docket No. RMU-08-8, In re: Amendments to Extension Rules for Natural Gas and Electric Plant Additions, Gas Distribution Main Extensions, and Electric Line Extensions [199 IAC 19.3(10) and 20.3(13)], “Order Adopting Amendments.” On November 21, 2008, the Board issued an order commencing a rule making to amend the Board’s natural gas pipeline and electric line extension rules. Specifically, the Board proposed to amend 199 IAC 19.3(10)“a,” 19.3(10)“b,” 19.3(10)“c,” 20.3(13)“a,” 20.3(13)“b,” and 20.3(13)“c.”

The proposed amendments were designed to make the extension rules consistent with waivers granted in Docket Nos. WRU-08-31-156 and WRU-08-35-150 to MidAmerican Energy Company (MidAmerican) and Interstate Power and Light Company (IPL), respectively.

The amendments proposed to change the definition of “advance for construction” and eliminate the option that allowed a customer to pay a contribution in aid of construction rather than an advance for construction of natural gas and electric plant additions, gas distribution main extensions, and electric line extensions. The proposed amendments were published in the Iowa Administrative Bulletin in IAB Vol. XXXI, No. 13 (12/17/08) p. 1446, **ARC 7420B**. The order adopting the amendments can be found on the Board’s Web site at <http://www.state.ia.us/iub>.

The Board gave notice of the amendments to Iowa home builders and natural gas and electric utilities. The Board received comments from MidAmerican, the Consumer Advocate Division of the Department of Justice (Consumer Advocate), and IPL. Consumer Advocate stated that it did not object to the proposed amendments, and IPL indicated that it had no comments.

MidAmerican suggested some revisions to the proposed amendments. MidAmerican stated that the proposed amendment to add “plant additions” to the definition of “advance for construction” introduces ambiguity into the definition. MidAmerican pointed out that under paragraphs 19.3(10)“b” and 20.3(13)“b” the utility is required to provide all gas plant or electric plant at utility expense except in those unusual circumstances where extensive plant additions are required before the customer can be served. MidAmerican suggested that adding “plant additions” to the definition of “advance for construction” creates the requirement that any advances paid by a customer would be subject to refund if a service line were attached to the plant addition.

MidAmerican explained that, in its experience, allowing for advances for construction of plant additions has been difficult to implement. Since most plant additions are not subject to having service line attachments, the additions are ineligible for refunds. MidAmerican indicated that a customer required to provide an advance for an extensive plant addition might have an expectation that a refund would occur for any use of the extensive plant addition and not just for service line attachments. MidAmerican suggested that retaining the option of a contribution in aid of construction for an extensive plant addition could reduce customer confusion.

MidAmerican stated that it supports the proposed amendments to remove the option for a customer to pay either an advance for construction or contribution in aid of construction for a gas distribution main extension or an electrical line extension. In addition, MidAmerican suggested that the Board revise subparagraphs 19.3(10)“c”(5) and 20.3(13)“c”(5) by adding “or extensive plant addition” at the end of the first sentence following “distribution main extension” and “electrical line extension,” respectively.

The Board has reviewed MidAmerican’s suggestions and will adopt the revision suggested by MidAmerican to the definition of “advance for construction” in paragraphs 19.3(10)“a” and 20.3(13)“a.” By adding the word “extensive” before “plant addition,” the definition will conform to the plant additions subrule that requires a customer to pay for construction only under unusual circumstances where extensive plant additions are required. The customer will then be eligible for a refund if a service line attaches to the plant additions paid for by the customer. The definition now reads as follows:

UTILITIES DIVISION[199](cont'd)

“Advance for construction,” as used in this subrule, means cash payments or equivalent surety made to the utility by an applicant for an extensive plant addition or a distribution main extension, portions of which may be refunded depending on any subsequent service line attached to the extensive plant addition or distribution main extension. Cash payments, or equivalent surety, shall include a grossed-up amount for the income tax effect of such revenue. The amount of tax shall be reduced by the present value of the tax benefits to be obtained by depreciating the property in determining the tax liability.”

The Board has not adopted the suggested revision of paragraphs 19.3(10)“b” and 20.3(13)“b” that would have retained the option for a customer to pay a contribution in aid of construction for an extensive plant addition. The Board specifically stated in the Notice of Intended Action that removal of the option was one reason for the proposed amendments, since the calculation of an advance for construction would be the same as a contribution in aid of construction. The Board also specifically stated that customers would be eligible for refunds where the rules allowed, i.e., when a service line is attached.

Retaining the option of a contribution in aid of construction does not appear to resolve the problem of customer confusion as described by MidAmerican. The Board considers it clear in the extension rules that refunds are only made for new service lines that are attached to the extension paid for by the customer. One possible solution to reduce customer confusion would be to only allow contributions in aid of construction for extensive plant additions, thus eliminating all possibility of a refund. The Board is reluctant to make this revision to the proposed amendments in this rule making since there could be situations, however infrequent, in which a service line could be attached to an extensive plant addition and therefore generate a refund. In this rule making, the Board adopts the amendments to paragraphs 19.3(10)“b” and 20.3(13)“b” as proposed. The Board intends to have its staff review the subrules on plant additions to determine if additional changes should be proposed in a later rule making.

In addition, the Board has not adopted the revision proposed by MidAmerican to subparagraphs 19.3(10)“c”(5) and 20.3(13)“c”(5). These subparagraphs are part of subrules for distribution main extensions and electric line extensions, and adding a reference to extensive plant additions appears to be outside the scope of the subrules.

Finally, the Board has not adopted the amendments to subparagraphs 19.3(10)“c”(1) and 20.3(13)“c”(1) proposed in the Notice that added the word “calculation” to the phrase “three times revenue” in the second sentence. Upon review, the addition of the word “calculation” did not provide any improvement to the meaning of the sentence.

These amendments are intended to implement Iowa Code sections 17A.4, 476.1, 476.2, and 476.8.

These amendments will become effective on April 1, 2009.

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 [19.3(10), 20.3(13)] is being omitted. With the exception of the changes noted above, these amendments are identical to those published under Notice as **ARC 7420B**, IAB 12/17/08.

[Filed 2/5/09, effective 4/1/09]

[Published 2/25/09]

[For replacement pages for IAC, see IAC Supplement 2/25/09.]

AGENCY	RULE	DELAY
Professional Licensure Division[645]	Amendments to 31.4 to 31.8 [IAB 1/14/09, ARC 7476B]	Effective date of February 18, 2009, delayed 70 days by the Administrative Rules Review Committee at its meeting held February 6, 2009. [Pursuant to §17A.4(6)]

ENVIRONMENTAL PROTECTION COMMISSION

At its February 6, 2009 meeting the Administrative Rules Review Committee voted to object to the provisions of ARC 7474B relating to the closure of existing landfills. This filing appears in IAB Vol. XXXI, No. 14 (12-31-2008). The committee takes this action pursuant to the authority of §17A.4(5).

This rulemaking attempted to resolve issues raised by a Committee objection imposed in December, 2007. Although the Commission has made a serious effort to resolve the issues surrounding the 2007 rulemaking, the Committee believes the main underlying issue in the 2007 objection remains: that ARC 7474B is unreasonable because projects that were designed and constructed in accordance with rules in effect *at the time of construction* cannot be required to be redesigned or reconstructed due to subsequent rule changes unless the department finds that such facilities are causing pollution. That principle was set out in a “grandfather” clause which first appeared in an earlier rule and while it remains in place it has been restricted in the current filing. This filing continues to impose new requirements on facilities properly designed, constructed and permitted under the earlier rules. The committee believes the right conferred in the earlier rule cannot be extinguished or conditioned.

Objection filed February 10, 2009

PUBLIC HEALTH DEPARTMENT

At its February 6, 2009 meeting the Administrative Rules Review Committee voted two separate objections to certain provisions of ARC 7516B relating to plumbing and mechanical systems licensure. This filing appears in IAB Vol. XXXI, No. 15 (01-14-09). The committee takes this action pursuant to the authority of §17A.4(5).

The committee objects to paragraphs 28.1(2)"d" and (3)"d" relating to the total fee for combined licenses. Committee members believe that it is unreasonable, and imposes an unnecessary hardship, to charge the face value of each license for individuals who need combined licenses.

The committee also objects to paragraph 28.1(10) which imposes a twenty-five dollar surcharge for applicants who file paper applications instead of electronic. Committee members believe that it is unreasonable to impose a penalty on individuals who may not have access to, or have the expertise to use internet-based application and payment procedures.

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