



IOWA ADMINISTRATIVE BULLETIN

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Pages 1531 to 1606

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PREFACE

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

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

The Bulletin may also contain public funds interest rates [12C.6]; workers' compensation rate filings [515A.6(7)]; usury rates [535.2(3)"a"]; and agricultural credit corporation maximum loan rates [535.12].

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

STEPHANIE A. HOFF, Administrative Code Editor

Telephone: (515)281-3355

Fax: (515)281-5534

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 2B.5A, 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 2015

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

<u>ISSUE NUMBER</u>	<u>SUBMISSION DEADLINE</u>	<u>ISSUE DATE</u>
20	Friday, March 13, 2015	April 1, 2015
21	Friday, March 27, 2015	April 15, 2015
22	Friday, April 10, 2015	April 29, 2015

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, 2015, at 9 a.m. in Room 116, State Capitol, Des Moines, Iowa. The following rules will be reviewed:

NOTE: See also Agenda published in the February 18, 2015, Iowa Administrative Bulletin.

AGING, DEPARTMENT ON[17]

Contact information; organizational units, 2.3(2), 2.4 to 2.8 Notice **ARC 1898C**..... 3/4/15

ATTORNEY GENERAL[61]

Victim services support program, 9.50 to 9.57, 9.59 to 9.65 Notice **ARC 1889C**..... 3/4/15

CREDIT UNION DIVISION[189]

COMMERCE DEPARTMENT[181]"umbrella"

Mergers, ch 16 Filed **ARC 1896C**..... 3/4/15

DENTAL BOARD[650]

PUBLIC HEALTH DEPARTMENT[641]"umbrella"

Retention of study models and casts, 27.11 Notice **ARC 1897C** 3/4/15

ECONOMIC DEVELOPMENT AUTHORITY[261]

Community development block grant program, amendments to chs 23, 173, 174 Notice **ARC 1890C**..... 3/4/15

HUMAN SERVICES DEPARTMENT[441]

State supplementary assistance program—annual adjustments to eligibility and payment

levels, 51.4(1), 51.7, 52.1 Filed **ARC 1892C**..... 3/4/15

Medicaid—nonemergency medical transportation (NEMT) program, 78.13(3) Notice **ARC 1901C**..... 3/4/15

Child development homes and child care assistance—notifications, provider agreements,

sanctions, recoupment, 110.7(7), 170.5, 170.9(6) Filed **ARC 1893C** 3/4/15

Child care assistance fee schedule, 170.4(2)"a" Notice **ARC 1900C** 3/4/15

Eligibility for aftercare services program and preparation for adult living stipend,

amendments to ch 187 Filed **ARC 1894C** 3/4/15

INSURANCE DIVISION[191]

COMMERCE DEPARTMENT[181]"umbrella"

Sales of cemetery merchandise, funeral merchandise and funeral services, amend chs 100 to

105; rescind ch 106 Notice **ARC 1888C**..... 3/4/15

IOWA FINANCE AUTHORITY[265]

Water quality financial assistance program—update of references and implementation

sentence, amendments to ch 33 Notice **ARC 1906C** 3/4/15

Affordable housing assistance grant fund, rescind ch 35 Notice **ARC 1907C**..... 3/4/15

Community housing and services for persons with disabilities revolving loan

program—update of references and implementation sentence, amendments to ch 43
Notice **ARC 1903C** 3/4/15

Agricultural development division—update of references and implementation sentence,

amendments to ch 44 Notice **ARC 1905C** 3/4/15

LABOR SERVICES DIVISION[875]

WORKFORCE DEVELOPMENT DEPARTMENT[871]"umbrella"

Elevators—adoption by reference of ASME A17.3 (2011) with specified exceptions, 72.10,

73.1 Filed **ARC 1891C**..... 3/4/15

REGENTS BOARD[681]

Resident classification of veterans, qualified military persons, and their children and

spouses/domestic partners, 1.4(2)"b" Notice **ARC 1902C** 3/4/15

Application fees for graduate/professional students at University of Northern Iowa, 1.7

Filed **ARC 1895C**..... 3/4/15

UTILITIES DIVISION[199]

COMMERCE DEPARTMENT[181]"umbrella"

Eligibility, certification, and reporting requirements for eligible telecommunications carriers

and related confidentiality provisions, 1.9(5)"c," ch 39 Filed **ARC 1899C**..... 3/4/15

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.

Senator Mark Chelgren
819 Hutchinson
Ottumwa, Iowa 52501

Senator Mark Costello
37265 Rains Avenue
Imogene, Iowa 51645

Senator Thomas Courtney
2609 Clearview
Burlington, Iowa 52601

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

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Legal Counsel
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Representative Megan Jones
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Sioux Rapids, Iowa 50585

Representative Rick Olson
3012 East 31st Court
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Representative Dawn Pettengill
P.O. Box A
Mt. Auburn, Iowa 52313

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Oskaloosa, Iowa 52577

Michael Boussetot
Administrative Rules Coordinator
Governor's Ex Officio Representative
Capitol, Room 18
Des Moines, Iowa 50319
Telephone (515)281-5211

ATTORNEY GENERAL[61]

Victim services support program, 9.50 to 9.57, 9.59 to 9.65 IAB 3/4/15 ARC 1889C	Conference Room, Ground Floor Crime Victims Compensation Division Lucas State Office Bldg. 321 E. 12th St. Des Moines, Iowa	April 3, 2015 10 a.m.
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DENTAL BOARD[650]

Retention of study models and casts, 27.11 IAB 3/4/15 ARC 1897C	Board Office, Suite D 400 S.W. 8th St. Des Moines, Iowa	March 25, 2015 2 p.m.
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EDUCATION DEPARTMENT[281]

Community colleges—diploma and certificate programs, residency status and tuition, 21.2 IAB 2/18/15 ARC 1879C	State Board Room, Second Floor Grimes State Office Bldg. Des Moines, Iowa	March 10, 2015 9 to 10 a.m.
Standards for paraeducator preparation programs, ch 80 IAB 2/18/15 ARC 1880C	State Board Room, Second Floor Grimes State Office Bldg. Des Moines, Iowa	March 10, 2015 11 a.m. to 12 noon
Financial management of categorical funding, amendments to ch 98 IAB 2/18/15 ARC 1881C	State Board Room, Second Floor Grimes State Office Bldg. Des Moines, Iowa	March 10, 2015 10 to 11 a.m.

ENGINEERING AND LAND SURVEYING EXAMINING BOARD[193C]

Professional development hours; grounds for discipline, 7.3(2), 9.3 IAB 2/18/15 ARC 1886C	Bureau Office, Suite 350 200 E. Grand Ave. Des Moines, Iowa	March 11, 2015 9 a.m.
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ENVIRONMENTAL PROTECTION COMMISSION[567]

Surface water classification, 61.3(5) IAB 2/18/15 ARC 1877C	Conference Room Atlantic Municipal Utilities 15 West 3rd St. Atlantic, Iowa	March 10, 2015 9 a.m.
	Public Library 4000 Mills Civic Parkway West Des Moines, Iowa	March 10, 2015 2:30 p.m.
	Falcon Civic Center 1305 5th Ave. NE Independence, Iowa	March 17, 2015 9:30 a.m.
	Public Library 115 W. Washington St. Washington, Iowa	March 17, 2015 3 p.m.
	Community Meeting Room 15 N. 6th St. Clear Lake, Iowa	March 24, 2015 10 a.m.
	Public Library 21 E. 3rd St. Spencer, Iowa	March 24, 2015 3:30 p.m.
NPDES general permit no. 2—topsoil preservation at construction sites, 64.15(2) IAB 2/18/15 ARC 1873C	Five Seasons Conference Room City Services Center 500 15th Ave. SW Cedar Rapids, Iowa	March 18, 2015 6 p.m.

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Room A Eastern Ave. Branch Library 6000 Eastern Ave. Davenport, Iowa	March 25, 2015 6 p.m.
Auditorium Wallace State Office Bldg. Des Moines, Iowa	March 27, 2015 1 p.m.

INSURANCE DIVISION[191]

Sales of cemetery merchandise, funeral merchandise and funeral services, amend chs 100 to 105; rescind ch 106 IAB 3/4/15 ARC 1888C	Insurance Division Offices, Fourth Floor Two Ruan Center 601 Locust St. Des Moines, Iowa	March 24, 2015 2 p.m.
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TRANSPORTATION DEPARTMENT[761]

Update of signing manual— 2009 MUTCD with Revisions 1 and 2, 130.1, 131.1, 131.4, 131.6(1), 131.10 IAB 2/18/15 ARC 1885C	First Floor South Conference Room DOT Administration Building 800 Lincoln Way Ames, Iowa	March 17, 2015 9 a.m. (If requested)
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UTILITIES DIVISION[199]

Disconnection of public water utility service for failure to pay sewer, wastewater, or storm drainage bill, 21.4 IAB 2/4/15 ARC 1848C	Room 69, Utilities Board 1375 E. Court Ave. Des Moines, Iowa	March 12, 2015 1 p.m.
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The following list will be updated as changes occur.

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

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

Other autonomous agencies are included alphabetically in SMALL CAPITALS at the left-hand margin.

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ARC 1898C

AGING, DEPARTMENT ON[17]

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 231.23, the Department on Aging proposes to amend Chapter 2, “Department on Aging,” Iowa Administrative Code.

The proposed amendments will do the following:

1. Provide a current address for the Department’s official Web site. The Department’s Web site has been modernized and has a new Web address.
2. Align the chapter with the Department’s current organizational units and structure. The Department recently created a new division. These amendments reflect the new structure of the Department.
3. Remove provisions duplicative of already existing language in the Iowa Code, Iowa Administrative Code, and federal law. These amendments remove references to staffing and discrimination requirements. These requirements exist in the current Iowa Code and Iowa Administrative Code and federal law.

Any interested person may make written comments on the proposed amendments on or before March 24, 2015. Comments should be directed to Kimberly Murphy, Iowa Department on Aging, Jessie Parker Building, 510 East 12th Street, Suite 2, Des Moines, Iowa 50319. Comments may also be sent by e-mail to kimberly.murphy@iowa.gov.

These amendments do not provide for waivers in specified situations because requests for the waiver of any rule may be submitted under the Department’s general rule on exceptions found in Chapter 11, “Waivers or Variances From Administrative Rules.”

After analysis and review of this rule making, no impact on jobs has been found.

These amendments are intended to implement Iowa Code section 231.23.

The following amendments are proposed.

ITEM 1. Amend subrule 2.3(2) as follows:

2.3(2) Contact information. General correspondence, inquiries, requests for information or assistance, complaints, or petitions may be sent to or obtained from the following sources:

- a. By mail addressed to: Director, Iowa Department on Aging, Jessie Parker Building, 510 East 12th Street, Suite 2, Des Moines, Iowa 50319;
- b. By telephone at (515)725-3333 or 1-800-532-3213; or
- c. From the Web site at ~~www.aging-iowa.gov~~ www.iowaaging.gov.

ITEM 2. Rescind rule **17—2.4(231)**.

ITEM 3. Renumber rule **17—2.5(231)** as **17—2.4(231)**.

ITEM 4. Amend renumbered rule 17—2.4(231), introductory paragraph, as follows:

17—2.4(231) Organizational units of the department. The department’s activities are performed by employees within the office of the director, ~~two and three divisions and the office of elder rights~~. Grants will be managed by the appropriate division, ~~office of the director or office of elder rights~~, dependent upon the source and intended use of funds.

ITEM 5. Amend renumbered subrule 2.4(1) as follows:

2.4(1) Office of the director. The office of the director is may be comprised of the director, the assistant director, the state long-term care ombudsman, the policy coordinator, the public information

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

officer, and other personnel. This office is responsible for the overall planning, policy, management and operations of the department.

ITEM 6. Rescind renumbered subrules 2.4(2) to 2.4(4) and adopt the following new subrules in lieu thereof:

2.4(2) *Division of programs and administration.* The responsibilities of the division of programs and administration include the development and operation of home- and community-based programs, development of program and operational budgets, and accounting and administrative control of appropriation expenditures.

2.4(3) *Division of policy and planning.* The responsibilities of the division of policy and planning include providing leadership and direction for the integration of policy development and ensuring that policies are consistent with department goals and results.

2.4(4) *Division of elder rights.* The responsibilities of the division of elder rights include development, administration, and operation of the program and budget for the office of the state long-term care ombudsman and other programs impacting elder rights.

ITEM 7. Rescind and reserve rules 17—2.6(231) to 17—2.8(231).

ARC 1889C

ATTORNEY GENERAL[61]

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 915.83, the Attorney General hereby gives Notice of Intended Action to amend Chapter 9, “Victim Assistance Program,” Iowa Administrative Code.

The rules in Chapter 9 describe the administration of the victim services support program as provided in Iowa Code chapters 13 and 236. These amendments clarify the administration of the support program.

Any interested person may make written suggestions or comments on these proposed amendments before March 27, 2015. Any written suggestions or comments should be directed to Donna Phillips, Crime Victim Assistance Division, Iowa Department of Justice, 321 East 12th Street, Lucas State Office Building, Ground Floor, Des Moines, Iowa 50319; telephone (515)281-5044; e-mail donna.phillips@iowa.gov. Persons who wish to convey their views orally should contact the individual identified above.

Also, there will be a public hearing on April 3, 2015, at 10 a.m. in the Conference Room, Crime Victim Assistance Division, 321 East 12th Street, Lucas State Office Building, Ground Floor, Des Moines, 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 matter of the amendments.

After analysis and review of this rule making, the Attorney General does not require annual expenditures in excess of \$100,000.

The Attorney General does not intend to grant waivers under the provisions of these rules, other than as may be allowed under the Attorney General’s general rules regarding waivers or as these rules allow. After analysis and review of this rule making, no impact on jobs has been found.

These amendments are intended to implement Iowa Code section 13.31.

The following amendments are proposed.

ATTORNEY GENERAL[61](cont'd)

ITEM 1. Amend **Chapter 9**, Division III title, as follows:

DIVISION III
VICTIM SERVICES ~~GRANT~~ SUPPORT PROGRAM

ITEM 2. Amend rule 61—9.50(13) as follows:

61—9.50(13) Administration of the victim services ~~grant~~ support program. The victim services ~~grant~~ support program of the Iowa department of justice shall administer the victim services ~~grants~~ program funds as provided in Iowa Code chapters 13 and 236. All questions, comments, requests for information, or applications for ~~grant~~ funds shall be directed to the victim services ~~grant~~ support program. Requests should be addressed to: Crime Victim Assistance Division, Iowa Department of Justice, 321 East 12th Street, Lucas State Office Building, Ground Floor, Des Moines, Iowa 50319, telephone (515)281-5044.

ITEM 3. Amend the following definitions in rule **61—9.51(13)**:

“*Applicant*” means a public or private nonprofit ~~program~~ or local or statewide government agency that provides direct services to and advocacy on behalf of crime victims, ~~or~~ training and education to professionals and community agencies on crime-related issues, crime prevention, justice support, crime investigation and prosecution, and technical assistance to crime victim service providers and that makes ~~a request an application~~ for funds from the victim services ~~grant~~ support program.

“*Competitive ~~grant~~ application*” means ~~a grant for~~ the process by which the division solicits a request for proposals (RFP) applications for funding from eligible applicants, reviews the applications for eligibility and completeness, and then convenes ~~a grant an application~~ review committee to recommend ~~grant~~ funding awards to the crime victim assistance board.

“*Focus ~~grant~~ application*” means a one-time ~~grant application~~ for specific activities, including but not limited to training, travel, or materials, awarded at the discretion of the division directly to a ~~program~~ that has received a competitive grant in the fiscal year funded agency.

“*Funding stream*” means a distinct source of federal or state funding available ~~for grants~~ to distribute to agencies that are eligible to receive these funds.

“*Grant Award*” means ~~a competitive or focus grant award~~ funds awarded to a local or statewide government or private nonprofit agency.

“*Grantee Application*” means a competitive or focus proposal for funding from a local or statewide government agency or private nonprofit agency that is awarded or receives funds from the crime victim assistance division.

“*Grant Application review committee*” means a ~~division~~ committee designated by the director to review ~~grant~~ applications.

“*Program*” means the victim services ~~grant~~ support program of the Iowa department of justice.

ITEM 4. Rescind the definition of “RFP” in rule **61—9.51(13)**.

ITEM 5. Adopt the following **new** definition in rule **61—9.51(13)**:

“*Funded agency*” means a local or statewide government or private nonprofit agency that is awarded or receives funds from the division.

ITEM 6. Amend rule 61—9.52(13) as follows:

61—9.52(13) Program description. Any eligible local or statewide government or private nonprofit agency or a combination thereof may apply for and receive ~~a grant~~ funding through the program. The program shall operate as a competitive and focus ~~grants~~ application program and be administered by the department. A contractual agreement specifying the terms of the ~~grant~~ award shall be executed between the department and the approved applicant.

ITEM 7. Amend rule 61—9.53(13) as follows:

61—9.53(13) Availability of grants awards. ~~In any year in which federal or state funds are available, the division shall administer grants with eligible applicants.~~ The division will administer an application

ATTORNEY GENERAL[61](cont'd)

process every three years unless otherwise directed by the board. The amount of the funds awarded shall be contingent upon the ~~funds available~~ availability of funding from the applicable funding stream. The director shall announce the opening of an application period process through public notice including but not limited to notice to current grantees funded agencies and other eligible agencies identified by the program. Applications must be received by the designated due date and time.

9.53(1) Competitive grants applications will be awarded based on the availability of funds, history and demonstration of quality of services provided, compliance with the requirements of the division, number of victims served or ~~eases investigated and prosecuted~~ other statistical information that demonstrates success and cost-effective use of funds, population served, and geographical distribution of funds ~~in across~~ the state. A preference shall be given to continued funding of successful grantees agencies that have demonstrated success.

9.53(2) Focus grants applications will be awarded at the discretion of the director and of the deputy attorney general who oversees the division. Funds utilized for focus grants applications must comply with all applicable state and federal rules and regulations. The award total of focus grants applications from one funding source may not exceed 3 percent of the funds available ~~from the funding source~~ in one state fiscal year.

ITEM 8. Amend rule 61—9.54(13) as follows:

61—9.54(13) Application requirements. Applicants shall submit applications to: ~~Crime Victim Assistance Division, Iowa Department of Justice, 321 East 12th Street, Lucas State Office Building, Ground Floor, Des Moines, Iowa 50319. Applications shall be in the form prescribed by the division and shall be available upon request to all interested parties through IowaGrants.gov or the Iowa grants enterprise management system (GEMS) unless otherwise directed by the division.~~

9.54(1) To be included in the review process and considered for funding, an application shall be received ~~in the offices of the division by 4:30 p.m. on the due date~~ by the designated deadlines and shall be in the format required by the division. ~~Applications may be delivered to the division during regular business hours anytime prior to the deadline.~~ An extension of the filing deadline may be requested of the ~~director or grant~~ victim services support program administrator prior to the deadline and may be granted for good cause. If the victim services support program administrator denies the extension, the applicant can file with the director within seven days of the denial a written appeal outlining the reason for reconsideration regarding extension of the deadline. The determination of a good-cause extension by the ~~division~~ director shall be final.

9.54(2) An applicant shall have on file with the division current copies of the applicant's table of organization for all its agencies and articles of incorporation ~~as required~~ if the applicant is not a state or local government agency.

9.54(3) An applicant shall have on file with the division evidence of any insurance coverage the applicant carries for liability or property.

9.54(4) The division may allow combined applications from two or more criminal justice agencies if a combined application will encourage cooperation between those agencies on behalf of crime victims. Each agency receiving funds under a combined application shall sign ~~a grant contract~~ separate contracts for the use of the awarded funds.

ITEM 9. Amend rule 61—9.55(13) as follows:

61—9.55(13) Contents of application. Each application shall contain the following information:

9.55(1) A paragraph describing the agencies or units of government requesting the funds.

9.55(2) A description of services for which funding is being requested. The description shall include, but not be limited to, the following:

- a. The geographical area to be served.
- b. The crime victim population to be served.
- c. Victim eligibility requirements for the applicant's services.
- d. A description of substantial financial support from other sources.

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- e.* The intended use of volunteers, if any.
- f.* The stated goals and objectives ~~of the~~ and the measurable activities for which program funds will be utilized.
- g.* A description of the proposed ~~victim service, training, or technical assistance~~ services to be implemented during the funding year.
- h.* The amount of ~~grant~~ funds requested.
- i.* The amount of cash or in-kind resources or combination thereof which is committed where required by the division.
- j.* ~~A description of how the proposed victim service, training, or technical assistance will provide or improve services to victims of crime.~~
- ~~*k.*~~ *j.* Proof of coordination with appropriate agencies ~~at the local level.~~
- ~~*l.*~~ *k.* A total program budget for all services provided by the applicant's crime victim program.
- ~~*m.*~~ *l.* A proposed budget for the requested ~~grant~~ funds.
- ~~*n.*~~ *m.* A list of other anticipated sources of income, including written commitments, if possible, and plans for continued funding of the ~~grant-funded~~ activities.
- ~~*o.*~~ *n.* Other information identified ~~in the RFP~~ by the division as necessary for the division to make an informed funding decision.
- ~~*p.*~~ *o.* Signed certified assurances as required by statute or regulation.

ITEM 10. Amend rule 61—9.56(13) as follows:

61—9.56(13) Eligibility requirements. Funds must be used only to provide victim services, or justice support to victims of crime, ~~and training, community education, crime prevention, crime investigation and prosecution,~~ or technical assistance to victim service providers and allied professionals. Program ~~grants~~ funds shall not be used to supplant other available or mandated funds. An applicant must meet the following requirements:

9.56(1) The applicant shall be a public agency, ~~or~~ private nonprofit organization, local or state government agency, or combination thereof, that provides services to crime victims or training and technical assistance to victim service providers and allied professionals.

9.56(2) The applicant shall provide services to victims of crime through crime victim centers, law enforcement ~~officers, prosecutors, agencies, prosecution agencies, state departments, culturally specific programs, faith-based agencies,~~ and other allied professionals. Services provided to victims by ~~crime victim centers, the above-mentioned agencies~~ shall include but are not limited to crisis intervention ~~law enforcement and court, civil and criminal court support and advocacy,~~ group and individual counseling, support, therapy, and follow-up counseling; housing and economic advocacy; personal advocacy; medical advocacy and support; client assistance; emergency shelter and housing; transportation; ~~and~~ information and referral; crime victim compensation advocacy; victim registration and notification; and other services that promote victims' safety and self-sufficiency and offender accountability. The funded agencies may provide training for community education, crime prevention, and technical assistance as they relate to crime and victimization.

9.56(3) An applicant providing services to victims of domestic abuse, sexual abuse, and other violent crimes must also provide or arrange safe shelter and housing for victims and their children when needed at no cost to the victims. ~~To ensure staff training and best practice standards, preference will be given to domestic abuse programs certified by the Iowa Coalition Against Domestic Violence.~~

9.56(4) ~~An applicant providing services to victims of sexual abuse must also provide support to victims at the time of an evidentiary sexual abuse examination. To ensure staff training and best practice standards, preference will be given to sexual abuse programs certified by the Iowa Coalition Against Sexual Assault.~~

9.56(5) ~~The applicant shall promote within the community a coordinated public and private effort to assist victims.~~

9.56(6) ~~The applicant shall be an equal opportunity employer and provide services on an equal opportunity basis.~~

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~~9.56(7) The applicant shall comply with applicable federal and state statutes and rules, all requirements specified in the grant between the department and any outside funding source, and all requirements in the RFP or any other contractual document.~~

~~9.56(8) The applicant shall assist victims in seeking state compensation benefits.~~

~~9.56(9) The applicant shall have a grievance procedure established for victims, employees and volunteers.~~

~~9.56(10) The applicant shall ensure that all employees and volunteers of crime victim centers that provide direct services to victims are trained as victim counselors as defined in Iowa Code section 915.20A.~~

~~9.56(11) The applicant shall provide services within the geographical service area without regard to a victim's ability to pay.~~

~~9.56(12) An existing program must document results of prior programming that demonstrate that the needs of victims have been met effectively and that the applicant has financial support from other sources.~~

9.56(4) To ensure staff training and best practices, preference will be given to domestic abuse programs certified by the Iowa Coalition Against Domestic Violence.

9.56(5) An applicant providing services to victims of sexual abuse must also provide support to victims at the time of an evidentiary sexual abuse examination.

9.56(6) To ensure staff training and best practices, preference will be given to sexual abuse programs certified by the Iowa Coalition Against Sexual Assault.

9.56(7) The applicant shall promote within the community a coordinated public and private effort to assist crime victims.

9.56(8) The applicant shall be an equal opportunity employer and provide services on an equal opportunity basis.

9.56(9) The applicant shall comply with applicable federal and state statutes and rules, all requirements specified in the funding documents between the department and any outside funding source, and all requirements in the funding application and any other contractual document.

9.56(10) The applicant shall assist victims in seeking state crime compensation benefits.

9.56(11) The applicant shall have a grievance procedure established for victims, employees, and volunteers.

9.56(12) The applicant shall ensure that all crime victim center employees and volunteers who provide direct services to victims are trained as victim counselors as defined in Iowa Code section 915.20A.

9.56(13) The applicant shall provide services within the geographic service area without regard to a victim's ability to pay.

9.56(14) If the applicant is currently a funded agency, the applicant must document results of prior programming that demonstrate that the needs of victims have been met effectively and that the applicant has financial support from other sources.

ITEM 11. Amend rule 61—9.57(13) as follows:

61—9.57(13) Selection process. The division shall conduct a preliminary review of each application to ensure that the applicant is eligible, the application is complete, and the proposed ~~victim service, training or technical assistance~~ services are consistent with the division's mission of providing quality assistance to crime victims and crime victim programs throughout the state.

9.57(1) In selection of competitive ~~grantees~~ applicants, the division may utilize generally accepted methods of ~~grant~~ application review including but not limited to checklists, quality scales, written comments by ~~grant~~ application review committee members, and formulas based on past funding, population, clients served and available funds.

9.57(2) In selection of competitive ~~grantees~~ applicants, the division shall establish a ~~grant~~ an application review committee. The committee shall submit recommendations for ~~grant~~ funding awards to the director. The director shall submit to the board the recommendations of the ~~grant~~ application review committee and any alternative recommendations by the program staff.

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a. The committee shall be comprised of representatives from the crime victim assistance board and experts in the fields of victim services, grant program administration and management, ~~and~~ criminal justice, and any other related field pertinent to the applications.

b. The division shall provide the committee with information related to the applicant's performance with previous grants awards, the quality and quantity of services provided, and community support for the applicant.

c. The committee shall review the content of the grant applications and information provided by the division and members of the committee regarding the applicant and the geographical area to be served.

9.57(3) The board shall consider the recommendations of the grant application review committee and the director to determine final competitive grant awards to the extent that funds are available and to the extent to which applications meet the RFI application criteria. The board may reject any or all applications.

9.57(4) In selection of grantees a funded agency for a focus grant application, a written proposal shall be solicited from current grantees funded agencies. Interested grantees funded agencies shall submit a proposal to the director outlining the purpose, cost, and outcome of the proposed grant program. The director shall submit a recommendation to the deputy attorney general for criminal justice, who shall make a final decision based on the availability of funds and the merits of the proposal.

ITEM 12. Amend rule 61—9.59(13) as follows:

61—9.59(13) Request for reconsideration.

9.59(1) An applicant may file with the board a request for reconsideration of the denial or of the amount of an award. The request for reconsideration must be submitted within ten working days of the date the notice of decision is mailed or otherwise issued by the director to the grantee applicant. The request must state grounds for reconsideration. The board or a committee designated by the board chairperson shall review the request in a timely manner. A decision of the board or designated committee shall constitute final agency action.

9.59(2) At the time a request for reconsideration is received by the director, notice that a request for reconsideration has been filed shall be sent to all approved applicants whose funds may be affected by the request.

9.59(3) Funds shall not be disbursed pending a request for reconsideration to the extent that the funds are affected by the outcome of the request. Every applicant that would be adversely affected shall be notified if a request for reconsideration is approved, and grant awards shall be reduced as necessary.

ITEM 13. Amend rule 61—9.60(13) as follows:

61—9.60(13) Contract agreement.

9.60(1) A contract shall be negotiated by the department and the applicant.

9.60(2) Prior to entering into a contract, the department or the board may require modification of the proposed program, submission of further information or documents, or other stipulation of the applicant. The required modification, information, document, or stipulation shall be specified in the notification of grant award or contract.

9.60(3) The applicant or the department may request a modification of the program budget to reflect the amount, expenses and activities allowed by the grant award. Both parties must agree to any modification of the grantee program budget.

9.60(4) In the event of a state, federal, or other audit, the grantee funded agency shall be responsible for the audit and liable for payment of any funds required to conduct the audit, to compensate for any grant award disallowance, or to repay any funds received or spent contrary to the contract, these rules, or applicable law.

9.60(5) Funds shall be spent to meet the program proposals as provided in the contract. Expenditures shall be reimbursed pursuant to regular reimbursement procedures of the state of Iowa. Claims for reimbursement shall be made on uniform forms designated by the division and published in the policy

ATTORNEY GENERAL[61](cont'd)

manual, which is available on the division's Web site. In addition, the division will reimburse only those expenditures allowed by the funding streams. The policy manual identifies the types of expenditures allowed by the funding streams.

9.60(6) The grantee funded agency shall sign the certified assurances for the grant program at the time of application and at any time requested by the division.

9.60(7) Nothing in these rules shall be construed as limiting the remedies available to the state or the program for improper use of grant funds or other breach of the grantee's funded agency's duties under the contract and applicable law.

9.60(8) The contract will include provisions requiring the funded agency to provide the department with any information required by the funding stream.

9.60(9) The contract will include provisions related to the division's monitoring of the funded agency's performance of the contract, including but not limited to, on-site inspections, technical assistance, desk audits, and review of financial information.

9.60(10) If applicable, the contract will also include provisions required for compliance with Iowa Code chapter 8F.

ITEM 14. Amend rule 61—9.61(13) as follows:

61—9.61(13) Performance reports. Performance reports shall be submitted to the division from all grantees funded agencies. Failure to submit reports by the due date ~~shall~~ may result in suspension of financial payments to the grantee funded agency by the program until such time as the report is received. Delinquent or inadequate reports from prior grants awards may detrimentally influence ~~the award of grants funding for the following year~~ future awards.

ITEM 15. Amend rule 61—9.62(13) as follows:

61—9.62(13) Termination. Contracts may be terminated for the following reasons:

9.62(1) Termination by grantee funded agency. The grantee funded agency may terminate the contract at any time during the contract period by providing notice to the division.

9.62(2) Termination by department. The department may terminate a contract upon a ten-day notice when the grantee funded agency or any of its subcontractors fail to comply with the grant funding award stipulations, rules, regulations, standards, or conditions. The department may terminate a contract when there is a reduction of funds by executive order or otherwise.

9.62(3) Termination for cause. If the grantee funded agency fails to fulfill its obligations under the agreement properly or on time, or otherwise violates any provision of the agreement, the board may terminate the agreement by written notice to the grantee funded agency. The notice shall specify the acts or omissions relied on as cause for termination. All finished or unfinished products and services provided by the grantee funded agency shall, at the option of the department, become state property. The department shall pay the grantee funded agency fair and equitable compensation for satisfactory performance prior to receipt of notice of termination minus any funds owing to the department, e.g., damages for breach, improperly spent funds.

ITEM 16. Amend rule 61—9.63(13) as follows:

61—9.63(13) Financial statement supplied. Within 45 days of the termination, the grantee funded agency shall supply the department with a financial statement detailing all costs incurred up to the effective date of the termination.

ITEM 17. Amend rule 61—9.64(13) as follows:

61—9.64(13) Indemnification. The grantee funded agency shall defend, indemnify, and hold harmless the state of Iowa, its officers, agents and employees and any of the state's federal funding sources for:

1. Grantee's The funded agency's performance or nonperformance of a contract entered into or violation of these rules.

ATTORNEY GENERAL[61](cont'd)

2. ~~Grantee's~~ The funded agency's activities with subcontractors and all other third parties, or any other act or omission by ~~a grantee~~ the funded agency, its agents, officers, and employees.

ITEM 18. Amend rule 61—9.65(13) as follows:

61—9.65(13) Records. ~~Grantees~~ Funded agencies shall keep statistical records of services provided and any other records as required by the division. The division shall have immediate access during working hours to records pertaining to the contract. No notice need be provided the ~~grantee~~ funded agencies prior to inspection of the records.

ARC 1897C

DENTAL BOARD[650]

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 147.76 and 272C.2, the Dental Board hereby gives Notice of Intended Action to amend Chapter 27, “Standards of Practice and Principles of Professional Ethics,” Iowa Administrative Code.

The purpose of the proposed amendment is to reduce the retention schedule for study models and casts. Current rules require dentists to maintain study models and casts for a minimum of six years after the date of last examination, prescription, or treatment. If the study model and cast involve a minor, then the study model and cast shall be maintained for a minimum of either (1) one year after the patient reaches the age of majority (18), or (2) six years, whichever is longer. The amendment would require that study models and casts be maintained for six years after the date of completion of treatment. As an alternative, dentists may provide such study models and casts to the patient for retention one year after completion of treatment.

The Board approved this Notice of Intended Action at its quarterly meeting on January 22, 2015.

Any interested person may make written comments on the proposed amendment on or before March 25, 2015. Such written materials should be directed to Phil McCollum, Associate Director, Iowa Dental Board, 400 S.W. Eighth Street, Suite D, Des Moines, Iowa 50309, or sent by e-mail to phil.mccollum@iowa.gov.

There will be a public hearing on March 25, 2015, at 2 p.m. in the Board office, 400 S.W. Eighth Street, Suite D, Des Moines, Iowa, at which time persons may present their views orally or in writing.

The proposed amendment is subject to waiver or variance pursuant to 650—Chapter 7.

After analysis and review of this rule making, no impact on jobs has been found.

This amendment is intended to implement Iowa Code section 153.33.

The following amendment is proposed.

Amend rule 650—27.11(153,272C) as follows:

650—27.11(153,272C) Record keeping. Dentists shall maintain patient records in a manner consistent with the protection of the welfare of the patient. Records shall be permanent, timely, accurate, legible, and easily understandable.

27.11(1) Dental records. Dentists shall maintain dental records for each patient. The records shall contain all of the following:

a. Personal data.

- (1) Name, date of birth, address and, if a minor, name of parent or guardian.
- (2) Name and telephone number of person to contact in case of emergency.

DENTAL BOARD[650](cont'd)

b. Dental and medical history. Dental records shall include information from the patient or the patient's parent or guardian regarding the patient's dental and medical history. The information shall include sufficient data to support the recommended treatment plan.

c. Patient's reason for visit. When a patient presents with a chief complaint, dental records shall include the patient's stated oral health care reasons for visiting the dentist.

d. Clinical examination progress notes. Dental records shall include chronological dates and descriptions of the following:

- (1) Clinical examination findings, tests conducted, and a summary of all pertinent diagnoses;
- (2) Plan of intended treatment and treatment sequence;
- (3) Services rendered and any treatment complications;
- (4) All radiographs, study models, and periodontal charting, if applicable;
- (5) Name, quantity, and strength of all drugs dispensed, administered, or prescribed; and
- (6) Name of dentist, dental hygienist, or any other auxiliary, who performs any treatment or service or who may have contact with a patient regarding the patient's dental health.

e. Informed consent. Dental records shall include, at a minimum, documentation of informed consent that includes discussion of procedure(s), treatment options, potential complications and known risks, and patient's consent to proceed with treatment.

27.11(2) Retention of records. A dentist shall maintain a patient's dental record for a minimum of six years after the date of last examination, prescription, or treatment. Records for minors shall be maintained for a minimum of either (a) one year after the patient reaches the age of majority (18), or (b) six years, whichever is longer. Study models and casts shall be maintained for six years after the date of completion of treatment. Alternatively, one year after completion of treatment, study models and casts may be provided to the patient for retention. Proper safeguards shall be maintained to ensure safety of records from destructive elements.

27.11(3) Electronic record keeping. The requirements of this rule apply to electronic records as well as to records kept by any other means. When electronic records are kept, a dentist shall keep either a duplicate hard copy record or use an unalterable electronic record.

27.11(4) Correction of records. Notations shall be legible, written in ink, and contain no erasures or white-outs. If incorrect information is placed in the record, it must be crossed out with a single nondeleting line and be initialed by a dental health care worker.

27.11(5) Confidentiality and transfer of records. Dentists shall preserve the confidentiality of patient records in a manner consistent with the protection of the welfare of the patient. Upon request of the patient or patient's legal guardian, the dentist shall furnish the dental records or copies or summaries of the records, including dental radiographs or copies of the radiographs that are of diagnostic quality, as will be beneficial for the future treatment of that patient. The dentist may charge a nominal fee for duplication of records, but may not refuse to transfer records for nonpayment of any fees.

ARC 1890C**ECONOMIC DEVELOPMENT AUTHORITY[261]****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 15.106A, the Economic Development Authority hereby gives Notice of Intended Action to amend Chapter 23, “Iowa Community Development Block Grant Program,” Chapter 173, “Standard Definitions,” and Chapter 174, “Wage, Benefit, and Investment Requirements,” Iowa Administrative Code.

ECONOMIC DEVELOPMENT AUTHORITY[261](cont'd)

The proposed amendments help align the community development block grant (CDBG) rules with planning and programming requirements of the U.S. Department of Housing and Urban Development (HUD). The proposed amendments clarify Chapters 23, 173 and 174, update references, and consolidate all requirements for CDBG-funded programs into one chapter.

The Economic Development Authority Board approved these amendments on January 16, 2015, at the Board's monthly meeting.

Any interested person may make written suggestions or comments on these proposed amendments on or before March 24, 2015. Paper materials with suggestions and comments may be directed to Nichole Hansen, Community Investments Team Leader, 200 East Grand Avenue, Des Moines, Iowa 50309. Electronic submissions may be sent to nichole.hansen@iowa.gov.

After analysis and review of this rule making, no negative impact on jobs has been found. The Authority finds that proposed amendments to the state Community Development Block Grant Program will align the program more closely with federal requirements and make the program more flexible and usable for Iowa communities.

These amendments are intended to implement Iowa Code section 15.108(1)"a."

The following amendments are proposed.

ITEM 1. Amend rule 261—23.2(15) as follows:

261—23.2(15) Definitions. When used in this chapter, unless the context otherwise requires:

"Activity" means one or more specific activities, projects or programs assisted with CDBG funds.

"Adaptive reuse" means conversion of an existing building or structure from nonresidential use to residential use.

"Annual action plan" means the annual plan required and approved by the U.S. Department of Housing and Urban Development that outlines the state's processes and procedures for distribution of CDBG funds. The annual action plan is an annual update to the state's CDBG consolidated plan. The federal requirements for an annual action plan can be found at http://www.hud.gov/offices/cpd/about/conplan/toolsandguidance/guidance/state_guidelines.pdf. The annual action plan can be found on the authority's CDBG Web site.

"Annual allocation" means the annual amount HUD allocates to the state of Iowa for CDBG activities.

"Authority" means the economic development authority created in Iowa Code section 15.105.

"Career link" means a program providing training and enhanced employment opportunities to the working poor and underemployed Iowans low- and moderate-income persons.

"CDBG" means community development block grant.

"Citizen participation plan" means the plan required and approved by the U.S. Department of Housing and Urban Development that describes the state's process for including citizen participation in development of its consolidated plan and annual action plan. The citizen participation plan is available on the authority's CDBG Web site.

"Consolidated plan" means the five-year plan required and approved by the U.S. Department of Housing and Urban Development that establishes goals and objectives for the state's CDBG program. The consolidated plan is available on the authority's CDBG Web site.

"EDSA" means economic development set-aside.

"HUD" means the U.S. Department of Housing and Urban Development.

~~*"IDED"* means the Iowa department of economic development.~~

"LMI" means low and moderate income. Households earning 80 percent or less of the area median income are LMI households.

"PFSA" means public facilities set-aside.

"Program income" means gross income a recipient receives that is directly generated by the use of CDBG funds, including funds generated by the use of program income.

"Program year" means the annual period beginning January 1 and ending December 31.

~~*"Quality jobs program"* means a job training program formerly funded with CDBG funds that is no longer operational.~~

ECONOMIC DEVELOPMENT AUTHORITY[261](cont'd)

“Recipient” means a local government entity awarded CDBG funds under any CDBG program.

“Subrecipient” means a public or nonprofit entity contracting with and receiving funds from a recipient to carry out CDBG project activities.

“Sustainable community activities” means activities to develop viable communities while preserving precious environment and resources.

“Working poor” means an employed person with an annual household income between 25 and 50 percent of the area median family income.

ITEM 2. Rescind rule 261—23.3(15) and adopt the following **new** rule in lieu thereof:

261—23.3(15) Annual action plan. The authority will prepare a CDBG annual action plan for submittal to and approval by HUD. The plan will provide a description of the activities and programs that will take place during the year to meet goals established in the consolidated plan.

23.3(1) The annual action plan will contain the following:

- a. Executive summary.
- b. Sources of federal and state funds.
- c. Statement of specific annual objectives.
- d. Outcome measures.
- e. Method of distribution of funds.
- f. Allocation priorities and geographic distribution.
- g. Annual affordable housing goals.
- h. Homeless and other special needs.
- i. Other actions to meet underserved community development needs.
- j. Citizen participation in development of the plan.
- k. Certifications required by 24 CFR 91.325 as revised December 5, 2011.
- l. Monitoring efforts to ensure compliance.

23.3(2) The authority will follow the state’s citizen participation plan during the development of the annual action plan. A draft annual action plan will be available on the authority’s CDBG Web site for 30 days for public review and comment. The authority will hold a public hearing during the comment period to collect public input on the plan prior to its submittal to HUD.

23.3(3) The annual action plan will be submitted to HUD by November 15 of each year or 60 days after HUD announces the annual allocation amount. Upon review and approval by HUD, the annual action plan will cover activities from January 1 to December 31 of the year following plan submittal to HUD.

23.3(4) The annual action plan will include the proposed CDBG program funding allocation, including the percentage of funds allocated for each of the CDBG programs and activities listed in rule 261—23.4(15).

ITEM 3. Rescind rule 261—23.4(15) and adopt the following **new** rule in lieu thereof:

261—23.4(15) Allocation of funds and eligible applicants.

23.4(1) Allocation of funds. Upon approval by HUD, the authority will annually allocate CDBG funds among programs or activities according to the annual action plan as follows:

- a. Administration.
- b. Technical assistance.
- c. Housing fund.
- d. Job creation, retention and employment enhancement fund. Job creation, retention and employment enhancement funds are awarded through three programs: the economic development set-aside (EDSA), the public facilities set-aside (PFSA), and career link.
- e. Water and sewer fund.
- f. Community facilities fund.
- g. Opportunities and threats fund.

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23.4(2) Eligible applicants. All incorporated cities and all counties in the state of Iowa, except those designated as entitlement areas by the U.S. Department of Housing and Urban Development, are eligible to apply for and receive funds under the CDBG program. Applicants shall not apply on behalf of eligible applicants other than themselves.

23.4(3) Application with subrecipients. Any eligible applicant may apply directly or on behalf of a subrecipient.

23.4(4) Joint applications. Any eligible applicant may apply individually or jointly with another eligible applicant or other eligible applicants.

23.4(5) Reallocation. Any reserved funds not used for their specified purpose within the program year shall be reallocated in amounts and to funds as approved by the director to ensure the availability of resources to those funds in which the greatest need is demonstrated to exist or to respond to community or business needs.

23.4(6) Recaptured funds. Recaptured funds shall be available for use through the water and sewer fund, the community facilities fund, the opportunities and threats fund, the housing fund, the downtown revitalization fund, and the economic development set-aside fund. As approved by the director, recaptured funds may be used to fund projects from the job creation, retention and employment enhancement fund in order to respond to an immediate business need if no funds are available through the economic development set-aside fund or public facilities set-aside fund. Recaptured funds remaining at the end of a program year shall be reallocated in amounts and to funds as approved by the director to ensure the availability of resources to those funds in which the greatest need is demonstrated to exist or to respond to a community or business need.

ITEM 4. Amend rule 261—23.5(15), introductory paragraph, as follows:

261—23.5(15) Common requirements for funding. Applications for funds under any of the CDBG programs program-allocated funds pursuant to rule 261—23.4(15) shall meet the following minimum criteria:

ITEM 5. Amend subrule **23.5(2)** by lettering paragraphs “1” to “3” as “a” to “c.”

ITEM 6. Amend subrule 23.5(8) as follows:

23.5(8) Negotiation of awards. ~~IDED reserves the right to~~ The authority may negotiate award amounts, terms and conditions prior to making any award under any program.

ITEM 7. Amend subrule **23.5(9)** by lettering paragraphs “1” to “21” as “a” to “u.”

ITEM 8. Amend rule 261—23.6(15), catchwords, as follows:

261—23.6(15) Requirements for the competitive program water and sewer and community facilities funds.

ITEM 9. Amend paragraph **23.6(1)“a”** as follows:

a. An applicant shall be allowed to submit one application per year under the water and sewer fund and one application per year under the community facilities ~~and services~~ fund.

ITEM 10. Strike “IDED” wherever it appears in subrule **23.6(3)**, introductory paragraph, paragraphs **23.6(3)“b,” “f”** and **“g,”** paragraph **23.6(4)“b,”** subparagraph **23.6(4)“c”(9)**, paragraphs **23.6(4)“d”** and **“e,”** paragraph **23.7(1)“i,”** subrule **23.10(1)**, subparagraph **23.10(2)“b”(7)**, and subrules **23.14(1)** to **23.14(3)**, **23.15(1)**, **23.15(5)**, **23.15(6)**, **23.15(11)** and **23.15(12)** and insert “authority” or “the authority” in lieu thereof as the context requires.

ITEM 11. Amend paragraph **23.6(3)“a”** as follows:

a. Application forms shall be available ~~upon request from IDEED, Community Development Division, 200 East Grand Avenue, Des Moines, Iowa 50309, or on the division’s Web site at www.community.state.ia.us at iowagrants.gov.~~

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ITEM 12. Amend paragraph **23.6(3)“c,”** introductory paragraph, as follows:

~~c. IDED~~ The authority shall review applications and make funding decisions based on the following criteria described in the annual action plan. Review criteria typically include:

ITEM 13. Amend subrule 23.6(4), introductory paragraph, as follows:

~~23.6(4) Community facilities and services fund application procedure.~~ Each year, ~~IDEED~~ the authority shall announce the availability of funds and instructions for applying for funds through direct mail, public notices, media releases, workshops or other means determined necessary by IDED the authority.

ITEM 14. Amend paragraph **23.6(4)“a”** as follows:

~~a. Application forms shall be available upon request from IDED, Community Development Division, 200 East Grand Avenue, Des Moines, Iowa 50309, or on the division’s Web site at www.community.state.ia.us at iowagrants.gov.~~

ITEM 15. Amend paragraph **23.6(4)“c,”** introductory paragraph, as follows:

~~c. IDED~~ The authority shall review applications and make funding decisions based on the following criteria described in the annual action plan. Review criteria typically include:

ITEM 16. Amend subrule 23.6(5) as follows:

~~23.6(5) Contingent funding Matching funds. IDED~~ The authority may make awards contingent upon receipt of funding from other sources require matching funds as a contingency of an award as described in the annual action plan.

ITEM 17. Amend subrule 23.6(6) as follows:

~~23.6(6) Negotiation of awards. IDED reserves the right to~~ The authority may negotiate award amounts and terms as described in the annual action plan.

ITEM 18. Amend paragraph **23.7(1)“a”** as follows:

~~a. Applicants shall apply only for direct loans or forgivable loans to make to private businesses for the creation of new jobs or the retention of existing jobs that would otherwise be lost. Eligible activities include infrastructure projects in direct support of economic development activities.~~

ITEM 19. Rescind paragraph **23.7(1)“c”** and adopt the following **new** paragraph in lieu thereof:

~~c. For a project to be eligible for assistance, jobs created or retained shall meet the qualifying wage described in the annual action plan.~~

ITEM 20. Amend paragraph **23.7(1)“e”** as follows:

~~e. Projects must maintain a minimum ratio of one permanent job created or retained for every \$10,000~~ \$20,000 in CDBG funds awarded.

ITEM 21. Rescind paragraph **23.7(1)“l.”**

ITEM 22. Amend subrule 23.7(2) as follows:

~~23.7(2) Application procedure. Application forms and instructions shall be available upon request from IDED, Business Development Division, 200 East Grand Avenue, Des Moines, Iowa 50309; telephone (515)242-4819. An original and two copies of completed applications with required attachments shall be submitted to the same address at iowagrants.gov. IDED~~ The authority shall accept EDSA applications at any time and shall review applications on a continuous basis. IDED The authority shall take action on submitted applications within 60 days of receipt. Action may include funding the application for all or part of the requested amount, denying the applicant’s request for funding or requesting additional information from the applicant for consideration before a final decision is made.

ITEM 23. Amend subrule 23.7(3) as follows:

~~23.7(3) Review criteria. IDED~~ The authority shall review applications and make funding decisions based on the following criteria described in the annual action plan. Review criteria typically include:

~~1. a.~~ Impact of the project on the community.

~~2. b.~~ Appropriateness of the jobs to be created or retained by the proposed project.

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3- c. Appropriateness of the proposed wage and benefit package available to employees in jobs created or retained by the proposed project.

4- d. Degree to which EDSA funding would be leveraged by private investment.

5- e. Degree of demonstrated business need.

~~In evaluating applications, IDEED shall give supplementary credit to applicants who have executed a good neighbor agreement with the business to be assisted.~~

~~IDEED may conduct site evaluations of proposed projects.~~

ITEM 24. Amend subrule 23.8(2) as follows:

23.8(2) Application procedure. Application forms and instructions shall be available upon request from IDEED, Business Development Division, 200 East Grand Avenue, Des Moines, Iowa 50309; telephone (515)242-4819. An original and one copy of completed applications with required attachments shall be submitted to the same address at iowagrants.gov. ~~IDEED~~ The authority shall accept PFSA applications at any time and shall review applications on a continuous basis. ~~IDEED~~ The authority shall take action on submitted applications within 60 days of receipt. Action may include funding the application for all or part of the requested amount, denying the applicant's request for funding or requesting additional information from the applicant for consideration before a final decision is made.

ITEM 25. Amend subrule 23.8(3) as follows:

23.8(3) Review criteria. ~~IDEED~~ The authority shall review applications and make funding decisions based on ~~the following~~ criteria described in the annual action plan. Review criteria typically include:

1- a. Impact of the project on the community.

2- b. Number of jobs created or retained per funds requested.

3- c. Degree to which PFSA funding would be leveraged by private investment.

4- d. Degree of demonstrated need for the assistance.

~~IDEED may conduct site evaluations of proposed projects.~~

ITEM 26. Adopt the following **new** subrule 23.8(4):

23.8(4) Transfer of PFSA to EDSA. On or after [the effective date of these amendments], funding for public facility infrastructure projects will be available under the EDSA program described in rule 261—23.7(15).

ITEM 27. Amend rule 261—23.9(15), introductory paragraph, as follows:

261—23.9(15) Requirements for the career link program. Projects funded through the career link program assist the unemployed and underemployed to obtain the training and skills services necessary to move into available higher-skill, higher-paying jobs.

ITEM 28. Amend subrule 23.9(1) as follows:

23.9(1) Restrictions on applicants.

~~a.—Identified positions shall pay an average starting wage that meets or exceeds the lower of 100 percent of the average county wage or 100 percent of the average regional wage.~~

~~b. a.~~ Applications for training projects shall include evidence of business participation in the curriculum design and evidence that a number of positions are available equal to or greater than the number of persons to be trained. Applications for employment-related transportation projects shall include evidence of local support for the project, including matching funds committed to the project.

~~c. b.~~ The project length shall not exceed 24 months.

~~d. c.~~ Applicants may use awarded funds career link funds for training, apprenticeship programs, employment-related transportation and supportive services, and child care costs. Up to 5 percent of funds may be used for administration.

~~e.—Rescinded IAB 1/19/05, effective 2/23/05.~~

ITEM 29. Amend subrule 23.9(2) as follows:

23.9(2) Application procedure. Application forms and instructions shall be available upon request from IDEED, Community Development Division, 200 East Grand Avenue, Des Moines, Iowa 50309; telephone (515)242-4783. An original and five copies of completed applications shall be submitted to

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~~the same address at iowagrants.gov. IDEED~~ The authority shall accept career link applications at any time and shall review applications on a continuous basis until all program funds are obligated or the program is discontinued.

ITEM 30. Amend subrule 23.9(3) as follows:

23.9(3) Review criteria. ~~IDEED~~ The authority shall review applications and make funding decisions based on ~~the following~~ criteria: described in the annual action plan.

a. Review criteria for training projects typically include:

- ~~1.~~ (1) Quality of the jobs available and business participation.
- ~~2.~~ (2) Merit of the proposed training plan.
- ~~3.~~ (3) Degree to which career link funds are leveraged by other funding sources.
- ~~4.~~ (4) Merit of the recruitment/job matching plan.
- ~~5.~~ (5) Scope of project benefit relative to the amount of funds invested.

b. Review criteria for supportive services typically include:

- (1) Degree to which career link funds are leveraged by other funding sources.
- (2) Scope of project benefit relative to the amount of funds invested.
- (3) Magnitude of need for the project.
- (4) Local support for the project.

ITEM 31. Amend rule 261—23.10(15), introductory paragraph, as follows:

261—23.10(15) Requirements for the contingency opportunities and threats fund. ~~The contingency opportunities and threats~~ fund is reserved for communities experiencing a threat to public health, safety or welfare that necessitates immediate corrective action sooner than can be accomplished through normal community development block grant procedures, or for disaster recovery activities, or for communities developing a sustainable community demonstration project.

ITEM 32. Amend subrule 23.10(2), introductory paragraph, as follows:

23.10(2) Application review. Upon receipt of a request for ~~contingency opportunities and threats~~ funding, ~~IDEED~~ the authority shall determine whether the project is eligible for funding and notify the applicant of its determination. ~~A project shall be considered eligible if it meets the following~~ The authority shall review applications and make funding decisions based on criteria described in the annual action plan. Review criteria typically include:

ITEM 33. Amend subrule 23.10(3) as follows:

23.10(3) Additional information. ~~IDEED reserves the right to~~ The authority may request additional information on forms prescribed by ~~IDEED~~ the authority prior to making a final funding decision. ~~IDEED reserves the right to~~ The authority may negotiate final project award and design components.

ITEM 34. Amend subrule 23.10(4) as follows:

23.10(4) Future allocations. ~~IDEED reserves the right to~~ The authority may reserve future funds anticipated from federal CDBG allocations to the contingency fund to offset current need for commitment of funds which may be met by amounts deferred from current awards.

ITEM 35. Amend rule 261—23.11(15) as follows:

261—23.11(15) Requirements for the housing fund program. ~~Specific requirements for the housing fund are listed separately at 261—Chapter 25.~~

23.11(1) Housing fund application procedure. Each year, the authority shall announce the availability of funds and instructions for applying for funds through direct mail, public notices, media releases, workshops or other means determined necessary by the authority.

a. Application forms shall be available at iowagrants.gov.

b. Applications shall be submitted by the deadline established by the authority.

c. The authority shall review applications and make funding decisions based on criteria described in the annual action plan. Review criteria typically include:

- (1) Level of need.

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- (2) Level of impact.
- (3) Community involvement in other housing and community development activities.
- (4) Project readiness.
- (5) Local involvement in the project.

d. Applicants selected to receive awards shall be notified by letter from the authority director by the date(s) determined by the authority.

23.11(2) Applicability to housing fund on or after July 1, 2015. For CDBG housing fund program awards made on or after July 1, 2015, the administrative rules in this chapter will apply. For CDBG housing fund program awards made before July 1, 2015, the administrative rules in 261—Chapter 25 will apply for contract administration and project closeout purposes.

ITEM 36. Rescind and reserve rule **261—23.12(15)**.

ITEM 37. Amend subrule **23.14(2)** by lettering paragraphs “1” to “4” as “a” to “d.”

ITEM 38. Amend subrule 23.15(4) as follows:

23.15(4) *Program income.* If a recipient receives program income before the contract end date, ~~it~~ the program income must be expended before requesting additional funds are requested. If a recipient receives program income on or after the contract end date, the recipient may reuse the program income according to an ~~IDED~~ authority-approved reuse plan, or the recipient may return the program income to ~~IDED~~ the authority. If a recipient receives less than ~~\$25,000~~ \$35,000 of program income cumulative of all CDBG grants in a program year, ~~it~~ the program income shall be considered miscellaneous revenue and may be used for any purpose.

ITEM 39. Amend subrule 23.15(7) as follows:

23.15(7) *Contract amendments.* Any substantive change to a funded CDBG project, including time extensions, budget revisions and significant alteration to proposed activities, shall be considered a contract amendment. The recipient shall request the amendment in writing. No amendment shall be valid until approved in writing by ~~IDED~~ the authority. ~~IDED shall not approve the addition of a new activity unrelated to the original contract activities, unless all original activities shall also be completed per the contract. In such cases, IDEED may allow up to \$10,000 of the original CDBG award to be used for a new activity. For projects funded under the economic development set-aside, IDEED shall not approve amendments involving the replacement of one activity with another.~~

ITEM 40. Amend subrule 23.15(8) as follows:

23.15(8) *Contract closeout and audit.* Upon completion of project activities and contract expiration, ~~IDED~~ the authority shall initiate closeout procedures. Contracts may be subject to audit before closeout of the contract can be completed. ~~Recipients that expend \$500,000 or more of federal funds within one year must have these funds audited.~~ The audit shall be performed in a manner consistent with the provisions set forth in the Single Audit Act, ~~as revised in~~ of 1996, and described in the CDBG management guide.

ITEM 41. Amend subrule 23.16(2) as follows:

23.16(2) *Application procedure.* Application forms and instructions shall be available ~~upon request from IDEED, Community Development Division, 200 East Grand Avenue, Des Moines, Iowa 50309, or on the division Web site at www.iowalifechanging.com/community at iowagrants.gov.~~

ITEM 42. Amend subrule 23.16(3), introductory paragraph, as follows:

23.16(3) *Review criteria.* ~~IDED~~ The authority shall review applications and make funding decisions based on ~~the following~~ criteria described in the annual action plan. Review criteria typically include:

ITEM 43. Adopt the following **new** subrule 23.16(4):

23.16(4) *Notification of award.* Applicants selected to receive awards shall be notified by letter from the authority director by the date(s) determined by the authority.

ECONOMIC DEVELOPMENT AUTHORITY[261](cont'd)

ITEM 44. Adopt the following new rule 261—23.17(15):

261—23.17(15) Section 108 loan guarantee program. The authority will apply to HUD’s Section 108 Loan Guarantee Program to establish a section 108 program to assist with economic and community development projects in Iowa.

23.17(1) Eligible applicants.

- a. All incorporated cities and all counties in the state of Iowa, except those designated as entitlement areas by HUD, are eligible to apply for and receive funds under this program.
- b. Projects must meet a national objective as described in subrule 23.5(2).
- c. The minimum loan amount for a project will be \$500,000. The maximum loan amount for a project will be \$10 million.
- d. Applications must provide evidence of adequate private equity and ability to repay loan funds.
- e. Applicants must certify to meet all applicable federal requirements including those requirements in subrule 23.5(9).

23.17(2) Eligible activities. Projects under the program will fall into at least one of the following categories:

- a. Economic development resulting in substantial private investment and job creation/retention.
- b. Adaptive reuse of vacant or underutilized commercial or industrial buildings for residential purposes.
- c. Conversion of buildings to provide upper-story residential units.
- d. Rehabilitation of vacant single-family residential units or demolition of blighted, unoccupiable, vacant single-family residential units.

23.17(3) Application procedure. Application forms and instructions shall be available at iowagrants.gov. The authority shall accept section 108 applications at any time and shall review applications on a continuous basis as long as funding is available.

23.17(4) Review criteria and funding decision. The authority shall review applications based on criteria described in the annual action plan. All final funding decisions will be made by HUD.

ITEM 45. Rescind and reserve paragraph **173.1(1)“a.”**

ITEM 46. Rescind and reserve paragraph **174.3(5)“c.”**

ITEM 47. Rescind and reserve subrule **174.5(3).**

ITEM 48. Rescind and reserve subrule **174.6(5).**

ITEM 49. Amend rule 261—174.8(15) as follows:

261—174.8(15) Benefit requirements—prior to July 1, 2009. This rule regarding benefit requirements applies to awards made on or before June 30, 2009. This rule shall apply to the prior programs and funding sources until such time as the contracts for these prior programs are closed by the department.

Program	Benefit Requirement	Deductible Requirements	Is a monetary equivalent to benefits allowed?	Benefits Counted Toward Monetary Equivalent
EZ	80% medical and dental coverage, single coverage only OR the monetary equivalent	\$750 maximum for single coverage/ \$1500 maximum for family coverage	Yes	-Medical coverage (family portion) -Dental coverage (family portion) -Pension/401(k) (company’s average contribution) -Profit-sharing plan -Life insurance -Short-/long-term disability insurance -Vision insurance -Child care
HQJC	No benefit requirement	\$750 maximum for single coverage/	No	Not applicable

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Program	Benefit Requirement	Deductible Requirements	Is a monetary equivalent to benefits allowed?	Benefits Counted Toward Monetary Equivalent
	(If, however, the company does not provide 80% medical and dental coverage for a single employee, the award will be reduced by 10%.)	\$1500 maximum for family coverage	(Providing 80% medical and dental coverage for a single employee is one of eight qualifying criteria the company may use to qualify for the program. Monetary equivalent of other benefits is not considered.)	
EDSA	80% medical and dental for single employees OR 50% medical and dental for family coverage OR the monetary equivalent	\$750 maximum for single coverage/ \$1500 maximum for family coverage	Yes	-Medical coverage (family portion) -Dental coverage (family portion) -Pension/401(k) (company's average contribution) -Profit-sharing plan -Life insurance -Short/long-term disability insurance -Vision insurance -Child care -Other documented benefits offered to all employees (i.e., uniforms, tuition reimbursement, etc.)
CEBA	80% medical and dental for single employees OR 50% medical and dental for family coverage OR the monetary equivalent	\$750 maximum for single coverage/ \$1500 maximum for family coverage	Yes	-Medical coverage (family portion) -Dental coverage (family portion) -Pension/401(k) (company's average contribution) -Profit-sharing plan -Life insurance -Short/long-term disability insurance -Vision insurance -Child care -Other documented benefits offered to all employees (i.e., uniforms, tuition reimbursement, etc.)
VAAPFAP	Not applicable	Not applicable	Not applicable	Not applicable
PIAP	Not applicable	Not applicable	Not applicable	Not applicable
EVA	Not applicable	Not applicable	Not applicable	Not applicable
TSBFAP	Not applicable	Not applicable	Not applicable	Not applicable

ARC 1901C

HUMAN SERVICES DEPARTMENT[441]

Notice of Intended Action

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

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

Pursuant to the authority of Iowa Code section 249A.4, the Department of Human Services proposes to amend Chapter 78, “Amount, Duration and Scope of Medical and Remedial Services,” Iowa Administrative Code.

These proposed amendments are in accordance with a new request for proposal (RFP) for Iowa Medicaid’s Non-Emergency Medical Transportation (NEMT) program. These amendments would eliminate the two-business-day advance notice for mileage reimbursement trips. These amendments also define a time frame within which a member or transportation provider may submit a claim to the broker for reimbursement.

HUMAN SERVICES DEPARTMENT[441](cont'd)

In the recent past, there has been a shift in NEMT trips classified as mileage reimbursement, from 73 percent of all NEMT trips as measured October to December 2010 to only 46 percent of NEMT trips as measured January to March 2013. This shift means the majority of the current trips are provider rides, which are more costly. By eliminating the two-business-day advance notice for members who require only mileage reimbursement, the Department is anticipating a greater incentive for members to drive themselves and thus reduce program costs.

Most states with a brokerage require members to submit claims within 60 to 120 days from the date of service. Rules in Chapter 80 address medical and remedial care providers' submission of claims for services rendered. These amendments propose new provisions for members' submission of claims.

Any interested person may make written comments on the proposed amendments on or before March 24, 2015. Comments should be directed to Harry Rossander, Bureau of Policy Coordination, Department of Human Services, Hoover State Office Building, 5th Floor, 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 do not provide for waivers in specified situations because requests for the waiver of any rule may be submitted under the Department's general rule on exceptions at 441—1.8(17A,217).

After analysis and review of this rule making, no impact on jobs has been found.

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

The following amendments are proposed.

ITEM 1. Amend paragraph **78.13(3)“a”** as follows:

a. Member request. When a member needs nonemergency transportation to receive medical care provided by the Iowa Medicaid program, the member must contact the broker with as much advance notice as possible, but not more than 30 days' advance notice.

(1) Generally, ~~the member~~ members who require a ride from a transportation provider scheduled by the broker must contact the broker at least two business days in advance of the member's appointment to schedule the transportation. For purposes of calculating the two-business-day notice obligation, the advance notice includes the day of the medical appointment but not the day of the telephone call.

(2) If the member's nonemergency transportation ~~needs make need for a ride from a transportation provider scheduled by the broker~~ makes the provision of two business days' notice impossible because of the member's urgent transportation need, the member must provide as much advance notice as is possible before the transportation need so that the broker can appropriately schedule the most economical form of transportation for the member. Urgent transportation needs for a ride from a transportation provider scheduled by the broker are limited to unscheduled episodic situations in which there is no immediate threat to life or limb but which require that the broker schedule transportation with less than two business days' notice. Examples of urgent trips include, but are not limited to:

1. Postsurgical or medical follow-up care specified by a health care provider;
2. Unexpected preoperative appointments;
3. Hospital discharges;
4. Appointments for new medical conditions or tests; and
5. Dialysis.

(3) The two-business-day advance notice obligation does not apply when the member requests only mileage reimbursement. To be eligible for mileage reimbursement:

1. The member must notify the broker no later than the day of the trip;
2. The transportation must be provided by a driver with a valid driver's license and insurance coverage on the vehicle at the time of the transport; and
3. The other requirements of rule 441—78.13(249A) must be met.

ITEM 2. Adopt the following **new** paragraph **78.13(3)“i”**:

i. Member claim submission. Members must submit claims and supporting documentation to the broker within 120 days of the date of service. The broker shall deny member claims submitted more than 120 days from the date of service.

ARC 1900C

HUMAN SERVICES DEPARTMENT[441]

Notice of Intended Action

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

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

Pursuant to the authority of Iowa Code section 234.6, the Department of Human Services proposes to amend Chapter 170, “Child Care Services,” Iowa Administrative Code.

These amendments revise the Child Care Assistance (CCA) fee chart based on the new federal poverty levels. The annual poverty level increase will allow families that have received raises to maintain eligibility for child care assistance without paying increased fees.

Any interested person may make written comments on the proposed amendments on or before March 24, 2015. Comments should be directed to Harry Rossander, Bureau of Policy Coordination, Department of Human Services, Hoover State Office Building, Fifth Floor, 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 do not provide for waivers in specified situations because requests for the waiver of any rule may be submitted under the Department’s general rule on exceptions at 441—1.8(17A,217).

After analysis and review of this rule making, no impact on jobs has been found.

These amendments are intended to implement Iowa Code section 234.6.

The following amendments are proposed.

Amend subparagraph **170.4(2)“a”(1)** as follows:

(1) The fee schedule shown in the following table is effective for eligibility determinations made on or after July 1, 2014 2015:

Level	Monthly Income According to Family Size										Unit Fee Based on Number of Children in Care		
	1	2	3	4	5	6	7	8	9	10	1	2	3 or more
A	\$924	\$1,245	\$1,568	\$1,889	\$2,210	\$2,532	\$2,853	\$3,174	\$3,496	\$3,817	\$0.00	\$0.00	\$0.00
	\$932	\$1,262	\$1,591	\$1,920	\$2,250	\$2,579	\$2,908	\$3,238	\$3,567	\$3,896			
B	\$973	\$1,311	\$1,650	\$1,988	\$2,326	\$2,665	\$3,003	\$3,341	\$3,680	\$4,018	\$0.20	\$0.45	\$0.70
	\$981	\$1,328	\$1,675	\$2,021	\$2,368	\$2,715	\$3,061	\$3,408	\$3,755	\$4,101			
C	\$1,000	\$1,348	\$1,696	\$2,044	\$2,391	\$2,740	\$3,087	\$3,435	\$3,783	\$4,131	\$0.45	\$0.70	\$0.95
	\$1,008	\$1,365	\$1,722	\$2,078	\$2,434	\$2,791	\$3,147	\$3,503	\$3,860	\$4,216			
D	\$1,027	\$1,384	\$1,742	\$2,099	\$2,456	\$2,814	\$3,171	\$3,528	\$3,886	\$4,243	\$0.70	\$0.95	\$1.20
	\$1,036	\$1,402	\$1,769	\$2,134	\$2,501	\$2,867	\$3,232	\$3,599	\$3,965	\$4,331			
E	\$1,056	\$1,423	\$1,791	\$2,158	\$2,525	\$2,893	\$3,260	\$3,627	\$3,995	\$4,362	\$0.95	\$1.20	\$1.45
	\$1,065	\$1,442	\$1,818	\$2,194	\$2,571	\$2,947	\$3,323	\$3,700	\$4,076	\$4,452			
F	\$1,085	\$1,462	\$1,840	\$2,217	\$2,594	\$2,972	\$3,349	\$3,726	\$4,104	\$4,481	\$1.20	\$1.45	\$1.70
	\$1,094	\$1,481	\$1,868	\$2,254	\$2,641	\$3,028	\$3,413	\$3,800	\$4,187	\$4,573			
G	\$1,115	\$1,503	\$1,891	\$2,279	\$2,666	\$3,055	\$3,443	\$3,830	\$4,219	\$4,606	\$1.45	\$1.70	\$1.95
	\$1,125	\$1,522	\$1,920	\$2,317	\$2,715	\$3,112	\$3,509	\$3,907	\$4,305	\$4,701			
H	\$1,146	\$1,544	\$1,943	\$2,341	\$2,739	\$3,138	\$3,536	\$3,934	\$4,334	\$4,732	\$1.70	\$1.95	\$2.20
	\$1,155	\$1,564	\$1,972	\$2,380	\$2,789	\$3,197	\$3,605	\$4,013	\$4,422	\$4,829			
I	\$1,178	\$1,587	\$1,997	\$2,407	\$2,816	\$3,226	\$3,635	\$4,044	\$4,455	\$4,864	\$1.95	\$2.20	\$2.45
	\$1,188	\$1,608	\$2,028	\$2,447	\$2,867	\$3,287	\$3,706	\$4,126	\$4,546	\$4,964			
J	\$1,210	\$1,630	\$2,052	\$2,472	\$2,892	\$3,314	\$3,734	\$4,155	\$4,576	\$4,996	\$2.20	\$2.45	\$2.70
	\$1,220	\$1,651	\$2,083	\$2,513	\$2,945	\$3,376	\$3,806	\$4,238	\$4,669	\$5,100			

HUMAN SERVICES DEPARTMENT[441](cont'd)

Level	Monthly Income According to Family Size										Unit Fee Based on Number of Children in Care		
	1	2	3	4	5	6	7	8	9	10	1	2	3 or more
K	\$1,244	\$1,676	\$2,109	\$2,541	\$2,973	\$3,407	\$3,839	\$4,271	\$4,704	\$5,136	\$2.45	\$2.70	\$2.95
	\$1,254	\$1,698	\$2,141	\$2,584	\$3,027	\$3,471	\$3,913	\$4,357	\$4,800	\$5,243			
L	\$1,278	\$1,722	\$2,167	\$2,611	\$3,054	\$3,500	\$3,943	\$4,387	\$4,832	\$5,276	\$2.70	\$2.95	\$3.20
	\$1,288	\$1,744	\$2,200	\$2,654	\$3,110	\$3,565	\$4,020	\$4,475	\$4,931	\$5,385			
M	\$1,313	\$1,770	\$2,227	\$2,684	\$3,140	\$3,598	\$4,054	\$4,510	\$4,968	\$5,424	\$2.95	\$3.20	\$3.45
	\$1,324	\$1,793	\$2,261	\$2,728	\$3,197	\$3,665	\$4,132	\$4,601	\$5,069	\$5,536			
N	\$1,349	\$1,818	\$2,288	\$2,757	\$3,225	\$3,696	\$4,164	\$4,633	\$5,103	\$5,572	\$3.20	\$3.45	\$3.70
	\$1,360	\$1,842	\$2,323	\$2,803	\$3,284	\$3,765	\$4,245	\$4,726	\$5,207	\$5,687			
O	\$1,387	\$1,869	\$2,352	\$2,834	\$3,316	\$3,799	\$4,281	\$4,763	\$5,246	\$5,728	\$3.45	\$3.70	\$3.95
	\$1,398	\$1,893	\$2,388	\$2,881	\$3,376	\$3,870	\$4,364	\$4,858	\$5,353	\$5,846			
P	\$1,425	\$1,920	\$2,416	\$2,911	\$3,406	\$3,903	\$4,397	\$4,892	\$5,389	\$5,884	\$3.70	\$3.95	\$4.20
	\$1,437	\$1,945	\$2,453	\$2,959	\$3,468	\$3,976	\$4,482	\$4,991	\$5,499	\$6,005			
Q	\$1,465	\$1,974	\$2,484	\$2,993	\$3,501	\$4,012	\$4,521	\$5,029	\$5,540	\$6,049	\$3.95	\$4.20	\$4.45
	\$1,477	\$1,999	\$2,521	\$3,042	\$3,565	\$4,087	\$4,608	\$5,130	\$5,653	\$6,173			
R	\$1,505	\$2,027	\$2,551	\$3,074	\$3,597	\$4,121	\$4,644	\$5,166	\$5,691	\$6,213	\$4.20	\$4.45	\$4.70
	\$1,517	\$2,054	\$2,590	\$3,125	\$3,662	\$4,198	\$4,733	\$5,270	\$5,807	\$6,342			
S	\$1,547	\$2,084	\$2,623	\$3,160	\$3,698	\$4,236	\$4,774	\$5,311	\$5,850	\$6,387	\$4.45	\$4.70	\$4.95
	\$1,559	\$2,111	\$2,663	\$3,213	\$3,764	\$4,316	\$4,866	\$5,418	\$5,969	\$6,519			
T	\$1,589	\$2,141	\$2,694	\$3,246	\$3,798	\$4,352	\$4,904	\$5,456	\$6,009	\$6,561	\$4.70	\$4.95	\$5.20
	\$1,602	\$2,169	\$2,735	\$3,300	\$3,867	\$4,433	\$4,998	\$5,565	\$6,132	\$6,697			
U	\$1,633	\$2,201	\$2,770	\$3,337	\$3,905	\$4,474	\$5,041	\$5,608	\$6,178	\$6,745	\$4.95	\$5.20	\$5.45
	\$1,647	\$2,229	\$2,812	\$3,393	\$3,975	\$4,558	\$5,138	\$5,721	\$6,303	\$6,884			
V	\$1,678	\$2,261	\$2,845	\$3,428	\$4,011	\$4,596	\$5,178	\$5,761	\$6,346	\$6,929	\$5.20	\$5.45	\$5.70
	\$1,692	\$2,290	\$2,888	\$3,485	\$4,083	\$4,682	\$5,278	\$5,877	\$6,475	\$7,072			
W	\$1,725	\$2,324	\$2,925	\$3,524	\$4,123	\$4,724	\$5,323	\$5,923	\$6,523	\$7,123	\$5.45	\$5.70	\$5.95
	\$1,739	\$2,354	\$2,969	\$3,583	\$4,198	\$4,813	\$5,426	\$6,041	\$6,656	\$7,270			
X	\$1,772	\$2,387	\$3,005	\$3,620	\$4,236	\$4,853	\$5,468	\$6,084	\$6,701	\$7,317	\$5.70	\$5.95	\$6.20
	\$1,786	\$2,418	\$3,050	\$3,680	\$4,312	\$4,944	\$5,574	\$6,206	\$6,838	\$7,468			
Y	\$1,821	\$2,454	\$3,089	\$3,721	\$4,354	\$4,989	\$5,621	\$6,254	\$6,889	\$7,522	\$5.95	\$6.20	\$6.45
	\$1,836	\$2,486	\$3,136	\$3,783	\$4,433	\$5,082	\$5,730	\$6,380	\$7,029	\$7,677			
Z	\$1,871	\$2,521	\$3,173	\$3,823	\$4,473	\$5,125	\$5,775	\$6,425	\$7,076	\$7,726	\$6.20	\$6.45	\$6.70
	\$1,886	\$2,554	\$3,221	\$3,886	\$4,554	\$5,221	\$5,886	\$6,553	\$7,221	\$7,886			
AA	\$1,923	\$2,592	\$3,262	\$3,930	\$4,598	\$5,268	\$5,936	\$6,604	\$7,275	\$7,943	\$6.45	\$6.70	\$6.95
	\$1,939	\$2,625	\$3,311	\$3,995	\$4,681	\$5,367	\$6,051	\$6,737	\$7,423	\$8,107			
BB	\$1,976	\$2,662	\$3,351	\$4,037	\$4,723	\$5,412	\$6,098	\$6,784	\$7,473	\$8,159	\$6.70	\$6.95	\$7.20
	\$1,992	\$2,697	\$3,401	\$4,104	\$4,809	\$5,513	\$6,216	\$6,920	\$7,625	\$8,328			

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INSURANCE DIVISION[191]

Notice of Intended Action

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

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

Pursuant to the authority of Iowa Code section 523A.809, the Insurance Division hereby gives Notice of Intended Action to amend Chapter 100, “General Provisions,” Chapter 101, “Trust Deposits and Trust Funds,” Chapter 102, “Warehoused Merchandise,” Chapter 103, “Licensing of Preneed Sellers

INSURANCE DIVISION[191](cont'd)

and Sales Agents,” Chapter 104, “Continuing Education for Sales Agents,” and Chapter 105, “Standards of Conduct and Prohibited Practices,” and to rescind Chapter 106, “Disciplinary Procedures,” Iowa Administrative Code.

The chapters implement and administer Iowa Code chapter 523A, which regulates the sale of cemetery merchandise, funeral merchandise, and funeral services. These amendments are proposed to update cross references and other information and to add a new rule 191—103.9(523A) to allow for suspension of a sales agent license for failure to pay state debt, pursuant to Iowa Code chapter 272D. Chapter 106 will be rescinded, and the provisions will be incorporated into Chapter 105. The Division intends that persons operating as preneed sellers and sales agents in Iowa must be in compliance with these amendments beginning June 3, 2015.

Any interested person may make written suggestions or comments on these proposed amendments on or before March 24, 2015. Such written materials should be directed to Dennis Britson, Iowa Securities and Regulated Industries Bureau, Iowa Insurance Division, Two Ruan Center, 601 Locust Street, Fourth Floor, Des Moines, Iowa 50319; fax (515)281-3059; e-mail dennis.britson@iid.iowa.gov.

Also, there will be a public hearing on March 24, 2015, at 2 p.m. at the offices of the Iowa Insurance Division, Two Ruan Center, 601 Locust Street, Fourth Floor, Des Moines, 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 amendments.

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 Division and advise of specific needs.

These amendments are intended to implement Iowa Code chapter 523A.

The following amendments are proposed.

ITEM 1. Amend rule 191—100.1(523A) as follows:

191—100.1(523A) Purpose. This chapter and 191—Chapters 101 through ~~406~~ 105 are promulgated to implement and administer the provisions of Iowa Code chapter 523A, ~~2007 Iowa Acts, Senate File 559 [2007 Iowa Code Supplement chapter 523A], and 2008 Iowa Acts, Senate File 2349 and House File 2555~~, which regulate the sale of cemetery merchandise, funeral merchandise, funeral services and any combination of those items. The provisions of this chapter also apply to 191—Chapters 101 through ~~406~~ 105.

ITEM 2. Amend rule 191—100.2(523A), introductory paragraph, as follows:

191—100.2(523A) Definitions. For purposes of 191—Chapters 100 through ~~406~~ 105, the definitions in Iowa Code chapter 523A, ~~2007 Iowa Acts, Senate File 559, and 2008 Iowa Acts, Senate File 2349 and House File 2555~~, are incorporated by reference. In addition, the following definitions shall apply:

ITEM 3. Amend the following definitions in rule **191—100.2(523A)**:

“*Commissioner’s Web site*” means the Web site of the Iowa insurance division, ~~www.iid.state.ia.us~~ www.iid.iowa.gov.

“*Continuing education*” means planned, organized learning acts designed to maintain, improve, or expand a licensee’s knowledge and skills to maintain and improve compliance with 191—Chapters 100 through ~~406~~ 105 and Iowa Code chapter 523A, ~~2007 Iowa Acts, Senate File 559, and 2008 Iowa Acts, Senate File 2349 and House File 2555~~, and to maintain and improve the safety and welfare of the public.

ITEM 4. Amend rule 191—100.3(523A) as follows:

191—100.3(523A) Contact and correspondence.

100.3(1) Contact information. All mailed complaints, inquiries and correspondence shall be sent to Securities and Regulated Industries Bureau, Iowa Insurance Division, ~~340 Maple Street, Des Moines, Iowa 50319-0066~~ 601 Locust, Two Ruan Center, Fourth Floor, Des Moines, Iowa 50309-3738. Telephone inquiries may be made at (877)955-1212. E-mail correspondence may be made through the commissioner’s Web site: ~~www.iid.state.ia.us~~.

INSURANCE DIVISION[191](cont'd)

100.3(2) Complaints, inquiries and correspondence. The commissioner may receive and process any complaint made regarding cemetery merchandise, funeral merchandise, funeral services or any combination of those items, or regarding a sales agent or a preneed seller that alleges certain acts or practices which may constitute one or more violations of the provisions of 191—Chapters 100 to ~~106~~ 105 or of Iowa Code chapter 523A, ~~2007 Iowa Acts, Senate File 559, or 2008 Iowa Acts, Senate File 2349 and House File 2555~~. Where appropriate, the commissioner may refer complaints, in whole or in part, to other agencies. Any member of the public or the industry, or any federal, state, or local official, may make and file a complaint with the commissioner. Complaints ~~may be~~ received from sources outside the state of Iowa ~~and shall be processed by the commissioner~~ in the same manner as those originating in Iowa. If required by the commissioner, complaints shall be made on forms prescribed and provided by the commissioner.

100.3(3) No change.

ITEM 5. Amend subrule 100.4(1) as follows:

100.4(1) Manner of payment. Fees required by 191—Chapters 100 through ~~106~~ 105 may be paid by check, credit card, or electronically, if available, or as directed by the commissioner.

ITEM 6. Amend **191—Chapter 100**, implementation sentence, as follows:

These rules are intended to implement Iowa Code chapter 523A, ~~2007 Iowa Acts, Senate File 559, and 2008 Iowa Acts, Senate File 2349 and House File 2555~~.

ITEM 7. Amend rule 191—101.1(523A) as follows:

191—101.1(523A) Trust income withdrawals. ~~Trust~~ To the extent permitted by Iowa Code section 523A.201(8) and the provisions of this chapter, trust income may be withdrawn on purchase agreements executed on or after July 1, 2007, 1987 as set forth in this chapter, by any preneed seller that is a limited liability corporation that was formed in 2002 for the purpose of purchasing a cemetery from a foreign entity reorganizing under bankruptcy, if the corporation is comprised of six establishments all located within the same county.

ITEM 8. Amend subrule 101.7(1), introductory paragraph, as follows:

101.7(1) Pursuant to Iowa Code ~~Supplement~~ sections 523A.201(8) and 523A.602(2)“b”(1), the commissioner sets the following inflation adjustment factors for the years listed for the purposes of calculating the amount of interest or income earned on amounts deposited in trust that must remain trust funds as an adjustment for inflation or to adjust the purchase price of merchandise and services in order to calculate the amount of a cancellation refund.

ITEM 9. Amend subrule 101.7(2) as follows:

101.7(2) ~~The inflation adjustment factors for~~ For years 2008 and later will be set by the commissioner and posted on the commissioner’s Web site, the approved inflation factor adjustment shall be the consumer price index for all urban consumers (CPI-U) issued by the U.S. Department of Labor’s Bureau of Labor Statistics.

ITEM 10. Amend rule 191—101.8(523A) as follows:

191—101.8(523A) Cancellation refunds. The requirement set forth in Iowa Code ~~Supplement~~ section 523A.602(2)“b”(1) applies to any purchase agreement executed on or after July 1, 2001.

ITEM 11. Amend **191—Chapter 101**, implementation sentence, as follows:

These rules are intended to implement Iowa Code chapter 523A, ~~2007 Iowa Acts, Senate File 559, and 2008 Iowa Acts, Senate File 2349 and House File 2555~~.

ITEM 12. Amend subrule 102.1(2) as follows:

102.1(2) Approval of storage facilities by commissioner. If a preneed seller receives approval in writing from the commissioner, the trust requirements of Iowa Code ~~Supplement~~ sections 523A.201 and 523A.202 do not apply; either to payments for outer burial containers made of either polystyrene

INSURANCE DIVISION[191](cont'd)

or polypropylene or to cemetery merchandise delivered to the purchaser or stored in an independent third-party storage facility not owned or controlled by the preneed seller.

ITEM 13. Amend **191—Chapter 102**, implementation sentence, as follows:

These rules are intended to implement Iowa Code chapter 523A, ~~2007 Iowa Acts, Senate File 559, and 2008 Iowa Acts, Senate File 2349 and House File 2555.~~

ITEM 14. Amend rule 191—103.1(523A) as follows:

191—103.1(523A) Requirement for a preneed seller license or a sales agent license.

103.1(1) No person may sell or offer to sell cemetery merchandise, funeral merchandise, funeral services, or a combination thereof, in Iowa if the sale of the merchandise or services is subject to Iowa Code chapter 523A, ~~2007 Iowa Acts, Senate File 559, and 2008 Iowa Acts, Senate File 2349 and House File 2555,~~ unless the person holds an active license.

103.1(2) No person may agree to perform any term of an agreement, whether or not pursuant to a written purchase agreement, to furnish cemetery merchandise, funeral merchandise, funeral services, or a combination thereof, in Iowa if the sale of the merchandise or services is subject to Iowa Code chapter 523A, ~~2007 Iowa Acts, Senate File 559, and 2008 Iowa Acts, Senate File 2349 and House File 2555,~~ unless the person holds an active license.

103.1(3) At the time a purchase agreement is entered into, a person may not accept any payment or funding, including the assignment of ownership of or proceeds from an insurance policy or annuity, related to the purchase of cemetery merchandise, funeral merchandise, funeral services, or a combination thereof, in Iowa if the sale of the merchandise or services is subject to Iowa Code chapter 523A, ~~2007 Iowa Acts, Senate File 559, and 2008 Iowa Acts, Senate File 2349 and House File 2555,~~ unless the person holds an active license. This rule does not prevent payments to an unlicensed person upon the person's delivery of cemetery merchandise, funeral merchandise or funeral services after the death of a beneficiary, including the payment of the proceeds of an insurance policy or annuity at the time of death of the insured listed on the insurance policy or annuity.

ITEM 15. Amend rule 191—103.2(523A) as follows:

191—103.2(523A) Application and licensing of preneed seller or sales agent.

103.2(1) *Preneed seller application.* A person that desires to be licensed as a preneed seller must satisfy the following requirements:

a. and b. No change.

c. Submit a signed waiver allowing the commissioner to request and obtain criminal history data information, pursuant to Iowa Code Supplement section 523A.501(3) ~~as amended by 2008 Iowa Acts, Senate File 2349, section 5, and House File 2555, section 47,~~ for each owner and manager of the applicant, including, but not limited to, for each sole proprietor, partner, director, officer, managing partner, member, or shareholder with 10 percent or more of the stock who has the ability to control or direct control of trust funds under Iowa Code chapter 523A, as determined by the commissioner;

d. Provide a financial history, if requested by the commissioner, pursuant to Iowa Code Supplement section 523A.501(4) ~~as amended by 2008 Iowa Acts, Senate File 2349, section 6, and House File 2555, section 48,~~ for each owner and manager of the applicant, including, but not limited to, for each sole proprietor, partner, director, officer, managing partner, member, or shareholder with 10 percent or more of the stock;

e. to g. No change.

103.2(2) *Sales agent application.* An individual ~~that~~ who desires to be licensed as a sales agent pursuant to Iowa Code Supplement section 523A.502 ~~as amended by 2008 Iowa Acts, Senate File 2349, section 7, and House File 2555, sections 49 and 50,~~ must satisfy the following requirements:

a. to c. No change.

d. Submit a signed waiver allowing the commissioner to request and obtain criminal history data information, pursuant to Iowa Code Supplement section 523A.501(3) ~~as amended by 2008 Iowa Acts, Senate File 2349, section 5, and House File 2555, section 47;~~

INSURANCE DIVISION[191](cont'd)

e. and *f.* No change.

103.2(3) No change.

103.2(4) *Approval or denial of applications.*

a. No change.

b. The commissioner may require any documents reasonably necessary to verify the information contained in the application or to verify that the individual making application has the character and competency required to receive a license. The commissioner also may request fingerprints and reimbursement of costs for investigating a criminal history, pursuant to Iowa Code ~~Supplement~~ section 523A.501(3) ~~as amended by 2008 Iowa Acts, Senate File 2349, section 5, and House File 2555, section 47.~~

c. The commissioner shall conduct the criminal history data request and other investigations pursuant to Iowa Code ~~Supplement~~ section 523A.502(4) ~~as amended by 2008 Iowa Acts, House File 2555, section 49.~~ The commissioner's investigation of criminal history data and financial history shall be limited to persons who have the ability to control or direct control of trust funds under Iowa Code chapter 523A, as determined by the commissioner.

d. In order to determine whether to approve or deny an application for license, the commissioner shall review all information that is submitted with the application, submitted at the commissioner's request, obtained through criminal history investigation, and obtained through the financial history review, pursuant to Iowa Code ~~Supplement~~ sections 523A.501(3) and 523A.502(4) ~~as amended by 2008 Iowa Acts, House File 2555, sections 47 and 49, respectively.~~

e. and *f.* No change.

ITEM 16. Amend subrules 103.4(3) and 103.4(5) as follows:

103.4(3) *Renewal application form.* An application to renew a preneed seller's license or a sales agent's license shall be submitted on a form required by the commissioner, as directed on the commissioner's Web site, and a renewal applicant shall comply with all instructions on the commissioner's Web site. In addition:

a. and *b.* No change.

103.4(5) *Failure to file annual statement.* A sales agent license shall not be renewed if the sales agent did not comply with the requirement to file an annual report, as set forth in 191—paragraph ~~106.2(3) "a"~~ 105.12(3) "a" and Iowa Code ~~Supplement~~ section 523A.502A.

ITEM 17. Amend subrules 103.6(4) and 103.6(6) as follows:

103.6(4) An order of reinstatement or reissuance shall be based upon a written decision which incorporates findings of fact and conclusions of law. An order granting an application for reinstatement or reissuance may impose such terms and conditions as the commissioner deems desirable, which may include one or more of the types of disciplinary sanctions provided by 191—Chapter ~~106, 105~~ or Iowa Code chapter 523A, ~~2007 Iowa Acts, Senate File 559, or 2008 Iowa Acts, Senate File 2349 and House File 2555.~~ The order shall be a public record, available to the public, and may be disseminated in accordance with Iowa Code chapter 22.

103.6(6) A license may be voluntarily forfeited in lieu of compliance with an order of the commissioner with the written consent of the commissioner. The forfeiture becomes effective when and upon such conditions as required by order of the commissioner, which may include one or more of the types of disciplinary sanctions provided by 191—Chapter ~~106, 105~~ or Iowa Code chapter 523A, ~~2007 Iowa Acts, Senate File 559, or 2008 Iowa Acts, Senate File 2349 and House File 2555.~~

ITEM 18. Adopt the following new rule 191—103.9(523A):

191—103.9(523A) Suspension for failure to pay state debt.

103.9(1) The commissioner shall deny the issuance or renewal of a sales agent license upon receipt of a certificate of noncompliance from the centralized collection unit of the department of revenue according to the procedures in Iowa Code chapter 272D. In addition to the procedures set forth in Iowa Code chapter 272D, this rule shall apply.

INSURANCE DIVISION[191](cont'd)

103.9(2) Upon receipt of a certificate of noncompliance from the centralized collection unit of the department of revenue according to the procedures set forth in Iowa Code chapter 272D, the commissioner shall issue a notice to the sales agent that the sales agent's pending application for licensure, pending request for renewal, or current sales agent license will be suspended 60 days after the date of the notice. Notice shall be sent to the sales agent's last-known address by restricted certified mail, return receipt requested, or by personal service in accordance with the Iowa Rules of Civil Procedure. Alternatively, the applicant or licensed sales agent may accept service personally or through authorized counsel.

103.9(3) The notice shall contain the following items:

- a.* A statement that the commissioner intends to suspend the sales agent's application, request for renewal or current sales agent license in 60 days;
- b.* A statement that the sales agent must contact the centralized collection unit of the department of revenue to schedule a conference or to otherwise obtain a withdrawal of the certificate of noncompliance;
- c.* A statement that the sales agent's application, request for renewal or current sales agent license will be suspended or denied if the commissioner does not receive a withdrawal of the certificate of noncompliance from the centralized collection unit of the department of revenue within 60 days of the issuance of notice under this rule; or, if the current sales agent license is on suspension, a statement that the sales agent's current sales agent license will be revoked;
- d.* A statement that the sales agent does not have a right to a hearing before the commissioner, but that the sales agent may file an application for a hearing in district court pursuant Iowa Code section 272D.9;
- e.* A statement that the filing of an application with the district court will stay the proceedings of the commissioner; and
- f.* A copy of the certificate of noncompliance.

103.9(4) Sales agents shall keep the commissioner informed of all court actions and all actions taken by the centralized collection unit of the department of revenue, and sales agents shall provide to the commissioner, within seven days of filing or issuance, copies of all applications filed with the district court pursuant to all court orders entered in such actions and copies of all withdrawals of certificates of noncompliance by the centralized collection unit of the department of revenue.

103.9(5) The effective date of revocation or suspension of a sales agent license shall be 60 days following service of the notice upon the applicant or sales agent.

103.9(6) In the event an applicant or licensed sales agent timely files a district court action following service of a notice by the commissioner, the commissioner's suspension proceedings will be stayed until the commissioner is notified by the district court of the resolution of the application. Upon receipt of a court order lifting the stay, or otherwise directing the commissioner to proceed, the commissioner shall continue with the intended action described in the notice. For purposes of determining the effective date of the denial of the issuance or renewal of a sales agent license, the commissioner shall count the number of days before the action was filed and the number of days after the court disposed of the action.

103.9(7) If the commissioner does not receive a withdrawal of the certificate of noncompliance from the centralized collection unit of the department of revenue or a notice from a clerk of court that an application for hearing has been filed, the commissioner shall suspend the sales agent's application, request for renewal or current sales agent license 60 days after the notice is issued.

103.9(8) Upon receipt of a withdrawal of the certificate of noncompliance from the centralized collection unit of the department of revenue, suspension proceedings shall halt, and the named sales agent shall be notified that the proceedings have been halted. If the sales agent's license has already been suspended, the license shall be reinstated if the sales agent is otherwise in compliance with this chapter. All fees required for license renewal or license reinstatement must be paid by the sales agent, and all continuing education requirements must be met before a sales agent license will be renewed or reinstated after a license suspension or revocation pursuant to Iowa Code chapter 272D.

103.9(9) The commissioner shall notify the sales agent in writing through regular first-class mail, or such other means as the commissioner deems appropriate in the circumstances, within ten days of the effective date of the suspension or revocation of a sales agent license, and shall similarly notify the sales

INSURANCE DIVISION[191](cont'd)

agent when the sales agent license is reinstated following the commissioner's receipt of a withdrawal of the certificate of noncompliance.

103.9(10) Notwithstanding any statutory confidentiality provision, the commissioner may share information with the centralized collection unit of the department of revenue for the sole purpose of identifying sales agents subject to enforcement under Iowa Code chapter 272D.

ITEM 19. Amend **191—Chapter 103**, implementation sentence, as follows:

These rules are intended to implement Iowa Code chapter 523A, ~~2007 Iowa Acts, Senate File 559, and 2008 Iowa Acts, Senate File 2349 and House File 2555.~~

ITEM 20. Amend rule 191—104.1(523A) as follows:

191—104.1(523A) Continuing education requirements. For each license term, each licensed sales agent shall be required to complete a minimum of eight credits of continuing education approved by the commissioner. At least two credits, to be known as the ethics and legal requirements continuing education requirement, must cover subjects relating to business ethics, the legal requirements of Iowa Code chapter 523A, 191—Chapters 100 through ~~106~~ 105, and other relevant federal and state laws and rules, such as the Federal Trade Commission Funeral Rule (16 CFR Part 453).

ITEM 21. Amend **191—Chapter 104**, implementation sentence, as follows:

These rules are intended to implement Iowa Code chapter 523A, ~~2007 Iowa Acts, Senate File 559, and 2008 Iowa Acts, Senate File 2349 and House File 2555.~~

ITEM 22. Amend **191—Chapter 105**, title, as follows:

STANDARDS OF CONDUCT ~~AND~~ PROHIBITED PRACTICES,
AND DISCIPLINARY PROCEDURES

ITEM 23. Amend subrule 105.3(2) as follows:

105.3(2) *Deposit records to be kept by preneed sellers.* If purchase payments made to a preneed seller are commingled and deposited with funds not related to a purchase agreement subject to Iowa Code chapter 523A, ~~2007 Iowa Acts, Senate File 559, and 2008 Iowa Acts, Senate File 2349 and House File 2555,~~ or if deposits involve more than one purchase agreement, the preneed seller shall retain a detailed summary of each deposit. This information shall be maintained and shall be available for inspection by the commissioner for a minimum of four years after the deposit.

ITEM 24. Amend rule 191—105.4(523A) as follows:

191—105.4(523A) Annual reports.

105.4(1) *Annual reports by preneed sellers.* A licensed preneed seller shall file a completed annual report form with the commissioner on or before April 1 each year. The form and instructions may be obtained through the commissioner's Web site. The report shall include a list of contracts sold during the year covered by the report, including the date of each contract, the total purchase price, the name of the purchaser, the name of the beneficiary and, for each contract sold after July 1, 2007, the number assigned to the contract. Along with submitting the report, the preneed seller shall submit a filing fee, as set forth in Iowa Code ~~Supplement~~ section 523A.204.

105.4(2) *Annual reports by sales agents.* A licensed sales agent shall file a completed annual report form with the commissioner on or before April 1 each year, pursuant to Iowa Code ~~Supplement~~ section 523A.502A. The form and instructions may be obtained through the commissioner's Web site. The report shall include the following:

a. and b. No change.

105.4(3) *Failure to file timely.* If a preneed seller or sales agent fails to file an annual report as required by this subrule on or before the date the annual report is due, the penalties of 191—subrule ~~106.2(3)~~ 105.12(3) shall apply. Additional sanctions pursuant to rule 191—105.6(523A) and 191—Chapter ~~106~~ 105 also may be imposed.

INSURANCE DIVISION[191](cont'd)

ITEM 25. Amend rule 191—105.5(523A) as follows:

191—105.5(523A) Fidelity bond or insurance. A preneed seller shall obtain and maintain a fidelity bond or similar insurance in an amount not less than \$50,000 to protect against the loss of purchaser payments not placed in trust, as required by Iowa Code Supplement section 523A.201(5) unless the preneed seller only uses the trusting alternatives set forth in Iowa Code Supplement sections 523A.401 as amended by 2008 Iowa Acts, House File 2555, section 44; Iowa Code Supplement section 523A.402 as amended by 2008 Iowa Acts, House File 2555, section 45; Iowa Code section 523A.403; Iowa Code Supplement section 523A.404; and Iowa Code Supplement section to 523A.405 as amended by 2008 Iowa Acts, Senate File 2349, section 4, and House File 2555, section 46, or unless the preneed seller deposits 100 percent of each payment into a trust fund. This requirement may be satisfied by a cash deposit held and administered in trust for the benefit and protection of purchasers and beneficiaries in this state, pursuant to a trust agreement filed with and acceptable to the commissioner.

ITEM 26. Amend rule 191—105.6(523A) as follows:

191—105.6(523A) Grounds for discipline. The commissioner may impose sanctions as set forth in 191—Chapter 406 105 if the commissioner finds that a licensee or that an owner, partner, member, director, shareholder or manager of a licensed business entity has violated or failed to comply with Iowa Code chapter 523A, 2007 Iowa Acts, Senate File 559, 2008 Iowa Acts, Senate File 2349 and House File 2555, or any associated rules or implementing orders, including but not limited to the following acts or practices:

105.6(1) and 105.6(2) No change.

105.6(3) *Fraudulent or deceptive practices.* Engaging in any act or practice that violates Iowa Code section 523A.701, or 523A.702, or Iowa Code Supplement section 523A.703, whether or not actual harm or injury occurs, including but not limited to:

a. to c. No change.

105.6(4) *Insolvency or financial condition.* Being or becoming insolvent or of unsound financial condition, the determination of which shall be based on but not limited to the following factors:

a. to f. No change.

g. Any other act, practice or omission that provides a reasonable basis to question the ability of the licensee or license applicant to comply with the requirements of Iowa Code chapter 523A, 2007 Iowa Acts, Senate File 559, and 2008 Iowa Acts, Senate File 2349 and House File 2555, and related regulations.

105.6(5) *Unethical, harmful or detrimental conduct.* Engaging in any act or practice which may be harmful or detrimental to the public, whether or not actual harm or injury occurs, while engaged in activities regulated by Iowa Code chapter 523A, 2007 Iowa Acts, Senate File 559, and 2008 Iowa Acts, Senate File 2349 and House File 2555, or materially related to such activity, including but not limited to:

a. to d. No change.

105.6(6) *Failure to maintain records.* Failure to maintain records as required by Iowa Code chapter 523A and 2007 Iowa Acts, Senate File 559, or any associated rules or orders.

105.6(7) *Failure to cooperate with an examination or investigation.* Failure to submit to an examination, failure to comply with a reasonable written request of an examiner, or failure to cooperate with an investigation conducted by the commissioner as required by Iowa Code chapter 523A, 2007 Iowa Acts, Senate File 559, 2008 Iowa Acts, Senate File 2349 and House File 2555, or any associated rules or orders.

105.6(8) to 105.6(10) No change.

105.6(11) *Improper sale or transfer of purchase agreements.* Selling or transferring purchase agreements as part of the sale of a business or the assets of a business, if an audit expressing the auditor's opinion of the adequacy of funding related to the purchase agreements to be sold or transferred has not been performed by a certified public accountant and filed with the commissioner, as required by Iowa Code Supplement section 523A.207.

INSURANCE DIVISION[191](cont'd)

105.6(12) Sales prohibited by order. The applicant or licensee has been named in an order issued pursuant to Iowa Code Supplement section 523A.807(3) as amended by 2008 Iowa Acts, House File 2555, section 52.

105.6(13) to 105.6(15) No change.

105.6(16) Failure to maintain fidelity bond or similar insurance. A preneed seller's failure to maintain a fidelity bond or similar insurance as required by rule 191—105.5(523A) and Iowa Code Supplement section 523A.201(5).

105.6(17) Responsibility for sales activities of others. A preneed seller's consent or acquiescence to violation of 191—Chapters 100 through 106, 105 or Iowa Code chapter 523A, 2007 Iowa Acts, Senate File 559, or 2008 Iowa Acts, Senate File 2349 and House File 2555, by any person acting on the preneed seller's behalf.

ITEM 27. Amend subrule 105.7(1) as follows:

105.7(1) License required. No person shall advertise, sell, promote, or offer to furnish cemetery merchandise, funeral merchandise, funeral services, or a combination thereof when performance or delivery may be more than 100 days following the initial payment of the account unless the person either:

a. Holds an active preneed seller license issued by the commissioner pursuant to Iowa Code Supplement section 523A.501 as amended by 2008 Iowa Acts, Senate File 2349, sections 5 and 6, and House File 2555, section 48; or

b. Holds an active sales agent license issued by the commissioner pursuant to Iowa Code Supplement section 523A.502 as amended by 2008 Iowa Acts, Senate File 2349, section 7, and House File 2555, sections 49 and 50, and the person is an appointed sales agent of a person holding a preneed seller license issued by the commissioner pursuant to Iowa Code Supplement section 523A.501 as amended by 2008 Iowa Acts, Senate File 2349, sections 5 and 6, and House File 2555, section 48.

ITEM 28. Reserve rules **191—105.8** to **191—105.10**.

ITEM 29. Adopt the following **new** rules 191—105.11(523A) to 191—105.13(17A,523A):

191—105.11(523A) Investigations. The commissioner is authorized by Iowa Code sections 17A.13(1) and 523A.803 to conduct such investigations as the commissioner deems necessary to determine whether any person has violated or is about to violate Iowa Code chapter 523A. The commissioner is authorized to issue and enforce subpoenas to compel testimony and to compel the production of books and records, as more fully described in Iowa Code section 523A.803. Upon the commissioner's determination that probable cause exists to commence a disciplinary proceeding, the procedures contained in 191—Chapter 3 shall apply.

191—105.12(17A,523A) Penalties. Persons violating Iowa Code chapter 523A or rules adopted or orders issued pursuant thereto may be subject to one or more of the following penalties.

105.12(1) Criminal penalties. A person who willfully violates Iowa Code section 523A.501(1), concerning the requirement for a preneed seller license, or Iowa Code section 523A.502(1), concerning the requirement for a sales agent license, is guilty of a Class D felony. Licensed and unlicensed persons who violate other provisions of Iowa Code chapter 523A and rules adopted or orders issued pursuant thereto including, but not limited to, a failure to properly place trust funds into trust, pursuant to Iowa Code section 523A.201, 523A.202, 523A.404 or 523A.405, are subject to prosecution for crimes including, but not limited to, fraudulent practice under Iowa Code section 523A.703, theft under Iowa Code chapter 714, or ongoing criminal conduct under Iowa Code chapter 706A. 191—Chapters 100 through 105 do not limit the power of the state to punish any person for any conduct which constitutes a crime under any other statute.

105.12(2) Consumer fraud Act. A violation by a licensed or unlicensed person of Iowa Code chapter 523A or 191—Chapters 100 through 105, or an order issued pursuant to those chapters, is a violation of the Iowa consumer fraud Act, Iowa Code sections 714.16 and 714.16A.

INSURANCE DIVISION[191](cont'd)

105.12(3) Administrative sanctions.

a. Pursuant to Iowa Code sections 523A.204(4) and 523A.502A, the failure of a licensee to timely file an annual report shall result in an administrative penalty of \$500. The license is suspended on the date the annual report was due until the overdue report is filed and the administrative penalty paid. The licensee is not authorized to solicit or execute any purchase agreement under Iowa Code chapter 523A until the license has been reinstated.

b. If the commissioner issues or renews a license and subsequently determines that payment for the license or renewal was returned by a bank without payment to the commissioner, or that the credit card company does not approve or cancels or refuses amounts charged to the credit card, the license shall be immediately suspended until the payments are made and any fees or penalties charged by the commissioner are paid, at which time the license may be reinstated at the request of the applicant.

c. If the commissioner issues or renews a sales agent license and subsequently determines that the sales agent is not appointed by a preneed seller, the license shall be immediately suspended until the sales agent obtains such an appointment and provides satisfactory evidence to the commissioner of the appointment, at which time the license may be reinstated at the request of the sales agent.

d. The commissioner may impose the following disciplinary sanctions, alone or in combination, against a licensee or as a condition of licensure of an applicant for an initial or renewal license:

- (1) Issue a warning letter or a letter of reprimand.
- (2) Require additional education or training.
- (3) Order mediation pursuant to Iowa Code section 523A.804.
- (4) Issue a cease and desist order pursuant to Iowa Code section 523A.805 or 523A.807.
- (5) Require certain specified procedures or methods of operation.
- (6) Order the payment of consumer restitution.
- (7) Place a licensee on probationary status with or without the imposition of reasonable conditions to control or monitor conduct, such as periodic reports.
- (8) Refuse to issue or renew a license.
- (9) Suspend a license for an indefinite or specific period of time.
- (10) Revoke a license.
- (11) Accept the voluntary surrender of a license.
- (12) Impose costs associated with the commissioner's investigation and enforcement activities.
- (13) Impose civil penalties pursuant to Iowa Code section 523A.807.
- (14) Impose any other sanction allowed by law, as the commissioner deems appropriate.

e. A person with an inactive, expired, or suspended license is subject to disciplinary action, injunctive action, criminal sanctions and any other available legal remedies in the event of any violation of Iowa Code chapter 523A, or any rules adopted or orders issued pursuant thereto.

f. In addition, or as an alternative to the administrative process described in this chapter, the commissioner may take action as described in Iowa Code chapter 523A, including but not limited to seeking an injunction in district court, referring the matter for criminal prosecution, entering into a consent agreement, issuing an informal cautionary letter, referring the matter to the attorney general, or referring the matter to a licensing entity with regulatory authority and jurisdiction over the unlicensed person, such as the mortuary science board established under Iowa Code chapter 156.

g. The following factors may be considered by the commissioner in determining the nature and severity of the disciplinary sanction to be imposed:

- (1) The facts of the particular violation, such as the circumstances leading to the violation, the severity of the violation, and the clarity of the issues, laws and rules involved;
- (2) Evidence that the violation is not an isolated event and is part of a widespread practice;
- (3) Evidence that the acts or practices were willful and intentional;
- (4) The economic benefits gained by the licensee or applicant as a result of the violation;
- (5) Evidence that the violation occurred while the licensee was on probation or had an inactive or suspended license;
- (6) The number of prior warning letters or reprimand letters;
- (7) The number of complaints;

INSURANCE DIVISION[191](cont'd)

- (8) The number of prior violations, especially evidence of repetitive violations of a like kind;
- (9) The seriousness of prior complaints or violations;
- (10) The length of time since the violation occurred;
- (11) Whether the violation involved an element of deception;
- (12) Whether the actions violated a prior order of the commissioner, court order, cease and desist agreement, consent order, or similar document;
- (13) Whether the person acted in bad faith;
- (14) The extent to which the licensee or applicant cooperated with the commissioner;
- (15) Evidence of reform or remedial action;
- (16) The amount of restitution paid or to be paid;
- (17) The risk of harm created by the acts or practices involved in the violation;
- (18) The public interest in ensuring competency and a high standard of ethical and professional conduct by licensees;
- (19) The public interest in protecting consumers and preventing the acts or practices involved in the violation;
- (20) Whether the penalty will act as a substantial deterrent and reduce the likelihood of future violations; and
- (21) Any other extenuating facts or other countervailing considerations.

191—105.13(17A,523A) Administrative procedures.

105.13(1) Notice of sanctions. If the commissioner finds cause to impose a sanction against a person pursuant to Iowa Code chapter 523A or subrule 105.12(3), the commissioner shall provide notice to the person. Delivery of the notice shall be accomplished in the manner set out in 191—paragraphs 3.5(1) “a” and “b.” The notice shall include the following:

- a. A statement of the legal authority and jurisdiction under which the order would be issued;
- b. Reference to the particular sections of the statutes and rules involved;
- c. A short, plain statement of the alleged unlawful practices;
- d. The dollar amount of the proposed civil penalty and the nature of the intended order to require compliance with Iowa Code chapter 523A, including any required restitution;
- e. Notice of the unlicensed person’s right to a hearing and the time frame in which hearing must be requested; and
- f. The address to which written request for hearing must be made.

105.13(2) Requesting a hearing regarding sanctions imposed. If the commissioner imposes any administrative sanctions against a person pursuant to Iowa Code chapter 523A or subrule 105.12(3), the person may request a hearing pursuant to 191—Chapter 3 within 30 days of receipt of the notice. Applicable procedures of this chapter, of 191—Chapter 3, and of Iowa Code chapter 17A shall apply. A failure to timely request a hearing shall constitute a failure to exhaust administrative remedies. A request for hearing must be in writing and is deemed made on the date of the nonmetered United States Postal Service postmark or the date of personal delivery to the commissioner’s office.

105.13(3) If a request for hearing is not timely made, the commissioner may issue an order imposing the administrative penalty and requiring compliance with Iowa Code chapter 523A, as described in the notice. The order may be served in the same manner as the notice of intent to impose administrative penalty, and may additionally be provided in a manner reasonably calculated to provide actual notice.

105.13(4) If a request for hearing is timely made, the commissioner shall issue a notice of hearing, following the procedures applicable to a contested case in 191—Chapter 3. Hearings are open to the public.

105.13(5) A person may waive the right to hearing and all attendant rights and enter into a consent order imposing an administrative penalty and requiring compliance with Iowa Code chapter 523A at any stage of the proceeding upon mutual consent of the commissioner.

105.13(6) The notice of intent to issue an order and the order are public records available for inspection and copying in accordance with Iowa Code chapter 22.

INSURANCE DIVISION[191](cont'd)

105.13(7) A person aggrieved by the commissioner's issuance of an administrative order, including an order imposing a civil penalty, may seek judicial review in accordance with Iowa Code section 17A.19.

ITEM 30. Amend **191—Chapter 105**, implementation sentence, as follows:

These rules are intended to implement Iowa Code ~~chapter chapters~~ 17A, 22, and 523A, ~~2007 Iowa Acts, Senate File 559, and 2008 Iowa Acts, Senate File 2349 and House File 2555.~~

ITEM 31. Rescind and reserve **191—Chapter 106**.

ARC 1906C

IOWA FINANCE AUTHORITY[265]

Notice of Intended Action

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

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

Pursuant to the authority of Iowa Code sections 17A.3(1)“b” and 16.5(1)“r,” the Iowa Finance Authority proposes to amend Chapter 33, “Water Quality Financial Assistance Program,” Iowa Administrative Code.

The purpose of these amendments is to update references in the rules and the implementation sentence due to a revision of the Iowa Code.

The Authority does not intend to grant waivers under the provisions of these rules, other than as may be allowed under the Authority's general rules concerning waivers.

The Authority will receive written comments on the proposed amendments until 4:30 p.m. on March 24, 2015. Comments may be addressed to Mark Thompson, Iowa Finance Authority, 2015 Grand Avenue, Des Moines, Iowa 50312. Comments may also be faxed to Mark Thompson at (515)725-4901 or e-mailed to mark.thompson@iowa.gov.

After analysis and review of this rule making, no impact on jobs has been found.

These amendments are intended to implement Iowa Code section 16.2D.

The following amendments are proposed.

ITEM 1. Amend subrule 33.1(1) as follows:

33.1(1) *Statutory authority.* The authority to provide financial assistance to communities for water quality and wastewater improvement projects is provided by 2009 Iowa Acts, Senate File 376, section 13(4). The water quality financial assistance fund shall consist of funds appropriated from the revenue bonds ~~capital~~ capitals fund created in ~~2009 Iowa Acts, Senate File 376, section 2~~ Iowa Code section 12.88.

ITEM 2. Amend rule ~~265—33.2(16,83GA,SF376)~~, definition of “SRF,” as follows:

“*SRF*” means the Iowa water pollution control works and drinking water facilities financing program, which is jointly administered by IFA pursuant to Iowa Code section 16.131 ~~as amended by 2009 Iowa Acts, House File 281, and DNR pursuant to Iowa Code section 455B.294.~~

ITEM 3. Amend ~~265—Chapter 33~~, implementation sentence, as follows:

These rules are intended to implement Iowa Code ~~section sections~~ 16.5(1) “r” and ~~section~~ 16.131 ~~as amended by 2009 Iowa Acts, House File 281, and 2009 Iowa Acts, Senate File 376, section 13(4).~~

ARC 1907C**IOWA FINANCE AUTHORITY[265]****Notice of Intended Action**

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

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

Pursuant to the authority of Iowa Code sections 17A.3(1)“b” and 16.5(1)“r,” the Iowa Finance Authority proposes to rescind Chapter 35, “Affordable Housing Assistance Grant Fund,” Iowa Administrative Code.

This amendment proposes to rescind Chapter 35, the legislative authority for which has been repealed.

The Authority will receive written comments on the proposed amendment until 4:30 p.m. on March 24, 2015. Comments may be addressed to Mark Thompson, Iowa Finance Authority, 2015 Grand Avenue, Des Moines, Iowa 50312. Comments may also be faxed to Mark Thompson at (515)725-4901 or e-mailed to mark.thompson@iowa.gov.

After analysis and review of this rule making, no impact on jobs is foreseen.

This amendment is intended to implement Iowa Code section 16.5(1)“r.”

The following amendment is proposed.

Rescind and reserve **265—Chapter 35**.

ARC 1903C**IOWA FINANCE AUTHORITY[265]****Notice of Intended Action**

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

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

Pursuant to the authority of Iowa Code sections 17A.3(1)“b” and 16.5(1)“r,” the Iowa Finance Authority proposes to amend Chapter 43, “Community Housing and Services for Persons With Disabilities Revolving Loan Program,” Iowa Administrative Code.

The purpose of these amendments is to update references in the rules and the implementation sentence due to a revision of the Iowa Code.

The Authority does not intend to grant waivers under the provisions of these rules, other than as may be allowed under the Authority’s general rules concerning waivers.

The Authority will receive written comments on the proposed amendments until 4:30 p.m. on March 24, 2015. Comments may be addressed to Mark Thompson, Iowa Finance Authority, 2015 Grand Avenue, Des Moines, Iowa 50312. Comments may also be faxed to Mark Thompson at (515)725-4901 or e-mailed to mark.thompson@iowa.gov.

After analysis and review of this rule making, no impact on jobs has been found.

These amendments are intended to implement Iowa Code section 16.49.

The following amendments are proposed.

ITEM 1. Amend rule 265—43.1(16) as follows:

265—43.1(16) Purpose. Through its community housing and services for persons with disabilities revolving loan program, the authority seeks to further the availability of affordable housing and

IOWA FINANCE AUTHORITY[265](cont'd)

supportive services for Medicaid waiver-eligible individuals with behaviors that provide significant barriers to accessing traditional rental and supportive service opportunities. Loans from the community housing and services for persons with disabilities revolving loan program fund are to be used to provide financing to construct permanent supportive housing or develop infrastructure in which to provide supportive services, including through new construction, acquisition and rehabilitation of existing housing or infrastructure, or conversion or adaptive reuse. This chapter is intended to implement Iowa Code ~~section~~ sections 16.5(1) and 2011 Iowa Acts, House File 649, ~~section 50~~ 16.49.

Pursuant to ~~2011 Iowa Acts, House File 649, section 50, Iowa Code section 16.49(4)“d,”~~ housing provided through a project under this chapter is exempt from the requirements of Iowa Code chapter 1350, Boarding Homes.

ITEM 2. Amend ~~265—Chapter 43~~, implementation sentence, as follows:

These rules are intended to implement Iowa Code ~~section~~ sections 16.5(1) and ~~2011 Iowa Acts, House File 649, section 50~~ 16.49.

ARC 1905C

IOWA FINANCE AUTHORITY[265]

Notice of Intended Action

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

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

Pursuant to the authority of Iowa Code sections 17A.3(1)“b” and 16.5(1)“r,” the Iowa Finance Authority proposes to amend Chapter 44, “Iowa Agricultural Development Division,” Iowa Administrative Code.

The purpose of these amendments is to update references in the rules and the implementation sentence due to revision of the Iowa Code.

The Authority does not intend to grant waivers under the provisions of these rules, other than as may be allowed under the Authority’s general rules concerning waivers.

The Authority will receive written comments on the proposed amendments until 4:30 p.m. on March 24, 2015. Comments may be addressed to Mark Thompson, Iowa Finance Authority, 2015 Grand Avenue, Des Moines, Iowa 50312. Comments may also be faxed to Mark Thompson at (515)725-4901 or e-mailed to mark.thompson@iowa.gov.

After analysis and review of this rule making, no impact on jobs has been found.

These amendments are intended to implement Iowa Code section 16.49.

The following amendments are proposed.

ITEM 1. Amend rules ~~265—44.1(175)~~ to ~~265—44.6(175)~~, parenthetical implementation statute, as follows:

~~(175 16)~~

ITEM 2. Amend rule ~~265—44.2(16)~~, introductory paragraph, as follows:

~~265—44.2(16) Definitions. For any terms not defined in this rule, refer to Iowa Code section 175.2.~~

ITEM 3. Amend the following definitions in rule ~~265—44.2(16)~~:

“Act” means Iowa Code ~~chapters~~ chapter 16 and ~~175~~.

“BFCF eligible applicant” means an individual, partnership, family farm corporation or family farm limited liability company that has a net worth of not more than the maximum allowable net worth. The applicant must also satisfy all of the criteria contained in Iowa Code sections ~~175.36A~~ 16.79 and ~~175.38~~

IOWA FINANCE AUTHORITY[265](cont'd)

16.81 and the provisions of these rules relating to recipient eligibility as they relate to who operates or will operate a farm.

“*BFLP eligible applicant*” means an individual who has a net worth of not more than the maximum allowable net worth. The applicant must also be a beginning farmer, as defined in Iowa Code section ~~175.12~~ 16.75, who satisfies all of the criteria contained in the Act and provisions of these rules relating to recipient eligibility as they relate to who operates or will operate a farm.

“*BFTC eligible applicant*” means an individual, partnership, family farm corporation or family farm limited liability company that has a net worth of not more than the maximum allowable net worth. The applicant must also satisfy all of the criteria contained in Iowa Code sections ~~175.36A~~ 16.79 and ~~175.37~~ 16.80 and the provisions of these rules relating to recipient eligibility as they relate to who operates or will operate a farm.

ITEM 4. Amend subrules 44.6(3) and 44.6(4) as follows:

44.6(3) *Execution of an agricultural assets transfer agreement.* In addition to the requirements of rule 265—44.6(~~175~~ 16), both the taxpayer and the BFTC eligible applicant shall execute an agricultural assets transfer agreement. This form shall be in a format used by the Iowa State Bar Association or other commonly accepted form and signed by all parties.

44.6(4) *Procedures following tax credit approval.* Either the BFTC eligible applicant or the taxpayer shall immediately notify the authority of any material changes in the agricultural assets transfer agreement. The authority shall act upon these changes pursuant to Iowa Code section ~~175.37~~ 16.80. Material changes cannot result in an increase in the original tax credit amount approved.

ITEM 5. Amend subrule 44.7(5) as follows:

44.7(5) *Procedures following tax credit approval.* Either the BFCF eligible applicant or the taxpayer shall immediately notify the authority of any material changes in the custom hire contract. The authority shall act upon these changes pursuant to Iowa Code section ~~175.38~~ 16.81. Material changes cannot result in an increase in the original tax credit amount approved. Death of a party to the contract, divorce, or sale of the property will be considered eligible material changes.

ITEM 6. Amend **265—Chapter 44**, implementation sentence, as follows:

These rules are intended to implement Iowa Code ~~chapters 16 and 175 and 2013 Iowa Acts, chapter 100~~ sections 16.4A, 16.4B, and 16.75 to 16.85.

ARC 1902C

REGENTS BOARD[681]

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 262.9(3), the Board of Regents hereby gives Notice of Intended Action to amend Chapter 1, “Admission Rules Common to the Three State Universities,” Iowa Administrative Code.

The proposed amendment revises paragraph 1.4(2)“b” to bring the public universities into compliance with the Home Base Iowa Initiative, as well as with the federal Veterans Access, Choice and Accountability Act of 2014 (Choice Act).

Any interested person may make written comments on the proposed amendment on or before March 24, 2015, addressed to Marcia Brunson, Board of Regents, State of Iowa, 11260 Aurora Avenue, Urbandale, Iowa 50322-7905; fax (515)281-6420; or e-mail mbruns@iastate.edu.

A waiver provision is not included. The Board has adopted a uniform waiver rule, which may be found at 681—19.18(17A).

REGENTS BOARD[681](cont'd)

After analysis and review of this rule making, a positive impact on jobs could exist. This rule will allow qualifying veterans, their spouses/domestic partners, and their children to be classified as residents for the purpose of receiving in-state tuition. This rule provides that veterans will be allowed to receive veterans' benefits. Therefore, veterans may be attracted to the state for postsecondary education and be drawn to remain in the state after graduation. This rule reduces tuition costs for veterans and their spouses and children and provides opportunities for postsecondary education, thus allowing veterans and their spouses and children the opportunity to obtain better-paying jobs.

This amendment is intended to implement Iowa Code section 262.9(3).

The following amendment is proposed.

Amend paragraph **1.4(2)“b”** as follows:

b. Additional guidelines are used in determining the resident classification of a veteran, qualified military person, and ~~dependent~~ children and spouses of a veteran or qualified military person for purposes of admission and undergraduate, graduate, or professional tuition and mandatory fees:

(1) A person who is stationed on active duty at the Rock Island arsenal as a result of military orders, or the ~~dependent~~ child or spouse/domestic partner of such person, is entitled to resident status for purposes of undergraduate, graduate, or professional tuition and mandatory fees. The child or spouse/domestic partner may be required to submit appropriate documentation to the university. ~~However, if the arrival of the person under orders is subsequent to the beginning of the term in which the dependent child or spouse is first enrolled, nonresident fees will be charged in all cases for the dependent child or spouse until the beginning of the next term in which the dependent child or spouse is enrolled. If the qualified military person is transferred, deployed, or restationed while the person's spouse or dependent child is enrolled in an institution of higher education under the control of the board of regents, the spouse or dependent child shall continue to be classified as a resident under this subparagraph until the close of the fiscal year in which the spouse or dependent child is enrolled.~~

(2) A veteran who is domiciled or moves to the state of Iowa and who is eligible for benefits, or has exhausted benefits under ~~the federal Post-9/11 Veterans Educational Assistance Act of 2008, any federal program authorizing veteran educational benefits~~ is entitled to resident status for purposes of undergraduate, graduate, or professional tuition and mandatory fees. The ~~dependent~~ child or spouse/domestic partner of a veteran who meets these requirements is entitled to resident status for undergraduate, graduate, or professional tuition. The child or spouse/domestic partner may be required to submit appropriate documentation to the university. ~~However, if the arrival of the veteran in Iowa is subsequent to the beginning of the term in which the dependent child or spouse is first enrolled, nonresident fees will be charged in all cases for the dependent child or spouse until the beginning of the next term in which the dependent child or spouse is enrolled.~~

(3) A person who is moved into the state as the result of military or civil orders from the government for other than educational purposes, or the ~~dependent~~ child or spouse/domestic partner of such a person, is entitled to resident status. The child or spouse/domestic partner may be required to submit appropriate documentation to the university. ~~However, if the arrival of the person under orders is subsequent to the beginning of the term in which the dependent child or spouse is first enrolled, nonresident fees will be charged in all cases until the beginning of the next term in which the dependent child or spouse is enrolled.~~ Legislation, effective July 1, 1977, requires that military personnel who claim residency in Iowa (home of record) will be required to file Iowa resident income tax returns.

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:

USURY(cont'd)

March 1, 2014 — March 31, 2014	4.75%
April 1, 2014 — April 30, 2014	4.75%
May 1, 2014 — May 31, 2014	4.75%
June 1, 2014 — June 30, 2014	4.75%
July 1, 2014 — July 31, 2014	4.50%
August 1, 2014 — August 31, 2014	4.50%
September 1, 2014 — September 30, 2014	4.50%
October 1, 2014 — October 31, 2014	4.50%
November 1, 2014 — November 30, 2014	4.50%
December 1, 2014 — December 31, 2014	4.25%
January 1, 2015 — January 31, 2015	4.25%
February 1, 2015 — February 28, 2015	4.25%
March 1, 2015 — March 31, 2015	4.00%

ARC 1896C

CREDIT UNION DIVISION[189]

Adopted and Filed

Pursuant to the authority of Iowa Code section 533.107(6), the Credit Union Division hereby adopts new Chapter 16, "Mergers," Iowa Administrative Code.

The rules in this new chapter pertain specifically to spin-offs under the statutory merger guidelines in Iowa Code section 533.401, as amended during the 2013 legislative session.

Notice of Intended Action was published in the Iowa Administrative Bulletin on January 7, 2015, as **ARC 1816C**.

The Division received one written public comment, and two presenters appeared at the public hearing the Division held on January 27, 2015. Those comments were taken into account in revising the final version of the rule making, specifically regarding providing greater certainty and clarity to credit unions utilizing the criteria in the rules, and expressly addressing the quorum issue. In addition, the Division appeared before the Administrative Rules Review Committee on February 6, 2015, where additional issues concerning retention of credit union membership were raised. Those issues, too, are addressed in the adopted rules.

After analysis and review of this rule making, the Division has determined that there will be no impact on jobs and no fiscal impact to the state.

These rules are intended to implement Iowa Code section 533.401.

These rules will become effective on April 8, 2015.

The following amendment is adopted.

Adopt the following new 189—Chapter 16:

CHAPTER 16
MERGERS

189—16.1(533) Spin-offs. A spin-off occurs during a merger process when, by agreement of the parties to the merger, a portion of the field of membership, assets, liabilities, shares, and capital of one credit union is transferred to another credit union. A spin-off of a well-defined segment or branch of a credit union's membership to another credit union is an option undertaken to benefit the members of both credit unions. This process may occur with the physical transfer of one or more branches from one credit union to another credit union, but less than a complete merger of the two credit unions occurs. A spin-off is unique in that usually one credit union has a field of membership expansion and the other loses a portion of its field of membership.

189—16.2(533) Plan requirements. All credit unions proposing a merger plan that would result in a spin-off must file, in addition to other merger documents detailed by the division, a plan that addresses the following points, at a minimum, in support for their spin-off plan:

16.2(1) Why the spin-off is being requested.

16.2(2) What part of the field of membership is to be spun off.

16.2(3) Which assets, liabilities, shares, and capital are to be transferred.

16.2(4) The financial impact of the spin-off on the affected credit unions.

16.2(5) The ability of the acquiring credit union effectively to serve the new members.

16.2(6) The proposed spin-off date.

16.2(7) Disclosure to the members of the requirements set forth in this rule.

189—16.3(533) Additional requirements. In addition to the plan, the credit unions must include the most current monthly financial statements from both credit unions and a copy of the proposed voting ballot.

CREDIT UNION DIVISION[189](cont'd)

16.3(1) Membership notice and voting requirements shall be the same as for regular mergers under rule 189—12.6(533), with certain exceptions. Only those members directly affected by a spin-off, that is, those members whose shares are to be transferred to the other credit union, are permitted to vote. A quorum is determined according to the quorum size for the credit union as a whole. In the notice of balloting sent to the members affiliated with any affected branch and field of membership, the credit union shall give notice of the right of any member who wants to remain as a member of the credit union to opt out of participating in the merger vote by giving written notice to the credit union at any time prior to the merger vote. The shares of members who opt out will not be transferred in the event the merger vote is successful. All other members of the group to be spun off, whether they voted in favor, against, or not at all, will be transferred if the spin-off is approved by the voting membership.

16.3(2) Members of the credit union who are not affiliated with the branch and field of membership being spun off and whose shares are not being transferred will not be afforded the opportunity to vote.

16.3(3) Spin-offs involving federally insured credit unions in different regions of the National Credit Union Administration must be approved by all regional directors where the credit unions are headquartered and by state regulators, as applicable.

These rules are intended to implement Iowa Code section 533.401.

[Filed 2/12/15, effective 4/8/15]

[Published 3/4/15]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 3/4/15.

ARC 1892C

HUMAN SERVICES DEPARTMENT[441]

Adopted and Filed

Pursuant to the authority of Iowa Code section 217.3(6) and 2013 Iowa Acts, chapter 138, section 144, as amended by 2014 Iowa Acts, House File 2463, section 20, the Department of Human Services amends Chapter 51, "Eligibility," and Chapter 52, "Payment," Iowa Administrative Code.

These amendments implement the January 1, 2015, cost-of-living increases to several State Supplementary Assistance categories.

Effective January 1, 2015, the Supplemental Security Income (SSI) benefit was increased according to the increase in the consumer price index from October 1, 2013, through September 30, 2014. The Social Security Administration has announced that this increase is 1.7 percent. In order to comply with the federal pass-along requirement in calendar year 2015 using the payment levels method of compliance, Iowa must increase the payment amounts and income limits for each State Supplementary Assistance category (except in-home health-related care (IHHRC) provider rates and the supplement for Medicare and Medicaid eligibles) effective January 1, 2015, to equal the minimum levels required by the federal government. The minimum levels are increased each time the SSI benefit is increased. Also, the Iowa General Assembly has directed the Department to increase the personal needs allowance of clients in the residential care facility program by the same percentage and at the same time as the SSI cost-of-living increase.

Notice of Intended Action was published in the Iowa Administrative Bulletin as **ARC 1812C** on January 7, 2015. These amendments were also Adopted and Filed Emergency and published as **ARC 1813C** on the same date and became effective January 1, 2015. The Department received no comments during the comment period. These amendments are identical to those published under Notice of Intended Action and Adopted and Filed Emergency.

The Council on Human Services adopted these amendments on February 11, 2015.

These amendments do not provide for waivers in specified situations since the increases are required by federal and state law.

After analysis and review of this rule making, no impact on jobs has been found.

HUMAN SERVICES DEPARTMENT[441](cont'd)

These amendments are intended to implement Iowa Code section 217.3(6) and 2013 Iowa Acts, chapter 138, section 144(2) and (3), as amended by 2014 Iowa Acts, House File 2463, section 20.

These amendments will become effective April 8, 2015, at which time the Adopted and Filed Emergency amendments are hereby rescinded.

The following amendments are adopted.

ITEM 1. Amend subrule 51.4(1) as follows:

51.4(1) Income. Income of a dependent relative shall be less than ~~\$370~~ \$377. When the dependent's income is from earnings, an exemption of \$65 shall be allowed to cover work expense.

ITEM 2. Amend rule 441—51.7(249) as follows:

441—51.7(249) Income from providing room and board. In determining profit from furnishing room and board or providing family life home care, ~~\$370~~ \$377 per month shall be deducted to cover the cost, and the remaining amount treated as earned income.

This rule is intended to implement Iowa Code sections 249.3 and 249.4.

ITEM 3. Amend subrule 52.1(1) as follows:

52.1(1) Protective living arrangement. The following assistance standards have been established for state supplementary assistance for persons living in a family-life home certified under rules in 441—Chapter 111.

\$783 <u>\$794</u>	Care allowance
\$100 <u>\$101</u>	Personal allowance
\$883 <u>\$895</u>	Total

ITEM 4. Amend subrule 52.1(2) as follows:

52.1(2) Dependent relative. The following assistance standards have been established for state supplementary assistance for dependent relatives residing in a recipient's home.

a. Aged or disabled client and a dependent relative	\$1,091 <u>\$1,110</u>
b. Aged or disabled client, eligible spouse, and a dependent relative	\$1,452 <u>\$1,477</u>
c. Blind client and a dependent relative	\$1,113 <u>\$1,132</u>
d. Blind client, aged or disabled spouse, and a dependent relative	\$1,474 <u>\$1,499</u>
e. Blind client, blind spouse, and a dependent relative	\$1,496 <u>\$1,521</u>

ITEM 5. Amend subrule 52.1(3) as follows:

52.1(3) Residential care. Payment to a recipient in a residential care facility shall be made on a flat per diem rate of \$17.86 or on a cost-related reimbursement system with a maximum per diem rate of ~~\$29.66~~ \$30.05. The department shall establish a cost-related per diem rate for each facility choosing this method of payment according to rule 441—54.3(249).

The facility shall accept the per diem rate established by the department for state supplementary assistance recipients as payment in full from the recipient and make no additional charges to the recipient.

a. All income of a recipient as described in this subrule after the disregards described in this subrule shall be applied to meet the cost of care before payment is made through the state supplementary assistance program.

Income applied to meet the cost of care shall be the income considered available to the resident pursuant to supplemental security income (SSI) policy plus the SSI benefit less the following monthly disregards applied in the order specified:

- (1) No change.
- (2) An allowance of ~~\$100~~ \$101 to meet personal expenses and Medicaid copayment expenses.
- (3) to (6) No change.

HUMAN SERVICES DEPARTMENT[441](cont'd)

b. to g. No change.

[Filed 2/11/15, effective 4/8/15]

[Published 3/4/15]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 3/4/15.

ARC 1893C

HUMAN SERVICES DEPARTMENT[441]

Adopted and Filed

Pursuant to the authority of Iowa Code section 234.6, the Department of Human Services amends Chapter 110, "Child Development Homes," and Chapter 170, "Child Care Services," Iowa Administrative Code.

The purpose of these amendments is to ensure that child development home providers remain in compliance with applicable rules and are providing safe care to the children in their environment. Specifically, these amendments identify the required time frame within which a registered child development home provider must inform the Department of changes that have occurred for the following: assistants or substitutes, household members, address changes, and criminal convictions. These amendments also adopt new provisions regarding overpayments and recoupments. The new provisions set forth tiered consequences for repeated failure to comply with Child Care Assistance (CCA) rules and 50/50 recoupment for overpayments caused by the client and provider.

Notice of Intended Action was published in the Iowa Administrative Bulletin as **ARC 1819C** on January 7, 2015. The Department received no comments during the comment period. These amendments are identical to those published under Notice of Intended Action.

These amendments do not provide for waivers in specified situations because requests for the waiver of any rule may be submitted under the Department's general rule on exceptions at 441—1.8(17A,217). After analysis and review of this rule making, no impact on jobs has been found.

These amendments are intended to implement Iowa Code section 234.6.

These amendments will become effective July 1, 2015.

The following amendments are adopted.

ITEM 1. Adopt the following **new** subrule 110.7(7):

110.7(7) Required notifications to the department.

a. The provider shall, within ten days, notify the department of any of the following:

- (1) Changes in assistants or substitutes;
- (2) Changes in household membership;
- (3) Address changes; and
- (4) Criminal convictions.

b. No assistant, substitute, or coprovider shall be utilized in the care of children and no person shall be permitted to reside in the household until approved by the department.

c. If the provider does not notify the department of changes within ten days, the provider may be subject to revocation of registration or to recoupment of child care assistance provided, or both.

ITEM 2. Amend subrule 170.5(1) as follows:

170.5(1) Provider agreement. The department may refuse to enter into or may revoke the Child Care Assistance Provider Agreement, Form 470-3871 or 470-3871(S), if any of the following occur:

a. The department finds a hazard to the safety and well-being of a child, and the provider cannot or refuses to correct the hazard.

b. The provider has submitted claims for payment for which the provider is not entitled.

c. The provider fails to cooperate with an investigation conducted by the department of inspections and appeals to determine whether information the provider supplied to the department regarding payment

HUMAN SERVICES DEPARTMENT[441](cont'd)

for child care services is complete and correct. Once the agreement is revoked for failure to cooperate, the department shall not enter into a new agreement with the provider until cooperation occurs.

d. The provider does not meet one of the applicable requirements set forth in subrule 170.4(3).

e. The provider fails to comply with any of the terms and conditions of the Child Care Assistance Provider Agreement, Form 470-3871 or 470-3871(S).

f. The provider submits attendance documentation for payment and the provider knows or should have known that the documentation is false or inaccurate.

g. An overpayment of CCA funds with a balance of \$3,000 or more exists for a provider and that provider fails to enter into a repayment agreement with the department of inspections and appeals (DIA) or does not make payments according to the repayment agreement on file with DIA.

h. The provider is found to have more children in care at one time than allowed for the provider type as found at rule 441—110.4(237A) and 441—subrules 110.8(1), 110.9(1), 110.10(1) and 170.4(3).

ITEM 3. Adopt the following **new** subrule 170.5(5):

170.5(5) Provider agreement sanction. If a Child Care Assistance Provider Agreement, Form 470-3871 or 470-3871(S), is terminated for any of the reasons in subrule 170.5(1), the agreement shall remain terminated for the time periods set forth below:

a. The first time the agreement is terminated, the provider may reapply for another agreement at any time.

b. The second time the agreement is terminated, the provider may not reapply for another agreement for 12 months from the effective date of termination.

c. The third or subsequent time the agreement is terminated, the provider may not reapply for another agreement for 36 months from the effective date of termination.

d. The department shall not act on an application for a child care assistance provider agreement submitted by a provider during the sanction period.

ITEM 4. Adopt the following **new** paragraph **170.9(6)“f”**:

f. Recoupment for overpayments caused by both the provider and client shall be collected from both the provider and client equally, 50 percent from the client and 50 percent from the provider.

[Filed 2/11/15, effective 7/1/15]

[Published 3/4/15]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 3/4/15.

ARC 1894C

HUMAN SERVICES DEPARTMENT[441]

Adopted and Filed

Pursuant to the authority of Iowa Code section 234.46, the Department of Human Services amends Chapter 187, “Aftercare Services and Supports,” Iowa Administrative Code.

This amendment of Chapter 187 allows access to aftercare services and the preparation for adult living (PAL) stipend to youth aging out of the Iowa state training school and court-ordered Iowa juvenile detention centers.

Youth between 17½ and 18 years of age who are exiting from the Iowa state training school or from a court-ordered Iowa juvenile detention center are eligible (effective July 1, 2014) for the Iowa Aftercare Services Program, which provides services and supports to these youth between the ages of 18 and 21, just as youth who exited foster care at those same ages have been eligible for the past 12 years. Additionally, youth who exit the Iowa state training school or a court-ordered Iowa juvenile detention center, who were in either placement when they reached the age of 18 and who have not reached the age of 21 are eligible for the PAL Program component. The PAL component includes a monthly stipend, based upon need, in addition to aftercare case management supports. The PAL component for youth who

HUMAN SERVICES DEPARTMENT[441](cont'd)

exit the state training school or a detention center is modeled after PAL for youth formerly in state-paid foster care, who have been eligible for the past eight years.

Notice of Intended Action was published in the Iowa Administrative Bulletin as **ARC 1817C** on January 7, 2015. The Department received no comments during the comment period. This amendment is identical to the one published under Notice of Intended Action.

This amendment does not provide for waivers in specified situations because requests for the waiver of any rule may be submitted under the Department's general rule on exceptions at 441—1.8(17A,217). After analysis and review of this rule making, no impact on jobs has been found.

This amendment is intended to implement Iowa Code section 234.46.

This amendment will become effective on May 1, 2015.

The following amendment is adopted.

Amend **441—Chapter 187** as follows:

CHAPTER 187
AFTERCARE SERVICES AND SUPPORTS PROGRAM

PREAMBLE

These rules define and structure the aftercare services program, which assists youth leaving foster care, the Iowa state training school, or a court-ordered Iowa juvenile detention center in their successful transition to adulthood. The aftercare services program, including the preparation for adult living (PAL) program component, helps former foster care youth formerly in foster care, the Iowa state training school, or a court-ordered Iowa juvenile detention center to continue preparing for the challenges and opportunities presented by adulthood while receiving services and supports. The program also offers financial benefits to eligible youth up to the age of 21. All services and supports are voluntary.

DIVISION I
AFTERCARE SERVICES

441—187.1(234) Purpose. The purpose of the aftercare services program is to provide services and supports to youth aged 18, 19 or 20 who were formerly in foster care, the Iowa state training school, or a court-ordered Iowa juvenile detention center. The primary goal of the program is for participants to achieve self-sufficiency and to recognize and accept their personal responsibility for the transition from adolescence to adulthood.

441—187.2(234) Eligibility Aftercare services program eligibility requirements. To be eligible for aftercare services, a youth must meet the following requirements:

187.2(1) Residence. The youth must ~~reside in~~ be a resident of Iowa.

187.2(2) Age. The youth must be at least 18 years of age but less than 21 years of age.

187.2(3) Foster-care Out-of-home placement experience.

a. The youth must ~~leave foster care~~:

(1) Leave foster care, the Iowa state training school, or a court-ordered Iowa juvenile detention center:

(1) 1. On or after the youth's eighteenth birthday; or

(2) 2. Between the ages of 17½ and 18 after being in ~~foster care continuously for at least six months~~ any combination of foster care, the Iowa state training school, or a court-ordered detention center in at least 6 of the last 12 months before the youth left placement; or

(3) ~~For placement in a subsidized guardianship arrangement on or after October 7, 2008, and on or after the youth's sixteenth birthday; or~~

(4) (2) Due to adoption on or after October 7, 2008, and on or after the youth's sixteenth birthday. Have been adopted from foster care on or after the youth's sixteenth birthday; or

HUMAN SERVICES DEPARTMENT[441](cont'd)

(3) Have entered a subsidized guardianship arrangement from foster care on or after the youth's sixteenth birthday.

b. For purposes of this division, "foster care" is defined as 24-hour substitute care for a child who is placed away from the child's parents or guardians and for whom the department or juvenile court services has placement and care responsibility through either court order or voluntary agreement.

c. A placement may meet the definition of foster care regardless of whether:

- (1) The placement is licensed and the state or a local agency makes payments for the child's care;
- (2) Adoption subsidy payments are being made before the finalization of adoption; or
- (3) There is federal matching of any payments made.

d. Foster care may include, but is not limited to, placement in:

- (1) A foster family home; or
- ~~(2) A foster home of relatives;~~
- ~~(3) (2) A foster care group home; or~~
- ~~(4) (3) An emergency shelter; or~~
- ~~(5) (4) A preadoptive home; or~~
- ~~(6) A residential facility; or~~
- ~~(7) (5) The home of an unlicensed a relative or suitable person-; or~~
- ~~(8) (6) A psychiatric medical institution for children (PMIC).~~

~~*e.* Foster care does not include placement in:~~

- ~~(1) A detention facility;~~
- ~~(2) A forestry camp;~~
- ~~(3) A training school; or~~
- ~~(4) Any other facility operated primarily for the detention of children who are determined to be delinquent.~~

187.2(4) Responsibility. The youth must:

- a.* Actively take part in developing and participating in a self-sufficiency plan; and
- b.* Indicate recognition and acceptance of personal responsibility in the transition toward self-sufficiency.

441—187.3(234) Services and supports provided. The aftercare services program shall provide the following services and supports to eligible youth:

187.3(1) Individual self-sufficiency plan. Each youth shall have an individual self-sufficiency plan based on an assessment of the youth's strengths and needs. The plan shall identify:

- a.* The youth's goals for achieving self-sufficiency;
- b.* The target date for reaching the goals; and
- c.* The tasks, responsible parties, time frames, and desired outcomes needed to reach the goals.

187.3(2) Life skills services Case management. ~~The program shall provide life skills services to enable youth to maintain a safe, healthy, and stable home.~~ Case management activities shall include, but not be limited to, all of the following:

a. Connection to community involvement services to enable the youth to access community resources.

b. Assistance in development and maintenance of healthy support systems, including services to assist the youth in establishing or reestablishing relationships with significant adults.

c. Services, supports, and life skills training, which shall be provided as defined in the youth's self-sufficiency plan and according to the youth's needs. Services shall be offered at a location convenient for the youth. Life skills training shall include but not be limited to the youth's establishing and maintaining safe and stable housing; education goals; employment goals; health and health care coverage; and healthy relationships.

d. Additional case management activities necessary for youth participating in the preparation for adult living (PAL) program component as outlined in rules 441—187.10(234) through 441—187.15(234) below.

HUMAN SERVICES DEPARTMENT[441](cont'd)

e. Follow-up. The case manager shall maintain individual face-to-face contact with the youth at the frequency defined in the youth's self-sufficiency plan and according to the youth's changing needs. If a youth is a resident of Iowa but attending a postsecondary education program in another state, the program administrator or designee shall approve an alternative method for maintaining contact with the youth if and when it is a hardship for the youth to physically be in Iowa.

f. Ongoing assessment. Ongoing assessment activities shall be directed toward the coordination and evaluation of the services, supports, and life skills training being provided to assist the youth in reaching self-sufficiency goals and to determine if and what progress is being made. The case manager shall amend any goals, outcomes, tasks, responsible parties, and time frames in the plan along with services, supports, and life skills training provided as necessary to assist the youth in achieving self-sufficiency.

187.3(3) Vendor payments. The program shall make vendor payments to meet direct expenses of the participant that are necessary in order to meet goals of the participant's self-sufficiency plan.

a. Need. To receive a vendor payment, the youth must demonstrate that there are no other means to meet these needs. Youth receiving a PAL stipend are not eligible for a vendor payment.

b. Scope. Vendor payments may include but are not limited to:

- (1) Life skills training Health care-related expenses;
- (2) Transportation assistance;
- (3) Employment Costs related to employment and education assistance;
- (4) Clothing; and
- (5) Room and board.

c. Maximum payment. The amount available for a 12-month period of service shall not exceed \$1200 per youth.

~~**187.3(4) Follow-up.** The program shall maintain individual face-to-face contact with the youth at a frequency as defined in the youth's self-sufficiency plan to ensure that the youth is meeting the goals of the plan.~~

~~**187.3(5) Ongoing assessment.** Ongoing assessment activities shall be directed toward:~~

~~*a.* Monitoring the progress being made in the youth's ability to achieve self-sufficiency; and~~

~~*b.* Coordination and evaluation of the services and supports being provided to reach the self-sufficiency goal.~~

~~**187.3(6) Case management.** Case management activities shall include, but not be limited to:~~

~~*a.* Community involvement services to enable the youth to access community resources; and~~

~~*b.* Development of support systems, including services to assist the youth in establishing or reestablishing relationships with significant adults.~~

441—187.4(234) Termination. Aftercare services and supports shall be terminated when any of the following conditions apply:

187.4(1) The youth fails to follow self-sufficiency plan components and expectations as determined by the program administrator.

187.4(2) The youth voluntarily withdraws from the aftercare services program.

187.4(3) The youth is no longer ~~residing in~~ a resident of Iowa.

187.4(4) The youth reaches 21 years of age.

187.4(5) There are insufficient funds to continue the services.

441—187.5(234) Waiting list. The program administrator or designee shall create a waiting list when all funds for the aftercare services program are committed for the fiscal year. Names shall be entered on the waiting list on a first-come, first-served basis once the youth is determined eligible.

441—187.6(234) Administration. The department may contract with another state agency or a private organization to perform the administrative and case management functions necessary to administer ~~this~~ the aftercare services program.

HUMAN SERVICES DEPARTMENT[441](cont'd)

~~187.6(1) The contractor and any subcontractors shall meet the standards in 441—subrule 150.5(3) and paragraph 150.3(3)“i.”~~

~~187.6(2) Agencies and organizations providing services or supports shall meet the standards in rules 441—108.2(238) through 441—108.6(238).~~

~~441—187.7 to 187.9 Reserved.~~

~~These rules are intended to implement Iowa Code section 234.6 234.46 and Public Law 106-169, the Foster Care Independence Act of 1999.~~

DIVISION II
PREPARATION FOR ADULT LIVING (PAL) PROGRAM COMPONENT

~~441—187.10(234) Purpose.~~ The purpose of the PAL program component is to provide financial support to eligible youth who are receiving eligible for the aftercare services program. Youth receiving a PAL stipend are not eligible to receive aftercare services program vendor payments as specified in subrule 187.3(3).

~~441—187.11(234) Eligibility PAL program component eligibility requirements.~~ A monthly stipend may be provided to a youth receiving who meets the aftercare services who left foster care after May 1, 2006, and who meets all of the following criteria: program eligibility requirements in Division I of this chapter and the criteria in subrule 187.11(1) or 187.11(2).

~~187.11(1) Ineligibility for foster care.~~ The youth must be ineligible for voluntary foster care placement under 441—Chapter 202.

~~187.11(2) 187.11(1) Foster care experience.~~ The youth must:

~~a. Leave~~ Was in foster care paid for by the state under Iowa Code section 234.35 on ~~or after~~ the youth's eighteenth birthday; and

~~b. Have been in foster care paid for by the state under Iowa Code section 234.35~~ Exited foster care after having been in any combination of foster care, the Iowa state training school, or a court-ordered Iowa juvenile detention center in at least 6 of the last 12 months before the youth left ~~foster care~~ placement; and

~~c. Is ineligible for voluntary foster care placement under 441—Chapter 202.~~

~~187.11(2) Iowa state training school or Iowa court-ordered juvenile detention center experience.~~ The youth:

~~a. Was in the Iowa state training school or a court-ordered Iowa juvenile detention center on the youth's eighteenth birthday; and~~

~~b. Exited the Iowa state training school or a court-ordered Iowa juvenile detention center after May 1, 2014; and~~

~~c. Exited the state training school or a court-ordered Iowa juvenile detention center after having been in any combination of foster care, the Iowa state training school, or a court-ordered Iowa juvenile detention center in at least 6 of the last 12 months before the youth left placement.~~

~~187.11(3) Living arrangement.~~ The youth must have a living arrangement other than a parent's home, which may include a former foster family, an apartment, a college dormitory, or another approved arrangement. The program administrator or designee is responsible for approving the living arrangement.

~~187.11(4) Activity.~~ The youth must meet one or more of the following criteria:

~~a. Be enrolled in or actively pursuing enrollment in a postsecondary education or training program or work training;~~

~~b. Be employed for 80 hours per month or be actively seeking that level of employment; or~~

~~c. Be attending an accredited school full-time pursuing a course of study leading to a high school diploma; or~~

~~d. Be attending an instructional program leading to a high school equivalency diploma.~~

~~187.11(5) Financial need.~~ Initial and ongoing eligibility shall be based on the youth's income and need as determined according to rule 441—187.12(234).

HUMAN SERVICES DEPARTMENT[441](cont'd)

441—187.12(234) Payment. The program administrator or designee shall issue payment to each participant according to the following guidelines:

187.12(1) Need. The amount of the PAL stipend shall be based on the needs of the youth as documented in the youth's self-sufficiency plan. Eligibility and the stipend amount shall be based on the best estimate of the youth's income, as determined at least quarterly.

a. All earned and unearned income received by the youth during the 30 days before the determination shall be used to project future income.

(1) If the 30-day period is not indicative of future income, income from a longer period or verification of anticipated income from the income source may be used to project future income.

(2) Nonrecurring lump-sum payments are excluded as income. Nonrecurring lump-sum payments include but are not limited to one-time payments received for such things as income tax refunds, rebates, credits, refunds of security deposits on rental property or utilities, and retroactive payments for past months' benefits such as ~~SSI~~ social security, unemployment insurance, or public assistance.

b. The youth shall timely report the beginning or ending of earned or unearned income. A report shall be considered timely when made within ten days from the receipt of income or the date income ended.

c. When the youth timely reports a change in income, prospective eligibility and stipend amount for the following month shall be determined based on the change.

d. Recoupment shall be made for any overpayment due to failure to timely report a change in income or for benefits paid during an administrative appeal if the department's action is ultimately upheld. Recoupment shall be done through a reasonable reduction of any future stipends.

e. Recoupment shall not be made when a youth timely reports a change in income and the change is timely acted upon, but the timely notice policy in rule 441—7.7(17A) requires that the action be delayed until the second calendar month following the month of change.

187.12(2) Amount of monthly stipend. The maximum monthly stipend shall be \$602.70.

a. The stipend shall be prorated based on the date of entry.

b. Effect of income.

(1) When the monthly unearned income of the youth exceeds the maximum monthly stipend, the youth is not eligible for a stipend.

(2) When the net earnings of the youth exceed the maximum monthly stipend, the stipend shall be reduced the following month by 50 cents for every dollar earned over the maximum monthly stipend.

~~(3) A youth receiving Supplemental Security Income payments is not eligible for a stipend.~~

187.12(3) Payee. The PAL stipend may be paid to the youth, the foster family, or another payee other than a department employee. The payee shall be agreed upon by the parties involved and specified in the self-sufficiency plan under 187.3(1).

187.12(4) Start-up allowance. When a youth is approved for the PAL program component, the program administrator or designee may authorize a ~~one-time~~ start-up allowance in addition to the monthly stipend. The start-up allowance:

a. Is intended to assist in covering the initial costs of establishing the youth's living arrangement, such as rental and utility deposits, purchase of food, and purchase of necessary household items.

b. Shall be based on the youth's income and need as determined according to subrule 187.12(1).

c. Shall not exceed the maximum monthly stipend amount.

441—187.13(234) Termination of stipend. The PAL stipend shall be terminated according to rule 441—187.4(234) in addition to when any of the following conditions apply:

187.13(1) The youth reaches the age of 21 fails to meet work or education eligibility requirements for 30 consecutive days without good cause as determined by the program administrator or designee.

187.13(2) The youth fails to meet work or education eligibility requirements for 30 consecutive days without good cause as determined by the program administrator or designee maintain satisfactory progress as defined by the education or training program in which the youth is enrolled. A youth who is not making satisfactory progress may stay in the PAL program component by choosing the work option.

HUMAN SERVICES DEPARTMENT[441](cont'd)

~~187.13(3) The youth fails to follow self-sufficiency plan components and expectations as determined by the program administrator or designee chooses to live in a nonapproved living arrangement.~~

~~187.13(4) The youth fails to maintain satisfactory progress as defined by the education or training program in which the youth is enrolled. A youth who is not making satisfactory progress may stay in the PAL program by choosing the work option youth's budget demonstrates lack of need for the PAL stipend.~~

~~187.13(5) The youth chooses to live in a nonapproved setting voluntarily withdraws from the PAL program component.~~

~~187.13(6) The youth no longer resides in Iowa misrepresents income. A PAL stipend shall not be reinstated for at least 30 days if the stipend was terminated due to the youth's misrepresentation of income.~~

~~187.13(7) The youth lives with a parent There are insufficient funds to continue the stipend.~~

~~187.13(8) There are insufficient funds to continue the stipend.~~

441—187.14(234) Waiting list. The program administrator or designee shall create a waiting list when all funds for the PAL program component are committed for the fiscal year. Names shall be entered on the waiting list on a first-come, first-served basis once the youth is determined eligible.

441—187.15(234) Administration. The department may contract with another state agency or a private organization to perform the administrative and case management functions necessary to administer the PAL program component.

~~187.15(1) The contractor and any subcontractors shall meet the standards in 441—subrule 150.5(3) and paragraph 150.3(3)“i.”~~

~~187.15(2) Agencies providing support or services shall meet the standards in rules 441—108.2(238) through 441—108.6(238).~~

These rules are intended to implement Iowa Code section 234.46.

[Filed 2/11/15, effective 5/1/15]

[Published 3/4/15]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 3/4/15.

ARC 1891C

LABOR SERVICES DIVISION[875]

Adopted and Filed

Pursuant to the authority of Iowa Code section 89A.3, the Elevator Safety Board (Board) hereby amends Chapter 72, “Conveyances Installed On or After January 1, 1975,” and Chapter 73, “Conveyances Installed Prior to January 1, 1975,” Iowa Administrative Code.

While existing elevators have generally not been required to meet current standards and install modern safety technologies, these amendments require some limited upgrades of older elevators. The amendments adopt by reference significant portions of the American Society of Mechanical Engineers (ASME) Safety Code for Existing Elevators and Escalators, known as A17.3 (2011).

By providing for a 2020 implementation date, the Board will allow building owners five years to make the necessary changes to their equipment. The Board plans an outreach program to notify building owners of the requirements. Although no variance procedures are included in these amendments, applicable variance procedures are set forth in 875—Chapter 66. A variance application form is available on the Board's Web site, and the Board typically reviews variance applications several times a year.

The purposes of these amendments are to protect the health and safety of the public and implement legislative intent.

LABOR SERVICES DIVISION[875](cont'd)

Notice of Intended Action was published in the December 10, 2014, Iowa Administrative Bulletin as **ARC 1771C**. No public comment was received on the proposed amendments. Since publication of the Notice, one change has been made to remove an unnecessary semicolon from subrule 73.1(5).

After analysis and review, this rule making could have an impact on jobs. However, the five-year grace period allows building owners flexibility to make updates that are necessary to meet minimum safety requirements.

These amendments are intended to implement Iowa Code chapter 89A.

These amendments shall become effective on April 8, 2015.

The following amendments are adopted.

ITEM 1. Amend rule 875—72.10(89A) as follows:

875—72.10(89A) General requirements.

72.10(1) The provisions contained in ASME A17.1, Part 8, are adopted by reference unless specifically excluded herein.

72.10(2) Except as noted in this rule, the American Society of Mechanical Engineers Safety Code for Existing Elevators and Escalators, A17.3 (2011), is adopted by reference with an enforcement date of May 1, 2020.

a. If a code provision that is more restrictive than A17.3 (2011) applied to a conveyance when the conveyance was installed, the more restrictive provision shall remain in effect.

b. A17.3 (2011) Part X applies to handicapped restricted use elevators without regard to the scope provisions set forth in A17.3 (2011) Part X.

c. Provisions of A17.3 (2011) that require installation of a new controller to implement Phase 1 and Phase 2 fire service or car top operation are not adopted by reference and shall not be enforced in Iowa.

d. A17.3 (2011), Rule 2.3.2, is intended to prevent the accumulation of sewer gas in an elevator pit and shall not be interpreted to require the addition of a drain pipe in an existing pit. An air gap in an existing drain pipe shall be considered adequate compliance.

e. An elevator that was legally installed with guide rails made of materials other than steel shall not be required to replace the guide rails due to the adoption of A17.3 (2011).

ITEM 2. Amend rule 875—73.1(89A) as follows:

875—73.1(89A) Scope, and definitions, and schedule.

73.1(1) This chapter establishes minimum safety standards for all conveyances installed prior to January 1, 1975, except material lift elevators. Conveyances installed on or after January 1, 1975, shall conform with the requirements set forth in 875—Chapter 72. Material lift elevators installed prior to January 1, 1975, are not subject to regulation pursuant to Iowa Code section 89A.2.

73.1(2) The definitions contained in ASME (1971) American National Standard Safety Code for Elevators, Dumbwaiters, Escalators, and Moving Walks, A17.1 (1971), shall be applicable as used in this chapter to the extent that they do not conflict with the definitions contained in Iowa Code chapter 89A or 875—Chapter 71.

73.1(3) Except as noted in this rule, the American Society of Mechanical Engineers Safety Code for Existing Elevators and Escalators, A17.3 (2011), is adopted by reference with an enforcement date of May 1, 2020.

a. If a code provision that is more restrictive than A17.3 (2011) applied to a conveyance when the conveyance was installed, the more restrictive provision shall remain in effect.

b. A17.3 (2011) Part X applies to elevators covered by rule 875—73.21(89A) without regard to the scope provisions set forth in A17.3 (2011) Part X.

c. Provisions of A17.3 (2011) that require installation of a new controller to implement Phase 1 and Phase 2 fire service or car top operation are not adopted by reference and shall not be enforced in Iowa.

LABOR SERVICES DIVISION[875](cont'd)

d. A17.3 (2011), Rule 2.3.2, is intended to prevent the accumulation of sewer gas in an elevator pit and shall not be interpreted to require the addition of a drain pipe in an existing pit. An air gap in an existing drain pipe shall be considered adequate compliance.

e. The following shall substitute for the final sentence of A17.3 (2011) Rule 2.1.5(b): “Previously installed 60-inch chains are deemed to be in compliance.”

f. An elevator that was legally installed with guide rails made of materials other than steel shall not be required to replace the guide rails due to the adoption of A17.3 (2011).

73.1(4) The American Society of Mechanical Engineers Safety Code for Elevators and Escalators, A17.1-2013/CSA B44-13 (2013), Rule 2.14.7.1.4, is adopted by reference with an effective date of May 1, 2020.

73.1(5) Rules 875—73.2(89A) to 875—73.6(89A), 875—73.9(89A) to 875—73.17(89A), 875—73.19(89A), 875—73.22(89A), and 875—73.24(89A) and subrules 73.1(2), 73.7(1) to 73.7(9), 73.7(11), 73.18(1), and 73.18(3) to 73.18(7) shall be superseded by corresponding provisions of A17.3 (2011) on May 1, 2020.

[Filed 2/11/15, effective 4/8/15]

[Published 3/4/15]

EDITOR’S NOTE: For replacement pages for IAC, see IAC Supplement 3/4/15.

ARC 1895C

REGENTS BOARD[681]

Adopted and Filed

Pursuant to the authority of Iowa Code section 262.9(3), the Board of Regents hereby amends Chapter 1, “Admission Rules Common to the Three State Universities,” Iowa Administrative Code.

This amendment to rule 681—1.7(262) increases the application fee at the University of Northern Iowa for Graduate/Professional Domestic Students from \$50 to \$60 and for Graduate/Professional International Students from \$70 to \$75. The revised fee will cover increased processing costs.

Notice of Intended Action for this amendment was published in the Iowa Administrative Bulletin on November 26, 2014, as **ARC 1743C**. A comment period was established. No comments were received. The adopted amendment is identical to that published under Notice.

The Board of Regents adopted the amendment on February 5, 2015.

A waiver provision is not included. The Board has adopted a uniform waiver rule, which may be found at 681—19.18(17A).

After analysis and review of this rule making, no impact on jobs has been found.

This amendment is intended to implement Iowa Code section 262.9(3).

This amendment shall become effective on April 8, 2015.

The following amendment is adopted.

Amend rule 681—1.7(262) as follows:

681—1.7(262) Application fees. Application fees required for admission to the University of Iowa, Iowa State University and the University of Northern Iowa are as follows:

REGENTS BOARD[681](cont'd)

University of Iowa

Undergraduate domestic student and nondegree student	\$40
Undergraduate international student	\$85
Graduate/professional domestic student	\$60
Graduate/professional international student	\$100
PharmD student	\$100
Reentry fee	\$20

Iowa State University

Undergraduate domestic student and nondegree student	\$40
Undergraduate international student	\$50
Graduate/professional domestic student	\$60
Graduate/professional international student	\$100
Veterinary Medicine	\$75

University of Northern Iowa

Undergraduate domestic student and nondegree student	\$40
Undergraduate international student	\$50
Graduate/professional domestic student	\$50 \$60
Graduate/professional international student	\$70 \$75
Reentry fee	\$20

This rule is intended to implement Iowa Code section 262.9(3).

[Filed 2/11/15, effective 4/8/15]

[Published 3/4/15]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 3/4/15.

ARC 1899C

UTILITIES DIVISION[199]

Adopted and Filed

Pursuant to Iowa Code sections 17A.4, 476.2, 476.15 and 476.102 and 47 U.S.C. Section 214(e), the Utilities Board (Board) gives notice that on February 13, 2015, the Board issued an order in Docket No. RMU-2014-0002, In re: Eligibility, Certification, and Reporting Requirements for Eligible Telecommunications Carriers and Related Confidentiality Provisions [199 IAC Chapters 1 and 39] "Order Adopting Amendments." The order adopted amendments, with certain revisions, which were published under Notice of Intended Action in the Iowa Administrative Bulletin, IAB Vol. XXXVII, No. 3 (8/6/14), p. 172, as **ARC 1563C**. The amendments are to the rules governing the Board's designation of telecommunications carriers eligible to receive support from the federal universal service fund.

Under federal law, state utility regulatory commissions have primary responsibility for designating which telecommunications carriers are eligible to receive support from the federal universal service fund. The Board's rules governing designation of eligible telecommunications carriers (ETCs) are found at

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199 IAC 39. These amendments are necessary to eliminate outdated provisions, to align the Board's rules with recent reforms to the federal universal service fund, and to clarify the process by which telecommunications carriers seeking an ETC designation from the Board apply for the designation. The Board also adopted amendments to its rules at 199 IAC 1 governing requests for confidential treatment of information filed with the Board.

The Board received four sets of written comments regarding the amendments proposed in the Notice of Intended Action. Comments were filed on September 10, 2014, by the Consumer Advocate Division of the Department of Justice (Consumer Advocate), Qwest Corporation, d/b/a CenturyLink (CenturyLink), the Iowa Communications Alliance (ICA), and Windstream Iowa Communications, Inc. (Windstream). Consumer Advocate, CenturyLink, and ICA appeared at the oral comment proceeding held on October 28, 2014.

The Board also received follow-up comments responding to an order issued on January 23, 2015, seeking comment on a revision to a provision included in the Notice of Intended Action stating that ETC designations were not transferable.

In Item 1, the Board revises 199 IAC 1.9(5)“c,” which lists materials exempted from public disclosure pursuant to requests deemed granted by the Board. Since publication of the Notice, the amendment has been revised to expand the list of ETC-related materials included on the list of items for which requests for confidential treatment will be deemed granted. Also, the amendment was revised to rescind the existing paragraph and to adopt a new paragraph that contains a numbered list for better readability. This amendment streamlines the process by which the Board responds to requests for confidential treatment deemed granted. The amendment provides that a request for confidential treatment of material included on the list in paragraph 1.9(5)“c” is deemed granted upon the filer's receipt of a notice of electronic filing without further staff review or acknowledgment by the Board. The amendment also updates the list of ETC-related materials to accurately reflect information the Board will receive and to ensure that such items are properly withheld from public inspection. The Board did not agree with the suggestions of CenturyLink or the ICA that the Board should adopt a blanket confidentiality provision for ETC filings.

In Item 2, the Board rescinds Chapter 39 in its entirety and replaces it with a new chapter of ETC rules. The new chapter mirrors the new federal definitions, eligibility requirements, and reporting requirements, and also includes certain state-specific provisions. The new rules cover the following topics: the Board's authority to designate ETCs (rule 199—39.1(476)); definitions (rule 199—39.2(476)); the process by which carriers seeking designation as an ETC apply for designation (rule 199—39.3(476)); provisions applicable to carriers seeking designation for the limited purpose of participating in the Lifeline program (rule 199—39.4(476)); provisions regarding an ETC's service area (rule 199—39.5(476)); provisions regarding the Lifeline and Tribal Link Up programs (rule 199—39.6(476)); a schedule of required filings (rule 199—39.7(476)); and provisions regarding relinquishment of an ETC designation (rule 199—39.8(476)).

Major changes to the chapter since its publication under Notice relate to the issue of how to refer to federal regulations throughout the rules and the issue of how certain corporate transactions affect ETC designations. The Board has eliminated the references to the “as amended” dates of the federal rules and has adopted a new provision in rule 199—39.2(476) stating that a reference in Chapter 39 to federal regulations includes any amendments to those regulations through the effective date of the Board's rules.

The Board adopted most of the suggestions ICA made in its additional comments filed on February 2, 2015, regarding a distinction between asset transactions and transfer of control transactions. The Board incorporated the suggestions of ICA in new subrule 39.3(3), which addresses amendments to existing ETC designations. The Board also adopted new subrule 39.7(4), which adds rate floor data updates to the schedule of filings.

The Board's order explains in detail all changes made to the amendments as they were published in the Notice of Intended Action. The order adopting amendments and approving this Adopted and Filed rule making can be found on the Board's Electronic Filing System (EFS) Web site, <http://efs.iowa.gov>, in Docket No. RMU-2014-0002.

After analysis and review of this rule making, the Board tentatively concludes that the adopted amendments will have a beneficial effect on the provision of telecommunications service in Iowa. The

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availability of telecommunications service is necessary for economic development, so the amendments will have a beneficial effect on jobs in Iowa, although that effect cannot be quantified.

These amendments are intended to implement Iowa Code sections 17A.4, 476.2, 476.15, and 476.102 and 47 U.S.C. Section 214(e).

These amendments will become effective April 8, 2015.

The following amendments are adopted.

ITEM 1. Rescind paragraph **1.9(5)“c”** and adopt the following **new** paragraph in lieu thereof:

c. Materials exempted pursuant to requests deemed granted by the board. Requests to withhold from public inspection the materials and information listed in the subparagraphs below are deemed granted by the board pursuant to Iowa Code section 22.7(3) or 22.7(6), or both sections, provided that the confidential portions of the filings are identified as confidential and filed as provided in 199—14.12(17A,476) and an attorney for the company or corporate officer avers that the material or information satisfies the requirements in Iowa Code section 22.7(3) or 22.7(6), or both sections. The material or information filed pursuant to this paragraph will be deemed confidential upon the filer’s receipt of a notice of electronic filing without further review or acknowledgement by the board, and the material or information shall be withheld from public inspection subject to the provisions of subparagraph 1.9(8) “b”(3).

- (1) Negotiated transportation rates and prices for natural gas supply.
- (2) Reservation charges for portfolio gas supply contracts.
- (3) Terms and prices for all hedging activity, including financial hedges and weather-related information.
- (4) Sales data by individual natural gas customer.
- (5) Natural gas purchase volumes by individual receipt point, by pipeline.
- (6) Specific gas costs included in interstate pipeline contracts and contracted volume quantities, invoices, commodity contracts, and individual commodity purchases and invoices.
- (7) Design day forecasting model reserve margin calculations for natural gas service.
- (8) Negotiated purchase prices for electric power, fuel, and transportation.
- (9) Electric customer-specific information.
- (10) Power supply bills in support of energy adjustment clause filings.
- (11) Network improvement and maintenance plans and related extensions and progress reports filed with the board pursuant to 199—subrule 39.7(3).
- (12) Wireless coverage area maps depicting signal strength filed with the board pursuant to 199—paragraph 39.3(2) “g.”
- (13) Revenue recovery amounts and loop or line count data filed with the board pursuant to 199—subrule 39.7(2).
- (14) Financial reports and loop or line count data included in rate floor data filed with the board pursuant to 199—subrule 39.7(3).
- (15) Loop or line count data included in rate floor data updates filed with the board pursuant to 199—subrule 39.7(4).
- (16) The financial records filed by applicants for certificates of convenience and necessity to provide competitive local exchange service.

ITEM 2. Rescind 199—Chapter 39 and adopt the following **new** chapter in lieu thereof:

CHAPTER 39 UNIVERSAL SERVICE

199—39.1(476) Authority and purpose. These rules relate to the board’s designation of telecommunications carriers as eligible to receive support from the federal universal service fund and are prescribed by the board pursuant to Iowa Code sections 17A.4, 476.2, 476.15 and 476.102 and 47 U.S.C. §§ 214(e) and 254. These rules are intended to preserve and advance universal service by implementing the board’s authority to designate eligible telecommunications carriers (ETCs). These

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rules establish procedures for applying for designation as an eligible telecommunications carrier and for relinquishing such designation; adopt service requirements for eligible telecommunications carriers; and establish state certification and reporting requirements consistent with federal requirements.

199—39.2(476) Definition of terms. For the purposes of the board's implementation of federal universal service fund requirements, the following definitions apply. Whenever a reference in this chapter is made to provisions found in 47 CFR Part 36, 51 or 54, that reference includes any amendment through April 8, 2015.

"Competitive eligible telecommunications carrier" means a carrier that meets the definition of an "eligible telecommunications carrier" below and does not meet the definition of an "incumbent local exchange carrier" in 47 CFR § 51.5.

"Connect America fund" or *"CAF"* means the federal universal service fund, as reformed by the Federal Communications Commission, to phase down and replace support previously provided through high-cost mechanisms, as referenced in 47 CFR §§ 54.304 and 54.312.

"Eligible telecommunications carrier" or *"eligible carrier"* means a carrier designated by the board as eligible to receive universal service support pursuant to 47 U.S.C. § 214(e).

"Facilities" means any physical components of the telecommunications network that are used in the transmission or routing of the services designated for universal service fund support.

"Federal poverty guidelines" means the poverty guidelines updated periodically in the Federal Register by the U.S. Department of Health and Human Services under the authority of 42 U.S.C. § 9902(2).

"High-cost program" means the component of the federal universal service fund that includes the following support mechanisms: high-cost loop support, safety net support, safety valve support, local switching support, interstate common line support, high-cost model support, interstate access support, and the connect America fund, which includes funding to support and advance networks that provide voice and broadband services, both fixed and mobile.

"High-cost support" means those support mechanisms in existence as of October 1, 2011, specifically, high-cost loop support, safety net additive support and safety valve support provided pursuant to 47 CFR Part 36, Subpart F; local switching support pursuant to 47 CFR § 54.301; forward-looking support pursuant to 47 CFR § 54.309; interstate access support pursuant to 47 CFR §§ 54.800 through 54.809; interstate common line support pursuant to 47 CFR §§ 54.901 through 54.904; support provided pursuant to 47 CFR §§ 51.915, 51.917, and 54.304; support provided to competitive eligible telecommunications carriers as set forth in 47 CFR § 54.307(e); connect America fund support provided pursuant to 47 CFR § 54.312; and mobility fund support provided pursuant to 47 CFR Part 54, Subpart L.

"Lifeline-only ETC" means a telecommunications carrier that seeks limited designation as an ETC only to participate in the Lifeline program.

"Lifeline program" means the federal universal service program providing support for low-income consumers that is defined in 47 CFR § 54.401 to mean a nontransferable retail service offering (1) for which qualifying low-income consumers pay reduced charges as a result of application of the Lifeline support amount described in 47 CFR § 54.403, and (2) which provides qualifying low-income consumers with voice telephony service as defined in 47 CFR § 54.101(a).

"Mobility fund" means the wireless component of the connect America fund which provides support for the extension of mobile broadband networks in otherwise unserved areas.

"National Lifeline accountability database" means the electronic system, with associated functions, processes, policies and procedures, to facilitate the detection and elimination of duplicative support, as directed by the Federal Communications Commission and as defined in 47 CFR § 54.400.

"Qualifying low-income consumer" means a consumer who meets the qualifications for Lifeline as specified in 47 CFR § 54.409.

"Tribal Link Up" means an assistance program for eligible residents of tribal lands seeking telecommunications service from a telecommunications carrier that is receiving high-cost support on tribal lands, that provides a reduction of the customary charge for commencing telecommunications

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service for a single telecommunications connection at a subscriber's principal place of residence and a deferred schedule of payments of the customary charge for commencing telecommunications service as defined in 47 CFR § 54.413(a).

"Voice telephony service" means the service designated by the Federal Communications Commission at 47 CFR § 54.101 as eligible for support by the federal universal service support mechanisms. "Voice telephony service" is service which provides:

1. Voice grade access to the public switched network or its functional equivalent;
2. Minutes of use for local service at no additional charge to end users;
3. Access to the emergency services provided by local government or other public safety organizations, such as 911 and enhanced 911, to the extent the local government in an eligible carrier's service area has implemented 911 or enhanced 911 systems; and
4. Toll limitation services to qualifying low-income consumers as provided in 47 CFR Part 54, Subpart E.

199—39.3(476) Applying for designation as an eligible telecommunications carrier.

39.3(1) A telecommunications carrier must be designated as an ETC to qualify for support from the federal universal service fund. The Iowa utilities board reviews applications for designation as an ETC for compliance with 47 U.S.C. § 214(e)(1) and grants ETC designations to qualified applicants for a service area designated by the board. If an applicant requests an expedited ruling from the board on an application to be designated as an ETC or on an amendment to an existing ETC designation, the applicant shall specify why an expedited process is necessary and why an expedited review would not be contrary to the public interest.

39.3(2) An application for an ETC designation must contain the following:

- a. Where an applicant offers more than one type of communications service, a clear statement of which entity is requesting the designation.
- b. A clear statement of the purposes for which the designation is sought, and a statement of financial and technical qualification to provide the supported service. An applicant shall specify whether designation is sought for purposes of receiving support from the high-cost fund or mobility fund; for Lifeline purposes only; or other specified purpose recognized by the Federal Communications Commission (FCC).
- c. A certification that the applicant offers or intends to offer all services designated for support throughout the applicant's approved service area. The services designated for support are identified in 47 CFR § 54.101.
- d. An explanation of how the carrier will provide voice telephony service as defined in 199—39.2(476) and 47 CFR § 54.101.
- e. A certification that the applicant offers or intends to offer the supported services either using its own facilities or a combination of its own facilities and resale of another carrier's services. "Own facilities" includes unbundled network elements, in whole or in part. The facilities providing the services supported by the universal service fund need not be physically located in the area served. Wireless resellers shall provide the name of the facilities-based wireless carrier(s) whose services they are reselling and demonstrate they have an agreement with the carrier(s) in Iowa that will cover the applicant's proposed designated service area. Except for wireless resellers seeking ETC designation for Lifeline purposes only that have obtained FCC approval of a compliance plan and committed to certain 911 conditions, the board will not designate as an eligible telecommunications carrier a carrier that offers the services supported by federal universal service support mechanisms exclusively through the resale of another carrier's services.
- f. A description of how the applicant advertises the availability of supported services and the charges therefor using media of general distribution.
- g. A detailed description, including a map or maps, of the geographic service area for which the applicant requests an ETC designation from the board. Wireless telecommunications carriers, defined as commercial mobile radio service providers in 47 CFR Parts 20 and 24, shall file coverage area maps

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and maps that depict signal strength. Requests to withhold from public inspection maps depicting signal strength will be deemed granted as provided in 199—paragraph 1.9(5) “c.”

h. Where the application is from a carrier seeking a designation as an ETC for an area served by a rural telephone company as defined in 47 CFR § 51.5, a demonstration that the requested designation is in the public interest.

i. A five-year plan that describes with specificity proposed improvements or upgrades to the applicant’s network throughout its proposed service area. Each applicant shall estimate the area and population that will be served as a result of the improvements. Applicants seeking designation only for purposes of receiving support from the Lifeline program are not required to submit a network improvement plan.

j. An affirmative statement explaining how the applicant will remain functional in emergency situations. The statement shall include examples illustrating that the applicant has a reasonable amount of back-up power to ensure functionality without an external power source, is able to reroute traffic around damaged facilities, and is capable of managing traffic spikes resulting from emergency situations.

k. A certification that the applicant will comply with the service requirements applicable to the support that it seeks to receive.

l. A certification that the applicant will satisfy applicable consumer protection and service quality standards. Wireless ETC applicants shall commit to complying with the following minimum consumer protection standards:

(1) Disclose rates and terms of service to consumers. For each service plan offered to new consumers, wireless carriers will disclose to consumers at point of sale and on their Web sites at least the following information, as applicable: (a) the coverage area for the service; (b) any activation or initiation fee; (c) the monthly access fee or base charge; (d) the amount and nature of any voice, messaging, or data allowances included in the plan (such as night and weekend minutes); (e) the charges for domestic usage in excess of any included allowances or outside of the coverage area; (f) for prepaid service plans, the period of time during which any balance is available for use; (g) whether there are prohibitions on data service usage and whether there are network management practices that will have a material impact on the customer’s wireless data experience; (h) whether any additional taxes, fees or surcharges apply; (i) the amount or range of any such fees or surcharges that are collected and retained by the carrier; (j) the amount or nature of any late payment fee; (k) whether a fixed-term contract is required and its duration; (l) the amount and nature of any early termination fee that may apply; and (m) the trial period during which a consumer may cancel service without any early termination fee, as long as the consumer complies with any applicable return policy.

(2) Make available maps showing where service is generally available. Wireless carriers will make available at point of sale and on their Web sites maps depicting approximate domestic coverage applicable to each of their service plans currently offered to consumers. To enable consumers to make comparisons among carriers, these maps will be generated using generally accepted methodologies and standards to depict the carrier’s outdoor coverage. All such maps will contain or link to an appropriate legend concerning limitations or variations, or both, in wireless coverage and map usage, including any geographic limitations on the availability of any services included in the plan. Wireless carriers will periodically update such maps as necessary to keep them reasonably current. If necessary to show the extent of service coverage available to customers from carriers’ roaming partners, carriers will request from roaming partners and incorporate coverage maps that are generated using similar industry-accepted criteria, or if such information is not available, incorporate publicly available information regarding roaming partners’ coverage areas.

(3) Provide contract terms to customers and confirm changes in service. When a customer initiates new service or a change in existing service, the carrier will provide or confirm any new material terms and conditions of the ongoing service with the customer.

(4) Allow a trial period for new service. When a customer initiates postpaid service with a wireless carrier, the customer will be informed of and given a period of not less than 14 days to try out the service. The carrier will not impose an early termination fee if the customer cancels service within this

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period, provided that the customer complies with applicable return policies and exchange policies. Other charges, including usage charges, may still apply.

(5) Provide specific disclosures in advertising. In advertising of prices for wireless service plans or devices, wireless carriers will disclose material charges and conditions related to the advertised prices and services, including if applicable and to the extent the advertising medium reasonably allows: (a) whether activation or initiation fees apply; (b) monthly access fees or base charges; (c) the amount and nature of any voice, messaging, or data service allowances included in the plan; (d) the charges for any domestic usage in excess of any included allowances or outside of the coverage area; (e) for prepaid service plans, the period of time during which any balance is available for use; (f) whether there are network management practices that will have a material impact on the customer's wireless data experience; (g) whether any additional taxes, fees or surcharges apply; (h) the amount or range of any such fees or surcharges that are collected and retained by the carrier; (i) whether a fixed-term contract is required and its duration; (j) early termination fees; (k) the terms and conditions related to receiving a product or service for "free"; (l) for any service plan advertised as "nationwide" (or using similar terms), the carrier will have available substantiation for this claim; and (m) whether prices or benefits apply only for a limited time or promotional period and, if so, whether any different fees or charges will apply for the remainder of the contract term.

(6) Separately identify carrier charges from taxes on billing statements. On customers' bills, carriers will distinguish (a) monthly charges for service and features, and other charges collected and retained by the carrier, from (b) taxes, fees and other charges collected by the carrier and remitted to federal, state or local governments. Carriers will not label cost recovery fees or charges as taxes.

(7) Provide customers the right to terminate service for changes to contract terms. Carriers will not modify the material terms of their postpaid customers' contracts in a manner that is materially adverse to those customers without providing a reasonable advance notice of a proposed modification and allowing those customers a time period of not less than 14 days to cancel their contracts with no early termination fee.

(8) Provide ready access to customer service. Customers will be provided a toll-free telephone number to access a carrier's customer service during normal business hours. Customer service contact information will be provided to customers online and on billing statements. Each wireless carrier will provide information about how customers can contact the carrier in writing, by toll-free telephone number, via the Internet or otherwise with any inquiries or complaints, and this information will be included, at a minimum, on all billing statements, in written responses to customer inquiries and on carriers' Web sites. Each carrier will also make such contact information available, upon request, to any customer calling the carrier's customer service departments.

(9) Promptly respond to consumer inquiries and complaints received from government agencies. Inquiries for information or complaints to a wireless ETC shall be resolved promptly and courteously. If a wireless ETC cannot resolve a dispute with the applicant or customer, the wireless ETC shall inform the applicant or customer of the right to file a complaint with the board. The wireless ETC shall provide the following board address and toll-free telephone number: Iowa Utilities Board, Customer Service, 1375 E. Court Avenue, Room 69, Des Moines, Iowa 50319-0069; 1-877-565-4450. When the board receives a complaint, the procedures set out in 199—Chapter 6, "Complaint Procedures," shall be followed to enforce the minimum consumer protection standards in paragraph 39.3(2) "l." When the board receives a complaint alleging the addition or deletion of a product or service for which a separate charge is made to a customer account without the verified consent of the customer, the complaint shall be processed by the board pursuant to 199—Chapter 6. In any complaint proceeding pursuant to this subparagraph, if the wireless ETC asserts that the complainant is located in an area where the wireless ETC is not designated as an ETC, the wireless ETC must submit evidence in support of its assertion.

(10) Abide by policies for protection of customer privacy. Each wireless carrier will abide by a policy regarding the privacy of customer information in accordance with applicable federal and state laws, and will make available to the public its privacy policy concerning information collected online. Each wireless carrier will abide by the Cellular Telecommunications and Internet Association's Best Practices and Guidelines for Location-Based Services.

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(11) Provide consumers with free notifications for voice, data and messaging usage, and international roaming. Each wireless provider will provide, at no charge: (a) a notification to consumers of currently offered and future domestic wireless plans that include limited data allowances when consumers approach and exceed their allowance for data usage and will incur overage charges; (b) a notification to consumers of currently offered and future domestic voice and messaging plans that include limited voice and messaging allowances when consumers approach and exceed their allowance for those services and will incur overage charges; and (c) a notification to consumers without an international roaming plan/package whose devices have registered abroad and who may incur charges for international usage. Wireless providers will generate the notifications described above to postpaid consumers based on information available at the time the notification is sent. Wireless consumers will not have to affirmatively sign up in order for these notifications to be sent. Wireless providers will clearly and conspicuously disclose tools or services that enable consumers to track, monitor or set limits on voice, messaging and data usage.

(12) Abide by the mobile wireless device unlocking standards established in the Cellular Telecommunications and Internet Association's Consumer Code for Wireless Service.

m. For applications from wireless carriers seeking designation as an ETC, a certification that the wireless carrier will contribute to the dual party relay service, as provided in Iowa Code section 477C.7(2) "a."

n. For applications from carriers seeking designation as an ETC for any part of tribal lands, the applicant shall provide a copy of its application to the affected tribal government and tribal regulatory authority at the time it files the application with the board.

39.3(3) Amendments to ETC designations. ETCs may request that the board amend an existing ETC designation as provided in the following situations. Where the board approves of the amendment, the board will issue an order amending the designation.

a. Asset transactions between ETCs other than Lifeline-only ETCs. Where a telecommunications carrier that has been designated by the board as an ETC, other than a Lifeline-only ETC, acquires another carrier with an ETC designation, through an acquisition involving a sale or transfer of assets, and the acquiring carrier intends to serve as an ETC in the newly acquired service area, the acquiring carrier shall notify the board of the acquisition and certify that the acquiring carrier intends to amend its designation to assume the acquired carrier's ETC obligations. The certification also shall indicate whether the acquiring carrier intends to adopt the network improvement plan of the acquired carrier. The notice of acquisition and certification shall be filed at least 90 days before the acquired carrier discontinues service. Where the acquisition involves a discontinuance of service by an incumbent local exchange carrier, the required notice and certification may be included with or as part of the acquired carrier's application for discontinuance of service filed pursuant to Iowa Code section 476.20. The acquired carrier shall comply with the requirements for relinquishing an ETC designation in 199—39.8(476).

b. Asset transactions between Lifeline-only ETCs. Where a telecommunications carrier that has been designated by the board as a Lifeline-only ETC acquires another carrier that has been designated by the board as a Lifeline-only ETC through an acquisition involving a sale or transfer of assets, and the acquiring carrier intends to serve as a Lifeline-only ETC in the newly acquired service area, the acquiring carrier shall notify the board of the acquisition and certify that the acquiring carrier intends to amend its designation to assume the acquired carrier's ETC obligations. The notice and certification shall be filed using the carriers' ETA docket numbers at least 90 days before the acquired carrier will cease providing Lifeline service. The filing shall include copies of relevant documents filed with the FCC. The acquired carrier shall comply with the requirements for relinquishing an ETC designation in 199—39.8(476).

c. Non-ETC acquires an ETC. Where an entity that has not been designated by the board as an ETC acquires a telecommunications carrier that has been designated by the board as an ETC, and the acquiring entity intends to serve as an ETC in the newly acquired service area, the acquiring entity shall file with the board an application for designation as an ETC as provided in this rule. The acquired carrier shall comply with the requirements for relinquishing an ETC designation in 199—39.8(476).

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d. Other amendments. Where a telecommunications carrier that has been designated by the board as an ETC intends to serve as an ETC in a new service area for the purpose of receiving support from the CAF Phase II auction or for other similar purpose, or after a telecommunications carrier has acquired a new service area pursuant to a transaction not subject to the provisions of Iowa Code section 476.20, the carrier shall file a notice of expansion or acquisition 30 days in advance of the expansion or acquisition and shall certify that the carrier intends to amend its designation to serve as an ETC in the expanded service area.

e. Transfer of control transactions. Where a carrier that has been designated by the board as an ETC is acquired through an acquisition involving a direct or indirect transfer of control, including through a purchase of stock or other equity interests, merger, share exchange or similar transaction in which neither the legal existence of the acquired carrier nor ownership of its assets is altered, the acquiring carrier shall file with the board a notice of the transfer of control 30 days in advance of the transfer of control. The notice shall be filed using an “M” docket designation. The board will acknowledge receipt of the notice by letter. Following a transfer of control, the ETC designation and ETC obligations of the acquired carrier shall continue without amendment or modification, unless the acquired carrier complies with the requirements for relinquishing an ETC designation in 199—39.8(476). For purposes of this rule, any merger, share exchange or similar transaction in which the legal existence of the acquired carrier or ownership of its assets is altered will be deemed to be an acquisition involving a sale or transfer of assets and not a transfer of control.

199—39.4(476) Lifeline-only applicants. Where an applicant is seeking designation only for purposes of receiving support from the Lifeline program, the following requirements apply in addition to those specified in 199—39.3(476):

39.4(1) Approved compliance plan required. The applicant shall submit a copy of a compliance plan submitted to the Federal Communications Commission and a copy of the Commission’s notice of approval.

39.4(2) Terms and conditions of voice telephony service offered to Lifeline subscribers. The applicant shall submit information describing the terms and conditions of any voice telephony service plans offered to Lifeline subscribers, including details on the number of minutes provided as part of the plan, additional charges, if any, for toll calls, and rates for such plan. To the extent the applicant offers to Lifeline subscribers plans that are generally available to the public, the applicant may provide summary information regarding such plans, such as a link to a public Web site outlining the terms and conditions of such plans.

39.4(3) Demonstration of financial and technical capability to provide supported services. The applicant shall demonstrate that it is financially and technically capable of providing the supported Lifeline service in compliance with 47 CFR Subchapter B, Part 54, Subpart E, as required by 47 CFR § 54.201(h). Relevant considerations include, but are not limited to, how long the carrier has been in business, whether the applicant intends to rely exclusively on universal service fund disbursements to operate, whether the applicant receives or will receive revenue from other sources, and whether the applicant has been subject to enforcement action or ETC revocation proceedings in any state.

199—39.5(476) Service area.

39.5(1) Unless otherwise ordered by the board, the approved service area for universal service fund support calculations will be the same as the service area currently approved for local service by the board. Those carriers not currently approved to provide local service are required to provide documentation showing their service area.

39.5(2) In the case of a service area served by a rural telephone company, “service area” means such company’s “study area” unless and until the FCC and the states, after taking into account recommendations of a federal-state joint board instituted under Section 410(c) of the Telecommunications Act of 1996, establish a different definition of service area for such company.

39.5(3) In the case of a wireless telecommunications carrier, “service area” means that area where the wireless company has been licensed by the FCC to provide service.

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199—39.6(476) Universal service support for low-income consumers (Lifeline program and Tribal Link Up program).

39.6(1) Carrier obligation to offer Lifeline. Pursuant to 47 CFR § 54.405, which specifies the Lifeline obligations of eligible telecommunications carriers, all eligible telecommunications carriers must make available Lifeline service, as defined in 47 CFR § 54.401, to qualifying low-income consumers, defined as consumers who meet the qualifications for Lifeline as specified in 47 CFR § 54.409.

39.6(2) Customer notification. Eligible telecommunications carriers shall include a description of their Lifeline offerings or discounts in their residential service agreements. Eligible telecommunications carriers shall provide the board with information about their residential service agreements upon request. Eligible telecommunications carriers shall publicize the availability of Lifeline service in a manner reasonably designed to reach those likely to qualify for service as required by 47 CFR § 54.405(b).

39.6(3) Consumer qualification for Lifeline. To constitute a qualifying low-income consumer, a consumer's household income as defined in 47 CFR § 54.400(f) and (h) must be at or below 135 percent of the federal poverty guidelines for a household of that size or such percentage as may be determined by the FCC or the consumer, one or more of the consumer's dependents, or the consumer's household must participate in one of the following federal assistance programs: Medicaid; Supplemental Nutrition Assistance Program; Supplemental Security Income; Federal Public Housing Assistance (Section 8); Low-Income Home Energy Assistance Program; National School Lunch Program's free lunch program; or Temporary Assistance for Needy Families. A consumer who lives on tribal lands is eligible for Lifeline service as a qualifying low-income consumer if the consumer meets the qualifications for Lifeline specified in 47 CFR § 54.409(a) or if the consumer, one or more of the consumer's dependents, or the consumer's household participates in one of the following tribal-specific federal assistance programs specified in 47 CFR § 54.409(b): Bureau of Indian Affairs general assistance; tribally administered Temporary Assistance for Needy Families; Head Start (only those households meeting its income qualifying standard); or the Food Distribution Program on Indian Reservations. A consumer may only receive Lifeline service from one telephone provider per household.

39.6(4) Determination of subscriber eligibility. Iowa eligible telecommunications carriers are responsible for establishing consumer eligibility for Lifeline assistance. Iowa eligible telecommunications carriers shall ensure that their Lifeline subscribers are eligible to receive Lifeline services in accordance with 47 CFR § 54.410. Eligible telecommunications carriers shall:

a. Implement policies and procedures for ensuring that their Lifeline subscribers are eligible to receive Lifeline services;

b. Confirm a subscriber's income-based or program-based eligibility according to 47 CFR § 54.410(b) or (c);

c. Provide prospective subscribers Lifeline certification forms that comply with 47 CFR § 54.410(d); and

d. Recertify all subscribers' Lifeline eligibility annually and at 90-day intervals (where subscribers have provided a temporary address) in accordance with 47 CFR § 54.410(f) and (g).

39.6(5) Annual certifications by eligible telecommunications carriers. Eligible telecommunications carriers shall make and submit to the Universal Service Administrative Company (USAC) annual certifications relating to the Lifeline program as required by 47 CFR § 54.416. Eligible telecommunications carriers shall file their annual Lifeline certifications with the board as provided in 39.7(1) "a" and, if applicable, with the relevant tribal governments.

39.6(6) Tribal Link Up. A telecommunications carrier receiving high-cost support on tribal lands that is offering the Tribal Link Up assistance program, as defined in 199—39.2(476), to eligible residents of tribal lands, as defined in 47 CFR § 54.400(e), must provide (1) a 100 percent reduction of the customary connection charge for commencing service at a subscriber's residence, and (2) a deferred schedule of interest-free payments for the connection charge, pursuant to 47 CFR § 54.413. Prior to enrolling an eligible resident of tribal lands in the Tribal Link Up program, an ETC must obtain from the resident a certification form that complies with 47 CFR § 54.410.

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39.6(7) Audits. Eligible telecommunications carriers shall file with the board finalized reports of audits involving the audited ETC's operations in Iowa conducted pursuant to 47 CFR § 54.420 requiring low-income program audits. The audit reports will not be considered or deemed confidential. The audit reports shall be filed with the board within 30 days of issuance of the final audit report.

199—39.7(476) Schedule of filings.

39.7(1) Annual Lifeline compliance certifications.

a. FCC Form 555. On or before January 31 of each year, or other date established by the Federal Communications Commission, each carrier designated by the board as an eligible telecommunications carrier pursuant to 47 U.S.C. § 214(e) shall file with the board the carrier's certification of compliance with federal Lifeline rules filed with the Federal Communications Commission and the Universal Service Administrative Company pursuant to 47 CFR § 54.416 using FCC Form 555.

b. Filing instructions. FCC Form 555 shall be filed using the board's electronic filing system in accordance with 199—Chapter 14, unless the board directs otherwise by order issued in advance of the filing deadline. The filing shall be titled "Annual Lifeline Eligible Telecommunications Carrier Certification," with a reference to the year for which the certification is filed. The document title for the FCC form shall be "FCC Form 555 Filing." The board's records and information center will assign each filing an FLR docket number, signifying "Federal Lifeline Report." The annual Lifeline compliance certifications are not subject to protection from public disclosure.

39.7(2) Annual eligible recovery certifications. On or before the date on which carriers file their access tariffs with the FCC, each price cap and rate-of-return carrier designated by the board as an eligible telecommunications carrier pursuant to 47 U.S.C. § 214(e) shall file with the board certifications of eligible recovery amounts as follows, as required by 47 CFR § 54.304(c) and (d).

a. Price cap carriers. Each price cap carrier designated by the board as an ETC shall file with the board the carrier's certification to the FCC and USAC regarding the connect America fund intercarrier compensation support amount the carrier is eligible to recover pursuant to 47 CFR § 51.915 and the certification that the carrier is not seeking duplicative recovery in Iowa for any eligible recovery subject to the federal recovery mechanisms.

b. Rate-of-return carriers. Each rate-of-return carrier designated by the board as an ETC shall file with the board the carrier's certification to the FCC and USAC regarding the connect America fund intercarrier compensation support amount the carrier is eligible to recover pursuant to 47 CFR § 51.917 and the certification that the carrier is not seeking duplicative recovery in Iowa for any eligible recovery subject to the federal recovery mechanisms.

c. Filing instructions. The annual eligible recovery certifications shall be filed using the board's electronic filing system in accordance with 199—Chapter 14, unless the board directs otherwise by order issued in advance of the filing deadline. The filing shall be titled "Connect America Fund – Intercarrier Compensation Recovery and Certification," with a reference to the year for which the certification is filed. The document title for the FCC form shall be "Annual Reporting Requirements for Section 54.304." The board's records and information center will assign each filing an "ETR" docket number, signifying "Eligible Telecommunications Carrier Report."

d. Confidential information.

(1) Requests to withhold from public inspection revenue recovery amounts and loop or line count data will be deemed granted as provided in 199—paragraph 1.9(5) "c."

(2) If a carrier considers other information filed on or with the annual Section 54.304 report to be confidential, the carrier shall file both a public version and a confidential version of the material pursuant to 199—14.12(17A,476), and a separate request for confidential treatment pursuant to 199—subrule 1.9(22) and Iowa Code section 22.7. Where a request for confidential treatment of information filed on or with the Section 54.304 report is based on a protective order issued by the FCC, the carrier's request for confidential treatment shall include a reference to the relevant protective order.

39.7(3) Annual reporting requirements.

a. FCC Form 481. On or before July 1 of each year, or other date established by the Federal Communications Commission, each carrier designated by the board as an eligible telecommunications

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carrier pursuant to 47 U.S.C. § 214(e) shall file with the board the carrier's annual report filed with the FCC pursuant to 47 CFR § 54.313 (for ETCs receiving high-cost support), or 47 CFR § 54.422(a) (for ETCs receiving Lifeline support only), using FCC Form 481 or such other form designated by the FCC as the form for the annual report for ETCs.

b. FCC Form 690. On or before July 1 of each year, or other date established by the Federal Communications Commission, each carrier designated by the board as an eligible telecommunications carrier pursuant to 47 U.S.C. § 214(e) and that receives mobility fund support shall file with the board the carrier's annual report filed with the FCC pursuant to 47 CFR § 54.1009.

c. Annual certifications from carriers seeking to continue to receive high-cost support. Any carrier seeking to continue to receive federal high-cost universal service support shall file with the board no later than July 1 of each year an affidavit titled "Certification of [Company Name]." The company name shall be the name used on the carrier's initial application for ETC designation and its current name, if its name has changed.

(1) Contents of affidavit. The affidavit shall include the study area code (SAC) number associated with the company. The affidavit shall be sworn and notarized and shall be executed by an authorized corporate officer. The affidavit shall certify that the carrier has used and will use the high-cost support the carrier receives pursuant to 47 CFR Subchapter B, Part 54, Subparts D and L, and as defined in 47 CFR § 54.5, only for the provision, maintenance, and upgrading of facilities and services for which the support is intended. In addition, the affidavit shall certify that the carrier has complied with and will continue to comply with applicable service quality standards and consumer protection rules, certify that the carrier has a reasonable amount of back-up power to ensure functionality without an external power source, certify that the carrier is offering a local usage plan comparable to that offered by the incumbent local exchange carrier in the relevant service areas, and certify that the carrier acknowledges that the FCC may require it to provide equal access to long distance carriers in the event that no other eligible carrier is providing equal access within the ETC's designated service area. The affidavit shall also certify to the following: as an eligible telecommunications carrier, the carrier agrees to provide timely responses to board requests for information related to the status of local voice service markets or facilities.

(2) Certifications subject to complaint or investigation. Any certification filed by a carrier shall be subject to complaint or investigation by the board.

(3) State certification of eligibility. An ETC's certification shall be the basis of the board's certification to the FCC and USAC pursuant to 47 CFR § 54.314 that the ETC has used and will use the support for the purposes intended.

d. Progress reports and extensions on previously filed two-year network improvement and maintenance plans. In addition to any network improvement plans and associated progress reports required by 47 CFR § 54.313, competitive ETCs whose universal service support is being phased down must file with the board progress reports and extensions on previously filed two-year network improvement and maintenance plans during the phase-down period. Each competitive ETC subject to this requirement shall file a rolling one-year extension and a progress report on its network improvement and maintenance plan detailing the prior calendar year's activities. The progress report shall include coverage area maps detailing progress toward plan targets, an explanation of how much universal service support was received, and how the support was used to improve signal quality, coverage, or capacity. If support was used for something other than improving signal quality, coverage, or capacity, the report shall include an explanation of how the support was used. The report shall identify any network improvement targets that have not been met and shall include an explanation of why targets were not met. The report shall indicate if there have not been any changes to the ETC's coverage area and shall include an explanation of why no changes were made. Any reporting of expense and investment information shall include an explanation of how the expenses and investments benefited specific wire centers in the ETC's designated service area. For purposes of this paragraph, "wire center" shall be defined as determined by the North American numbering plan administrator.

e. Filing instructions for annual report filings. FCC Form 481 (including rate floor data filed pursuant to 47 CFR § 54.313(h)), the affidavit certifying compliance, any required network improvement plan progress report and extension, and FCC Form 690 shall be filed using the board's electronic filing

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system in accordance with 199—Chapter 14, unless the board directs otherwise by order issued in advance of the filing deadline. The filing shall be titled “Annual Eligible Telecommunications Carrier Reporting Requirements,” with a reference to the year for which the report is filed. The document title for the FCC form shall be “FCC Form 481 Filing” or “FCC Form 690 Filing,” as appropriate. The document title for the affidavit certifying compliance shall be “Carrier Certification.” The document title for any required network improvement plan report shall be “Network Improvement Plan Report.” The board’s records and information center will assign each filing an FER docket number, signifying “Federal ETC Report,” and indicating the year of filing and the carrier’s company number.

f. Confidential information.

(1) Requests to withhold from public inspection network improvement and maintenance plan extensions and progress reports, financial reports, and loop or line count data included in the rate floor data reports included in the annual report filings will be deemed granted as provided in 199—paragraph 1.9(5) “c.”

(2) If a carrier considers other information filed on or with FCC Form 481 to be confidential, the carrier shall file both a public version and a confidential version of the material pursuant to 199—14.12(17A,476), and a separate request for confidential treatment pursuant to 199—1.9(22) and Iowa Code section 22.7. Where a request for confidential treatment of information filed on or with FCC Form 481 is based on a protective order issued by the FCC, the carrier’s request for confidential treatment shall include a reference to the relevant protective order.

39.7(4) Rate floor data updates.

a. On or before January 2 of each year, or other date established by the FCC, each carrier designated by the board as an eligible telecommunications carrier pursuant to 47 U.S.C. § 214(e) that is subject to the FCC’s mandatory rate floor data reporting requirements in 47 CFR § 54.313(h)(2) shall file with the board the rate floor data update filed with the FCC. Carriers that elect to file rate floor data updates with the FCC shall also file the updates with the board.

b. Filing instructions for rate floor data updates. The rate floor data updates shall be filed using the board’s electronic filing system in accordance with 199—Chapter 14, unless the board directs otherwise by order issued in advance of the filing deadline. The filing shall be titled “FCC Section 54.313(h)(2) Rate Floor Data Update,” with a reference to the year for which the update is filed. The document title for the report shall be “Rate Floor Data Update.” The board’s records and information center will assign each filing an FER docket number, signifying “Federal ETC Report,” and indicating the year of filing and the carrier’s company number.

c. Confidential information.

(1) Requests to withhold from public inspection loop or line count data submitted as part of a rate floor data update will be deemed granted as provided in 199—paragraph 1.9(5) “c.”

(2) If a carrier considers other information filed on or with a rate floor data update to be confidential, the carrier shall file both a public version and a confidential version of the material pursuant to 199—14.12(17A,476), and a separate request for confidential treatment pursuant to 199—subrule 1.9(22) and Iowa Code section 22.7. Where a request for confidential treatment of information filed on or with a rate floor data update is based on a protective order issued by the FCC, the carrier’s request for confidential treatment shall include a reference to the relevant protective order.

199—39.8(476) Relinquishment of ETC designation.

39.8(1) The board may permit an eligible telecommunications carrier to relinquish its designation as such a carrier in any area served by more than one eligible telecommunications carrier. An eligible telecommunications carrier that seeks to relinquish its eligible telecommunications carrier designation for an area served by more than one eligible telecommunications carrier shall give 90 days’ advance notice to the board of such relinquishment.

39.8(2) Prior to permitting a telecommunications carrier designated as an eligible telecommunications carrier to cease providing universal service in an area served by more than one eligible telecommunications carrier, the board shall require the remaining eligible telecommunications carrier or carriers to ensure that all customers served by the relinquishing carrier will continue to be

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served and shall require sufficient notice to permit the purchase or construction of adequate facilities by any remaining eligible telecommunications carrier. The board shall establish a time, not to exceed one year after the board approves such relinquishment under this rule, within which such purchase or construction shall be completed.

These rules are intended to implement Iowa Code sections 17A.4, 476.2, 476.15, and 476.102 and 47 U.S.C. Section 214(e).

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